

PRESIDENTIAL, PARLIAMENTARY, OR COMBINED SYSTEM OF GOVERNMENT: COMPARISON AND CHOICE FOR CHINA^{*}

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Most of the democratic government systems in the world today take one of the following forms: presidential, parliamentary, or a combination of presidential and parliamentary (a "combined system").¹ The presidential and parliamentary forms of government have undergone reform as a tide of democratization has risen in the world. Some states have tried to keep the merits and avoid the defects of the presidential and parliamentary systems by forming new combined systems.

As the People's Republic of China pursues economic and social reform, it is worth considering the political changes that will inevitably follow. This Comment outlines, in only the broadest terms, the advantages and disadvantages of these various systems of democratic government. The Comment discusses the advantages of the combined system of government for China and will propose some necessary requirements for such a system in China. It is hoped that the general discussion that follows provides some ideas for, and initiates a dialogue on, the best course of political reform for China.

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1. The combined system is also referred to as the mixed system, the double head system, the new presidential system, and the new cabinet system.

I. PRESIDENTIAL SYSTEM

The basic characteristic of the presidential system is the vesting of the executive power in a single office with the power to make laws residing in a separate legislative body. The president is typically the head of state, the chief administrative officer and the commander of the military. The president and the legislature check and balance one another, with the president able to veto draft legislation and the legislature able to override the president's veto by a super-majority vote. Some countries have granted the president greater powers over the legislature in order to avoid political stalemate and ensure political stability, such as giving the president the ability to dissolve the legislature and call for the election of a new one, or by allowing the president to propose bills to the legislature.

There are several advantages to the presidential system of government. The presidential system is based on the principle of separation of powers which helps prevent the legislature from dominating the president, and vice-versa. As such, presidential candidates can be elected from any political party, rather than the majority party in the legislature. The undivided executive power and clear responsibilities of the president are conducive to efficient administration of the state. The fixed and limited term of office for the president contributes to political stability. Since the president need not fear removal by the legislature, he or she is free to establish relatively long-term goals for the government.

The presidential system also has its defects. The separation of powers between the president and the legislature may lead to stalemate in passing legislation if the president is a member of a political party other than the one which occupies the majority of seats in the legislature. Furthermore, where the president is of the same party as the majority in the legislature, the presidential system can deteriorate into a system of rule by a single person.

II. THE PARLIAMENTARY SYSTEM

In contrast to the presidential system, in the parliamentary system the chief administrative officer is also the leader of the political party or coalition that controls the legislature. This leader, generally the prime minister, holds both executive power as the chief administrative officer of the government and legislative power as the leader of the parliament. The prime minister's most trusted advisors from the parliament form the cabinet, the highest executive organ of the state, which formulates state

policies. The cabinet is accountable to the parliament. Cabinet members can attend parliamentary meetings and propose bills to the parliament, and they are obliged to report to the parliament regarding government policies and performance.

The parliament has the authority to pass a "no-confidence" motion which will force a general election of all political offices, thereby removing the prime minister and the cabinet. Although not the case in England, to prevent the parliament from abusing the no-confidence vote, some countries have allowed the parliament to be dissolved only upon consultation with the prime minister. For example, in Germany, the parliament must elect a new prime minister before it passes a no-confidence motion. If the parliament fails to elect a new prime minister, it cannot pass the no-confidence vote against the incumbent prime minister.

The parliamentary system avoids some of the problems of the presidential system. The prime minister and the cabinet are subject to the supervision of parliament which has the power of the no-confidence vote. As a result, the cabinet has to respect public opinion in formulating policy. Furthermore, since the Prime Minister is both the chief administrative officer and the leader of the majority party or coalition in the parliament, the possibility of stalemate between the executive and legislative branches will be reduced.

The major defect of the parliamentary system is that it is difficult to form a cabinet comprised of a single political party. If no single party is able to take the majority of seats in the parliament, a "coalition cabinet" is formed of multiple parties. This makes it hard to formulate and implement consistent policies because the parties often have conflicting interests. This may result in a split in the cabinet, frequent changes of government and ensuing political instability.

III. THE COMBINED SYSTEM

The combined system is a new type of governmental system which was established in countries that originally practiced either the presidential or parliamentary systems and engaged in reform to improve on their systems of government. The combined systems all share two characteristics: a president, or prime minister, with authority over matters of state and executive affairs and a parliament or congress with legislative authority. An increasing number of countries are now adopting this new system, including formerly communist and totalitarian states. The

examples of the combined system which follow are from France, Finland and Russia. The experiences of these countries can serve as a guide for China.

A. France's Combined System

The Fifth Republic of France improved its old parliamentary system by turning it into a combined system. According to the new constitution, the power of the president was increased, the position of the cabinet was stabilized, the power of the parliament was reduced, and civil rights were expanded. These four reforms were intended to ensure that the government could govern effectively while maintaining political stability.

The system of electing the president through an electoral college was changed to an election by popular vote of the citizens, making the president directly responsible to the people. The president was granted several powers to prevent parliamentary domination. The president can convene a special session of the parliament in order to submit his policy report. The president can ask the Constitution Committee to reconsider a bill passed by the parliament to see if it is unconstitutional. The president can dissolve the parliament (after consulting the prime minister and the speakers of parliament) and demand new elections, but such dissolution may take place only once a year. The president can also, upon request of the cabinet or parliament, submit federal agreements and international treaties to the general public for ratification by referendum.

The prime minister and cabinet members, formerly elected by the parliament, are now nominated by the president. In France, the scope of parliamentary legislation is defined so that the legislative power of parliament cannot intrude on executive orders of the cabinet. The French reform is significant in that the legislative power in many countries is not so limited. To prevent parliament from delaying or blocking the passing of important legislation, the cabinet has the power to decide upon the procedures of the parliamentary legislative debates.

B. Finland's Semi-Presidential System

The combined system in Finland can be classified as a semi-presidential system. The president presides over foreign relations while the prime minister is more concerned with domestic governance. The president is directly elected by the people and accountable to the people. The State Conference, Finland's cabinet, is accountable to the parliament.

The president is the head of state and the commander-in-chief of the national armies. The president, with parliamentary approval, appoints the prime minister and the State Councilors to form the State Conference. With parliamentary approval, he can conclude treaties, declare war, make peace and appoint diplomatic envoys. A bill drafted by the State Conference must be approved by the president before being submitted to parliament. The president can convene interim sessions of parliament, dismiss parliament, issue an electoral order, hold a new election, propose legislation to parliament, or suggest that a current law be revised, reinterpreted, or revoked. A law passed by parliament has to be ratified by the president before public implementation. If the president does not ratify a law, parliament can override the presidential veto with a majority vote. A presidential order must be co-signed by the cabinet to take effect.

The prime minister is the Chairman of the State Conference. The jurisdiction of the State Conference extends to all issues not within the jurisdiction of the president. The State Conference can refuse to co-sign a presidential order which it believes is unconstitutional or illegal, or it can ask the president to revise or revoke such an order. If the president does not comply, the State Conference can declare the order "not implemented."

C. Russia's Combined System

Since Russia and China have shared similar experiences under communist rule, Russia's recent transformation to a democratic system provides important lessons for Chinese political reform.

Russia's new constitution establishes a powerful president. The president is elected directly by the people for a fixed and limited term. The president decides the basic principles of the state's domestic and foreign policies. The president submits reports on domestic and foreign policies and proposes legislative bills. With approval from the State Duma, a body similar to the U.S. House of Representatives, the president appoints the chairman, the vice chairman and the government ministers. With approval from the Federation Council, a body similar to the U.S. Senate, the president can declare martial law and a state of emergency and can appoint the chief procurator and the chief justices of the Constitutional Court, the Supreme Court and the High Court. The president may dissolve the State Duma. The president has the right to refuse to implement executive measures that violate the Constitution, the law, or the right of the people. In addition, the president can arrange a public referendum.

The executive is supervised and checked by the State Duma. The State Duma may pass a no-confidence motion against the government. The president can either agree to dissolve the government or disagree with the parliamentary decision. If the State Duma once again expresses no-confidence in the government within three months, the president has to either dissolve the government or dissolve the State Duma.

IV. A NEW DEMOCRATIC GOVERNMENT SYSTEM FOR CHINA

A. *Recent History and the Current System of Government*

In 1911, the great Chinese political leader Sun Yat Sen led a revolution overthrowing the Manchu feudal dynasty. The revolution ended a thousand year old imperial system of autocracy and established the Republic of China, the first democratic country in Asia. A president was elected by parliament. With parliament's consent, the president appointed a prime minister. It was a new system in which the head of state and the head of the executive were separated. The rights of the people, including political participation and economic activities, were safeguarded.

The new Republic was unstable, however, and in order to avoid civil wars between the north and south, Sun Yat Sen yielded his presidency to the powerful northern warlord Yuan Shikai. This was done under the condition that Yuan Shikai publicly express support and obedience to the constitution of the Republic of China. In 1914, Yuan Shikai broke his promise. He formulated a constitution that united the head of state with the head of executive power, and he dissolved the National Party which had won the parliamentary election. He also dissolved parliament and the provincial legislatures, thereby establishing a total monopoly of power. In 1915, Yuan Shikai proclaimed himself "Emperor Hongnan." In response, Sun Yet Sen called on armies and people of various provinces to start an "Anti-Yuan Shikai Movement" against the autocracy. Yuan Shikai died after being emperor for 83 days.

This is a profound lesson in Chinese history, concerning important issues such as both the desire and the need for a separation of power between the head of state and the head of the executive. Since then, except for the transitional period of Tutelage, each constitution has had a separate head of state and head of the executive. Even in the People's Republic of China, the organizational structure of the governmental system is a combined system. The state chairman is the head of state and the prime minister is the head of the executive.

According to communist doctrine, however, government is a tool of the proletarian class dictatorship. The Communist Party and its rulers have used government to carry out political dictatorship and economic monopoly. The people have enjoyed no rights or powers to check or change the government under the current system. Such a political system must be reformed.

B. The Combined System is Best for China

Individually, the presidential and parliamentary systems have significant disadvantages.² The use of a purely parliamentary system has further drawbacks unique to its application in China. Once the democratic process gets started in China, there may emerge a great number of political parties. History indicates that in the initial stage of the Republic of China, 682 political parties appeared on the eve of the first parliamentary election. It is reasonable to assume that the present population of 1.2 billion people will form a similarly large number of political parties. Under these conditions, a purely parliamentary system could only form a coalition government. With all the political disputes and conflicts of interest, the cabinet would be unstable and frequently replaced by a new cabinet. Avoiding this result requires that the head of state have the power to resolve political and party conflicts and thereby stabilize the political situation.

The combined system enables the head of state to mediate conflicts between the executive and the legislature, thereby ensuring the efficient operation of state affairs, the stabilization of the political situation, and the prevention of a prolonged stalemate between the two branches. The head of state in the combined system can also mediate conflicts between the majority and opposition parties to protect the national interests, consummate party politics and maintain national unity. The new combined system is a democratic government system which will serve the entire country.

C. A Possible Structure of a Combined System for China

The president, as the head of state, will protect the national security and the rights of the people and will supervise the government. Since

2. See Sections I and II, *supra*.

mainland China has extensive territories with backward communication facilities and little experience in democracy, it would be difficult for over a billion people to elect a president through a direct vote. Were such a vote to occur initially, problems in the election process might occur that would delay the people's acceptance of democracy. A superior method, proposed here, requires two steps. First, indirect elections should be conducted whereby the president will be elected jointly by the national congress and all the provincial legislatures. Second, after the initial term of the president, direct elections based upon the popular vote should be conducted. The term of the president should be four years with one opportunity of reelection to a second four-year term. If the president commits treason or other severe crimes, the congress should be able to dismiss the president and the supreme court should determine a sentence. The president should nominate a prime minister to be ratified by the congress. The prime minister should nominate, subject to approval by the president, vice premiers and ministers.

The president should have the authority to issue laws passed by the congress or refuse to issue unconstitutional laws. With the congress's consent, the president should be able to declare martial law, declare an emergency, declare war, make peace and conclude treaties. The president should have the right to present reports to the congress on the state of the country or on foreign and domestic policies. The president should have the power to mediate disputes between the cabinet and the congress.

The prime minister should lead the cabinet and exercise the executive power provided by the Constitution, law and presidential orders. The prime minister should formulate executive regulations and issue executive instructions. The prime minister should be responsible to the congress and be obliged to report government policies and the results of those policies to the congress. The prime minister may submit to the congress a budget, legislation, treaties, martial law, and declaration of war or peace, all of which must be passed by the congress.

The following measures would help prevent the congress from abusing the power of a no-confidence motion against the cabinet, prevent the cabinet from abusing its power of asking the president to dissolve the congress, avoid deadlock and ensure normal operation of state affairs. First, if the congress refuses to accept the president's nomination for the prime minister, the congress must elect a new prime minister within ten days. If the congress's nominee for prime minister cannot win a majority of the votes in the congress, the president can appoint his nominee as the prime minister directly. Second, if the congress passes a no-confidence vote against the cabinet, the president and the prime minister can discuss

the reasons with the congress and attempt to find an alternate solution. If they cannot reach agreement, the president can either comply with the wishes of the congress, dissolve the congress, or replace the prime minister. Third, the cabinet can submit a national budget to the congress. If congress fails to pass a budget within two months, the cabinet can order the implementation of the national budget.

True democracy is not achieved simply by calling a political system presidential, parliamentary, or combined. To avoid abuse of legislative, executive or judicial power the power of each branch of government must be separated, checked and balanced. China should implement independent institutions of examination to oversee the 50 million officials. This will serve to improve the quality of officials by ensuring that officials are law-abiding and provide good service to the people.

The democratic government must support a democratic political party system. All parties should have equal status. They should all compete based on their policies, platforms, achievements and morality. Political organs in the army must be abolished so that one party does not control military power and suppress the people.

Most importantly, the government cannot exercise power that is not endowed by the Constitution. The people must have rights to freedom, equality, participation, property ownership, work business operation and benefits. People must also have the right to elect and dismiss government officials. People should have the right to a referendum on proposed legislation in order to formulate good law and to correct mistaken policies. These are important principles for a democratic government. If the Chinese government can realize these basic principles, China can be a country owned by people, ruled by people, and enjoyed by people.

VI. CONCLUSION

China is a country with a population of 1.2 billion and 56 minority nationalities. The communist system has been implemented for over 40 years in mainland China. Therefore, it is important that the head of state and the government have enough power to push the reform forward against resistance. The reform should take place peacefully in order to establish a stable democratic system. Only then can the democratic system evolve.

The combined system is the most appropriate form of government for China. The Chinese system should have a prime minister and cabinet to manage the administrative and executive affairs of state and a strong national congress to develop legislation. The president should have the

dual role of leading the executive branch and acting as an arbiter between the cabinet and the congress. The separation and balancing of these branches will ensure efficient operation of government and the protection of the people's rights embodied in the constitution.

The great politician Sun Yat Sen said that China should build a progressive, dignified, wealthy and peaceful country. Over one billion Chinese people will surely realize the common ideal.