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LHAMSUREN MUNKH-ERDENE

The Transformation of Mongolia's Political System

From Semi-parliamentary to Parliamentary?

ABSTRACT

This paper outlines Mongolia's regime transformation, focusing on its 2000 constitutional amendments that turned Mongolia into a parliamentary system, albeit with a popularly elected fixed-term president. The paper also emphasizes the prominence of institutional authority to form the executive in determining regime type, and makes an effort to clarify Duverger's second criterion of semi-presidentialism as the presidential authority to form the cabinet.

KEYWORDS: Mongolia, political system, semi-presidential, semi-parliamentary, parliamentary

INTRODUCTION: PENDULUM SWINGS

Who should govern Mongolia: the president and the Parliament together or the Parliament (and by implication, the prime minister)? This has been one of the most vexing problems of post-communist Mongolia. Since 1996 the state has seen a protracted quarrel between the Constitutional Court and the State Great Khural¹ (Parliament) over the constitutionality of laws that repeatedly legalized concurrent holding of cabinet posts—including prime minister—by members of Parliament. The dispute was, in fact, a question of the primacy of either the prime minister/party leader or the president.

Indeed, Mongolia's 1992 Constitution failed to clearly specify what exact authority the president and Parliament exercise in selecting the prime minister

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1. The State Great Khural of Mongolia (Mongol Ulsyn Ikh Khural) is a unicameral parliament with 76 seats.

Asian Survey, Vol. 50, Number 2, pp. 311–334. ISSN 0004-4687, electronic ISSN 1533-838X. © 2010 by the Regents of the University of California. All rights reserved. Please direct all requests for permission to photocopy or reproduce article content through the University of California Press's Rights and Permissions website, <http://www.ucpressjournals.com/reprintInfo.asp>. DOI: AS.2010.50.2.311.

and forming the cabinet. This constitutional shortcoming was disclosed during 1997–2000, when the president and the parliamentary majority belonged respectively to rival political parties. This led to prolonged gridlock and a power struggle between the president and the Parliament over the selection of prime minister. The dispute led to the constitutional amendments of 2000, which not only curbed the president's power in forming the cabinet but also allowed Parliament members to serve in it concurrently.

However, on January 26, 2007, shortly after Mongolia celebrated the 15th anniversary of the adoption of the 1992 Constitution, the vice-chairman of the Parliament, Danzan Lündaaajantsan, proposed with several other members to amend the “Law of the State Great Khural” to reduce the number of members concurrently serving to one-third of the cabinet.² The proposed change, as its advocates claimed, was aimed at ensuring the principle of separation of powers—on which, they asserted, Mongolian constitutional structure was built. The initiative was a response to the widespread backlash to the constitutional amendments of 2000. Several political parties and civil society organizations had been demanding repeal of those amendments; they criticized the amendments for imposing a “tyranny” of party leadership over the state, thus violating the principle of checks and balances.

Unsurprisingly, the anniversary celebration also turned against the amendments of 2000. The adopters of the Constitution (that is, the members of the People's Great Khural³ that ratified the document), who were convened as part of the celebration, established their own organization to defend the 1992 Constitution. They demanded restoration of the pre-2000 constitutional regime by repealing the amendments. Even Mongolia's President Nambar Enkhbayar, who earlier revealed his dissatisfaction with the existing constitutional structure on National Public Television, called in his 2007 address at the spring opening of Parliament for creating a “logical, consistent, transparent and accountable constitutional structure.”⁴

2. The size of the cabinet varies from cabinet to cabinet ranging from 12 to 15. As of 2010, the cabinet has 15 members including the prime minister.

3. The People's Great Khural (Ardyn Ikh Khural) was the unicameral legislature of the People's Republic of Mongolia. However, the 1990 constitutional amendment created a sort of bicameral structure in Mongolia: the People's Great Khural with 430 seats, and a new standing legislature, the State Small Khural (Ulsyn Baga Khural) with 50 seats. Elected by Mongolia's first ever democratic election in July 1990, the People's Great Khural adopted Mongolia's new Constitution on January 13, 1992.

4. *Zuuny Medee* [Century's News], N 83 (2531), April 6, 2007.

However, Chairman of the State Great Khural Tsend Nyamdorj warned the Mongolian public of “the ongoing deliberate campaign to undermine the heart” of Mongolian democracy and the parliamentary system. He pledged to defend “parliamentary democracy until the end” of his days.⁵ Thus, it seems that the pendulum is still swinging in Mongolia, and we may expect more constitutional amendments to follow, which may lead the country down the road of regime transformation.

This paper analyzes Mongolia's political system, focusing on its regime type, by examining the 1992 Constitution and its amendments, as well as relevant laws and documents and political developments, especially those occurring in 1996–2000. Also, the paper compares Mongolia's political system with Duverger's semi-presidential regimes, especially with the French Fifth Republic. Emphasizing the importance of the power to form the executive in determining regime type, this study clarifies Duverger's second criterion of semi-presidentialism, the “quite considerable powers” of the president, as meaning the presidential authority to form the executive.

CONSTITUTIONAL DESIGN: PARLIAMENTARY OR SEMI-PRESIDENTIAL?

After 70 years of single party communist rule, one of the most important guiding ideas of Mongolia's 1992 Constitution adopters was to establish a genuinely sovereign state that would represent Mongolia's national interest and thus stand above and beyond party politics. As a result, the 1992 Constitution endowed Mongolia with a popularly elected, fixed-term president as the “head of state and the embodiment of the unity of the people.”⁶ The president was granted a “negotiating” and “designating” authority in selecting the prime minister and forming the cabinet. On the other hand, the State Great Khural, “the supreme organ of state power,”⁷ was endowed with unlimited legislative power. It was to actually form the cabinet, which would wield executive power, headed by the prime minister after the parliamentary election. The cabinet is responsible to the Parliament while discharging its duty.⁸

5. Ibid.

6. The Constitution of Mongolia, Article 30, Paragraph 1. The document is at <http://www.mongolianembassy.us/government_and_policy/the_constitution_of_mongolia>.

7. Ibid., Article 20.

8. Alan J. K. Sanders, “Mongolia's New Constitution: Blueprint for Democracy,” *Asian Survey* 32:6 (June 1992), pp. 506–20, for Mongolia's constitutional framework.

Thus, as we have seen in the words of the speaker of Parliament, and as we shall see below, Mongolian politicians have been identifying their political system as a parliamentary democracy.

Yet, the president's power in the selection of the prime minister and the formation of the cabinet harbored a far reaching potential. By assigning the president an authority to designate the prime ministerial candidate nominated by the majority to the State Great Khural for appointment, the Constitution (Article 33, Paragraph 2) made the Parliament's prerogative to appoint the prime minister dependent upon the president's designation of the candidate. Furthermore, the president was given the power to negotiate (*zövshiltsön*) with the majority (or parliamentary parties if there is no majority) over the nomination of the prime ministerial candidate. Yet, the Constitution did not clearly spell out how the negotiation between the president and the parliamentary majority (in effect, the Parliament) should proceed. In particular, the Constitution failed to determine whose voice should take precedence if a difference of opinion arose.⁹ Thus, the Constitution equipped the president with the power to reject the majority's nominee for prime minister, paralyzing the State Great Khural's prerogative to form the cabinet. Therefore, the Constitution contained a source of political gridlock in the case of a stalemate.

In addition, according to the Constitution (Article 39, Paragraph 2) the prime minister was expected to secure the president's approval not only over the composition and structure of the cabinet but also for the selection of cabinet ministers—before submitting the matter to parliamentary deliberation. Again, it was unclear whose voice should take precedence. Therefore, constitutionally, without the president's prior approval, the Parliament could not appoint the prime minister and cabinet ministers, nor was it able to form or restructure the cabinet itself. Hence, for forming the executive, the Constitution *avored* the president over the Parliament, even while giving legislators the prerogative of creating the cabinet. Thus, contrary to Mongolian politicians' widely held belief, institutionally Mongolia was a

9. Certainly, the provisions would have created fewer problems if the president and parliamentary majority belonged to the same party. However, since the president and the Parliament were to be elected by different elections at different times, it was quite probable that they would represent rival parties. Thus, in the case of cohabitation, the prospect of conflicting opinions between the president and the parliamentary majority was high.

“semi-presidential system patterned roughly on the French model, but with a stronger legislature,”¹⁰ as Steven Fish has argued.

However, in contrast to the French Fifth Republic (1958-present), forming the cabinet was the Parliament's prerogative, not the president's. Furthermore, while the French president actually appoints the prime minister and the cabinet ministers and presides over the cabinet, the Mongolian president neither appoints the prime minister and the cabinet ministers nor presides over the cabinet. Instead, according to the Constitution (Article 25, Paragraph 6), it is the Parliament that appoints, replaces, or removes the prime minister, and the cabinet upon its own (parliamentary) election. Thus, Mongolia's constitutional structure differed significantly from that of the French Fifth Republic in that in Mongolia it was the Parliament(ary majority) that was supposed to accommodate the president's opinion in its choice of prime minister and cabinet, not the other way around, as the French system does.

Also, the Mongolian president's apolitical status makes the regime even more divergent from that of France, whose president is political and can be the de facto leader of the majority. The Mongolian Constitution expects the president of the country to serve as an apolitical “embodiment of the unity of the people” above and beyond party politics.¹¹ Furthermore, according to the *Law of the Posts Proper to Be Suspended from Membership in Parties*¹² (Article 1, Paragraph 1), passed by the State Small Khural (the upper house of the Mongolian legislature from July 1990 to January 1992) on August 28, 1991, Mongolia's president has to suspend his/her party membership upon election. This legislation effectively curtails the possibility of the president being the de facto party leader.¹³ Thus, Mongolia's system is substantially different from the French system.

In addition, according to the State Great Khural's minutes of May 14, 1993, the Parliament while adopting the *Law of the President of Mongolia*¹⁴

10. Steven Fish, “Mongolia: Democracy without Prerequisites,” *Journal of Democracy* 9:3 (1998), pp. 127–41, p. 132.

11. Yet, the Constitution entitles the parliamentary parties to nominate their candidates for presidential election while the incumbent president can run for a second term. Thus, in fact, the president, especially, the first term incumbent, cannot be apolitical.

12. The Mongolian name of this law is *Namyn gishüünees tūdelzvel zohih alban tushaalyн tukhai*.

13. This legislation oftentimes puts the president in an uneasy relation with his “own” party. Usually, it is the party leader who runs for the presidency and when elected gives up party leadership. Yet, at least in order to be re-nominated, the president has to maintain a “good” relation with his/her party without jeopardizing his/her presidential integrity.

14. The Mongolian name of this law is *Mongol Ulsyn Yerönhiilogchiin tukhai*.

addressed how the negotiation between the president and the parliamentary majority over the nomination of the prime ministerial candidate should proceed. The speaker of Parliament, Natsag Bagabandi, maintained that the parliamentary majority should nominate its candidate for the prime ministerial post and submit the name to the president for consideration. No one questioned this approach. Thus, ultimately, designating the prime ministerial candidate was the business of the parliamentary majority.

Furthermore, Bagabandi raised the issue of how the negotiation should proceed if the president rejected the majority's nominee. In particular, did the president possess the authority to reject the majority's nominee for the third time, and if so who should make the final decision: the majority or the president? In response Danzan Lündeejantsan, then a member of Parliament, argued that "[t]he president after two rejections must accept the majority party's nominee if the party nominates the candidate for the third time, and designate the nominee to the State Great Khural as the candidate for the post of prime minister. According to our Constitution, Mongolia is a parliamentary republic; therefore, the candidate nominated by the majority party must be the candidate for the prime minister. And we must understand this as the result of the negotiation."¹⁵ Tsend Nyamdorj, then a member of Parliament, went even further by remarking, "What is the use of a president who lacks an ability to negotiate with the elected parties? . . . If the president cannot negotiate and accept the majority's nominee then the president himself should resign."¹⁶

Stressing that "[t]he members of the Parliament generally agree that in the case of the presence of an absolute majority, the majority must be the first and the final decision maker with regard to the prime ministerial candidate," the speaker, Bagabandi, proposed that the State Great Khural vote for another formula. This stated that "[t]he majority party must make the first and the final proposal in nominating the candidate for the post of prime minister."¹⁷ Fifty-three members out of the 57 present voted for the formula. Thus, it was clear that the majority was empowered over the president in selecting the prime ministerial candidate. The president was given the authority to reject the nominee twice. However, if the party proposed the name once more, the president had to accept and designate the nominee to the State Great Khural as the

15. *Ardyn Erkh* [People's Right], N 193 (1972), August 18, 1998.

16. *Ibid.*

17. *Ibid.*

prime ministerial candidate. This was, in fact, in line with the parliamentary regime that Mongolian politicians believed they were working under. Nevertheless, the legislature again failed to spell out this procedure in the *Law of the President* and thus left room for controversy in the future.

**THE PRESIDENT'S NEGOTIATING POWER:
SEMI-PRESIDENTIALISM OR . . . ?**

On June 30, 1996, the Democratic Union Coalition (DUC), having acquired 50 out of 76 seats at the parliamentary election, achieved a historical victory that toppled the Mongolian People's Revolutionary Party (MPRP). The MPRP's 75 years of continuous rule came to an end in Mongolia. However, on July 16, the Constitutional Court of Mongolia struck down as unconstitutional the parts (Paragraphs 1, 2, and 3) of Article 22 of the *Law of the State Great Khural*¹⁸ that allowed Parliament members to serve concurrently as prime minister and cabinet ministers. On July 19, the DUC was forced to select Mendsaikhan Enkhsaikhan, who as manager of the election campaign had not run for Parliament, as prime minister. Parliamentarian Tsakhia Elbegdorj, the DUC's chairman and leader of the Mongolian National Democratic Party (MNDP), the main party of the coalition, had to be satisfied with being leader of the majority caucus.

The paragraph of the Constitution (Article 29, Paragraph 1) on which the Constitutional Court's ruling was based proclaims that "[t]he members of the State Great Khural shall be remunerated from the state budget during their tenure and shall not hold concurrently any posts and employment other than those assigned by law (*khuul*)."¹⁹ The law here (*khuul*) is not the Constitution (*Ündsen khuul*) but any law that might subsequently be passed by the Parliament. Thus, it was Parliament's prerogative whether to pass a law permitting members to hold any other post concurrently.

Indeed, in 1992 the MPRP-dominated Parliament passed a *Law of the State Great Khural* that permitted Parliament members to also hold the posts of prime minister and cabinet ministers. However, the law limited the number of concurrently serving members to one-third of the cabinet. Thus, during 1992–96, the MPRP cabinet's Prime Minister Puntsag Jasrai; Deputy Prime Minister Chojjilsuren Pürevdorj; and two other cabinet ministers,

18. The Mongolian name of this law is *Mongol Ulsyn Ikh Khuralyn tukhai*.

19. *Mongol Ulsyn Ündsen Khuul*, *Ardyn Erkh*, January 14, 1992.

Tserenpil Gombosüren, minister of foreign relations, and Nambar Enkhbayar, minister of culture, were sitting members of Parliament.

However, in 1996 while most of its leaders were sitting in the Parliament, the DUC had to form its first ever cabinet exclusively outside Parliament because of the Constitutional Court's ruling. The majority rectified the situation by passing the *Law of the Legal Status of the Members of the State Great Khural*²⁰ on January 15, 1998, once again making it legal for Parliament members to hold the prime ministership and ministerial posts. This time, no limit was set on the number of members who might hold ministerial posts. Subsequently, on April 23, 1998, the leadership of the DUC compelled Enkhsaikhan's cabinet to resign, and Elbegdorj, the party's leader, formed his cabinet exclusively from among Parliament members.

However, the minority succeeded in forcing Elbegdorj's cabinet to step down in July, after 34 days of quorum busting.²¹ The DUC nominated Davaadorj Ganbold seven times, Galsanpuntsag Gankhuyag thrice, and Erdene Bat-Üül once for prime minister, only to be turned down by President Bagabandi. Ironically, Bagabandi, who in 1993 as speaker of Parliament maintained the precedence of the majority over the president in selecting the prime minister and who pushed through the third-time rule, now as president was enforcing his "negotiating" authority. Yet, to reiterate, neither the Constitution nor the *Law of the President* had any explicit procedure on the matter. Thus, the Parliament, whose quarrel with the Constitutional Court was not yet over, found itself wrestling with the president too.

In spite of his apolitical status, the president probably had a political reason to act so tenaciously. The president's "own" party, the MPRP, had suffered its first major defeat in the 1996 election and was on the opposition bench. While the president was rejecting the DUC's third nominee for the second time, the minority not only was expressing support for the president but also was calling for a plebiscite to dissolve Parliament. Furthermore, the crisis revealed a crack among the DUC parties. After the president's repeated rejections of the candidates, the Mongolian Social Democratic Party (MSDP), a smaller part of the coalition (15 seats), insisted it was their turn to nominate their own candidate for prime minister. The secretary-general

20. The Mongolian name of this law is *Mongol Ulsyn Ikh Khurlyn Gishüünii erkх зүйн байдлын тухай*.

21. While the quorum required 51 members to be present, the majority commanded 50 seats. See later for quorum busting.

of the MSDP asserted that party leader Radnaasumberel Gonchigdorj, the speaker of Parliament, “not only must be nominated for the post of prime minister but also had a duty to be nominated.” Some MSDP leaders threatened to vote against the candidate of the MNDP (the main coalition party, with 35 seats). In return, Elbegdorj, leader of the MNDP, warned that his party might form a grand coalition with the MPRP in order to form a cabinet. Meanwhile Enkhbayar,²² the leader of the minority caucus, was demanding a referendum aimed at dissolving Parliament.

In the middle of this crisis, Sanjaasüren Zorig, one of the leaders of Mongolia's 1990 democratic revolution, was assassinated on October 2, 1998. He was rumored to have been the next candidate for the post of prime minister. In this context, the president short-listed six DUC members (including both members and non-members of Parliament) as possible prime ministerial nominees and suggested that the DUC majority choose their candidate from among them. Thus, the president again acted against the principle established in 1993 by 53 votes of the Parliament for which he was the speaker. The DUC rebuked the president's “short list” and accused him of transgressing the principle, but to no avail.

Meantime, on November 24, 1998, the Constitutional Court in its en banc ruling invalidated Paragraph 11, Sections 2 and 3 of Article 8, and Section 1 of Article 6 of the *Law of the Legal Status of the Members of the State Great Khural* that had made it legal for parliamentary members to hold cabinet posts.²³ Although the State Great Khural had rejected the Constitutional Court's earlier ruling on November 12, now the court in its final judicial review upheld its previous ruling and invalidated the provision. Thus, the Constitutional Court dashed the DUC's hopes of forming the next cabinet from among the party's parliamentary members.

22. N. Enkhbayar succeeded N. Bagabandi as chairman of the MPRP, a member of Parliament, and as leader of the minority caucus—he was elected to these positions after N. Bagabandi was elected president of the country in 1997.

23. Indeed, the Paragraph 11, Sections 2 and 3 of Article 8, and Section 1 of Article 6 of the *Law of the Legal Status of the Members of the State Great Khural* that legalized members of Parliament to hold the post of prime minister and ministers were ratified by the State Great Khural on January 15, 1998, with the MPRP minority's full support. As I noted earlier, the president did not veto this law. This allowed Ts. Elbegdorj to form his cabinet exclusively out of members of Parliament. It is worthy to note that upon M. Enkhsaikhan's resignation, the chairman of the MPRP and the leader of the minority caucus N. Enkhbayar, who demanded M. Enkhsaikhan's resignation in October 1997, proudly claimed that “the MPRP caucus supported the resignation of the Cabinet for it was our caucus that initiated this resignation” (*Ardyn Erkh*, N 095 [1874], April 24, 1998).

Subsequently, on December 1, the president, highlighting the judicial ruling, sent a note to the DUC leadership stating, "Again, I warn the leadership of the MNDP and the MSDP to urgently submit to the President of Mongolia their proposal to nominate a candidate for the post of prime minister in accordance with the Constitutional Court's decision and promptly stop violating the law."²⁴

Finally, on December 9, 1998, the DUC nominated Ulaanbaatar Mayor Janlav Narantsatsralt, whose name was on the president's short list. The nomination was made under pressure from the president, who called the DUC leaders to his office and urged them to hasten the nomination. The president even reminded them that he had had to postpone his state visit to China because of this matter. Thus, Narantsatsralt was appointed prime minister by 36 to 21 votes. Subsequently, each of the nine ministers of his cabinet had to obtain approval from the president who several times disapproved the nominees proposed by the prime minister.

Thus, after a five months' long struggle, the president came out victorious, fully revealing the capacity of his "negotiating" power to form the cabinet, keeping the majority, and in effect the Parliament, at bay. Probably, the minority's support, the discord among the ruling coalition, and the Constitutional Court's repeated rulings contributed to the tenacity of this particular president. Yet, ultimately, it was the constitutional provision that gave the president the legitimate authority to "filter" the Parliament's choices. Thus, the Constitution endowed the president with the *de facto* authority to form the executive.

Paradoxically, the majority's loss was not only the loss of the cabinet. They also had to give up the DUC leadership to the prime minister whom the president had chosen. Earlier, on April 16, 1998, the governing body of the DUC decided that it was proper for the leader of the DUC to serve as prime minister. Enforcing this principle, Elbegdorj, as a leader of the DUC, justified his accession to the post of prime minister, forcing Enkhsaikhan to step down on April 23, 1998.

Ironically, this principle now began to work *against* DUC leader Elbegdorj and his team. A year later, in April 1999, Elbegdorj was forced to step down as the leader of the MNDP, and Prime Minister Narantsatsralt ascended as the next leader of the MNDP and, consequently, the DUC in April 1999. Thus, DUC leader Elbegdorj was "robbed" of what he believed legitimately

24. *Ardyn Erkh*, N 284 (2063), December 2, 1998.

belonged to him as a result of his electoral victory: the premiership and the formation of the cabinet. On the contrary, instead of consolidating his control of the cabinet and the Parliament as a result of his electoral victory, Elbegdorj was even stripped of his own party leadership position.²⁵

Constitutionally, Mongolia's cabinet was to be formed by the Parliament upon its election, and was dependent on parliamentary support for its survival. Yet, the presidential "filtering" of the prime ministerial nominee was so crucial that Parliament was unable to exercise its authority to form the cabinet without the president's *prior* approval. At this moment, it can be said that Mongolia, with a popularly elected fixed term president who had been "invested" with the key power in formation of the cabinet, was operating as a semi-presidential regime.²⁶ Or, more precisely, Mongolia was operating as "a typical premier-presidential system," wherein "the president selects the prime minister who heads the cabinet, but authority to dismiss the cabinet rests exclusively with the assembly [i.e., parliamentary] majority."²⁷

However, there was an important feature that made Mongolia's regime different from the semi-presidential type, or even its sub-type, the premier-presidential. The regime's defining feature was not that it "restricts the president's real choice of prime-ministerial candidate to someone he expects to be able to command parliamentary support (or at least acquiescence)," which is the defining feature of both the semi-presidential and premier-presidential types of regime.²⁸ On the contrary, Mongolia's constitutional design restricted the Parliament's choice of prime ministerial candidate to someone who can pass the president's initial "screening." Thus, it was not that the president's choice was restricted but rather, it was the president who was filtering the Parliament's choice of cabinet ministers.

25. The MNDP leaders resisted in accepting the "president's agent" as a leader of their party. E. Bat-Üül, a member of Parliament and a member of the General Council of the MNDP, stated that "[s]ince [the] Constitutional Court's decision has created a new legal environment, from now on, the Prime-minister and the leader of the party will be separate" (*Ardyn Erkh*, N 292 [2071], December 11, 1998). However, not only J. Narantsatsralt (resigned July 22, 1999) but also his successor as prime minister, R. Amarjargal (appointed on July 30, 1999), turned out to be the leader of the MNDP (November 3, 1999) "approved by" the president of Mongolia.

26. Maurice Duverger, "A New Political System Model: Semi-Presidential Government," *European Journal of Political Research* 8:2 (1980), pp. 165–87, p. 166.

27. Matthew Shugart, "Semi-Presidential Systems: Dual Executive and Mixed Authority Patterns," *French Politics* 3 (2005), pp. 323–51, p. 333. Indeed, Shugart classifies Mongolia as a premier-presidential system.

28. *Ibid.*

The president had no institutional power whatsoever beyond his initial screening of cabinet candidates. It was up to the Parliament whether to appoint the president's designated prime ministerial and ministerial candidates to the actual posts. Indeed, in August 1998, when the president designated as a candidate Rinchinnyam Amarjargal, one of the majority's nominees for prime minister, Parliament in fact did not appoint him because the candidate failed to secure the necessary support even from the majority, while the minority voted in unison against him. As this case shows, ultimately, the formation of the cabinet was the prerogative of Parliament, not the president. Yet, Parliament had to accommodate the president's preference in its choice of prime minister and cabinet ministers.²⁹

CONSTITUTIONAL AMENDMENTS

Should the MNDP and DUC acquiesce in its unhappy fate recognizing the MPRP-nominated president's "leadership"? Or should it not only try to reclaim its electoral victory but most important, free itself from the "tyranny" of the president? Should the other parties share this "unjust" fate in the future? This was a serious dilemma posed to parliamentary parties, both the majority and the minority, by 1998. In short, if the majority or its leaders ever wanted to fully claim their electoral victory (to which, as a result of the election, they were legitimately entitled), they should have immediately abrogated the president's authority in the formation of the cabinet. The only option was a constitutional amendment.

Indeed, by November 2, 1998, the majority had already reached that conclusion. However, in order to muster the required votes (constitutional amendments require a two-thirds vote, that is, 51 votes), the majority (with 50 seats) had to persuade the minority. The MPRP's new leaders, wrestling with the president over control of the party, were aware of the potential danger posed

29. The presidential "negotiating" power not only critically strained the Parliament's choice of the cabinet but also seriously weakened the majority's support of its own cabinet. The resignations of both M. Enkhsaikhan's and J. Narantsatsralt's cabinets can be explained in these terms. Indeed, it is the DUC that made these cabinets step down. The Democratic Union's choice of its fourth prime minister, R. Amarjargal, shows how its choice was limited by the president's preference. The president once before, in August 1998, had approved R. Amarjargal's candidacy to be prime minister; the Democratic Union in order to avoid the president's disapproval nominated R. Amarjargal to the prime ministerial post again. It should be noted that the MPRP minority, which voted against R. Amarjargal's candidacy less than a year ago, supported his candidacy this time.

by the president, whose “negotiating” authority could turn against them in future. To avoid encountering the fate of Elbegdorj at a later date and to wean the party from the president’s influence, the leaders agreed to the majority’s proposal to start negotiations on amending the Constitution.

By November 12, all the parliamentary parties—the MSDP, MNDP, MPRP, and Mongolian United Traditional Party (MUTP)—announced that they were ready to start negotiations. Although the MSDP proposed negotiations among the parliamentary parties, the MPRP maintained that talks should be between the majority and minority. The MPRP’s demand was accepted, and the majority was represented by Elbegdorj (leader of the DUC and the MNDP), Davaadorj Ganbold (vice leader of the MNDP), Sharavdoji Tüvdendorj (secretary-general of the MNDP), Radnaasumberel Gonchigdorj (chairman of the MSDP), Sangajav Bayartsogt (vice chairman of the MSDP), and Losol Byambajargal (secretary-general of the MSDP). The minority was represented by Nambar Enkhbayar (chairman), Lhamsüren Enebish (secretary-general), Ölziisaikhan Enkhtüvshin (secretary), and Tsend Nyamdorj, Nadmid Bayartsaikhan, and Ayurzana Tsanjid (members of the Steering Council of the MPRP). After a few rounds of negotiation that started on November 13, the parties quickly reached agreement. The proposal was to limit the president’s authority in forming the cabinet, allow members of Parliament to hold ministerial posts, introduce open ballots for parliamentary voting, lower the quorum requirement, and grant the president power to dissolve Parliament upon the prime minister’s request.

As the proposal showed, party leaders were determined to take charge of the cabinet by reducing the president’s involvement in it. The question of letting Parliament members serve in the cabinet was in fact a question of letting the party leader serve as prime minister. This would allow the party leader/prime minister to control both the cabinet and the majority more effectively. Open voting in Parliament was a touchstone for prime ministerial control of the majority and the cabinet. Only thus would the leader be able to keep members accountable to the party’s agenda.

Indeed, discipline had become troublesome for the majority ever since the resignation of Enkhsaikhan’s cabinet in 1998, when the majority’s vote was divided. From that time on, a dozen members of the majority had occasionally voted against their leadership’s clearly enunciated policy, taking advantage of the existing method of secret voting. In fact, the DUC, because of its coalitional nature and lack of ruling experience, was very susceptible to

squabbling. The MNDP, for example, was only three years old; it had been established through the merger of four parties. The DUC's leaders were prone to office seeking behavior that necessarily resulted in schisms within the bloc. Thus, to enhance majority discipline, several members of the majority initiated a bill in July for open voting, saying that party members should follow the party's majority decision. The bill was approved 14 to 13 by the Judiciary Standing Committee.³⁰ However, the minority rejected the draft law, fearing that open voting would enhance majority discipline.

Discipline was not a serious problem for the MPRP because of its minority status. Yet, the new leadership was well aware of the factionalist influence of President Bagabandi, the former leader of the party, who had to surrender his position because of the above-mentioned legislation that required the president to suspend his party membership. Thus, the new leadership of the MPRP knew that open voting would be equally important for them in the future. Still, for the time being, secret voting was working for the minority.

Finally, lowering the Parliament's quorum requirement was aimed principally at preventing the quorum busting that had become rampant since the 1996 fall session. A quorum required that 51 members be present. The majority commanded 50 seats; the minority 26 seats (the MPRP commanded 25 seats and the MUTP one seat, often allied with the MPRP), which was just enough to bust the quorum. Right after the opening of the newly elected Parliament's first session, the minority resorted to quorum busting and walked out of the chamber. During 1996–2000, Parliament could not convene nearly half of its scheduled sessions for the same reason. During the 1998 spring session, one such walkout lasted 34 out of 75 scheduled working days and toppled Elbegdorj's cabinet. Quorum busting had been the most formidable weapon of the minority; it virtually paralyzed Parliament. However, Mongolia's rapid transformation demanded an effective legislature. Thus, there was a need to lower the quorum total, which also would prevent gridlock in the presence of a powerful minority, like the current one. However, lowering the quorum level meant empowering the majority and keeping the minority at bay. The minority did not want that to happen. For the MPRP, the right timing for these reforms was crucial.

Initially, the majority was pushing the negotiation forward; however, the minority, fearing from the immediate empowerment of the majority, maintained

30. *Arдын Erkh*, N 177 (1955), July 29, 1998.

that if the amendments were adopted, they would have to come into effect after the next election. The majority tried in vain to persuade the minority; thus, the negotiation lingered for an entire year. Finally, the majority accepted the MPRP's demand, and on December 21, 1999, the negotiating parties agreed that the amendments, if adopted, would come into force by July 15, 2000—after the approaching parliamentary election.

The Parliament hastened to amend the Constitution,³¹ and on December 23, 1999, 65 members of Parliament (i.e., the MNDP's 26, MPRP's 24, and MSDP's 15 members) officially drafted the amendments. The next day, the State Great Khural amended the Constitution by 58 votes out of 61 members present. Amendments (Article 29, Paragraph 1) made it legal for sitting members of Parliament to concurrently hold the post of prime minister or minister. This gave the majority leader the power to consolidate control over the party and Parliament. (On July 16, 1996, just 16 days after his historic victory, DUC leader Elbegdorj had been deprived of this vital power by the Constitutional Court's ruling.)

Amendments also completely eliminated the president's authority over formation of the cabinet. The president's negotiating power regarding selection of the prime minister (Article 33, Paragraph 2) was eliminated. Instead, the amendments forced the president to designate to Parliament the prime ministerial candidate nominated by the majority within five working days, turning a former power into a duty. Further amendments (Article 39, Paragraph 2) granted the prime minister the authority to submit proposals on changing the structure and composition of the cabinet to the Parliament, freeing the premier from presidential interference. In addition, amendments (Article 27, Paragraph 6) required open votes in Parliament. Finally, changes (Article 27, Paragraph 6) set the quorum minimum at 39 members present.

CONSEQUENCES OF AMENDMENTS: THE RISE OF THE PARLIAMENTARY REGIME

Overall, the amendments made Parliament the ultimate power by eliminating the president's involvement in the selection of the prime minister and formation of the cabinet. Indeed, Parliament has become the sole institution responsible for the cabinet; its legislative efficiency was enhanced because of

31. The Constitution may not be amended within six months prior to the next parliamentary election (Constitution of Mongolia, Article 69, Paragraph 3).

better discipline and the reduced quorum. In effect, the amendments made the prime minister (by implication, the majority leader), the most important political power in Mongolia. The prime minister was not only freed from the president's interference but was endowed with a mechanism to keep the parliamentary majority accountable to his or her policy through open voting. Combined with open voting, the lowered quorum requirement—a bare majority, 39 out of 76 seats—gave the prime minister sweeping power to pass any legislation except constitutional amendments. With constitutional recognition, the majority leader became the leading candidate to hold this ultimate power.

In response, an anguished Elbegdorj was reported as saying that “[t]he Democratic Union Coalition has paid a very high price for this change. Our three cabinets had to resign. We could not appoint our candidate to the post of the prime minister even though we nominated him seven times. In the meantime, our leader of the Democratic Revolution has been assassinated. I think if there wasn't this crisis, S. Zorig would be alive.” Elbegdorj also stressed that the MNDP maintained that the president should be elected by Parliament, adding that if the constitutional amendments had taken effect at any other time, the effort might have failed.³²

During the negotiation, parties had been accused of colluding with each other, and Bagabandi vetoed the amendments on December 31, 1999. The State Great Khural overrode the veto a week later, on January 6, 2000, by 51 to one. Even so, legislators also had to overcome the Constitutional Court's adverse rulings, on March 15 and then on November 29.

The Constitutional Court's finding that the amendments were unconstitutional was based on a procedural mistake by members of Parliament who drafted them. The 65 members had submitted the amendments directly to the State Great Khural. But according to the Constitution, only the Constitutional Court has the authority to submit an amendment proposal (Article 68, Paragraph 1). In response, the State Great Khural refused to recognize the Constitutional Court's decision, maintaining that the court had no right to invalidate the amendments, which constituted an integral part of the Constitution.

The president again attempted to enforce the Constitutional Court's ruling. The MPRP had a landslide victory in the 2000 election that ended the cohabitation period, winning 72 seats in Parliament. The MPRP nominated

32. *Ödriin Sonin* [Daily News], N 248 (248), December 25, 1999.

its leader Enkhbayar to the post of prime minister. The president acknowledged that he had nothing against “negotiating” on Enkhbayar’s candidacy but maintained that the State Great Khural had to deal with the Constitutional Court’s ruling first. The newly elected Parliament could not enforce the constitutional amendments, forcing the president to designate the candidate to the State Great Khural within five working days, although it had already elected its speaker in its opening session.

Upon the president’s third “rejection,” the newly elected chairman of the State Great Khural, Lhamsüren Enebish, reminded the president that he needed to veto Parliament’s open voting if he wanted to maintain that the amendments were invalid, because open balloting was one of the amendments. The president, also mindful of his reelection campaign in 2001, was dependent upon the MPRP’s nomination; he proposed to set up a working group to derive an explanation that would discredit neither the president nor the Parliament. Consequently, the president designated MPRP leader Enkhbayar as prime minister on July 26, 2000. Voting was open, and 69 members of the majority supported their leader. Thus, Prime Minister Enkhbayar became the first party leader to successfully claim all the powers provided through the constitutional amendments.

Still, on August 1, the Constitutional Court condemned the State Great Khural for interpreting the Constitution to its own advantage and not issuing a resolution on the court’s ruling. The court demanded that the State Great Khural issue its resolution promptly. Consequently, on November 29 the Constitutional Court, sitting en banc for judicial review, struck down the amendments, thereby taking the utmost step to test the Parliament’s resolve. This time the State Great Khural considered it expedient to end the quarrel conclusively by re-amending the Constitution. On December 14, the State Great Khural demonstrated its “supreme organ of the state” power again by re-adopting the 1999 amendments by 68 to zero,³³ ignoring all the proposals initiated by the president and the court.³⁴

33. Thus, in effect, the State Great Khural admitted that it violated the Constitution for a half-year. Logically, it also implied that the president had also transgressed the Constitution. No doubt, it also means that the cabinet was formed illegally. But there was no one to enforce the rule of law.

34. The president vetoed the amendments on December 20, 2000, and the State Great Khural quickly overrode it by a vote of 48 to 4 (*Ödriin Sonin*, N 304 [557], December 23, 2000). See *ibid.*, N 295 (548), December 15, 2000, for the presidential and Constitutional Court’s initiative on constitutional amendments. See also Sheldon A. Severinghaus, “Mongolia in 2000: The Pendulum Swings Again,” *Asian Survey* 41:1 (January/February 2001), pp. 61–70.

With the 1999–2000 constitutional amendments, Parliament successfully claimed the monopoly of legitimate authority to form the cabinet. Thus, Parliament became the only authority that controls both the origin and survival of the executive, i.e., defining characteristics of a parliamentary regime.³⁵ In effect, as expected, during 2000–04 Prime Minister Enkhbayar was the most powerful authority, effective at commanding both the cabinet and Parliament. Although his advocates dubbed him a “national leader,” his critics labeled his reign the “tyranny of the party leadership.” Thus, as the 19th century British essayist Walter Bagehot noticed in his own context, the cabinet had become “the ‘efficient’ portion of the government” while the “parliament on the other hand had become an ‘electoral college’ that chose the government.”³⁶

The Mongolian president’s apolitical, non-partisan status greatly facilitated this change. Upon election, the president must suspend his party membership, thereby yielding his party chairmanship to a new leader. Thus, a presidency effectively means that the president’s party/political career is over and the president is already on the road to retirement. This entails a new power configuration and balance within the party. Thus, it is very difficult for presidents to maintain any meaningful control over their “own” party’s legislators.³⁷

On the other hand, in order to fully control the party, the MPRP’s new leadership (which succeeded to office in 1997) sided with the DUC against the president in eliminating his authority over cabinet formation. This effectively halted future presidential encroachment into party politics. The president’s apolitical status created a situation where the interests of the parliamentary parties “collude.” If the presidency was political or partisan, the Constitution could not have been amended to curtail the president’s power. President Bagabandi could have been the leader of the MPRP, which would give him the authority to control his own party’s legislators.³⁸ All in all, it

35. Shugart, “Semi-Presidential Systems,” p. 325.

36. *Ibid.*, p. 329.

37. In fact, to become the president of Mongolia necessarily means not only to lose one’s party post. A president must also accept whoever is the new party leader.

38. However, it is very difficult for the president, especially, a first term incumbent president, to serve as an apolitical, non-partisan head of state and as a symbol of national unity, if s/he wants to be reelected. According to the Constitution (Article 31, Paragraph 2), only parliamentary parties are eligible to nominate their candidates for the presidential election, which makes the first term incumbent president dependent upon party support. Thus, practically, the president is neither fully apolitical nor fully non-partisan.

can be argued, with a Parliament that fully controls both the formation and dissolution of the government, Mongolia became a parliamentary regime, albeit with a popularly elected fixed-term president.

CONCLUSION: CLARIFYING SEMI-PRESIDENTIALISM

Maurice Duverger defined a semi-presidential regime as the condition where “(1) the president of the republic is elected by universal suffrage; (2) he possesses quite considerable powers; (3) he has opposite him, however, a 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.”³⁹ Although it was based on “the content of the constitution,” the definition is conceptually vague in its second element. Thus, Robert Elgie, who dismisses Duverger’s second element as a “relational property” that involves an element of subjectivity, proposed semi-presidentialism as “the situation where a popularly-elected, fixed term president exists alongside a prime minister and cabinet who are responsible to parliament” following what Elgie defines as “dispositional properties.”⁴⁰

Matthew Shugart, who also advocates an institutional approach, finds the Duvergerian definition of semi-presidentialism vague precisely “because it does not define what the ‘considerable’ powers of the president are.”⁴¹ However, contrary to Elgie, Shugart narrows the Duvergerian definition of semi-presidentialism to a regime where a popularly elected, fixed term president has an “initiative in naming a premier” whose cabinet is responsible to the Parliament.⁴²

Indeed, as Shugart argues, “[T]he defining characteristics of parliamentary and presidential democracy . . . speak first to the question of the origin and survival of the executive and legislative branches”; in parliamentary systems the “executive arises from and is responsible to the majority of the assembly”; while in presidential systems, “the origin and survival of executive and legislative

39. Duverger, “A New Political System Model,” p. 166.

40. Robert Elgie, “Semi-Presidentialism: Concepts, Consequences, and Contesting Explanations,” *Political Studies Review* 2 (2004), pp. 314–30, p. 317. Elgie’s “dispositional properties” are roughly the constitutionally prescribed authorities of governmental institutions. See Robert Elgie, “The Classification of Democratic Regime Types: Conceptual Ambiguity and Contestable Assumptions,” *European Journal of Political Research* 33 (1998), pp. 219–38.

41. Shugart, “Semi-Presidential Systems,” p. 333.

42. *Ibid.*, p. 338.

authority are separate.”⁴³ Furthermore, in presidential systems “the cabinet [executive] derives its authority from the president and not from parliament.”⁴⁴ Therefore, having an executive formed by and responsible to a popularly elected fixed term president makes a regime presidential. Thus, there are two conditions a system must have to qualify as presidential: (1) a popularly elected fixed term president, and (2) an executive formed by and dependent on the president. Both conditions are equally important because their combination makes the executive separate from the legislature.

Then what makes a system semi-presidential? If the president’s origin and survival are dependent on the Parliament, there can be no discussion whatsoever of a presidential regime. Thus, Duverger’s first condition, the presence of a popularly elected, fixed term president, is sound. Therefore, our question leads us to look at presidential authority in the formation and retention of the executive. If a popularly elected, fixed term president has no authority whatsoever in the formation and retention of the executive, then this will be the business of the legislature, which will make the system parliamentary because by definition, Parliament forms and dissolves the executive. For a system to be semi-presidential, there must be a popularly elected, fixed term president and this president must have institutional authority in the formation and retention of the executive. This means that the presence of a popularly elected fixed term president does not necessarily make a regime semi-presidential. Similarly, the presence of British and Japanese monarchs do not make those regimes, let us say, semi-monarchical. Institutionally, Mongolia after the 2000 constitutional amendment does not belong to the semi-presidential club because its popularly elected, fixed term president has no institutional authority over the origin and survival of the executive.

For a system to be semi-presidential, there must be, as a second condition, this kind of authority. Consequently, Duverger’s “quite considerable powers” must include a president’s institutional power in the formation and retention of the executive. If the president commands *complete* authority in these matters, the system is presidential. Thus, to be a semi-presidential system, presidential authority on formation and retention of the executive must be *incomplete* or *semi-complete*, that is, the president shares this authority with another institution, the legislature. Here, Duverger’s third condition, the presence of a cabinet dependent on the legislature for survival, comes into

43. Ibid., pp. 324–25.

44. Ibid.

play. Thus, Duverger's "quite considerable powers" for the president do not include *complete* presidential control of the survival of the executive. This line of reasoning also aligns with Shugart's statement that "in semi-presidential systems . . . *the institution that selects an agent may not be the same one empowered to dismiss that agent*" (emphasis in the original).⁴⁵ Then, do the "quite considerable powers" include the president's complete control of government formation, or must the president share it with the legislature?

Mongolia's constitutional design before the 2000 constitutional amendment process sheds light on this question by displaying a contrast that highlights the importance of presidential authority on the formation of the cabinet (or the selection of the prime minister). The Mongolian president, before the 2000 constitutional amendment, lacked precisely this authority to appoint the prime minister and form the executive, even though he virtually controlled the *designation* of the prime ministerial candidate through his "negotiating and designating" authority. In contrast, the ultimate authority to *appoint* the prime minister and form the executive was the prerogative of the Parliament. It was Parliament that was forming the executive in Mongolia. Therefore institutionally, it matters who commands the *ultimate* authority to appoint the prime minister and form the cabinet. In Mongolia's case, it was the Parliament, even though its choice was "filtered" by the president, while in Duverger's cases it was the president.

In fact, in all the regimes Duverger analyzed, presidents select prime ministers. Although Duverger's definition of semi-presidentialism fails to spell out this important constitutional arrangement, this feature seems to have been looming large in his mind. Thus, by the president's "quite considerable power," it seems Duverger first of all meant this important authority, because in the case of Austria, Ireland, and Iceland he noted that the selection of the prime minister was the president's "only real prerogative."⁴⁶ Duverger also noted the Weimar president's power, in early 20th century Germany, to appoint "non-parliamentary chancellors, not of any party."⁴⁷ He also pointed to the Finnish president's authority to form "a government of civil servants and engineers" or "mixed" cabinet in which they are combined with politicians, or even trade unionists."⁴⁸

45. Ibid., p. 333.

46. Duverger, "A New Political System Model," p. 167.

47. Ibid., p. 173.

48. Ibid., p. 176.

As for the French regime, his strongest semi-presidential case, Duverger quoted de Gaulle's claim "that there existed no other authority, either ministerial, civil, military or judiciary which has not been conferred and was not being maintained" by the president.⁴⁹ Therefore, Duverger's "quite considerable" presidential power was, in effect, akin to the French president's power to *appoint* the prime minister and cabinet ministers and preside over the cabinet. Institutionally, this makes the cabinet belong to the president but not to the majority. Yet, because the cabinet's survival depends on the Parliament, the French president has to accommodate the Parliament's disposition in his selection of the cabinet. Whom the president appoints as prime minister is, certainly, a political decision, while *who* appoints the prime minister—the president or the Parliament—is an institutional design. Thus, Duverger's "quite considerable powers" first and foremost include the president's constitutional/institutional authority to form the cabinet.

Thus, semi-presidentialism *by designation* is a regime where a popularly elected, fixed term president *forms* the cabinet while the cabinet's survival depends on the legislature. Therefore, not every situation where a popularly elected, fixed term president has "some role in the formation of governments"⁵⁰ and where the authority to dissolve the cabinet belongs to the legislature is a semi-presidential regime—*unless the ultimate authority to form the government rests with the president*. Thus, the defining feature of a semi-presidential regime is that the president controls the ultimate authority to form the cabinet. This is more evident in the framework of Duverger's definition of semi-presidentialism. That is, if the president does not ultimately control formation of the cabinet, then it is the legislature that controls the survival of the cabinet. This makes the regime parliamentary.

In fact, Duverger's definition of a semi-presidential regime arises from the vantage point of the presidential regime. The reason is that in all his cases, presidents formed the government but had no control over the survival of the government. In presidential regimes, presidents controlled both the formation and the survival of the executive. Thus, naming the regime derives from whoever has the ultimate authority to form the government. Consequently, Duverger's definition of semi-presidentialism was not only vague but also was embedded within the existing systems.

49. Ibid., p. 171.

50. Shugart, "Semi-Presidential Systems," p. 345.

Indeed, *the ultimate authority to form the government* is the principal line of the divide: if the president controls it, the regime falls into the presidential side; if the Parliament controls it, the regime is parliamentary. Therefore, a regime where the popularly elected fixed term president forms the cabinet while the legislature can dissolve it is a semi-presidential regime. The converse would theoretically be a semi-parliamentary regime.

Even at the level of theory, distinguishing these two forms seems worthwhile because in terms of institutional design, possession of authority to form the cabinet is the crucial arrangement that sets political regimes apart. Indeed, it shapes and channels expectations, ambitions, dynamics, and performances of political actors in radically different ways. And, it creates totally different political environments and cultures. For instance, because the French president forms the cabinet, the French presidential election is “the focal point of the regime,”⁵¹ as in presidential democracies. As with other parliamentary democracies, in Mongolia the parliamentary election was and is the paramount event because the Constitution authorizes Parliament to form the cabinet following the election. Furthermore, Parliament, besides wielding lawmaking authority, operates closer to a presidential regime function in a semi-presidential regime, serving as a “filter” to the executive’s policies. In a semi-parliamentary regime, Parliament assumes the role of the governing body, as in fully parliamentary regimes. For this reason, Mongolia’s Parliament rejected the Constitutional Court rulings by repeatedly legalizing parliamentarians’ right to hold the prime ministerial and ministerial offices, thus asserting itself as a governing body. Therefore, distinguishing semi-parliamentary from semi-presidential regimes is a justifiable exercise, at least at the level of theory.⁵²

To what regime type did Mongolia belong prior to its 2000 constitutional amendment effort? Did it belong to a semi-presidential regime type? Indeed, the Mongolian president’s only meaningful involvement with the executive was “filtering” the selection of the cabinet. In this sense, as I mentioned

51. Robert Elgie, “France,” in *Semi-Presidentialism in Europe*, ed. Robert Elgie (Oxford: Oxford University Press, 1999), pp. 67–85, p. 67.

52. In terms of terminology, as my argument shows, semi-presidential and semi-parliamentary are not synonymous as Juan Linz, Alfred Stepan, and Ezra Suleiman argued (see Robert Elgie, “The Politics of Semi-Presidentialism,” in *Semi-Presidentialism in Europe*, ed. Elgie, pp. 1–22, p. 5). Yet, my argument is different from that of Duverger, who highlighted the presence of two (presidential and parliamentary) elections to justify the appropriateness of the term semi-presidential (*ibid.*). Rather who forms the executive makes the difference and claims the naming.

above, the earlier Mongolian regime was very similar to the premier-presidential sub-type of the semi-presidential regime. However, it does not belong to the semi-presidential type, giving the president the ultimate authority to form the cabinet—which Mongolia's president lacked. Instead, the defining authority belonged to the Parliament. Thus, Mongolia's regime prior to its 2000 constitutional amendments fell into the parliamentary side of the divide.

Then, to which kind of regime did Mongolia belong: parliamentary or semi-parliamentary? Mongolia's Parliament controlled both the origin and survival of the cabinet; however, its choice of cabinet was circumscribed by the president's preference. Thus, Parliament's power was restricted. Only in this particular sense could we identify Mongolia's regime prior to its 2000 constitutional amendments as semi-parliamentary.