THE PERILS OF SEMI-PRESIDENTIALISM

Cindy Skach: *Borrowing Constitutional Designs: Constitutional Law in Weimar Germany and the French Fifth Republic* (Princeton, NJ: Princeton University Press, 2005. Pp. xiii, 151. $29.95.)

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The book jacket of Cindy Skach's *Borrowing Constitutional Designs: Constitutional Law in Weimar Germany and the French Fifth Republic* shows a photograph of the bombed-out Reichstag building in Berlin after the fall of the Nazi regime. More clearly than the book's somewhat awkward title, this photo directs us to the overriding interest of Skach's work—the perils of semi-presidentialism. Skach's study is welcomed in light of the significant number of countries that have borrowed this constitutional design since 1989 alone. For students, scholars, and policy makers, Skach's investigation offers insight into whether semi-presidentialism contributes to the consolidation of democracy and is a rational choice for newly democratizing countries.

Skach's study is well-structured and written in admirably clear prose. The author begins with a discussion of "semi-presidentialism" and her methodology, before turning to an examination of two historical case studies, the Weimar Republic (1919–1933) and the French Fifth Republic (1958–2002). The final chapter draws conclusions on the merits of semi-presidentialism and cautions its use in contemporary constitutional engineering.

Over the past two decades, new institutionalism has led to a significant body of literature not only on presidentialism and parliamentarism, but also, to a lesser extent, on the mixed regime of semi-presidentialism. According to Skach, semi-presidentialism is not simply an alteration between phases of presidentialism and parliamentarism but a unique type of government with its own logic and institutional dynamics. Following Robert Elgie, Skach defines a semi-presidential constitution as a dual executive system, in which the head of state is a popularly elected president with a fixed term of office and the head of government is a prime minister who is responsible to the legislature (Robert Elgie, "The Politics of Semi-Presidentialism," in *Semi-Presidentialism in Europe*, ed. Robert Elgie [Oxford: Oxford University Press, 1999], pp. 1–21). This account departs from Maurice Duverger's classical definition of semi-presidentialism, which includes a third criterion—the president possesses considerable powers ("A New Political System Model: Semi-Presidential Government," *European Journal of Political Research* 8, no. 2 [June 1980]: pp. 165–87). Skach's streamlined definition of semi-presidentialism can claim to avoid subjective assessments of what constitutes considerable powers of the president. It also allows for a more inclusive categorization of constitutional systems of government as semi-presidential that are neither purely presidential nor purely parliamentary. At the same time, however, Skach's study of

semi-presidentialism remains focused on semi-presidential constitutions with considerable presidential powers, the Weimar Republic and the French Fifth Republic, and cautions borrowing semi-presidential constitutions especially of this type.

Borrowing Constitutional Designs is state-of-the-art in two significant respects:

(1) It investigates semi-presidentialism through an innovative methodological lens that
   (a) analyzes regime types in conjunction with the party system; and,
   (b) focuses not only on democratic consolidation or stability but also on good governance; and
(2) Offers in-depth comparative and historical analysis of constitutional designs.

In the introductory chapter, Skach constructs a robust methodological apparatus for the study of semi-presidentialism. Modifying the typology of Gianfranco Pasquino, the author introduces a new classification of semi-presidentialism into three subtypes, each reflecting different relationships for the president and prime minister to the legislature and party system:

(1) a consolidated-majority government, in which the prime minister controls a legislative majority and the president also belongs to this majority;
(2) a divided-majority government, in which the prime minister has a legislative majority, but the president is not from this majority. Typically, this arrangement is referred to as "cohabitation"; and
(3) a divided-minority government, in which neither the president nor the prime minister has the majority (Gianfranco Pasquino, "Semi-Presidentialism: A Political Model at Work," *European Journal of Political Research* 8 [1997]: pp. 128–37).

Weighed on a scale of democratic consolidation, a consolidated-majority government promises more stability while a divided-minority government the least.

In addition, Skach posits three "conditions" that influence which subtype of semi-presidentialism will emerge in a polity and how effective, efficient, and democratic the government will be in dealing with political tasks:

(1) how well political parties are institutionalized;
(2) how well the electoral system facilitates the creation of stable majorities; and,
(3) to what extent the popularly elected president is a "party man."

According to Skach, highly institutionalized party formations contribute to more stable and effective legislative majorities. Furthermore, electoral rules

promoting majoritarian over proportional representation tend to yield more stable governments. Finally, presidents with strong commitments to the political party system and enjoying party support are more likely to work with parliament and avoid the pitfalls of presidential rule by emergency decree.

With this methodological apparatus in hand, Skach turns to a comparative historical analysis of semi-presidential constitutions in Weimar Germany and the French Fifth Republic. In the case of the Weimar Republic, the author is able to recast debates about the Weimar Constitution's "internal contradictions" (Carl Schmitt) or "suffocating dualism" (Richard Thoma), between executive prerogative and parliamentary rule through her recourse to the vocabulary of semi-presidential constitutional design. Weimar's crises of democratic governance appear here in a new, analytically sharpened light as the outcome of semi-presidentialism and its party system. The Weimar Republic operated for most of its fourteen-year life span in the most problematic subtypes of semi-presidentialism. Consolidated-majority governments ruled for only 8 percent of the time, whereas divided minority governments accounted for nearly half of the Republic's life span, before it slipped into constitutional dictatorship between 1930 and 1933.

According to Skach, Weimar had a viable political culture but not a well-institutionalized party system, one of the purest forms of proportional representation ever for the election of members of parliament, and, after 1925, a president in Hindenburg who was antiparty. These three conditions helped create a vicious circle, in which a divided minority government in Weimar led to legislative gridlock, presidential use of emergency powers as a substitute for a legislative majority, abdication of party responsibility and toleration of nonparty technocratic ministerial cabinets, and the further polarization and paralysis of parliamentary politics. Skach especially faults the Social Democratic Party for its failure to reverse this trend by choosing to remain in the opposition rather than participate in governing coalitions after 1923 (with the exception of the grand coalition between 1928 and 1930). Between 1930 and 1933, President Hindenburg and his cabinet of nonparty technocrats responded to this fragmentation and immobility of parliamentary politics with a constitutional dictatorship that bypassed the legislature and ruled by presidential decree. The semi-presidential constitution and the conditions of the party system thus contributed significantly to the demise of Germany's first democratic republic and the rise of the Nazi regime.

In the case of the French Fifth Republic, Skach shows how France's semi-presidential constitution was stabilized after a difficult start with a divided-minority government between 1958 and 1962. In April of 1961, President de Gaulle resorted to emergency powers to resolve the crisis in Algeria, which was sparked by four French army generals who seized control of power in Algiers. In contrast to Weimar, France stepped back from the abyss. After a five-month period of rule by presidential decree, France returned to normalcy. During the 1960s, the French Fifth Republic witnessed the gradual

institutionalization of the party system supported by the emergence of a stable middle class (something missing in Weimar), the adoption of electoral mechanisms favoring majoritarian over proportional representation, and President de Gaulle's reconciliation with political parties. Buoyed by a consolidated-majority government in power between 1962 and 1969, these developments helped to reduce institutional conflict and increase the effectiveness of democratic institutions. According to Skach, the consolidation of democracy in France over this crucial period strengthened popular trust in the Fifth French Republic, such that the semi-presidential system has been able to weather three periods of cohabitation or divided-majority government since the 1980s. For Skach, however, revisions to the French Constitution in 2002 designed to facilitate the creation of consolidated majorities prove that even today all is not well with semi-presidentialism in France.

In her final chapter, Skach draws the conclusion that, in contrast to what seems to be the reigning popular wisdom, newly emerging democracies should avoid semi-presidential constitutions. As we can note in countries of postcommunist Central and Eastern Europe, transitional democracies often have new party systems that are neither stable nor highly institutionalized and newly elected presidents that are not well integrated into the inchoate party system. Under such circumstances, there is a greater likelihood that semi-presidentialism will give rise to the vicious circle of legislative immobility and presidential rule by executive decree as a substitute for parliamentary activism. We see this tendency today in countries with semi-presidential constitutions, such as Russia.

I see two significant shortcomings in Skach's study. First, it strikes one as highly questionable that in analyzing semi-presidential constitutions a central institutional variable in Skach's methodology is not the actual constitutional powers delegated to the president. In her comparative historical analysis of the Weimar Republic and the French Fifth Republic, Skach does refer to the importance of presidential powers. But a lingering question is, to what extent does the scope or degree of power exercised by a president account for the dynamics of democratic consolidation and good governance in transitional democracies? As noted above, Skach abandons Duverger's third criterion of semi-presidentialism, that is, the president has considerable powers. Despite this, Skach remains squarely focused on semi-presidential regimes with considerable presidential powers. And yet in her concluding chapter, Skach goes on to claim that semi-presidential constitutions with weaker presidents are more conducive to democratic consolidation. What is missing here is a classification of different types of semi-presidential constitutions along according to the degree of presidential power, large or small, along with in-depth historical or empirical case study research to back up assertions made. By discarding Duverger's third criterion, Skach increases the number of countries considered semi-presidential. It is now incumbent upon Skach to provide for this enlarged group a classification of the different types of semi-presidentialism according to the scope of

presidential power vis-à-vis the prime minister. In this context, Robert Elgie's typology of "highly presidentialized semi-presidential regimes," "semi-presidential regimes with ceremonial presidents," and "semi-presidential regimes with a balance of presidential and prime-ministerial powers" offers a valuable corrective (Robert Elgie, "Variations on a Theme," *Journal of Democracy* 16, no. 3 [July 2005]: pp. 98–112).

A second shortcoming of Skach's study can be found in the more general drawbacks of new institutionalism. Skach's findings highlight effectively the fact that "institutions matter" in determining the fate of a democracy, but so, too, do noninstitutionalized factors, such as political culture, economic security, and sociocultural traditions. This is especially true for a transitional democracy such as the Weimar Republic, where deep-seated authoritarian traditions, antidemocratic forces, a political culture inexperienced with the virtues of debate and compromise, and economic crises would pose a serious challenge to the stability and effectiveness of just about any democratic constitutional design, be it presidential, parliamentary, or semi-presidential. These noninstitutionalized factors do not find an integral place in Skach's narrative.

Despite these reservations, Skach's *Borrowing Constitutional Designs* clearly sets a new benchmark in new-institutionalism studies on semi-presidential constitutional designs as well as in the comparative historical examination of semi-presidential constitutional systems. Skach offers a timely and penetrating analysis of the perils of semi-presidentialism.

–David C. Durst

PROBLEMS OVER THEORIES

Ian Shapiro: *The Flight from Reality in the Human Sciences* (Princeton and Oxford: Princeton University Press, 2005. Pp. x, 223.)

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This volume is a compilation of modestly amended essays published between 1987 and 2004. These essays include a considerable variety of topics, from rational choice to normative theory, from jurisprudence to pedagogy. What they have in common is that they all represent attempts by Shapiro (and Alexander Wendt and Donald Green, each of whom co-authored one of the essays) to respond to what he calls "one of the central challenges for political theorists: serving as roving ombudsmen for the truth and the right by stepping back from political science as practiced, to see what is wrong with what is currently being done and say something about how it might be improved" (p. 179). Shapiro's targets also come in many guises: They include not only those he calls "Hume's bastard