

LEGISLATURES AND PARLIAMENTS IN COMPARATIVE CONTEXT

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The words “legislature” and “parliament” are often used interchangeably. The distinction between them, however, can be used to structure the analysis of legislatures and/or parliaments in a comparative context. Legislatures legislate; they pass laws. The notion of a “legislature” is thus located firmly in the classical view of a *separation of powers between legislature, executive and judiciary*. This distinguishes law-making both from the business of government and from the interpretation, adjudication and enforcement of any laws that are made. A “parliament”, on the other hand, does legislate but in contemporary politics is also something much more than a legislature. In the constitutional structure of “parliamentary government” that characterizes most European states, as well as “European-style” modern democracies such as Australia, Canada and New Zealand, *the executive is constitutionally responsible to the legislature*.

The matter of whether or not the executive is responsible to the law-making body lies at the heart of my distinction between a “legislature” and a “parliament”. Parliamentary elections are in essence about choosing governments, not law-makers. This in turn creates distinctive incentives for elected politicians, who must remain loyal to political parties if they want to get into government, while heads of government often have discretion over the strategic timing of parliamentary elections. Under a separation-of-powers regime, legislative elections have no effect on the identity of the government, although they have an impact on what the government is able to do. This affects the incentive structure of politicians, whose loyalty to political parties, for example, becomes more of an open question. Thus I use the distinction between legislatures and parliaments, a distinction between two very different types of politics, to structure the discussions that follow. I begin in the next section by looking at parliamentary politics, before moving on to look at legislative politics in separation of powers regimes. I conclude by revisiting this distinction in the context of the different types of empirical technique we can use to measure the policy positions of elected politicians.

LEGISLATURES AND “PARLIAMENTARY” GOVERNMENT

In a parliamentary system, the executive both derives from, and is constitutionally responsible to, the legislature – typically its lower house.¹ The government remains in office as long as it retains the “confidence” of the legislature. The most important political job for the “legislature” in a parliamentary government system is thus not legislating at all, but making and breaking

¹ The politics of legislative bicameralism, a widely cited analysis of which can be found in Tsebelis and Money (1997), is covered elsewhere in this dictionary – see Cutrone and McCarty (forthcoming).

governments. The reverse side of this constitutional coin is that the legislature typically cannot dissolve itself, but can typically be dissolved, directly or indirectly, by the executive.²

Parliamentary confidence and the executive

The twin procedural peaks of parliamentary government are two types of vote in the legislature – the confidence/no confidence vote and the investiture vote. The former is the more fundamental. A government that loses a legislative vote of no confidence is constitutionally deemed dismissed, if it does not resign voluntarily in anticipation of this catastrophic event. If such a provision is not in the constitution, then the country concerned does not have a parliamentary government system. Faced with an actual or threatened motion of no confidence, governments often attempt to regain the political initiative by proposing their own parliamentary motion of confidence, which typically takes procedural precedence. Failing to win a confidence vote has the same constitutional effect on the government as losing a no confidence vote.³

The actual legislative defeat and subsequent fall of a government on a no confidence vote is in practice very rare in parliamentary democracies, just as an actual checkmate is very rare in a chess game played between grandmasters. What is important is that parliament does have its big constitutional stick and that the government knows this. Facing defeat on an actual or potential parliamentary confidence vote, governments usually find they can cut their losses by resigning in anticipation. Furthermore, governments in parliamentary democracies typically have the strategic procedural option of converting a parliamentary motion on any substantive matter, however trivial, into a formal motion of confidence in the government, creating a situation in which the very future of the government is constitutionally bound to the fate of the matter under consideration by parliament. This goes well beyond the mere threat to resign if the government loses the vote on the substantive issue in question.

The relationship between legislature and executive in a parliamentary government system is thus strategically rich and complex. On the face of things, parliaments may seem to have far-reaching powers to make and break governments. The other side of the coin is that governments have far-reaching powers to say to the legislature: “You may oppose us on this particular issue but, if you don’t let us have our way, you can go find yourself a whole new government. This is no idle threat; we’ve chained ourselves to the mast on this motion and thrown away the key – if it goes down we go down with it.” Once the confidence procedure has been triggered, unless the issue at stake is so important that some legislative majority really would prefer a whole new government to conceding, the executive is in a strong position to get its own way in the face of legislative opposition. See John Huber (1996), who produced an incisive and widely-cited analysis of the politics of this particular process in France (see also Diermeier and Feddersen, 1998).

The fundamental need for the government to be able to win parliamentary confidence votes is often tested constitutionally using a formal parliamentary investiture vote at the point of government formation. Not all parliamentary government systems require formal investiture votes, although those that do have been shown to have governments that are, on average, longer-lived (Warwick 1994) and less likely to be minority governments (Strom, 1990). Effectively, however, the rules of parliamentary government mean that any incoming government is immediately exposed to an implicit motion of no confidence. Anticipating this, there is no point in a government forming in the first place if it cannot subsequently win confidence motions in the

² Gallagher, Laver and Mair (2006) summarize the mutual powers of legislature and executive to terminate each other in European parliamentary democracies

³ The vote seeking parliamentary approval for government’s annual budget usually has the same constitutional status as a confidence vote.

legislature. This is why it is the parliamentary no confidence procedure, not the parliamentary investiture vote, that defines parliamentary government.

Parliamentary government, elections and endogenous election timing

Despite the fact that parliaments are not as powerful in parliamentary government systems as might seem on naïve readings of the relevant constitutions, the constitutional power of parliaments to make and break governments has a fundamental impact on practical politics. Because the constitutional source of the government is indeed parliament, parliamentary elections at the national level are more about “electing” governments than they are about choosing a set of representatives to deliberate and vote on legislation. Thus the prominent politicians campaigning in parliamentary elections are typically party leaders. Many of these people present themselves to voters as candidates for the position of Prime Minister (chief executive). Crucially, *if citizens want to change their government in a parliamentary government system then they do this by voting in parliamentary elections*. Everything else about legislative politics in parliamentary government systems is ultimately an embellishment of this simple constitutional fact.

There is once more a reverse side to this coin. In most parliamentary government systems, while the government is formally responsible to parliament, parliament itself can be dissolved, and parliamentary elections triggered, at the initiative of government. Indeed only very rarely can parliament dissolve itself. This is no minor technical matter since it raises the crucial possibility of the strategic timing of parliamentary elections – something of great benefit to the head of government. Political scientists have analyzed the strategic incentives facing governments when considering the timing of parliamentary elections in terms of both *manipulation* (governments massage the economy to create “political business cycles” that favor them at election time) or more opportunistic *surfing* (governments time elections to catch favorable economic waves over which they have little control).⁴ Indeed, choosing the best time to hold the next parliamentary election, although this would never be admitted in public, is one of the most important political jobs for any Prime Minister. In an era of widespread and reasonably accurate public opinion polling, this puts the head of government in a privileged position *vis à vis* parliament and indeed all other politicians. While all other politicians must work with the actual parliament in place at any given time, the PM in most parliamentary government systems has the luxury of deciding whether s/he wants to work with the current parliament, or with the parliament likely to result if the present one were to be dissolved and new parliamentary elections held (Lupia and Strom, 1995, and Diermeier and Stevenson, 1999).

The endless stream of opinion poll results and other estimates of likely election outcomes, combined with endogenous election timing, feed directly into the balance of power between legislature and executive, in a process that would merit significant further study. When the legislative opposition is rampant at the polls and the government fears an election, for example, it is much less attractive for the government to turn individual legislative proposals into issues of confidence and thereby to dare parliament to use its nuclear option of voting no confidence. In contrast, when the government is riding high in the polls and the parliamentary opposition fears an election, then the government’s legislative business managers can adopt a “make my day” approach, staking the future of the administration on (quite possibly more extreme) legislative proposals. If we ask ourselves why sitting governments with safe legislative majorities might respond to negative public opinion poll feedback when they are years away from the next scheduled election – and this one of the great mysteries of politics – then one answer might be found, within parliamentary government systems with endogenous election timing, in

⁴ Smith (2004) and Kayser (2005) provide overviews of this work; see also Alesina, Cohen and Roubini (1997).

the way in which bad poll results for government parties make it procedurally more difficult for the executive to bully the legislature.

Government setting of the parliamentary agenda

A consequence of these rules, combined with the tight party discipline to which we shortly turn, is a strong tendency in parliamentary government systems for the executive to have a vice-like grip on the legislative agenda. Nowhere in the earthly world are legislators free to debate whatever they feel like debating when they get out of bed on any given day, so legislative agenda-setting is always important (Romer and Rosenthal, 1978; Cox and McCubbins, 2005). In parliamentary government systems, however, there is a strong tendency for the source of nearly all parliamentary business to be the government itself – to a large extent, parliament is a place for debating, amending and passing government legislation. This is not found in any constitution, but emerges from rules and conventions governing the flow of parliamentary business and is underpinned by the fact that the government must have the votes to control parliament and its affairs.

Apart from the important constitutional obligation for the government to have its annual budget passed by the legislature, the decision to initiate particular pieces of legislative business is normally at the discretion of government. If some issue is likely to place the government in difficulty, for example, delays can mysteriously arise in drafting the necessary legislation, difficult technical issues can mean that the relevant bill never sees the light of day. A government with a secure parliamentary majority, furthermore, can use legislative standing orders to accelerate, decelerate and guillotine the passage of particular legislative proposals and *in extremis* can ram measures through parliament very fast indeed – even in the space of a single day. The bottom line is that, in most parliamentary government systems, there is little chance of a detailed proposal having extensive legislative deliberation, much less being passed into law, against the wishes of the government. Furthermore, the government is not a unitary actor and does not draft legislation at the cabinet table. Rather, division of labor and responsibility between cabinet ministers means that most draft legislation originates in a particular government department, under the jurisdiction of a particular cabinet minister. The division of ministerial responsibility into policy jurisdictions is reviewed empirically in Laver and Shepsle 1994, and forms the basis of a theoretical model in Laver and Shepsle 1996. What gets debated in the legislature is thus the outcome of a two-stage agenda-setting process, whereby a designated department under a particular cabinet minister first presents draft legislation for approval by cabinet. What emerges from this process as government policy then sets the legislative agenda.

Legislative parties and party discipline

It is difficult to proceed further with our discussion of the politics of modern parliaments without talking about *political parties*. Although parties are often not mentioned in the constitutions establishing parliamentary government systems, it is clear that these would likely be very chaotic indeed in the absence of coherent parliamentary parties. Whatever constitutions might say, furthermore, most members of most modern parliaments are indeed members of political parties. The benefits to a legislator of party membership range from the electoral benefits of the party label, to practical benefits in the legislature that can range from office and research facilities to speaking privileges in debates, to rights to propose motions, to benefits that arise from the fact that, in most parliamentary government systems, parliamentary parties are the *de facto* gatekeepers to high political office (Blondel and Cotta 1996). This latter point is crucial, since it means that parliaments are to a large extent the recruiting grounds for membership of the

government. The career track of many politicians in parliamentary government systems involves a “promotion” from the legislature to the executive. Party leaders in parliamentary government systems thus have control over the very highest political rewards, notably coveted positions in the executive.

In this sense parliamentary parties are “political clubs” that are autonomous political systems in their own right. The leaders of these parties are (or are potentially) able to take control of the key political payoffs and offer these to members of their club, excluding all others. Club membership involves abiding by club rules on pain of expulsion, and these include rules on how members will behave in the legislature. The result is a highly incentive compatible system with two interacting pieces. First, party leaders are able to offer rewards to loyal party members, in the form of access to a share of executive perquisites over which party leaders maintain very firm control; these are very highly valued by members. Second, party leaders rely on the loyalty of disciplined party members to maintain control of the executive – or to mount a credible challenge for such control. Without being able to rely on the deployment of a disciplined bloc of votes in parliament, party leaders cannot credibly bargain with other party leaders over the making and breaking of governments. Neither can party leaders in government maintain their control of the executive, since such control requires firm control over voting in parliament, in order to win crucial votes of confidence and enact the government’s legislative program. The result is the endogenous emergence of disciplined behavior by party legislators.⁵ In practical terms legislative party discipline boils down to parliamentarians accepting that they will vote the way their party hierarchy tells them to vote, even when they disagree with this on pain of banishment from a party that offers them considerable rewards, to face the subsequent miseries of life in the political wilderness.

The very concept of party discipline, so central to the understanding of legislative politics in parliamentary government systems, sensitizes us to the need for an analysis of the relationship between intra-party and inter-party politics. This is a significantly under-researched area; scholars too often take the easy way out with an assumption that parliamentary parties, because they do usually behave in such a disciplined way, can be modeled as “unitary actors”. But such discipline, as we have seen, is endogenous. Indeed it is useful to reserve the notion of “party discipline” ONLY for the endogenous emergence of coordinated behavior by party legislators as a result of internal party politics.

A striking example of this could be seen when Margaret Thatcher, arguably one of post-war Europe’s most powerful Prime Ministers, was ignominiously bundled out of her seemingly invincible positions as head of the British government and leader of the majority party in Westminster as a result of the internal politics of her party. It was the constitution of the Conservative Party, not the (unwritten) constitution of the United Kingdom of Great Britain and Northern Ireland, that governed the changing of the British Prime Minister. And this is by no means an isolated example.

The net point is that politics in parliamentary government systems is to a large extent party politics, both within and between parties, while party politics in practice transcend the constitutional distinction between legislature and executive. When a government party makes a policy decision, therefore, it can be effectively impossible to determine whether this is a decision of the party in government, the party in parliament, or indeed the wider party organization in the country as a whole. In practice it is likely to be a complex interaction between all three. For this reason alone, it is not productive in a parliamentary government system to analyze legislative politics outside of its wider political context.

⁵ For a set of discussions of party discipline in parliamentary government systems, see Bowler, Farrell and Katz (1999).

Legislative and executive coalitions

If parliamentarians behaved as uncoordinated individuals, then making and breaking governments in parliamentary government systems would be chaotic, since the set of parliamentarians expected to vote for the government on a putative confidence motion would likely be ever-changing. Any political shock or voting cycle could cause the government to be defeated in a heartbeat. Structure is brought to this process by the fact that members of political parties operate in a coordinated way *in both the legislative and the executive spheres*. As we have seen, this structure allows a party or coalition of parties controlling the executive to extend this control to the legislature. The distinction between two quite different coalitions is crucial in this context.

- One is the *government coalition per se*. This is the set of politicians who are actually members of the government, who may belong to one or more political parties. This set is typically defined as those holding cabinet portfolios, although this definition could be considerably extended – to “junior” ministers and other senior political patronage appointments. The number of political appointments needed to control the entire government machine in a parliamentary government system is actually quite large, and this is significant when it comes to government formation (Laver and Shepsle, 2000).
- The other is the *parliamentary support coalition* for the government. This is the (quite possibly ever-changing) set of parliamentarians expected to vote for the government on any putative government motion, including a confidence/no confidence motion, that might be called at a particular moment in time. Members of a government’s parliamentary support coalition may or may not belong to the same political parties as members of the executive coalition per se. A particular motion may attract the support of parliamentarians who would actually vote to defeat the government in a vote of no confidence, for example. Or, as happened with the Likud government in Israel in March 2005, defections from legislative members of a government party may be compensated by legislative support for from parties “outside” the government coalition.

It is important not to elide this important distinction. Countries with parliamentary government regimes are NOT governed by their parliaments, but by executive coalitions supported by parliament. There is “baseline” parliamentary support for a government in the event of a no-confidence motion, which measures the extent to which, everything considered, legislators prefer the incumbent regime to some credible alternative. But it is constitutionally possible that, on individual votes, there may be shifting parliamentary majorities. And, unless the government decides to attach a motion of confidence to one of these, it is quite possible for it to lose a series of legislative votes without threat to its continued existence.

Legislative politics and “minority” governments

The distinction between government coalitions and their parliamentary support coalitions is clarified when we consider the phenomenon, common in parliamentary government systems, of “minority” governments. When no single party commands a parliamentary majority, any government must nonetheless rely on a majority legislative support coalition in order to win votes of confidence. This is true whether the government comprises politicians from one party or several. When the government party or parties do themselves not control a parliamentary majority, there is a “minority” government. Minority governments have been of increasing interest to political scientists following work by Strom (1990). Constitutionally, a minority

government can remain in office as long as there are enough parliamentarians, not belonging to the parties in government, who nonetheless support the government in confidence votes.⁶

If parliamentarians were concerned only with getting into government, then minority governments would be hard to explain. A majority of legislators, coming from parties not in the government, would simply vote the government out, install themselves in office and enjoy the “smell of the leather”, to steal a phrase from Irish politics. The conventional answer from theorists of government formation is that the existence of minority governments is evidence that legislators also care about policy, and that minority governments can survive when the legislative opposition is divided over policy (Strom, 1990; Laver and Shepsle, 1996; Laver and Schofield, 1998). Opposition parliamentarians do not vote the government out, in this account, because they cannot agree on the policy program to be promoted by any credible alternative.

Legislative politics and single-party majority governments

Another important reason to pay attention to the distinction between the government coalition and its parliamentary support coalitions can be found when we analyze the politics of single-party majority governments in parliamentary democracies. In these cases, members of the government coalition all belong to one party and this party controls a legislative majority. Such cases are rarely analyzed, by either theorists or empirical researchers, perhaps because they are mistakenly assumed to be theoretically trivial. But this is to treat parties as unitary actors and ignore the crucial role of parliamentary party discipline in binding together executive and legislative politics. Even when there is a single-party majority government, however, the constitutional requirement that the government must maintain the confidence of the legislature remains in full force. This means that the government is only secure if its legislative support coalition – all members of which belong to the same political party but all of whom remain individual decision-making agents whose autonomy is deeply enshrined in most constitutions – remains loyal. In short the government is secure only as long as the discipline of the parliamentary party supporting it remains effective. And this in turn means that the most important practical politics between elections in parliamentary government systems takes place *inside the majority legislative party*. Thus single party majority governments are no different from explicit coalitions in needing to maintain a parliamentary majority who deem themselves better off than under the alternatives.

This is matter largely ignored by theorists of party competition, who tend to devote themselves to analyzing politics between, rather than politics within, political parties. But, as any student of British politics under Margaret Thatcher or Tony Blair would testify, there was a lot of legislative politics between elections, despite the commanding parliamentary majorities enjoyed by the one-party governments led by both. Thatcher, as we have seen, was humiliatingly dethroned from her position as Prime Minister as a result of such politics. Blair (successfully) walked a very high wire within the Labour Party when he was leader of a party enjoying a huge parliamentary majority, following his commitment to British participation in the US-led military invasion of Iraq. In each case, intense politicking among legislators was the result of the fact that these Prime Ministers led majority parties that were deeply divided on key issues. These issues were felt so intensely that factions of legislators within the governing party credibly appeared willing to split the party, and to damage if not destroy “their own” government rather than meekly follow the party line and vote in the legislature against their sincere preferences. Ignoring this when analyzing legislative party politics under single party executives misses the whole point of what was going on. But only a theoretical account that makes a clear distinction between the government and its parliamentary support coalition, and furthermore treats parliamentary parties as endogenous coalitions of legislators, is in a position to get to analytical grips with such high politics.

⁶ “Support” is taken to include abstentions that, had they been votes against the government, would have caused it to be defeated.

The parliamentary opposition

Treating parliamentary parties as endogenous coalitions of parliamentarians is intellectually liberating, not just because it gives us an interesting way to analyze the self-evidently important politics of single-party majority governments, but also because it gives us analytical leverage on the legislative role of opposition parties in parliamentary democracies. Faced with a government controlling a legislative majority by virtue of the discipline of its parliamentary parties, legislators who oppose the government cannot themselves muster the votes to beat it on anything. But this by no means implies they might as well go off on an extended holiday, sipping mixed drinks and daydreaming of a better tomorrow. Opposition politicians have plenty of interesting work to do back at the legislature, since the way to defeat the government in such situations is to split open its legislative support coalition. This may mean splitting a coalition of different parties, or splitting a single government party, by finding and opening up the internal fission lines that always exist within a set of politicians who do not share identical preferences. This type of legislative maneuvering was discussed by Riker (1986) as the political “art” he called “heresthetics”. Unfortunately, heresthetics is difficult to analyze in a systematic way, although it has been revisited in another context by Epstein and Svetsova (2002), who see it as the matter of how to “snatch victory out of the jaws of defeat”.

LEGISLATURES AND “PRESIDENTIAL” GOVERNMENT

Even in US-style presidential systems, in which the separation of powers between legislature and executive is usually considered to be clear-cut, legislative politics does not unfold independently of the behavior of the executive. (See Cameron 2000, and Krehbiel 1999.) That is, the political bottom line in almost any system of government – whatever the constitutional separation of powers – is that legislatures need executives if they are going to be able to do what they are likely to want to do, not least to fund the costs of their legislative initiatives. And executives need legislatures, not least because even the government has to act in accordance with the law, while almost all constitutions demand legislative approval, in some shape or form, of the executive’s annual budget. Thus, while the President of the United States of America cannot be dismissed by Congress – except in extraordinary circumstances arising from successful impeachment – neither can he or she ignore Congress.

Thinking more generally about the role of legislatures in presidential government regimes, we have to remember that the “model generator” for much of the vast body of work on this subject – the United States Congress – is located in a constitutional framework that in comparative terms generates a relatively weak presidency. Thus (no doubt to the regret of many past presidents) the US president has no power to dismiss either house of Congress, has very limited power over the congressional agenda, and very limited power to issue presidential decrees that override laws passed by the legislature. However, congress cannot get rid of the president and can only indirectly influence the behavior of the executive.⁷

When considering the wide range of intellectually influential theoretical work on the US legislature, therefore, we must be alert to the possibility that the model generator is itself *sui generis*. Nonetheless it is precisely the relative weakness of the US president, manifested in the clear-cut separation of powers between executive and legislature, that has created such a fertile modeling environment.

⁷ For a comparative overview of executive-legislative relations in “presidential” regimes, which ranks the US at the bottom end of a scale of presidential power, see Samuels and Shugart, 2003.

Legislative parties

One dramatic difference between parliamentary government and separation-of-powers regimes has to do with the role of legislative parties. As we have seen, in parliamentary government systems, the incentives for legislators to join highly disciplined parties are considerable. Parties provide the entire career structure for any aspiring politician, from the first baby steps in politics to the most powerful offices in the land. At the same time, the fact that party leaders are current or aspiring key members of the executive means that they have strong incentives to deploy the rewards and punishments that bring about the legislative party discipline that makes control of the executive possible. In a parliamentary government system, the puzzle is why legislative party discipline would ever fail. In contrast, in legislative systems such as in the US, the puzzle is why party discipline ever succeeds. Decoupling legislature and executive puts legislative parties in a completely different strategic context. Most strikingly, keeping the executive in power does not require disciplined legislative parties, and legislative and executive career structures are to a large extent also decoupled. No doubt Congressional ranks include many aspiring US presidents, key executive appointments are almost never “promotions” from Congress, which has its own quite distinct career structure, manifested in the committee system. Party hierarchs in the executive thus do not have the futures of ambitious members of congress in their pockets.

Political scientists interested in US politics have offered two types of solution to the puzzle of party discipline. The first analyzes electoral incentives for legislators, arising from the value of a party label. The second analyzes strategic incentives within the legislature that may reward members of a cartel of legislators who behave in a coordinated fashion.

Electoral incentives

Arguments about electoral incentives for party cohesion in Congress typically describe parties as “brands” used by voters to infer information about candidates. Actual or aspiring politicians join political parties so as to signal credible policy positions to voters, in order to increase their chances of election. A widely cited recent formulation and analysis of the argument that parties provide informative brand labels, building on arguments made by scholars such as Cox and McCubbins (1993), can be found in Snyder and Ting (2002), with recent interesting extensions by Levy (2004). This argument about the endogenous rationale for political parties has also developed from work by Osborne and Slivinski (1996), as well as Besley and Coate (1997), on “party-free” electoral competition between “citizen-candidates”.

One of the characterizing assumptions of this approach is that voters make inferences about candidates’ policy preferences only by observing their party membership, treating this as a costly signal and ignoring as cheap talk everything that candidates might actually say about their own policy preferences. Candidates in these models have underlying policy preferences and thus prefer to join parties comprising like-minded colleagues. Despite occasional references to “party discipline”, this approach offers no explicit model of intraparty politics – save for the assumption that the party policy platform is chosen by either a dictatorial leader or simple majority voting by party members (Snyder and Ting 2002:102). Legislators are also assumed to be able to join, and to remain within, any party they choose. The main lesson we draw from this work in the legislative context is that electoral incentives may make party labels valuable commodities. If a party’s decision-making regime can credibly threaten to withdraw the party label from legislators who fail to abide by party decisions about legislative behavior, then this makes such decisions easier to enforce. However, the very strong “incumbency effect” in US electoral politics, whereby incumbent legislators are very difficult indeed to unseat when facing re-election, gives individual legislators a personal power base that is likely to undermine this potential source of party cohesion.

Legislative incentives

A second set of incentives for legislators to join political parties derives from the range of payoffs in the legislative game that accrue to politicians who belong to larger rather than smaller cartels of legislators.⁸ For Cox and McCubbins, the main legislative resource that can be captured by a majority coalition of legislators is agenda control. Agenda power is achieved by controlling the allocation between legislators of agenda-setting offices, such as committee chairs. On this argument, the power to make these allocations is delegated by party members to the party hierarchy, which can use such rewards to enhance party discipline, which in turn feeds back to enhance the value of the party label in the electoral game.

This analysis contrasts with an alternative influential argument, put forward by Krehbiel (1993, 1998).. According to Krehbiel, what looks like party-coordinated legislative behavior arises because US legislators choose which party to affiliate to on the basis of their intrinsic policy preferences – in effect joining a party of like-minded individuals and then independently choosing to behave in the same way as party colleagues on the floor of the House, without any need for “discipline” to be imposed by their party’s internal decision-making regime.

Despite the stark theoretical distinction between these analyses of party-structured legislative roll-calls, distinguishing them empirically is difficult because both may be observationally equivalent. It may be that legislators are voting the same way because they like the same policies, or because they are responding to the same non-policy incentive structure put in place by the party’s internal regime. Snyder and Groseclose (2000) present an innovative empirical analysis that sets out to distinguish these effects by making a distinction between two types of roll call. On one hand there are “lop sided” roll calls. Snyder and Groseclose assume, first, that legislators will treat these as a forgone conclusion and, second, that party leaders will see them as offering no rationale for the “costly” deployment of party discipline.⁹ On the other hand there are “close” roll calls, for which coordinated legislator behavior makes the difference between winning and losing. Snyder and Groseclose find strong evidence that the “party effect” is much higher for close than for lop-sided roll calls. They infer from this that US parties can and do influence the behavior of their legislative members when this makes a real difference, and do not attempt to do so when it does not.

While this body of work is ingenious empirically, its theoretical underpinnings do not really deal with the obvious endogeneity of the anticipated “closeness” and “lop-sidedness” of roll-calls, especially in a two-party context. In a nutshell in the US system, if a roll call is expected to be lop-sided, this amounts to an expectation that party discipline will not be applied – but how is this expectation formed? Thus a party effect may be capable of being *measured* but, as Snyder and Groseclose freely admit, we do not come much closer to *explaining* it. Thus the main lessons from this work concern the incentives for legislators to form cartels that enable them better to fulfill their objectives within the institutional structure of Congress, and the possibility that members of those cartels will delegate to party hierarchs the right to allocate key political resources captured by the party.

Overall, however, and taking everything into account, there can be no doubt that analyses of legislative behavior in parliamentary government and separation of powers systems must differ radically, given the very different incentives for party-coordinated behavior by legislators. We have no a priori reason to suppose that party politics will be in any way similar under the two quite different constitutional regimes.

⁸ A recent comprehensive overview can be found in Cox and McCubbins, 2005

⁹ Recall that imposing party discipline need not be seen as costly for party leaders under parliamentary government.

Divided government/*cohabitation*

When the chief executive is not constitutionally responsible to the legislature, an important aspect of legislative politics is the potential for “divided government”, (see Fiorina 1996) and “gridlock” (see Binder (2003). When the executive and different houses of the legislature are chosen in different ways and/or at different stages of the political cycle, periodic fluctuations in levels of political support, and the differential representation of political constituencies by different electoral rules and districting regimes, mean that the houses will differ in their partisan composition. Similarly induced partisan differences between executive and legislature, seen as “divided government” in the US and *cohabitation* in France, generate an obvious potential for conflict. While divided government in this sense is typically seen as a feature of US-style presidential government, there is a clear sense in which minority government in a parliamentary government system is analogous to this. In each case there is an executive coalition that faces a majority legislative coalition under different partisan control, in a constitutional environment where co-decision is required on at least some important issues. See Elgie (2001) for an exploration of divided partisan control in different parliamentary systems.

In the US, however, the much weaker incentives for legislative party discipline mean that all governments are to some extent divided ones. Even when the executive and both houses of the legislature are controlled by the same party, it is by no means a forgone conclusion that the executive will be able to have all the legislation it desires passed as a matter of routine. The constitutional separation of powers is manifested in the absence of a legislative vote of no-confidence in the executive and the inability of the executive to make some legislative proposal a matter of confidence in the government. The executive thus does not have the same big procedural stick to wield over the legislature.

The lack of rigid party discipline and the independent electoral power bases of individual legislators (enhanced by a strong incumbency effect), combine to underpin a strong *de facto* separation of powers between legislature and executive. The net effect is that the executive is always forced to accommodate itself to a congressional politics that can be analyzed as an independent system in its own right. Threats by members of the “government” party in the US to vote against “government” legislation are credible and can be used to extract significant concessions from an unwilling executive. Conversely, even when there is divided government in the US, this does not mean that the executive will be defeated at every turn, since an executive coalition dominated by one party can buy off members of a majority legislative coalition dominated by the other. Thus the lack of rigid party discipline in Congress cuts both ways for the President. On one hand, the President cannot even rely on unconditional support from members of his/her own party. On the other hand the President can realistically seek from members of the legislative “opposition”. (Indeed it has in the past been common for a Republican president such as Eisenhower and Nixon to reach out to Southern Democrats to form the so-called “conservative coalition.”)

Legislative committees as sources of structure

The lack of incentives for strong party discipline in the US Congress creates a potential for political instability. In addition, when the set of issues under consideration is multidimensional, the potential for instability is magnified (see McKelvey and Schofield 1986, 1987). Nevertheless, the actual politics we observe is much more stable than all of this might imply. The potential misfit between theoretical expectations of chaos and empirical observations of relative order and stability has been resolved within the profession for the US legislature by a burgeoning “new institutionalist” literature that has focused on the ways in which particular congressional institutions structure politics so as to induce relatively orderly behavior.

This approach to the analysis of legislative politics unpacks the logic of a set of axioms derived from stylized descriptions of key aspects of the way in which the US Congress does its business. Topics that have been extensively analyzed within this research tradition include, among others: ways in which the legislative committee system interacts with the plenary legislature; logrolling between groups legislators who trade votes across a portfolio of issues; agenda setting and the impact of different types of amendment rule; and the politics of constitutionally enshrined vetoes over legislation.

There is no space here to review this substantial literature (for which, see Shepsle and Weingast, 1995), but perhaps the most internationally “portable” and influential intuition that can be derived from this was generated by Shepsle’s early work on ways in which the congressional committee system can bring about “structure induced equilibrium”. The logic of this argument is straightforward but powerful. This is that legislation is processed, not in an unconstrained rough and tumble on the floor of either house, but via a specialized committee system that in effect breaks down a multidimensional legislative program into a set of unidimensional legislative proposals. Each committee has jurisdiction over a single key dimension of policy; intra-committee politics can move a proposal under its jurisdiction along this policy dimension, but cannot directly change policy proposals under the jurisdiction of other committees. This strong structure in the congressional decision making process is argued to induce equilibrium outcomes that would otherwise be unattainable, while intra-committee politics is further structured by the agenda-setting powers of the committee chairs.

The portability of this intuition became evident with its application to the role of cabinet ministers in parliamentary government systems, where each minister has jurisdiction over a particular policy portfolio (Laver and Shepsle 1996). Just as is the case in separation-of-powers regimes, public policy is not set on the floor of the legislature. The role of cabinet ministers as agenda-setters within their own policy jurisdiction thus induces equilibrium outcomes that could not otherwise be achieved. Indeed, re-importing the same argument back into Congress, we find a case for seeing Congressional committee chairs as fulfilling at least some of the roles, in the US system, that are fulfilled by cabinet ministers under parliamentary government.

MEASURING THE POLICY POSITIONS OF LEGISLATORS

By way of a conclusion, we can revisit some of the main features of legislative politics under different constitutional regimes by considering the important empirical matter of how we might measure the preferred policy positions of members of a given legislature. While it might superficially seem obvious that surveys of legislators themselves would be the best way to do this, such surveys are fraught with problems. First, they cannot be retrospective; thus time series of past legislator positions are impossible to construct in this way. Second, decoding the information behind the survey response of highly sophisticated and instrumental politicians is likely very problematic. Third, respondent fatigue means that response rates in such surveys are very low, resulting in a huge potential selection bias that can be hard both to detect and to correct. Fourth, many legislative parties (in Europe at least) now screen such surveys, instructing members to respond only to those that are approved by the party leadership. Those seeking extended time series of legislator policy positions that can be retrieved retrospectively and collected using instruments that do not pollute their own data, therefore, have tended to rely on two main sources of information – legislative voting records and political texts.

As far as the US Congress is concerned, the primary source of information on the policy positions of legislators has become the systematic analysis of roll call voting data, with a remarkable recent coordination among scholars on using the NOMINATE procedures, both static and dynamic, devised by Poole and Rosenthal (1997). Essentially, this approach *assumes* a spatial model of party competition in which differences between the policy positions of legislators can be

represented as Euclidean distances. Conditional on these assumptions, the spatial policy positions of legislators are retrieved by analyzing roll call voting records, essentially treating a pair of legislators with more similar voting records as being closer to each other than are a pair of legislators with less similar records.

Given this setup, Poole and Rosenthal (1997: 22) give themselves the job of retrieving “the locations of 11,000 legislators and 70,000 roll calls from the 11,000,000 recorded individual decisions of Congresses stretching from 1789 to 1985”. This is no mean feat, and the promise of generating extended time series of the estimated policy positions of every individual US legislator has made the Poole and Rosenthal approach extremely attractive to many other legislative scholars.

What is particularly striking in an environment in which levels of party discipline, as we have seen, are relatively low, is that this approach allows us to plot what is happening inside legislative parties, and thereby to investigate the structure of intra-party coalitions and factions. Indeed this is actually the main thing that the NOMINATE technique does allow us to plot. If there are two opposing parties with rigid discipline in the sense that all Party X legislators always voted in the same way as each other and in the opposite way to all legislators from Party Y, then NOMINATE will simply tell us the two parties and their legislators are different, which we already know, and add no metric information to this. But, as we have seen in the US, party lines are not rigidly drawn and all legislators from the same party do not always vote in the same way. This allows us to use variations in legislators’ roll call voting behavior to map their policy positions in a common space that describes policy differences both within and between parties.

This highlights the fundamental problem that arises if we want to export techniques of Congressional roll-call analysis to political systems in which there are very high levels of legislative party discipline. In a multiparty system where party discipline is close to 100 percent, roll-call analysis might conceivably allow us to retrieve the positions of *parties*, rather than individual *legislators* – since legislators would be revealing their party membership in their voting record, rather than their ideal policy positions. However, since multi-party systems also beget coalition cabinets, and since members of such cabinets are bound together by constitutional rules of collective cabinet responsibility, it is likely that all parties in the executive coalitions will vote in the same way, despite having different policy positions. It is also possible that all members of a diverse opposition to the government will vote in the same way, and against the government. High levels of party discipline combine with the parliamentary government system, therefore, to undermine quite fundamentally the potential of roll-call analysis to give us useful information about the policy positions of either individual legislators or, indeed, of legislative parties.

One European setting to which NOMINATE has successfully been exported, however, is the European Parliament, where the absence of an executive sustained in office by the legislature, and consequently loose discipline among European party groups, allow roll-call analysis to yield fruitful results (Hix, 2001, 2004).

The main alternative data source from which we might hope to retrieve long retrospective time series of legislator policy positions is political text. The longstanding Comparative Manifestos Project (CMP), has hand-coded party manifestos to generate time series of the *electoral* policy positions of *parties* than spans the post-war era for most parties in most democratic states (Budge et al., 2001). The comprehensive coverage of this dataset has made it a popular choice with researchers, including sophisticated spatial modelers, despite the fact that each text is coded once and once only by a human coder, so that no policy position generated comes with any estimate whatsoever of associated error. Thus, when looking at “movement” in some time series generated from CMP data, or when inspecting the cross-sectional difference between the positions of two parties, it is impossible to distinguish measurement error from “real” underlying change in the policy positions under investigation. Such problems, however, may soon be overcome by computerized text analysis. For example, Laver, Benoit and Garry (2003)

proposed a language-blind computerized technique for political text analysis that reliably retrieves valid party policy positions, and also reports associated standard errors. Giannetti and Laver (2005) recently extended the application of this technique to the analysis of speeches in the Italian legislature, retrieving estimated policy positions for individual Italian legislators. Sooner rather than later, therefore, systematic research programs using computerized text analysis will provide alternative sources of information about the policy positions of individual legislators, and will be applied retrospectively for as far back as political texts are available.

Putting all of this together, therefore, whether we are talking about theory or about measurement, the constitutional setting that distinguishes legislatures from parliaments, that distinguishes separation-of-powers from parliamentary government regimes, makes a big difference to how we analyze political interaction between elected public representatives. And the biggest key to that distinction has to do with the different strategic incentives conditioning membership of legislative parties.

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