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0521429900 - Presidents and Assemblies: Constitutional Design and Electoral Dynamics  
Matthew Soberg Shugart and John M. Carey

Excerpt

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## 1

## Basic choices in democratic regime types

The 1980s were a time of growth in a subfield of political science that has come to be known as the “new institutionalism” (see March and Olsen 1984; Grofman 1987). Often drawing in a matter sometimes more, sometimes less formal, from microeconomic understandings of rational behavior and individual responses to incentive structures, this subfield has placed political, rather than social or economic or cultural, variables at the center of explanation for political outcomes. There is a renewed focus on the importance of political institutions in accounting for the success or failure of democracy. Recent advances of democracy in Central and Eastern Europe and other parts of the globe have given impetus to the study of designing constitutions and the consequences of institutional choice. Old, long unchallenged assumptions about the efficacy of presidentialism in Latin America have been seriously challenged in recent years. Mindful of the spirit of resurgent interest in constitutional design, we have launched this book as a treatise on how various institutional designs for representative democracies affect the ways in which the political process operates.

This book focuses on a set of regimes that, in our assessment, have received too little attention from comparativists. It deals primarily with systems in which there is an elected president. These regimes differ from the common parliamentary type in that there are two agents of the electorate: an assembly and a president. In a parliamentary system, there is only one, the assembly, with the executive being an agent of the assembly,<sup>1</sup> rather than of the voters directly. As this book shows, there are myriad ways to design constitutions that vary the relationship of the voters’ two agents to one another, as well as to the electorate. Regimes with elected presidents vary in the ways in which the president may check, cajole,

1 For purposes of this book, we do not consider bicameralism to represent two agents of the electorate. In contemporary democracies, both chambers of the assembly are to serve the function of representation, although often the basis of representation differs according to the chamber. In parliamentary systems, ordinarily only the lower house has the power of confidence over the government, and in many cases the lower house may override objections of the upper house on legislation. Lijphart (1984) offers one of the most concise discussions of bicameralism.

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confront, or simply submit to the assembly majority. We even find that some systems give the president so little power relative to the assembly that they are effectively parliamentary. We thus do not see a presidential regime as being the polar opposite of parliamentarism, as much of the literature implies; but the development of this point awaits future chapters. While this book is fundamentally about comparing systems with presidents, undertaking such a study requires starting with the dichotomy that most of the literature deals with: presidential versus parliamentary. These two forms are not only the two most discussed in the literature, especially in the polemics regarding the desirability of certain constitutional designs; they are also the two original types of democratic constitution. It was only later that many other regime types or hybrids emerged and gave us the broad range of regime types that we compare in this book.

In a parliamentary system, the executive is chosen by and may be removed by the elected assembly. In a presidential system, the process of forming the executive is institutionally distinct from the process of filling seats in the assembly, as both branches are popularly elected. In each of the other types and hybrids that we assess in this book, there is some combination of presidential and assembly authority over the composition of the executive. As we shall argue and make one of our principal themes, in none of the types is it easy to divorce the process of executive formation from the process of voters' choices for assembly representatives. Typically in parliamentary systems, even though it is only the assembly that comes before the electorate for votes, voters make their choices to a significant degree on the basis of what kinds of policies they want addressed by the executive. In presidential systems, too, there may be "coattails" from the presidential races that affect the vote for the assembly. Where the voting for the two branches is most clearly separated, as in some presidential institutional designs, often the lack of policy agreement between the executive and the assembly majority causes stress in the regime. These are among the principal trade-offs that we shall discuss as the book proceeds.

#### THE PRESIDENTIAL – PARLIAMENTARY DICHOTOMY

For us, the authors, a primary factor motivating the decision to undertake this project was our observance of a sharp polemic on the subject of whether presidential or parliamentary democracy is the "better" form of representative government. Most of the scholarly literature on the subject comes out quite squarely behind parliamentarism as the preferred alternative. However, among practicing politicians, the message is getting through slowly, if at all. Nearly all new democracies in the 1970s and 1980s, and in 1990, have had elected presidents with varying degrees of political authority.

Among newer democracies, true parliamentarism remains largely a phenomenon of the former British Empire, as in transitions to democracies in

the late 1980s and early 1990s in Pakistan and Nepal. Yet even in the British Commonwealth the appeal of presidentialism among elites has led to the replacement of parliamentary systems with presidential regimes in Guyana, Nigeria, and Zimbabwe, among others.

After the collapse of the Soviet bloc in Central and Eastern Europe, only in Czechoslovakia (and, very briefly, East Germany, before it united with West Germany) did the political elite initially opt for a pure parliamentary system with no popularly elected president. Encouraging for academic partisans of parliamentary democracy, the Hungarian electorate refused to endorse a powerful elected presidency in a referendum.

For the supporters of parliamentarism, the bad news is that no existing presidential system has ever changed to a parliamentary system, while several have made the reverse move. As of this writing, there was at least serious discussion of adopting regime types other than presidential in some Latin American countries, notably Brazil, where, as in Hungary, voters were expected to be given an opportunity to express themselves on the topic.

What we have, then, is a considerable divergence between a virtual academic consensus, on the one hand, and actual political practice, on the other. In the remainder of this introductory chapter, we seek to outline the very basic choices involved in the choice of either the presidential or the parliamentary form as well as sketch briefly the historical origins of these regime types. In so doing we shall be introducing two of the basic themes of the chapters that follow: (1) Especially in regimes with elected presidents, there are many institutional choices that matter besides the choice of what means to employ for the constitution of executive power; and (2) that, even where powers are formally separate, the processes of election to the two branches interact in ways that affect the functioning of democracy.

#### *Assemblies and executives: constituting political power*

A major dilemma in democratic regimes concerns a divergence between what representative assemblies do best and what executives must do if democracy itself is to function well. Assemblies, or at least lower houses of assemblies, are intended to be representative of the population.<sup>2</sup> A typical

2 The common generic term “legislature” is often misleading. In many parliamentary regimes, most actual lawmaking takes place within the cabinet. Similarly, as we shall see in later chapters, the executive in presidential systems also has important legislative powers, more in some regimes than in others. Hence, instead of the term “legislature,” we shall use the term “assembly” throughout this book. We believe this term more accurately reflects a common feature of democratic regimes: the existence of an institution in which elected representatives assemble for whatever constitutional function they may be granted. In cases in which that function is to sustain confidence in a government, we shall use the term “parliament.” For presidential systems, in which executive power is separated from the assembly, we shall use the term “congress.” We shall eschew the term “legislature” entirely.

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democratic assembly is elected for the purpose of giving voice to the interests of localities or to the diversity of ideological or other partisan divisions in the polity and society. That is, assemblies are ordinarily expected to be parochial in nature. Executives, on the other hand, are charged with acting to address policy questions that affect the broader interests of the nation, as well as to articulate national goals.

*Geographic representation.* Historically, representative assemblies emerged for the purpose of offering a link between the central authority and smaller geographic subdivisions of the state. Typically a locality would elect one, two, or slightly more members of the assembly by means of some variant of plurality or majority rule.

The definition of the basis of representation would change over time in some systems, particularly those that adopted proportional representation (PR). For the time being, however, we shall concern ourselves only with the historical period in which the two basic regime types emerged, and we emphasize that both did so in a context of assemblies constructed to represent localities.

*Parliamentary confidence.* Over a period of many decades and through a process that will not directly concern us here, the principle of cabinet responsibility to parliament developed in Britain. In Chapter 9 we review this process in more detail. The important point here is that what was originally the Crown's ministry (and in strictly formal terms remains so), became a ministry subject to the confidence of a majority of the assembly. Thus developed what would come to be known as parliamentary democracy, although it must not be forgotten that this system was not originally "engineered." Rather, it emerged gradually, and to this day no specific written constitution has been drafted in Britain. Modern parliamentarism was born as a political system in which an assembly constructed to represent localities coexisted with a ministry that gradually shifted from the control of the monarch to the control of the assembly itself. We shall return below to the consequences that parliamentarism holds for the nature of elections for and representation in the assembly. For now, let us turn to that other means of constituting executive power that emerged early in the development of democracy, presidentialism.

*Popular election of the executive.* Where and how did presidentialism emerge? The answer takes us back to the U.S. Constitutional Convention, which was the first instance of either type of regime's having been consciously "engineered." The Framers opted for neither the monarchical form of government that the Revolution had been made against nor the system of the short-lived Articles of Confederation, under which there was

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no national executive. As possible methods of formation of the executive, they considered an executive elected by the Congress and one elected by direct popular vote before settling on the mechanism of the electoral college. They rejected one chosen by Congress on the grounds that corruption would prevail as the executive would owe its very existence in office to another arm of the government.

While the Framers considered an executive *chosen by* the Congress, they did not contemplate an executive *responsible to* the representative assembly. Indeed, such a regime type, which we would now know as parliamentarism, had yet to exist. In Britain, the cabinet was still the responsibility of the monarch, whose authority, of course, did not rest upon any connection, direct or indirect, with the electorate. Once both selection of the executive by the assembly and a monarchy had been rejected, the Framers were in effect replicating the essentials of a form of government that then existed in Britain, an executive with powers separated from the powers of the elected assembly. The crucial difference is that rather quickly the electoral college evolved from being a mere filter for popular preferences into an automatic expression of them. Thus developed the first democratic system in which there are two agents of the electorate.

As voters effectively abandoned the intended practice of simply voting for a delegate who would be entrusted with making the decision of who should be president in favor of making it themselves (by way of electors “pledged” to a particular candidate), the U.S. presidential system took on a new character. By Andrew Jackson’s era, the president would be the expression of a popular “mandate,” having a special link to the whole national constituency. It is this character of presidentialism that has brought down so much criticism on the regime type, as we shall see. It is ironic that, while the U.S. presidential system was a deliberate response to a problem of how to create a national executive when there was neither a monarch nor any preexisting models besides monarchy, the modern “presidentialism” of a combative partisan political figure often battling the separately legitimated assembly was an unforeseen development.

A second round of creation of presidential systems came with the independence of the Latin American republics. Several of these countries opted for direct popular election of the president, while in others, at least initially, the executive was chosen by the assembly for a fixed term. As in the early U.S. and British democracies, the Latin American systems had assemblies designed to be the expressions of local interests. In some cases, regionalism was by far the most important basis of the polity. We develop in Chapter 9 a theoretical explanation for why a variant of presidentialism with unusually strong presidential powers and weak parties emerged in these settings of preeminent localism.

As in the United States, in Latin America the fixed-term executive was

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the only available model,<sup>3</sup> yet some early constitutional designers saw their innovations as emulating the British model, only with the “monarch” popularly legitimated. Thus, while the “British model” would later come to refer to parliamentarism, as late as the 1820s when Latin American independence was under way, this model indeed referred to a cabinet responsible only to the head of state and an assembly elected from geographically defined districts. That presidentialism as we know it emerged primarily because there were no other obvious models is borne out by looking into the history of European institutional development.

*Further “engineering”: parliamentarism and new regime types in Europe*

As in Britain, in all of the other states on the European continent that evolved into constitutional monarchies in the nineteenth century, authority over the cabinet shifted from the hands of the monarch to the parliament. Unlike the cases of the new countries of the New World born of rebellion against monarchies, in Europe the emergence of constitutional regimes did not see the establishment of elected heads of state, since the monarch would serve that role. Even France, which for a while oscillated among republican democracy, dictatorship, and monarchical restoration, parliamentary democracy with no elected president was established under the Third Republic in 1871. Not until Charles de Gaulle’s plebiscite under the Fifth Republic in 1962 did popular election of the president become entrenched.<sup>4</sup> By then additional alternative regime types had emerged, so France retained cabinet responsibility to the parliament even while adopting a popularly elected presidency.

A second wave of democratization in Europe led to regime types other than parliamentarism or presidentialism. These regimes emerged after the democratization of Britain, meaning the basic parliamentary feature of cabinet responsibility was a recognized model of constitutional design. However, in the absence of a monarch, the head of state is popularly elected, thus creating a second agent of the electorate. This combination of an elected presidency with a cabinet dependent on the assembly’s confidence thus multiplied the number of permutations on constitutional design that we discuss in this book. Some of these regimes constitute a regime type we shall define as *premier-presidential*. Such a regime, sometimes called

3 The exception here is Brazil, which originally inherited the monarchy that had been overthrown in Portugal. Later on, the Brazilian monarchy was replaced by a presidential system.

4 Initially, the constitution of the Fifth Republic was simply a “reinforced” variant of parliamentarism. In contrast to the Fourth Republic, the terms under which cabinets could be replaced were changed to favor greater cabinet durability, and the president (still to be elected by an electoral college made up of other elected officials) was granted some emergency provisions.

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“semipresidential,” ensures that the cabinet depends only on assembly confidence, yet provides certain powers to a popularly elected president. A more detailed definition follows in Chapter 2; in particular, we shall see that many regimes have “confused” control over cabinets, by granting both of the electorate’s agents considerable authority in matters of government formation. For now, all we are concerned with is the historical fact that Europe’s “second wave” of democratization often took elements of both the British concept of government responsible to parliament and the New World concept of a separately elected president.

This phase of democratization begins with Finland’s independence from Russia in 1905 and accelerates after the defeat of the Austro-Hungarian and German empires in World War I and the independence of the remaining dependencies of Western Europe.<sup>5</sup> The nature of presidentialism on the U.S. and Latin American models as defaults chosen in the lack of other models is further underscored when we realize that, while many of these “second wave” states’ leaders saw as desirable an elected head of state to replace the monarch, they nonetheless made the cabinet responsible to the parliament. Finland, Weimar Germany, Austria, Ireland, and Iceland all adopted such systems, although they varied widely in the amount of power given to their presidents.

Thus the initial phase of democratization on the European continent was set apart from that of the New World by the existence of monarchies. What set it apart from the process in Britain were two aspects: the prior existence of the “model” of parliamentary confidence, and, later on, the decision to adopt proportional representation for the assembly. In these systems, therefore, a conscious decision was made that the assembly should be elected on the basis of ideological or sectoral, rather than geographical, differences within the society. The later democracies in Europe followed the earlier ones in adopting proportional representation and parliamentary cabinets, but some also adopted elected presidencies.

ASSEMBLIES AND EXECUTIVES: INTERACTION AND  
ELECTORAL CONSEQUENCES

A frequent theme of this book is that the means chosen to constitute executive power affect the nature of elections and representation in the assembly as well. In particular the interaction and its consequences manifest themselves as trade-offs between efficiency and representativeness. “Efficiency” refers to the ability of elections to serve as a means for voters to identify and choose among the competing government options available

<sup>5</sup> The correlation is not perfect, as some of the new (and short-lived) democracies of Eastern Europe in the early twentieth century chose to have their presidents elected by parliament. One, Estonia, had no head of state, thus being arguably the “purest” of all parliamentary systems.

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to them. “Representativeness” refers to the ability of elections to articulate and provide voice in the *assembly* for diverse interests. We argue that parliamentarism virtually requires that a choice be made; either there will be an efficient choice of policy options to be addressed by the executive or there will be a broadly representative assembly, or a compromise must be struck. With only one agent of the electorate, it is not feasible to have both efficient and representative elections in the same system. Having an elected president, on the other hand, at least holds out the promise of serving both ends through elections. The ability of a presidential regime to do so and how it handles the inherent tensions of doing so are the themes of most of the rest of this book. Before looking at how parliamentarism and presidentialism affect efficiency and representativeness, let us elaborate on these terms.

*Efficiency.* It was Walter Bagehot who described the British system as having both “efficient” and “dignified” components. A major message of his famous essay, *The English Constitution*, was to call attention to a then largely unacknowledged transformation that had occurred over time in Britain. The cabinet no longer was under the sway of the monarch; indeed, the portions of the (unwritten) English constitution in which the monarch now had a role were merely ceremonial, hence the term “dignified.” The cabinet had fallen under the sway, instead, of the parliament. The cabinet had become the “connecting link” between the “fused” powers of the legislative and the executive authorities. This linkage and its importance in the actual workings of British government made the institution of parliamentary confidence the “efficient” component.

Growing out of this fusion of powers was another form of efficiency and it is in this sense, discussed by Cox (1987) in *The Efficient Secret*, that we use the term in this book. Because governments were made and unmade according to that composition of the majority of parliament, a voters’ choice of parliamentary candidate was also a choice of executive. Elections thus came to turn on the voters’ preferences for government and, by extension, on policy rather than on more purely local concerns (such as “pork” and patronage). As a result, neither elections nor the legislative process turned on distribution of particularistic goods by means of logrolling across districts. Instead elections offered an “efficient” choice from among competing policy options, and legislation is the domain of the majority party and its cabinet.

An inefficient system, on the other hand, would be one in which elections turn more on the provision of particularistic services to constituents than on policy. Such a legislative process is also likely to be inefficient, as members of congress seek to be able to bring back to their districts projects, jobs, or other services that will help them be reelected.

Efficiency, when centered on elections to the executive, is closely re-



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lated to identifiability – the ability of voters to identify the choices of competing potential governments that are being presented to them in electoral campaigns. As developed in more detail in Chapter 2, concepts such as efficiency and identifiability relate to models of what Powell (1989) calls “Citizen Control” that provide for governmental accountability and policy mandates. In a highly efficient system like that of the United Kingdom, identifiability is high. The more inefficient an election is, the lower will be its identifiability.

*Representativeness.* Electoral systems may be scaled by the degree to which they represent diversity. That diversity may be expressed in geographic terms as the parochial interests of localities, or it may be expressed sectorally as the narrow interests of groups within the society, whether or not they are geographically concentrated.

If representation takes place on a strictly local basis, it may be associated with a highly inefficient electoral and legislative process, but it need not be so. Local representation can also mean the ability to articulate *policy* concerns that are specific to a region, as, for example, in polities with a geographically concentrated ethnic minority, as in Spain, or significant regional variations in economic standing, as in Canada. Locally defined representation may even be a combination of particularistic services, such as casework and pork barrel, and policy interests of special concern locally, as in the United States.

The articulation of local interests depends on both the electoral system and the constitutional design. Such representation is likely to be maximized under a system of small districts such that each member of the assembly will hail from a clearly defined region. Much of the discussion that follows will consider the relationship between local representation and whether a system is presidential or parliamentary.

If representation is to be based upon group interests, such as clashing ideologies or distinct ethnic or religious segments, it need not be at all local in nature. It must, however, be a form of proportional representation (PR) based on party lists.<sup>6</sup> Indeed, the extreme of such an electoral system would elect all members in a single nationwide district, as is the case in Israel and the Netherlands. Many other countries, including Sweden and Denmark, elect a major part of their assemblies in nationwide districts. Some that have rather small geographic districts nonetheless have a second tier designed to ensure faithfully proportional representation of diverse parties, as in Austria and Germany and, in their first democratic elections, Bulgaria and Hungary.

6 Some PR systems also allow (or require) candidate voting, which often weakens the party-centered nature of elections and may even make elections turn on local particularism. For discussion of one such system, see Ames (1987).

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As cabinet responsibility to parliament came to be the basis for constituting executive power in Britain, what happened to the geographic representation in the assembly? And how did the adoption of proportional representation in continental European parliamentary regimes affect the institutions of cabinet responsibility? Efficiency is best served when there are two principal options from which voters may choose, so that one of the options will be certain to hold executive office. Thus efficiency in a parliamentary system would be best served by a low-magnitude electoral system, where magnitude refers to the number of seats elected per district. The reason that low magnitude is tied to efficiency under parliamentarism is that as magnitude is decreased, so ordinarily is the number of parties, while the probability of a “manufactured majority” for a party with less than a majority of seats is increased (Rae 1967; Taagepera and Shugart 1989). Since efficiency as it relates to government formation implies a categorical choice among two contenders, one of whom will gain control over the government, a small number of parties and a majority of seats for one of them are required to maximize efficiency. On the other hand, as district magnitude is decreased, so is the opportunity for the political institutions to articulate minority viewpoints.

*Efficiency.* Owing to the workings of the plurality rule in single-seat districts, one of the British parties usually obtains a majority of parliamentary seats and thus forms the government on its own. Cabinet responsibility led to the emergence of disciplined, programmatic parties. The development of the party system around the institutions of parliamentarism and geographically defined representation led to the basis of election of members ceasing to be primarily local concerns and instead becoming national issues (Cox 1987).

Parties must differentiate themselves on the basis of national policy. Politics in the districts from which members of parliament are elected can no longer focus so much as in the absence of party discipline on the stuff of legislative “logrolling” and compromise – the ability to deliver services to the constituency. Instead it must focus much more on nationally divisive but often not divisible concerns. While this focus on national issues in elections even within locally defined districts is the source of the system’s efficiency and is justifiably much admired, the system contains potential problems.

Two principal criticisms of parliamentarism on the British model thus emerge. First, an assembly formally constructed to represent local interests is compromised in that function and instead becomes principally an “electoral college” for determining which party holds executive power. It thus emerges as neither a legislature, as legislative authority is concentrated in