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Excerpt

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# 1 Introduction

This book is the product of a lot of curiosity and a bit of dissatisfaction. The curiosity focuses on a matter that interests anyone who studies politics: Where is the power? The dissatisfaction arises from the shortage of information that addresses that question in a global framework. We are particularly interested in where *official* power – that is, the power vested in the government and the organs of state – resides. In our research on a variety of topics, each of us – one a student of comparative politics, the other a specialist in international relations – consistently encounters a shortage of information. In our many conversations with colleagues both inside and outside the academy, we have come to realize that demand for information on where power resides exceeds supply. For millennia, students of politics have analyzed power, and for at least a century, social scientists have scrutinized formal political institutions and the distribution of power among agencies of government and the state. But we still do not have a rich bank of data measuring the power of this or that agency, and information on legislatures is in especially short supply. For many countries one is hard-pressed to find any relevant information at all. In recent decades, pioneering scholars, particularly in political science, have taken up the challenge of studying legislatures outside the advanced industrialized countries. Still, writings on legislatures in many parts of the world remain negligible, even if the quality of available studies is often high. As we found as we scoured the scholarly literature, articles on the newly resurrected Scottish parliament, which was established in 1999 to handle matters that the parliament of the United Kingdom devolved to it, outnumber articles on the legislatures of all African countries combined.

We therefore set out to assess the powers of the central representative institution of national politics, and to do so for all countries of the world. We knew – and at the end of our efforts are even more acutely aware – that measuring the powers of legislatures perfectly is a vain hope. We nevertheless decided that an attempt to measure those powers, even if the results were imperfect, promised to generate useful data, which is the aim of this volume.

We expect that this information will be of interest primarily to social scientists, but we hope that government officials, political activists, journalists, staffers in nongovernmental organizations, businesspeople, lawyers, and indeed anyone interested in politics will find it useful as well.

This study is not the first to attempt to measure the powers of legislatures, but it encompasses a richer array of dimensions of power and includes a larger number of countries than the handful of other available studies. To the best of our knowledge, moreover, no work on the powers of any other official bodies – presidencies, judiciaries, militaries, particular ministries, or other agencies – provides the depth or breadth of coverage that the present work furnishes on legislatures.<sup>1</sup>

Our main tool is the Legislative Powers Survey (LPS). The LPS is a list of thirty-two items that gauge thirty-two separate indicators of the legislature's strength. We administered the LPS as a survey to country experts. We complemented the survey findings with our own analysis of national constitutions and other relevant sources. We then used the LPS as the basis for generating a Parliamentary Powers Index (PPI). The PPI, which ranges from zero (least powerful) to one (most powerful), is a score that reflects a legislature's aggregate strength.

The present chapter, an introduction to the study, places our effort in the context of contemporary writings on constitutional systems, examines the survey on which our study is based, discusses each item in the survey, presents the index that was created using the survey, explains how constitutional excerpts are adduced, and ruminates on how the study might be used. It closes by

<sup>1</sup> For other efforts to measure the powers of official bodies, see, for example, Matthew Soberg Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992); Timothy Frye, "A Politics of Institutional Choice: Post-Communist Presidencies," *Comparative Political Studies* 30, 5 (October 1997), pp. 523–52; and André Krouwel, "Measuring Presidentialism and Parliamentarism: An Application to Central and East European Countries," *Acta Politica* 38, 4 (2003), pp. 333–64.

acknowledging the assistance of those who have made a special contribution to the project. Chapter 2, which forms the heart of the book, presents the country studies. There is one study on each country. Each begins with a brief narrative overview, followed by the results of the survey. The answer to each item in the survey for the country is provided. Along with each answer, we include commentary as well as the relevant excerpt from the country's constitution where appropriate. Chapter 3 furnishes lists of the data generated by the survey. Chapter 4 presents a list of the experts who participated in the survey. The book concludes with a bibliography, which, while extensive, is incomplete. We could not provide a comprehensive list of relevant works, but merely listed those that we found especially useful in creating the present volume.

**CONVENTIONAL CATEGORIES OF CONSTITUTIONAL SYSTEMS**

The tripartite classification of parliamentary, semipresidential, and presidential systems, as well as the expanded typology of parliamentary, premier-presidential, president-parliamentary, and presidential systems, has long guided scholars. Yet these typologies have obvious limitations. They produce categorical rather than ordinal data, which limits their usefulness for empirical analysis. Furthermore, classifying countries is often problematic. Scholars agree that if elements of the legislature form the government, the prime minister exercises considerable executive power and answers to the legislature, and there is no president or one who is elected by the legislature, the system is parliamentary. Yet that is where easy agreement ends. Some analysts hold that any system in which the president is elected directly cannot be classified as parliamentary, but should be considered semipresidential (or presidential), even if the president has only ceremonial functions. Others, embracing Maurice Duverger's classic conceptualization of semipresidentialism, hold that the president must have substantial power for the system to qualify as semipresidential (or presidential); otherwise it is parliamentary.<sup>2</sup> Thus, some scholars consider Ireland's system semipresidential; others say it is parliamentary. Some classify Bulgaria's system as semipresidential; others say it is parliamentary. Analysts also differ over the boundary between semipresidential and presidential systems.

<sup>2</sup> Maurice Duverger, "A New Political System: Semi-Presidential Government," *European Journal of Political Research* 8, 1 (June 1980), pp. 165–87.

Duverger considered a system semipresidential if the president is directly elected and has considerable power but there is also a prime minister who is accountable to the legislature. Yet in some countries that formally meet these requirements, the legislature's instruments for controlling the government are paltry. In such cases some scholars see semipresidentialism, whereas others see presidentialism. Kazakhstan and Russia are examples.

In sum, the conventional distinctions among constitutional systems do not fully specify where power resides. And where power resides is what matters for real-life politics and government.

The data presented in this volume suggest that even within each of the major types of constitutional systems there is wide variation in the capacity of legislatures. The Parliamentary Powers Index scores show that in some parliamentary systems, the legislature is, in fact, very powerful. In Germany and Macedonia, it is the main stage of national politics. In other parliamentary systems, the legislature is strong but nevertheless shares substantial power with extra-parliamentary agencies, be they monarchs, militaries, presidents, dominant prime ministers, Governors General, or someone else. Australia and Thailand (even before the latter country's 2006 coup) are examples. These countries' scores on the PPI are markedly lower than those of Germany and Macedonia. In still other countries with parliamentary systems, despite formal provisions for parliamentarism, the legislature is subordinated to a prime minister whose power depends less on parliament than on a hegemonic party, the military, or some other extra-parliamentary agency. Ethiopia and Malaysia fit this description.

Great variation in the actual powers of the legislature is also – indeed, especially – found among semipresidential systems. Some semipresidential systems have weak legislatures, as in Russia and Kazakhstan. Others have commanding legislatures and highly constrained presidents, as in Austria and Mongolia. Some countries with semipresidential systems fall in between, meaning that the legislature has substantial but not vast power, as in France and Taiwan.

Variation in the legislature's powers is also conspicuous among presidential systems. Some countries have an overpowering presidency and a marginal legislature, as in Belarus, Kenya, and Uzbekistan. Some include a legislature that is not a commanding force but that is still influential, for example, Honduras, Indonesia, and Namibia. Yet other presidential systems, such as those of Georgia and South Korea, include still more potent

Introduction

3

legislatures. The data presented in this volume show that the national legislatures of Nicaragua, Ukraine, the United States, and Uruguay, with their presidential systems, are as potent or nearly as potent as their counterparts in Australia, Jamaica, Japan, and South Africa, which have parliamentary systems.

THE LEGISLATIVE POWERS SURVEY

We realized that if we wanted to gauge how much power is actually lodged in the legislature, we would have to grapple with issues that are not always encoded in law. For example, after engaging in preliminary canvassing of experts and parliamentarians, and relying on simple common sense, we decided that whether or not legislators have support staff might affect the legislature’s institutional capacity. Yet this matter is rarely addressed in constitutions; often it is not addressed in any law at all. A second example is found in the question of whether or not the legislature has a substantial voice in the operation of the state-owned media. Influence over the media is a matter that is of consequence for the legislature’s power, yet the law is often silent or ambiguous on this issue.

The inclusion of such matters in our assessments clarified for us the need to consult experts. The indispensability of expert opinion became more obvious when we realized that even some questions that seemed exceedingly straightforward are not always so simple to answer in practice.

Thus we embarked upon the long, trying, rewarding endeavor of administering the Legislature Powers Survey as a questionnaire to specialists who have expert knowledge of specific countries. The questionnaire consisted of the thirty-two items (which we also call “questions” here) used in this volume with the following introductory material:<sup>3</sup>

<sup>3</sup> As we compiled and examined the completed questionnaires and other sources, we realized that our wording of three of the items had not reflected precisely what we were trying to assess, and we slightly modified the wording of the item in the final product. The first of those items is number 7, which was originally stated as “The legislature’s approval is required to confirm the appointment of individual ministers; or the legislature itself appoints ministers.” Here we deleted the word “individual” in the final analysis. The second item is number 9. Here, in its original formulation, the item read: “The legislature can vote no confidence in the government without jeopardizing its own term (that is, without the threat of dissolution).” We subsequently realized that we were concerned with the right to vote no confidence alone, and we deleted “without jeopardizing its own term (that is, without the threat of dissolution).” The third item is question 12. The item originally read: “Laws passed by the legislature are veto-proof

ITEMS FOR CONSTRUCTION OF AN INDEX MEASURING THE POWERS OF THE NATIONAL LEGISLATURE

EXPERT SURVEY

*The authors have attempted to phrase each statement such that affirmation of the statement indicates greater rather than lesser power for the national legislature. Thus, affirmation of each statement (one could also think in terms of a “check mark” next to each statement) would produce a score of 32, indicating an all-powerful legislature. A very low score would indicate a weak legislature. Please simply place a plus sign just to the left of the number of the statement if it applies to the country you are evaluating. Please indicate the name of the country at the top of the survey, and please use a different copy of this survey for each country you evaluate. If you believe that the statement cannot be said to apply or not apply without some qualification, please write the basis for your qualification in on the survey.*

We asked the experts to affirm or negate the statement made in each item. We realized that such an up-or-down answer may fail to capture complexity, and we invited the experts to provide comments on any item they wished. Many experts did write remarks, often extensive, in response to specific items. Their comments provided a trove of precious information that we tapped in preparing this book.

Aware that people make mistakes and that some items in the survey require judgment calls, we solicited answers from numerous specialists on each country. We set the goal of obtaining five completed questionnaires for each country. After launching the quest for experts, we saw the advantages of offering the survey in multiple languages, so we had it translated into Spanish and French.

The survey is very much the product of the Internet age: It would have been impossible before the advent of the World Wide Web, which we used to hunt for specialists. We sought experts primarily from academia, but we also raided the ranks of parliamentarians and parliamentary staffers, jurists, diplomats, and journalists. We also sought out leaders of think tanks, nongovernmental organizations, and international organizations. In most instances we sent the survey by e-mail, and received the completed survey back by e-mail.

or essentially veto-proof; that is, the executive lacks veto power, or has veto power but the veto can be overridden by a simple majority in the legislature.” We found that an ambiguity between the common and technical meaning of simple majority caused confusion, and we deleted the word “simple.” Furthermore, the order of the questions in the questionnaires differed a bit from what we present here as the final survey. As we assessed responses and prepared this volume, we saw that we could slightly improve the presentation for readers by changing the placement of a handful of items, which we did.

Occasionally a respondent mailed us a paper copy, or answered the survey in face-to-face meetings in which we posed the questions and received answers orally.

For some countries, everyone we asked to participate responded positively, and five requests yielded five completed surveys. But such magical moments were rare. Much more frequently, some of those we contacted declined, and our hunt for experts continued. Many people who declined kindly put us in touch with colleagues; we thus used experts to find other experts. We offered no compensation. People participated solely out of graciousness and dedication to advancing knowledge. Given our determination to secure at least five responses per country, and that we cover every country in the world that had a population of a half-million or more inhabitants as of 2000, our efforts stretched on for nearly half a decade. We began contacting experts in late 2002. In late 2006 we finally had all the responses we needed.

Yet we failed to get all the responses we wanted. Although we averaged over five responses per country for the world as a whole, for some countries no amount of canvassing would yield five completed surveys. Unsurprisingly, most of these countries do not have functioning legislatures, and their legislatures are rarely, if ever, the object of scholarly or public inquiry. In some of these countries, the state itself is falling apart or has already disintegrated; in some, the state is new and is still in formation; in still others, the political order does not include a place for a bona fide legislature. The countries for which we failed to obtain the desired five respondents are Bhutan, Chad, Comoros, Côte d'Ivoire, Cuba, Eritrea, Haiti, Iraq, Jamaica, North Korea, Laos, Liberia, Myanmar, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Timor-Leste, and Vietnam. In these cases we did the best we could with the expertise available to us.

THE SURVEY ITEMS

The LPS, which the experts answered as a survey, consists of thirty-two items. The first nine items gauge the legislature's *influence over the executive*. They ask whether the legislature can oust the executive, have its own members serve in the government, question officials from the executive, investigate the executive, oversee the agencies of coercion, appoint the prime minister (if there is one), appoint or at least confirm ministers, elect the president (if there is one), and express no confidence in the government. Items 10–18 evaluate the legislature's *institutional autonomy*. They ask whether the legislature is immune from dissolution by

the executive, vested with exclusive lawmaking authority, free from the threat of an effective executive veto, free from the threat of judicial review, able to legislate on any issue, in charge of government expenditures, in control of its own finances, composed of members who are immune from arrest, and free from executive appointees. The third group of items, numbers 19–26, focuses on *specified powers*. Items in this category inquire about whether the legislature is vested with powers to change the constitution, authorize war, ratify treaties, grant amnesty, grant pardon, influence judicial appointments, appoint the head of the central bank, and influence the state-owned media. The final group, numbers 27–32, measures the legislature's *institutional capacity*. It assesses whether legislators meet regularly, have staff, are eligible for re-election, seek re-election, and number among their own a significant cohort of experienced colleagues.

Each survey item is dichotomous. If the legislature possesses the power in question, the item is scored in the affirmative. If the legislature lacks the power in question, the item is scored in the negative. The use of an identical, dichotomous scoring system for each question provides the benefits of consistency across the questions and allows for the aggregation of the individual items into the larger index. Of course, some of the items measured in this survey could be conceived of as having more than two categories. For example, question 7 asks whether “The legislature’s approval is required to confirm the appointment of ministers; or the legislature itself appoints ministers.” This item is scored in the affirmative if either of the above statements is true. Alternatively, this item could have been scored as having three separate categories (the legislature appoints, the legislature confirms, or the legislature has no appointment power) in rank order. This alternative scoring system might have provided greater precision, but would also have made it exceedingly difficult to present the data, to compare items to one another, and to aggregate the items into a broader index. We believe that the gain in the consistency of a yes/no answer to every question outweighs the potential loss of precision. To capture the varieties of power within any particular item, we note the range of categories that potentially exist for each item in the discussion of the items below and in the country chapters. In this way we hope to provide anyone interested in developing a more fine-grained measure of any specific item with the information necessary to do so.

Some of the items may appear to be strictly “applicable” only to parliamentary – or, alternatively, presidential or semipresidential – systems. Indeed, framing the survey items in language that makes

Introduction

sense in the context of every country in the world, across all conceivable types of constitutional systems, was challenging. Nevertheless, we believe that we have succeeded. By disregarding the distinction among types of systems and focusing instead on specific powers, moreover, we may have uncovered a blind spot in political science. Many scholars trained in the West are understandably accustomed to thinking in terms of the ideal-typical systems represented by, say, the United Kingdom’s Westminster model and the United States’ presidential model, but such “pure types” are rare. Outside of Western Europe and North America it is difficult to find “pure” parliamentary, semipresidential, or presidential systems. As the present study reveals, many of the world’s legislatures are, in a sense, hybrids. For example, many countries in Africa have a directly elected president and a prime minister accountable to parliament, as well as a mechanism for impeachment and a vote of no confidence. Moreover, one sometimes finds answers that are especially illuminating in cases in which at first glance there might appear to be a poor “fit” between the survey item and the country’s constitutional system. For example, executive veto power (addressed in item 12) might seem irrelevant to parliamentary systems, where executive and legislative powers are fused. Why, after all, would the executive veto its own legislation? Yet some parliamentary systems have a president or a monarch who wields veto power. One even finds an example of parliamentarism in which the executive has what we consider an effective veto, meaning that the veto can be overridden only by a supermajority in the legislature. In Thailand a two-thirds majority vote is required to override the monarch’s veto. Furthermore, questions on the appointment of the prime minister (item 6) and the executive’s dissolution powers (item 10) might seem to be irrelevant to presidential systems. In the classic paradigm of presidentialism, such as one finds in the United States, there is no prime minister, and the legislature has a fixed term. But numerous countries with presidential systems actually also have a prime minister and/or provisions for presidential dissolution of the legislature. The presidential systems of Armenia, Belarus, Burkina Faso, and Mali, for example, all have prime ministers, and the legislatures in each lack fixed terms and are subject to dissolution by the president.

In sum, in many polities legislatures hold a grab bag of powers rather than neat sets of prerogatives typically associated with a distinct type of constitutional system. Thus, the notion that any given item in the survey is relevant only for a certain type of constitutional system is unsound.

Below we list the items and further explicate how we answered them.

**1. The legislature alone, without the involvement of any other agencies, can impeach the president or replace the prime minister.**

Can the legislature control executive power by unseating, or threatening to unseat, the executive? The answer focuses on the legislature’s power over the leading executive in the system. The item includes the phrase “impeach the president *or* replace the prime minister” (emphasis added). We word the item the way we do in order to make it applicable to either presidential or parliamentary systems. The potentially ambiguous wording of the item may create the impression that the answer is affirmative if either one of the two is true. This is not the case; what we mean to gauge is whether the legislature can change *the most powerful executive in the system*, be he or she the president, prime minister, or someone else. In monarchies we treat the monarch as the executive of concern if he or she rules. If he or she reigns but does not rule, some other actor (typically the prime minister) is the executive of concern. Fortunately, the difference between monarchs who rule and those who merely reign is usually quite obvious, and determining whether the prime minister or the monarch is the predominant executive is unproblematic. In most systems that are commonly identified as parliamentary, the leading executive is the prime minister, and the legislature may dispatch him or her without the involvement of other agencies. For these countries the item is answered in the affirmative. In several countries whose constitutions are often classified as parliamentary, the prime minister is a de facto dictator whose power rests on his or her independent control of the agencies of coercion, rather than on parliament per se. In such cases it is impossible to imagine the prime minister being replaced by the parliament alone. In this event the answer is negative. In presidential and most semipresidential systems in which acts of the legislature alone can dislodge the president, the answer is affirmative. In those in which the participation of a high court, the public voting in a referendum, or some other actor is also required, the answer is negative. The only grounds for ambiguity arise in a handful of semipresidential systems in which both the prime minister and the president clearly wield substantial authority. In most of these cases we base the answer on whether the legislature can impeach the president rather than on whether it can replace the prime minister, although in several semipresidential systems the



prime minister is clearly the dominant executive, and in these cases the answer is based on parliament's sway over the prime minister. Where feasible and appropriate, we include information on the legislature's power over several executives (e.g., the president and the prime minister, the Governor General and the prime minister, the prime minister and the monarch). In all such cases, in the discursive portion of the answer we address *first* the executive of concern for answering the item, and only then the other executive. Thus, if the king merely reigns and the prime minister is the executive of concern, we first mention whether or not the legislature can dismiss the prime minister, and only then – if at all – what the legislature may do with the monarch. If, on the other hand, the royal palace really rules and the prime minister is its servant, we mention the crown first and then – if at all – the prime minister. A caveat is in order: We present the constitutional excerpts in the order in which they appear in the constitution. Thus, sometimes the portion of the constitution that deals with the executive of central concern appears first in the constitutional excerpts, and sometimes it appears second or, in rare cases, not at all.

## 2. Ministers may serve simultaneously as members of the legislature.

May legislators staff the cabinet themselves? We are aware that there is a debate over whether the recruitment of ministers from the legislature bolsters the legislature's power.<sup>4</sup> We agree with Max Weber's contention, explicated in his polemic in favor of parliamentary government in Germany, that the legislature is more powerful if parliamentarians head the ministries. In systems in which the ministers come from the ranks of the legislature's members, the legislature is fully the fount of executive as well as legislative power. In such systems the results of elections for the legislature largely determine the partisan composition of the executive. Furthermore, the legislature may have more consistent influence over the government's operations where the ministers are themselves working parliamentarians, and members of parliament are the ministers' colleagues. Where ministers are recruited from outside the legislature or where they may be drawn from it but must resign their seats upon receiving a ministerial post, the ministers work at a distance from the legislature, and their

jobs are only indirectly, or not at all, dependent upon the will and composition of the legislature.<sup>5</sup> An affirmative answer is therefore an indication of a stronger rather than a weaker legislature. The answer to this item is affirmative if a person may simultaneously serve as a member of the legislature and a member of the cabinet or government. The answer is negative if a person may not so serve. It is also negative if a parliamentarian may serve as a minister but forfeits his or her voting rights in the legislature upon assuming a ministerial position. Such an institution, sometimes called a "sleeping mandate," effectively withdraws the minister from the legislative setting and separates the government from the legislature.

## 3. The legislature has powers of summons over executive branch officials and hearings with executive branch officials testifying before the legislature or its committees are regularly held.

Can the legislature question the executive and force it to explain its policies? For the item to be answered in the affirmative, the legislature must be capable in practice of calling officials from the executive to testify, and it must exercise that right. Usually legislatures that enjoy the power in practice also enjoy it on paper. But even if the right is not encoded in law, the answer is affirmative if the practice exists. The item is also answered in the affirmative if the polity has the practice of "question time," in which ministers must regularly answer queries posed by legislators. In constitutional jargon, *interpellate* is often used to mean "question," and that august verb occurs often in discussion of this item. The item is answered in the negative if the legislature does not regularly question executive branch officials. In some cases the constitution provides the power of summons, but the power exists only on paper, and the legislature rarely or never actually gets to exercise its formal rights. In such an instance the item is answered in the negative.

## 4. The legislature can conduct independent investigation of the chief executive and the agencies of the executive.

Can the legislature probe the executive? This item states that the legislature can, not just may, investigate the executive, meaning that the legislature has the ability to do so. One would not

<sup>4</sup> Geoffrey Smith and Nelson W. Polsby, *British Government and Its Discontents* (New York: Basic Books, 1981); and Thomas Poguntke and Paul Webb, eds., *The Presidentialization of Politics: A Comparative Study of Modern Democracies* (Oxford: Oxford University Press, 2007).

<sup>5</sup> Max Weber, "Parliament and Government in a Reconstructed Germany," in Max Weber, *Economy and Society*, vol. 2 (Berkeley: University of California Press, 1978), pp. 1381–1469.

Introduction

7

necessarily expect investigations, even where they are possible, to be as frequent as ordinary hearings with executive branch officials. Thus, unlike in item 3, in which we stipulate that hearings must be held regularly to elicit an affirmative answer, we do not stipulate in item 4 that investigations must be held regularly. If investigation is merely possible, the answer is affirmative. Yet the executive must really have grounds to fear parliamentary scrutiny for the item to be affirmed. Moreover, the chief executive must be subject to investigation; the mere right to probe a subordinate agency in the executive branch is not enough to merit an affirmative answer. If the legislature cannot investigate the chief executive, the answer is negative.

**5. The legislature has effective powers of oversight over the agencies of coercion (the military, organs of law enforcement, intelligence services, and the secret police).**

Can the legislature monitor the state’s coercive agencies? If the police, military, and intelligence agencies report directly to the legislature, or the legislature has the ability to oversee these agencies with, for example, powers to question, investigate, regulate, and fund these agencies, the answer is affirmative. If, on the other hand, the agencies of coercion are under the exclusive control of the executive branch and there is little or no legislative oversight of their operations, the answer is negative. Even in some cases in which the legislature has such power on paper, it does not have it in practice. We are concerned with whether the legislature really has such authority, which is reflected in the wording “effective powers of oversight.” Obviously, deciding on what counts as “effective” requires a judgment call. In actual practice in the contemporary world, legislatures’ ability to control the agencies of coercion is rarely extensive, even in systems with powerful parliaments. But here, as with other items in this survey, everything is relative. In some countries legislatures do at least have some powers of oversight, and in others they do not. In the event of uncertainty or lack of consensus, we corroborated experts’ judgments with extensive research of our own in press and secondary sources.

**6. The legislature appoints the prime minister.**

Does the legislature appoint the head of the government? Where the legislature itself elects the prime minister, the answer is affirmative. If the head of state (usually a president, Governor General, or monarch) is charged with appointing the

prime minister, but is obliged to select the candidate who enjoys the support of parliament, the answer is also affirmative. In such cases the head of state typically selects the leader of the party or coalition that won parliamentary elections or the candidate who enjoys majority support in parliament (or who at least can form a government). Here the composition of the legislature predetermines the decision, and the president’s, Governor General’s, or monarch’s right of appointment of the prime minister is largely a formality. The item is therefore scored as affirmative. In other cases the president, Governor General, or monarch selects the prime minister, and the decision does not depend on the will of the legislature. Here extra-parliamentary appointment power is not a mere formality, and the answer is therefore negative. To receive an affirmative answer, the country must have a prime minister; countries that lack a prime ministerial post (or its equivalent) receive a negative answer on this item.

**7. The legislature’s approval is required to confirm the appointment of ministers; or the legislature itself appoints ministers.**

Does the legislature influence the composition of the cabinet? If the legislature makes the ministerial appointments, the answer is affirmative. The answer is also affirmative if the prime minister appoints the ministers but the cabinet must subsequently be confirmed by a vote of the legislature in order to assume office. Further, the answer is affirmative if the president (or monarch) appoints the ministers and the legislature’s approval is needed to confirm the appointments. The answer is negative if the executive appoints the ministers and the appointments do not require the legislature’s approval.

**8. The country lacks a presidency entirely or there is a presidency, but the president is elected by the legislature.**

Does the legislature select the president – or need it not even contend with one? If there is no president, the answer is affirmative. If there is a president but he or she is elected by the legislature, the answer is affirmative. The answer is negative if there is a directly elected president.

**9. The legislature can vote no confidence in the government.**

Can legislators express their opposition to the government with a vote of no confidence? If it is

possible to vote no confidence (sometimes referred to as a “motion of censure”), the answer is affirmative; if not, it is negative. In some countries the legislature has the ability to vote no confidence in individual ministers, but not in the government as a whole. This provision allows the legislature to express displeasure with a specific minister, but renders it virtually impossible for the legislature to remove the entire government. If the legislature may vote no confidence in, or censure, individual ministers but not the government as a whole, the answer is negative.

**10. The legislature is immune from dissolution by the executive.**

Is the legislature’s term fixed even in the event of executive displeasure? If the legislature is free from the danger of dissolution, the answer is affirmative. The answer is also affirmative if the legislature can vote to dissolve itself but is still immune from dissolution by the executive. There is wide variation across countries in the conditions under which the executive can dissolve the legislature. In some countries powerful presidents can dissolve the legislature at will. In other countries the executive can dissolve the legislature only under narrowly specified conditions, such as immediately following multiple votes of no confidence in the government by the same legislature. Even in situations in which the conditions for dissolution are constrained and partly in the control of the legislature, however, the legislature is still potentially subject to dissolution, and the legislature’s powers are constrained. If the executive may dissolve the legislature, under any conditions, the answer is negative.

**11. Any executive initiative on legislation requires ratification or approval by the legislature before it takes effect; that is, the executive lacks decree power.**

Does the legislature have a monopoly on lawmaking authority? If the legislature is in fact a participant in the making of all laws, the answer is affirmative. If the executive can make laws by decree, the legislature in practice shares lawmaking power with the executive, and the answer is negative. Regulatory decrees and executive orders to implement laws do not count as decrees as we define them here. If the executive can issue regulatory decrees or executive orders but not decrees that have the force of law, we do not regard the executive as having decree power, and the answer to the item is affirmative. The answer is also affirmative if the

legislature has the right – but is not compelled – to delegate temporary decree powers to the executive in some specified areas of authority. Furthermore, the answer is affirmative if decree powers are limited to emergencies; we do not consider emergency powers to be genuine decree powers unless they are regularly and habitually abused. If the executive may make laws without the prior permission of the legislature in nonemergency situations, the answer is negative. Executive decree power takes a variety of forms. In the most constrained case, the executive may issue decrees, but their force automatically lapses after some specified interval if the legislature does not approve them. In a less limited scenario, the legislature’s active approval is not needed, but the legislature still enjoys the right to annul decrees if it so desires. Here the executive’s decrees stand unless the legislature rescinds them. The most robust decree power is found where the executive’s decrees enjoy the force of law regardless of the legislature’s will; here the legislature does not have the right to rescind. All these varieties of executive lawmaking authority count as decree power; if any is present, the answer to the item is negative.

**12. Laws passed by the legislature are veto-proof or essentially veto-proof; that is, the executive lacks veto power, or has veto power but the veto can be overridden by a majority in the legislature.**

Can the legislature make laws without great concern for executive defiance? If a bill automatically becomes law once the legislature passes it, the executive lacks veto power, and the answer is affirmative. The answer is also affirmative if the executive has a veto but the legislature can override it with a majority vote. Such a veto may signal executive disapproval and may retard the passage of legislation, but it is not normally a weighty check on the legislature. If a supermajority is required to override, the veto has teeth. In this event the legislature can override the veto only by mustering a larger majority than was necessary to pass the legislation to begin with, and the answer therefore is negative. The threshold for override where a supermajority is required is typically two-thirds, although in some cases it is three-fifths or four-fifths.

A word is in order about our conception of “majority”: We mean either a vote of 50 percent plus one of present members (sometimes referred to as a “simple majority”) or a vote of 50 percent plus one of total members (sometimes called an “absolute majority”). There may be a significant practical difference between these thresholds, especially in situations of chronically high absenteeism



Introduction

9

among legislators. But in either case, that is, if the legislature can override an executive veto with a simple majority or an absolute majority, we score the answer as affirmative. The distinction that determines the answer to the item is between the need for a mere majority (either of present members or of all members) override, on the one hand, and a supermajority override, on the other.

**13. The legislature’s laws are supreme and not subject to judicial review.**

Are the legislature’s laws the final word? This item is scored as affirmative if the legislature’s laws cannot be rejected by the judiciary. If the judiciary has the right to rule on the constitutionality of laws and void those it determines to be unconstitutional, the item is scored as negative. If the legislature does not itself pass laws, as is the case in, for example, some of the advisory bodies in the Gulf States, it cannot be said that “the legislature’s laws are supreme,” and the answer is also negative.

**14. The legislature has the right to initiate bills in all policy jurisdictions; the executive lacks gatekeeping authority.**

May the legislature make laws in any area it wishes? This answer is affirmative if the legislature may discuss and pass laws in any domain. In some countries the right to introduce legislation in some areas is reserved for the executive. Common areas in which the executive can engage in such “gatekeeping” over the legislative process are the domains of law on taxation, public expenditures, and government debt. In such cases the executive is said to have gatekeeping authority, and the answer to the item is negative. In some countries the right to introduce the budget is reserved for the executive. Such power is fairly common and is not considered an instance of executive gatekeeping for the purposes of this survey. If this is the only power reserved for the executive, the answer is still affirmative. Yet, if once the budget is passed, the legislature alone cannot introduce measures that alter revenues or expenditures, executive control over budgetary matters extends beyond the mere right to introduce the budget. Such a restriction may have wide ramifications for the legislature’s right to legislate. In this event the answer is negative. In federal systems in which some powers are reserved for subnational units, the answer is affirmative provided that the legislature may initiate legislation in all policy areas that are under the jurisdiction of the national government.

In all events, the answers on this item depend on whether the legislature *can* initiate bills in all policy jurisdictions rather than on whether legislation *usually does originate* with the legislature. In many countries legislation normally originates with the government, and the role of the legislature as a whole is often limited in practice to accepting or rejecting such initiatives. If the leading party or coalition of parties that make up the government is usually the source of legislation, and it is difficult for rank-and-file members to introduce bills that have a good chance of passage without the government’s backing, one might say that the executive holds informal gatekeeping authority. In fact, this is the way legislative politics normally works in parliamentary systems. But such informal power does not count as gatekeeping authority here. The answer to the item is affirmative so long as the legislature *can* initiate bills in all policy jurisdictions.

**15. Expenditure of funds appropriated by the legislature is mandatory; the executive lacks the power to impound funds appropriated by the legislature.**

Must the government spend the money the legislature appropriates? If the legislature’s appropriations must be spent in the manner that the legislature specifies, the answer is affirmative. If the legislature appropriates funds but the executive can then block, redirect, or otherwise manipulate their actual expenditure, the executive is often said to have “impoundment power.” An executive who can impound funds has substantial – if hidden and unofficial – budgetary authority. Impoundment power is rarely specified in constitutions, but in practice is present in some systems with powerful executives. If the executive can impound funds or otherwise substantially manipulate the expenditures that the legislature authorizes, the item is scored as negative.

**16. The legislature controls the resources that finance its own internal operation and provide for the perquisites of its own members.**

Does the legislature enjoy financial autonomy? A legislature that controls its own resources enjoys an important measure of autonomy from the executive. In the event, the answer is affirmative. An executive who controls the resources that fund the legislature’s operation (such as those that provide for the legislators’ perks) may use that leverage to influence legislators’ behavior. If the executive has such authority, the item is scored as negative.

**17. Members of the legislature are immune from arrest and/or criminal prosecution.**

Are legislators free from fear of punishment? Immunity enables legislators to work without worrying that the executive will use the organs of law enforcement to punish them. If legislators are immune, the answer is affirmative. In almost every country legislators who are caught *flagrante delicto* (meaning in the act of a crime) may be apprehended. If this is the only exception to legislative immunity, we still score the item in the affirmative. So too is the item affirmed if legislators enjoy immunity but the legislature, and only the legislature, has the power to lift it. In such cases the legislature as an institution can still shield its own members from executive abuse. If legislators lack any type of immunity from arrest and prosecution, the item is negated. Where legislators have immunity but it can be revoked by an agency other than the legislature itself, the item is also scored as negative. Where only official parliamentary business is covered by immunity, where legislators are immune only while they are in, or traveling to and from, the grounds of the legislature, or where legislators are immune only when the legislature is in session, the item is scored as negative as well. In such cases a force external to the legislature may still use arrest or the threat of it to intimidate legislators. The item is also scored as negative if legislators enjoy immunity on paper but are habitually persecuted anyway in defiance of the law.

**18. All members of the legislature are elected; the executive lacks the power to appoint any members of the legislature.**

Is the legislature free of executive appointees? If the legislature contains no executive appointees, the answer is affirmative. The answer is also affirmative if the executive appoints members of an upper chamber, provided that the upper chamber is largely ceremonial and possesses little or no real legislative power. The answer is affirmative as well if the executive may appoint a mere handful of members, which we define as no more than 2 percent of total members, or if the executive may appoint some members but these appointees lack voting rights. In the latter two cases, executives enjoy the right to make appointments, but these appointments are symbolic – and usually honorific – and do not appreciably shape the legislature’s composition. For example, in Italy the president can appoint up to five “Senators for life” from the “social, scientific, artistic, and literary fields.”

At any given time, there are only a handful of appointed members in the Italian Senate. On the other hand, in Afghanistan the president appoints one-third of the members of the upper house of the legislature. The 2 percent cutoff point distinguishes between countries in which the executive has symbolic, but politically insignificant, appointment powers and countries in which the executive shapes the composition of the legislature through political appointments. There is nothing magic in the 2 percent cutoff we impose, but we do find a natural break in the data between this very low number of appointees, such as one finds in Italy (as well as in, for example, India), and the substantially higher number of appointees one finds in Afghanistan (as well as in, for example, Kazakhstan). If the executive may appoint a substantial number (more than 2 percent) of total members and if these members have voting rights, the answer is negative.

**19. The legislature alone, without the involvement of any other agencies, can change the Constitution.**

Can the legislature by itself change the fundamental law? The right to alter the constitution carries the power to reshape political life and the political regime. If the legislature can do so alone, the answer is affirmative. The legislature need not be the only actor that can change the constitution in order for the answer to be affirmative. If some other actor can do so, the answer is still affirmative, provided that the legislature also has such power. If the legislature does not play a part, or if it does play a role but a referendum, court ruling, or executive assent is also necessary, the answer is negative. In some countries the legislature has the power to amend parts of the constitution, but other parts of the constitution can be changed only by referendum or some other means. If the legislature can alter the majority of the constitution’s provisions, the answer is affirmative. If the legislature is barred from changing a large and highly substantial portion of the fundamental document, the answer is negative.

**20. The legislature’s approval is necessary for the declaration of war.**

Is action by the legislature needed to declare war? The right to declare war, or at least to confirm or reject the declaration of war, is crucial to the legislature’s influence on the country’s security and external relations. If action by the legislature is needed