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Towards a Model of Latin American Legislatures

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Ambition, channeled by incentives and institutions, drives politics. Ambitious politicians lead coups and palace takeovers in nondemocracies and engineer election victories and votes of no-confidence in consolidated democracies. In democratic situations, however, these leaders are constrained by party and electoral institutions, constitutions, federal arrangements, and various societal factors. While ambition and political institutions have long driven much research on the United States and other developed democracies, the turbulent histories of Latin American nations have not lent themselves to parallel analyses. In recognition of democracy's movement toward consolidation in much of the region, this book adapts the questions and hypotheses generally applied to studies of the United States and other Western consolidated democratic systems to the analysis of legislative politics in Argentina, Brazil, Chile, and Mexico.

An important change in Latin America is the high value that most voters and politicians profess to place on democracy. At the same time, however, many recent Latin American presidents (maybe not unlike their predecessors or even their U.S. counterparts) have railed against obstructionist, corrupt, or ineffective legislatures. Fujimori used this excuse to close the Peruvian Congress, and Menem in Argentina and Collor in Brazil sought to govern without involving their legislatures. In fear that they would undo his economic reforms and bleed the budget, Pinochet emasculated the Chilean Congress before allowing a transition to civilian rule, and Chavez overtook the odious Venezuelan Congress by (illegally) organizing a plebiscite to create a constituent assembly, which eventually subsumed the Congress. These experiences have helped to create a view that the Latin American legislatures are at best irrelevant to the policy process, if not venal and destructive. *The Economist*, in a single issue for example, argued

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that the Venezuelan Congress would “happily avoid the responsibility of having to pass several tax bills” and that Brazilian President Cardoso had to “brow beat Congress into approving long-languishing reforms.”¹ While more cautious, recent academic work has not loudly disputed this view and has often focused on how presidents avoid or undermine the legislature.

While many of the criticisms have validity, the representative wings of these governments have not been limited to negative participation. The legislatures’ positive roles in peace negotiations (as in Mexico), tax reform (in Mexico and Argentina), economic reform (in Brazil), or uncovering corruption (again in Brazil) are not examples of aberrant behavior.² Neither is their involvement in interbranch bargaining. But, this more prosaic pattern of politics – the alternative to presidential decree-wielding – has drawn little attention.

In recognition of the importance of legislative politics to the democratic process, this book seeks to redress this oversight. In our effort we focus on legislators’ ambitions, since we hope to better understand not just the degree to which the legislatures are overrun by the presidents (which is less than sometimes assumed), but also the source of their behavioral patterns. This book, then, has theoretical and empirical goals. The primary empirical question is, How do legislatures function in the new democratic period? Further, even if legislatures were weak in the past, how and why have their roles changed, and how do these roles differ across Latin America? Theoretically, even if we accept the notion that the president holds the single most important elected position in Latin America’s politics, we still want to understand why the legislatures are not more assertive. More specifically, how does variance in partisan, electoral, and constitutional arrangements affect the legislatures’ structure and function? In short, we have chosen to study Latin America’s legislatures out of a belief that, although they may not take the most prominent role in the policy process, democratic politics revolve around their most representative bodies. It is therefore not possible to gain an understanding of the nature of politics in these countries without a careful analysis of their legislatures.

The purpose of this chapter is to examine whether and how models of Western democratic legislatures that are based on assumptions that politi-

¹ February 6, 1999, pp. 33–34.

² *The Economist* again provides a good example. Their reports about these issues show clear surprise with the positive legislative role (see, for example, November 6 and 27, 1999).

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cians rationally follow their ambitions are applicable to our cases. As in studies of developed countries, we do assume that politicians in the four countries under study here are rule-bound, adhering to a given set of rules implied by the particular constitutional context. The politicians thus see only electoral paths to executive and legislative offices, and they see these offices as the source of policy change. This does not imply that the bureaucracy, the central bank, the International Monetary Fund (IMF), or even the military are uninvolved. It means, alternatively, that their pressures are registered as electoral threats, not as threatened military coups. When “democracy has become the ‘only game in town’” and recourse to coercive force is only a remote possibility, comparativists award the label “consolidated democracy” (Linz and Stepan 1996. p. 5).

This book focuses on Argentina, Brazil, Chile, and Mexico, countries that if not already consolidated are moving clearly in that direction. Since 1997, the approval of Mexico’s budget has been characterized by inter-branch bargaining and a highly spirited and public debate centered on social spending and economic theory, a far cry from the executive-dominated politics that prevailed for over 60 years. Recent workers’ demonstrations in Argentina were met with police forces and legislative demands on the administration instead of calls for military action. Chile’s 1997 elections saw some slippage of their center-left coalition, but also the naming of Pinochet’s replacement. Pinochet’s arrest in Britain in 1998 brought some demonstrations and a short boycott of the Congress by the political right, but democracy was never truly threatened. And in Brazil, “political survival” now refers more to patronage politics and elections than to pacifying the military.³

In moving past the period when politicians did not expect democratic institutions to last, we are safe in applying Western-style assumptions that politicians will respond to incentives inherent within a democratic system. The authors in this book thus look at the structures (such as the party system), rules (such as electoral rules, veto provisions, and prohibitions on reelection), and incentives (such as an interest in reelection) that drive democratic legislative politics by acting on individual legislators. Of course, other factors, such as ideology, resource limitations, international economic pressures, and domestic social exigencies, also push on legislators. This model, then, is like the toy airplane discussed by King, Keohane,

³ The term political survival comes from Ames (1987). See Ames’ studies on legislators’ strategic budgetary amendments (1994, 1995).

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and Verba (1994). Like the toy, we are representing just a piece of reality with the full understanding that our model does not capture all of the complex conjunction of forces acting on legislators. Still, the model serves as a very useful representation, highlighting a crucial set of forces that influence the behavior of legislators and legislatures.

In sum, we have chosen to study legislative politics in four Latin American countries where politicians adhere to their constitutional frameworks and work without (or at least with a greatly reduced) fear of military intervention. This basic similarity with Western democracies justifies an in-depth study of Latin America's democratic institutions and encourages us to employ the outline of a model that has gained a wide application in studies of Western legislatures. We draw most heavily on studies of a comprehensively studied legislature that, like the Latin American cases, operates within a presidential regime: the U.S. Congress.

Although we rely heavily on models of the U.S. Congress since it is a highly studied presidential regime, we also find that models of multiparty parliamentary systems have interesting parallels with the multipartisan Latin American legislatures. Models of multiparty parliamentary systems generally focus on coalition governments that arise in the wake of the executive's lack of a parliamentary majority. This is the same situation that we find in much of Latin America. Of course the parliamentary systems differ in at least one fundamental way from their Latin American counterparts: Since legislators' tenure in office is related to their continued collective support of the executive, models of parliaments can often assume that legislators in the executive's coalition have an interest in avoiding conflict with the executive. Still, just like a prime minister, a president must command the support of a majority in the legislature to ensure passage of his legislation.⁴ This fundamental similarity leads us to draw on the European models in our effort to create a general model of legislative politics that is useful in the Latin American context.

The remainder of this chapter first describes the principal questions, many of which are derived from studies of the U.S. Congress, that have driven the studies in this volume. In so doing, it explains the three themes – executive–legislative relations, parties and legislative structure, and

⁴ There are some exceptions. When the president has constitutional decree powers, for example, he can avoid the legislature. It is quite questionable, however, whether a president could continue to decree legislation without considerable legislative support (see Carey and Shugart 1998).

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policy studies – around which the book is organized. Throughout this volume the authors take the assumption common in U.S. models that politicians everywhere are ambitious. However, other assumptions in the U.S. model are not directly applicable to other cases. The second half of this introduction, therefore, dissects the U.S. models in a search for independent variables (such as career goals, party alignments, the electoral system, and constitutional structures) that the models disguise as assumptions. In addition to the assumption about ambitious politicians, these variables guide the subsequent chapters. They all show how the tremendous range of values on these independent variables accounts for differences in the legislatures' relations with their executives, their organizational structures, and their policy roles. In the concluding chapter, I collect the wealth of information from the case studies to display, compare, and contrast the full range and effects of these variables.

The Questions and Dependent Variables

In part because they have been overshadowed by presidents and frequently closed by militaries, Latin American legislatures have received limited study and are not well understood. Therefore, to explain their organization and activity it is necessary to first generate a view of what we are explaining. There are many different angles from which to view these legislatures, as studies of the current and historical U.S. Congress bear witness. Each angle uncovers a different aspect of the full picture. One study cannot hope to integrate all of these aspects into a single universal vision, but we do hope to identify several key perspectives.

At their base, studies of the U.S. Congress focus on the translation of interests – be they of the president, citizens, interest groups, bureaucrats, or legislators – into policy. To explain these competing demands, scholars have undertaken three types of studies related to the legislature: studies of executive legislative relations; studies of political parties and the structure of the legislature; and studies of the policy-making process.

This book is organized around these three themes. Unlike most collections, however, we do not try to answer these questions by offering single case studies on individual countries. Instead, we offer three independent studies for each of our four cases. We have less geographic coverage, but the tradeoff has yielded an important depth in the analysis that would be unattainable in the standard single-chapter format.

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Questions About Executive–Legislative Relations

Whether focusing on narrow policy outcomes – such as tariff rates (Schnattschneider 1935), budget deficits (McCubbins 1991) – or tax policy (Birnbaum and Murray 1988) – or theoretical issues – such as the effects of campaign finance laws (Sorauf 1992) or the issue of reelection (Mayhew 1974; Carey 1996) – studies of the U.S. Congress safely assume that legislators are in powerful positions to pursue policy changes to further their goals. There has been little reason to pay heed to a question often raised about Latin American legislatures: Does the legislature play an important policy role?

In Latin America, many casual and academic observers alike assume that legislators often forego their constitutional powers, abdicating in favor of the executive. In part this perception stems from studies done while dictatorships ruled much of Latin America. Kornberg and Musolf (1970), for example, cite Packenham's study of Brazil in questioning whether some of the legislatures' "principal function of is now, or will be in the future, one of enacting legislation" (p. 8). Excepting Chile, Costa Rica, and Uruguay, Astiz (1973) and Mezey (1979) classify the Latin American legislatures as "marginal" and "rubber-stamp legitimizers," respectively. More recent work also questions the importance of the legislatures. O'Donnell's (1993) oft-cited and influential paper purports that Latin American democracies are a "new species," characterized by presidents who view courts and legislatures as "nuisances," not a vital part of a democratic polity. This view is reinforced by Linz's (1994) proclamations about the winner-take-all nature of presidential systems and the recent spate of studies that focus on the presidents' excessive use of decree powers, especially in Argentina under Menem, Brazil under Collor, and Peru under Fujimori.⁵ The very useful contribution (and the rest of their collection) by Mainwaring and Shugart (1997) is a partial exception in that they take the president's legislative support into account in explaining the variation in presidential systems. Still, in focusing on the presidents' legislative powers, they have left aside a full analysis of the legislature itself.

⁵ While the introduction to their volume on decree powers carefully sets up the limitations of decree powers, the focus of Carey and Shugart's (1998) interesting volume is the presidents' use of these powers. See the chapters by Ferreira Rubio and Goretti on Argentina, Power on Brazil, and Schmidt on Peru. Also see the chapters by Mainwaring (on Brazil) and Jones (on Argentina) in Mainwaring and Shugart (1997).

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Given this general perception of limited influence, if not irrelevance, a first goal of our book is to examine the ways in which the legislatures *do* involve themselves in the policy process. To this end, the chapters in the first part of the book develop a number of indicators of legislative activity. It is difficult, however, to fully grasp a legislature's role, since, as Cox and I argue in the epilogue, legislatures can assert themselves proactively or reactively. Further, it is often difficult to discern the legislature's policy influence, since, in addition to overtly proposing or killing legislation, it can discreetly lobby for favorable executive proposals or amend bills to its liking. In Huber's (1996) study of the French legislature, for example, he finds that presidents use restrictive amendment procedures to keep pre-arranged deals from falling apart. Thus it appears that the legislature is not amending bills, but in reality the negotiations took place before the legislation formally arrived at the legislature. In short, if a legislature is effective working behind the scenes, congressional floor activity may not be a good indicator of the legislature's influence.

This empirical problem is evident in spatial and delegation models of executive-legislative relations. For example, following Romer and Rosenthal's (1978) classic model, if the executive is the agenda-setter, he will propose the policy nearest her/his ideal point that the legislature will accept. The reverse is also true; when the legislature proposes a policy, it will choose in order to maximize its utility and still insure against an executive veto. In either case the second player would appear weak, since its best response is to accept the policy proposal. The player is not weak, however, since the proposal was based on the first player's anticipation of what the second player would accept.

On top of these methodological problems, studies of Latin American legislatures must face the stereotype that the primary policy role of these institutions has been either neglect and acquiescence or obstructionism. The methodological problems have not slowed rigorous analyses of the U.S. Congress, and they should not force us to shy away from such studies of this crucial democratic institution in consolidating democracies. Further, our studies show that the legislatures, at least today, do much more than obstruct executive policy; and even if the historical examples of intransigence were the legislatures' primary contribution to policy, we should ask why the legislatures are relegated to such a policy role.

The four chapters in the book's first part (and others) confront the methodological challenges and give evidence that these legislatures are highly relevant to policy outcomes. These studies look at how presidents

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win legislative support for their policy proposals and the degree to which the legislatures seek to initiate their own policies or modify those of the executive. In so doing, they provide evidence that Cox and I use in our epilogue to argue that, although none of the legislatures approaches the consistent policy strength of the U.S. Congress, none are perilously weak either. In terms of policy-making power, we classify these legislatures as generally “reactive,” as opposed to “proactive.” This implies that, while the legislatures rarely initiate legislation, they are often involved in negotiating over policy issues behind the scenes and vetoing or amending executive initiatives.

To support this general view, the authors in the first part discuss the methodological problem of hidden influence and also present several types of indicators of the legislatures’ policy roles. Argentina is a case in point. Mustapic argues that the president must use numerous tools to deal with this “potentially recalcitrant” body. The presidents (Menem in particular) have been lucky to have at their disposal institutional powers and the ability to dole out ministerial and other jobs. She also argues, however, that part of the legislature’s acquiescence has been due to the situation of economic and political crisis facing the nation.

In spite of these presidential powers, Mustapic argues that the legislature can and does disrupt the executive’s policy priorities by simply failing to convene for sessions. She also shows that the legislature has been proactive enough to invite relatively frequent presidential vetoes.

Siavelis also notes the challenge of identifying quantifiable expressions of legislative influence in Chile. As a partial response he documents the high percentage of legislation that requires more than the legal minimum of steps (*trámites*) to pass through the legislature, as well as portrays data about legislative initiatives. He further argues that institutional structures (such as the legislature’s ability to set the agenda and a ministry-level office of interbranch relations) and norms (such as the presidents’ willingness to meet with Congressional leaders) have helped cement the legislature’s influence.

There have been two primary and conflicting concerns about the Brazilian legislature. On the one hand, Mainwaring, Linz, and others who denigrate multipartism worry that Brazil’s fractious legislature will be inefficient and likely to thwart attempts at reform. On the other hand, some studies, particularly those of the Collor years,⁶ fear the Brazilian president’s

⁶ Cardoso, too, has issued numerous decrees.

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ability to avoid legislative interference, thus chancing a move in the direction of “delegative democracy” (O’Donnell 1993).

While the second concern should not be dismissed, presidents have not been free to emit decrees without restriction. The most important legislation during Cardoso’s term, including constitutional changes to allow for reelection of the president, pension reform, and administrative changes, have gone through the regular legislative process. It seems likely that other controversial legislation would also require legislative assent to avoid significant uprisings. Further, as Carey and Shugart (1998) note, the legislature is empowered to reject decrees, and recent changes have shut off the important loophole that allowed presidents to reissue decrees once their effectiveness formally ended.

In this vein, Amorim Neto’s study focuses on the first issue, asking how Brazilian presidents gain legislative support in a legislature housing few of their co-partisans. He answers that particularly weak presidents, like Collor, have relied on decrees to avoid legislative roadblocks. Other presidents, however, have built support through the careful distribution of cabinet posts. He then shows a solid relation between a party’s support for executive initiatives, that party’s unity, and its representation in the cabinet.

Until very recently, the Mexican Congress has been the epitome of weakness. De la Garza’s (1972) study well characterized most views of this institution. He found no significant policy role for the Mexican Congress and thus focused on its role in legitimating the regime. Casar’s study here finds evidence that the long-languid legislature is undergoing profound changes. “The post-1997 Congress,” she notes, “has already stopped and altered several important executive initiatives, affecting social security legislation, fiscal measures, and the peace accords in Chiapas.” There is also quantitative evidence of the change, such as the dramatic rise in the rate of approval for bills sponsored by legislators.

Questions About Parliamentary Parties and Legislative Organization

Mayhew (1974) wrote, “If a group of planners sat down and tried to design a pair of American national assemblies with the goal of serving members’ electoral needs year in and year out, they would be hard pressed to improve upon what exists” (p. 81). Studying the legislature’s organization, then, is a reflection of the institution’s locus of power. The power of committee chairmanships, for example, reflects the individualistic nature of the U.S. Congress. The legislative structure also has implications for the

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representation of interests, the type of policy that may ultimately survive the process, and the legislature's ability to carefully scrutinize the executive branch. As such, the goal of Part III is to characterize the structure of the Latin American legislatures and explain why they do not follow the organizational path illuminated by the U.S. Congress. In explaining the issues that the chapters address, I will focus on three themes that are prominent in the American literature: procedural coalitions, committee systems, and floor voting patterns.

Procedural Coalitions Most legislative decisions are determined by majority rule. The basic question, therefore, is, Who joins the majority? Is the group stable or changing? Further, we might expect that "procedural coalitions" – those legislators who join to elect legislative leaders, approve voting rules, select staff, and dole out committee assignments, or generally organize the legislative business – may be quite different from those who form around particular policy initiatives.⁷

Models of the U.S. Congress explain how the majority party operates as a "cartel," monopolizing procedural advantages in the legislative process (Cox and McCubbins 1993; Aldrich 1995). These advantages unquestionably allow substantial influence in the content of legislation and the distribution of resources. This implies that we should expect that procedural coalitions also form in other countries – as appears to be the case in Europe (Doring 1995). Several of the studies in this volume therefore investigate how variance on the party structure or other variables affects the shape of the power structure in the Latin American legislature.

Nacif's careful look at the governing committee of the Mexican Congress best exemplifies this type of study. His chapter details how the Institutional Revolutionary Party (PRI) used its majority position to control the legislative process until the recent rise of the opposition. He also explains how these changes have affected the legislature's procedural coalition. Until a 1991 reform, the PRI leadership made decisions without much regard for other parties. However, since the reform, the parties have been able to negotiate for their share of committee posts, including chairs and other leadership positions.

The other chapters in Part III also follow this line of inquiry. Carey argues that the electoral alliances form procedural coalitions in Chile. He states,

⁷ This definition follows Jones (1968) and Cox and McCubbins (1993).