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To Whom Are Legislators Accountable?

1.1. Introduction

1.1.1. Overview

Legislatures are, formally, the principal policymaking institutions in modern democracies. The most fundamental policy decisions – budgets; treaties and trade agreements; economic, environmental, and social regulation; elaboration of individual and collective rights – all must be approved by legislatures. What forces drive legislators' decisions? What different political actors place demands on legislators, and how do legislators' actions reflect these demands?

These are questions about what sort of representation citizens can expect from those they send off to deliberate and make policy decisions on their behalf. Citizens want legislatures to be decisive – that is, to resolve the issues before them without chronic deadlock. They also want accountability, which entails responsiveness on the part of legislators to citizens' demands. In modern democratic legislatures, the principal vehicles for delivering decisiveness are strong political parties. Decisiveness through party discipline, however, presents a dilemma in terms of what kind of accountability is possible.

This book distinguishes between collective accountability and accountability that operates at the level of individual legislators, which often make different demands on legislators. In modern democratic legislatures, collective accountability operates primarily through parties and requires legislators bearing a common party label to act in concert. Individual accountability implies a more direct link between a legislator and citizens and may require the legislator to act independently of party demands. Individual accountability also requires that information about each

legislator's actions be available to those outside the legislature and capable of being monitored. Because the informational conditions for individual accountability often are not met, maximum legislative individualism does not necessarily produce individual accountability.

Scholarship on legislative accountability tends to regard collective accountability favorably and legislative individualism with skepticism. Yet surveys from legislators and citizens and the substance of political reforms themselves in recent years all suggest that demand for individual accountability is strong, and technological advances have reduced the logistical obstacles to making available the information necessary for individual accountability. It is worth asking, then, whether individual accountability is feasible and whether it can coexist with collective accountability, in what measure, and under what conditions. One goal of this book is to examine whether the vote records that legislatures produce are a critical ingredient for individual accountability. A second goal is to use vote records to measure party unity, a key ingredient of collective accountability, and to explain why some parties are more unified and others less so.

To be clear, transparency in the actions of individual legislators is a necessary condition for individual accountability, and some measure of party unity is necessary for collective accountability, but neither condition guarantees perfect accountability. Legislators whose every action is known may still ignore their constituents' demands, and unified parties may pursue policies citizens abhor. This book merely suggests that individual accountability suffers when individual legislators' actions are unknown to constituents and that the failure of copartisans to act in concert undermines collective accountability. Beyond these sorts of lapses, however, the tension between individual-level and collective accountability is not fully reconcilable. Even full transparency offers access only to an accountability frontier where an increase in individual accountability requires trading off some measure of collective accountability, and vice versa. I reconsider this tradeoff in the concluding chapter, but the empirical substance of most of the book examines whether the conditions exist to allow legislative representation to approach that frontier.

The book moves beyond previous research in the theoretical connection it establishes between individual and collective accountability and in its empirical scope. It illuminates the connection between legislative transparency and accountability by examining why voting is transparent in some legislatures but not others. It offers a simple and general account of the various political actors institutionally empowered to place demands on

legislators and how their relative influence affects legislative party unity. This account, dubbed the competing principals model, generates hypotheses tested against voting data from legislatures in nineteen countries. By documenting what information is available about legislative votes and providing new tools to process the information, the book outlines the mix of collective and individual accountability that legislators deliver across an array of countries, as well as the potential for political reforms to alter that mix.

The rest of this chapter establishes vocabulary and concepts on which the book depends. After defining some key terms used throughout the book, I describe the unique role of political parties in organizing legislative processes and as intermediaries of accountability between citizens and their representatives. Then I contrast the ideals of collective and individual accountability and discuss how electoral rules shape the balance between collective and individual representation. Finally, I present the competing principals model of demands on legislators and outline the plan of the chapters that follow.

1.1.2. Definitions

1.1.2.1. Accountability. The expectation of accountability implies a relationship between a legislator and some other actor or actors (principals). Accountability means that legislators are responsive to the preferences and demands of their principal(s), that information about legislators' actions is available to the principal(s), and that principals can punish legislators for lack of responsiveness.

Accountability depends on professional ambition among legislators. Professional ambition may be a purely venal desire for personal advancement, or a purely altruistic desire to serve others by promoting policies that advance some conception of the public interest, or some combination of these. Whatever the motivation, ambition implies the desire to cultivate electoral resources – renomination, or else nomination or appointment to an even better office, campaign financing, and good favor among voters. It also implies that legislators value access to resources within the legislature itself, such as leadership positions, assignments to key committees, access to support staff, big offices, perks, and such. Ambitious legislators curry favor with political actors who can provide these key resources. The ability to withdraw favor, and so deny the resources that fuel professional advancement, is the enforcement mechanism behind accountability. Overall, accountability should maximize legislative effort and responsiveness to the

principals' preferences and minimize corruption and other abuses of power at the principals' expense.

1.1.2.2. Principals. Principals are political actors who command some measure of loyalty from legislators, and whose interests a legislator might represent and pursue in an official capacity. Given that most legislators in democracies are popularly elected, we might think of voters as the ultimate, universal principals to whom legislators are accountable. Under some conditions, this is the case. Yet, as I argue in this book, political parties, and specifically their leadership within legislative assemblies, are in many cases the main principals that command legislator loyalty. In many institutional settings, the level of accountability of legislators to voters pales in comparison to their accountability to party leaders.

Beyond party leaders and voters, many political systems are populated by other actors who, by virtue of their institutional positions, their organizational capacity, or other resources, can command the loyalty of legislators. These include presidents, who are elected independently of the legislature but are often endowed with resources and powers legislators value or fear; governors in some federal systems, who may wield substantial resources, including control over subnational political party machines; interest groups, which direct electoral resources (funding, activist volunteers, mobilized voters); moneyed campaign contributors; and even those in a position to bribe or extort politicians.

1.1.2.3. Decisiveness. Legislative decisiveness refers to the capacity of legislatures to reach decisions on policy and to make those decisions stick. Criticisms of legislatures frequently focus on failures along these lines (American Political Science Association 1950; Sundquist 1981; Moe and Caldwell 1994). Collective legislative accountability can be a solution to legislative indecisiveness (Gerring, Thacker, and Moreno 2005; Gerring and Thacker 2008). In this sense, decisiveness is central to the question of whether legislative accountability is possible.

1.2. Decisiveness Problems

1.2.1. Bottlenecks and Cycling

Most national legislatures, and many subnational ones, are large assemblies, with diverse members numbering in the hundreds. Size and diversity

present a specific challenge. The number of policy options available in any political environment is generally vast. Legislatures are supposed to pare down the potentially infinite number of policy options available to a manageable and coherent set of alternatives, among which a meaningful collective decision can be reached. Failure to solve this decisiveness problem may be the product of either too little legislative action or too much. In either scenario, legislative scholarship envisions parties as a solution.

Cox (2006a) posits a "legislative state of nature" in which all members have equal and unrestricted rights to speak on the floor on any issue, so plenary time is unregulated. This state embodies a strong egalitarian norm that privileges the ability of members to block assembly action over their ability to trigger action, raising the specter of chronic legislative gridlock, even in the face of pressing policy demands (Colomer 2001; Tsebelis 1999). From this point of departure, Cox (2006a) notes that legislatures everywhere resolve the bottleneck problem with internal organization that redistributes agenda powers unequally and that, in modern legislatures, political parties consistently control access to the privileged agenda-setting positions.

In the mirror image of Cox's vision of unlimited filibuster and effective unanimity rule, procedural rights in a legislature may be equally distributed, but rather than any legislator's being able to block a vote on any proposal, any proposal must be voted on. Now the decisiveness problem becomes the potential for chronic instability of choice rather than the inability to make any choice – that is, cycling occurs rather than bottlenecks. The rationale here is well known. Formally, at least, most legislative assemblies rely on simple majority rule for most decisions. Theoretical characteristics of majority rule decision over multiple alternatives suggest that failures of decisiveness could be characterized by general instability of legislative decisions (Condorcet 1785; McKelvey 1976; Riker 1982). Yet, even accounts of legislative politics that take the instability problem as a point of departure frequently point to political parties as the key factors that bring order to the potential chaos of majority rule (Laver and Shepsle 1996; Cox and McCubbins 1993).

In either the bottleneck-based or cycling-based account, parties are credited with providing decisiveness by establishing privileged actors who determine which proposals are debated and voted on and in which order and, in doing so, make it possible for legislators to realize gains unrealizable in unorganized, state-of-nature assemblies. The key point is that, in almost all democratic systems, parties are the gatekeepers of the

formal offices that control action within the legislature. Moreover, Carroll, Cox, and Pachon (2006) demonstrate that, as democracies mature, parties expand their control over the offices that determine legislative activity, and the distribution of these offices among parties grows increasingly regular. In short, as party systems stabilize, so do the key partisan elements of legislative organization.

1.2.2. Parties and Legislative Action

How does partisan control over the flow of legislative traffic provide decisiveness? Diverse accounts of legislative politics converge around the idea that parties reduce the potentially infinite number of policy options to a limited set, primarily by establishing platforms or manifestos that advertise party positions to voters and then by disciplining legislators to constrain their voting in line with these party positions (Aldrich 1995). Comparative studies of roll call voting suggest that legislative agendas are strongly limited in ways consistent with the idea that parties produce procedural order (Poole 1998; Cox, Masuyama, and McCubbins 2000; Poole and Rosenthal 2001; Amorim Neto, Cox, and McCubbins 2003; Rosenthal and Voeten 2004).

Because parties so consistently dominate legislative organization, it is difficult to test the extent to which they account for the orderliness of voting patterns. In a pair of ingenious studies, however, Jenkins (1999, 2000) compares voting in the Confederate Congress of 1861–65 with that in the U.S. Congress during the same era. The legislatures were similar in formal structure, in membership (many legislators served in both chambers), and even in the issues on which they voted, but the Confederate Congress was not organized along party lines. Voting patterns of Confederate legislators were far less stable in important ways. First, voting coalitions were more fluid in the Confederate than the U.S. Congress (Jenkins 1999). Second, the ideological positions of Confederate legislators were less stable over time (Jenkins 2000). Overall, the results suggest that political parties impose order on voting in ways that make legislative decisions predictable and stable.

Political parties may play this role in general, but even casual observers will note that not all parties are equivalent. Comparative legislative scholarship has long made much of the difference between strong and weak political parties in controlling legislative outcomes. Yet, apart from abundant analyses of the U.S. Congress, most of the legislative world has yet to

be mapped in terms of party voting unity.[1] If parties are highly unified in their voting, then party labels can carry substantial policy content. That is, citizens can observe just the partisanship of a legislator or a candidate and infer what sort of policies she or he will support and oppose in office. If, by contrast, parties are not unified, then this cue about political behavior carries less information. Given that citizens tend to rely on low-cost cues in evaluating politicians and parties, the reliability of party labels is a key component of whether voters can be said to cast informed ballots in legislative elections (Lupia and McCubbins 1998).

1.3. Collective versus Individual Accountability

1.3.1. Competing Visions

The discussion of decisiveness in legislatures implies the outline of a case for collective legislative accountability through party-dominated representation. The key components of the case are as follows. Legislatures are called upon to make decisions on a wide-ranging set of policies. The difficulties of collective decision making mean that no individual legislator can credibly claim credit or responsibility for shaping policy on such a scale. In contrast, political parties can both encompass a broad idea of the public interest and plausibly claim to deliver policies that advance this idea. But legislative parties can do this only if they are unified. Meaningful legislative accountability, therefore, must be collective, through the organization of legislatures by strong parties.

Yet, in the eyes of many political reformers, the idea of party-dominant legislative representation has less appeal, and demands for accountability to citizens at the level of individual legislator predominate. For example, throughout Latin America in recent years a number of political reform efforts have aimed to disconnect legislators from national party leadership

[1] Levels and sources of party unity have been extensively examined in the U.S. Congress, where scholarship has been preoccupied for more than a decade with parsing to what extent levels of party voting are due to like-mindedness among copartisans (cohesiveness) versus pressure from party leaders (discipline) (Krehbiel 1998; Cox and Poole 2004). For "unmapped" legislatures, the basic question of how unified parties are is of prior concern to the cohesiveness-versus-discipline matter. Whatever its cause, some measure of voting unity is necessary for party labels to convey information that is useful to voters. I take up the matter of overall level of voting unity in Chapter 5 and the issue of cohesiveness versus discipline in Chapter 6.

when the demands of leaders conflict with responsiveness to local constituencies. Reform advocates describe popular disenchantment with disciplined parties directed by leaders who are insulated from punishment by voters. In many cases, moreover, both the strong discipline and the insulation of the leaders can be traced to a common source: electoral systems in which control over candidate nominations is centralized among party leaders and voters are allowed no means to distinguish among candidates within a given party. The problem is most severe in systems of proportional representation, where multiple seats are awarded in each electoral district.

The accountability dilemma here can be described as follows. As a politician advances within the party leadership, her access to power and perks increases dramatically, but her electoral vulnerability decreases in a corresponding manner because leaders occupy the top positions on closed party electoral lists. This mitigates the leadership's susceptibility to electoral punishment, even if its party as a whole loses electoral ground. As a result, the leaders who stand to gain the most from violating public trust and pillaging state resources stand to suffer the least electoral indignity if their party, collectively, is punished by voters. Rank-and-file politicians, whose heads are the first to roll in any partisan electoral setback, might object to being relegated to the marginal list positions that buffer their leaders, but would-be rebels face a serious collective action problem in revolting against their party leaders, because troublemakers can simply be removed from the lists or demoted to perilous or even hopeless list positions by the leadership.

The individualist dissent from the strong-party ideal implies a case for accountability at the level of each legislator. The core of the argument rests in the critique of party-dominated representation as imbuing the most powerful legislative leaders with a sense of distance from voters that insulates them from public disapproval. Instead, the argument goes, legislators are most responsive to citizen demands when each is responsible for cultivating her or his own support constituency, which in turn can reward and punish its representative directly at the polls. Whereas advocates of collective, partisan representation are primarily concerned with the ideological and policy content of party labels, the decisiveness of legislatures, and the voters' assessments of overall government performance (Powell and Vanberg 2000), advocates of individual-level accountability are more concerned with maximizing virtue – deterring the betrayal of the demands of particular voters who picked an individual legislator as their representative (Persson, Tabellini, and Trebbi 2003).

1.3.2. Excursus on Electoral Rules: Iraq versus Afghanistan

The individualist dissent over legislative accountability focuses heavily on the electoral link between citizens and their representatives – specifically, on whether elections that foster collective representation can, or should, be modified to foster individual accountability. Scholars, policymakers, and journalists sometimes mistakenly equate the trade-off between collective and individual representation with the distinction between proportional representation and single-member district systems. Because proposals for institutional design and reform often focus on elections, it is worth considering how electoral rules do, and do not, map onto the matter of collective versus individual representation. A comparison of two contemporaneous, high-stakes cases of institutional design is useful for illustration.

Amid all the debates surrounding the regime changes in Afghanistan and Iraq during the middle years of this decade, one of the less voluble, but nonetheless crucial, was the discussion among both policymakers and academics over how to craft mechanisms to represent diversity in each country's new legislative assembly.[2] U.S.-led invasions of Afghanistan in 2001 and Iraq in 2003 had produced governments commissioned to craft new constitutions and to hold elections to fill the political offices so founded. In both cases, there was widespread acknowledgment that plural societies warranted representation of broad diversity within the legislature. A fundamental challenge in both cases was to identify what sort of diversity ought to be privileged in legislative representation. Various dimensions of representation, including geography, ethnicity, religion, and gender, were prominently on the table in each case. Less widely noted was that the debates over how best to move toward electoral democracy in Afghanistan and Iraq embodied the fundamental trade-off between collective and individualistic representation in contexts relatively unbound by existing precedent.

1.3.2.1. Iraq. Iraq elected two legislatures in 2005 – first, in January, a transitional dual-purpose parliament and constituent assembly, the main task of which was to draft a constitution to be ratified in an

[2] The brief discussion that follows here of Iraq and Afghanistan is not meant to serve as a thorough review of legislative electoral rules, much less as a comprehensive analysis of the politics of these countries. The former is provided in an impressive literature on comparative electoral systems (Duverger 1954; Taagepera and Shugart 1989; Lijphart 1994; Cox 1997), and the latter is well beyond my capacity.

October plebiscite; then a National Assembly to serve a full four-year term under the new constitution. Notwithstanding some subtle but important modifications to the electoral rules between the two elections, the central characteristic of both Iraqi elections was strong collective representation. The electoral law for January, crafted primarily by the United Nations Electoral Assistance Division and handed down as law by the outgoing, U.S.-led Coalition Provisional Authority, stipulated that the entire country encompassed a single electoral district with 275 seats, the implications of which were far-reaching for the types of legislative representation possible in Iraq (Dawisha and Diamond 2006).[3]

First, the high district magnitude effectively mandated that elections would be based on closed lists. Voters would not have the option of casting preference votes for individual candidates. Second, high magnitude made it possible to award legislative seats to lists that won relatively small vote shares overall, thus allowing for a high degree of proportionality. Third, a nationwide list system like Iraq's does not favor any predetermined concept of representation – for example, geographical, ethnic, or religious – but rather simply rewards lists that can mobilize the most voters. However, because the composition of the assembly is determined as much by the selection of candidates as by the popular vote, such a system also opens up the possibility of adopting measures that might tip legislative representation toward categories of candidates disadvantaged in a more individualistic electoral marketplace. Specifically, in the Iraqi case, gender quotas for candidates mandated that every third candidate must be a woman.

Both of the Iraqi elections in 2005 produced assemblies in which twelve separate lists won representation. The effective number of seat-winning parties was 3.14 in January and 3.45 in December (Laakso and Taagepera 1979), and the elections were marked by a close correspondence between votes cast and seats awarded to each list, with a Gallagher Disproportionality Index of less than 3 percent both times (Gallagher 1991) and substantial representation of ethnic groups previously marginalized in Iraqi politics (Burns and Ives 2005). The guaranteed placement of women at regular intervals on closed lists translated into assemblies with 29 and 26 percent of women overall – almost twice the worldwide

[3] One compelling motivation for this choice had to do simply with logistics of electoral administration: Iraq lacked a reliable census by which legislative seats might be apportioned across districts according to population.