

# From Conflict to Coordination: Perspectives on the Study of Executive-Legislative Relations

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**Abstract.** Until not very long ago, the literature on legislative-executive relations was bifurcated. It had evolved into two separate and independent bodies of work. One branch focused on parliamentary and the other on presidential systems, which were considered to represent two completely independent and alternative forms of government. Today a more integrated view of executive-legislative relations in democratic regimes exists. The emergence of this new perspective owes a great deal to the appearance of two seminal books, which, perhaps in a way unintended by the authors, questioned the premises upon which the bifurcated view of parliamentarism and presidentialism rested. Kaare Strom's *Minority Government and Majority Rule* (1990) demolished on empirical and theoretical grounds the basic office-seeking assumption that informed studies of parliamentarism. John Huber's *Rationalizing Parliament* (1996), in turn, questioned the appropriateness of the conflict model at the root of most thinking about executive-legislative relations in democracies. The specific contribution of each of these authors may be traced to studies of legislative politics that focused on the US congress. As a consequence of these shifts, legislative organization came to the forefront of analyses of executive-legislative relations. It is the characteristics of the legislative process that matters for understanding how a majority organizes itself across the two branches and becomes effective in the pursuit of its policy objectives. This is so regardless of the way the executive comes to and stays in power.

Until not very long ago, the literature on legislative-executive relations was bifurcated. It had evolved into two separate and independent bodies of work, with very little exchange between the two. One branch focused on parliamentary and the other on presidential systems, which were considered to represent two completely independent and alternative ways to organize the political world. That is, knowledge about one of these systems had little or no impact on what we learned about the other. Each system was thought to have its own principles, from which their functioning could be completely deduced; and these principles simply pointed to vastly different incentives for and, consequently behavior by, political actors.

The principles of parliamentarism and presidentialism have to do, of course, with the

dependence or independence of the executive's mandate with respect to the legislature. Whereas parliamentarism is characterized by a system of "mutual dependence," presidentialism is characterized by a system of "mutual independence" (Stepan and Skach 1993). This basic difference was taken to determine both the nature of the relationship between the executive and the legislative powers, and whether their relationship would be circumscribed to the limits imposed by the constitution: cooperation and constitutional limits in the systems defined by mutual dependence; conflict and extra-constitutional behavior in the systems defined by mutual independence. The executive and the legislature, at the same time, were conceived as unified actors competing for influence over policy outcomes.

It is possible to say that today a more integrated view of executive-legislative relations in democratic regimes exists. The emergence of this new perspective owes a great deal to the appearance of two seminal books, which, perhaps in a way unintended by the authors, questioned the premises upon which the bifurcated view of parliamentarism and presidentialism rested. Kaare Strom's *Minority Government and Majority Rule* (1990) demolished on empirical and theoretical grounds the basic office-seeking assumption that informed studies of parliamentarism. For him, minority governments were not always the result of dysfunctional parliamentary systems. Rather, he argues and demonstrates empirically, depending on the organization of the legislature and on the perceived electoral costs of ruling, office- and policy-seeking rational politicians might refrain from accepting positions in a government. John Huber's *Rationalizing Parliament* (1996), in turn, questioned the appropriateness of the conflict model at the root of most thinking about executive-legislative relations in democracies. More specifically, he showed that restrictive legislative procedures were not weapons used by the executive against the legislature. Instead, in a system in which the executive depends on the support of a legislative majority in order to exist, it should be seen as an agent of the majority, and the use of legislative agenda powers by the executive should be seen as an instrument that serves the interests of the majority.

The specific contribution of each of these authors may be traced to studies of legislative politics that focused on the US congress; that is to say, the models and the findings generated by studies of the legislature in the United States contributed for the revision of the way parliamentary regimes were thought to work. Strom highlighted the importance of a strong committee system over a party's decision to enter (or not) the government. Huber applied formal models developed to study the relationship between committees and the floor in the US context to the study of the relationship between the prime minister and the legislative majority in parliamentary regimes.

The works by Strom and Huber, and those who followed them, had indirect consequence on the way we perceive presidential systems. If minority governments could work well under parliamentarism, why would presidents whose parties did not control a legislative majority be doomed to fail? To put it differently, if politicians were also motivated by policy concerns, then presidents, just like prime ministers, might be able to form governing and policy coalitions. If restrictive legislative procedures were tools with which the legislative majority was able to get organized in parliamentary settings, why would they necessarily mean a way for presidents to attack and undermine the power of congress? Just like in parliamentary systems, restrictive legislative procedures is what structures the relationship between the government, political parties, and

groups of legislators, all of whom must cooperate with one another in order to govern *and* compete to gain votes in periodic elections.

Thus, from this perspective, the interesting question about executive-legislative relations in democratic regimes is not what triggers conflict or cooperation between the two powers, but about the institutions and strategies that allow governments to obtain the support of a majority in the legislature to implement policy change. As a consequence of this shift, legislative organization came to the forefront of analyses of executive-legislative relations. It is the characteristics of the legislative process that matters for understanding how a majority organizes itself across the two branches and becomes effective in the pursuit of its policy objectives. This is so regardless of the way the executive comes to and stays in power. Although the differences in the making and breaking of governments may matter, they do not sharply divide democratic systems. And thus the distinction between presidential and parliamentary democracies was significantly obliterated.

In what follows we seek to characterize the two ways to approach legislative-executive relations in democratic regimes. Section 2 deals with the studies that see a sharp bifurcation between parliamentary (section 2.1) and presidential (section 2.2) systems. In section 3 we review Strom's contribution and its effects for the understanding of coalition government under presidentialism. In section 4 we discuss Huber's contribution and its consequences for the way we understand presidential decree-powers. Section 5 is the conclusion.

## **Parliamentary and presidential systems have little in common**

The classic paradigm for studying legislative-executive relations in democracies was primarily concerned with understanding how governments are formed, based on the assumption that politicians are primarily office-seekers. In this perspective, the analysis of inter-branch relations was limited to the identification of incentives that office-seeking politicians might have to cooperate in governing a country. In spite of the common preoccupation with government formation and the common assumption about politicians' goals, the early literature was bifurcated; it evolved into two separate and independent bodies of work, with very little exchange between the two. One strain of this literature focused on parliamentary systems and the other on presidential systems.

### ***Parliamentary democracies***

The literature on parliamentarism focused on the process of government formation. Government formation is crucial because, it was believed, it is the moment in which the government's ability to act throughout its existence is determined.

In the most basic view, the very nature of parliamentarism is such that parties operate under a majoritarian imperative; that is, the requirement that governments must be composed by parties that together command more than 50% of legislative seats. In this view, governments are formed as parties exchange cabinet positions for legislative support: a party is considered to be in government if it controls one or more cabinets; when in government, a party's members of parliament are expected to vote in support of government measures.

If a party alone commands more than 50% of the seats in the legislature, it forms a single-party government; it keeps to itself all the benefits of being in the government as it does not need the support of other parties to remain in power. If no party controls more than 50% of the legislative seats, then parties must form a coalition government by sharing cabinet positions. Given the fact that in the majority of parliamentary democracies no party commands more than 50% of the seats, one of the central research questions in the early studies of executive-legislative relations was which parties will come together into the government and how they will share the limited number of portfolios.

There is a vast literature that deals with coalition formation and termination, and here is not the place to review it in detail.<sup>1</sup> For our purposes, it is sufficient to say that formation and termination are directly associated in most accounts, implying that the operation of the government between these two moments does not require attention or explanation. The primary function of parliaments is to make or break governments (Laver 2006:122). Regarding coalition formation specifically, the most popular and influential theory assumes purely office-seeking politicians and predicts the formation of minimum-winning coalitions (Riker 1962). Parties try to form the smallest possible coalition and to keep as much as possible of the spoils of government, subject to the constraint that these coalitions have to be majoritarian. As Laver and Schofield (1998) note, the failure of the minimum-winning coalition theory to predict actual outcomes led scholars to revise some of Riker's assumptions and broaden their search for the criteria that would guide the coalition formation process. However, in so doing they did not entirely do away with the office-seeking postulate. This is the case of the minimal connected winning coalition theory proposed by Axerold (1970), in which the ideological proximity is introduced not as policy concern per se, but as a way of reducing the coalition's internal conflict. As Laver and Schofield (1998:110) argue, even De Swan's (1973) attempt to place policy concerns on the center of the coalition formation process "retains an implicit concern with office-seeking motivations".

In most theories of coalition formation (always in parliamentary regimes) one constraint that parties always face, regardless of their motivation, is the majoritarian one. In this sense, minority governments – governments formed by one or more parties that together control less than 50% of legislative seats – necessarily represent a failure of the government formation process. They result from crises that are induced by high levels of political fragmentation and polarization. Minority governments, therefore, cannot be explained except as anomalies induced by a dysfunctional political system.

The type of government that emerges from the formation process matters for its duration. Because minority governments are the product of an underlying situation characterized by fragmentation and polarization, they are the most unstable and ungovernable. Single-party majority governments, on the other hand, are at the opposite end, tending to last long and implement important policy programs. Coalition governments are the truly interesting political phenomenon. After all, they rest on a precarious bargain among parties over how to divide the spoils of government and set major policies. They are fragile in the sense that a coalition may break over major and minor issues. Thus, coalition governments are vulnerable to (parties' anticipation of) even small shifts in voters' preferences, as well as to the idiosyncrasies of each coalition member.

Although it is hard to come up with a consensual list of factors that affect government survival, it is safe to say that the literature has identified economic, ideological and institutional factors as being of relevance for the duration of a parliamentary government. Thus, the position of parties in the left-right policy space interacts with the economic conditions governments face and the institutions under which they operate to affect how long parliamentary governments will survive (Warwick 1994).

The coalition formation and termination literature took on a life of its own.<sup>2</sup> For our purposes, the relevant points to retain are that it privileges office-seeking considerations when it comes to politicians' motivations and concentrates on the two extreme moments in the existence of any government: its formation and its termination. The actual operation of the government, the way executive-legislative relations are structured and unfolded during the ordinary life of the government, was not an object of scrutiny since it was supposed to be determined at the government's inception.

### ***Presidential democracies***

The preoccupation of those who have studied presidentialism has been different. The fact that the head of government's mandate originates in popular elections and that the mandate is for a

fixed term in office leads to a totally different world where coalitions and government duration are irrelevant. The president and the legislature have a fixed term in office and government duration, therefore, becomes a moot question. The fact that the president does not need to generate majority support in the legislature in order to remain in office, in turn, makes coalition governments unnecessary.

Comparative studies of presidential systems started much later than those of parliamentary ones. There is, of course, a large literature on the United States. But this literature is not comparative in any significant way as it is concerned primarily with accounting for the rather unique features of the overall US political system, and not with analyzing it as one among many presidential democracies. Moreover, as presidential and legislative studies have developed as independent subfields, and given the more qualitative and anecdotal approach that dominates the former<sup>3</sup>, executive-legislative relations has not been a central lens through which to view the functioning of the US system.

The dearth of early comparative studies of presidential systems was partly due to the scarcity of available cases for analysis. Most presidential democracies outside of the United States, at least until the re-democratization of Latin America in the 1980s, experienced at least one regime breakdown. Scholarly attention, therefore, was redirected to the study of the dictatorships that replaced them or the conditions that produced their demise. Given the prevalence of structural-functionalism and Marxism, the constitutional structure and the details of institutional design regulating executive-legislative relations did not figure prominently, if at all, in these studies.

It is not until the 1980s that presidentialism as an institutional form became the object of systematic analysis. Here the work of Juan Linz is absolutely central. In calling attention to the role of incentives generated by a system of separation of powers in the crises that led to democratic breakdowns in Latin America, Linz set out the agenda and the tone for comparative studies of executive-legislative relations under presidentialism.<sup>4</sup>

Linz's argument is well known. Here we provide only a brief sketch of the Linzian view to highlight the steps that connect the separation of powers that defines presidentialism to the eventual breakdown of democratic regimes. According to this view, presidential constitutions, contrary to parliamentary ones, provide few or no incentives for coalition formation. There are three reasons for this: (1) Because the president's survival in office does not depend on any kind of legislative support, a president need not seek the cooperation

of political parties other than his or her own; (2) Because presidents are independent from the legislature when it comes to survival, and are elected in nationwide contests that provide widespread popular support, they have an inflated sense of power and overestimate their ability to govern alone; (3) Finally, presidential politics is a zero-sum winner-takes-all affair, which is hardly conducive to cooperation or coalition formation. For these reasons, coalitions are difficult to form and do form "only exceptionally" (Linz 1994:19) under presidentialism (Mainwaring 1990; Stepan and Skach 1993:20; Linz and Stepan 1996:181). As Niño (1996:169) puts it, presidentialism "operates against the formation of coalitions"; for this reason, according to Huang (1997:138), "the very notion of majority government is problematic in presidential systems without a majority party."

In the Linzian framework, therefore, while parliamentary regimes are supposed to foster cooperation, presidential regimes encourage independence. Under parliamentarism, political parties have an incentive to cooperate with one another. Parties in government will support the executive, and parties out of government will refrain from escalating any conflict because they may, at any time, become part of the government; individual members of parliament, in turn, will align themselves with their parties. The consequence is that parliamentary governments are supported by a majority composed of highly disciplined parties that are prone to cooperate with one another. Presidentialism, on the other hand, is characterized by the absence of such incentives and hence is likely to generate either minority governments or governments that are only nominally majority governments. In fact, given that legislators do not depend on the president to obtain and retain their seats, and given that they cultivate their own ties with voters, they have few, if any, incentives to support the president and to pay attention to national issues.

The lack of incentives for coalition formation and the resulting high incidence of minority governments under presidentialism, particularly multiparty presidentialism (Mainwaring 1993), imply conflict between the executive and the legislature as well as governments that are legislatively ineffective. As Jones (1995:38) states, "when an executive lacks a majority in the parliamentary systems the norm tends to be what Lijphart terms 'consensual government' (i.e., government by coalition). In presidential systems, when the executive lacks a majority (or close to it) in the legislature, the norm is conflictual government." The higher likelihood of executive-legislative conflict and deadlock in presidential democracies is thus the product of the system's defining feature. It "stems primarily from the separate election of the two branches of government and is exacerbated by the fixed term of office" (Mainwaring 1993:209).

Presidents who do not have legislative support will try to bypass congress in order to implement their programs. They will, for instance, make increasing use of their decree powers and, in the process, undermine democratic legitimacy. As Valenzuela (2004:14) states, “by resorting to decree powers presidents may become stronger, but the presidential system becomes weaker and more brittle, encouraging confrontation rather than accommodation.” Hence they undermine democratic institutions as they try “to shore up their weaknesses as presidents.” Under these circumstances, democracy is delegative rather than liberal (O’Donnell 1994), meaning that it relies on the plebiscitary link between voters and the president at the expense of “horizontal” links of accountability.

In sum, because there are no incentives for interbranch cooperation, presidentialism is characterized by frequent minority governments as well as conflict and deadlocks between the government and the legislature. Because these regimes lack a constitutional principle that can be invoked to resolve conflicts between the executive and the legislature, such as the vote of no confidence in parliamentary regimes, minority presidents and deadlock provide incentives for actors to search for extra-constitutional means of resolving their differences. As a consequence, presidential democracies become more prone to instability and eventual death.

The Linzian view, as we said, is widely held.<sup>5</sup> In it, presidential institutions are simply not conducive to governments capable of handling the explosive issues that populate the political agenda in many countries, particularly new democracies in the developing world. These issues make governing difficult under any circumstances. Governing becomes almost impossible when the institutional setup is likely to generate governments with weak legislative support as well as parties and politicians whose dominant strategy is to act independently. Given the lack of constitutional solutions to the crises that are likely to erupt, political actors have no choice beyond appealing to those with guns to intervene and put an end to their misery.

This broad view has at least three important implications. First, the notion that presidentialism is detrimental to democratic consolidation because of the very nature of the system. The sense that there is something inherently problematic about presidential institutions, something that needs to be neutralized for the system to operate properly and generate positive outcomes, is a legacy of the Linzian framework that is hard to dispel.

Second, in the Linzian view, politicians are strictly office-seeking and the pitfalls of presidentialism

follow at least partially from this assumption. Yet, once one assumes that politicians also care about policies, it becomes apparent that presidents do have an incentive to seek support in the Legislature, even if their survival in office does not depend on a majority in the legislature. Thus, as Cheibub, Przeworski and Saiegh (2004) argue, the undeniable institutional differences between presidential and parliamentary systems are not sufficient to make coalition governments rare under the former.

Finally, the model of executive-legislative relations that underlies the Linzian view is one of potential conflict. The conflict may lead to deadlock, presidential or congressional domination. Under this view, deadlock, as we have seen, is democracy’s kiss of death as there is no constitutional solution to it. Presidents will dominate when they have strong constitutional powers. Constitutionally strong presidents will be able to impose their views over the legislature and will, eventually, usurp powers from it. It is only when the president is weak, institutionally incapable of dominating the legislative process, that presidential democracies stand a chance of functioning in a satisfactory way. Consequently, the primary focus of institutional design should be balancing presidential powers to prevent them from overwhelming the political process.

This view was clearly spelled out by Shugart and Carey (1992), who, while calling our attention to the fact that presidential regimes are not all alike, remained within the Linzian framework insofar as their work presupposes an inherently conflictive relationship between the executive and the legislature in presidential regimes. It is this view that leads them to believe that regimes whose constitutions endow presidents with considerable legislative powers have a greater probability of breaking down. Strong presidents, they argue, have the institutional means to impose their will on congress and, for this reason, will have fewer incentives to negotiate with the legislature; paralysis and crisis become more likely. Weak presidents, in turn, know that they have no alternative but to negotiate with congress. Thus, inter-branch conflict prevails over cooperation and the possibility is not considered that presidents with strong legislative powers may operate, much like prime ministers in parliamentary systems, as organizers (and not antagonists) of the majority.

### **Minority governments in parliamentary democracies**

Under the traditional view of parliamentary democracies, minority governments should never exist. If they do, they must have resulted from some kind of system malfunction and would disappear as soon as these problems were “solved”.<sup>6</sup> It was not until Strom’s seminal book (1990) that this view

was radically changed, with consequences for how we think about both parliamentary and presidential systems in general, and legislative-executive relations in particular.

### ***Strom's contribution***

Strom's contribution is both empirical and theoretical. Empirically he shows that minority governments are not infrequent in European parliamentary democracies and that they do not do worse when compared to majority coalition governments.

Theoretically, Strom's contribution is to show that minority governments emerge out of party leaders' calculus about the costs and benefits of participating in government. Assuming that politicians care about office and policy (as well as votes), Strom argues that there are conditions under which rational parties will *prefer* to remain out of the government. The decision to refrain from joining a government depends on the degree of policy influence parties can exert from the outside, as well as on their expectation regarding electoral returns (positive or negative) of joining the government. Out-of-government policy influence, in turn, depends essentially on the organization of parliament, that is, factors such as the existence of standing committees, their degree of specialization, their scope of action, and the way they are allocated. Electoral consequences depend on the decisiveness and competitiveness of the electoral process. When parties can affect policies even if they are not in the government, and the electoral costs of incumbency are perceived to be high, parties will rationally choose to stay out of the government. The emergence of minority governments, therefore, has nothing to do with political systems that are dysfunctional.

From the perspective of this article, what is relevant is the fact that Strom's analysis accounts for variation within parliamentary democracies by highlighting factors related to the internal organization of the legislature. Legislative organization had either been neglected in analyses of parliamentarism or, more commonly, had been assumed to be constant within each form of democratic regime. Thus, discussions of legislative organization were informed by the two paradigmatic cases of England and the United States: a centralized and a decentralized legislature, respectively, and, as we know, a parliamentary and a presidential democracy. Arguments about decision making in democracies tended to contrast these two systems and assume, often implicitly, that all legislatures, and, for that matter, the decision-making process, are centralized under parliamentarism and decentralized under presidentialism.

Strom's analysis suggests that legislative organization varies significantly under parliamentary regimes, at least sufficiently to affect how political parties calculate the value of formally joining a government. In close affinity to

models developed to account for the operation of the US Congress, which emphasize the role of standing committees in providing opportunities for all parties to influence policy (Shepsle 1979, Shepsle and Weingast 1987), he shows that minority governments in parliamentary democracies will be more frequent when the parliament is organized in such a way as to offer "structural opportunities for oppositional influence" (Strom 1990:72). It follows from this that the way the legislature is organized can explain variation in legislative-executive relations across types of democratic regime.

The recognition that minority governments may be functional in parliamentary systems has a direct bearing on the discussions about the perils of presidentialism stimulated by Linz. As we indicated above, minority presidents were considered to be ineffective and, consequently, would have strong incentives to find ways to circumvent or to altogether ignore the legislature. But minority presidents may be as effective as minority prime ministers if opposition parties care about similar things in both systems (office, policy, and votes) and go through the same calculus about supporting a government. Since there are no good reasons to believe that parties have different goals in parliamentary and presidential systems, it is easy to see that, even though they all aspire to conquer the presidency in the next election, opposition parties may cooperate with the incumbent president on policy grounds. And this implies that presidents may also form coalition governments. Thus minority presidents do not imply minority governments.<sup>7</sup>

### ***Coalition government under presidentialism***

At the root of the view that presidentialism causes democratic instability is the idea that presidential institutions provide no incentive for coalition formation. This fact, as we have seen, would have disastrous consequences: minority presidents would be unable to obtain the support from a majority of legislators, deadlock would ensue as legislative activity is brought to a halt and, given the impossibility of constitutionally removing the government from office, actors would have an incentive to invoke extra-constitutional solutions.

That government coalitions do exist in presidential democracies has been recognized and served as the premise of several analyses at least since the 1980s. Abranches (1988) is probably the earliest author to refer to a type of presidential system that is characterized by the occurrence of coalition governments: "*presidencialismo de coalizão*," a label that is now part of the vernacular of academics and other analysts in Brazil and elsewhere. In his wake, several case studies were conducted, including, for example, Altman (2000) about Uruguay and Mejía Acosta (2009) about Ecuador. There are also earlier comparative studies that take the occurrence of coalition governments

as a given and analyze secondary issues directly related to coalitions. For example, Deheza (1997) is primarily concerned with the relationship between electoral and governmental coalitions; Amorim Neto (1998) focuses on the way presidents manage existing coalitions and the impact different styles of management has on government performance; Zelaznik (2001) is concerned with the different strategies presidents adopt to form a coalition government.

Important as these studies are, they simply asserted that coalition governments existed under presidentialism and proceeded to analyze them. By ignoring the issue of the incentives for coalition formation, they remained open to the charge that observed coalitions in presidential democracies are flimsy, short-lived and devoid of any meaning. They may form but do not last and do not imply any policy commitment on the part of the coalition members. And this was taken as a direct consequence of the fact that presidents could not count on the dissolution threat. But, this argument holds if and only politicians are primarily office-seekers, that is, if the possibility of losing office is what drives their behavior.

Cheibub, Przeworski and Saiegh (2004; see also Cheibub 2007) directly addressed the incentive issue. They argued that while there is no doubt that presidential and parliamentary systems characterize distinct forms of democratic governments, what matters is whether the differences between these two systems are sufficient to generate opposite incentives for coalition formation. We proceed now to summarize their analysis.

Parliamentary and presidential systems are indeed different when it comes to the institutional features relevant for coalition formation. Cheibub, Przeworski and Saiegh (2004), identified two main ones. First, in presidential democracies the president is always the government *formateur*, while in parliamentary democracies any party is a potential *formateur*. Thus, not only is the number of *possible* government coalitions smaller in presidential than in parliamentary systems, but also the party of the president, regardless of its size, will always be in the government. Second, failure to form a coalition government leads to different outcomes in each system. In parliamentary democracies, with few exceptions, it is the occurrence of new elections: voters are given the chance to return a new distribution of seats, hopefully one that will allow for the formation of a viable government. In presidential systems, failure to form a coalition implies that the party of the president is the only one to hold government portfolios, while policies may or may not remain at the status quo.

But do these differences imply that parties in one system will want to join together to form a coalition government whereas in the other they will want to

pursue their goals independently and exclusively strive to achieve the presidency? Borrowing from existing models of coalition formation in parliamentary democracies, where parties care about both office and policy, Cheibub, Przeworski and Saiegh show that there are conditions under which presidents will invite and parties will accept offers to join the government in coalition. Specifically, whether a coalition government will emerge depends on the distance between the party of the president and the next party in the policy space. When presidents do not dominate the legislative process and parties have dispersed policy preferences, presidents will offer, and non-presidential parties will accept, portfolios in the government in exchange for policy cooperation and a coalition government will be formed. If parties have policy positions that are close to each other, then presidents will keep all portfolios for their party, will allow policy to be set by a non-presidential party, and a minority single-party government will emerge.

Of great relevance here is the fact that, given a lack of presidential dominance over the legislative process, the conditions under which a coalition government will emerge are identical in presidential and parliamentary systems. This is not so when presidents dominate the legislative process, in which case the outcome will depend on the location of the status quo. If the status quo is situated between the ideal policies of two non-presidential parties, then, as before, the outcome – coalition or minority governments – will depend on how close the parties' policy positions are to one another. If the status quo is situated between the ideal policy of the president and that of a non-presidential party, then the Linzian scenario may emerge: there will be no combination of policy and portfolio that can convince a non-presidential party to participate in the government; yet, since the president dominates the legislative process, the non-presidential parties cannot ally in the legislature and set policies that they prefer over those proposed by the president. Thus, while confirming that under presidentialism, but not under parliamentarism, a minority portfolio government may face a hostile legislative majority, the results of this analysis show that coalition governments are far from being an abnormality in presidential democracies.

There are several implications of this analysis that directly challenge the traditional view of executive-legislative relations. To begin with, as stated above, it shows that under some circumstances coalition and minority governments will emerge for exactly the same reasons in both presidential and parliamentary systems. Moreover, it follows from this analysis that the absence of coalition governments does not automatically imply a lack of cooperation among political parties. The crucial distinction here, already explicit in Strom

(1990), is that between *government* (or portfolio) and *legislative* coalitions, which do not always coincide: there will be governments composed by one single party that are nonetheless supported by a legislative coalition. Thus, given that no party holds more than fifty percent of legislative seats, some minority governments occur under presidentialism for the same reason that they emerge under parliamentarism: no legislative majority wants to replace them because enough parties get policies they like. They are, in this sense, supported minority governments that will be at least as effective legislatively as coalition governments.

Thus, according to Cheibub, Przeworski and Saiegh (2004), the structure of presidential systems is not sufficient to make coalition governments atypical. These governments may be more frequent under parliamentarism than under presidentialism, but they form in the latter in response to the same incentives that lead parties to coalesce in the former: a desire to balance their simultaneous objectives of being in office and seeing the policies they like being enacted. Those who see presidential institutions providing no incentives for coalition formation have placed excessive emphasis on the first goal – offices – to the detriment of the other goal – policies. It is only by seeing politicians as actors who care about both office and policies that we can understand why presidents may want to share some of their power, even if they do not need to do so in order to survive.

### **Agenda power and the decision making process**

In the traditional model of legislative-executive relations, a strong government, that is, one endowed with a large array of legislative powers, will use these powers against the legislature. The greater the conflict between the two branches of government, the greater the incentives the executive will have to use these powers in order to see its will prevail over the recalcitrant legislature.

This view has been challenged and the seminal work doing so is Huber's (1996) study of policy making under the 1958 French constitution. Specifically, in his book Huber focuses on the role of the package vote and the confidence vote procedure – two features of the 1958 constitution that strengthen the government's legislative powers<sup>8</sup> – in shaping how the executive and the legislature interact.

Using an adapted version of the classical agenda setter model (Rommer and Rosenthal 1978) and drawing heavily on models developed to understand the relations between the floor and committees in the US Congress, Huber accomplishes a series of tasks that re-direct the way one should think about

the use of restrictive legislative procedures by the executive. In the first place, he demonstrates theoretically and empirically that, contrary to the prevailing perception of students of French politics, the use of restrictive procedures is not related to the degree of policy conflict between the government and the parliament. The government does not use restrictive procedures as a way to guarantee that its preferences prevail when these preferences are at odds with those of the legislature.<sup>9</sup>

Second, Huber shows that not all restrictive procedures are the same. He demonstrates that the package vote is a mechanism used by the government to protect the outcome of bargaining in a multidimensional policy space among parties within the governing coalition, or between the government and the opposition. By halting legislative debate and forcing an up-or-down vote on a bill that contains only the amendments the government chooses to retain, the package vote compels legislators to choose between a specific policy package and the status quo. Since the legislature is the last one to act – it has the last word – it will approve the bill only if it is preferred to the status quo. In this sense, the government does not impose its will; rather, it forces a choice between the status quo and policy change.

Finally, Huber shows that the confidence vote plays a different role than the package vote in the legislative process. While it can also serve as a mechanism for protecting policy bargains in multidimensional spaces – it allows coalition members to implement a given policy while criticizing it in the parliament – its primary role is to allow parties in the majority to compete for votes at the same time that they cooperate to pass legislation. Thus, members of the majority can make sincere, position-taking proposals in the legislature in order to communicate their policy positions to their voters, force the government to use the confidence vote and, given that now the vote is no longer on the policy issue alone but on the very survival of the government, refrain from supporting the censure motion and allow the policy to be enacted. This policy, however, like with the package vote, is not unrelated to the preferences of the majority. Although the prime minister will explore the first mover advantage of proposing a specific policy, his or her choice will be constrained by the preferences of the majority. That is to say, the PM will propose a policy that is closest to his or her ideal point within the set of policies the majority prefers over the status quo. In this sense, while they give some leeway to the government to pick a policy it likes, neither the vote of confidence nor the package vote can be used *against* the majority.

The implications of this analysis are profound when it comes to analyzing executive-legislative relations. To begin with, the analytical focus

shifts from outside forces – the way legislators and governments get and retain their mandates – to the specific rules regulating executive-legislative relations. As with Strom, and perhaps even more forcefully than he, the relevant variables for understanding policy making are located inside rather than outside the legislature.

Second, not all parliaments are rationalized in the sense used by Huber (see also Lauvaux 1988), that is, not all parliaments contain provisions that allow the government to control the flow of legislation. In this sense, government control over the legislative agenda is not intrinsic to or follows from the principle that defines parliamentarism. That is to say, the strong cabinet control of the legislative process and the near irrelevance of individual members of parliament in this process, which characterizes England, are not inherent to parliamentary governments, as the cases of Italy after 1945 and France in the Third and Fourth Republics well illustrate. In both cases, the government had no control over the definition of the legislative agenda, committees had considerable power, and the rights of individual legislators were not “expropriated.”<sup>10</sup> Similarly, and by extension, there is nothing in presidentialism that requires that a well-functioning system be one in which a weak president faces a strong congress. Although this describes the allocation of powers across branches in the U.S. system, and the U.S. is the only presidential democracy that has lasted for a long time, it does not follow that the success of the U.S. system can be attributed to the specific way powers are allocated across the presidential and the legislative branches.<sup>11</sup>

This characterization sheds new light on the mechanisms that produce party discipline inside the legislature. The threat of dissolution and early elections is not a sufficient condition to hold party members in line, as the frequent fall of the French and Italian governments demonstrate. Neither is it a necessary condition, since party discipline does occur under presidentialism, nor, it should be noted, can it be inferred from characteristics of the electoral laws since disciplined parties are observed in countries that adopt candidate-centered rules, such as Finland, Brazil, and Chile among others. Discipline is rather a function of restrictive procedures, of denying the rank-and-file members the space for opportunistic behavior. In other words, party discipline is less a product of punishing free riders than of preempting the opportunities for free-riding. The expropriation of the rank-and-file legislative rights implied by the concentration of agenda powers in the hands of the executive renders the individual and independent action of legislators futile. For these legislators, the rational course of action

when it comes to voting in the assembly is to follow their parties’ directives. This is the only way they will be able to influence public policies and send signals to voters (see Limongi and Figueiredo 1998).

It should be noted that Huber’s analysis suggests that a legislatively strong government, be it under parliamentarism or under presidentialism, does not imply a powerless legislative majority. Given the near obsession of the comparative literature on presidentialism with the risks resulting from strong presidents, this point is of crucial importance. Strong presidents do not imply weak legislatures. Moreover, concentration of agenda powers in the president’s hands does not mean that s/he will be able to circumvent the legislature. Restrictive procedures are not weapons of minority presidents. Rather, they are mechanisms that help the majority organize itself.

### ***Strong presidents and decree power***

Almost all presidential constitutions give some legislative powers to the presidency. The most important ones are the veto, decree, and urgency powers, as well as the government’s exclusive power to introduce legislation in specified areas.<sup>12</sup> All these features of presidential agenda powers are rather consequential, and they combine into institutionally weaker or stronger presidencies. Although there are many who believe that strong presidents are problematic in that they will clash with congress and eventually generate government and even regime crises, there are those who argue that strong presidents are not necessarily bad for the operation of presidential constitutions. For instance, the strong presidential agenda powers established by the post-authoritarian constitutions of countries such as Brazil and Chile are considered to be largely responsible for the high level of legislative success of their governments (Figueiredo and Limongi 2000a and 200b, Siavelis 2000, Jones and Hwang 2005, and Amorim Neto, Cox and McCubbins 2003, Londregan 2000).

The case of Brazil seems to be highly relevant here given the large number of centrifugal elements built into the country’s institutional framework, which in combination with presidentialism would suggest high volatility and ungovernability: a federally structured country with economically diverse regions, political parties with weak popular penetration, the adoption of an open-list proportional representation system with low barriers to entry, and features that make state governors influential over party decisions. Yet, legislative behavior in the Brazilian Congress has exhibited remarkably high levels of partisanship, with presidents capable of relying on stable coalitions that supported them on most of their legislative agenda. This unexpected pattern, in

turn, is a function of the President's legislative powers granted by the 1988 constitution, which include all of the powers mentioned above: partial-veto power, decree power, the power to request urgency in the consideration of specific legislation, and the exclusive power to initiate budget legislation. The concentration of legislative powers in the executive's hand, coupled with a highly centralized decision-making structure in the legislative chambers, explains the high degree of legislative success of Brazilian presidents – a success that is not much different from that obtained in parliamentary democracies (Figueiredo and Limongi 2000a, 2000b and 2007).

The operation of this mechanism, of course, raises a number of interesting questions. Most prominently is the issue of whether the president, in his or her capacity as the head of government, is imposing his or her preferences over those of the legislative majority. Despite some differences, to which we will turn below, the vast majority of the analyses that address this issue adopt a model of conflict between the two branches. The possibility that these instruments – in a way similar to the restrictive procedures analyzed by Huber – can be used as tools for the coordination of a governing majority is not even considered. This can be clearly observed in the scholarly debate about the use of decree power by Brazilian presidents. Although a series of high-quality and sophisticated studies have been recently produced on this theme, they primarily see the interaction between the government and congress as if it were zero-sum.

In order to provide some context, here are some of the basic facts about decrees since the 1988 constitution came into force in September 1989: every president who governed since 1989 has liberally used their decree powers. On average, 3.9 decrees per month were issued between September 1989 and September 2001.<sup>13</sup> Sarney (who governed under the 1988 constitution from September 1989 to February 1990), issued 7.1 decrees/month; Collor (March 1990–October 1992), 2.8/month; Itamar Franco (November 1992–December 1993), 5.4/month, and Cardoso (January 1994–December 2001), 3.3. Collor is the only president who, in spite of forming coalition governments, did not reach majority status. He is also the president with the lowest rate of success in transforming his decrees into laws: 77.6%, as opposed to well above 80% for all the other presidents.

There are two broad types of explanations for the variation in the use of decrees by recent Brazilian presidents: the political-conditional and the institutional. The first one sees decrees as one among alternative options in a menu of instruments available to presidents seeking to implement their legislative agenda. The choice

between these instruments is seen as a function of the political context within which presidents must interact with the legislature, and of circumstantial factors, such as the presidents' popularity, the occurrence of elections, or the existence of pressures for speedy executive action.

The political-conditional view of presidential decree usage, in fact, sustains two competing positions, which Pereira, Power, and Rennó (2006) call "unilateral action" and "delegation" theories. In the former, presidents use their decree powers when they do not have the necessary support to get ordinary legislation approved in Congress. In this perspective, the use of decrees constitutes a way for the President to bypass an unfriendly Congress. Thus, the share of decrees in the President's overall legislative strategy will increase when he or she cannot count on the reliable and steady support of a legislative majority, as indicated by the share of seats controlled by the parties holding cabinet positions. Delegation theory, in turn, sees presidential decrees as a convenient means at the disposal of the legislative majority, which may prefer to transfer some of its powers to the executive for a variety of reasons. These may include partisan support for individual governments, collective action problems within the legislature, or electoral incentives of individual legislators (Carey and Shugart 1998).

Both unilateral-action and delegation theories predict that the reliance on decrees by presidents is a function of the political conditions they face; the only difference is that they predict opposite effects. According to unilateral-action theory, the use of decrees will increase when the President faces unfavorable political conditions; according to delegation theory, the use of decrees will increase when the President faces favorable political conditions. The balance of the evidence provided by the literature is mixed: Pereira, Power, and Rennó (2006) found that the results are highly dependent upon the particular starting conditions, but they do show, in some instances, that the evidence supports delegation theory. On the other hand, Amorim Neto, Cox, and McCubbins (2003) suggest that the data best conform to the unilateral-action theory.

In spite of their differences, both unilateral action and delegation theories see the usage of decrees as a decision taken by the executive that does not involve the legislature. Yet, inspired by analyses such as Huber's, we can formulate a more institutional hypothesis that does not postulate any kind of necessary antagonism between the two branches. According to this hypothesis, the post-1988 institutional structure that was built in Brazil facilitated the shaping and sustaining of a legislative majority by the government.

Presidential decree power represents one of the main instruments for doing this – it is a mechanism whereby, through negotiation and bargaining, the executive can lead the process of shaping a legislative majority in support of the policies it wishes to implement. Although leading, the president does not mandate: the majority in the legislature has the last word and any decree that the president issues that is not preferred by the majority to the *status quo ante* can be rejected. And, as Amorim Neto, Cox and McCubbins (2003 571) show, this is precisely what happened during Collor de Mello's presidency (1990-1992): led by the pivotal Partido do Movimento Democrático Brasileiro (PMDB), the opposition was able to counter Collor's decree powers by rejecting important ones and forcing him to form a new coalition in order to be able to govern (see also Figueiredo e Limongi 1999). This shows how there is no way the president can circumvent the legislature. Unilateral action as a way of governing and setting policies contrary to preferences of the majority is simply not feasible. In this sense, the use of decrees by the executive is neither an act of delegation by the legislature nor unilateral power grabbing by the executive; attempting to adjudicate between these two perspectives is, we believe, probably futile.

Decrees are, by design, instruments that allow the executive to set the legislative agenda; through this action, however, the government is able to bring together a legislative majority, a necessary step if it wants the policies implemented through decrees to become law. Thus, the matter is not whether congress delegates or the President usurps legislative powers. The question is: how does the President use decrees to shape the legislative agenda and to bring about a legislative majority?

According to the institutional hypothesis, decrees are used both as convenient means to address routine issues and as regular instruments in the negotiations and bargaining that characterize the legislative process. Since they are neither usurpation nor delegation, they do not vary systematically with political factors such as the legislative strength of the President, his or her ability to manage his coalition, or his or her popularity. Some circumstantial factors matter, such as macroeconomic pressures leading to the implementation of emergency stabilization plans, but they do simply because it is only through decrees that presidents can act with the speed, secrecy and surprise that are sometimes considered to be essential for the policy's success. Even in these cases, however, presidents can be and often are successful in transforming their decrees into regular legislation.

Although we have dealt at some length with the Brazilian case, it is worth reinforcing that this is

far from being a unique case. Most presidents are endowed with decree power by their respective constitutions. Indeed, recent scholarly work has shown that in some countries where this power is denied to them, presidents have been able to force their way and get some sort of de facto decree power. Argentina from 1983 to 1995 and the United States are two prominent examples. As Rubbio and Goretti (1998) have shown, both Alfonsín and Menén relied on some old precedents to issue "decrees of necessity and urgency" (DNU). Although primarily aimed at curbing hyperinflation, DNUs were also used to regulate more mundane affairs. The doubtful constitutional basis of this presidential prerogative was resolved with the 1995 constitutional reform, which introduced presidential decree powers that are similar to the ones granted by the 1988 Brazilian constitution.

In the US, the constitutional provision stipulating that the president "shall take care that the Laws be faithfully executed" led to the unilateral issuing of executive orders, which have been interpreted by the Supreme Court as having the same status as a law passed by Congress. Executive orders have been issued to deal with important matters, including nationalizations, internment of Japanese-Americans during WWII, desegregation of the military, creation of the Peace Corps and the Environmental Protection Agency, federalization of the national guard, multiple health care initiatives, affirmative action policies, and the creation of special military tribunals to try non-US citizens accused of terrorism (Howell 2003:1-6). Thus, even in the absence of any formal decree power, US presidents can still influence policy in a way similar to the "strong" presidents in the Argentine, Brazilian and Chilean constitutions.

What is important to retain from this discussion, though, is that institutionally strong presidents are not necessarily detrimental to the functioning of presidential democracies. Attempts to weaken them on the ground that they usurp the power that should be located at the assembly must, therefore, be re-evaluated and considered in light of the benefits they bring about in terms of government performance (Croissant 2003, Londegren 2000).

## Conclusion

This is a necessarily incomplete review of a large literature. Our goal was to establish a contrast between two approaches for studying legislative-executive relations in democratic regimes. One approach emphasizes the conflict between the two powers, a perspective that follows from the importance it grants to the way governments and legislatures are formed, and from a narrow view of politicians' motivations as being purely office-oriented. The other is marked by its emphasis on

the legislative arena. In this view, inter-branch relations are modeled more as a coordination or bargaining game than as a zero-sum game, in which the gains of the executive happen at the expense of the legislature. Moreover, there is in the second approach a marked shift regarding the assumptions about politicians' motivations. As much as office seeking is associated with the conflict view, the supposition that politicians *also* care about policy is associated with the coordination view of legislative-executive relations. And given that policies cannot be enacted unilaterally by one of the branches, it is only through the continuous existence of a majority that controls both the executive and the legislature that the policies preferred by both will become reality. In this sense, the incentive to coordinate rather than confront is inherent in the democratic political framework, regardless of the way these bodies are formed.

One broad consequence of this shift in perspective is a blurring of the distinction between presidential and parliamentary forms of government. Of course this does not mean that presidentialism and parliamentarism are identical; they clearly are not and actors in one system may have available to them strategies that are not feasible in the other. The point is that once we accept that politicians across systems have similar motivations, and that legislative institutions are not dependent on the form of government, it is possible to see that the democratic process of passing laws, which necessarily involves both the executive and the legislature, is in fact quite similar across different types of political systems.

## Notes

- 1 See Laver and Schofield 1998 for the best analysis of the different theories of coalition formation.
- 2 See Grofman and Rozenaal 1997 and Laver 2003 for reviews.
- 3 Reviews of presidential studies usually lament their lack of scientific depth and general backwardness when compared to the rest of the discipline. For an example, see Edwards III, Kessel and Rockman (1993). For a more optimistic and recent review see Moe 2009.
- 4 The initial argument appeared in Linz (1978) and was developed in a paper that was widely circulated before it was published in (1994). See also Linz (1990a and 1990b).
- 5 See, for a few examples, Mainwaring and Scully (1995:33), Gonzalez and Gillespie (1994:172), Riggs (1988), Ackerman (2000:645), Stepan and Skach (1993:17), Valenzuela (2004:16).
- 6 Another vexing issue for the traditional view is the existence of oversized coalitions, which should also not exist. Yet, they do exist. According to Laver and Schofield (1998:70), 25% of the cabinets that existed in 12 European democracies between 1945 and 1987 were surplus majority coalitions.
- 7 The only exception is, of course, in a two-party presidential system, where, save for national fronts, which emerge in extraordinary circumstances, a minority president will imply a divided government. Note, however, that presidential two-party systems are infrequent and exist primarily in Costa Rica and the United States. The frequency with which, in the latter country, they have emerged in the post-WWII period has led to the emergence of an enormous literature, which we will not address here. For our purposes, suffice it to say that much of this literature revolves around the seminal book by Mayhew (1991), which reports no difference in the policy effectiveness of divided and unified governments and proposes an explanation for this similarity that is compatible with Strom's explanation of minority governments.
- 8 The package vote (article 44.3), allows the government to close debate on a bill and force an up or down vote on a proposal containing only the amendments proposed or accepted by the government; the confidence vote procedure (article 49.3), when invoked by the government, stops debate on a bill and, if no motion of censure is introduced and adopted, implies approval of the bill shaped by the government.
- 9 Huber's argument is analogous to the one developed by Shepsle (1979), Shepsle and Weingast (1987a and 1987b) and Krehbiel (1987a 1987b) to the effect that congressional committees in the US cannot legislate against the will of the floor.
- 10 In France, until 1911, it was the Chamber presidents who defined the legislative agenda. As Andrews (1978:471) reports, despite several incremental reforms, the government did not have firm control over the definition of the legislative agenda and no-confidence votes were easy to be introduced, leading to the fall of the government. Moreover, committees could veto policy since a report from the committee was necessary for consideration of a bill by the floor. The government could expedite the committee report but could not avoid it. Therefore, committees could respond to government pressure with an unsatisfactory report. Besides, according to Andrews (1978), the Third and Fourth Republics placed few restrictions on the ability of private members to propose initiatives that would increase expenditures and reduce revenues. In the Italian parliament, the presidents of each house, and not the government, define the legislative agenda. Bills introduced by the government have no special calendar or precedence over private members' bills. Article 72 of the Italian constitution grants standing committees the authority to pass laws. As for individual members of parliament, until the 1988 reform, roll calls were secret and could be easily requested at any stage of the law-making process (Cotta 1990, p. 77). Hence, the government fell prey to the action of the franco attiratori. In other words, members of the majority could not be sanctioned, either by the government or their parties.
- 11 But see below for a different account of the institutional power of US presidents.
- 12 See Cheibub 2009 for a brief description of each of these powers.
- 13 This is when the constitution was amended to change the rules governing presidential decrees. Aimed at curbing the number of decrees, it attempted to clarify the conditions under which they could be issued, it limited the number of times a decree could be re-issued, and it forced the Congress to take action on a decree rather than simply allow it to expire. For reasons that are too extensive for us to address here, the number of decrees actually increased since the 2001 constitutional amendment (Figueiredo e Limongi 2007). The numbers in the paragraph reflect only new decrees, and not the reissuing of old decrees. If the latter are considered, the averages change significantly, reaching, for example, hundreds a month during Cardoso's government.

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