

Unit 3: Factors Influencing How Legislatures Carry Out Their Functions

Learning Objectives

Factors Influencing how Legislatures Carry Out their Functions

After studying this unit, you should be able to:

- Describe the basic types of political systems, and understand how they can influence the ways a parliament carries out its functions;
- Describe the three basic types of electoral systems,
- Describe the advantages each electoral system provides;
- Describe the formal powers your parliament possesses;
- Discuss how effectively your parliament uses its powers;
- Be able to describe the technical capacities of your legislature, and explain how they impact on the level of work your parliament carries out.

Have you ever considered why legislatures in different nations conduct themselves so differently? Why, for example, do representatives in one nation spend so much time, money, and effort reaching out to citizens, while others seem to have very little contact with them? Why do some legislatures make absolutely no change to the budget proposed by the executive, while others seem free to rewrite it? Why is party discipline so strong in some legislatures, and so weak in others? In this chapter we will consider how several factors influence the ways parliaments carry out their functions, and try to provide at least a partial answer to questions such as these.

The five factors we will consider are:

1. The type of political system;
2. The type of electoral system through which representatives are elected;
3. The legislature's formal powers;
4. The combination of the political environment within which the legislature functions, and the political will of legislators to exert parliament's powers; and
5. The technical capacity of the parliament.

Two quick points before we proceed: The first is that while these factors *influence* and help explain the ways a given legislature carries out its basic functions of representation, lawmaking, and oversight, no single factor *determines* legislative behavior. The second is that the powers and performance of legislatures are not static. Remember the example of the Mexican Congress in Unit 1, which over a period of a few years became the dominant lawmaking power in Mexico. The balance of power is fluid in every political system, with legislatures sometimes gaining, sometimes losing power relative to other actors.

Political Systems

In this section we explore in some detail the level of independence and potential policy-making roles of presidential (US), parliamentary (UK) and hybrid (France) legislatures, and comment on some systems that combine characteristics of the three types. The degree of separation or unity between the legislative and executive powers illustrated in these models is probably the single most important factor in determining the potential strength and independence of a legislature.

Parliamentary (UK): Because of the substantial unity between the legislative and executive branches, the House of Commons plays a relatively minor policy-making role in the UK. In parliamentary systems, the parliamentary majority party or coalition selects the chief executive from among its members. Cabinet members are also named from the parliamentary majority. Therefore, obviously in parliamentary systems, the executive and legislature cannot be controlled by different parties.

The prime minister, cabinet and bureaucracy control the legislative agenda and the budget, and individual MPs have little power to introduce their own initiatives. Legislative amendments are very narrow and technical, and committee staff are quite small (Australia is an exception, with a larger staff system than that of the UK). Party caucuses, rather than committees, tend to make the important policy decisions.

A vote of no confidence in the government results in both the government and parliament leaving office, so majority parliamentary and executive leaders do all they can to avoid such a vote. The system tends not to support the development of

strong, aggressive committees able to challenge the executive – and to challenge the implementation of a platform on which the majority of the parliamentarians were elected. Overt executive occurs when legislative conflict is not common in parliamentary systems, nor is the parliament likely to exercise aggressive oversight. Divisions within the governing coalition however, will reduce this executive when there is parliamentary unity.

In true parliaments political parties are generally well disciplined; voting against one's party is rare and can endanger one's future with the party. MPs will likely conform to the responsible party model (page 10). The government's survival depends on a cohesive majority party, generally characterized by strong discipline, bloc voting and distinct party platforms. Similarly, opposition parties will have little likelihood of replacing the government in power if they are not able to count on the votes of their constituents.

In addition to the United Kingdom, much of continental Europe, and most of the former British colonies in Africa and Asia and most Caribbean nations have adopted some variation of parliamentary system. Several former British colonies are not pure parliamentary systems, but mix characteristics of both parliamentary and presidential systems (see Table 4). The worldwide network of parliaments based on the Westminster system (the Commonwealth Parliamentary Association) has been both a means of socializing parliamentary members and staff from scores of nations into the traditions and trappings of the Westminster system, and also of sharing issues and parliamentary developments among members.

Presidential (USA): In presidential systems, the president and legislature are elected separately, from different constituencies and often for different terms. The president selects the cabinet from outside parliament. Term lengths for presidents and parliaments are fixed and the fates of the legislature and president are not intertwined as they are in parliamentary systems. With the government thus divided, parliament has incentives to develop strong, effective committees and to play a competitive lawmaking role. The government does not need to "win" on every issue, since losing a major vote does not endanger the executive's term in office, as it would in parliamentary systems. It is not uncommon for different houses

of the legislature, and the executive and legislatures in presidential systems to be controlled by different parties.

The executive can draft laws and most significant laws enacted in presidential systems come from the executive branch but only members of the legislature have the authority to introduce laws on the floor. The legislature is free to set its own agenda and pass its own bills. Executives and legislatures in presidential systems often work to formulate legislation together.

These incentives for legislatures in presidential systems do not mean that they will necessarily become assertive institutions. Lack of political will to develop a strong legislature, poor infrastructure, strong political party control from outside the legislature, a tradition of acquiescence to a strong executive – these and other factors reduce the likelihood that the legislature will become strong and independent.

The United States is the most commonly cited example of a presidential system. Presidential systems have also developed in other nations that have been influenced by the United States, including most Latin American nations and the Philippines. Table 4 describes several characteristics of the US presidential and the UK parliamentary political systems.

TABLE 4

Presidential and Parliamentary Legislatures

	Pure Presidential (US)	Pure Parliamentary (UK)
Degree of Separation of Powers	Clear separation of powers between legislative and executive branches.	Greater fusion of powers between executive and legislature.
Term Length/Removal from office	Fixed terms. Legislature has the power to remove a president but only in extreme cases. President cannot dissolve the legislature.	Variable. The legislature dissolves chief executive and cabinet through a vote of no confidence, forcing new parliamentary elections.
Elected together or separately?	Elected separately – often for different terms.	Elected together. The legislature selects the executive.
Cabinet Selection	President selects cabinet, whose members must be approved by the Senate. Cabinet members may not be serving in the legislature.	Prime minister selects cabinet members from within the parliament.
Who initiates legislation?	Both the executive and the legislature initiate legislation.	The executive initiates almost all legislation.
Policy-making roles	Both the executive and the legislature can play strong policy-making roles. Incentives exist for strong, well-staffed and resourced committees.	Policy-making functions tend to be concentrated in the parties or ministerial bureaucracy. Less of a need for strong committees.
Focus of lobbying	Lobbying focused on those with power to make and/or amend policy - both executive and legislature.	Lobbying tends to focus on party leaders in government, party organization, and/or bureaucracy.
Role of opposition	Minority parties are not necessarily excluded from policy-making roles.	Opposition parties excluded from policy-making role. Tend to focus on oversight and readiness to replace the government.

Source: USAID Handbook on Legislative Strengthening

Hybrid (France): The term hybrid generally refers to a system with an elected president who shares executive power with the prime minister. The French system is the most commonly cited hybrid legislature, and former French colonies, such as Cote D'Ivoire, Gabon, and Mali have structured their political systems after that of France. The French president has the power to select the prime minister and to nominate his own cabinet. The president, his cabinet, and bureaucracy initiate and draft most of the legislation. The president has well defined powers to conduct foreign affairs, but the running of the government is the responsibility of the prime minister and the cabinet.

In the French system members are empowered to introduce legislation, but bills introduced by the executive take priority over member bills. The executive sets the agenda in the legislature and can make any bill it initiates result in a motion of

censure, dissolving the parliament. The president also has the authority to enact legislation by bypassing the legislature by going to the public directly through a national referendum. If the public approves the referendum, the measure becomes law without any input from the legislature.

Mixed systems: We use the ideal types – the British, US, and French models to represent parliamentary, presidential, and hybrid systems. In reality, most democracies in the world are a mix of characteristics and rarely conform precisely to these ideal types. There are presidential systems in Latin America, for example, which have some parliamentary characteristics. Bolivia's constitution, for example, requires that congress choose the president from the top candidates if no candidate wins a majority of the vote. As these are multiparty systems, it is rare for a presidential candidate to win more than 50% of the vote, so congress frequently selects the president.

A number of African legislatures, while adhering to the traditions of the British House of Commons, are a blend of characteristics of both presidential and parliamentary systems. Kenya, Zambia, and Uganda, for example, elect the president through direct nationwide elections – as in presidential systems, but the president selects ministers from the parliament, as in parliamentary systems. The parliaments of Kenya and Uganda have utilized these powers in recent years by passing some very significant private member legislation. Both have enacted legislation making the legislature formally independent of the executive, giving parliament control over its budget, staffing, and management.

Does the decision to adopt a parliamentary form of government then relegate parliament to become a rubber stamp legislature, and mean that the legislature in a presidential system will necessarily be strong and independent? By no means. While the strongest legislatures in presidential systems will be stronger and more independent than the strongest parliaments in parliamentary systems, there are considerable variations. Legislatures in presidential systems with very strong political parties or weak internal capacity (the Mexican congress prior to the end of PRI dominance in the late 1990s, for example) may be little more than rubber stamps, and some parliaments exercise more authority than others.

Electoral Systems

MPs in every nation must win elections to get, and to stay, in office, but the system through which they compete will affect the way they relate to constituents and their degree of independence once in office. In this section we will consider the three major types of electoral systems (1) plurality-majority; (2) proportional representation; and (3) semi-proportional; and the likely impact of each on the behavior of the legislature. There are, in addition, several variations on these types.

Plurality – Majority (PM): In PM systems (also called single-member district, or constituency-based), constituents in a geographic area vote directly for a candidate, and the candidate receiving the most votes wins. Since members are identified with specific districts, they may see their primary duty as being responsive to the needs of their constituents, and the concerns of their party and its platform secondary. Representatives of single-member districts are likely to be freer to represent constituent interests than representatives in proportional representation systems (i.e., able to act as delegates or trustees – see page 9). Yet there are several factors which can still limit the independence of PM legislators. If political parties are very strong, if candidates need a party's endorsement to run for office, if they rely on party patronage for positions in parliament, if they are MPs in a parliamentary system, or if they depend on the party for funds to run for office, MP independence will be checked. Parties with several "carrots and sticks" at their disposal are better able to enforce party discipline, even in single member districts. The United States, UK, and over half of all nations elect representatives through the PM system.

Proportional Representation (PR): In contrast to PM systems, where constituents vote directly for their candidate who represents a geographic area, in proportional representation (PR) systems candidates are placed on a list, and citizens vote for parties rather than for candidates directly. The percentage of votes the party – not the candidate – wins, determines whether or not a candidate gets into office. If, for example, a party wins 40% of votes cast in an election, the top 40% of candidates on that party's list are elected. MPs in PR systems will tend to be most responsive to their parties' leaders who determine whether and where a candidate will be placed on the party list in the next election. Most continental European countries elect parliamentarians through the PR method.

Semi-Proportional: Semi-proportional electoral systems combine features from both single-member and PR systems. In a nation with a bi-cameral legislature, members from one house may be chosen according to a PR system, and in the other through a single-member district system. Alternatively, some percentage of members in a house would be selected through a single-member district system and others in the same house through PR. Nations using semi-proportional electoral systems attempt to combine positive elements of both PR and single-member district systems – maintaining representation by region at the district level, and allowing greater representation of minority groups which might never get into office in a majoritarian system. Russia, Germany, Bolivia and Mexico all use semi-proportional systems.

TABLE 5

Comparing Advantages of Different Electoral Systems

	Plurality-Majoritarian (PM) Constituency-based Single Member District	Proportional Representation (PR)	Semi-Proportional
Description	Simple electoral method that also links representatives with geographical areas.	Reduces the disparity between a party's share of the national vote and the number of seats in parliament.	Combines elements of both majoritarian and proportional systems.
Numbers of parties	Encourages the existence of two or three major parties.	Facilitates the participation of many political parties, representing a broad spectrum of interests and variety of views.	PM elements allow for direct representation while PR elements allow for some minority representation.
Encourage/ Discourage Coalition Governments?	Because there are fewer parties, this system discourages coalition governments.	More parties increase the likelihood of coalition government.	In theory, should lead to a less fragmented system than pure proportional representation, but possibly broader based government than in a PM system.
Who Benefits?	Benefits broadly based political parties which must try to act as umbrellas for multiple interests to attract votes.	Facilitates minority party representation. This may be important in divided societies to guarantee representation for certain ethnic, regional, or religious interests which might otherwise be locked out of the political process by dominant parties.	May reward small parties which would have been unsuccessful in PM elections with PR seats. In highly divided societies, a semi-proportional system may lead to less polarization than in a pure PR system.
Links to parties or to politicians?	Provides for a stronger link between legislators and their constituents since legislators represent particular geographic areas.	If candidates are elected based on the appeal of a party platform or ideology, the entire party can be held accountable if it does not adhere to the platform.	The PM elements allow for direct representation, while PR elements allow for some minority representation and party accountability.
Other benefits	Provides an opportunity for popular independent candidates to be elected, particularly important in developing countries where parties are weak and candidates may be selected based on kinship or patronage.	Easier to implement gender and other quotas through PR systems (some nations require every 3 rd candidate on a party list to be a woman, for example).	Able to encourage women and minority election on party lists, while allowing for specific geographic interests and independent candidates to be elected through the single member district seats.

Source: UNDP

Formal Parliamentary Powers

We have considered how the type of political system and the method through which a nation elects members might impact on the independence and behavior of a legislature. We will now examine how a legislature's formal powers, usually defined in its constitution and standing orders (or rules of procedure), can impact on its independence and power.

Some parliaments enjoy broad formal powers, allowing members and committees to introduce legislation (even legislation with significant financial impact), to dramatically rework executive taxing and spending proposals, and requiring the executive to obtain legislative approval to borrow money. Formal powers in other legislatures are more circumscribed. For reasons we have noted above, legislatures in presidential systems tend to possess greater formal powers than do legislatures in parliamentary systems. But parliamentary systems have oversight mechanisms not common to presidential systems, specifically, there are question periods for ministers and public accounts committees which routinely examine how governments use their funds. Many parliaments have used those powers to conduct oversight more thoroughly than their presidential counterparts. Table 6 lists several formal parliamentary powers.

TABLE 6
Examples of formal parliamentary powers

- Power of members and/or committees to introduce legislation
- Power of members to introduce legislation with fiscal costs
- Power to substantially amend executive proposals
- Power to override executive vetoes
- Power to approve cabinet officials
- Power to approve court justices
- Power to approve government borrowing
- Power to approve or disapprove of overseas travel by the chief executive
- Power to compel the executive and others to provide information
- Power to censure government ministers and other officials
- Power to approve/disapprove the budget
- Power to reduce, increase, shift spending in the budget
- Power to remove the chief executive
- Authority to set the parliament's budget, manage own staff

Political Will and Political Space

Possessing formal powers does not mean that legislatures will use them. In fact, constitutions and standing orders generally grant parliaments more power than they ever use effectively. Two factors which impact on how legislatures use their powers are political will and political space. Political will is the strength of the desire of parliamentary leaders and influential members to exercise or expand the powers of parliament. Power gained in one place is generally lost in another, and because of this,

MPs leading efforts to expand the role of parliament may pay political costs inflicted by those who fear losing their power.

Political space refers to the willingness of others in the political environment to cede or to share political power with parliaments. Authoritarian political systems grant legislatures little political space, while more pluralistic, competitive systems permit more. In parliaments where the party discipline is strong, much of the use of the available political space, and any attempts to expand the political space, is largely determined by the political party's disposition. In the final unit of this course we will see several examples of legislatures that are making better use of the constitutional powers they possess.

Parliamentary Technical Capacity

Finally, a parliament's ability to exercise its representation, lawmaking and oversight functions effectively rests to some degree on its managerial and technical capacity. Listening to citizens and processing their input, seeking and considering expert advice on budgets and policies, developing sound policy proposals, drafting technically sound amendments and legislation, making available legislative proceedings via the Internet or other medium quickly and accurately, and any of the dozens of other tasks in which legislatures might be involved require effective systems and skilled professionals to manage those systems.

Most parliamentary strengthening efforts being made today focus on building parliamentary capacity – by strengthening management, infrastructure, and staffing. More assertive parliaments need more and better equipped staff to meet their greater information needs, and faster, more effective, and better-coordinated administrative systems. The need for rapid reform is especially challenging for traditional, hierarchal legislatures that rely on long-established traditions and procedures to guide them in what was formerly a methodical and moderate workflow. Legislatures expanding their roles struggle with increased workloads, growing demands by MPs, and new kinds of requests, even as they are attempting to restructure the institution. Change is not easy, and reforming complex institutions like parliaments is especially challenging.

Table 7, summarizes much of the above discussion on factors influencing parliamentary power and independence by listing factors that tend to encourage, or discourage, parliamentary independence and power.

Table 7
Characteristics Influencing Legislative Independence and Power*

←	→
Less independence and power	More Independence and Power
(1) Parliamentary political system	Presidential political system
(2) PR electoral system	Single member districts
(3) Limited lawmaking/oversight power	Significant lawmaking/oversight powers
(4) Weak political will to exercise independent power	Strong political will to exercise independent power
(5) Limited political space to expand parliament's power	Broad political space to expand parliament's power
(6) Weak technical capacity	Strong technical capacity

***This table illustrates tendencies only. There are, for examples, legislatures in parliamentary systems that are stronger than legislatures in some presidential systems.**

Unit 3 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

Political Systems

- Which legislative type best describes your parliament (presidential, parliamentary, hybrid, or mixed)?
- What roles does your parliament play in making public policy? In oversight? Are parliament's roles in these area changing, or staying about the same?
- What role, if any, do individual legislators play in the policy making process? How much difference does their being majority or minority legislators make?

Electoral Systems

- Describe the method through which representatives are elected in your country.

5. What impact does the electoral system have on the way legislators behave once they are in office (i.e., with regard to representation, party-discipline, etc.)?
6. Describe what you consider to be the most beneficial/least beneficial aspects of the system through which parliament members are elected in your country.

Formal Powers

7. Using Table II, above, discuss some of the formal powers your parliament possesses, or does not possess. (You may need to check your constitution, Rule of Order, or other documents.)
8. What impact do you think your nation's political and electoral systems may have on the formal powers your legislature possesses?
9. Were you surprised to learn of specific powers your legislature possesses?
10. Were there powers you thought your legislature possessed that it does not?

Political Will/Political Space

11. Are there powers your legislature possesses that it is not using? If yes, what are they?
12. If you answered "yes" to question 11, where do those powers seem to actually reside?

Parliamentary Technical Capacity

13. Is the technical capacity of your parliament growing, diminishing, or staying about the same?

We mentioned at the beginning of this unit that "...the powers and performance of legislatures are not static. The balance of power is fluid in every political system, with legislatures sometimes gaining, sometimes losing power relative to other actors." In our final unit we will consider several ways parliaments are attempting to strengthen themselves and to become more effective.

Relevant internet resources

Commonwealth Parliamentary Association
<http://www.cpahq.org/>

UNDP Parliamentary Strengthening Reference Material
<http://magnet.undp.org/Docs/parliaments/> Viewed October 18, 2005. UNDP

Select bibliography

James Madison, Federalist No. 48, *These Departments Should Not Be So Far Separated as to Have No Constitutional Control Over Each Other*, from the New York Packet. February 1, 1788.

The Impact of Electoral Design on the Legislature. UNDP Internet publication available at <http://magnet.undp.org/Docs/parliaments/>.

Presidential and Parliamentary Legislatures Compared. *USAID Handbook on Legislative Strengthening*. February 2000. Appendix B. and *Governing Systems and Executive Legislative Relations*, UNDP Parliamentary Strengthening Reference Material.