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PARLIAMENTARY SYSTEMS AND THE UNITED STATES CONGRESS

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***Abstract*:** *This paper is meant to study comparatively the European Parliaments, having as an illustrative model the British Parliament, and the U. S Congress in a cross-national analysis. These two types of legislatures will be compared from the perspective of the relationship to government, their viscosity (the capacity of legislature to constrain government in what it does), the legal measures that might be taken upon the executive, the role of political parties in delineating their major features.*

Key words: *legislature, parliamentarisation, viscosity, committees, impeachment.*

1. Introduction

Legislatures play a very well delineated function: that of giving assent measures that are to be binding on society. In practice, they use to have other attributions such as debating measures or the conduct of public affairs. They have been established centuries ago, and their number and functions have increased recently. Almost 150 countries - plus the European Union – have a legislature. Their prominence reached a high degree in the 1990s because of developments in central and Eastern Europe. Many of the European democracies and republics operate within a parliamentary system.

According to Klaus von Beyme, European Parliamentary democracy is a product of the twentieth century and was fully developed in most countries after 1918.

In the process of parliamentarisation of the legislature system, Huntington identified different transitional stages: liberalization, democratization and consolidation.

The parliamentarisation and consolidation took place based on a dualistic system in constitutional monarchies in the nineteenth century.

The democratization of parliamentary regimes took place from the end of the nineteenth century and culminated in universal suffrage in most countries after the First World War. After 1945 parliamentary democracy has been the subject of a process of reconsolidation. "*The second wave of democratization in the twentieth century was followed by a third wave in the 1970s in southern Europe and by a fourth wave in Eastern Europe after 1989*". (Klaus von Beyme, 2)

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The United States which is considered the cradle of the modern democracy, starting from the parliamentarian system, have developed another model of government, the congressional model. The American Congress is considered one of the most powerful legislatures in the world. *Congress has passed widely applauded bills that have, among other things, approved new security measures for airports and funding for the war against terrorism; granted important rights to women, minorities, and the disabled; given parents job protection so they can care for sick children; forced states to reduce barriers to voter registration and supported reform of voting processes; expanded funding for college students; and limited what lobbyists can give to legislators.* (Smith, 1)

Taking into account the similarities and differences between European Parliaments and the U. S Congress, a cross-national study, which will be analyzed from the perspective of the relationship to government, the viscosity of legislature, the legal measures upon the executive, the role of political parties in delineating the major features of legislature, constitutes a welcome advance in the study of legislatures.

2. The relationship between legislature and government

The relationship between the different parts of a political system including the relationship between legislature and government is stipulated in the Constitution of each country. It constitutes the fundament of any political system. "*Legislatures provide the means by which the measures and actions of government are debated and scrutinized on behalf of citizens, and through which the concerns of citizens – as individuals or organized in groups-may be voiced". (*Norton, 1) The views and demands of ordinary citizens are transmitted to government via legislature.

The major difference between a parliamentary system and U.S. Congress is that a parliament integrates the legislative, executive, and judicial branches as its constituent parts, and the U.S. Congress has the major responsibility for passing the laws, being one of the three independent branches of the federal government. *Throughout the Constitution is an elaborate system of checks and balances to prevent abuse and concentration of power. Congress has the primary responsibility for passing the laws of the land, yet the president has the role of either signing them into low or vetoing them, and the courts can review whatever Congress passes.* (Hamilton,7)

2.1. Taxonomies of legislations

Concerning the basic relationship of legislature to government, scholars like Michael Mezey have offered taxonomies of legislatures based on their policy – making power. Mezey distinguishes three types of legislature, those with strong, modest or little (or no) policy making power. He characterizes legislatures as being active, reactive, and minimal legislatures. The one that enjoys support at both mass and elite level is considered active and the US Congress is illustrative for this category. The British Parliament is classified among the reactive legislatures and the last category includes legislatures in one-party states.

"*The whole life of English politics is the action and reaction between the Ministry and the Parliament*." (Walter Bagehot cited in Klaus von Beyme, 3) and the Parliament responds "*to what government brings forward, and the government will usually get what it wants*. " (Norton, 2)

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2.2. Institutional Criteria

In a parliamentary system, the executive branch is invested by the legislature. This is generally represented by prime minister and the cabinet. According to Klaus von Beyme, most of the parliamentary governments have developed common institutional criteria.

Compatibility of parliamentary mandate and ministerial office, in order to establish a good relationship between the parliamentary majority and the executive. There are a few exceptions from this criterion in Europe: the French Fifth Republic, Luxembourg and the Netherlands.

A fundamental characteristic is the vote of investiture during the first meeting between government and parliament, as in the first French system under the Third and Fourth Republics and in Italy

Prime ministers are normally members of parliament. Parliament exercises its control on government by using the right of interpellation ministers and "*setting up of committees of enquiry, which facilitate the decision about whether the strongest sanction – a vote of no confidence –should be used.*" (Klaus von Beyme, 9)

Members of the Congress are involved only in the legislative problems, not being interfered in decisions of the executive. The Speaker of the House of Representatives has a great similitude with a prime minister, but in exercising his duties, he only moderates debates of the house. The U.S. Congress is responsible for elaborating legislation, whereas in a parliamentary system, bills are drafted by the government and then sent to parliament to be debated and ratified.

The government has to have the confidence of the parliamentary majority otherwise it will collapse and new elections should be organized. In the congressional system, the executive power is totally separated from legislature and absence of the majority party confidence cannot lead to the collapse of the executive and new elections, as in parliamentary systems.

3. Viscosity

Government elaborates *"policy and brings forward measures that it wishes to be binding on society"*. (Norton, 4)

Legislative power has the capacity to constrain government in its measures and actions. The degree to which parliaments can constrain governments has been conceptualized by Jean Blondel as the viscosity of legislatures.

The viscosity of legislatures depends on the rate of specialization manifested by them. Committees stand for the main evidences of how specialized a legislature is. Greatest viscosity is achieved when the committees are permanent and have exclusive jurisdictions. Committees overlapping and parallel agencies should be avoided. "*Legislatures exhibiting the greatest capacity to determine policy outcomes have highly developed committee structures*". (Norton, 4)

Woodrow Wilson pointed out the centrality of committees to the work of the US Congress in the nineteenth century. *"More than other legislative body in the world, the Congress relies on an extensive committee system to process its voluminous workload."* (Woodrow Wilson quoted in Norton, 4)

3.1. Committees

As the nation grew, the necessity for investigating pending legislation increased. The 108th Congress (2003-2005) had 19 standing committees in the House and 17 in the Senate. "*Its sheer size-535 members and more than 25,000 employees is bewildering. Its system of parties,*

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committees, and procedures, built up over 200 years, is remarkably complex" (Smith, 1).

Four permanent committees with members from both houses oversaw the Library of Congress, printing, taxation, and the economy. Additionally, each house has the right to appoint selected committees designed to solve specific problems. Because of an increase in workload, the standing committees have been divided into 150 subcommittees. Most bills are analyzed by standing committees, each of them having jurisdiction over a particular subject. Committees are allowed to hold hearings and gather evidence while analyzing bills. They may also amend the bill, but the whole house is responsible for accepting or rejecting amendments.

The membership of committees is also relevant. Committees that have small and informed memberships may prove a more extended capacity to constrain government.

It is impossible for a member of Congress to have expertise in all fields. Working in committees, members will often develop expertise in the jurisdiction of their committee. Within specific domains, these sub-units collect information, compare legislative alternatives, identify problems, propose solutions, and inquire into the qualifications the officials of the executive and judicial branches.

"*The British Parliament can claim to being a well established institution with well developed rules and procedures*." (Norton, 16)

Both Houses have also developed extensive rules and practices. Since the beginning of the twenty century, the House of Commons have been sent for detailed consideration in standing committees. The British House of Commons benefits from a high degree of complex organizational system, with universal rules and well-established procedures. For example, it has a period for questions addressed to ministers whose answers are required. The phenomenon of Prime Minister's question time is well known. In some European countries the rules are stipulated by the Constitution as in Austria, Finland, where procedure for asking questions is enshrined in the fundamental Law. When there are no constitutional provisions, rules will be established and conducted by the Chamber itself.

3.2. Resources

Increased resources could improve the viscosity of the institutions. The US Congress have considerable research library and support stuff and exert a notable viscosity in the process of elaborating laws. Legislatures with reduced resources have a decreased capacity to influence Government. For example, members of the French National Assembly receive only secretarial and research support and the assembly is regarded nothing more than a reactive legislature. Members of the Italian Parliament are less well served (other than in respect of salary than British MPs are).

However, the resources have a great impact on the capacity of a legislature to constrain Government. For members to investigate effectively the governmental actions and policies, they need some information on which to employ their investigation.

"*Greater influence on Government action is likely to be achieved if it derives from specialized sources at the disposal of the legislator*". (Norton, 12)

4. Legal Measures upon the Executive

Legislature majorities often fought for taking legal measures upon the executive. Such measures consisted in "*accusations*

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of illegal acts on the part of ministers, refusing to vote for the government's budget and initiating a vote of non-confidence in the government. " (Klaus von Beyme, 19)

4.1. Impeachment

Accusations of illegal acts on the part of high officials and their eventual impeachment was a one of the main preoccupations of liberalism.

Many countries tried to regulate the exercise of impeachment via a law on judicial ministerial responsibility.

A vote to proceed with impeachment was the only way of finding out whether the cabinet still had the confidence of the parliamentary majority. It is a test for the head of the executive as well as for the parliamentary majority to see whether the government had lost the confidence of the majority. It functioned in a similar way to the practice in the presidential system of the United States.

The Constitution empowers the House of Representatives to impeach federal officials for "*Treason, Bribery, or other high Crimes and Misdemeanors.*" (The Constitution of the United States, 14) The Senate is constitutionally entrusted with the power to try impeachments. The house could impeach an official with a simple majority; and a two-thirds majority of the Senate is necessary for convicting him. A convicted official should leave office; however, the party may be judged in a normal court of law for criminal acts. During the time, only two Presidents of the United States were impeached: Andrew Johnson and Bill Clinton. Both of them were acquitted. In 1974, the case of Richard Nixon and the Watergate scandal did not lead to impeachment. Richard Nixon resigned before any further action could be taken against him.

4.2Vote of no confidence

The legislature majority should support the Executive. Parliament could be dissolved if the prime minister has lost the confidence of the parliamentary majority. The government has to resign when it is confronted with a vote of no confidence or the head of the state dissolves parliament offering the electorate the possibility to reelect a new legislature restoring the political equilibrium. This procedure has not been instituted in Norway and Israel. Collapse of the government and new elections cannot happen if the executive loses the support of majority party in Congress, as occasionally happens in parliamentary systems.There are no circumstances in which the President may dissolve Congress or call special elections.

4.3. Refusal to approve the budget

Refusal to approve the state budget is considered an extreme measure that could be taken against government and it was seen by conservatives as a "parliamentary infringement" and by liberals as a "legal revolution". It was seen by the British conservatives as "un - British" and illegal because it imitated a French Revolutionary practice. "*This instrument was most frequently used in preparliamentary societies dominated by the estates, such as Sweden, and in dualistic constitutional monarchies.*" (Klaus von Beyme, 22)

Congress has the power to determine federal spending, "*No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.*" (The Constitution of the United States, 9)

The drafters of the Constitution decided to entrust the federal spending power to legislators rather than to President. James Madison emphasized the fact that „*This power of the purse may, in fact, be*

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regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people.
(http://law.jrank.org/pages/6764/Federal-Budget.html)

According to the Budget and Accounting Act of 1921, President must submit a budget to Congress every year. The budget should contain comprehensive information on spending and revenue proposals, along with budgetary policies and initiatives. The president may recommend budget allowances and if Congress rejects these recommendations, the president may make use of his right of veto. However, the ultimate decision concerning the federal expenditures belongs to Congress. So the refusal to approve the budget could be regarded as a means of constraining executive power.

5. The influence of Political Parties on legislatures.

Parliamentary regimes are the result of cooperation between various actors. The integration of legislature and the executive is mediated by an important factor: the political parties.

A more specialized society demands for a more powerful political voice. The last century witnessed the replacement of royal influence with the supremacy of political parties. The voters and the structures through which their opinions were a heard and made known: the Political Party became dominant in British political life.

Klaus von Beyme identified some - structural features of a political Party with an essential role in strengthening the parliamentary government:

- *Organised parties to facilitate the building of parliamentary majorities.*
- *Party - building to facilitate the development of cabinet solidarity.*
- *Development of the office of prime minister. A certain hierarchsation of ministerial council also increases cabinet solidarity.*
- *The existence of a loyal opposition.*
- *Development of a political culture favorable to appropriate parliamentary behavior and alternating government.* (Klaus von Beyme, 10)

Joseph Redlich highlighted three tendencies in the parliamentarian procedural reforms at the beginning of the century: the strengthening of speaker's power, the extension of the rights of the Government over the parliamentary action and *the suppression of the private member, in terms of both legislative initiative and the scope of action.* (Norton, 18)

The speaker of the British House of Commons is non-partisan. His or her role in chamber is to ensure a fair debate, and to treat equally members of all parties. Contrary, the Speaker of the House of Representatives is the leader of his party in the House.

5.1. The members of legislatures and their relation to political parties.

Electors vote based on the party label, candidates were selected and there campaigns organized by the parties.

In Great Britain, once elected MPs should support their Party leaders with loyalty. "*Most votes in the House of Commons were whipped votes – the parties taking a particular line on the issue – and in the vast majority party cohesion was complete." (*Norton, p.20)

The committees include from 16 and 50 members, the party power being proportional to that on the flour of the House.

Prime Minister question time is a specific feature of the Parliamentary time table being characteristic for the partisan conflict that takes place.

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In a parliamentary system, members are expected to vote for their party, and those who vote against it are excluded and become independent members with a reduced influence as decisional factors.

Members of the U.S. Congress vote according to their own beliefs and principles. Many members pass over party boundaries and they are faithful to their constituents.

6. Conclusions

In conclusion, taking into account the relationship between legislature and government, it should be emphasized that the major difference between a parliamentary system and the U.S. Congress is that parliament integrates the legislative, executive, and judicial branches as its constituent parts, and the U.S. Congress has only legislative prerogatives, being one of the three independent branches of the federal government.

The US Congress is the prime example of an active legislature meanwhile the British Parliament is a reactive legislature, responding to what government brings forward. (Norton, 2)

In a parliamentary system, the executive branch is invested by the legislature. This is generally represented by prime minister and the cabinet.

Members of Congress are involved in legislative process, not being interfered in decisions of the executive. The Speaker of the House of Representatives has a great similitude with a prime minister, but in exercising his duties, he only moderates debates of the house. The U.S. Congress is responsible for elaborating legislation, whereas in a parliamentary system, bills are drafted by the government and then sent to parliament for being debated and ratified.

Viscosity being determined by the degree of organization within the chamber, we can conclude that the both legislatures, the British Parliament and the American Congress enjoy a high organizational complexity, with universal rules and a range of established procedures. In both cases increased resources ensure the viscosity of the institutions.

Legislatures majorities fight for taking legal measures upon the executive. Such measures included lodging accusations of illegal acts on the part of high officials, refusing to vote for the government's budget and initiating a vote of non-confidence in the government. (Klaus von Beyme, 19). The government has to resign when it is confronted with a vote of no confidence or the head of the state dissolves parliament offering the electorate the possibility to reelect a new legislature restoring the political equilibrium. There are no circumstances in which the American President may dissolve Congress or call special elections.

Considering the influence of the political Parties upon the legislature, in a parliamentary system, members are expected to vote for their party, and those who vote against it are excluded and become independent members with a reduced influence.

Members of the U.S. Congress vote according to what their own beliefs and principles passing over party boundaries.

Unfortunately, nowadays people do not manifest much trust in legislatures, and they are not considered factors of success in national development as Lee Hamilton pointed out concerning to Congress:

On the other hand, many Americans today articulate a far less grand view of Congress, often not expressing much trust in it, rarely seeing it as a major factor in our nation's success. And a variety of sources – from administration officials to the media – will express or reinforce an

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executive-centered view of government, with power drifting to the president, particularly when Congress doesn't live up to its responsibilities. (Hamilton, 1)

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