

CHAPTER 29

SEPARATION
OF POWERS

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1. INTRODUCTION

EVEN as broad international processes of globalization dominate mass consciousness in today's world, national political leaders continue to engage in heated debates—some of which even result in bloodshed—over what some consider incidental details of institutional design. Truly, in a world in which institutions did not matter, Iraq's Sunnis, Shiites, and Kurds might simply pick a constitution out of a hat and live happily ever after. Yet such a notion is ludicrous. Individuals and social groups fight over institutional design because one's political position within an institutional matrix carries *symbolic* importance as well as *substantive* importance in terms of “who gets what” out of politics.

For better or worse, scholars have largely ignored institutions' symbolic importance to political actors and focused on debating the degree to which institutions affect outcomes such as economic growth or political stability. Perhaps the most fundamental institutional difference across the world's democracies is whether the executive and legislative powers are fused or separate. Intelligent people have explored the question of the “best” constitutional design since antiquity: Aristotle was perhaps the first comparativist, sending his acolytes-cum-graduate students into the field to gather comparative constitutional “data.” Yet it was the nightmare of Weimar Germany's collapse into Nazi terror that sparked interest in this question for twentieth-century scholars (Hermens 1941). For many scholars, the failure of democracy in many countries during the Cold War (1945–90), particularly in Latin America, provided additional confirmation that the separation of powers can affect democracy's potential to flourish (e.g. Linz 1990).

Scholarly interest in the separation of powers gained added impetus during the so-called “third wave” of democratization, which began in the 1970s and ran through

the end of the Cold War. Shugart and Carey's *Presidents and Assemblies*, published in 1992, represents a scholarly milestone as the first attempt to synthesize scholarly knowledge about the separation of powers. Their book set the research agenda and encouraged scholars to investigate important questions such as the extent to which the separation of powers affects the likelihood of democratic collapse, whether certain institutions are more likely to promote democratic consolidation, and whether regime type matters for policy output and governability.¹

This chapter addresses the question of “what difference does the separation of powers make?” Scholars have suggested that the difference between fused or separate powers affects myriad political “outputs,” and I will not pretend that this essay covers every conceivable question. Instead, following a brief section that defines the differences between democratic regimes, I explore four key questions about the extent to which the separation of powers “matters”:

1. To what extent does the separation of powers affect the relative “decisiveness” and “resoluteness” of the political process?
2. What impact does the cabinet have on political process and output across democratic regimes?
3. Does the separation of powers contribute to regime crises and/or collapse?
4. In what ways does the separation of powers affect how we think about democratic representation and accountability?

I concentrate on these questions because they home in on comparativists' central theoretical and empirical concerns, the “big issues” in the study of politics: the nature and consequences of the policy-making process, the chances for democracy to survive and flourish, and whether voters' opinions are heard within the tumult of democratic politics.

2. DEFINITIONS

Scholars typically identify three “versions” of the separation of powers: parliamentarism, pure presidentialism, and “semi”-presidentialism. As of 2002, of the seventy-six democracies (classified as such by receiving a “5” or better on the Polity IV combined democracy score) with a population greater than one million, thirty-one are parliamentary, while twenty-five are presidential and twenty are semi-presidential. The distinctions across democratic regimes center around the process of selecting the executive and legislative branches, and the way in which the executive and legislature subsequently interact to

¹ See e.g. Linz 1990, 1994; Mainwaring 1993; Stepan and Skach 1993; Sartori 1994; Jones 1995; Mainwaring and Shugart 1997a; Power and Gasiorowski 1997; Carey and Shugart 1998; Przeworski et al. 2000; Haggard and McCubbins 2001; Cheibub and Limongi 2002.

make policy and administer the government.² Thus Shugart and Carey (1992) specify the three differences between presidentialism and parliamentarism:

1. Separate *origin and survival* of executive and legislative branches;
2. *Constitutionally guaranteed executive authority* to execute the laws; and
3. Chief executive *control over the cabinet*.

Separation of origin is defined by the process of executive selection: does it follow from a process of counting votes separately from the allocation of legislative seats (presidential) or does it follow from some process that depends on the allocation of legislative seats (not presidential)? Separation of survival is defined by the principle that ends governments: under presidentialism the terms of both the legislature and the executive are fixed and not contingent on mutual confidence, as in parliamentarism. As for constitutionally guaranteed authority, at the simplest level this means that one branch makes the laws, the other implements them. If the legislature could implement the laws without the president, the system would be some sort of hybrid regime. However, no *particular* powers are implied here.

“Semi”-presidentialism represents, as the name implies, a hybrid constitutional format. Scholars dispute the definition of semi-presidentialism and thus which countries fall into this category (see Shugart and Carey 1992; Elgie 1999; Metcalf 2000; Roper 2002), but the simplest and broadest definition is that both branches of government are directly elected (as in presidentialism), but the head of government (the prime minister) is accountable to the legislature (as in parliamentarism) (Siaroff 2003). In such systems, the president does not directly control the cabinet. Research on the consequences of semi-presidential government lag behind research on parliamentarism or pure presidentialism, because nearly all semi-presidential systems are relatively young democracies. Given this, although I compare across all three democratic regimes, much of this chapter focuses on research contrasting parliamentary and presidential systems.

Some scholars question the degree to which these institutional differences matter (e.g. Przeworski 2003). I do not claim that the separation of powers is *necessarily* associated with particular outcomes. Elsewhere, I have argued (Samuels and Shugart 2003) that the separation of powers can accommodate substantially greater *variation in governing styles and output* than a system of fused powers can. That is, separation of powers systems can resemble fused powers systems in terms of governance style and substance, or they can differ substantially. Scholars continue to seek to identify the conditions under which separation of powers systems diverge from fused systems, and seek to understand the degree to which this divergence affects the citizens who live under these systems. I now turn to the four questions mentioned above, to assess the state of our knowledge about the separation of powers and suggest how research might proceed.

² For space reasons and because I wish to focus on the impact of variation *across* democratic regimes, I do not assess debates about institutional variation *within* each regime.

3. SEPARATION OF POWERS AND GOVERNMENT “DECISIVENESS” OR “RESOLUTENESS”

Madison’s notion of the separation of powers, elaborated in the *Federalist Papers*, holds that tyranny is relatively less likely under the separation of powers because such a system places the executive and legislative branches in formally different institutional environments. This generates different behavioral incentives for actors in each branch, making majority steamrolls of the minority at a minimum more difficult to coordinate. In modern political science parlance, the structure of presidentialism is designed to be *less decisive* and *more resolute* (Cox and McCubbins 2001). That is, we expect policy change to be slower and less dramatic under presidentialism, all else equal.

On the other hand, we might expect the separation of executive and legislative survival to be a recipe for unilateralism. Because a president cannot fall on a confidence vote, he or she could use the “bully pulpit” of the presidency to interfere in the legislative process, attempting to pull policy towards his or her preferred position even more than a similarly situated prime minister (PM) might (Cox and Morgenstern 2001). Even so, nothing about the core definition of presidentialism gives the president any *particular* proactive or reactive legislative powers, meaning that a president has no inherent power to *move* policy from the status quo. This highlights the critical importance of the relationship between the president and the pivotal legislator. A president with a strong legislative majority might have only slightly greater problems coordinating across branches of government than a PM with a similarly sized majority, and policy outcomes would thus be similar. Yet the separation of survival also means that such cross-branch coordination is neither encouraged nor guaranteed, *even given preference overlap between the president and his legislative majority*. Parliamentarism does not guarantee coordination, but it does encourage it: if a government breaks down under parliamentarism, it can be dissolved and a new executive can come to power with a new mandate; not so under presidentialism.

We also need to ask what happens when the position of the president and the pivotal legislator differ substantially. This situation (e.g. of minority government) occurs about twice as frequently under presidentialism as under parliamentarism.³ Suppose that the legislative majority proposes a change in the status quo (SQ), but the president refuses to sign it into law (or vice versa). When this happens we have policy stability (perhaps leading to “stalemate” or “deadlock”) and the SQ stands because the president cannot be removed from office. Deadlock is not a necessary outcome of any particular distribution

³ Cheibub, Przeworski, and Saiegh 2004, found that minority governments occur in about 22% of all years under parliamentarism, and Cheibub 2002 found that minority governments occur in about 40% of all years under presidentialism. These numbers correspond with previous research (e.g. Strøm 1990b; Shugart 1995).

of legislative seats, in any political system. However, under parliamentarism deadlock is less likely because of the threat of removal—if the PM refuses to enact a bill parliament has passed, he is unlikely to last long as head of the government.⁴ This is what Cox and McCubbins (2001, 26–7) meant by suggesting that the separation of survival makes pure presidentialism less *decisive* and more *resolute*. (See also Laver and Shepsle 1996, who suggest that the direct election of the head of government expands the independence, not the compliance, of the legislature.)

This suggests the following hypotheses:

1. A pure presidential system is *less likely* to get from the SQ to a new policy at point P than other systems, all else equal;
2. If P is proposed, a presidential system will move *less far in policy space* from the SQ towards P than other systems, all else equal;
3. If P is proposed, the *time* getting from the SQ to P *will be greater* under a presidential system, all else equal;
4. If P is proposed, the *expense* (measured in side payments, e.g.) of getting from the SQ to P *will be greater* under a presidential system, all else equal.

Little research has investigated these hypotheses. These are thorny questions, because we have no way to determine a priori “how much” difference in decisiveness and/or resoluteness we should expect across regimes. Thus while Cox (2005) notes that governing majorities everywhere rarely lose votes, the data in Cheibub, Przeworski and Saiegh (2004, table 2) support the hypothesis that differences in resoluteness/decisiveness exist at the aggregate level across presidential and parliamentary systems.⁵ They show that under similar levels of legislative support, parliamentary executives *always* approve their proposals with a higher rate than presidents: 82.8 percent of all executive proposals are approved under parliamentarism versus 64.1 percent of all proposals under presidentialism, indicating that constitutional structure generates a considerable degree of variation in resoluteness and/or decisiveness.

Cheibub et al. also reveal that as the degree of preference divergence between the executive and the pivotal legislator increases, presidential systems appear to be relatively *more* resolute and *less* decisive than parliamentary systems. Thus the difference in “success rates” is small under supermajority conditions—89.6 percent of all proposals for parliamentary governments are approved versus 82.6 percent for presidential governments—but are larger under single-party majority governments—89.5 percent versus 77.4 percent. The difference in success rates then increases under majority coalition government (76.0 versus 47.5 percent), minority coalition government (81.7 versus 52.5 percent), and single-party minority government (81.3 versus 65.2 percent).

⁴ The situation may differ under semi-presidentialism, depending on the president’s veto powers.

⁵ The authors focused on a different question, whether minority governments are relatively less successful passing legislation than either majority or minority coalition governments in both presidential and parliamentary systems. They found this not to be true.

These numbers suggest that whatever unilateral powers a president possesses are insufficient to overcome the Madisonian inertia imposed by the separation of powers. That is, strong unilateral executive powers do not make a presidential system parliamentary because a legislature can override vetoes, quash decrees, overturn agendas, and even strip constitutional authority, without fear of the president calling new elections (Samuels and Shugart 2003).⁶ Under coalition or minority government, a president might attempt a unilateral strategy and be rebuffed. Linz and other scholars fear this possibility, and suggested that parliamentarism is less problematic not only because minority governments are less frequent, but also because minority PMs can be removed if they attempt unilateral government or if deadlock emerges. In short, although presidentialism is not a *necessary* recipe for deadlock, it does allow for greater *potential* executive-legislative conflict.

Research on legislative “productivity,” although useful, provides only a partial answer to the question of the relative decisiveness or resoluteness of a polity. Currently we know we know nothing about the relative similarity or difference in the *content* of proposals across democratic regimes. Given the separation of survival, presidents’ and prime ministers’ strategies for proposing legislation should differ, and these differences should be even larger under different levels of legislative support. As Cox and McCubbins (2004) argue, US parties’ influence is most apparent not on the floor of the legislature on final-passage votes, but rather in determining what comes up for a vote or not. This is an important question for comparativists: to what extent do differences across political regimes influence the ability of political parties and/or executives to get proposals on the agenda? Perhaps the differences that Cheibub et al. highlight also exist at the proposal stage. If this is true, then the differences across political regimes in terms of resoluteness and decisiveness are even larger, and have greater real-world importance. Additional research should seek to elucidate the extent to which presidentialism increases policy resoluteness and decreases policy decisiveness, even given preference overlap between branches.⁷

⁶ Thus high unilateral powers do not make Argentina into England: under unified government in both systems, differences in governance might not be due to regime type but to other factors (e.g. federalism). But when the executive faces legislative opposition, in Argentina we might see policy stability or deadlock *for the duration of the president’s term*. In Argentina at least this seems to be associated with constitutional crisis (e.g. Alfonsín in 1989 and De la Rúa in 2001). In contrast, in the UK such a situation of divided government is unlikely in the first place and ought not to persist for long, because new elections can be called: the last “hung parliament” occurred in 1974. A similar dynamic can occur under any minority parliamentary government: *if* deadlock occurs (it might not), the government can change or elections are called.

⁷ Two additional promising lines of research to mention in terms of the policy differences between presidential and parliamentary systems are related to my hypothesis that policy making is more “expensive” in presidential systems: first that the “size” of government is a function of regime type (compare Persson and Tabellini et al. 2004 versus Boix 2005b) and, relatedly, that parliamentarism promotes “public goods” while presidentialism enhances opportunities for “rent-seeking” behavior, i.e. for corruption (Shugart 1999; Haggard and McCubbins 2001; Gerring and Thacker 2004; Kunicová 2005). Scholars have yet to come to any sort of consensus about the causal mechanisms underlying these potential differences across political regimes.

4. CABINETS: THE “MISSING LINK” IN THE STUDY OF THE SEPARATION OF POWERS

Perhaps the largest “institutionalist” literature in the study of parliamentary government focuses on cabinets. Cabinets have two purposes: (1) to build legislative support to *pass* legislation; and (2) to control the executive-branch bureaucracy that *implements* legislation. Despite the growth of research on the separation of powers, cabinets have yet to attract the same degree of scrutiny as under parliamentarism. Research is impeded by a simple lack of data on cabinet membership outside the (mostly parliamentary) countries covered by sources such as Woldendorp, Keman, and Budge (2000), although emerging scholarship should soon remedy this problem.

More importantly, the influence of the US case in the comparative study of the separation of powers has discouraged research on cabinets. In the USA, the intellectual influence of congressional scholars has relegated the cabinet to the theoretical and empirical back-burner relative to the alleged importance of *legislative* oversight of the bureaucracy. Moreover, scholars of US politics largely do not generally believe that the distribution of cabinet portfolios is directly related to the president’s governing strategy and/or legislative success, as in parliamentary systems (see e.g. Bennett 1996).

Finally, Shugart and Carey’s agenda-setting book paid little attention to the cabinet and directed scholars’ attention elsewhere. Shugart and Carey encouraged scholars to focus on how unilateral executive powers (e.g. Carey and Shugart 1995), the electoral-institutional sources of the distribution of legislative seats (e.g. Jones 1995; Shugart 1995), or legislative politics per se (e.g. Morgenstern and Nacif 2002) affect executive–legislative relations. Given these already complex questions, the cabinet got lost in the shuffle. However, scholars have recently begun to discover the extent to which—just as in parliamentary systems—the cabinet provides a critical link between the executive and legislative branches in pure and semi-presidential systems (Deheza 1997, 1998; Thibaut 1998; Amorim Neto 1998, 2002, 2006; Altman 2000, 2001; Lanzaro 2001; Amorim Neto and Strom 2004; Almeida and Cho 2003; Roberts and Druckman Forthcoming; Amorim Neto and Samuels 2003; Carroll, Cox, and Pachón 2006).

Research on cabinet politics under different forms of democracy has the potential to shape key debates in comparative politics. For example, on the one hand, in terms of understanding coalition dynamics Cheibub and Limongi (2002, 18) suggest that “it is not true that incentives for coalition formation are any different in presidential than in parliamentary democracies.” On the other hand, the president’s position as *formateur* in pure presidential systems suggests that coalition dynamics—party decisions to enter and/or leave a coalition—should differ substantially across democratic regimes. The separation of powers gives the president the last word in policy making, whereas under parliamentarism the PM may have to concede *de facto* control over certain ministries to his or her cabinet partners (Laver and Shepsle 1996). Parties considering whether to join a cabinet under the separation of powers therefore have greater cause to worry that they will be unable to translate participation into real policy influence. Parties’ lack of direct

influence in policy making, coupled with their inability to “make and break governments,” means that their expected payoff in terms of “office” and/or “policy” benefits (Strøm 1990a) should be lower in semi- and pure presidential systems relative to a parliamentary system (Samuels 2002).

This suggests that coalitions will be costlier to maintain and less stable under presidentialism. Altman (2001) indirectly confirmed this, finding that the existence of fixed terms affects the likelihood of coalition formation and maintenance. As the president’s term advances, the likelihood of coalition formation decreases and the likelihood of coalition collapse increases (2001, 93). Thus, unlike parliamentary cabinets, presidential coalitions “tend to form and dissolve in synchronization with the electoral calendar corresponding to the president’s term of office” (2001, 115). Theoretically, these findings suggest that the standard formal models of coalition entry and exit designed for parliamentary systems (e.g. Austin-Smith and Banks 1988) require substantial modification for presidential systems.

The impact of the separation of powers on cabinet politics, and thus on a range of other political outcomes, ranges far beyond coalition entry and exit decisions. Octavio Amorim Neto’s research provides the crucial insight: under presidentialism the *size* of the coalition or the *number* of coalition members may not be the most important variables. Instead, the key variables in terms of cabinets—and thus in terms of governance outcomes—include the *proportion of partisan ministers* (versus cronies or technocrats) and the *extent to which portfolios are proportionally distributed* to coalition member parties. This argument runs counter to research that focuses on the size of and number of parties in legislative coalitions, as well as to the literature that predicts variation in policy output based on the number of “veto players” (e.g. Cheibub and Limongi 2002; Cheibub, Przeworski, and Saiegh 2004; Tsebelis 2002). Therefore, Amorim Neto’s argument deserves some elaboration.

In any political system an executive’s preferences about cabinet composition reflect (1) his or her policy preferences over outcomes; and (2) the extent of his or her need to negotiate with other actors to obtain those outcomes. Cabinet appointment strategy is therefore a function of the degree to which the chief executive must, given his or her policy preferences, negotiate with other actors, typically legislative parties. Give this, we can array democratic regimes on a continuum of executives who are most to least dependent on legislative parties for governability: parliamentary monarchies, parliamentary republics, semi-presidential republics, and pure presidential republics.

Because prime ministers depend entirely on the confidence of legislative parties for their government’s survival, they almost always appoint wholly *partisan* cabinets. For the same reason, prime ministers almost always also tend to appoint wholly *proportional* cabinets, meaning that each party in the cabinet receives portfolios in proportion to the contribution it makes to the government coalition. These are among the oldest and most solid empirical findings in political science research (e.g. Gamson 1961; Warwick and Druckman 2001).

In contrast to prime ministers, presidents do not depend on legislative confidence for their survival in office. Thus in contrast to prime ministers, presidents have greater leeway to vary cabinet partisanship and proportionality (Amorim Neto 1998, 2006).

What shapes presidents' incentives to appoint party members versus cronies or non-partisan technocrats, and whether to do so proportionally or not? For simplicity's sake let us assume that executives everywhere have only two policy-making strategies: they can seek to enact their policy goals through statutes, or through executive prerogatives. The "statutory" path requires that a proposal pass through the normal legislative process, while the "prerogatives" path may not require the involvement of the legislature. For example, some presidents can issue decrees that have the force of law.

Chief executives who know that they can only realize their goals through a statutory strategy will seek to develop a strong relationship with a legislative majority. Prime ministers must adopt such a strategy and appoint wholly partisan cabinets because they possess few autonomous prerogatives and depend wholly on legislative parties for their government's survival and for legislative success. In contrast, a directly elected executive does not depend on the legislature for survival. Thus under pure presidentialism, separation of survival and the executive's authority over the cabinet means that cabinet composition could be *more or less* related to the composition of the president's legislative coalition. On the one hand, given personal style, institutional rules, and/or the partisan composition of the legislature, presidents may believe that a "statutory" strategy is optimal, and thus that cabinet portfolios should be distributed to maximize the chances of legislative approval of statutes, as in a parliamentary system. On the other hand, if presidents decide to pursue (at least part of) their policy goals through decrees or other unilateral powers, portfolios can be filled with non-partisan technocrats, cronies, or interest group representatives.

Presidents endowed with strong unilateral prerogatives are both more likely to use those powers to achieve their goals and *relatively* less likely to cooperate with political parties. Given the separation of survival, cabinet appointment strategies are thus a function of the president's prior beliefs about the overall efficacy of the statutory versus the prerogative approach to policy making, in each ministry's policy area. The more presidents rely on statutes as a policy-making strategy, the more they will include partisans in the cabinet and the more proportional the distribution of portfolios (Amorim Neto 2006).

In semi-presidential systems, the politics of cabinet appointments differs somewhat. Here presidents can dissolve parliament, but their own survival remains secure. This tends to politically weaken the prime minister. However, both the president and the prime minister possess *de facto* vetoes over cabinet appointments, which weakens the president (and which contrasts with pure presidential systems). Within semi-presidential systems the relative power of the president versus the prime minister also may vary, depending on particular institutional rules: the greater the president's appointment powers, the higher the share of non-partisans in the cabinet (Almeida and Cho 2003; Amorim Neto and Strom 2004). In general, cabinet dynamics in semi-presidential systems represent a middle ground between parliamentarism and pure presidentialism.

The synthesis of Amorim Neto's argument that I have presented suggests that both the percentage of partisans in a given cabinet and the proportionality of the distribution of portfolios in the cabinet are a function not only of individual government or country attributes, but also of regime attributes. Tables 29.1 and 29.2 reveal that this is the case (see Amorim Neto and Samuels 2004 for details and additional tests).

Table 29.1 Average percentage of non-partisan ministers by regime type

Regime type	Percentage (std. dev.)
Parliamentary monarchies	0.71 (3.89)
Parliamentary republics	3.20 (10.11)
Semi-presidential republics	6.52 (14.72)
Presidential republics	29.17 (29.04)

Table 29.2 Average proportionality by regime type

Regime type	Proportionality (std. dev.)
Parliamentary monarchies	0.937 (0.127)
Parliamentary republics	0.863 (0.132)
Semi-presidential republics	0.871 (0.125)
Presidential republics	0.645 (0.266)

What are the consequences of variation in cabinet appointment strategies across democratic systems? Much research has explored the consequences—or lack thereof—of majority versus minority government, or of single versus multiparty government, both within and across democratic regimes. However, these arguments have yet to take into account the impact of variation in cabinet partisanship and proportionality. Scholars have already noted the impact of “technocratic” appointments to important ministries in many presidential systems (Bresser et al. 1993; Conaghan, Malloy, and Abugattas 1990; O’Donnell 1994; Domínguez 1997). The argument here provides a simple theoretical explanation for such appointments, which affect not only the style of governance but also its substance (an issue I take up again below, in the section on representation and accountability).

Amorim Neto (2002; see also Amorim Neto and Santos 2001) has also found a strong relationship between cabinet proportionality and the discipline of the president’s legislative coalition. It follows that cabinet proportionality—and not just whether the cabinet is single party or multiparty or majority or minority—also affects the likelihood of presidential legislative success (Amorim Neto 1998). When portfolios are distributed proportionally to each party’s contribution to the coalition, legislative success increases. In addition, Amorim Neto and Tafner (2002) found that cabinet proportionality is inversely related to the number of decrees that Brazilian presidents issue, confirming the hypothesized relationship between proportionality and presidents’ governing strategies (“statutory” versus “prerogatives”).

Amorim Neto's findings clearly contradict Cheibub and Limongi, who suggest that "the connection between coalitions and legislative effectiveness is at best dubious" (2002, 5). The connection between cabinet coalitions and legislative effectiveness is critical: When a proportional cabinet is formed, the president's legislative coalition is more disciplined, and thus the president is likely to accomplish relatively more of his legislative agenda. When the cabinet is not proportional, the opposite is more likely. Amorim Neto suggests that key factors related to cabinet appointment strategy are presidential powers and the size of the president's party. Other factors include the ideology of the president's party and national economic conditions. The connections between these variables and governance demand further investigation. Research should focus on the way cabinets and coalitions are pieced together, in addition to the size of the number of participants, as important explanations for variations in governance outcomes.

Another reason to encourage research on cabinets across political regimes derives from questions about bureaucratic oversight, policy effectiveness, and democratic accountability. Cabinets not only serve to build legislative support for executives' initiatives; they also indicate executives' strategy for *managing the bureaucracy* and for *implementing* legislation. The separation of powers therefore has important implications for the question of "who controls" the bureaucracy, and how. Under the separation of powers presidents control the bureaucracy largely without legislative support. Although relatively little research has addressed this topic, the separation of powers implies substantial differences in modes of bureaucratic management across democratic regimes (Moe and Caldwell 1994; Palmer 1995; Siavelis 2000; Huber and McCarty 2001; Baum 2002). For example, Huber and Shipan (2002) argue that when faced with similar policy issues, politicians in different bargaining environments will design bureaucratic control mechanisms differently. Cabinet autonomy from legislative influence can dramatically alter the bargaining environment. Differences in bargaining environments affect the quality and the type of information available to each actor, which in turn affect actors' perceptions of the benefits and costs of particular actions and strategies.

Given this, scholars using standard principal-agent theory have suggested that designing control mechanisms is more burdensome under the separation of powers, for both executives and legislators (e.g. Moe and Caldwell 1994; Palmer 1995), and that the separation of powers should result in *more detailed* bureaucratic oversight mechanisms, all else equal. This is because the separation of powers creates monitoring problems for legislators vis-à-vis the bureaucracy. Legislative parties often not only have relatively less influence over cabinet appointments under the separation of powers; a legislative majority under the separation of powers cannot bring down a government that has failed to implement legislation that the same majority passed. This ought to increase legislators' incentives in presidential systems to prefer detailed bureaucratic rules.

This is largely unexplored territory in comparative politics. For research to proceed, scholars may have to adapt principal-agent theories that have been applied in the USA and Europe (e.g. Strøm, Müller, and Bergman 2003) because such theories entail restrictive assumptions about bureaucratic capacity (Huber and McCarty 2004) and the relative strength of parties' policy-seeking goals (Samuels 2002). If bureaucratic capacity and party goals vary across democratic regimes, the design of

control mechanisms should vary as well. Given dramatic changes in regulatory regimes in this age of neo-liberal reform, more research should address the question of the way in which the separation of powers may generate different incentives for bureaucratic management and thus variation in policy implementation.

In this section I have argued that cabinet politics may represent a “missing link” in the study of the separation of powers. I want to emphasize that in general, *the power to influence the cabinet is more fundamental to the policy process than any of the unilateral powers that many presidents possess*, because the legislature has no formal authority to override presidents’ decisions to appoint or dismiss ministers, no matter how great the preference divergence between branches.⁸ In contrast, the legislature can always annul a presidential decision to use agenda, veto, or decree powers, provided it can muster the necessary majorities to overcome these measures (Amorim Neto 1998; Cox and Morgenstern 2001). The cabinet provides a critical link between executives and legislatures, and is key to understanding bureaucracy management and policy implementation. These questions clearly demand greater scholarly attention.

5. REGIME CRISES: IS THE SEPARATION OF POWERS TO BLAME?

The breakdowns of several democracies in Latin America during the Cold War, as well as concerns about the (re)establishment of civilian government in the region democratized in the 1980s and 1990s, continue to influence contemporary debates about the relative advantages or disadvantages of the separation of powers. If it is true, as Linz (1990, 1994) and others have argued, that presidentialism facilitated the breakdown of democracy (even if it is not the proximal or only cause), can we design political institutions less prone to breakdown? Less ambitiously, can scholars at least contribute to understanding the causes of democratic breakdown and democratic success? As more and more countries adopted democracy during the “third wave” of democratization that characterized the late twentieth century, scholars, politicians, and policy practitioners around the world have continued to ask these critical questions.

Linz argued that because the executive and legislative are elected separately, they may derive their legitimacy to govern from very different sources. Moreover, conflict is more likely because fixed terms of office discourage politicians in both branches of government from moderating their stances or seeking new coalition partners. In contrast, mutual dependence in a parliamentary system heightens the incentives for cross-branch negotiation. Moreover, when such conflict emerges and persists, presidentialism lacks the exit

⁸ There are some exceptions to this rule (e.g. censure rules in Colombia and Peru, confirmation rules in the USA, Philippines, and South Korea). However, critically, none of these rules affects the *survival* of the executive.

option of the confidence vote, which allows for a relatively smooth transition from one government to the next in parliamentary systems, without engendering a constitutional crisis. These factors generate relatively a greater likelihood of conflict between branches of government under the separation of powers, which can in turn become a regime crisis, *regardless of the distribution of partisan preferences*.

Other scholars such as Mainwaring (1993) and Jones (1995) added that conflict and its persistence are even more likely, and more likely to lead to crises, under multiparty situations, which make inter-branch negotiation more difficult and accentuate existing problems. Again, these scholars concluded that while minority and coalition governments are frequent in all democracies, parliamentarism is more flexible because the PM depends on the legislature to survive. Thus although executive–legislative conflict is not inevitable under presidentialism, it is nevertheless *more likely* as well as more likely to lead to a true crisis.

In this section I explore recent debates about the sources of regime crises under the separation of powers. Scholars agree that presidentialism experiences such crises more frequently than parliamentarism, but they disagree about the factors leading to breakdown. Adam Przeworski and his collaborators have made the most intriguing contributions to recent debates: in contrast to those who suggest that party system fragmentation contributes to regime instability, Przeworski et al. (2000, hereafter referred to as PACL for the authors' initials) reconfirm that presidentialism is more fragile than parliamentarism, but question the connection between party system attributes and presidential regime fragility.

PACL reconfirm existing research that the *absence of a majority party* in the lower house is associated with presidential regime collapse (2000, 134). However, the authors then suggest that there is no relationship between the size of the largest party and regime collapse (ibid.). Both of these arguments may be true, but they both miss the heart of the matter: the question of whether a legislative majority (of one or many parties) *is allied with or opposed to the president*. There is little theoretical basis to suppose there should be *any* relationship between the size of the largest party and regime collapse, if we do not know the political allegiance of the largest party and the other parties. PACL's attempt to relate the size of the largest party to presidential fragility therefore does little to advance our understanding of regime fragility because that particular variable begs the question of whether governance is a function of the size of the *president's* party and/or the size of the *president's* coalition.

PACL also seek to refute the notion that presidential regime collapse is correlated with legislative *fragmentation*, measured by the effective number of legislative parties (ENP). Although frequently cited, the connection between fragmentation and regime crisis has never been fully convincing because like the "largest party," ENP is context free and begs the question of the parties' allegiances. Moreover, many coalitional possibilities exist at similar levels of ENP, depending on which party is the president's and which parties are allied with the president.

For example, suppose that there are three parties with 30 percent of the seats each, and one party with 10 percent. ENP therefore equals 3.57. The smallest party is on the left, the president's party is in the middle, and the other two parties are on the right.

The president makes a deal with the party to his left, but the other two parties remain in opposition. The problem with an argument linking ENP to collapse is that it remains unclear why this particular situation is worse than one in which the president's party has 40 percent of the seats and the single other party, which refuses to deal with the president, has 60 percent of the seats. ENP here is 1.92. Perhaps these are equally problematic situations—or not—but we cannot tell by using ENP.⁹ In short, PACL's argument—like other scholars'—relies on indicators that are context free and of limited theoretical value.¹⁰

The methodological concerns expressed here call into question the conclusions in Cheibub (2002) and Cheibub and Limongi (2002) that the combination of presidentialism and multipartism is *not* more problematic than multiparty parliamentarism, because these papers rely on similar data and arguments. For example, Cheibub (2002, 3) argues that “minority presidents, minority governments, and deadlock do not affect the survival of presidential democracies,” yet his argument contradicts PACL's (2000, 134) conclusion about minority government, relies on a restricted notion of deadlock, and employs a similar argument about ENP as in PACL.

How should research proceed on these questions? Instead of using ENP or simply whether there is or is not minority government, scholars should explore the relationships between the *size of the president's party and/or coalition*, the *distribution of portfolios in the president's cabinet*, and the *extent of ideological polarization* in the legislature. The first two

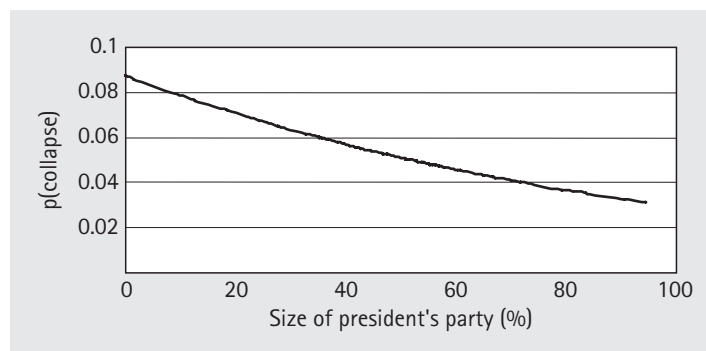


Fig. 29.1 Presidential Party Size and Regime Collapse

⁹ There are other methodological problems with PACL's analysis. One is that forty of the 102 presidential cases where $ENP > 4$ in PACL's dataset are from Switzerland. This case is misclassified; Switzerland is not presidential because it does not conform to the defining principle of presidentialism, separation of origin and survival. Parliament formally elects the Swiss executive council—that is, origin is not separate, although survival is. Reclassifying these forty cases eliminates a substantial proportion of the “stable regime” cases with high ENP.

¹⁰ One could also question PACL's coding of certain cases. For example, they code Peru's democracy as collapsing in 1989 (2000, 100). Such choices make a difference when there are only twenty-four cases of presidential collapse: Peru had 2.31 ENP in 1989, but 4.10 ENP in 1992, the year that Fujimori actually shut the legislature in his *autogolpe*. PACL's strange classification helps their hypothesis, while a correct classification of Peru as democratic in 1989 would hurt their hypothesis.

are relatively easy to operationalize, while the third will inevitably rely on expert judgements. As for the hypothesized link between presidential party size and regime collapse, Figure 29.1 plots the predicted (unconditional) probability of presidential collapse in a given year against the size of the president's party.¹¹

The correlation clearly supports the hypothesis. Presidential collapse is three times more likely at the lowest level of president support, where the probability is .09, than at the highest level of support, where the probability is .03 (at the median presidential party size the probability is .05). This finding returns research to a key argument in the literature: the size of the president's party and coalition remains critical for understanding the dynamics of governance in separation of powers systems. Research on presidential regime performance and survival should thus turn away from a focus on partisan fragmentation and focus on the potential interactive effects between presidential party size and location in policy space, the distribution of cabinet portfolios, and the extent and nature of ideological polarization within the legislature. Some combination of these variables may provide the key to understanding governance outcomes under the separation of powers.¹²

Although academics continue to debate the reasons why presidentialism tends to break down more frequently than parliamentarism, fortunately, regime "collapse" is far less frequent today than in decades past. This indicates an important change in civil-military relations and tolerance at the national and international level for *coups d'état* and for military governments. Yet the infrequency of regime collapse does not mean that regime crises remain infrequent. What causes such crises? The answer could be economic collapse, or social strain. Political institutions could also contribute. The persistence of regime crises—even if they do not result in regime collapse—forces us to take yet another look at the perennial question of the relationship between party system attributes, the separation of powers, and regime performance.

Emerging research provides new support for the hypothesis that although presidentialism is not a *necessary* ingredient for regime crisis, certain party system configurations under the separation of powers are relatively *more* likely to be associated with governance crises. Hochstetler (2005) found that from 1978 to 2004, civilian political actors mounted serious challenges to fully 42 percent of elected presidents in ten South American countries, attempting to force these leaders from office before the end of their terms. In the end, through impeachment and/or resignation, 24 percent of all presidents were actually forced from office early and, in contrast to earlier eras, were replaced by civilians instead of military leaders. Hochstetler's main purpose is to argue that street protests play a critical role in determining which presidents are forced from office. However, she also notes that a second critical factor determining both whether crises emerge and their eventual outcome is *whether the president counts on majority support in the legislature*. She found that presidents without majority support were more likely both to be challenged and to be pushed from office, as Table 29.3 shows.

¹¹ I gathered data on the size of the president's party to match the entries in PACL's dataset.

¹² See Boix 2005a for an effort to explain the relatively greater likelihood of presidential collapse as a function of the combination of institutions and politicians' rent-seeking behavior under certain economic conditions. This research builds on theoretical insights Boix developed in previous research (e.g. Boix 2003).

Table 29.3 Frequency of challenges to presidents

	Majority	Minority	Total
Not challenged	7 (77%)	17 (53%)	24 (58%)
Challenged	2 (22%)	15 (47%)	17 (42%)
Total	9	32	41
Fell (% of total)	1 (11%)	9 (28%)	10 (24%)

Hochstetler makes three important points: First, the traditional frequency of challenges to presidential authority and legitimacy continues to this day, despite the retreat of the military from involvement in politics compared to earlier eras. Second, it is not only political elites who challenge presidents—mass protests and organized social movements play a critical role. Third, there is a causal relationship between mass protest, the distribution of partisan support within the legislature, and crises of presidentialism. These findings are limited to ten countries, but their broader implications are highly suggestive. Can we generalize Hochstetler's findings to the entire world, across all political regimes? Is pure presidentialism more prone to crises in an era when militaries are in retreat from politics the world over? Is semi-presidentialism perhaps even more vulnerable? How likely are similar crises under parliamentarism?

The frequency of serious challenges to presidential authority raises an important question: are such crises all that bad? After all, if successful, presidential challenges result in a transfer of power to civilians, not to a military junta or dictator. In an important sense, the democratic political institutions are performing as they should. Perhaps such crises resemble confidence votes in parliamentary systems more than they resemble military coups, in both the process and the outcome. On the other hand, even brief political crises are often followed by civil strife or economic hardship. We are thus left with two important research questions: whether the incidence of crises (42 percent of elected presidents in these ten countries) is *high or low* relative to the incidence of crises under other democratic regimes given similar economic and social conditions; and what the *consequences* of such crises are. If crises occur more frequently under presidentialism *and* have important political, social, and/or economic consequences, then we have identified yet another “peril of presidentialism.” If the opposite is true, we have identified the mechanism by which separation of powers systems resolve deadlock situations in the absence of military willingness to enter politics.

Perhaps civil strife, strikes, deaths, or human rights violations due to suppression of political protests *do* follow presidential challenges relatively more than they follow confidence votes. Perhaps economic or social crises also follow presidential challenges and/or falls, either because the incumbent president survives but is politically weaker or because the civilian who assumes control after a president is removed from office cannot claim legitimate authority to govern. If this is true, then even with the military on the sidelines and regime “collapse” not an issue, presidentialism would remain

associated with normatively bad outcomes. The question of what constitutes a “regime crisis” and what consequences follow such crises when “regime collapse” is far less frequent should challenge scholars to take a new look at presidential governance in comparative perspective.

In this section I explored recent debates about whether presidentialism contributes to the collapse of democracy. The evidence reviewed supports the view that presidentialism is not necessarily a *direct* cause of regime collapse or regime crisis, but that it may facilitate the emergence of crises and/or collapse. Moreover, evidence continues to support the notion that presidentialism and multipartism are indeed a “difficult combination.” However, the links between presidentialism, multipartism, and governance remain underdetermined.

6. SEPARATION OF POWERS, REPRESENTATION, AND ACCOUNTABILITY

In previous sections I have reviewed research that supports a notion that the separation of powers affects the policy process and policy output, and also influences the chances for democracy to survive and flourish. These may all be true, but do voters know, and do they care? What difference does the separation of powers make for voters’ faith in government, or their ability to influence government process or output? Do we see better or worse democratic representation under different democratic regimes, or just “different”? Can voters hold governments accountable to similar degrees or in similar ways under different forms of democratic government? Of all the research areas that I touch upon in this chapter, the question of representation and accountability is the least well explored.

Shugart and Carey (1992) suggested that presidentialism has an advantage over parliamentarism because it can maximize both national and local representation and accountability at the same time. Yet little research has assessed this hypothesis. Do voters think of presidents and legislators similarly or differently in different regimes? Do different perceptions of representation across regime types impact voters’ satisfaction with democracy or with incumbent performance? To what extent does “mandate representation” (Przeworski, Stokes, and Manin 1999) differ across democratic regimes?

For example, Susan Stokes (1999, 2001) has found that minority and coalition presidents are more likely to undertake policy “U-turns” than single-party majority presidents. Complementing and building on Stokes’s findings, Johnson and Crisp (2003) found that voters’ ability to predict a president’s future policy positions is low, but that party cohesion and party ideology are strong predictors of future *legislative* party policy behavior. Stokes’s book and Johnson and Crisp’s paper are notable for their efforts to systematically test for a link between citizens’ preferences, as expressed

through elections, and policy outcomes in a wide set of presidential systems. Still, they beg the question of whether such links are stronger, weaker, or just different across democratic systems.

In this regard, I have hypothesized (Samuels 2002; Samuels and Shugart 2003) that *mandate representation will be less likely under presidentialism*, because differences in executive unilateral power and separation of purpose as well as differences in party structures in presidential and parliamentary regimes encourage both voters and politicians to behave differently, leading to different conceptions of representation as well as different outcomes. This hypothesis clearly contrasts with the notion that presidential systems are “less decisive and more resolute” as discussed above; at present these remain theoretically derived yet underspecified hypotheses. Key questions of the nature and extent of democratic representation under different constitutional settings remain largely unexplored in comparative politics.

How should research proceed on the question of potential differences in democratic representation under the separation of powers? There is no research akin to the “Manifestos Project” (Klingemann, Hofferbert, and Budge 1994) that could compare across different democratic regimes to assess the extent to which parties stick to their policy platforms or violate them under different constitutional systems. Such a project would require surmounting monstrous methodological and empirical hurdles, but the payoff might be worth the cost.

Likewise, we have yet to see an effort to extend the hypotheses proffered by Powell (2000) beyond the established democracies, which only include one pure presidential system. Powell’s book—and research agenda more broadly considered—is concerned with differences between “majoritarian” and “proportional” visions of democracy. Powell generally concludes that each vision of democracy performs well on its own terms, but that the “proportional” vision is superior in that it encourages relatively greater policy congruence between citizens and governments. I suggest that the distinction between proportional and majoritarian visions of democracies may be inadequate to compare across democratic regimes, because pure and semi-presidential systems can *combine* both visions of democracy (the same can be said of Lijphart’s similar method of comparing across democracies). An executive election is clearly “majoritarian” in nature, while legislative elections can be either proportional or majoritarian (or even combine elements of both, with multi-level electoral systems, for example). In fact, most real-world separation of powers systems do combine elements of both visions. Given this, we may need to rethink the bases upon which we judge the “performance” of democratic institutions (Samuels and Shugart 2003). (For a promising alternative, see Carroll and Shugart 2005.)

As with representation, the nature of accountability across democratic regimes also remains largely unexplored. There exists a large literature on the “clarity of responsibility” (e.g. Powell and Whitten 1993; Anderson 2000), which suggests that accountability is more likely under relatively simpler electoral and party systems. In contrast, complex systems that obscure who is responsible for government output make it more difficult for voters to identify whom to reward or punish. Research in this vein has largely focused on European parliamentary elections. For pure

presidential systems, Shugart and Carey (1992) suggested that different institutional formats can encourage or discourage electoral accountability. I attempted to empirically explore this notion in a recent paper (Samuels 2004), and found that when executive and legislative elections are not held simultaneously (a situation that cannot occur under parliamentarism), sanctioning for the state of the economy is relatively weak. In contrast, when elections are concurrent voters' capacity to reward or sanction government officials for the state of the economy increases.

Such a result qualifies Linz's (1994) critique that presidentialism's "dual democratic legitimacies" confuses voters and inhibits accountability. Despite the formal separation of powers, institutions that promote close electoral linkage between the executive and legislative branches can result in "unified democratic legitimacy." When elections are concurrent voters tend to treat the incumbent executive and his or her legislative supporters as a team, and judge them as such—regardless of whether the incumbent president is running for re-election or not. However, the electoral cycle and other institutional and party system factors can attenuate accountability, sometimes leading to a situation of relatively high "executive" accountability but relatively low "legislative" accountability for the state of the national economy.

Yet these findings left open the question of cross-regime differences in terms of electoral accountability. There are strong theoretical reasons to suppose that such differences exist. I suggest that the key difference in terms of voters' ability to hold governments accountable across democratic regimes is not the *clarity* of responsibility, but differences in the nature of *attribution* of political responsibility. Thus voters should *attribute* relatively more responsibility for outcomes to directly elected executives than to indirectly elected prime ministers. Clarity of responsibility can obscure the degree of attribution of responsibility, but if voters do not first attribute responsibility to an actor then *the complexity of the political system* is irrelevant for accountability (Samuels and Hellwig 2005).

Empirically, voters do tend to attribute relatively greater responsibility to incumbents in direct executive elections relative to parliamentary elections, as long as the election is concurrent with legislative elections (in a pure presidential system) or the election is held under unified government (in a semi-presidential system) (Samuels and Hellwig 2005).¹³ Under certain conditions, voters even attribute greater responsibility to *legislative* parties under presidentialism and semi-presidentialism than under parliamentarism (*ibid.*). In short, under many common circumstances *stronger* electoral accountability linkages may exist *in presidential and semi-presidential systems than in parliamentary systems*.¹⁴ This finding questions the criticism that presidentialism generally permits relatively less accountability than other forms of democracy (e.g. Lijphart 1999; Manin, Przeworski, and Stokes 1999).

¹³ In the former, concurrence occurs about 75% of the time. In the latter, unified government occurs in about 60% of all elections.

¹⁴ For a contrasting view, see Nishizawa 2004.

7. CONCLUSION

The constitutional separation of powers places politicians in each branch in distinctive institutional environments and endows them with particular behavioral incentives. If we believe scholarship—ancient to modern—then variation in the “degree” of separation of powers has important political consequences for governments and citizens alike. Contemporary scholars, motivated by a desire to understand what form of democracy best serves citizens’ interests, continue to add to our understanding of the impact of the separation of powers. I have explored several of the key lines of research that derive from the question “what difference does the separation of powers make?” Some of my conclusions are tentative and many of the suggestions are preliminary, but I expect scholarly creativity will discover new ways to get at these important issues.

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