Ruling by Statute[*]

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What are the main factors that allow presidents and prime ministers to enact policy through acts of government that carry the force of law? Or, simply put, when does a government actually govern? I argue that, contrary to conventional wisdom, variations in legislative passage rates are the consequences of differences in uncertainty, not partisan support. The empirical evidence supports this view: chief executives' legislative success rates depend on the predictability of legislators' voting behavior and whether buying votes is a feasible option. From a normative standpoint, an important implication of my theory is that governability is best served when the opposition has realistic chances of occasionally defeating the executive in the legislative arena.

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1. Introduction

On July 27, 2002, after almost eighteen months of debate and delay, the Republican-controlled Congress granted President George W. Bush "fast-track" authority to negotiate international trade pacts. Most Democrats railed against the bill as a nail in the coffin of the U.S. manufacturing sector. In contrast, most Republicans supported the measure and argued that it would bring economic growth and lower consumer prices. Yet, fearful that free trade would cost jobs in their districts, many Republicans broke ranks and joined the opposition. Meanwhile, Democrats from export-dependent districts were supportive of the measure. Democratic leaders, however, wished to keep most of their party voting against the bill to force Republicans from vulnerable areas to cast a "yes" vote that could be used against them in the November election.

With such powerful crosscurrents, GOP leaders were wary of forcing members to take such a controversial vote. Senior administration officials worked side by the side with majority whip, Tom DeLay, trying to round up votes. When the bill came to the floor, these efforts paid off. A handful of Republicans succumbed to these pleas, including two legislators who changed their votes after securing commitments from Bush to help their districts. DeLay also picked up the votes of five additional pro-business Democrats, who resisted pressure from their party leadership. With victory assured, Republicans in districts with strong anti-fast-track constituencies (like Robin Hayes of textile-rich North Carolina), were let off the hook by their leaders, and voted "no." At 3:30 am, the House passed the Trade Act by a razor-thin 215-to-212 vote, with 190 Republicans and 25 Democrats making up the majority.

President Bush was not so fortunate a few years later. On September 29, 2008, markets collapsed when the U.S. House of Representatives rejected his administration's $700 billion economic rescue plan. The bill authorized the U.S. Treasury to purchase mortgage-related assets from U.S. financial firms. The Treasury Secretary, Henry M. Paulson Jr., believed that the federal government's infusion of capital was essential to stabilize the economy. Still, the public expressed much concern over the proposal. Some believed it rewarded wealthy Wall Street risk-takers while ignoring the economic plight of ordinary citizens. Others rejected the idea of a large, taxpayer-funded intervention into the free market. As a result, in the weeks leading to the vote, legislators were flooded with messages from angry constituents opposing the bill (Huse and Herszenhorn 2008). But, on the day the House would consider the bill, few foresaw the possibility of defeat. Twenty-four hours earlier, House Speaker Nancy Pelosi and Minority Whip Roy Blunt joined Paulson in hailing the merits of the bill. Democrats promised to deliver between 125 to 140 votes; thus, the votes of approximately 80 to 100 Republicans were needed to pass the bill. Less than an hour before the voting began, White House spokesman Tony Fratto predicted that the votes would be there (Lueck et. al. 2008, Kane and Montgomery 2008).

As lawmakers began to vote at 1:28pm, the Dow Jones Industrial Average had already dropped by more than 150 points below 11,000. A few minutes later, leaders of both parties realized they were behind. In the span of one minute the Dow lost another 100 points, extending its loss to 414 points. The voting clock was kept open, as House leaders tried to cajole members into switching their ballots. At their high-water mark, just before 2:00pm, House leaders had 207 "aye" votes to 226 "nays." Only ten voteswitchers were needed to pass the bill. At 2:06pm, however, lawmakers ran out of time, and no additional votes could be found. A few legislators switched their votes to no, making the final vote 228-205. At the end of the trading day, the Dow closed down by 778 points. The bill's rejection wiped out $1.2 trillion in stock market wealth – eclipsing the size of the proposed bailout package (Lueck et. al. 2008, Kane and Montgomery 2008; Lynch 2008).

The two examples illustrate several general features of statutory lawmaking: how the executive and cross-pressured legislators interact with each other; how uncertainty affects the possibility of success or failure; and how legislators' vote intentions may change in response to incentives. These examples also focus on executive-sponsored legislation and highlight an intriguing puzzle. In most contemporary democracies chief executives play a dominant role in the lawmaking process. They sponsor a significant proportion of bills, and in some countries they even have the monopoly to introduce legislation on important issues. Given their proposal powers, chief executives should seldom be defeated. If a government knows that a bill will not have enough support, it can just refrain from sending it to the legislature and save face. In practice, however, chief executives experience numerous legislative defeats.

This paper discusses the factors that allow chief executives to enact policy through acts of government that carry the force of law. It examines the role and influence of the executive and the legislative branches in creating law by winning legislative majorities. I argue that variations in legislative passage rates are the consequences of differences in uncertainty, not partisan support. In particular, I identify two major factors that shape lawmaking: the unpredictability of legislators' voting behavior, and the availability of resources to engage in vote buying. As such, the paper not only provides an explanation of the variation in chief executives' legislative performance, but also expands our understanding of interbranch bargaining, agenda control under uncertainty, and party discipline in legislatures.

In the next section, I discuss the two main ideas of this paper: (1) the notion that differences in uncertainty drive the variations in chief executives' ability to enact policy changes through statute law; and (2) the view that in the presence of vote buying, winning coalitions will not be oversized (they will be either strictly minimal, or they will include a majority of legislators plus one). I contrast these ideas with conventional views on statutory policy making and vote buying in section 3. In section 4, I draw upon my own research on how uncertainty and vote buying shape lawmaking in support of the main argument presented in this paper. Finally, in section 5, I discuss some unanswered issues and challenges, as well as provide some suggestions for future research.

2. Ruling by Statute

Chief executives can create policy in a variety of ways. For example, they can act without the explicit consent of the legislative branch, and "legislate" on their own through executive orders, decrees and regulatory ordinances. Yet, the use of executive prerogatives as a source of law has important limitations. Decrees, for example, are usually seen as an exceptional policy-making instrument, and thus are particularly sensitive to judicial review. And, in some countries they can be overturned by legislature. In contrast, the legislative approval of statutes often allows chief executives to better insulate their policy choices from legal review (Remington et al. 1998; Amorim Neto 2006). Statutory implementation of policy, though, is often complex, as it depends on the interactions between the executive and the legislature Hence, it is in the realm of lawmaking that we should examine the various combinations of institutional and partisan considerations that determine whether or not legislators will support a chief executive's legislative agenda.

Most scholars point out that the powers that the executive derives from partisan support in the legislature can be as important as those derived from authority constitutionally vested in the office. And, numerous studies have noted that party systems influence the workability of executive-legislative relations. Conflicting arguments and findings about the effect of inter-branch bargaining on the policy making process, however, leave open the questions of why and when chief executives are able to successfully enact policy changes through statutes.

The conventional wisdom states that chief executives' legislative passage rates depend on their degree of partisan support. According to this view, if a chief executive's party holds a majority of seats in the legislature, and if all of its members favor her proposal over the existing policy, then she can confidently anticipate a legislative victory. Conversely, if the chief executive's party is in the minority, then the partisan distribution of seats would have an opposite effect on her legislative passage rates. The implicit assumption is that a shared partisan affiliation automatically translates into legislative support. What would happen, though, if partisan identities do not necessarily reflect legislators' policy positions?

The consequences of uncertainty. Legislative defeats are typically associated with situations where chief executives cannot fully predict legislators' voting behavior. The source of the uncertainty is the existence of cross-pressured legislators. Lawmakers either belong to the governing party/coalition or the opposition, and this is common knowledge. Legislators, however, are also responsive to their respective supporters. Even if chief executives can observe the partisan distribution of the legislature, they may still be unable to identify the policy preferences of legislators' supporters. Given their prior beliefs about the latter distribution, chief executives may send a proposal to the legislature. Yet, as the bailout vote example demonstrates, chief executives may lose such legislative gambit by miscalculating their support. A government may, of course, try to handle the effects of cross-voting with "deep pockets" or "big sticks." But, if the total cost of securing these votes exceeds the value of policy change, the government may be better off by conceding defeat.

The emphasis on the unpredictability of legislators' behavior elucidates the empirical puzzle posed by chief executives' legislative defeats. It also leads to some clear empirical implications regarding the relationship between legislators' induced preferences and statutory policy-making. The existence of a winning voting coalition depends on the distribution of the policy preferences of legislators' constituencies. If a legislator's partisan identity accurately predicts her constituency's ideal policies, then a chief executive may be able to calculate more accurately how she will cast her votes. In contrast, if partisanship is weakly correlated with constituency interests, chief executives are more likely to make mistakes. Thus, a systematic relationship exists between a set of factors that generate more unpredictability and the passage rates of executive-initiated legislation. For example, the extent to which legislators represent a "national" rather than a "local" constituency is an important institutional factor that affects the correlation between partisan's and districts' ideal policies.

Buying legislative votes. The Republican party's success at mustering enough votes to secure the passage of the "fast-track" bill illustrates the government's ability to incentivize legislators to adopt the chief executive's preferred policy outcome. These incentives are ubiquitous in legislative policy-making, and common terms, such as "horse trading" or "deal making" reflect the phenomenon of vote buying. As mentioned above, governments may resort to their "pocketbook" in order to handle the effects of cross-voting. However, chief executives would only offer compensation if the resulting outcome would make them better off than being defeated at a sufficiently low cost. If the executive could offer rewards under the condition that legislators be decisive, this cost would be negligible (by promising to reward at least one more voter than he/she needs to win, all legislators become non-decisive, and no payments need to be made). Yet, in deciding how to vote, legislators usually have to balance their own ideal policy, the executive's wishes, and the pressures from specific constituencies. Legislators' responsiveness to their constituencies makes it impossible to use a compensation scheme that is contingent on the collective legislative outcome. On the other hand, since enacting legislation implies winning a majority of votes, the chief executive should often be interested only in corralling just enough votes to win. As the "fast-track" example highlights, whenever their votes are non-decisive, some legislators will be free to vote with their constituencies.

Indeed, vote-buying opportunities depend on the properties of statutes, and the way in which they are produced. Legislation possesses the characteristics of a public good. If a new tax rate is introduced, it will please those legislators who favor it and will displease those who do not. But, as Barry (1980) notes, the gains are not confined to those who voted on the winning side nor are the losses confined to those who were on the losing side. The exception, of course, are legislators who can unilaterally change the outcome (i.e. when a vote is tied or is within one vote of a tie). Hence, whenever additional votes are needed, a strategic chief executive may only need to buy enough votes to ensure that all (none) of the cross-pressured legislators who like (dislike) her proposal find themselves in a position to unilaterally change the outcome. As such, vote buying may not result in super-majority coalitions.

3. Conventional Wisdom

Scholars of comparative politics have traditionally argued that chief executives, both under presidentialism and parliamentarism, require adequate partisan support in the legislature to govern as well as to survive in office. In addition, arrangements determining the distribution of power among the branches of government are usually regarded as structural factors that shape the policy-makers' incentives, and in turn, affect statutory policy making. George Tsebelis' work on veto players is a case in point. It spawned a plethora of studies on the capacity of different political systems to produce policy change (Tsebelis 1995; 2002).

Most of these studies, however, fail to explain why and when chief executives are unable to successfully enact policy changes through statutes. In the case of parliamentary regimes, the theoretical literature often assumes that once a government is formed, it will always be able to implement its preferred policies. In the case of presidentialism, most models are extensions of the theory of voting in legislatures and focus mostly on ways in which presidents can successfully pass their policy proposals. In particular, they assume that a chief executive will likely only send a bill to the legislature if the median legislator prefers a policy change to the status quo. Otherwise, assuming that suffering a legislative defeat will entail a political cost for the chief executive, she may be better off by not sending any legislation to the legislature at all. Following this logic, many scholars have developed models of statutory policy-making where proposers are never defeated (Shepsle and Weingast 1987, Alesina and Rosenthal 1995, Groseclose and Snyder 1996, Heller 2001). For example, Shepsle (2010) offers no explanation as to why a proposer would send a bill that will be defeated, other than a proposer's own sheer stupidity.[1]

Some scholars argue that chief executives may sometimes choose to be defeated in order to send a particular signal to the general public (Matthews 1989; Ingberman and Yao 1991; Groseclose and McCarty 2001). According to this view, a chief executive may occasionally adopt a strategy of "triangulation", positioning herself between her own party and the opposition forces in the legislature to build popularity. If there are opposition forces in the legislature that need to be exposed in front of the general public,

[1] As he notes, if a committee and a legislature's floor want to move policy in opposite directions, the committee will refuse to open the gates. But, "... if they did stupidly open the gates, then any proposal they made to improve their lot would be voted down..." (Shepsle, 2010: 389).

then this strategy may be palatable for a chief executive. Yet, if the public views the legislature as a natural extension of the chief executive's authority, it may not be a good idea for her to force defeats too frequently.

3.1 The Role of Information

The main problem with the aforementioned accounts is the well-known "Hicks paradox," which holds that bargaining failures like strikes, wars, vetoes, or legislative defeats are irrational in a setting of complete and perfect information (Kennan 1986; Gartzke 1999; Cameron 2000). If a chief executive has complete information, then for every possible bill, she could be able to strategically tailor her legislative agenda to her degree legislative support. And, per the law of anticipated reactions, legislative passage rates should always be 100 percent.

Expectations would change if one believes that legislators' preferred policies cannot be fully predicted in advance. Suppose that a chief executives has to propose to a legislature composed of legislators who belong to political parties, but who must to respond to various pressures. In particular, assume that in deciding how to vote, legislators consider a variety of influences, including their personal values, announced positions, the views of their constituents, and the preferences of their party leadership. If these pressures are not aligned, then legislators are cross-pressured (Fiorina 1974; Fenno 1978; King and Zeckhauser 2003).[2]

[2] Cameron (2000) relies on incomplete information to explain the existence of bargaining failures across the branches of government in the United States. Diermeier and Vlaicu

The fact that legislators account for different sets of interests when deciding how to vote is well documented in the literature (Covington 1988; Kalt and Zupan 1990; Jackson and Kingdon 1992; Levitt 1996; Londregan 2000). Most of the theoretical models mentioned above, however, do not incorporate these constraints in legislators' voting decisions.[3] An exception is Denzau et. al. (1985); they examine the idea that principals (supporters) not only induce preferences in agents (legislators) but also constrain their mode of behavior. As they note, lawmakers vote in the legislature, but they secure support, resources, and electoral rewards outside the legislative arena. Thus, legislators are judged not only by the collective choices made by themselves and their colleagues, but also by their own individual actions (Fiorina and Noll 1978; Denzau et. al. 1985; Rasmusen and Ramseyer 1994; Groseclose and Milyo 2010).

(2011) model the legislative process as a multi-period bargaining game under uncertainty to rationalize the fact that legislative success rates of chief executives are lower in presidential than in parliamentary democracies. They argue that bills proposed to the legislature are more likely to be accepted when legislators expect that failing to do so would lead to government'collapse. However, unlike Cameron (2000) and Diermeier and Vlaicu (2011) who do not identify the source of the uncertainty about legislators' preferences, I explicitly assert that incomplete information originates in the existence of cross-pressured legislators.

[3] For example in Groseclose and Snyder's (1996) model, legislators are primarily concerned with the position-taking aspect of their voting decisions, not with policy outcomes. This seems to be a particularly unrealistic assumption. As Barry cleverly points out, "a committee made up entirely of people who had no interest in pursuing some particular outcome but were fascinated by the process as such would be as frustrating as a brothel all of whose customers were voyeurs" (1980: 184).

From the chief executive's perspective, the fact that a group of legislators may face conflicting influences, implies that, in order to behave strategically, she needs to assess how these legislators would cast their votes. Legislators are usually elected as members of organized parties, and their partisan affiliations are public information. In addition, a legislator's membership in a given political party/legislative bloc is often stable over time.[4] In other words, a legislator's partisan affiliation does not vary across issues; and certainly not in conjunction with a bill's content. In contrast, whether a legislator's principal likes a given piece of legislation will depend on the specific content of the bill. Therefore, although the partisan composition of the legislature is a priori observable, legislators' induced preferences are not. Here, then, lies the main difficulty that even the most strategic chief executives must confront.

3.2 Empirical Assessment

How can one evaluate chief executive's statutory performance? Or, to borrow from Huntington (1968: 1), when does a government really govern? An understanding of the differential abilities of chief executive's to create statute law is hampered by the theoretical limitations described above. It also hindered by the lack of truly cross-national research on this topic.

While the study of presidential legislative success in the United States has a long and fruitful tradition, these analyses seldom provide systematic comparisons with other countries. Likewise, most comparative research on this topic relies on either case studies

[4] Even in those countries where party switching is frequent, legislators publicly announce their decisions to defect/join a party, and they often do not make these decisions in between terms (Desposato 2006).

of particular acts of government or from country studies. The studies in Döring (1995) likely constitute the clearest effort to carry out a comparative study of lawmaking. But, as Gamm and Huber (2003) point out, most of the analyses were motivated by theoretical frameworks developed to examine the U.S. Congress. A few studies examine statutory policy making applying a more general theoretical approach. Yet, they rely almost overwhelmingly on data published by the Inter-Parliamentary Union in 1986 (see, Tsebelis 1995). Such data are at most outdated or even inappropriate to study governments' legislative passage rates under different conditions.

Another substantial impediment to conducting research on statutory policy making at the cross-national level is the lack of a clear definition of legislative success. Students of executive-legislative relations use several measures and various units of analysis. In fact, passage, success, productivity, support, concurrence, dominance, control, and influence all appear in the scholarly literature (Edwards 1980, 1989; Shull 1983; Bond and Fleisher 1990; Peterson 1990) and sometimes are used interchangeably.

A commonly used indicator is legislative output. This measure, however, is not necessarily the inverse of gridlock. Therefore, it is not a good indicator of a chief executive's capacity to pass her agenda. Another measure that is frequently used calculates the percentage of all bills approved by the legislature that are of executive origin. This indicator speaks to the question of who initiates laws. It does not reveal, however, anything regarding the ability of a chief executive to win approval for her legislative initiatives. Other measures are constructed using legislative roll call votes. The party roll rate is a case in point. This indicator typically seeks to reflect the government's control of the agenda; but it does not count the failure to pass a bill that the government likes as a roll (Cox and McCubbins 2005).

It is safe to assume that in most, if not all cases, chief executives are not only concerned with whether their initiatives are considered by the legislature, voted upon, or almost pass, but also if the proposed legislation is enacted into law. Moreover, statutes are the definite measure of legislative output, whereas votes and positions on issues are merely means to an end of an uncertain consequence. Therefore, if the primary aim is to investigate how successful chief executives are in promoting their policy agendas in the legislature, it is most appropriate to use a box score. This indicator is calculated as the percentage of executive initiatives approved by the legislature. It is analogous to a batting average (i.e. number of hits as a proportion of times at bat). As such, it summarizes a chief executive's record of wins and losses (Bond et. al. 1996). Despite some of its limitations, the box score is a tangible indicator that makes it possible to compare different chief executives and to assess their relative performance under varying circumstances. Indeed, as Rivers and Rose (1995) and King and Ragsale (1988) note, this is an ideal measure from a conceptual standpoint.[5]

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[5] The main empirical problem that led scholars in the United States to criticize this indicator pertains to the ambiguity in identifying actual legislative proposals by the president. This is often referred to as the "denominator" problem (Binder 1999). Put simply, since there are several ways to define how many times the president went to bat, one may end up calculating several different presidential box scores. Note that this criticism is only germane to the United States because the president's legislative program has no constitutional or statutory basis. But, chief executives in other countries formally introduce a significant proportion of bills, and may even have the monopoly of legislative initiative on important issues (Aleman and Tsebelis 2005, Payne et. al 2002).

Figure 1 presents the distribution of box scores in a sample of 52 countries in Western/Eastern Europe, North and Latin America, Asia, and the Middle East for the period between 1946 and 2008.6 Two important trends are worth mentioning. First, the approval rates of executive-initiated bills varies considerably across countries and through time within countries. Second, on average, three fourths of chief executives' initiatives are approved.

< Figure 1 Here >

This simple example underscores the importance of a theory of statutory policy making. The empirical patterns indicate that government legislative defeats, such Bush's economic rescue plan, are hardly extraordinary events. They also present a direct challenge to the conventional wisdom: legislative passage rates are seldom one hundred percent. Hence, any reasonable theory of statutory policy needs to account for the variation in chief executives' passage rates reflected in Figure 1.

3.3 Normative Implications

The question of how to improve governability while simultaneously protecting government responsiveness or accountability is one of the critical challenges inherent in assessing the quality of democracy. Understanding the conditions under which chief executives will succeed or fail in the legislative arena, where constituency interests are

[6] See Saiegh (2011) for more information about the composition of the sample, and the sources from which the data were obtained.

often represented, is of outmost importance. Nonetheless, although the concern with governability has been central for both political scientists and policy-makers, it is remarkable that much remains unknown regarding the relationship between executive-legislative conflict, stalemate, and political instability.

For example, in the mid-1990s, the discussion of governability was cast in terms of veto players, legislative deadlock, and democratic stability. A number of studies claimed that extreme executive-legislative conflict inevitably leads to government deadlock, with such state of affairs being dangerous for democracy. Tsebelis (1995) argues that "... in regimes where government change is impossible (except for fixed intervals like in presidential regimes), policy immobilism may lead to the replacement of the leadership through extra-constitutional means ..." (p. 321).

Most of this literature, however, is primarily inferential. It does not offer much evidence of governmental performance, and the term is vaguely defined via constitutive referents, such as stability or viability. Thus, the bulk of the research infers performance from probable causes, like constitutional structures and political fragmentation. But, as Di Palma (1977) notes, performance is closely related with the execution and accomplishment of an intended task. It refers to "... what is rendered, given back, returned, yielded, in short, to outputs ..." (p. 7). Rules represent one of the most significant outputs of a political system; therefore, rule-making epitomizes political performance. Therefore, by linking the notion of governability to chief executives' ability to enact policy changes, it should be possible to examine whether chief executives unable to accommodate change are threatened.

Recent research in comparative politics has demonstrated that executive-legislative confrontation is not a necessary condition for political instability (Pérez-Liñan 2007). Instead, the ability of the opposition to remove a chief executive from office ultimately hinges on the degree of popular mobilization against the government. It should be noted, though, that social conflict, turmoil and even violence can be the product of the government's incapacity to solve urgent societal problems. These phenomena, however, can also be the result of unpopular policies. Therefore, governments often face a number of dilemmas and trade-offs. These dilemmas can be evaluated both from an empirical and a normative standpoint. Empirically, it should be possible to uncover the relationship between chief executives' legislative passage rates and social upheaval. From an normative standpoint, it would be important to establish if, in terms of governability, some intermediate degree of control of the executive by the legislature (i.e. accountability) is optimal.

4. Statutory Policymaking

In Saiegh (2011), I document the pattern of chief executives' statutory achievements around the world. I also analyze the different strategies that chief executives employ to induce cross-pressured legislators to adopt their preferred policy outcomes. Finally, I examine how governmental performance (i.e. a chief executive's ability to enact policy changes through statutes) influences governability in developing countries.

4.1 Patterns of Statutory Policymaking

What are the main factors that allow chief executives to rule by statute? What combination of institutional and partisan considerations determines whether or not legislators will support their agenda? Do chief executives in minority governments have lower box scores than those under majority governments? Does the coalition status of the government affect these scores? The distribution of chief executive's box scores presented in Figure 2 can address these questions.[7]

< Figure 2 Here >

Prime ministers who lead single-party majority governments enjoy the highest average legislative passage rates (88 percent), followed by those who rule under minority coalitions (84 percent). Prime ministers who rule under a majority coalition are the least effective ones (with an average box score of 76 percent), followed by those leading single-party minority governments (with an average box score of 82 percent). Still, as the data indicate, even under parliamentarism, single majority governments do suffer legislative defeats (including Westminster-type governments). In the case of presidentialism, single-party minority governments exhibit higher passage rates (an average of 70 percent) than do coalition majority (66 percent) and coalition minority (62 percent) administrations. As Cheibub et. al. (2004) note, government coalitions tend to form when the policy distance between a minority party in government and the rest of the parties in the legislature is large. Therefore coalition governments are typically quite heterogeneous and have more players who could potentially veto a change.

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[7] I use a boxplot to display the distribution of chief executives' box scores. Each box extends from approximately the first to third quartiles. Observations more than the 1.5 interquartile range beyond the first or third quartile are plotted individually.

Notice also that single-party minority presidents do not fare much worse than coalition governments. On average, 62 percent of single-party minority presidents' bills are approved by the legislature. Hence, it is clear that legislative paralysis is a relatively rare phenomenon, even under presidentialism. Moreover, it is apparent from these data that Prime Ministers posses higher legislative passage rates than presidents: the percentage of government bills approved in the legislature is higher under parliamentarism than under presidentialism, regardless of government coalition or majority status.

4.2 Incentivizing Legislators

Governments may need to incentivize legislators to support their policies. In many cases, votes are traded in exchange for favors, sinecures or political rewards. In particular, in countries with institutionalized party systems, party leaders can use the carrot of advancement and the stick of non-advancement to impose a certain degree of organizational loyalty on their membership. In contrast, in countries with inchoate party systems, governments may have difficulty in controlling individual legislators through a party machine. In these contexts, monetary payments may be the currency of choice. To examine legislative vote buying involving outright bribery, I focus on England during the period before the accession of George III and the aftermath of the American Revolutionary War (1754-1783), and Peru under Alberto Fujimori (1990-2000). In these two historical cases, detailed records of the monetary payments made to members of the legislature in exchange for their support exist.

An important implication of the theory of statutory policymaking sketched above (and advanced in my book) is the notion that vote buying should not be associated with super-majority coalitions. The empirical evidence reveals that the amount paid in bribes by the British and Peruvian governments were not excessively large. Moreover, these two cases also validate the idea that when governments engage in vote buying, winning coalitions will not be oversized. In the case of eighteen-century England, most divisions were decided by razor-thin majorities, indicating that the votes of the MPs who were in receipt of secret service pensions alone could have not mustered enough support for government proposals. The evidence thus suggests that both the Newcastle and North administrations benefited from "bandwagon" effects in legislative voting. The pattern of bribes in Peru under Fujimori provide additional support to the notion that a strategic chief executive should only buy enough votes to ensure that none of the cross-pressured legislators who dislike his proposals would be in a position to unilaterally change the outcome.

In contrast to England under George III and Peru under Fujimori, in countries with strong partisan organizations, chief executives can use partisan resources rather than outright bribery to obtain legislative support. Specifically, party leaders can exert influence on legislators' behaviors by two avenues: (1) the prospect of nomination; and (2) ideological screening (Londregan 2002). To understand how partisan resources can work as a substitute for outright bribery, I focus on candidate selection and ideological cohesion, seeking to understand the manner in which party leaders use the carrot of advancement and the stick of non-advancement to impose a certain degree of "party unity" on their legislators (Carey and Shugart 1995, Mainwaring 1998, Morgenstern 2004).

Figure 3 demonstrates how party leaders can use their control over ballot access to reward voting loyalty and punish legislative dissent. The findings suggest that the impact of ballot access on chief executives' box scores is negligible under parliamentarism when the government is in the minority. The passage rates of majority governments under parliamentarism, however, are considerably higher when individual candidates have restricted access to party labels. On average, prime ministers who are backed by a parliamentary majority under unrestricted ballot access rules, tend to obtain passage for 75 percent of their bills. In contrast, when parties possess control over candidates' access to the ballot, the average box score of a majoritarian prime minister increases to 82 percent. This difference is not only statistically significant, but also substantively important. The average legislative passage rate for presidents is 65 percent. Therefore, even if they are ruled by majority governments, parliamentary democracies resemble presidential ones when parties lack control over candidates' access to the ballot.

< Figure 3 Here >

Turning to presidentialism, the impact of ballot access is more pronounced when the president is in the minority. In this case, though, chief executives appear to enjoy higher passage rates when candidates have unrestricted access to the ballot. The average box score for minority presidents with unrestricted ballot access is 78 percent, compared to only 50 percent when party-centered electoral rules exist. Thus, minority presidents seem to have less difficulty in mustering additional support for their initiatives when partisan control over ballot access is weak. When partisan control is high, in contrast, minority presidents are substantially hindered. Finally, under the scenario of the government controlling a majority of seats, ballot access produces an insignificant effect on presidents' legislative passage rates. The results also indicate that minority presidents face greater difficulty in obtaining support for their legislative initiatives when partisan control over ballot access is restrictive. An important implication of these findings is that "strong" political parties are a hardly the sine qua non of successful governance. Instead, strong parties are like a double-edge sword: they can be helpful in passing legislation when the government is in the majority, but not when the government is in the minority. Hence, a common assertion in the literature stating that new democracies, particularly new presidential democracies, need strong political parties to improve their performance seems to be unwarranted.

4.3 The Political Gap Revisited

More than forty years have passed since the late Samuel P. Huntington argued that Great Britain, the United States, and the Soviet Union belonged to the same category of political systems. According to his landmark expression, in "...all three systems the government governs..." (Huntington 1968: 1). What he meant was that in these countries, the Cabinet, the President or the Politburo could successfully enact policy changes. To establish how policy immobilism and governability are related, it would be ideal to know if regime stability is threatened when governments are unable to successfully enact policy changes. Unfortunately, endogeneity problems and the lack of appropriate data pose significant barriers to answering this question directly.

Nonetheless, this issue can be indirectly addressed, by examining the relationship between chief executives' legislative passage rates and social/political unrest. Social conflict can be the result of extraordinary problems. Yet, it can also be the product of a government's inability to address such challenges. External or domestic threats may require immediate action by the authorities, and failure to do so may lead to social and political chaos. Similarly, engaging in partisan squabbling during times of economic crisis could generate social and political unrest. Therefore, a poor performance by the incumbent administration during critical times can incite popular discontent. In practical terms, there should be a correlation between chief executives passage rates, and observable manifestations of social unrest – such as protests, demonstrations, riots, strikes, road blockages, and so on. In particular, chief executives with higher passage rates should be less likely to face popular protests than chief executives unable to accommodate change.

Political upheaval may also be the product of unpopular policies. As Przeworski notes, majority rule generates winners and losers, and authorizes the winners to impose their will on the losers, even if within constraints (Przeworski 2010). The losers may try to persuade the government to modify its views; or they may be able to exercise their institutional prerogatives to block some legislation. Suppose, however, that the government is certain that its preferences will triumph in the policy-making process. Then, the political losers might graciously accept their short-term destiny and hope to do better in the future, or they may turn to violence out of desperation. Should the losers engage in the latter, the government can decide to persevere and repress the protests, wait for the protests to subside while tolerating a breakdown of order, or accommodate the demands of its opponents. So, if governments are too powerful within the institutional framework, they may achieve the paradoxical effect of undermining political stability (Przeworski 2010, Machado et. al. 2011).

A non-linear relationship should thus be observed between a chief executive's legislative passage rate and social unrest. Specifically, chief executives' statutory performance should incite popular discontent when: (1) passage rates are extremely low (i.e. stalemate); (2) passage rates are extremely high (i.e. lack of accommodation of opposition's demands). In contrast, social turmoil should decrease when chief executives passage rates are at moderate levels. The solid line in Figure 4 presents the predicted number of violent demonstrations as a function of chief executives' box scores, while the shaded areas denote the 95 percent confidence intervals around these estimates.[8]

< Figure 4 Here >

Chief executives' legislative passage rates and levels of social unrest exhibit a non-linear relationship. The predicted number of violent demonstrations first diminishes and then

[8] I model the relationship between chief executive's legislative passage rates and social unrest by fitting a second-order polynomial on the data. I use the box score measure and data on social upheaval collected by Banks (1996). The main variable of interest, Riots, measures the number of violent demonstrations or clashes of more than 100 citizens that involve the use of physical force. I restrict my attention to democratic countries with a per capita income below $6055 (measured in 1985 purchasing power parity dollars).

increases in statutory performance. Since observations of extremely ineffective governments (i.e. legislative paralysis) are few, the standard errors are large. The relationship between passage rates and social upheaval, however, is pronounced when the opposition poses little chance of blocking the executive's proposals. Countries governed by chief executives whose legislative passage rates are above 85 percent are statistically more likely to experience a larger number of riots than those ruled by chief executives with lower passage rates.

The evidence thus suggests that polities are more stable when the chief executive passes some of its agenda through the legislature. But, at the same time, the opposition must have a reasonable chance of defeating some government proposals. As such, these results lend support to Ralph Dahrendorf's views on governability: "... A free society does not need a strong government. It may indeed fare better if government is fairly inactive and quiet. But a free society needs an unworried government, and that means one which is effective where necessary and legitimate throughout ..." (Dahrendorf 1980, pages 409-410).

5. Conclusions

The study of lawmaking can be viewed from both positive and normative perspectives. The conventional positive view deems both agenda-setting powers and partisan support as essential to chief executives' statutory policy making abilities. The conventional normative view is that chief executives unable to accommodate change through statutory policy making are at risk. As a positive matter, constitutional arrangements and partisan configurations certainly influence statutory policy making. These features, however, are not the key to understanding why governments suffer legislative defeats. The fact that the agenda-setter model predicts that proposers should never be defeated underscores the importance of uncertainty. And, as this paper demonstrates it is very important to take into account the subsidiary role of "vote buying" and of partisan sticks and carrots. From a normative standpoint, the evidence suggests that a strong government is hardly a pre-condition for political stability. Instead, societies fare better when the government is proactive only when necessary, thereby providing a sense of legitimacy.

5.1 Directions for Future Research

The theory of statutory policymaking that I present in this paper emphasizes the plight of chief executives who have to face unpredictable legislators. Central to the analysis is the idea that in deciding how to cast a vote, legislators take into account a variety of influences, including their personal values, the preferences of their party leadership and the views of their supporters. This view guided my choices. And, while I think this is an appropriate way to represent how legislators make their voting decisions, it is possible that my assumptions do not capture some complexities of legislative behavior. For example, an alternative characterization of the legislative process would be one in which (i) executive-initiated bills have a quality dimension (such as their technical merit, or their appropriateness for a given situation); and (ii) legislators have access to different pieces of information about the quality of these proposals (cf. Austen-Smith and Banks 1996; Feddersen and Pesendorfer 1997). Adding common values and decentralized information to the analysis implies that legislators could potentially use the information from the voting decisions of other legislators to shape their own decision of how to vote (Piketty 2000; Dekel and Piccione 2000; Razin 2003; Iaryczower 2011). This departure from the standard sincere-voting spatial model may have important consequences for the study of lawmaking. Nonetheless, it would also require a novel approach to the empirical analysis of legislators' voting decisions (i.e. roll call data). To date, with the exception of a few efforts (for example, Battaglini et. al. 2007; Iaryczower 2011; Iaryczower, Katz and Saiegh 2011) little research in political science addresses these issues. Additional research on this subject matter would be most welcomed.

Regarding my empirical findings, my tests are more systematic in Latin America than in other parts of the world. These choices primarily reflect my research interests. However, because most countries in Latin America are presidential regimes, an individual-level analysis of legislators' policy preferences and the dynamics of parliamentarism were not fully explored. Expanding some of the analyses presented in this paper to areas of the world other than Latin America is thus another very promising area of research.

Figures

Figure 1. Distribution of chief executives' box scores

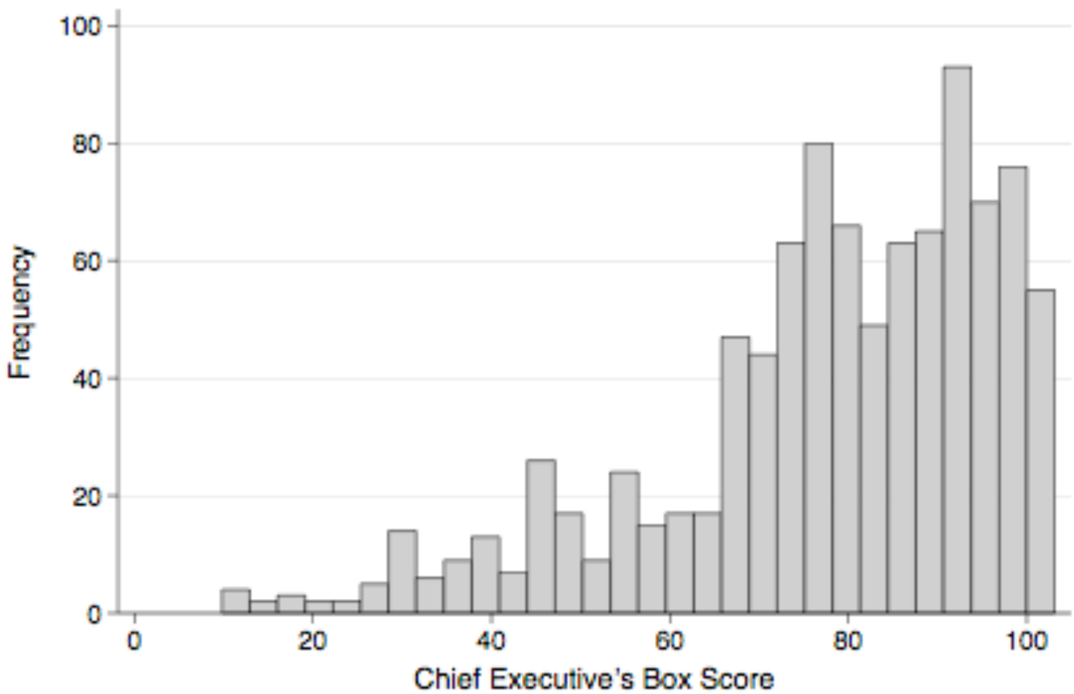
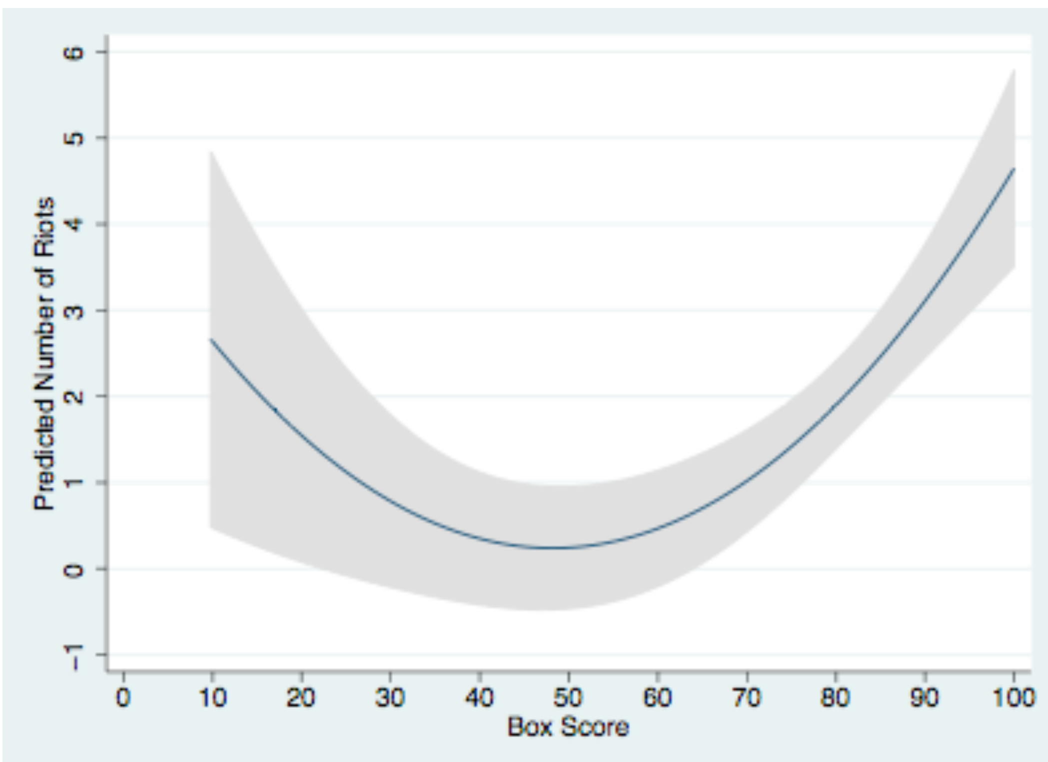


Figure 2. Box scores by government status

Figure 3. Majority status and passage rate.

Figure 4. Riots and passage rates.



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