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Source: *Comparative Politics*, Vol. 33, No. 2 (Jan., 2001), pp. 171-189

Published by: [Ph.D. Program in Political Science of the City University of New York](#)

Stable URL: <http://www.jstor.org/stable/422377>

Accessed: 23/06/2013 15:32

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# Latin America's Reactive Assemblies and Proactive Presidents

*Gary W. Cox and Scott Morgenstern*

Democratic assemblies insert themselves into the policymaking process in one or more of three basic ways: originative, by making and breaking executives, who then shoulder most of the policymaking burden; proactive, by initiating and passing their own legislative proposals; and reactive, by amending and/or vetoing executive proposals. European parliaments are the primary examples of originative/reactive assemblies. The U.S. congress and the assemblies of the U.S. states are the primary examples of proactive/reactive assemblies. In Latin America, legislatures typically can not remove presidents they dislike and lack the resources to fashion their own legislative proposals. Thus, they are neither originative nor proactive; they are merely reactive.

That Latin American legislatures are only reactive does not mean that they are dysfunctional. While Latin American presidents at times dominate the political process, at other times they make policy concessions as a part of their overall strategy to get their way. Even if one continues to view the president as the central actor in the civilian political universe, his anticipation of a (possible) legislative veto should in theory condition most of his actions. The optimal strategy for even the most autocratically minded president is not to pretend the legislature does not exist and propose whatever policies he likes, then react spasmodically when the legislature refuses its assent. Rather, the "cheapest" strategy will often be to cobble together as many legislative votes as possible purely on the merits, conserving other assets (such as pork and patronage) for securing any necessary marginal votes.



Our goal is to explain theoretically within a rational choice framework how Latin American legislatures operate when they are in the policy-bargaining mode, as opposed to the supine, venal, or horrified-onlooker modes. First, the venerable rule of anticipated reactions makes even primarily reactive institutions, such as Latin American legislatures, relevant. Second, to the extent that Latin American presidents are continually anticipating legislative reactions, their strategies will vary depending on the type of legislature they face. Third, the ordinary (noncrisis) policymaking process in Latin America is a distinctive form of a bilateral veto game, which in many ways exhibits features intermediate between those characteristic of U.S. presidentialism and European parliamentarism. In developing these

themes, we draw most often on the experience of four important Latin American countries: Argentina, Brazil, Chile, and Mexico.

### **Anticipated Reactions and the Influence of Latin American Legislatures**

Carl Friedrich's law of anticipated reactions expresses the simple idea that if X's actions will be subject to review by Y, with Y capable of rewarding good actions and/or punishing bad ones, then X will likely anticipate and consider what Y wants.<sup>1</sup> In the end, X may not accommodate Y's desires, depending on how large Y's potential rewards and punishments are relative to other considerations in X's decision. But Y will at least be considered.

A straightforward application of this idea suggests that an important role in the legislative process does not always require proactive powers—the ability to initiate legislation and set the agenda. It should also stem from the ability to shape or kill executive proposals. These reactive powers, which seem to characterize Latin American legislatures, invite anticipation by the president. If he finds it costly to dispense enough pork to buy every vote, or enough patronage to buy every legislator, or enough money to buy the election, and if it is costly also to rule by decree, then even authoritarian presidents should consider cutting a deal with the assembly.

We believe there is evidence that Latin America's assemblies influence the policy process substantially, because the president sometimes attempts to rule through the legislature rather than around it. This point is clearest in Chile and will be developed at greater length when we consider our third theme below. For now, it will suffice to note some examples from two countries where presidential anticipation and accommodation of legislative preferences might seem unlikely, Brazil and Mexico.

Brazil has gained fame for its decree-wielding presidents. Ames, however, makes clear that the legislature is instrumental in shaping the president's agenda. In an extensive survey he finds that almost no major proposal goes through congress unchanged and that many are rejected.<sup>2</sup>

The Mexican legislature made virtually no attempt prior to 1994 to legislate on its own and was not much more active in terms of modifying, much less rejecting, presidential proposals. When Zedillo came to office, however, he granted it an autonomy it had not known since the founding of the PRN (the forerunner of the PRI) in 1929.<sup>3</sup> The formal powers of the legislature did not change, but its political status changed considerably. Consequently, the post-1994 legislature has rearranged its leadership structure, and it has had an important hand in shaping the new social security law, the value added tax, the relationship with the Zapatista rebels, and even the president's "secret" discretionary budget.<sup>4</sup> Perhaps most strikingly, in the budget adopted in December 1997 legislative pressure led to a rough doubling of the funds earmarked for transfer to state and local governments.

## **Reactive Legislatures and Proactive Presidents: Latin American Variations on the Theme**

This article focuses on variation within the broad category of reactive legislatures. Assemblies and presidents in Latin America are engaged in one or another of a distinctive subfamily of bilateral veto games. In games of this subfamily the policy process is asymmetric, in that (for the most part) only the president proposes. The sequence of moves in the statutory process is typically as follows. First, the president proposes one or more new policies (bills); second, the legislature either accepts, amends, or rejects the president's proposals; third, if the legislature amends or rejects (some of) his proposals, the president can either bargain, take unilateral action, or seek to undermine the assembly's ability to veto proposals. By bargaining, we mean that the president makes actual concessions in proposed policies in order to gain legislative acquiescence or "buys" votes with pork and patronage. By unilateral action, we mean that the president emits decrees, uses the rule-making authority of the bureaucracy, or uses other unilateral powers to implement as much of his desired policies as possible. By undermining the assembly's independence, we mean that the president seeks to win the next legislative election (by fair or foul means) or control the career paths of assembly members.

In the following analysis we shall simplify matters by imagining that the president anticipates one of four legislative types and pursues a strategy that is optimal in light of such a legislature's likely responses to his initiatives. Specifically, the president anticipates that the majority in the assembly will be either recalcitrant, workable, parochial-venal, or subservient. Recalcitrant majorities (very low percentages of members supporting the president) will reject essentially all the proposals the president really wants. Subservient majorities (very high percentages of members thoroughly beholden to the president) will accept essentially any proposal the president makes. Between these extremes of support the president can face two types of more manageable majorities, one that demands a seat at the policy table (workable) and another that is willing to concede policy issues in exchange for access to pork or other resources (parochial-venal). Depending on which sort of assembly the president anticipates, he will undertake different strategies and use different institutional powers to implement the strategies. That is, strategy and tactics will oscillate with legislative type.

The two primary sources of a legislature's type are the percentage of the legislature's seats occupied by members supporting the president and the percentage of the legislature's seats occupied by members with largely parochial interests (who see their careers as continuing at a local level and their duties as primarily the protection of local prerogatives). We view both of these variables as exogenous or predetermined factors that the president can not change in the short term but which materially affect the legislature's likely response to presidential initiatives. We do not wish to

say that, once a legislature is elected and these two percentages are fixed, the legislature never varies its strategy. But the legislature's type is a good enough clue to its likely strategy for presidents to act as "Stackleberg leaders," initiating legislation with a clear notion and in light of the legislature's likely response.<sup>5</sup>

The two extreme legislative types—subservient and recalcitrant—are easily explained by variations in the level of allegiance or opposition to the president. But why does a legislature move from a parochial to a policy orientation?

Variance in legislators' career ambitions is an important part of the answer. Legislators in Mexico, Argentina, and Brazil, where respectively 0, 20, and 35 percent of legislators were reelected in recent elections, should be looking to grab what they can and run.<sup>6</sup> Legislators with a low rate of reelection should be particularly responsive to presidents (or others) who control resources that the legislators can use to line their pockets, improve their future career prospects, or pay off their patrons. While certainly interested in the electoral benefits of the pork barrel, legislators who envision longer legislative careers (for example, in Chile, where about 70 percent of lower house members generally are reelected and another 10–15 percent run for the Senate) should also be worried about policy outcomes. This concern can be electorally motivated; since elections turn on a combination of candidate qualities and policy, legislators interested in reelection should involve themselves in the policy process.<sup>7</sup>

Another variable influencing whether a legislature is parochial or policy-oriented is partisan ideology. Strong ideological parties should be less venal than a diverse coalition of politicians seeking fame, fortune, and power. Again, Chilean parties are distinctive. On the center-left, the two post-dictatorship Chilean presidents have enjoyed support of a coalition banded together for its strong opposition to Pinochet. The Chilean right, alternatively, is strongly associated with Pinochet and his regime. One of the two main rightist parties, the UDI, is intensely ideological. Many of its legislators were mayors during the Pinochet regime, and many were personally trained by a charismatic and rabidly anticommunist recent martyr (Jaime Guzman). UDI party members are unlikely to bend on crucial policy issues for an extra bridge in their district.

In contrast, presidents in Argentina and Brazil are neither supported nor opposed by such ideologically driven and organized parties. In neither of these countries has any single party or group of parties won the antiauthoritarian banner, and the PT in Brazil, which currently has only eleven percent of the legislative seats, is the only significant class-based party.<sup>8</sup> The Peronists in Argentina had an ideological root based in their populist history, but Menem has effectively destroyed that party's legacy.

### **The Central Oscillation**

The central oscillation in Latin American politics is the president's changing use of his constitutional and other powers in response to changes in anticipated assembly

**support.** Latin American executives typically have greater powers of unilateral action than either U.S. presidents or European prime ministers, but they occupy an intermediate position as regards executive penetration of the legislative process within the assembly. This distinctive combination of institutional strengths, along two separate dimensions, leads to a distinctive oscillation in presidential strategy in response to variations in assembly types between use of the president's unilateral and integrative powers.

**Changing Use of Unilateral Powers** One way presidents change their strategies involves their unilateral powers. By unilateral powers we mean something close to what Carey and Shugart mean by proactive powers: powers that can be used without the concurrence of the legislature to change policy.<sup>9</sup> The clearest examples are constitutional decrees, but other sorts of decrees, regulatory rule making, and even vetoes can sometimes feature in pushing through a new policy.<sup>10</sup>

When the president is politically weaker, he typically resorts more frequently to his unilateral powers; in contrast, when he is politically stronger, he resorts to these powers less often.<sup>11</sup> This point can be illustrated by considering Collor, Menem, Frei, and Salinas. Collor, politically the weakest, pushed the limits of the constitutional powers of the Brazilian presidency. Menem had the putative support of the largest single party in the Argentine system, but, having reversed field on several key issues, he could not rely on consistent support. He too pushed the limits of his constitutionally defined powers, seeking only enough support in the assembly to prevent the override of his decrees. Frei, with a workable majority in Chile's lower house and a large minority in the upper house, avoided controversial use of his substantial unilateral powers. Finally, Salinas, presiding over the last years of a one party regime, could win passage of whatever statutes he wanted—as soon as the ducks were lined up within the PRI—and so did not need decrees, vetoes, or other unilateral tools used by presidents in more competitive systems. Everything could happen off-stage, with the formal procedures a *pro forma* ratification of decisions made elsewhere.

The logic behind this declining use of formal constitutional powers as the president's legislative support increases can be indicated by considering presidential strategy at three levels of assembly support: weak (the president faces a hostile majority in the assembly), medium (the president has a workable majority), and strong (the president has a large and subservient majority). When the president faces a hostile majority in the assembly, he will often have no chance of implementing his policy goals via statute. In these cases, his only recourse will be to take such unilateral action as he can manage, perhaps "pushing the envelope" of his powers in constitutionally provocative ways. When the president has a workable majority in the assembly, in contrast, he may be able to get his statutes passed with the aid of

urgency provisions, the judicious allocation of cabinet positions to solidify legislative support, and a liberal distribution of pork. Since statutes can override conflicting decrees, are harder to overturn once enacted, and are constitutionally sounder instruments for many purposes, politically stronger presidents will more often prefer to pass statutes than to issue decrees. Finally, some presidents—for example, those in Taiwan and Mexico until recently—may be able to count on a large and subservient majority in the assembly. These presidents—who typically appear for an extended length of time only in authoritarian regimes—can routinely expect to get whatever statutes they want and hence have no political need to employ vetoes or decrees. They may occasionally find it convenient to use decrees or administrative rule-making powers rather than statutes, but they are not usually constrained in this choice by any lack of support in the assembly. The separation of powers has been overridden by the president's political strength, usually based on his ability to control candidate selection and elections to the assembly, the distribution of pork to members of the assembly, and the postassembly career prospects of sitting legislators.

**Changing Use of Integrative Powers** Latin American presidents are not confined to unilateral powers. They also deploy powers, such as urgency decrees and the appointment of ministers, that can help the president integrate himself into the legislative process of the assembly. As explained further below, integrative powers allow the president to set the policy agenda not just by sending proposals to congress, but also by prioritizing bills in the internal procedures of congress or by empowering assembly allies. Use of potentially integrative powers for actually integrative purposes responds to variations in presidential support in the assembly in precisely the opposite pattern to that noted above for unilateral powers: they are used more when the president is politically stronger, less when he is politically weaker. As this dimension of Latin American presidential power has received less attention, we shall say more about it below.<sup>12</sup>

**Evidence That Use of Powers Varies with Assembly Support** Evidence that Latin American presidents vary their strategy in response to their prospects of support in the assembly and their institutional powers can be culled from the wealth of case studies on Latin America. The best currently available, systematic evidence is provided by Amorim-Neto in a study of seventy-five cabinets appointed by fifty-seven Latin American presidents from ten countries over the period 1946–95. According to Amorim-Neto's study, presidents who have decided to implement their policy goals via statute will lay the groundwork by appointing party leaders who can help solidify assembly support. In contrast, those who seek to rule by decree can pack their cabinets with cronies and technocrats. Amorim-Neto finds, among other things, that the percentage of partisan ministers in a president's cabinet increases as



the percentage of seats held by the president's party in the assembly increases, and as the president's decree powers decline. In other words, presidents with a better political base in the assembly and with poorer institutional powers to pursue a unilateral strategy are more likely to seek to govern through, rather than around, the assembly.

**A Typology of Presidents and Assemblies** In sum, a president's level of support in the assembly will have a large impact on his overall policymaking strategy, whether to seek mostly a statutory implementation of goals (governing through the assembly) or a nonstatutory implementation (governing around the assembly). This overarching strategic decision about the optimal mix of statutory and nonstatutory effort in turn influences presidential tactics, which powers to use and how to use them. These tactics are also influenced by the president's institutional powers, and thus even presidents in similar circumstances could range from impotent to imperial, as a comparison between Collor and Mitterrand might show.

Four adjectives introduced above, familiar in descriptions of Latin (and North) American legislatures, encapsulate how presidents' strategies and tactics change with their anticipated level of assembly support: recalcitrant, workable, venal-parochial, and subservient. The president has a rather clear best response to each of these types, and thus we match the four legislative adjectives with four presidential adjectives. First, if the president believes the assembly is recalcitrant—that it will reject most of his proposals and refuse to compromise—then (assuming he has unilateral powers at his disposal) his best strategy is to seek ways to get around the assembly veto by using his unilateral powers. This president is imperial. (If he lacks such powers, he would be impotent.) At the other end of the scale, where the president believes the assembly is subservient—that it will accept most of his proposals without the need of bargaining—his best strategy is to dictate terms. This president is dominant. The third and fourth types of presidents face workable majorities, and they bargain with legislative actors over the course of policy. These two types are divided by what the presidents offer legislators in return for their support. The types are therefore a function of the frequency with which the president uses four key bargaining chips: particularistic payoffs (pork and patronage), positional payoffs (ministerial portfolios), policy concessions, and agenda setting.

Where the president finds that his best response to a particular legislature is to buy support with pork and patronage, he is facing a venal or parochial assembly. These legislatures, maybe due to short legislative time horizons (low reelection rates) or career paths that reflect their pork-winning success, prefer the president to play a nationally oriented role, focusing on and taking the heat for national policy.<sup>13</sup> Thus, in return for particularistic payoffs we expect these legislatures to offer (in a manner that is probably closer to abdication than delegation) the president broad authority over policy through grants of decree powers and to sponsor few important initiatives.



Assemblies that are involved in the policy process—in the sense that the president heads a coalition that includes assembly actors, seeks to implement coalitional policies via statutes, and designs the strategy to pass these statutes in consultation with his assembly allies—are workable. Their foil, the coalitional president, may also use particularistic payoffs to clinch deals, but pork will be used to get the last few votes needed to clinch deals, not as the main bargaining technique. The coalitional president thus makes more extensive use of his other three bargaining chips, all of which involve the assembly more intimately in actual policy decision making. Clearly, policy concessions bring the assembly into the policy process. But so do the allocation of ministerial portfolios to party leaders (these positions do not carry with them influence over pork alone) and the setting of the legislative agenda (over which the president has influence but can more effectively exercise control with the help of assembly actors).

The four pairs of corresponding (executive, legislative) types—imperial/recalcitrant, nationally oriented/parochial, coalitional/workable, and dominant/subservient—are displayed in Table 1.<sup>14</sup> Every imperial president has a recalcitrant congress as his antagonist; its actual or anticipated refusal to support his statutory initiatives drives him to use his unilateral powers. Every dominant president has a subservient congress that meekly acquiesces in most of his policies, typically because the president has previously established political dominance over the congress through control of nominations, elections, or postassembly career options. Finally, if the president believes that the assembly is workable, that it can be bargained with, then his best strategy depends on the most propitious bargaining mechanisms. If he is better off using his integrative powers to work through the statutory process, he is a coalitional president. If legislators are mostly after pork and the president can “buy” their support for his policies, then he is nationally oriented.<sup>15</sup>

**Table 1** Presidential and Assembly Strategies

Presidential strategies	Assembly Strategies			Acquiesce
	Reject	Bargain	Demand Payments	
Undertake unilateral action	Imperial president, Recalcitrant assembly			
Bargain		Coalitional president, workable assembly		
Pay Off			Nationally-oriented president, venal or parochial assembly	
Dictate				Dominant president, subservient assembly

## The Amplitude of Oscillation

Latin American presidential systems are distinguished from the U.S. model, not by the existence of an oscillation in presidential strategy and tactics of the sort described above, but rather by its amplitude. Most Latin American presidents have greater powers of unilateral action, greater ability to “penetrate” the internal legislative process of the assembly, and more variable political support than their American counterpart. This combination of more variable legislative support with institutionally stronger presidencies (along two dimensions) has placed many Latin American presidencies outside the relatively narrow range of experience in the U.S.

Three key elements jointly produce a greater amplitude of oscillation in the modality of presidential action in Latin America. The amplitude of oscillation is certainly greater in Latin America if one includes cross-national variation, ranging from the dominant presidencies of Mexico to the coalitional presidencies of Uruguay and Chile to the imperial presidencies of Argentina, Brazil, and Peru. The amplitude of oscillation is also larger within many of these systems. Thus, for example, Allende pushed further in the imperial direction than did Nixon or Reagan, while Aylwin and Frei have pushed further in the coalitional direction than did Wilson.

Outside of Mexico, the oscillation throughout the western hemisphere is mostly between imperial and coalitional presidencies, and so we shall focus on these types. We begin with the greater variability of presidential support in the assembly, the “engine” that drives variations in presidential strategy. We then consider the two sorts of institutional constraints discussed above, those having to do with the president’s powers to penetrate the internal legislative process of the assembly and those that affect his powers to act unilaterally.

**Variability in Presidential Support** Some indication that Latin American presidents experience greater variability in assembly support than their North American counterparts is given in Table 2. Table 2 is based mostly on Deheza’s attempt to identify the coalitions supporting each president in a number of Latin American countries.<sup>16</sup> Although one might have qualms about her numbers in particular cases, her work appears to be the best and most systematic available.<sup>17</sup> In six of the nine Latin American countries covered in Table 2, the maximum assembly support for the president (observed over the period from the 1950s to the 1990s) is greater than the U.S. maximum; in seven of the nine cases, the minimum support is less than the U.S. minimum; and in eight of the nine cases, the standard deviation of presidential support in the assembly is greater than the U.S. figure. Thus, in most Latin American countries presidential support in the assembly varies more widely than it does in the U.S.

Thus, in terms of Table 1, Latin American countries vary more widely across the columns of Table 2. Thus, there are more cases of potentially dominant presidents

**Table 2** Variability of Presidential Support in the Assembly, 1950s–1990s

Country	Average support for president (N of periods)	Standard deviation of support for president	Minimum support for president in lower house	Maximum support for president in lower house
Argentina	50.64 (15)	8.56	35.9 (Illia)	71.1 (Frondisi)
Bolivia	49.60 (14)	21.43	22.3 (Siles Z)	85.9 (Paz E.)
Brazil	69.10 (15)	17.40	33.0 (Collor)	92.7 (Quadros)
Chile	42.35 (14)	11.87	15.6 (Frei)	58.7 (Frei)
Colombia	72.33 (15)	16.95	49.2 (Barco)	99.4 (Betancur)
Ecuador	32.10 (16)	16.18	01.4 (Hurtado)	52.0 (Arosmena)
France*	55.5 (8)	10.31	38.0 (Mitterand)	74.0 (Pompidou)
Peru	41.37 (7)	16.71	17.7 (Fujimori)	60.3 (Belaunde)
United States	50.66 (27)	9.92	36.3 (Reagan)	67.8 (Johnson)
Uruguay	56.90 (7)	14.74	41.4 (Sanguinetti)	80.3 (Bordaberry)
Venezuela	53.71 (13)	23.18	12.6 (Caldera)	95.7 (Perez)

Source: Deheza 1997, Statistical Abstract of the US 1997, Historical Statistics.

(with particularly subservient legislatures) and more cases of potentially imperial presidents (facing particularly recalcitrant assemblies). Whether these potential cases turn into the real thing depends both on the solidity of the nominal support levels reported by Deheza and on the institutional powers of the presidency in each case.

**Executive Integration in the Legislative Process of the Assembly** In parliamentary systems the executive is deeply involved in the internal legislative process of the legislature. Simultaneous occupancy of ministerial and legislative office is typically allowed. Even when it is not, ministers often appear personally in the legislature, participate in debate, and answer questions. Ministers also typically have superior abilities to set the legislative agenda of the assembly itself. In the U.K., for example, only ministers can propose tax increases, and the cabinet dominates the legislative agenda through such powers as the vote of confidence and the guillotine procedure.

These two factors—executive participation in and executive agenda power over the legislative process of the assembly—together indicate what we shall call the degree of executive integration in the legislative process. We shall discuss each in turn, contrasting the U.S. and the modal Latin American case.

The U.S. president can not appoint a sitting member of congress to his cabinet, unless that person chooses to relinquish his or her seat in congress, because the constitution (Article I, Section 6) forbids the simultaneous occupancy of cabinet and legislative office. Although cabinet ministers in the U.S. give testimony in congressional hearings, by custom they do not participate in debate.<sup>18</sup> These restrictions prevent executive personnel from becoming personally involved in the legislative process within congress. They also make it difficult for a U.S. president to use cabinet appointments to build legislative support, as is routinely done in parliamentary systems.

In some Latin American countries, for example, under the Peruvian constitution of 1933, simultaneous occupancy of cabinet and legislative office is not prohibited. In others, the *suplente* system allows a minister temporarily to yield his legislative seat to a *suplente* but to reclaim it at any time. In Brazil ministers will occasionally resign their ministerial positions just before an important vote in the assembly, resume their legislative seats, vote, then resign their legislative seats and resume their ministerial posts. When *suplentes* are pliant, Brazilian ministers can effectively be considered members of the assembly. Similar *suplente* systems are used in Bolivia, Colombia, El Salvador, Honduras, Paraguay, Uruguay, and Venezuela.<sup>19</sup> Finally, Latin American presidents can sometimes appoint recognized party leaders who are not themselves elected legislators but still bring with them assembly support. In Argentina, for example, there is a quite pronounced pattern of legislative party leaders' "graduating" to ministerial positions once their service in the legislature comes to an end. For example, the two Peronist bloc leaders in the lower chamber became interior minister and vice-minister and clearly were used in the executive branch for their political skill and connections in congress. Something similar seems to occur in Chile. Latin American presidents, unlike their U.S. counterpart, can thus more often use cabinet appointments as prime ministers do, to build legislative support.

The U.S. president does not have the right to introduce legislation directly in either house of congress. Even the president's budget must be introduced by a member of congress. In contrast, most Latin American chief executives have the power to introduce legislation directly and some (in Brazil, Chile, Colombia prior to 1991, Uruguay) have exclusive powers of introduction in designated areas. Latin American presidents' powers of initiative are thus closer to those typically wielded by prime ministers.

The U.S. president does not have the right directly to determine the measures that congress will consider, to accelerate bills pending on congressional calendars, or otherwise to affect the legislative agenda. In contrast, Brazilian, Colombian, and Peruvian presidents can send to congress "urgent" bills that take precedence over every other legislative matter. In Chile, Ecuador, Paraguay, and Uruguay presidential urgency powers are even greater: the president's bill automatically becomes law if congress does not formally reject it within a specified time period. Latin American presidents' powers of agenda setting pale in comparison to those of the typical prime minister, who disposes of votes of confidence and (sometimes) other effective agenda-setting techniques, but they are nonetheless substantially greater than the U.S. president's.

All told, the separation of powers is much more thoroughgoing in the U.S. than it is in Latin America. The president can veto legislation, but he can not push legislation through the internal procedures of congress. At best, he can "go public" and apply external pressure.<sup>20</sup> The U.S. congress's extraordinary abilities to initiate leg-

isolation have long been recognized. Less well recognized is the flip side of these abilities: the absence of executive powers to appoint legislators to the cabinet, initiate legislation, and control the congressional agenda.

In contrast, Latin American presidents can reach inside the assembly to appoint its members to his cabinet, directly propose bills, and accelerate their consideration. Thus, when a president has good prospects of legislative support, cabinets are constructed to maintain that support; initiative powers and urgency provisions are used in concert with coalition partners; and the president relates to the congress more as a prime minister relates to a parliament.<sup>21</sup>

**Imperial Prerogatives** When the president has little legislative support, however, cabinets are filled with cronies and technocrats; initiative powers and urgency provisions are used on an ad hoc basis; and the president relates to congress more as English monarchs used to relate to their parliaments. In the U.S., where congress regularly takes the legislative initiative, presidents with weak legislative support—those facing divided government—make greater use of the veto power and more often attempt to implement policy without congressional authorization.<sup>22</sup> A similar syndrome is visible in Latin America, but presidents there start with wider unilateral powers and seem prepared to push the envelope of constitutional action harder.

In addition to reactive powers such as the veto, presidents can also wield proactive or unilateral powers.<sup>23</sup> First, presidents almost always have rule-making or interpretative authority. Second, many constitutions also allow the president wide authority to appoint ministers, judges, and other high officials, though their appointments often need congressional assent. Third, explicit legislative delegations of power to the executive expand many presidents' repertoire of action. In these cases, the legislature will generally set a specific task and timeline for the executive, retaining the right to review or change the president's decisions. Fourth, some presidents are constitutionally endowed with decree powers. These provisions can include the power to suspend civil liberties and other parts of the constitution in time of emergency, in addition to making policy via decree. Finally, there are what Carey and Shugart call "paraconstitutional" decree powers, which can allow the president to change laws by using the pen or sword.

While there are important exceptions, Latin American presidents have generally taken much more advantage of their delegated, constitutional, and paraconstitutional powers than have U.S. presidents.<sup>24</sup> There are certainly cases of presidential unilateralism in the U.S., but presidents in Latin America regularly make policy decisions almost unilaterally. Presidents in Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, and Venezuela have tremendous advantages in structuring the national budget, as the legislatures there are constitutionally restricted from making significant changes.<sup>25</sup> Moreover, Latin American legislatures are hindered by a lack of time, resources, and experience. This combination of constitutional and orga-

nizational limits has converted many Latin American presidents into virtual budget dictators. If we take into account paraconstitutional powers as well, we find even more presidential impositions. The Mexican president has frequently used his paraconstitutional powers to move funds among budget categories, remove irreverent governors, and impose tremendous policy shifts almost overnight (for example, nationalization and then reprivatization of the banks). In Argentina the limited delegation of power to President Alfonsín to deal with their economic crisis was later interpreted by Menem (and the courts) as an almost open-ended and very difficult to check power to decree whatever type of law Menem preferred not to send to the legislature. Similarly, Fujimori and Collor made extremely free use of decree powers.

### **Coalitional Presidents and Workable Assemblies**

Both dominant and imperial presidents are familiar types. More novel is the characterization above of presidents with intermediate levels of political strength in the assembly. Given the appropriate institutional strengths, presidents with workable but not subservient majorities in the assembly can become what we have called coalitional presidents, integrating themselves into the legislative process of the assembly to a much greater degree than is typical in the U.S. The corresponding assembly type, which is brought into some degree of partnership in the policymaking process, we call workable.

The coalitional president and the workable assembly are important and understudied types. We know a lot about Latin American failures—the dominant presidents who have neutralized democratic checks and balances by virtue of their control over elections and the future career prospects of legislators and the imperial presidents who emerge from the dangerous combination of political weakness and institutional strength. But we know much less about how these systems work when presidents attempt to forge coalitions with assembly actors. While the other modalities may meet a minimal definition of democracy, they call into question the ideals of functioning checks and balances and limited executives. In comparison the coalitional/workable pairing is clearly more democratic.

**Latin American Systems as Intermediate between Pure Presidentialism and Pure Parliamentarism** The intermediate status of executive-legislative relations in Latin America can be seen by first sketching the main features of the two poles we shall call pure parliamentarism and pure presidentialism. In pure parliamentary systems the head of government is chosen by and can be dismissed by the assembly. The second of these defining characteristics—the possibility of dismissal—leads to two corollary features of the legislative process and party system. First, because the government can be dismissed if it loses a vote of confidence, parties put a high premium on and are generally successful in securing cohesion in their voting behavior on the

floor. Second, in order to attain and maintain the high levels of voting cohesion required to avoid losing votes of confidence, parties in the majority coalition put a premium on and are generally successful in securing control of the legislative agenda in the assembly.<sup>26</sup> In Cox and McCubbins' terminology, legislative parties in parliamentary systems have strong incentives to be cohesive as "floor voting coalitions" and can help to ensure such cohesion by acting also as "procedural coalitions."<sup>27</sup> The first point has been widely noted; the second, which stresses that protection of members of the majority coalition from embarrassing votes, the scheduling of votes at politically right times, and other abilities conferred by agenda power are important in preventing open disagreements within the majority coalition, has not.

The first defining feature of parliamentarism—the choice of the head of government by the assembly—has a profound impact on the organizational structure of political parties. In particular, parliamentary parties are fully integrated with the executive personnel in the party, whether ministers or shadow ministers. There is nothing like the separation in the U.S. among one organization for the House of Representatives, one for the Senate, and one for the presidential wing of the party. Parliamentary parties thus unify the executive and assembly; they reflect both the greater confidence that the legislative rank and file can have in leaders that they choose (and who are dependent for their continuance in power on the aggregate electoral success of their followers) and the necessity to organize strongly in support of the executive. As a natural consequence, in combination with the points made above, ministers are often given substantial control over the assembly's legislative agenda. Executive, as opposed to purely legislative, actors exert the agenda power.

A very different outcome ensues in a pure presidential system such as the U.S. First, the head of government can not be dismissed by the assembly (outside of impeachment proceedings). Thus, there is less need for voting cohesion on the floor and hence less need for strong agenda powers to support that cohesion. Second, the head of government is not chosen by the assembly and does not depend for continuance in office on the electoral success of his supporters in the assembly. Those supporters thus have need of their own leaders and their own organization. With reference to Schlesinger's notion of party nuclei, the organizations devoted to securing particular offices, the separate election of the president naturally gives rise to two party-nuclei-in-government, one for the congress and one for the president, where there was only one in the parliamentary case.<sup>28</sup> Finally, the natural locus of agenda power in a pure presidential system lies within the congress. The president and his ministers do not wield agenda power. Rather, the leaders of the congressional parties, especially the majority, wield such power.<sup>29</sup>

**Coalitional Presidents: Latin America and the U.S. Model** Latin American polities do not differ much from the pure presidential system in terms of its two defining characteristics. Although the assembly in some Latin American systems (particularly



Bolivia) has a substantial say in the selection of the president, in most the involvement is even less than in the U.S. (where the House of Representatives decides presidential contests when the electoral college is deadlocked). Similarly, although theoretically a few Latin American systems have had the right to remove the president by other means than impeachment, in practice it has not amounted to much.

The real differences between U.S. and Latin American styles of presidentialism, at least as regards the level of executive integration with the legislature, are three-fold. First, ministers can not sit in the assembly in the U.S. and typically are not appointed to build assembly support, whereas they can often sit in the assembly in Latin America and are often appointed to solidify assembly support. Second, ministers and the president wield important powers in setting the assembly's internal legislative agenda in Latin America but not in the U.S. Third, the integration of the executive and legislative branches of parties is often greater in such Latin American countries as Costa Rica, Uruguay, and Venezuela than in the U.S.<sup>30</sup>

These differences strongly affect the locus of political power. They set the Latin American legislatures in a category separate from the U.S. (ideal-typical) model. While certainly not irrelevant to the policy process, Latin American legislatures initiate less legislation than does the U.S. congress, and their amendments are generally less weighty.<sup>31</sup> Further, though Ames shows the recalcitrance of the Brazilian congress, the success rates of executive initiatives is generally quite high in Latin America (over 90 percent in Argentina, Chile, and Mexico), as contrasted with a low success rate for bills that start in the legislature. Clinton, on the other hand, won only 36.2 percent of his congressional battles in 1995.<sup>32</sup>

**Coalitional Presidents: Latin America and the Eighteenth Century British Model** Of the three features suggested above as most clearly distinguishing Latin American from North American presidentialism, the value of ministerial appointments in securing support in the assembly is the most important. This feature, combined with the sometimes great power of the president, reminds one of the eighteenth century British model of president-parliamentarism (in which the king played the role of president).<sup>33</sup> Although the British were famously fond of praising the balance of their constitution, it was a balance that both king and Commons often sought to redress to their own advantage.

The king, saddled by past beheadings and constitutional settlements with a powerful and independent assembly, sought continually to control it by two methods entirely familiar to Latin American presidents: influencing legislative elections and "buying" support in the assembly with offers of employment and other favors. Foord reviewed some of the techniques of royal influence as follows.

Government funds were used to subsidize the ministerial press, to provide pensions, to purchase close boroughs, and to carry on such electioneering devices as parades, free

beer for electors, and the patronising of local tradesmen. Patronage provided jobs for electors, employment for parliamentary placemen, and positions for the friends, relatives, and dependents of those who could supply the government with votes in parliament and the constituencies. Honours attracted the "many who cannot be caught by the bait of covetousness [but] are caught by the bait of vanity."...Many of the most profitable contracts were under the management of the treasury, the headquarters for the distribution of government patronage, and the treasury's practice was to award contracts largely on the basis of political "recommendations."...Financiers sought seats in parliament, and when government credit was sound, they eagerly applied for a "slice" of governmental loans....[M]ore than eighty members of lords and commons rented royal property [needless to say, on favorable terms].<sup>34</sup>

From the Restoration (1660) through the early decades of the nineteenth century, the House of Commons was constantly on guard against these royal tactics.<sup>35</sup> To circumscribe the crown's ability to influence elections the Commons sought to regulate the power of dissolution, the conduct of elections, the right of peers and crown officials to vote or interfere in elections, and even the right of the crown to participate in the market for the sale and purchase of rotten boroughs. To circumscribe the crown's ability to "buy" its members, the Commons passed a long parade of "place bills," forbidding those who had accepted crown offices from sitting in the legislature (or requiring them to resign and submit to reelection).

The king was not the only one actively seeking to redress the balance of the constitution in his favor. Ministers increasingly parlayed their role as conveyors of votes in the Commons, and their obligation to countersign all royal acts, into political dominance. The king fades increasingly from the political scene until, by the nineteenth century, premier-presidentialism had given way to pure parliamentarism.

The inherent tension in eighteenth century Britain's balanced constitution between leaders of the assembly (attempting to force their way into the ministry and to force the king to take their advice) and the king (attempting to control the assembly directly, so as to obviate the need to appoint assembly leaders as ministers) is similar to tensions observable in many Latin American cases. We may consider two examples, Mexico and Peru.

The Mexican president used the same basic strategy as the British king but succeeded where the king failed. As Weldon describes, both the electoral incentives of assembly members and their postassembly employment opportunities became increasingly dominated by the president until, eventually, an independent assembly ceased to exist.<sup>36</sup>

The Peruvian constitution of 1933 seems to have attempted to recreate the British polity in the immediate aftermath of the Glorious Revolution. It required that all official acts be countersigned by a minister and that ministers resign if censured by the assembly; at the same time, it explicitly allowed ministers to sit in the assembly. These constitutional stipulations did not, however, lead to any noticeable movement

toward parliamentarism in Peru. The reason, suggested by an acute analysis by Needler, seems to be precisely the failure of Peruvian legislative elites to mount effective defenses to Peruvian presidents' pursuit of the same two strategies pursued by the British king and Mexican president.<sup>37</sup>

A key difference between most of Latin America and Britain is that civilian control of the military has not been established in the former but was in the latter. But the central civilian tension in the systems is similar. Moreover, one does not have to be too Whiggish to argue that the best outcomes for these systems entail either maintaining the balance between the executive and the legislative powers or redressing it in favor of the assembly (moving more toward premier-presidentialism).

## Conclusion

Latin America's executive-legislative relations typically take the form of a constitutionally distinctive bilateral veto game in which the president moves first, proposing most of the important legislation, but knows that the assembly will then have a chance to react. First, although Latin American assemblies are primarily reactive, they are not necessarily impotent or unimportant. Presidents must anticipate what the assemblies will accept; thus legislators have influence through anticipated reactions. Only when the president has established political mastery over the assembly, as until recently in Mexico, does the assembly cease to be a significant player. Second, to the extent that Latin American presidents continually anticipate legislative reactions, their strategies vary depending on the type of legislature they face. But Latin American executives have a unique combination of institutional powers, with both unilateral abilities (such as some forms of decree) and integrative abilities (such as urgency motions). Depending on the lay of the political land, they can choose either to make an end run around the assembly or to join it. In either case, they can go much further than an American president, thus producing a distinctive oscillation in Latin American executive-legislative relations. Third, Latin American executives' combination of first-mover status with a distinctive set of institutional powers generates results, in terms of executive-legislative relations, that are often intermediate between those expected in the U.S., with its more rigorous separation of powers, and in Europe, with its more complete fusion of powers.

## NOTES

1. Carl J. Friedrich, *Man and His Government: An Empirical Theory of Politics* (New York: McGraw-Hill, 1963).
2. Bary Ames, "A Theory of Legislative Parties in Brazil," in Scott Morgenstern and Benito Nacif, eds., *Legislative Politics in Latin America* (Cambridge: Cambridge University Press, forthcoming).

3. Wayne A. Cornelius, *Mexican Politics in Transition: The Breakdown of a One-Party-Dominant Regime* (La Jolla: Center for U.S.-Mexican Studies, 1996).

4. Benito Nacif, "Legislative Parties in the Mexican Chamber of Deputies," in Morgenstern and Nacif, eds.

5. See Drew Fudenberg and Jean Tirole, *Game Theory* (Cambridge, Mass.: MIT Press, 1991). A Stackleberg equilibria is a game-theoretic concept taken from the study of duopolies. After the leading firm moves, the other firm reacts in full knowledge of the first firm's move.

6. See Scott Morgenstern, "Legislative Politics in Latin America," in Morgenstern and Nacif, eds., for more information about reelection rates.

7. Gary W. Cox and Matthew D. McCubbins, *Legislative Leviathan: Party Government in the House* (Berkeley: University of California Press, 1993).

8. There are several other small leftist parties, none of which approaches 10 percent of the legislature.

9. John M. Carey and Matthew S. Shugart, "Calling Out the Tanks or Filling Out the Forms," in John M. Carey and Matthew S. Shugart, eds., *Executive Decree Authority* (Cambridge: Cambridge University Press, 1998).

10. In Argentina, for example, presidents can emit decrees that the congress can overturn only with statutory proposals; these proposals are themselves subject to the usual veto process.

11. Various authors have made similar points, about both Latin America and the U.S. For Latin America, see Ana Maria Mustapic, "Officialistas and Diputados: Executive-Legislative Relations in Argentina," in Morgenstern and Nacif, eds.; Octavio Amorim-Neto, "Of Presidents, Parties, and Ministers: Cabinet Formation and Legislative Decision-making under Separation of Powers" (Ph.D. diss., University of California, San Diego, 1998). For the U.S., see Gary Cox and Samuel Kernell, eds., *The Politics of Divided Government* (Boulder: Westview Press, 1991); Charles Tiefer, *The Semi-Sovereign Presidency* (Boulder: Westview, 1994).

12. For an exception, see Amorim-Neto.

13. Matthew Shugart, "The Inverse Relationship between Party Strength and Executive Strength," *British Journal of Political Science*, 28 (January 1998), 1-29.

14. We have excluded the impotent president here.

15. The preceding account was written to suggest optimal strategies and responses under certain pure types of legislature and president. To specify the equilibria we would have to take into account such variables as the range of unilateral and integrative powers available to the president, presidential preferences for quick action versus interbranch bargaining, the effect of the party system on the ability and willingness of the legislature to bargain, and the legislature's constitutional endowments of power. Matthew S. Shugart and Scott Mainwaring, "Presidentialism and Democracy in Latin America: Rethinking the Terms of the Debate," in Scott Mainwaring and Matthew S. Shugart, eds., *Presidentialism and Democracy in Latin America* (Cambridge: Cambridge University Press, 1997); Morgenstern. Also, legislators have varying interests across policy issues. For example, while Allende faced a consistently recalcitrant legislature and thus played a single strategy during his whole (shortened) term, other presidents face legislatures that are less consistently recalcitrant and vary their strategies accordingly.

16. Grace Ivana Deheza, *Gobiernos de Coalicion en el Sistema Presidencial: America Del Sur* (Florence: European University Institute, 1997).

17. For example, Betancur's 99 percent level correctly implies that both primary parties gave some support to the president but ignores the lack of party discipline and the intense interparty rivalry (Betancur won only 47 percent of the vote). Similarly, the 41 percent support of Sanguinetti overestimates his support, as factions in his party frequently withheld support. However, her numbers lend weight to our hypothesis of shifting powers, as she breaks presidencies into periods and shows changing levels of support for the same president.

18. Even the one executive officer who has a constitutional mandate to participate in legislative

affairs—the vice president (*ex officio* presiding officer of the senate)—is limited in his ability to participate. By constitutional prescription, the vice president can cast a vote only in the event of a tie, and partly for this reason he rarely appears in the chamber. Even when he appears, however, the senate has a long-standing custom that physically confines him to the dais. When Vice President Spiro Agnew unwittingly violated this rule, the senate expressed its displeasure at this violation of the separation of powers by passing a resolution specifically enforcing this restriction on Agnew's whereabouts.

19. See Jonathan Hartlyn, "Presidentialism and Colombian Politics," in Juan Linz and Arturo Valenzuela, eds., *The Failure of Presidential Democracy* (Baltimore: The Johns Hopkins University Press, 1994), p. 301.

20. Samuel Kernell, *Going Public: New Strategies of Presidential Leadership* (Washington, D.C.: CQ Press, 1986).

21. See, respectively, Amorim-Neto; Peter Siavelis, "Exaggerated Presidentialism and Moderate Presidents: Executive/Legislative Relations in Chile," in Morgenstern and Nacif, eds.; Mustapic.

22. On these two strategies, see Charles Cameron, *Veto Bargaining: Presidents and the Politics of Negative Power* (Cambridge: Cambridge University Press, 2000); and Tiefer.

23. Carey and Shugart, "Calling Out the Tanks or Filling Out the Forms.

24. See, for example, Siavelis.

25. Lisa Baldez and John Carey, "Presidential Agenda Control and Spending Policy: Lessons from General Pinochet's Constitution," *American Journal of Political Science*, 43 (January 1999), 29–55; Pilar Domingo and Scott Morgenstern, "The Success of Presidentialism? Breaking Gridlock in Presidential Regimes," *CIDE Working Paper*, 73 (1997).

26. In some parliamentary systems, such as Ireland, France, and the U.K., the government's control over the parliamentary agenda is clearly established in the standing orders. In other cases the government's powers are less clearly delineated, but the government nonetheless seems able to use its majority to dominate the agenda. Perhaps the case that least conforms to this generalization is Denmark. See Herbert Döring, "Time as a Scarce Resource: Government Control of the Agenda," in Herbert Döring, ed., *Parliaments and Majority Rule in Western Europe* (Frankfurt a.M.: Campus Verlag, 1995).

27. Cox and McCubbins.

28. The strength of the incentive to create separate party nuclei would appear to depend on the details of electoral law. Is the presidential election concurrent with the legislative? Is there a fused vote?

29. Moreover, the purpose of agenda power will not be to help keep a government, since governments can not fall on congressional votes. Instead, it will be to help establish a record on which the party can run in the next election. Cf. Cox and McCubbins.

30. Other differences, noted above, include the strength of the president's "imperial prerogatives."

31. See, for example, Siavelis; Maria Amparo Casar, "Executive-Legislative Relations: The Case Of Mexico," in Morgenstern and Nacif, eds.

32. U.S. presidents can not formally introduce legislation, but *Congressional Quarterly* tracks presidential success rates. While success rates above 70 percent have been common, every president since Nixon, with the exception of Carter, has had success rates of 50 to 59 percent or lower for one or more years.

33. In president-parliamentary regimes the president has unilateral appointment and dismissal power, but cabinets must also maintain parliamentary confidence. See Shugart and Casey.

34. See A. S. Foord, "The Waning of 'The Influence of the Crown,'" *English Historical Review*, 62 (1947), 484–507.

35. Betty Kemp, *King and Commons. 1660–1832* (New York: St. Martin's Press, 1957); Foord.

36. Jeffrey Weldon, "Legislative Delegation and the Budget Process in Mexico," in Morgenstern and Nacif, eds.

37. Martin Needler, "Cabinet Responsibility in a Presidential System: The Case of Peru," *Parliamentary Affairs*, 18 (Spring 1965), 156–61.