6

The Noisy Politics of Executive Pay

Throughout this book, I have argued that managerial organizations are likely to dominate the politics of corporate control. This prediction flows from the fact that the rules governing regimes of corporate control are typically of low political salience. In contrast with work that emphasizes the centrality of political parties to corporate governance reform, I argue that political parties have few incentives to invest in the development of expertise and the promotion of reforms, so long as these questions are of low political salience. Neither voters nor the media care, which means it is not rational for politicians to thwart the political initiatives of managers. Politicians do not generally have the stomach for a fight that will generate little in the way of electoral rewards. We expect political parties of left and right defer to managerial lobbies in the area of corporate control, so long as voters are not attuned to it.

The findings of the previous chapters add to the accumulating evidence that political parties do not hold consistent positions on corporate governance.[1] Social Democrats are not in favor of reforming corporate governance across the industrialized democracies, *pace* the argument of John Cioffi and Martin Höpner. In the Netherlands, in Sweden, and in France, as well as in the German case that is central to their argument, Social Democratic parties readily switch their positions on corporate governance. Neither is it true, as implied by Mark Roe's empirical work, that Social Democratic parties are the upholders of patient capital. Where reformist neoliberal parties do try to overturn the status quo favored by managerial organizations, they are not likely to succeed. Given its low political salience, the story of corporate governance politics is not generally one in which political parties play a leading role.

What happens when the policy salience of a corporate governance issue becomes high and stays high? In such a situation, we expect that the role of political parties, and the differences between parties of the left and the right, will once again become important. Organized managers become a lobbying group

[1] Schnyder (forthcoming), Callaghan (2009).

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

like any other.[2] They will continue to have influence, as they do in other areas of contested high salience politics, such as taxes or pensions. Yet the outcome of reform efforts will depend primarily on the partisan composition of the government, political or policy entrepreneurs, or interest group activity – just as partisan and coalitional theories suggest. Business does not necessarily lose under high political salience; indeed, it remains a powerful interest group, even under those conditions. Where it is able to build coalitions with other interest groups, or where parties of the right are in power, business will continue to exercise significant influence over policy even under high political salience. What managerial groups will *not* do is exercise disproportionate influence due to their expertise and the deference politicians pay to it. These weapons of quiet politics work best in the shadows, not under the bright spotlight of sustained public attention.

In this chapter, I show how increased salience transformed the politics of executive pay first in the United States and then later in France. In both countries, the political salience of executive pay increased over time. Yet the change in the United States took place earlier than in France: after the scandal at Enron at the end of 2001, executive pay became a highly salient issue and remained so for the rest of the decade. The financial crisis of 2008 refocused public attention on executive pay, but it was Enron that had fundamentally changed the political landscape in the United States. In France, there has also been a steady increase in the press coverage of executive pay, partly stimulated by Enron, but the issue really caught the attention of the voting public only in 2007 and 2008. French managers have, as a result, been much more successful in forestalling reforms of executive pay regulation than is the case in the United States. French managers benefited politically from facing a lower salience environment for longer than their American counterparts. Moreover, even as the political salience of executive pay began to rise in France, French managers had the powerful ally of a president and parliament of the political right, which is generally sympathetic to business demands for self-regulation. As a political issue moves from low to high salience, this partisan advantage becomes much more important in protecting the political interests of managers.

The setting of executive pay, like the issue of corporate control, is an important part of corporate governance. Yet issues of executive pay are somewhat less abstruse to the average voter than are other issues of corporate governance regulation. In the next section of this chapter, I explore these differences, as well as the sort of cognitive bias that can influence how the press covers executive pay. The remainder of the chapter examines the rising salience of executive remuneration in the United States and France between the go-go years of the late 1990s, when executive remuneration was rarely discussed in the press, to the near collapse of the global financial system in 2008, when it was a politically hot topic in both countries. In the United States, media coverage of the issue spiked in 2002 in the wake of the Enron scandal. As coverage of the

[2] Vogel (1987).

issue intensified, it became an issue of regular partisan contestation between Republicans and Democrats. The degree of public intervention in executive pay setting rose in tandem with these conflicts.

In France, meanwhile, Enron did not have the same transformative effect on public interest in the issue. The French electorate only became interested in executive pay in the latter part of the 2000s, as pay scandals erupted in France. However, because of the weakness of the Socialist Party in France, the only real contestation has taken place between business and the Gaullist Party, which tends to favor business self-regulation rather than government intervention. Higher salience creates political incentives for parties to intervene in this formerly unregulated policy area, but some political parties have greater capacity for, and interest in, intervention than do others.

Scandals, Executive Pay, and the Media

How does executive pay ever become politically salient? If issues of corporate control are boring and technical, as I have claimed repeatedly in this book, what is it about the related issue of executive pay that enables it to get into the headlines and stay there? Among issues of corporate governance, what is distinctive about executive pay is that it is rarely discussed in abstract terms, but rather in concrete individual cases. It is much easier to grasp a $165 million individual annual compensation package than it is to understand the implications of hostile takeover rules, even if the latter may have greater overall distributive consequences than any one executive's payday. In both cases, however, the issue of framing remains important. If the $165 million pay is discussed as an example of the well-earned return of a virtuoso executive, this framing has very different political implications than if the discussion is one of the bloated salaries of the executives of failing companies. But the particularly obvious distributive ramifications of executive pay mean it does not really suffer from the problem of complexity that makes the reform of corporate control illegible to many voters. Corporate pay has clear winners: the recipients of large executive salaries.

As long as the focus of pay is on its celebrity-creation power, this still does not guarantee it becomes a high salience issue. Just as "Lifestyles of the Rich and Famous" attracts television viewers without making wealth a political issue in the United States, so do articles about high executive pay titillate newspaper readers who make a lot less money. This is as true of French readers as it is of American readers. But when the issue of corporate pay is paired with systematic abuse of the system in an easily summarized scandal, then it can become as hot a political topic as that of tax increases.

This is most likely a product of the cognitive bias known as the "availability heuristic."[3] People use the availability heuristic when they "estimate frequency

[3] Tversky and Kahneman (1973). I am indebted to Richard Zeckhauser for suggesting to me the relevance of the availability heuristic in this context.

or probability by the ease with which instances or associations could be brought to mind."[4] For example, if American Airlines damages my baby's stroller in transit, I am much more likely to judge the baggage-handling performance of American Airlines based on this event – which springs readily to mind – rather than by looking up statistics on damaged baggage maintained by the Federal Aviation Administration. In their dramatic experiment documenting this cognitive phenomenon, Amos Tversky and Daniel Kahneman started from the fact that K is one of eight consonants more likely to appear as the third rather than the first letter of English words. For most people, it is nevertheless much easier to think of words that begin with K than words in which K is the third letter. "King" occurs more quickly to most people than "cake." The experimenters asked subjects whether, in a randomly chosen English-language text, the letter K is more likely to appear as the first letter of the word or the third letter of the word.[5] As expected under the availability heuristic, the respondents guessed the letter should fall in the first position by a ratio of about two-to-one, even though that is the wrong answer.

The availability heuristic is relevant to scandals such as Enron because such events create a high-profile point of reference linking high executive pay with accounting fraud. "Pay for performance" lay at the heart of the Enron scandal because the incentives for false reporting went up as executive pay was linked to stock price increases, and the stock price responded to regular earnings reports. The relationship among these factors is complex and often uninteresting to people who are not compensation consultants or chief executives. Enron cut through all that complexity and laid bare the stark distributive issues involved in accounting scandals. Enron workers holding company shares in their pension plans lost everything after the scandal, while the company's leading executives were already rich from their inflated "performance-based" pay. The Enron case became a story ripe for journalistic coverage, and thereby created its own effect, through the availability heuristic: a cognitive bias on the part of readers that outsized executive pay might well be related to accounting fraud. Through this effect, Enron changed the tenor of commentary on pay: CEOs moved from a presumption of innocence to a presumption of guilt when they had a big payday. Every big payout became a potential scandal, and thereby much more newsworthy. This change caught the attention of politicians in the United States and created an incentive for them to respond to the preferences of the public rather than of managerial organizations on executive pay.

The Political Salience of Executive Compensation

As a political issue, the history of executive compensation in the United States cleaves neatly into a pre- and post-Enron phase. Prior to the 2001–2002 accounting scandals that brought down the companies Enron and Worldcom,

[4] Tversky and Kahneman (1973: 164).

[5] The experiment used five of the eight consonants for which this is true: K, L, N, R, and V.

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

interest in executive pay was essentially flat, even as soaring global equity markets carried executive compensation into the stratosphere. Many of the news stories at this time dealt with the ways in which executive pay could be more closely aligned with the interests of shareholders. The primary instrument for achieving this alignment of shareholder and executive interests was the stock option, which gave managers incentives to increase stock prices of their companies over the short term. As the market expanded rapidly in the late 1990s, led by the stocks of dot.com companies, executive pay ballooned. This rise, in itself, did not generate a correspondingly large jump in press coverage. CEO pay packages were going way up, but press coverage of them did not, as shown in Figure 6.1.

Figure 6.1 compares the evolution of press coverage of executive pay in France and the United States between 1996 and 2008. In order to make the figures directly comparable across the two countries, this graph presents the coverage of executive pay as a proportion of all articles that appeared in the leading general newspaper and the leading business newspaper in each country. For France, the coverage refers to *Le Monde* and *Les Échos*; for the United States, the coverage refers to the *New York Times* and the *Wall Street Journal*.[6] Executive pay only gained public attention in both countries after accounting scandals revealed the problems of using stock price to align pay with performance. The accounting scandals at Enron and Worldcom were deeply embroiled with issues of pay because the incentive of executives to fudge the books increased as their

[6] Articles in the *New York Times*, *Le Monde*, and *Les Échos* were searched using the LexisNexis Academic database. LexisNexis does not include the *Wall Street Journal*, which was searched using the Factiva database. The search terms used for the American newspapers were "executive compensation" OR "executive remuneration" OR "executive pay"; the corresponding terms for the French newspapers were "rémunération des dirigeants" OR "rémunération des patrons" OR "salaire des dirigeants" OR "salaire des patrons."

The total number of articles published (which is the denominator of the proportion shown in figure in 6.1) was directly available for only the *Wall Street Journal*. LexisNexis Academic does not return the number of articles published in a given newspaper in a given year beyond a threshold of three thousand articles, and all of these newspapers publish more than three thousand articles per year. To establish the denominator of the total articles published yearly for the *New York Times*, *Le Monde*, and *Les Échos*, I therefore used the following estimation procedure. I chose the number of articles published in a given week (February 8–February 14) as a basis and multiplied by fifty-two. This week in February was chosen because it is fairly representative of a regular week for a newspaper in terms of number of articles published: I could find no potential bias that would drive the numbers of articles upward or downward (e.g., no major elections). When a significant change in the number of articles published compared with previous years was noticed in the newspapers, another search was performed using a week in September (September 19–September 25). In case of a change in a newspaper's format (hence modifying the number of articles published per year), the number used in the analysis is the average of the number of articles published in the week February 8–14 and the week September 19–25 (i.e., before and after the format change). I observed such a change in *Le Monde* in mid-2004, when that paper significantly reduced the number of articles it published per year, and for *Les Échos* from 1999, when that paper significantly increased the number of articles it published per year.

FIGURE 6.1. French and American Press Coverage of Executive Compensation, 1996–2008

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

pay was tied ever more tightly to short-term movements in the stock price. Thus, as summarized by Curtis Milhaupt and Katharina Pistor,

> executive compensation arrangements and market expectations created a single-minded focus on stock price at exactly the time when the incentives of market actors to exercise vigilance in ensuring that financial results were accurately reported to investors were being degraded. In several major cases, including Enron, the high-powered incentives to engineer fictitious financial results simply overwhelmed the enfeebled watchdogs.[7]

The discovery of these scandals shifted the level of press coverage of executive compensation in the United States to a substantially higher plane than in the period prior to 2002. In three leading American newspapers – the *New York Times*, the *Washington Post*, and the *Wall Street Journal* – there was an average of 184 articles per year on this topic between 1996 and 2000. Between 2002 and 2008, that number jumped to 545 articles per year. This means that in the first period there was only about one article per week dealing with executive pay in each newspaper. In the post-Enron period, each of these newspapers ran an article on executive pay *every other day*, on average. Coverage in the French press also increased, though with a lag and from a lower base.

How did regulatory involvement in executive pay setting respond to the increasing political salience of the issue? To answer this question, I developed a scale for each of the three dimensions on which governments intervene in executive compensation: transparency, shareholders' rights, and legal rules limiting pay. Transparency refers to the extent to which governments require the salaries of leading executives in listed companies to be made public. At the low end of regulation, there may be no such requirement at all. At the high end, all forms of compensation, including free use of the company jet, must be made public in a standardized format (known in the United States as a "plain English" requirement). In between these extremes, there are intermediate points in which compensation must be disclosed, but not in a standardized format; or in which some compensation, but not necessarily family use of the company

FIGURE 6.1. French and American Press Coverage of Executive Compensation, 1996–2008

Note: The *y*-axis refers to the number of articles per year on the subject of executive pay as a proportion of all articles appearing in these four newspapers.

Source: The *New York Times*, *Le Monde*, and *Les Échos* were searched using the LexisNexis Academic database; the *Wall Street Journal* was searched using the Factiva database. The search terms used for the American newspapers were "executive compensation" OR "executive remuneration" OR "executive pay"; the corresponding terms for the French newspapers were "rémunération des dirigeants" OR "rémunération des patrons" OR "salaire des dirigeants" OR "salaire des patrons." Between 1996 and 2008, there were 3,494 articles dealing with executive pay in the United States and 1,394 in France.

[7] Milhaupt and Pistor (2008: 55).

jet, must be disclosed. This creates a scale from zero to three, in which a score of zero refers to no transparency requirement at all, and a score of three refers to the most demanding standard of transparency.

The other two dimensions have similar scales that range from zero to three. The second dimension is that of shareholders' rights, which refers to the required input of general shareholders over executive pay. A score of zero means there is no shareholder input at all, which was not the case in either France or the United States throughout this period. A score of one refers to indirect shareholder control through the legal requirement that a compensation committee, which presumably represents the shareholders' interests, sets chief executive salaries. A score of two denotes the existence of legislative "claw-back" provisions, which give shareholders claims over "performance-based" executive compensation when that performance is later discovered to have been specious. A score of three means shareholders have the right to vote on CEO salaries at general shareholder meetings; this is known as a "say on pay" provision.

The final dimension is the most direct intervention by governments in the practices of listed companies – namely, legal rules constraining executive pay. A score of zero on this scale entails no government intervention at all. A score of one refers to limits on the extent to which companies can deduct executive pay from tax obligations. Neither measure intervenes directly in pay setting of leading executives, but each tries to exercise indirect influence over them. A score of two refers to direct restrictions on the size of bonuses or golden parachutes for CEOs in some companies. A score of three refers to similar restrictions on bonuses or golden parachutes of a broader set of top executives in a listed company, not only the chief executive.[8]

These scales are summarized in Table 6.1. Pictorial representations of the evolution of American and French law along these three dimensions of executive compensation regulation are shown in Figures 6.2 and 6.3.

Figures 6.2 and 6.3 illustrate that the United States and France moved in similar directions – toward greater regulation – but from different levels. Just as the political salience of executive compensation in France has been consistently lower than in the United States, so, too, has the degree of state intervention been correspondingly lower. These graphs omit the degree of *failed* legislation on this issue, which has also been higher in the United States where attempts by Democratic lawmakers to rein in executive pay were rebuffed in 2005 and 2007 before being enacted in strengthened form after the financial crisis of 2008. Moreover, an SEC rule change in 2006 took place under pressure from

[8] For reasons of simplicity, this scale excludes an important aspect of government intervention, which is the character of enforcement. Thus, in 2009 the United States and France both moved to level 3 in terms of the legal rules governing pay-setting (in companies that received government bailout money). Yet the American pay czar, Kenneth Feinberg, was given much stronger enforcement powers over excessive pay packages than his French counterpart, Michel Camdessus, who was only given the authority to make nonbinding recommendations.

TABLE 6.1. *Dimension and Extent of Government Intervention in Executive Pay Setting*

Transparency	**Legal Requirements**
0	No requirement.
1	Disclosure requirement, no standardized format.
2	Disclosure of top executives' direct compensation in a standardized format.
3	Disclosure of top executives' total compensation in a standardized format, which must be written in "plain English."
Shareholders' Rights	
0	No formal control.
1	Indirect control through compensation committee.
2	Expost facto clawback provision.
3	Direct voice through "say on pay."
Legal Rules on Pay	
0	No formal rules.
1	Limitation of tax deduction for executive compensation.
2	Restriction on bonuses and golden parachutes to CEO.
3	Restriction on bonuses and golden parachutes to CEO and other leading executives.

Source: Tax Executives Institute (1994), SEC (1996), Cooley et al. (2002), GovTrack (2002), GovTrack (2008), Glazier (2007), Cioppa (2006), Michel (2009), *Revue Fiduciaire* (2005), Ministère de l'Économie (2008), Guélaud (2009).

the political discussion around the 2005 law and responded to some of its perceived shortcomings. From the moment the scandal broke at Enron, executive compensation has been on the radar of American politicians, and it has been propelled by the identification of this issue by policy entrepreneurs in the Democratic Party.[9]

The political salience of executive pay also rose in France in response to Enron, and to a set of infamous paydays of French CEOs in 2003. But France has been ruled by a party of the right since 2002, and the French left has not seized on the issue of executive compensation to the same degree as activists in the American Democratic Party. The only big change in French regulation did not take place until 2005, but the working group developing governmental reform first began to fashion the reform in 2003 at the time of growing popular cries for more regulation. It was enacted in 2005 as part of a broader reform package of neoliberal Finance Minister Thierry Breton. Whereas the major conflicts in the United States took place in Congress between Democrats and

[9] As we shall see below, policy entrepreneurs on the left also helped initiate the previous round of regulatory innovation in the United States in 1992. Yet 1992 did not provide the sustained change in salience that Enron did. In the absence of sustained political salience, the issue quickly returned to being one dominated by managerial organizations until the Enron scandal occurred ten years later.

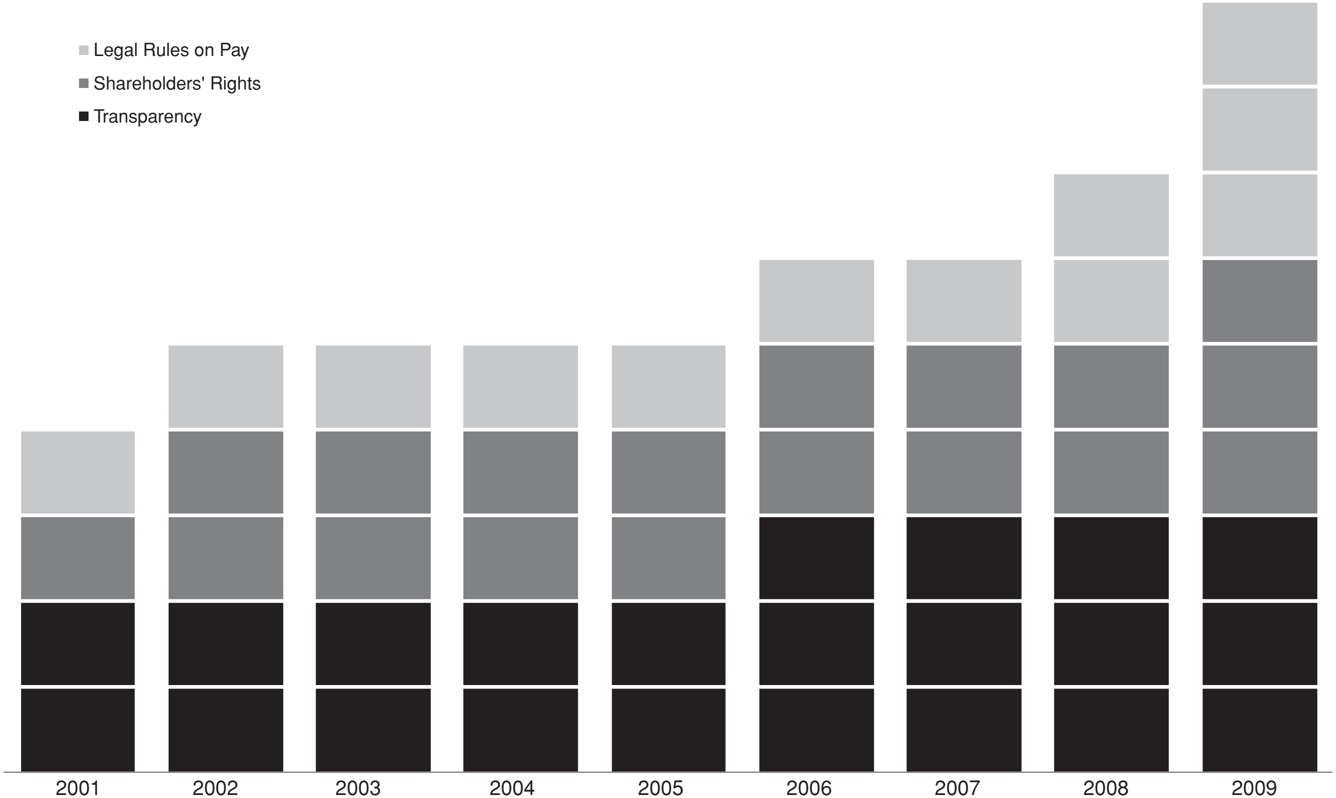

FIGURE 6.2. Regulation of Executive Compensation in the United States, 2001–2009.
Note: See text for a discussion of the scales of measurement for each of the dimensions of public intervention in pay setting.
Source: See Table 6.1.

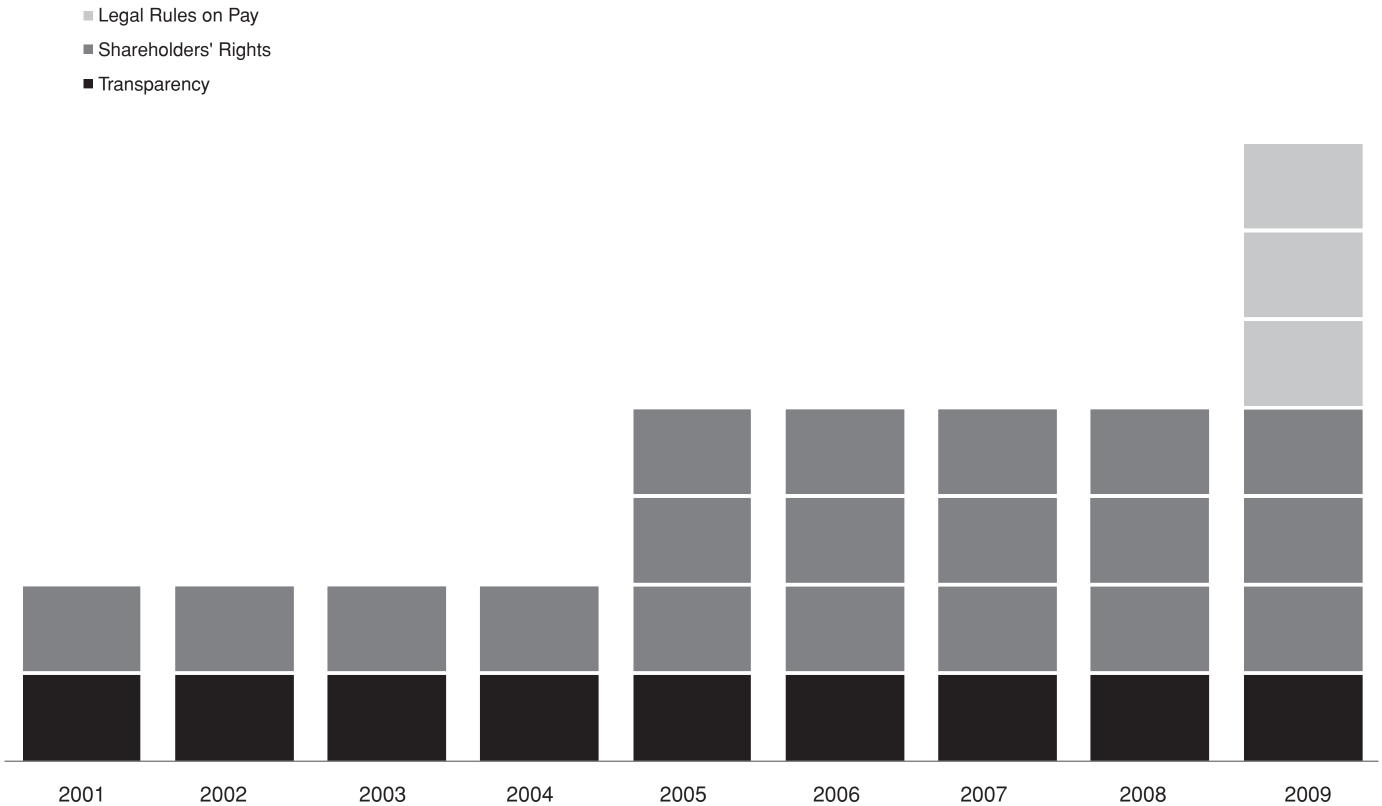

FIGURE 6.3. Regulation of Executive Compensation in France, 2001–2009.
Note: See text for a discussion of the scales of measurement for each of the dimensions of public intervention in pay setting.
Source: See Table 6.1.

Republicans, in France they pitted representatives of big business (who advocated informal regulation) against those of the ruling UMP (Gaullist) party. Only when public pressure in France got very intense did the UMP impose new regulations on its allies in the business community.

The Regulation of Executive Pay in the United States, I: 1992

Although the Securities and Exchange Commission (SEC) first required disclosure of executive pay in 1938, the modern history of executive compensation regulation in the United States began in 1992. That year, the SEC adopted new disclosure rules that required companies to publish more detailed and straightforward information about the salaries of senior executives.[10] These rules expanded the types of compensation that must be included in company statements, notably incorporating the terms of severance packages and retirement benefits.[11] The new SEC rules were accompanied the following year by a provision in President Bill Clinton's budget, which for the first time tried to use the tax code to limit the compensation of leading executives.[12] These two measures combined resulted in a one point jump on both the transparency scale (from one to two) and the legal rules scale (from zero to one), and they reflected a significant increase in government regulation of executive remuneration in the United States.

This sudden burst of regulatory enthusiasm was a direct response to the temporary spike in public attention to the issue of executive compensation in 1992 and 1993 (see Figure 6.4). In the *New York Times* and the *Wall Street Journal* – respectively, the leading general and business newspaper in the country – coverage during these two years was more than twice as intense as during the remainder of the period between 1985 and 1995 for a subject that had typically received about one article per newspaper per week on average. 1992 was a presidential election year in the United States, of course. However, given the generally weak level of public interest in executive compensation, presidential election years from 1985 to the present have not been characterized by higher average levels of press coverage than nonelection years. The rise of executive pay to political prominence in 1992 had its origin in the interaction between the press and politicians. In May 1991, two leading business magazines (*Forbes* and *Business Week*) each carried cover stories asking, "Are CEOs paid too much?"[13] The *Business Week* article correctly observed that the SEC classified executive compensation as being "ordinary business" of the company, and therefore a subject on which shareholders were not entitled to vote. Senator

[10] Vafeas and Afxentiou (1998).

[11] Dew-Becker (2008).

[12] This law gave companies no tax deduction on executive salaries of more than one million dollars, although it left a loophole in that companies could use "performance-related pay" and not lose the deduction.

[13] Byrne (1991), Linden and Contavespi (1991).

Carl Levin – who had previously exhibited no interest in the area of executive pay – responded by convening hearings of his Senate subcommittee to consider forcing the SEC to change its ruling.[14] In June of 1991, he introduced legislation to require stockholder votes on, and wider disclosure of, executive pay.

Levin's bill did not cause any increase in press coverage of the issue over the remainder of the year. Neither did Bill Clinton's proposal to limit the tax deductibility of executive pay, which was buried in a campaign speech on economic policy the future president gave at Georgetown University in October 1991. Both the Levin bill and the Clinton proposal were low-profile moves to seize a political issue, and as such created little attention on their own.[15] What actually catalyzed press interest in executive pay was President George H.W. Bush's decision to take "a retinue of highly paid executives on his [January 1992] trip to Japan, where company chiefs are paid far less [than in the United States]."[16] *The Washington Post*, for example, ran eighteen articles on executive pay during the entire year of 1991; it ran seventeen articles on executive pay in the first two months alone of 1992. The fact that Levin had taken up the issue in committee the previous year created immediate pressure on the SEC when the explosion of press interest in executive pay took place in 2002. His subcommittee convened a meeting on January 31 to discuss the issue. In an article on the meeting, Senator David Pryor of Arkansas was quoted as throwing down the gauntlet: "This is a classic example of one of those issues that Congress does not want to touch. We do not feel we have the expertise. However, this issue is leaving us no options. We are going to be involved."[17] The SEC got the message. In mid-February, it announced plans to require greater disclosure of the compensation of senior managers. Only when the SEC finally passed the new rules, in October 1992, did Senator Levin agree that legislation would no longer be required.[18]

Public attention to executive pay swiftly abated after 1992. Executive pay did not become politically salient again until a decade later with the outbreak of scandals at Enron and Worldcom. It is worth noting here that it is just not the

[14] Wildstrom (1991), Doyle (1991).

[15] The Clinton campaign proposal to limit the deductibility of executive compensation from corporate taxes to salaries of one million dollars was virtually ignored in the press. According to LexisNexis, Clinton's campaign promise that "there should be no more deductibility for irresponsibility" was mentioned only twice in the print media between the day he gave the speech in October 1991 and the election in November 1992. One article was in the *Washington Post*, the day after he gave the speech at Georgetown; the other was in a March 1992 article in *USA Today* entitled "Little Debate on CEO Pay" (Osborn 1992).

[16] Lohr (1992).

[17] Cowan (1992).

[18] Labaton (1992). The one area where Levin did say he was still considering legislation was on the issue of requiring accounting changes that would treat stock options as a liability. The issue was not taken up by the standards body of accounting, the FASB, until mid-1993. By this time, press attention to executive pay was declining, and managers remobilized against the initiative (Cioffi forthcoming). As the issue no longer retained political salience, business groups were able to prevail easily and the FASB rule change on stock options was withdrawn.

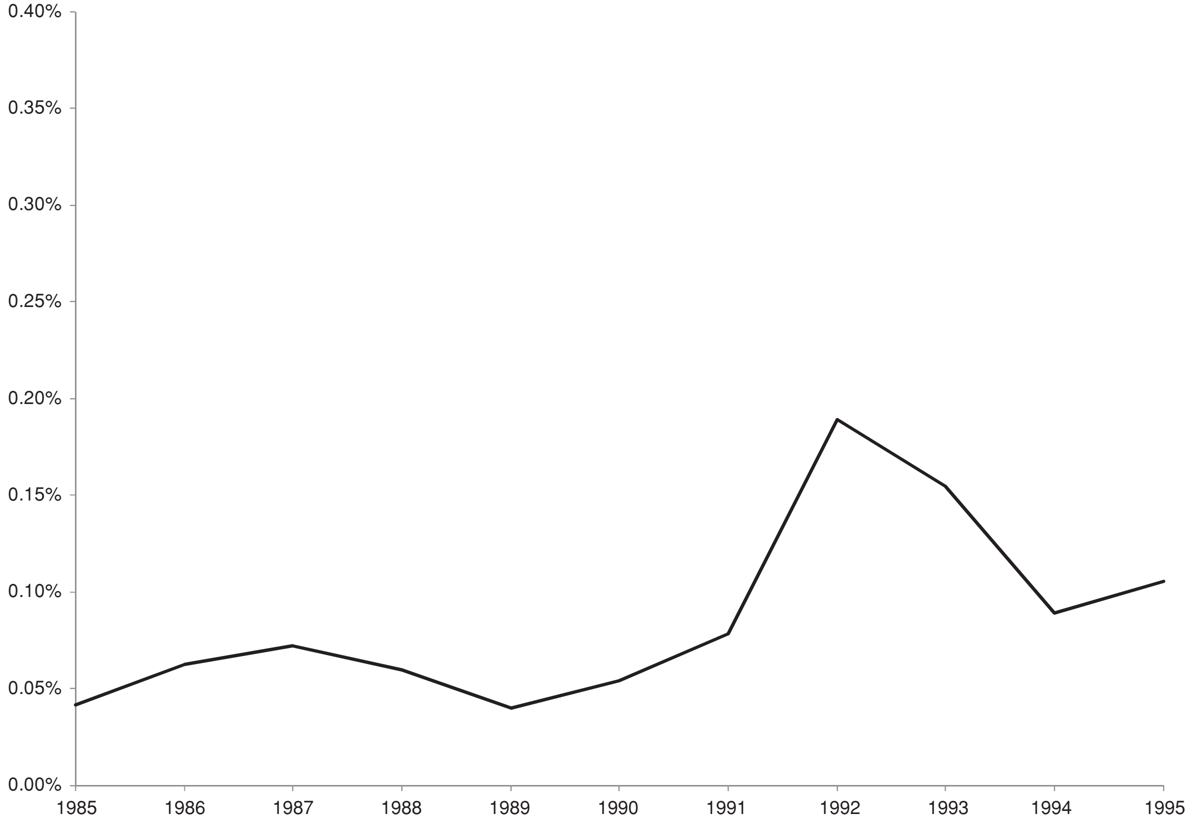

FIGURE 6.4. American Press Coverage of Executive Compensation, 1985–1995 (*NYT* and *WSJ*)

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

level of pay that drives its political salience in the United States. As illustrated in Figure 6.5, the most vertiginous rise in American CEO compensation took place between 1996 and 2000, when average CEO pay moved from 100 to almost 300 times the pay of the average worker. Yet press coverage of this issue changed only slightly in this period. In 2002, when Enron ignited a new wave of public interest in the issue of executive pay, the level of average pay was well down from its year 2000 heights as a result of a bear market. It is likely that high executive pay levels, relative to that of average workers, are a necessary condition for executive compensation to become politically salient. But high pay levels alone are not sufficient to kindle public outrage unless joined with some catalyzing event. The Enron and Worldcom scandals together would constitute such an event.

The Regulation of Executive Pay in the United States, II: Enron and the High Salience Era

The passage of the Sarbanes-Oxley law is typically seen as the watershed event of American corporate governance regulation. Yet the passage of Sarbanes-Oxley was only possible because the Enron scandal, followed by the Worldcom scandal a few months later, forced a reluctant Congress to act. Sarbanes-Oxley changed the law, but Enron fundamentally changed the political rules of corporate pay regulation. The scandal caught public attention and ignited public anger. This had an immediate effect in stimulating legislative passage of new rules of corporate governance, but the rise of Enron as an informational shortcut for corporate excess had its own discursive importance. It made a class of scandals easier to explain to the wider public. And if the availability heuristic is an accurate representation of cognition, the prominence of the scandal raised the probability that average voters would associate extremely high executive pay with potential fraud.

Enron was an accounting scandal driven by an executive incentive structure that tied salaries to short-term share price performance. The compensation of the 200 highest paid employees at Enron in the year 2000 was $1.4 billion, and three-quarters of that money was made up of stock options and

FIGURE 6.4. American Press Coverage of Executive Compensation, 1985–1995 (*NYT* and *WSJ*)
Note: The *y*-axis refers to the proportion of all articles appearing in the *New York Times* and the *Wall Street Journal* that dealt with executive pay during this period.
Source: The *New York Times* was searched using the LexisNexis Academic database, while the *Wall Street Journal* was searched using the Factiva database. The search terms used were "executive compensation" OR "executive remuneration" OR "executive pay." There were 868 articles dealing with executive pay in the *New York Times* and 469 in the *Wall Street Journal* during this period.

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

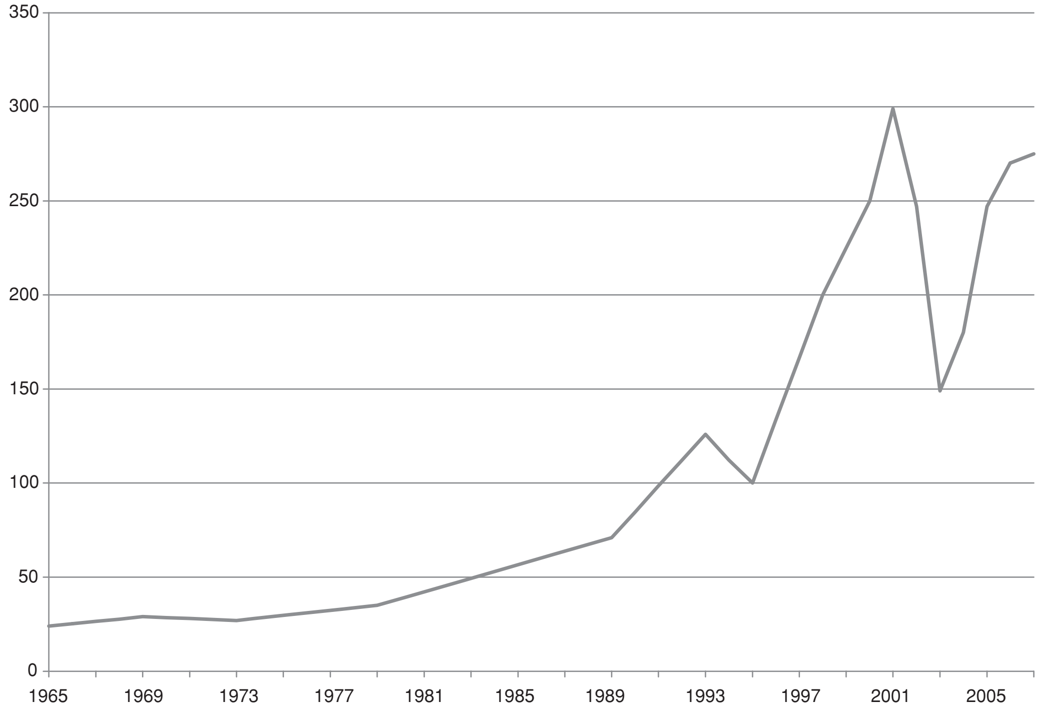

FIGURE 6.5. Ratio of Average U.S. CEO Direct Compensation to U.S. Average Worker Pay, 1965–2007.
Source: Economic Policy Institute (http://www.stateofworkingamerica.org/tabfig/2008/03/SWA08_Wages_Figure.3AE.pdf).

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

bonuses (i.e., remuneration related directly to the company's share price).[19] After the bankruptcy of Enron in December 2001, Republicans (who controlled the House of Representatives) and Democrats (who controlled the Senate) developed alternative legislative responses to the collapse. The Republican proposal, championed by Representative Michael Oxley and supported by President George W. Bush, included no new proposals and deferred to the SEC.[20] The Democratic proposal, backed by Senator Paul Sarbanes, pushed for strict accounting reforms and included clawback provisions to allow shareholders to recoup performance-based bonuses that were later revealed to be based on illusory performance. The institutional configuration, with Republicans controlling the House and the White House, favored the Republican bill. According to press reports from the time,

> few people [in May 2002] gave Sarbanes much chance of bringing his bill to the Senate floor, much less passing it into law. It had been months since Enron Corp.'s sudden collapse focused attention on long-standing problems of the nation's financial system, and the reformist zeal had faded.[21]

What Senate Democrats needed to have any hope of passing their bill was another business scandal. And they got it. On June 26, "front pages of newspapers across the country relayed reports that WorldCom had misstated billions of dollars of expenses."[22] Able to capitalize on the renewed public outrage, Sarbanes and the Democrats refused any substantive negotiations with Oxley and the Republicans, imposing their more stringent reforms in the Sarbanes-Oxley bill, which passed the Senate on July 15 by a vote of 97–0.

As John Cioffi observes in his analysis of this case, the passage of Sarbanes-Oxley was a contingent event, made possible by the occurrence of two prominent business scandals, which effectively refocused public attention on the case and disempowered business interest groups. Sarbanes-Oxley placed significant new limitations on company accounting, but it only introduced minor changes in the regulation of executive pay, which was the major source of the incentive structure behind the accounting scandal at Enron.[23] The importance of that scandal, from the perspective of the political salience of executive compensation, is that it became the embodiment of that distorted incentive system. Corporate scandals acquired a new watchword: thus Parmalat was called the "Enron of Italy," Ahold was the "Enron of the Netherlands," and even the American utility company Westar became the "Enron of Kansas."[24] Enron

[19] Milhaupt and Pistor (2008: 50).
[20] Cioffi (forthcoming).
[21] Hilzenrath et al. (2002).
[22] Hilzenrath et al. (2002).
[23] Milhaupt and Pistor (2008).
[24] Johnson (2004). The Ahold and Parmalat scandals were both covered as the "Enron of Europe." Web references to the various scandals can be found at the following sites:

Parmalat (http://marketplace.publicradio.org/display/web/2008/05/05/parmalot_lawsuits/);
Ahold (http://marketplace.publicradio.org/display/web/2007/10/26/upscaling_supermarkets/);
Westar (http://www.nytimes.com/2007/01/12/business/12westar.html?pagewanted=print).

gave journalists an easy way to communicate the central narrative line of otherwise boring stories involving accountants and falsified earnings records.

Enron, the Press, and Political Entrepreneurship

The Enron scandal broke out at the end of 2001. For all of 2001, a LexisNexis search of the entire database of American news sources retrieves only thirteen articles featuring the word Enron and the phrase "executive pay." Over the next five years, the same search never retrieved fewer than eighty articles per year. Five years after the scandal, in fact, the joint search terms still retrieved 184 articles.

To evaluate the role of scandals in the framing of press coverage pre- and post-Enron, I compared the composition of articles on executive remuneration in the two time periods (Figure 6.6). I examined two years that featured no obvious national financial scandal: 1999 and 2000 from the pre-Enron period, and 2005 and 2006 from the post-Enron period. The search returned all articles using the terms "executive compensation" or "executive remuneration" or "executive pay" in the *New York Times*, a total of 466 articles. Articles were coded as having one of four primary frames; nonclassified articles were coded as "other." "Scandal" refers to articles that were principally about some sort of pay-related scandal; "legal commentary" captures articles dealing primarily with ongoing legislation related to executive pay; "social commentary" refers to articles that mainly discuss the social phenomenon of executive pay without linking it to a particular episode of malfeasance; and "specific company" refers to articles dealing solely with the pay policies of individual companies, without reference to either scandals or broader trends in pay patterns.[25]

As shown in Figure 6.6, hardly any of the articles published in 1999 and 2000 referred to a scandal in executive pay, even though the year 2000 was the period when executive salaries reached their peak in comparison to the salary of average workers (see Figure 6.5). The vast majority of articles from this early period dealt with either individual companies or social commentary on executive pay. By way of contrast, in 2005 and 2006, almost thirty percent of the articles published in this area dealt with scandal. Moreover, even the tone of articles dealing with individual companies during the latter period was different, as many of these articles focused attention on the very high payouts of CEOs as they left their company. Not only was *coverage* of executive pay much higher in the latter two years, but its *composition* had changed, with forty percent of articles devoted to executive pay scandals or the development of laws to regulate executive pay scandals. Public outrage over pay scandals is the phenomenon that most distinguishes the press coverage of 2005–2006 from 1999–2000.

This figure also drives home a point already made implicitly in the discussion of the previous political episodes: newspaper coverage is not primarily a

[25] These articles were retrieved using LexisNexis academic. For this coding, I only included articles; letters to the editors, business briefs, business digests, and obituaries were excluded.

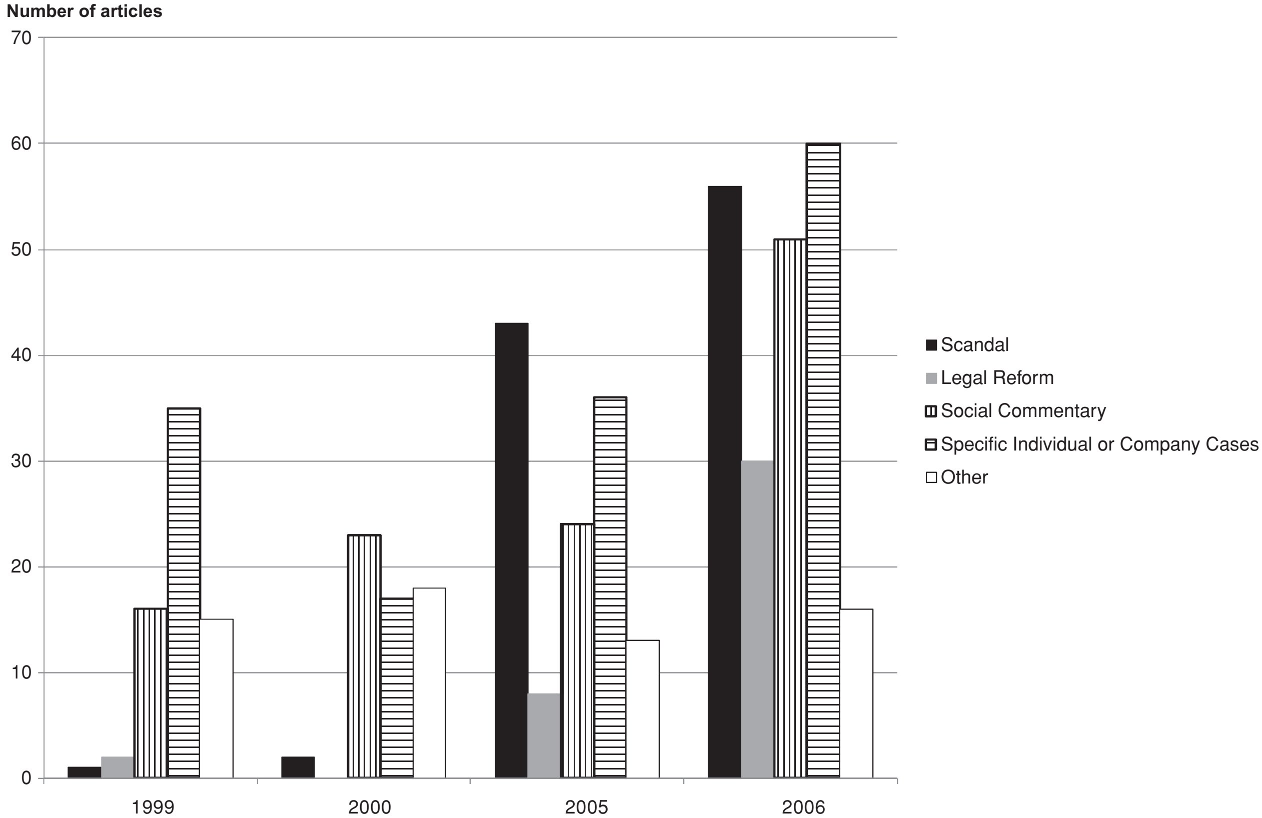

FIGURE 6.6. The Framing of Executive Pay in the *New York Times* Pre- and Post-Enron
Note: $N = 466$. All articles retrieved using Lexis-Nexis using the search terms "executive compensation" OR "executive remuneration" OR "executive pay." See text for explanation of coding. The vertical axis shows the number of articles that correspond to the given frame.

product of legal proposals, but causally prior to them. Some readers of this book may have wondered, reasonably, whether using press coverage as a measure of political salience raises what social scientists call a problem of endogeneity. Simply put, this sort of problem occurs when the value of the explanatory variable (political salience measured as press coverage) is in some way a result of the value of the dependent variable (regulation of executive pay), rather than being a cause of it. In this case, the endogeneity problem would be that newspapers sometimes cover issues debated in legislatures just because they are debated in legislatures. So what I have been arguing is an increase in salience that *caused* an increase in legislative activity in the United States might be only a *product* of that increase in legislative activity. It is certainly true that activity in a legislature almost always increases press coverage of an issue, other things being equal. There would be cause for concern if we were to remove the additional articles about legal reform and find that the increase I am attributing to salience was in fact driven only by a greater degree of law-making activity. However, it is apparent from observation of Figure 6.6 that excluding all articles on legal reform would not significantly change the observation of increased salience between the two periods. In the case of executive pay, public concern about executive pay captured the attention of politicians, not the other way around.

One politician who appears to have responded to this change in public concern was Congressman Barney Frank, who had never been associated with the topic of executive pay before April 2005. In January of 2005, the issue of executive pay had suddenly become highly salient in Frank's own Massachusetts congressional district, following the sale of the Boston firm Gillette to Procter & Gamble. Gillette's CEO, James Kilts, received a payout from the deal of $165 million, which provoked a storm of criticism in the local media. Massachusetts Secretary of State William Galvin investigated the case, and Kilts complained in a speech before the Boston Chamber of Commerce that he was being turned into "Boston's piñata" by the media and politicians. Frank, the ranking Democratic member of the House Financial Services Committee, first went public on the issue of executive compensation in April 2005 as business representatives were complaining to Congress about the costs of compliance with Sarbanes-Oxley. Speaking about executive behavior during a committee hearing, Frank said, "at least in one area of some importance to them – setting their own salaries – Sarbanes and Oxley might as well be Donald and Daisy Duck, because nobody lays a glove on these people when it comes to setting their own salaries. This is something we have to address."[26] In November, Frank introduced a bill to require direct shareholder approval of CEO pay and perquisites, including golden parachutes. Galvin, who had investigated the payout to Kilts, joined Frank at the press conference announcing the bill.[27]

[26] Block and Orol (2005).
[27] Reidy and Wirzbicki (2005).

Frank's bill never got out of committee, as the Democrats were in the minority in the House at the time. But, as in 1992, the SEC was not unaware what was being proposed in Congress.[28] Its proposals for reform, released in January 2006 and adopted in July, echoed some of Frank's proposals on more extensive disclosure as well as requiring a "plain English" standard for the publication of pay packages.

Frank's 2005 proposal to require advisory shareholder votes on executive pay – known as "say on pay" – died in committee. It would recur over the coming years. After the Democrats took control of Congress in November 2006, Frank dropped the measures on disclosure, which the SEC had addressed in its 2006 regulations, but he resubmitted a bill that would have required all public companies to hold an advisory shareholder vote on pay packages.[29] Business groups opposed the bill, with the president of the Business Roundtable testifying that "corporations were never designed to be democracies.... While shareholders own the corporation, they do not run it." The bill moved onto the Senate where it stalled in the face of managerial lobbying and opposition from the Bush White House, despite being cosponsored by then-Senator Barack Obama.

The economic crisis that broke out in the autumn of 2008 – which left several American and foreign financial institutions on the brink of insolvency – provided a vehicle for reinvigorated debate on the "say on pay" and clawback provisions proposed by Barney Frank. The Emergency Economic Stabilization Law, passed by Congress in October 2008, included a clawback provision and banned the use of golden parachutes for companies that received public assistance through the measure. Congressional Republicans successfully opposed a "say on pay" provision included in the original bill.[30] President Barack Obama took office in January 2009 amid rising press coverage of executive bonuses at many of the large financial institutions receiving public money, which the new president branded as "shameful." The large stimulus package his administration passed in February 2009 included a "say on pay" clause for companies that received any public money through the stimulus. Moreover, Barney Frank's counterpart in the Senate, Christopher Dodd, introduced tough pay limits on executives at these same companies, limits that went beyond even those demanded by the Obama administration.[31]

The cumulative effects of these measures, which were passed shortly before this book went to press, are not yet clear. They may well fail to rein in executive remuneration, just as the changes introduced by Bill Clinton did. But the continued high salience of executive pay since 2002 has at the very least coincided with an unprecedented expansion of the role of the American government in

[28] Cox (2006).

[29] HR 1257.

[30] Putnam (2008).

[31] Solomon and Maremont (2009). The Dodd-Frank Act of 2010 subsequently required that all publicly listed companies hold nonbinding shareholder votes on executive pay and on golden parachute arrangements.

regulating pay directly and in giving shareholders more tools to have input on managerial salaries. High political salience did not result in automatic losses for managerial lobbies. Frank's 2005 and 2007 proposals for "say on pay" were both defeated in Congress. The enduring post-Enron salience of corporate pay, however, left policy entrepreneur Barney Frank in a much better position than his counterpart Carl Levin had found himself in a decade earlier. Levin's attempt to control the expensing of stock options had failed after the concerted lobbying of business organizations, which secured bipartisan support for their opposition to Levin's measure.[32] By contrast, congressional Democrats after 2002 were no longer cowed by the claims of the Business Roundtable that managers knew best how to run American business.

For those Democrats, Enron was the scandal that kept on giving, in terms of skepticism about business autonomy in the area of pay setting. In the search of *New York Times* articles from 2005–2006, discussed previously, the Enron case was a regular feature in articles dealing with scandals on executive remuneration. Sometimes it was used as a clarifying example, such as in this quotation: "economists often argue that the best way to motivate managers is to link their pay closely to performance. But recent history (consider Enron and WorldCom) suggests this idea works much better in theory than in practice."[33] Other times, Enron was a marker of fundamental change in shareholder–manager relations: "the most important issue that stands in the way of fully restoring investor trust – and eliminating the trust gap that was caused by the scandals of the Enron era – is the issue of executive compensation."[34] Finally, Enron not only became a shorthand for a sea change, but one former U.S. attorney noted that it had actually changed acceptable prosecutorial tactics, thereby bringing a whole new class of cases under legal (and thereby journalistic) scrutiny.[35]

The durability of Enron gave Democratic policy entrepreneurs a political incentive to care about executive pay while undercutting the plausibility of managerial claims to special expertise. The frequent references to the scandal in the press are likely to have led American voters to be more skeptical about the justice of high executive pay, and such references certainly focused the attention of enterprising political figures, such as Barney Frank, on the issues of pay and corporate malfeasance. As a result of this lasting increase in political salience, radical policy change became possible in an area where regulation had previously been stable for long periods of time.

The Regulation of Executive Pay in France

In the United States, the sharp increase in the political salience of executive pay in the post-Enron period created an incentive for politicians to intervene

[32] A resolution condemning the proposal to expense stock options had passed the Senate with a large majority (Cioffi forthcoming).

[33] Anabtawi and Stout (2005).

[34] Morgenson (2006).

[35] Creswell (2006).

with formal legal proposals, and political entrepreneurs in the Democratic Party responded to this incentive. In France, Enron did not have the same galvanizing impact on public opinion as in the United States, probably because it was perceived as a scandal of American-style capitalism. Only with the economic crisis of 2008 did the political salience of executive pay in France finally reach the level it had first reached in the United States in 2002.

This difference in the regulation of pay in France and the United States was partially a product of the different opportunities created by political salience. Yet there is also an element of partisan political competition that is relevant to the variation in policy outcomes between the two countries. Even as executive pay excesses in France first began to come to light from 2003, the French Socialist Party was less well positioned than were the American Democrats to take advantage of rising political salience to advocate reform. The presidency and the Parliament were both controlled by parties of the right during the entire period between 2003 and 2009. Whereas Democrats Barney Frank, Carl Levin, and Christopher Dodd were able to use their role in powerful congressional committees to push for reforms during moments of heightened public attention, the French Socialists had access to no such institutional levers of power. The corporate reforms observed in France since 2002 were the product of innovations of governments of the right.[36]

Each of these French reforms followed a characteristic path: government proposal; business counterproposal for self-regulation; and passage of government proposal only after the failure of self-regulation to solve the perceived problem. Executive pay in France has not been a high salience issue for most of this decade, and that has made the traditional power resource of informal regulation an important one in the political arsenal of organized managers. The fact that the recent periods of high salience have coincided with the domination of the French political system by the Gaullist UMP has removed the most obvious partisan source of political pressure on business.

There is one alternative explanation for patterns of French regulation and salience which we should consider first. Perhaps there was less regulation of executive pay, and less political pressure for such regulation, simply because French executives were not getting paid as much as American chief executives. If this were the case, any account based on the difference in salience would be excluding the variable that drove both press coverage and legislative action: high executive salaries. To consider this alternative, Figure 6.7 charts CEO remuneration relative to average worker pay in both France and the United States.

[36] A set of reforms known as the NRE (New Economic Regulations) was passed in 2001 by the Socialist government, which lost power the following year. This was an omnibus bill combining different proposals dealing with finance, corporate governance, money laundering, corporate social responsibility, and competition law. The corporate governance reforms included a measure increasing the transparency of executive pay.

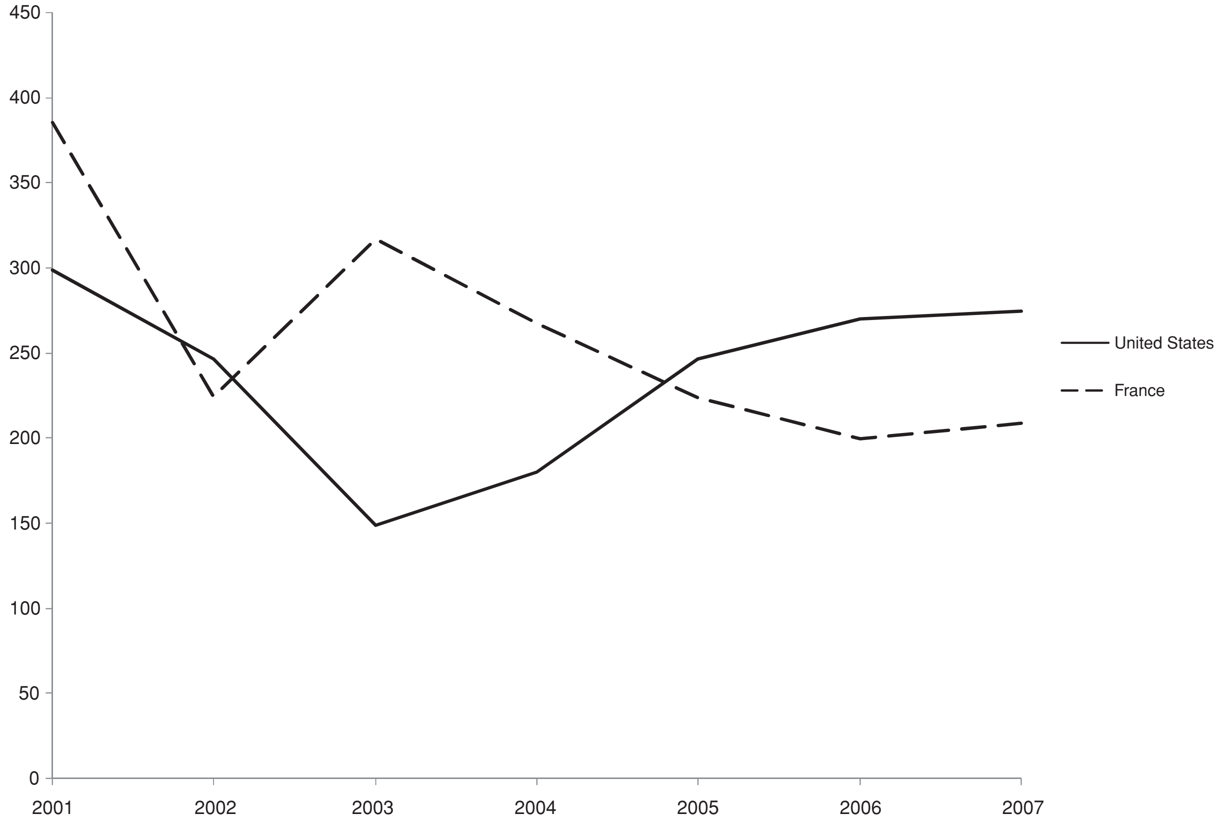

FIGURE 6.7. Ratio of CEO Pay to Average Worker Pay, France and United States, 2001–2007

These data emphatically refute the proposition that French lawmakers were passive because French executive salaries were not as high as those in the United States, relative to the pay of the average worker. From 2001 to 2005, when French laws governing executive pay were stable, CEO salaries in France were just as high as those in the United States, relative to average salaries. From 2005–2007, a period of constantly *increasing* press coverage of executive pay in France, executive salaries themselves were steadily *decreasing*, relative to average worker salaries. The level of executive pay accounts neither for the regulatory changes enacted by the government nor for the trends in the political salience of CEO pay observed in France during this period.

While Enron was not a highly salient event in French political life, both business leaders and politicians took note of it. The political organizations of French managers, the MEDEF and the AFEP, first established a joint commission of senior French executives to examine issues of oversight and executive compensation in April 2002, several months after the revelations from Enron. The committee's final recommendations, known as the Bouton report, endorsed the existing practices of executive pay in France, recommending against any increase in shareholder control over the compensation of senior executives. The first formal French response to Enron and Sarbanes-Oxley came in the National Assembly's Clément report, published in November 2003. The role of committee hearings led by Democrats in the American case was often to put pressure on the SEC to increase oversight of businesses. By contrast, in the French case the Clément report took as its target not regulators, but business itself, which the report asked to strengthen its own self-regulation.

FIGURE 6.7. Ratio of CEO Pay to Average Worker Pay, France and United States, 2001–2007

Source: Data on the United States are from Economic Policy Institute. Data on France were assembled from Code de Commerce (2003), Comarmond (2002), Ducourtieux (2006), Gatinois (2007), L'Humanité (2000), Maurice (2008), Proxinvest (2005), Rosemain (2008), INSEE (2009), and Bessière and Depil (2009).

Note: To construct this graph, we assembled data from various sources in France to parallel the measures of executive pay relative to average worker pay maintained for the United States by the Economic Policy Institute. Proxinvest, a consultancy that advises shareholders in France, has maintained figures on CEO compensation in France for the CAC-40 index of the largest forty companies for the years 2001–2007. To estimate average worker pay for France, we used the data collected by INSEE on wages of *ouvriers* (blue-collar workers) and *employés* (lower-level white-collar workers), taking an average weighting of the two categories based on their respective shares of the overall French workforce. We were unsuccessful in discovering the size of the sample of CEOs the Economic Policy Institute uses to create its figures, despite repeated attempts to contact the EPI. It is possible that our figures somewhat overstate the level of French executive pay relative to that of American CEOs, if the EPI includes the incomes of CEOs from smaller companies, which are excluded from our French data. This should not affect the time trends observed in the French series.

The Clément report acknowledged that the Bouton report was an attempt by organized business to respond to the problems raised by the Enron crisis. It added also that in its legislative priorities in the area of corporate governance, "the Government [of the right] has not substituted laws for free contracts, and the legislator has followed this choice." Yet the report went on to suggest that in allowing business to continue to set its own rules, it would be under surveillance. "The global explosion of [executive] pay was both the symbol and the symptom of the crisis. The manner in which this question will be contemplated in the future by CEOs will be, therefore, a test."[37] The report did not advocate measures such as "say on pay," and indeed it went out of its way to underline that it was a call for self-regulation: on the issue of variable performance based-pay, the committee "once again leaves the question to contractual relations, and leaves the definition of these measures, entirely to the judgment of corporate leaders."[38] The determination of performance-based pay was not a subject on which the legislature would intervene, but it was watching. At the time of the Clément report, the French managerial organizations published a code of practice, which reiterated principles laid out previously in the Bouton report.

By April of 2004, Clément was convinced of the need for an additional law on transparency in executive remuneration. The government was unwilling to support a law in the absence of a strong popular push for it, and Clément's measure languished. In April 2005, however, the public outcry over, and press coverage of, CEO Daniel Bernard's retirement package from the retail company Carrefour, created a potential opening for Clément to reintroduce his measure on transparency for public pay.[39] Although senior figures in the government opposed any regulation of executive pay, there was a political incentive to respond to the wave of public anger created by the Bernard golden parachute. As summarized by the journalists of *Les Échos*, the leading French business newspaper, "For the parliamentarians of the majority, the difficulty is to react with a symbolically strong measure to the emotion provoked by the [golden parachute] of Daniel Bernard."[40] The amendment submitted by Clément required that the special pay associated with signing or leaving a firm (golden hellos and golden parachutes) be disclosed in plain language to shareholders. Prior to 2009, this was the only change to the regime of executive compensation enacted by the governing UMP party.

However, the UMP was not insensitive to the steady increase of press coverage of French executive pay in 2006 and 2007. By 2007, French press coverage had finally reached the same intensity as the American post-Enron coverage of the topic, as measured by proportion of articles in the press dealing with this

[37] Clément (2003: 18).

[38] Clément (2003: 21). Carrefour, which is part of the CAC-40 index of the largest French companies, is roughly the same size as the American company Wal-Mart.

[39] Orange (2005), Lechantre and Pécresse (2005).

[40] Lechantre and Pécresse (2005).

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

subject. The scandal over the high pay package awarded to Antoine Zacharias at French construction giant Vinci had led to his resignation in June 2006. The case also led Nicolas Sarkozy, the eventual presidential candidate of the UMP, to denounce "rogue bosses" (*patrons voyous*) and to call for greater executive pay restraint. Sarkozy would include this plank in his presidential platform of 2007. The response of the organized employers' groups, MEDEF and AFEP, was to release a new code of conduct at the beginning of 2007, just as the presidential race between Sarkozy and Socialist candidate Ségolène Royal began to intensify. The president of the MEDEF, Laurence Parisot, was also simultaneously head of the largest public opinion firm in France, and she was well informed about the rising unpopularity of exorbitant executive pay. The joint AFEP/MEDEF proposal was explicitly targeted to head off any new regulation. Parisot argued that a private set of rules would be more successful because "it will have been established and thought up by CEOs."[41] The report, though it suggested making clearer the elements of individual remuneration, mainly referred to earlier MEDEF reports and rejected any notion of shareholder direct control of executive compensation. And the managerial organizations picked up a theme that would be central to Sarkozy's campaign: that high pay, "even very high pay," was appropriate for those who worked hard in France.

This response to public opinion was apparently enough to forestall any legislative action by President Sarkozy's new government in 2007. It was only with the onset of the global financial crisis one year later that public attention returned in a concentrated way to this issue, and with it the pressure of the government on organized managers. The Franco-Belgian bank Dexia, which required a large infusion of public money to stay solvent at the end of September 2008, planned to pay its resigning CEO almost four million Euros. This "pay for nonperformance" scandalized French public opinion and drew the following threat from Sarkozy: "either the employers agree among themselves on acceptable practice [for golden parachutes], or the government of the Republic will resolve the problem with legislation before the end of the year."[42] The MEDEF published a new code of conduct within two weeks of the president's speech. This code held that the monetary value of golden parachutes should only be determined based on performance, not on contractually specified payouts. President Sarkozy immediately withdrew his threat to legislate, but warned that the government wanted to see concrete results in limiting golden parachutes.[43]

To understand the timing and content of Sarkozy's next intervention in the regulation of business, it is instructive to monitor monthly press coverage of executive pay in France during the financial crisis of 2008–2009. Figure 6.8 shows the percentage of articles in which executive pay was mentioned in both the leading general newspaper (*Le Monde*) and the leading business newspaper

[41] Delberghe (2007).
[42] *Tribune* (2008).
[43] Fressoz (2008).

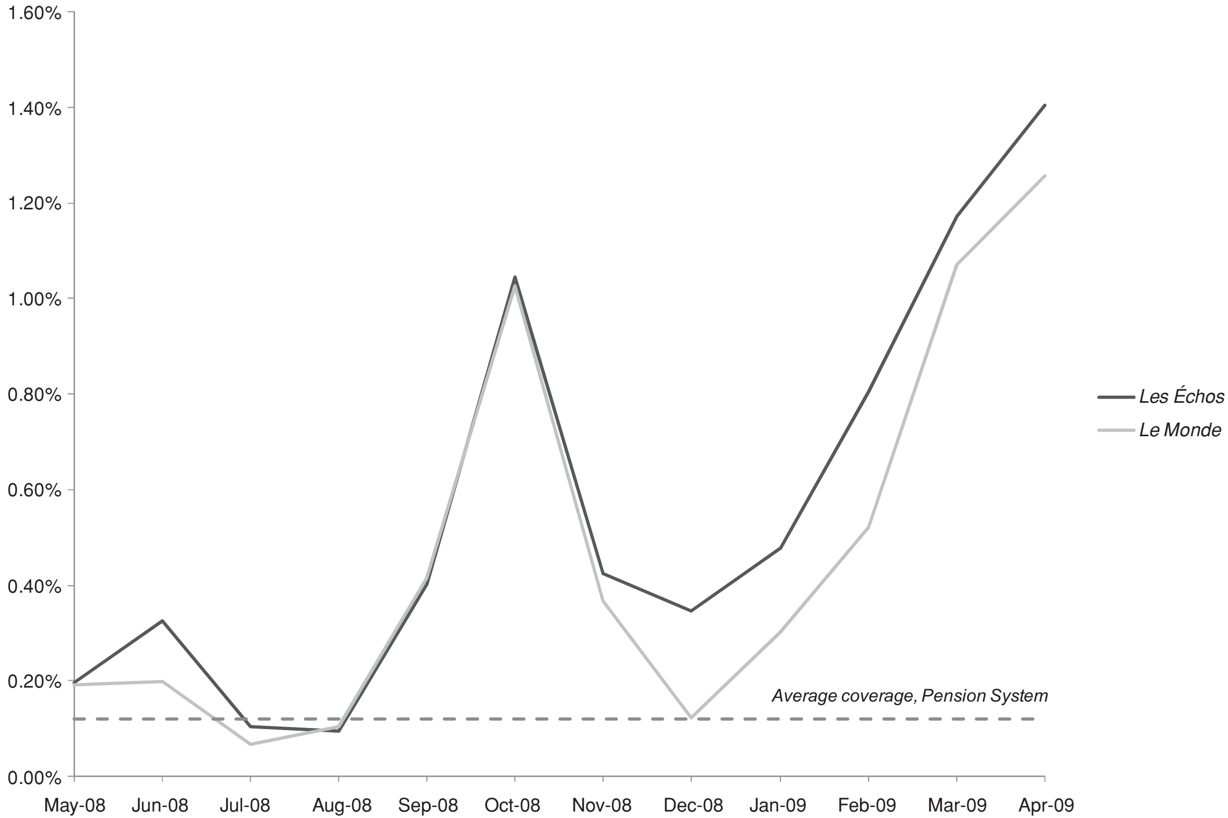

FIGURE 6.8. French Press Coverage of Executive Pay during Crisis Onset, May 2008–April 2009 (*Les Échos* and *Le Monde*)

https://doi.org/10.1017/CBO9780511760716.007 Published online by Cambridge University Press

(*Les Échos*). As in earlier chapters, the graph compares this coverage with the average level of coverage received by the pension system during the same period, which sets a baseline for high political salience. The 2008–2009 time period was one in which pensions were a hot topic in French politics. Even so, the coverage of executive pay was higher than the average coverage of pensions for most of this time, as illustrated in Figure 6.8. That figure shows there were two periods of especially intense press interest in executive pay. The first sharp spike in coverage took place immediately following the Dexia crisis in September–October 2008, to which the French president's threat was a direct response. The next jump in coverage was in March 2009, following the revelation of large payouts to executives at Société Générale and Valeo. As representatives of the banking and automobile industries – sectors that together had received more than thirty billion Euros in public money during the financial crisis – these two companies highlighted that executives of companies performing poorly were still getting generous payouts when they resigned.[44] Unlike previous examples, though, this media storm did not abate quickly, and indeed increased to unprecedented levels in April 2009, when nearly one and a half of every 100 articles in the French press dealt with the subject of executive remuneration.

Although Sarkozy's repeatedly stated preference was to allow business to regulate itself, French parliamentarians on the right began to break ranks with their president by the end of March, calling for legislation to respond to the public anger about executive pay scandals.[45] *Les Échos* reported in late March that the president warned members of the governing majority against new legislation. After threatening industry several times over the course of the month – during which time Laurence Parisot of the MEDEF emphatically rejected a hard limit on executive pay – Sarkozy's government announced it would issue a decree forbidding the issue of stock options or stock grants to officers of companies receiving state money (namely, the automobile and banking sectors).[46] Less than a week later, in a snub to the government, the parliament unanimously adopted a legal amendment to a supplementary budget that would substantially broaden the ambit of coverage. The amendment came from within the parties

←

FIGURE 6.8. French Press Coverage of Executive Pay during Crisis Onset, May 2008–April 2009 (*Les Échos* and *Le Monde*)

Note: The *y*-axis refers to the proportion of all articles appearing in the French press that deal with executive pay.

Source: *Le Monde* and *Les Échos* were searched through the LexisNexis Academic database using the search terms "rémunération des dirigeants" OR "rémunération des patrons" OR "salaire des dirigeants" OR "salaire des patrons." There were 204 articles dealing with executive pay in *Le Monde* and 347 articles in *Les Échos* during this year.

[44] Guélaud and Michel (2009b).
[45] Cornudet and Lefebvre (2009).
[46] Guélaud and Michel (2009a).

of the right and it extended those affected by the rule from only chief executives to all senior executives and board members.[47] It included a ban not only on stock options and restricted stock grants, but also on golden parachutes and other payments on termination of contract of executives (*retraites-chapeaux*).[48] Outflanked by increasingly restive parliamentarians, the government had no choice but to incorporate these elements into its decree, which was finally published at the end of April.[49] Thus, the expansion of governmental control of remuneration in France, shown graphically in Figure 6.3 earlier in this chapter, was a product of legislation forced on a president of the right by parliamentarians of the right, in the wake of sustained public attention to the issue of executive pay.

Under conditions of very high salience created by a financial scandal, as obtained in March and April 2009, even a government favorable to business self-regulation could not keep its troops in line. The experience of Nicolas Sarkozy in 2009 was eerily similar to that faced by George W. Bush in the summer of 2003, when Republicans in the House of Representatives deserted him in the face of public anger over the Enron and WorldCom scandals. These Republicans, like the politicians of the right who generally supported Sarkozy, would have been willing to countenance the preferences of the president for self-regulation if their constituents were not clamoring for action. It is rare for corporate governance issues to cause large groups of citizens to demand legislation from politicians. But when they do, even when a government of the right is closely aligned with business, managerial organizations face an uphill fight.

Conclusion

The quiet politics framework implies that managerial organizations will exercise disproportionate influence in issue areas of high interest to them but of low general political salience. They will succeed under these conditions because of their expertise and lobbying capacity, the reliance by politicians on self-regulatory forums for rule making, and their potential to influence the tenor of press coverage. But these tools of quiet politics are much less effective under conditions of high political salience. Under high political salience, the expectation that political parties and broad political coalitions will drive processes of reform makes much more sense than under low political salience. This chapter has tested these expectations empirically by examining change over time in the political salience of executive pay and the government regulation of executive pay setting in France and the United States.

[47] Jean Arthuis, the centrist president of the Finance Committee in the Senate, proposed the amendment.

[48] Guélaud (2009).

[49] Delacroix (2009).

France and the United States were both led by presidents of the right between 2002 and 2008. Partisan theories of politics suggest, correctly, that business should win more often when its allies from political parties of the right are in power. Yet there is important variation between these two cases. The United States moved substantially further in the direction of regulating executive pay during this time than did France. The differences in the timing of reform initiatives and in these ultimate political outcomes are difficult to understand without reference to the variations in the salience of executive pay in the two countries. This is a story about partisanship, but the importance of partisan control of government depends on the level of political salience of an issue.

In the United States, the transformation of executive pay from an issue of low salience to high salience was a consequence of the Enron and Worldcom scandals. These scandals changed executive pay from a source of public fascination to a source of public outrage, and this change of perception had important political implications. It created incentives for political entrepreneurs like Barney Frank to develop expertise and expend political capital trying to legislate in this area. Frank lost some battles against managers, even during the high salience period. High political salience did not ensure that the managerial lobby would lose; it merely vitiated the special advantages that business groups enjoy during periods of low political salience, all of which derive from deference to managerial expertise. High salience forces managerial organizations to rely more directly on partisan political protection or to mobilize support in public opinion. During moments of extraordinarily high public resentment against CEOs – as in July of 2002 – even the protection of a Republican president and House of Representatives was not enough to protect business interests from sweeping legislation.

In France, executive pay became highly politically salient only during the international financial crisis of 2008. As we saw, France actually intervenes much less than the United States in matters of executive pay, a fact which will probably surprise both French and American readers. The lower salience of the issue for most of the decade, combined with the presence of a government of the right sympathetic to the prerogatives of business, allowed informal self-regulation of executive pay to persist far after it had been challenged in the United States. Only when a series of pay scandals in 2009 raised journalistic scrutiny of French executive pay to unprecedented levels of intensity did Nicolas Sarkozy lose the ability to keep his party on board in allowing self-regulation.

The full political ramifications of the international crisis of 2008–2009 are not yet clear as this chapter is being written. Yet the evidence we have so far demonstrates the promise of focusing on variations in political salience to understand the different vectors of managerial influence in politics. Crises and scandals focus popular attention on issues that can otherwise seem technical and arcane, their distributive consequences notwithstanding. When events like Enron and Worldcom take place, they change the calculus of politicians. The availability heuristic can change the way voters perceive high pay, creating a presumption of guilt because of one or two memorable scandals. American

CEOs after Enron went from being treated like movie stars, whose wealth is envied and fascinating but not questioned, to being treated more like ex-convicts, whose sudden wealth raises immediate suspicions. This change of public perception and political salience transformed the political terrain of corporate governance by denying business actors deference based on their expertise. When an issue becomes subject to such noisy politics, the best defense of managerial organizations lies in an alliance with a sympathetic political party.

If managers could choose between having a right-wing party in power and having executive pay disappear from the headlines, they would be wise to choose the latter. Political parties, even those ideologically sympathetic to calls for business to regulate itself, will eventually respond to the electoral incentives created by angry voters. The Enron effect, followed by the financial crisis of 2008, demonstrated this logic clearly.

The findings of this chapter should not be misconstrued as predicting that executive pay will be checked by a new, postcrisis government activism in the advanced industrial countries. Indeed, the prediction that emerges from the quiet politics framework is that governments in France and the United States will only intervene in this area so long as it remains of high political salience. The short history of state intervention in executive pay is one of government regulation that stimulates the remunerative ingenuity of managers and compensation consultants. Managers of large companies typically have more expensive lawyers than does the government. As scandals recede in the past, and as economic growth returns, there are many other issues that may crowd out popular outrage with executive pay. If and when that happens, government oversight of executive pay is likely to slacken.