



## CHAPTER 9

# Legislatures and Legislators

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## CHAPTER OVERVIEW

The vast majority of today's countries are governed by legislatures, some with centuries old traditional forms of rule, others with new institutions created after the breakdown of older, less successful systems of rule. In this chapter we consider three core functions of legislatures: representational, governmental, and procedural. In the course of surveying them, in the first section of this

chapter we will touch on questions such as the use of quotas to improve the representation of women in legislatures, the relative merits of parliamentary and presidential systems, and the role that legislatures can play in legitimizing dissent. A brief look at types of legislatures, based on ability to stand up to the executive branch of government, will be followed by an introduction to the

▲ Legislative Assembly of the Government of the Northwest Territories chambers in Yellowknife, Northwest Territories (© age fotostock/Alamy Stock Photo).

internal structure of legislatures: the choice of single or double chambers and the role of parliamentary committees. We will conclude by exploring trends in the backgrounds of members of parliament in various countries.

## The Functions of Legislatures

Currently, there are 263 parliamentary chambers in 189 countries. This means that a little under one-third of the world's countries have two chambers. If we include the subnational elected bodies that represent more restricted areas, such as provincial and state legislatures, there are thousands of elected bodies around the world. No wonder legislative studies is one of the oldest branches of political science, and potentially one of the most interesting and most varied.

Legislatures are crucial institutions in any political system, but they are especially important in democracies. In fact, Western-style democracy as we know it would be inconceivable without them. They are vital elements in the structures of power within the state, serving (though to varying degrees) as checks on the executive's freedom of manoeuvre. Without legislatures, power in the modern state would be highly concentrated and potentially oppressive to its citizens. Legislators can uphold constitutions by bringing public attention to attempts to subvert them; and if the executive tries to undermine or suspend the judicial system, the legislature can lend its weight to the courts. They are also open to public scrutiny, and many of their deliberations are made available to the public not only in printed form (such as Hansards, transcripts of who says what in Parliament) but on television or through the Internet.

There are two ways of presenting a comparative overview of legislatures. One way is to examine institutional arrangements such as debating chambers, standing committees, how staff members run their offices and communicate with constituents, and so on. The other way is to look at the functions they perform in their particular political systems. Here we will concentrate mainly on the latter, but we will examine one particular institutional issue: the differences between parliamentary and presidential political systems and their merits and problems.

The functions of parliaments can be divided into three broad areas: representational, governmental, and procedural. It is the representational function of parliaments to represent both citizens and particular groups in society. Governmental functions include forming governments, developing policy, holding the government accountable for its actions, and enhancing government communication with citizens. Finally, the procedural functions of legislatures include ritualizing conflict and ensuring transparency.

### *Representation*

The original function of parliaments in Europe was to provide a forum in which different classes in society could express their views to the monarch on matters of public concern. Their role was at most to consult with monarchs, often merely to rubber-stamp their decisions without any further substantive involvement. There was no question of parliaments deciding policy, let alone imposing their will on monarchs. Gradually, though, they acquired greater authority as rulers saw fit to consult them on matters such as taxation for public

works or, most important, raising armies. Thus it was not only the European state that grew in response to the needs of war, as we suggested in Chapter 7; the role of parliaments also grew as they gained the authority to constrain the ability of monarchs to make war.

Central to the legitimacy of parliaments is the notion that they are representative of the wider society. To be legitimate they have to somehow “represent” the people. Still, over time different dimensions of possible representativeness have been proposed. In practice these are difficult to reconcile, because the composition of parliaments is also intertwined with the electoral system on which they are based, as we will see in Chapter 11. So states with different histories and different national priorities may arrive at different institutional solutions to the same problem. While some states have organically developed their own institutions over the centuries, a far greater number of countries have had their legislatures imposed on them through colonization or conflict. Western settler states, for example, have modelled their institutions on the countries that colonized them, such that Canada, Australia, New Zealand, Trinidad and Tobago, and many other former British colonies follow a Westminster model, something French, Spanish, and Dutch colonies have not done.

Does representation mean that deputies should be numerically representative of particular sections of society, as was originally the case with the House of Lords and House of Commons in the United Kingdom? Should the numbers of female representatives roughly correspond to the number of women in the population as a whole? What about ethnic minorities? Or Indigenous peoples? In the US Congress, Native Americans, African Americans, and Hispanics are all underrepresented, though the disparities are not as great as in the case of women. In early 2015, for example, the Pew Research Center noted that roughly 20 per cent of members in the House and Senate were from ethnic or racial minority groups. This made the 114th Congress more diverse than it had ever been in US history. However, there was still a very long way to go. While African Americans, Native Americans, Hispanics, and Asians make up 38 per cent of the US population, their representation in Congress was only 17 per cent. White Americans, by contrast, make



See Chapter 7, p. 140, for a discussion of the rise of the European state system.



See Chapter 11, p. 230 for a discussion of party systems.



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**PHOTO 9.1** | The model for all parliaments: London’s Palace of Westminster.

up 62 per cent of the population but 83 per cent of new representatives and senators. Pew suggests that this has actually gotten worse over time: “In 1981, 94% of Congress was white compared with about 80% of the U.S. population” (Krogstad, 2015).

Canada’s federal cabinet has become more diverse under the current Liberal government (see Box 9.1). Prime Minister Justin Trudeau pledged to construct a cabinet that “looks like Canada.” The cabinet has 50 per cent women, two Indigenous ministers (one First Nations, the other Inuk), as well as four South Asian ministers and the country’s first

### KEY QUOTE BOX 9.1

#### Should the Minister of Indigenous Affairs Be Indigenous?

Pamela D. Palmater, Mi’kmaq lawyer and head of Ryerson University’s Centre for Indigenous Governance, says no. The job of minister of the Crown co-opts Indigenous leaders, who will not be able to properly represent their own people in this role. The government must focus on building a nation-to-nation relationship, and fix the system. She writes:

Ever since contact, colonial officials sought out individual “Indians” to act on the Crown’s behalf in various contexts—as cultural and language interpreters, military scouts, and spies. In a modern context, Canadian officials have resorted to manipulating individual Chiefs to promote federal initiatives that they know run counter to our Aboriginal and treaty rights or will be met with mass resistance. This divide-and-conquer technique of pitting First Nations against First Nations has always been used to help the Crown deflect attention from the Crown’s culpability on any given issue.

The worst thing that could happen for the promised nations-to-nation relationship is if Prime Minister Trudeau appointed a First Nation person as Minister of Aboriginal Affairs and Northern Development Canada (AANDC).

... Crown representatives are always Crown representatives. They are there to protect the interests of the Crown. They may have been elected by a specific constituency and can represent them politically or advocate on their behalf, but cabinet ministers are “Ministers of the Crown.” Therefore, even the Minister of AANDC is there to represent, first and foremost, the interests of the Crown—whether the person is First Nation or not.

... Members of Parliament owe their duty to “the system”; that is, the Constitution, the rule of law and all regulations imposed by Parliamentarians. Yet it is this “system” which has been found by numerous commissions, reports and investigations to be racist, exclusionary, and oppressive to First Nations.

Thus, the very act of being a cabinet minister, therefore, sets them directly against First Nation interests. This is evident in the hundreds of court cases that name the Minister of Aboriginal Affairs and Canada against First Nations. In every single case, Canada litigates against First Nations. Changing the face of the Minister won’t change this fact nor does it change the racist system itself, which is the underlying problem. The Indian Act and thousands of federal laws, regulations and policies are still in place. It just looks less offensive—but putting a nicer face on it doesn’t make it any better and can actually cause more harm. (Palmater, 2015)



Muslim cabinet minister (MacCharles, Whittington, & Campion-Smith, 2015). However there are no black ministers, even though there are six black Members of Parliament (MPs) in the Liberal caucus who could potentially have been appointed (Foster, 2015).

In recent years efforts have been made to ensure that the composition of legislatures corresponds more closely to the structure of the population as a whole, particularly with respect to gender (see Table 6.2 and Box 9.2). There are now at least 40 countries that have introduced quotas for female representation in legislatures, while political parties in another 50 countries have adopted quotas for female candidates in elections (Dahlerup, 2005, p. 145). Former Canadian Prime Minister Kim Campbell recently came up with the idea of having two MPs per constituency, one male and one female candidate, in order to sort out the serious problems of gender inequality in Canadian political representation. In the 2011 federal elections, 76 women were elected, about one-quarter of the composition of the House of Commons (*Global News*, 2014).

There is still a long way to go before such quotas will be achieved (see Box 9.3), for reasons that Matland (2005) and Dahlerup (2005) have discussed. Nevertheless, the movement for quotas is likely to increase pressure to increase recruitment of people from other groups in society that are also regularly underrepresented. In that case, at least in democracies, legislatures will undergo major changes in the coming decades.



See Chapter 6, p. 114, for Table 6.2, Political Representation of Women in Parliaments.

## KEY CONCEPT BOX 9.2

### Women and Representation: But What Type?

An important contribution to the debate around women and representation was Hanna Pitkin's (1967) distinction between descriptive and substantive representation of women. *Descriptive* refers to the number of women in a particular legislature. Whether they are socialist feminists, avowed neoconservatives, or anything in between, they will be represented because they are women, irrespective of their political views. By contrast, *substantive* representation refers explicitly to the representatives' politics.

Manon Tremblay and Réjean Pelletier, in their study of women's representation in the Canadian Parliament, argue in favour of the "substantive conception." As they explain it, one of the standard arguments in favour of increasing women's representation is that, by virtue of "their socialization, values, and life experiences, women bring unique perspectives into the political arena" and therefore "would speak and act to support women's issues" (Tremblay & Pelletier, 2000, pp. 381–2). But it is not enough simply to have more women in Parliament. For the authors, the key is to have more feminists: people who think about and promote policies that value women in society. In the US Congress, for example, female Democrats and Republicans both tend to be more feminist than their male counterparts in their own parties, but many male Democrats are more "feminist" in their voting behaviour than Republican women. In other words, gender and feminist viewpoints don't always correlate. In Canada, a 1982 study of Ontario politics revealed that at the provincial level female members of the centre-right Progressive Conservative Party were far less open to the women's movement and feminist issues than male members of the more left-leaning Liberal and New Democratic parties. Tremblay and Pelletier conclude that what the Canadian Parliament needs is not just more women, but more feminists. This is one of many viewpoints that encourage us to question the belief that simply electing more women will improve women's social or economic positions in society.

### KEY CONCEPT BOX 9.3

#### The State of Gender Representation in 2015

- Only 22 per cent of all national parliamentarians were female as of January 2015, a slow increase from 11.3 per cent in 1995.
- As of January 2015, 10 women served as head of state and 14 served as head of government.
- Rwanda had the highest number of women parliamentarians worldwide. Women there have won 63.8 per cent of seats in the lower house.
- Globally, there are 38 states in which women account for less than 10 per cent of parliamentarians in single or lower houses as of January 2015, including five chambers with no women at all.
- Wide variations remain in the average percentages of women parliamentarians in each region, across all chambers (single, lower and upper houses). As of January 2015, these were Nordic countries, 41.5 per cent; Americas, 26.3 per cent; Europe excluding Nordic countries, 23.8 per cent; sub-Saharan Africa, 22.2 per cent; Asia, 18.5 per cent; the Middle East and North Africa, 16.1 per cent; and the Pacific, 15.7 per cent.
- As of January 2014, only 17 per cent of government ministers were women, with the majority overseeing social sectors, such as education and family.
- Thirty per cent is widely considered an important benchmark for women's representation. As of January 2015, 41 single or lower houses were composed of more than 30 per cent women, including 11 in Africa and 9 in Latin America. Out of the 41 countries, 34 had applied some form of quotas opening space for women's political participation. Specifically, 17 use legislative candidate quotas, 6 use reserve seats, and in a further 11 parties have adopted voluntary quotas.
- In countries with proportional electoral systems, women hold 25.2 per cent of the seats. This compares with 19.6 per cent using the plurality-majority electoral system, and 22.7 per cent using a mixed system.
- More women in politics does not necessarily correlate with lower levels of corruption, as is often assumed. Rather, democratic and transparent politics is correlated with low levels of corruption, and the two create an enabling environment for more women to participate. (UN Women, 2016)

And yet, if “representation” refers simply to expressing the views of constituents and serving as channels of communication with those in authority, the personal characteristics of the representatives are not so important. How far representatives should be obliged simply to express the views of a larger community of citizens and how far they should be free to express personal opinions is an open question. As we saw in Chapter 3, Edmund Burke, in addressing his fellow white and relatively wealthy male colleagues, argued that MPs were positively obligated to exercise their individual judgment (Burke, 1996). While practice in the British Parliament continues to follow the Burkean model, some other parliamentary systems have enshrined the principle of recall, whereby voters can “recall” their representatives or delegates, either to be replaced or to face re-election for failing to adequately represent the views of their constituents. This principle was instituted by the

French National Assembly after the French Revolution. It subsequently became part of the socialist tradition, so that deputies in communist and some nominally socialist states, such as China and Cuba, are liable to recall if a significant number of voters conclude that the deputy has failed to carry out his or her mandate.

On the other hand, many states enshrine the principle of parliamentary immunity to protect the right of deputies to speak out without fear of prosecution or threat of libel proceedings for what they say in parliament. This also means that occasionally individuals will seek election as a way of preventing, or at least postponing, prosecution for some criminal act.

Another key question is who a particular deputy's electors are. In most parliaments there is a direct link between an elected representative and a particular district within the country. But in countries such as Israel, Peru, and the Netherlands, voters make up a single national constituency and choose between the lists of candidates offered by different parties so that those elected accurately represent the preferences of the people. This ensures that members of parliament are proportionately representative—an issue to which we will return in Chapter 11. On the other hand, critics of the Israeli system have argued that its proportional system gives excessive power to small parties, with the result that executive policymaking is extremely constrained. Things have improved recently, since the electoral threshold for party status has increased from 1 per cent before 1992 to 3.25 per cent in 2015. This may result in fewer tiny parties and a less fragmented government since any party with less than four seats will not be permitted to sit in the Knesset. Commentators worry that while this will reduce fragmentation, it will also marginalize Israeli Arabs and the ultra-Orthodox Jews who, as Israeli journalist Roy Isacowitz notes, “may well have been effectively disenfranchised or swallowed into much larger structures had the electoral system been different.” Further, “each time the threshold is raised, more Israeli voters are disenfranchised. Votes cast for parties which do not pass the threshold, are discarded—i.e., they do not count toward the allocation of Knesset seats. The result is that voters who cast legitimate ballots are effectively disqualified—and the number of such voters is likely to increase significantly with the raising of the threshold. As such, it is a highly undemocratic move” (Isacowitz, 2015).

The relative merits of plurality versus proportional representation systems will be discussed in Chapter 11. What is important to note here is the effect of the combination of a single national constituency, proportional representation, and a low threshold for parties to be allowed to take up seats. In Israel that threshold, as mentioned above, is only 3.25 per cent of the popular vote—though it's important to recognize that the Netherlands has a threshold of just 0.67 per cent and yet does not seem to experience the fragmentation and polarization that characterizes Israeli politics.

In most states the connection between individual representatives and the people they represent in specific territorial constituencies is an essential contribution to the legitimacy of the legislative branch. This raises another set of questions. Is there an optimal size for constituencies? How similar in size should they be? Further, as citizens constantly move residences, who should be responsible for redrawing constituency boundaries? Most European states assign this responsibility to public officials; in Canada, Elections Canada is responsible for drawing boundaries and monitoring elections.

In the United States, however, the boundaries of districts for the House of Representatives are determined by the legislatures of each state. These state legislatures are in charge of interpreting federal census data, collected every 10 years, and then redrawing



See Chapter 11, p. 221, for a discussion of proportional representation.

See Chapter 11, p. 220, for a discussion of plurality versus proportional representation.

the electoral districts as they see fit. In many cases, whichever political party dominates the legislature will redraw the boundaries to favour its own party, a practice often referred to as *gerrymandering*. There are two ways of manipulating boundaries, known as *packing* and *cracking*. The first refers to packing supporters of the other party into as few districts as possible (to reduce the number of seats the opposition can take) and the second to dividing opposition supporters into as many districts as possible (so that they can never gain a majority of the vote; Schmidt, Shelley, & Bardes, 2007, p. 432).

The varying size of constituencies is always a highly contentious issue. In the United States, for example, the Constitution grants two senators to each state of the union, regardless of size. Thus Wyoming, the state with the smallest population, has the same number of senators as California, the state with the largest, even though California's population is 72 times larger. As a consequence, smaller states (which are often more rural) have a disproportionate impact on Senate voting. There is no prospect that this situation will change, since the smaller states will always be able to mobilize a large enough proportion of votes to prevent the required constitutional amendment.

In Canada, tiny Prince Edward Island has far greater representation in the Senate than its population of 146,000 people would allow. Any changes to the Senate rules would not only be extremely difficult, but would probably lead to an overhaul of the entire institution. Whereas senators in the United States are elected, their Canadian counterparts are appointed by the prime minister. Thus there is no direct public accountability for anything the Senate does, which is why all major parties have championed Senate reform. This became an important issue in the 2015 federal election; the NDP sought to abolish the Senate altogether, which would imply amending the Canadian Constitution, something the other major parties refused to consider. Prime Minister Trudeau has promised to reform the Senate and took the step of appointing nonpartisan senators in March 2016—prominent Canadians who were not affiliated with the Liberal Party. This included the former chief commissioner of the Truth and Reconciliation Commission, Justice Murray Sinclair; Paralympian Chantal Petitclerc; and Frances Lankin, a former NDP cabinet minister from the province of Ontario. Trudeau's idea is to increase the legitimacy of the Senate by ending its overtly partisan status (*CBC News*, 2016).

### KEY POINTS

- Members of legislatures represent the wider society, to which they are typically connected through territorial districts.
- Legislators' legitimacy is based in part on the assumption that they are also representative of society.
- Ethnic and racial minorities, as well as Indigenous peoples, are often underrepresented in Western settler legislatures, while white male representation is normally higher than their proportion of the population would suggest is fair.
- The introduction of quotas to increase recruitment of women in legislatures may lead to measures to do the same for other groups that are currently underrepresented.
- Appointed chambers such as the British House of Lords or the Canadian Senate have come under increasing scrutiny for being unrepresentative and therefore not as legitimate as they could be.



## Governmental

The “governmental” functions of legislatures are primarily concerned with forming governments, formulating policy, and implementing it.

### Presidentialism versus Parliamentarianism

In some states one of the legislature’s major functions is the formation of the government itself. In a parliamentary system, the head of the government is almost always decided by the parliament. **Parliamentarianism** is the principle that parliament has the final decision in the choice of the head of government; Canada, New Zealand, Australia, and the UK all operate on this principle. By contrast, in countries that follow the principle of US-style **presidentialism**, the legislative and executive branches are separate and the legislature has no say in the choice of president (the head of the executive branch), who is elected by the whole nation and therefore has a powerful mandate.

In parliamentary systems the prime minister is normally the party leader who can command a majority in the parliament. Where a single party has a majority of the seats, as is currently the case in Canada, the choice is usually easy. Where no single party has a majority, as was the case in the UK in 2010, two or more parties may negotiate to form a coalition government; thus the Conservatives and the Liberal Democrats after the 2010 elections formed a coalition government headed by Conservative leader David Cameron. Otherwise the party with the most seats will form a minority government. In such cases the government will be vulnerable to defeat if the opposition parties are able to unite against it (this happened in 1979 when the Progressive Conservative government of Joe Clark was defeated), but minority governments can sometimes survive for quite a long time if they are careful about the policies they choose to pursue.

In Canada, Stephen Harper managed to maintain two successive minority governments from early 2006 to early 2011. This was not an easy task, but it was facilitated by a divided opposition, which included one party whose primary goal was the separation of Quebec from the rest of Canada. In other countries, such as New Zealand, Australia, and Germany, coalition governments consisting of two or more parties are the norm, with parties joining in coalition until they share a workable majority of seats. New Zealand’s government after the 2014 elections was an informal coalition (known as a *confidence and supply agreement*) with the National Party in conjunction with three minor parties: the Indigenous Māori Party, ACT, and United Future. The previous government, a coalition between the Labour Party and the single MP representing the Progressive Party, had to work out complicated agreements with United Future and New Zealand First to ensure their support. Commonly in New Zealand, the leaders of coalition or support parties hold at least one cabinet position.

Which system is better? This depends on your perspective. Juan Linz (1992) has argued that parliamentarianism is more advantageous for democracy because it is more flexible and therefore more conducive to stability than presidentialism, which is quite fragile. He based most of his argument on the experiences of Latin America. This region has experienced a high degree of political instability over the past few decades, and almost all regimes have been presidential. Presidential rule in a democracy assumes a powerful executive based on a mandate from the whole people; yet legislators also lay claim to popular mandates. Thus the president and the legislature are driven by competing beliefs in their



Official White House Photo by Pete Souza

**PHOTO 9.2** | US President Obama and President Lee Myung-bak of the Republic of Korea greet guests on the lawn of the White House in October 2011.

own public legitimacy. Their views naturally clash, even where they agree over basic policy goals. This makes for a “zero-sum” approach to policymaking, with each side striving for a winner-take-all outcome.

By contrast, Linz (1992) argues that parliamentary systems encourage actors holding different political positions to negotiate compromises because they have to reconcile their own individual mandates with the potential national mandate for government. They are also able to enforce tighter discipline among their members in parliament because they can offer MPs the prospect of promotion to ministerial posts as long as they don’t challenge government policies. A good example

of Linz’s argument is the successful transition to parliamentary democracy made by post-Franco Spain, which in 1975 changed from an authoritarian system to a democratic one. Transitions to democracy have generally been less successful in the presidential systems of Latin America. In the early 2000s the president of the Philippines, Gloria Macapagal Arroyo, apparently agreed that the parliamentary system was preferable; see the Case Study below.

## CASE STUDY 9.4

### Presidentialism in the Philippines

The Philippines has had a presidential system since 1935, when it was granted greater autonomy as a colony of the United States. It gained independence in 1946. Since then it has, for the most part, been a democracy, although it spent 14 years (1972–86) as a dictatorship under President Ferdinand Marcos, who imposed martial law when the Constitution barred him from standing for election for a third term. He ruled with the overt support of the United States for much of this period. The current system is closely modelled on that of the United States. This means that parties remain fairly weak, and election campaigns tend to centre on individual candidates rather than on the parties they represent.

A serious problem for Filipino democracy has been widespread corruption. In the Transparency International 2014 Corruption Perceptions Index, the Philippines was ranked 85th out of 175 countries (Transparency International, 2014). Corruption also involves elected representatives. One notable feature of Filipino politics has been the persistence of dynastic political families. As it evolved in the twentieth century, Filipino political culture has prioritized dynastic politics. Individual members of these dynasties are able to pass seats on local councils and in the House of Representatives to their children or other relatives. In the Congress elected in 2001, 73 per cent of those elected to the House came from the second, third, or fourth generations of political families (Coronel, Chua, Rimban, Rimban, & Booma, 2004, p. 60). The personalized nature of Filipino politics makes it easier for candidates to run expensive personal campaigns, where favours can be traded between generations of political activists.

Periodically in the 1990s proposals were aired for the introduction of a parliamentary system on the grounds that it would weaken the power of the president (an important consideration in the aftermath of the Marcos regime) and reduce the risk that attempts to get rid of an unpopular president would lead to impeachment and thus undermine the system as a whole (Rüland, 2003, pp. 467–8).

In 2005, President Gloria Arroyo (herself the daughter of a former president) announced a plan to replace the presidential system with a parliamentary one. She justified this on the grounds that presidentialism favoured individuals and that a parliamentary system would strengthen the control of parties over the political system, make them more policy oriented, and reduce the scope for individuals, especially rich candidates, to escalate the costs of electoral campaigns.

While such a reform might certainly change the basic incentives for political careers, it is not clear whether it would do anything to uproot the political culture that supports and nourishes political families. When Arroyo's second term of office expired in 2010, the presidency remained in place and the idea of replacing the system didn't get anywhere. Her successor as president, Benigno Aquino III, is a fourth-generation politician. His father was a well-known senator assassinated by Marcos, and his mother, Corazon Aquino, was the country's first female president (1986–92), elected after Marcos was overthrown.

On the other hand, Cheibub (2007) has argued that if presidential systems appear less stable than parliamentary ones, the reason lies not in the systems themselves but in the political contexts in which they have to operate. He maintains that there has been a tendency in Latin America for authoritarian military regimes to be replaced by democratic presidential ones. If the transitions fail, therefore, the reasons have more to do with a fundamental crisis of authority than with the type of system adopted. If that is the case, the advantages of parliamentary systems over presidential ones may not be as clear-cut as they seem.

In any case, in practice there are several ways of synthesizing the two principles. One can be seen in the growing tendency of political parties to involve their wider membership in the selection of their leaders. The main British parties now invite all their members, not just members of the parliamentary caucus, to take part in the selection of their leaders, although the votes from different sections of the membership may be weighted differentially. Parties in other states, such as Canada and Germany, have generally elected their leaders at conventions of delegates chosen by party members.

Another hybrid system was devised in France and has subsequently been copied in other states, including Russia. Here the president is responsible for nominating the prime minister, but the latter must enjoy the confidence of parliament. If the parliament passes a vote of no-confidence in the prime minister, then general elections have to be called. The original reasoning behind this system was to strengthen the position of the prime minister and avoid the endless wrangling between small parties that was characteristic of the Fourth Republic until 1958. However, it can make for rivalry between president and prime minister, which can divide the government, especially when the prime minister has ambitions to become president and uses the post to advance those ambitions. For many years the problem was further complicated by the fact that it was not uncommon for the president and the prime minister to come from different parties because they were elected at different times. This led to uneasy periods of cohabitation, when the rivalry between the two often became so intense that decision making was paralyzed.

The same effect has been observed in other states where the terms of office of directly elected heads of state and of parliaments diverge, sometimes leading to different parties controlling the two institutions; examples include Taiwan and South Korea. The United States has often suffered from a similar problem since World War II. Although the Democrats dominated the House of Representatives for much of the time between 1954 and 1994, the Republicans controlled the presidency for longer periods, and this led to frequent “gridlock” in Washington. Gridlock has been especially bad under President Obama, with a Republican-dominated House and Senate versus a Democratic presidency.

Even though elected presidents have constitutionally greater powers than the prime ministers they nominate, and therefore should be able to overrule them, both can claim a mandate from the people and hence can appeal to public opinion to support their views; as a consequence, relations between the two offices are often quite tangled and intense. Principally for that reason, the French Constitution was amended in 2000 so that both president and prime minister now hold office for identical five-year terms. The same happened in Taiwan in 2008.

### Legislation

The second governmental function performed by legislatures, especially in democracies, is to shape and pass legislation, although in most states this power is tempered by legal considerations: Legislation must not only be able to stand up to judicial review, it must also respect international law. To some extent this legal function helps explain why so many elected representatives have been trained as lawyers. In the United States, which reserves a prominent role for the law in public affairs, 41 per cent of House members and senators in 2013 were lawyers, a figure 68 times higher than the general population (Measure of America, 2013). In 2005, 68 British MPs (11.7 per cent) from the three main parties were lawyers (Cracknell, 2005).

In practice, though, the chief initiator of legislation is the executive. This is true even in the United States, where the executive cannot introduce legislative proposals to Congress but must find sympathetic members of the House or Senate to sponsor them. The picture is more complicated for members of the European Union (EU), where member states have to introduce national legislation to give force to decisions made in Brussels. The German government estimates that around 50 per cent of all regulations governing business originate in agreements in Brussels (Miller, 2007, pp. 12, 14). In short, national legislatures today respond primarily to initiatives that originate elsewhere.

### Ensuring Accountability

A third governmental function of legislatures is to hold the government to account for its actions. This is particularly important in democracies as a way of ensuring that governments honour the commitments they made to the public when seeking election. It strengthens the incentive for credible commitments and increases the likelihood that a government that fails to keep its promises will be replaced at the next election. Even in authoritarian regimes, where the government is unlikely to be defeated, the executive may not always be able to control the legislature. As examples, Olson (1994, pp. 143–4) some time ago cited the growing activism of the Brazilian Congress under military rule in the 1970s and 1980s, and of the Sejm in Poland under communist martial law in the



See the discussion on the growing legalization of political life in Chapter 8, p. 178.

See the discussion of legal adjudication in political life in Chapter 8, p. 171.

1980s. Another example is China. There the National People’s Congress, comprising over 3,000 delegates, meets for only two weeks per year and its function is primarily symbolic. Speeches, voting, and provincial meetings take place, along with committee meetings behind closed doors and press conferences for senior officials. Nevertheless the Congress seems to be a model of rubber-stamping with no real power (McDonell, 2015).

But parliaments are not the only institutions that hold the executive to account. In most democratic states the media also perform this role. In addition there are institutions within the executive that monitor what other executive agencies do. O’Donnell (2003) calls this “horizontal accountability” and contrasts it with the “vertical accountability” performed by parliaments. Examples include the National Audit Office in the United Kingdom and the Office of the Auditor General in Canada, both of which act as checks on government spending. In practice all these institutions contribute to the accountability of government, and they often co-operate with each other.

### Formation of Public Attitudes


A fourth governmental function of legislatures is to contribute to the formation of public opinion and to set the agenda for public debate. This is an extension of their representative role, in which parliaments not only provide a forum, but also take the lead in forming public opinion. In an era of mass communications where the media do so much to inform the public about the issues of the day, the role of parliaments is less prominent than it was in the nineteenth century. Nevertheless, there are issues—terrorism and gun control are two examples—on which parliamentary debates have played a key role, although the line between forming public opinion and representing it can become fuzzy. Debates in parliament and in parliamentary committees are regularly reported in the media. In North America the C-SPAN and CPAC cable networks offer full-time coverage of the US Congress and Canadian Parliament. Some legislatures, such as the German Bundestag, the Dutch Staten-Generaal, and the Scottish Parliament, have taken advantage of the Internet to stimulate public debate over current affairs. However, such efforts to develop a more



Chris Hepburn/Stockphoto

**PHOTO 9.3** | The Scottish Parliament, established in 1999, uses its online presence to stimulate debates among citizens across the country.





See Chapter 3, p. 64,  
for a discussion of  
deliberative democracy.

reflexive approach to policymaking in society at large—the sort of deliberative democracy discussed in Chapter 3—seem to have had only limited success.

Another example of how legislatures can stimulate public debate can be observed in Sweden, where members of parliament regularly meet with advisory commissions to create legislative proposals. This practice constrains both the executive and the sovereignty of parliament but helps to ensure that a wider variety of views are represented in the legislative process, which should lead to better legislation (Olson, 1994, p. 135).

### KEY POINTS

- Parliaments perform a number of “governmental” functions.
- They usually play an important role in the choice of head of government in presidential systems, and in parliamentary systems their role is decisive.
- Parliamentary systems may be more stable than presidential systems.
- There are a number of hybrid systems that attempt to synthesize these two different forms of government.
- Cohabitation of an executive head of state and a prime minister from a different party can paralyze government decision making.
- Today parliaments usually respond to policy initiatives that originate in the executive.
- Parliaments make it possible to some extent to hold governments to account for their election promises.
- Parliaments can also provide a forum for national debate.

## *Procedural Functions*

Finally, there are two procedural functions that legislatures perform.

### Ritualizing Conflict

Parliamentary activities help to ritualize conflict by providing a safe forum for the expression of differing views. To that extent they legitimize a diversity of views. Even in Iran, where secular parties are banned and only religious parties are allowed, the parliament provides a forum in which dissident views can be expressed and thereby gain respectability or legitimacy (Baktiari, 1996). Critics of democracy sometimes argue that parliaments exacerbate divisions in society by providing opportunities to express dissenting opinions. It is true that Westminster-type parliaments formalize the role of official opposition to the government. In Britain, Canada, Australia, and New Zealand, this is “Her Majesty’s Loyal Opposition,” implying that the job of keeping the government in check is a patriotic function that strengthens democracy. This adversarial role is exacerbated by the seating arrangements: The government and opposition sit facing each other at a distance of a little over two swords’ lengths. In some states national legislators exploit the media coverage of their debates to dramatize their differences so as to establish a partisan image that will help their chances of re-election; in Taiwan, for example, legislators have been known to throw their lunch boxes at one another.

We could respond to the critics by noting that all societies have a plurality of opinions on any issue. In fact, where dissension is particularly extreme, parliaments can help to resolve disputes that might otherwise take a more violent turn. In that sense they “routinize” conflict, and even though legislators sometimes use parliamentary debate to rouse public opinion in support of extremist goals, this does not mean that parliaments by nature manufacture conflict; often they can tame its excesses.

### Ensuring Transparency

Parliaments are generally committed to openness and publicizing issues and policies. A parliament that kept its deliberations secret—as the Supreme Soviet did in Stalin’s time—would make no sense—its value would be purely symbolic. Authoritarian regimes may publish only edited versions of parliamentary debates, but even these help to publicize important issues and make the policymaking process more open—though full verbatim transcripts of deliberations are obviously preferable. By making the resolution of disagreements in society more open, transparency promotes social stability.

#### KEY POINTS

- Parliaments assume diversity of opinions and serve to ritualize political disputes.
- Opposition to the government can be seen as legitimate within the parliamentary setting.
- Parliaments also contribute to open policymaking and resolution of disputes.

## Types of Legislatures

Legislatures vary considerably not only in their powers but also in their relations with the surrounding political and societal structures. Mezey (1990) some time ago produced an influential typology of legislatures in an effort to identify the range of their possible operations. He proposed a five-part classification based on the ability of a legislature to stand up to the executive that remains persuasive:

1. An *active legislature* is at the centre of the political system and has the power to say “no” to the executive when necessary. The US Congress is the prime example.
2. A *reactive legislature* has less power to withstand the government, but it can set firm parameters within which the government has to act and it can impose sanctions on a government that infringes those parameters. Examples include the House of Commons in Canada and the UK, the House of Representatives in Australia and New Zealand, as well as parliaments in France, Germany, India, Sweden, and Japan.
3. A *vulnerable legislature* is much more pliant, in part because of local political cultures that tolerate legislators’ pursuit of their own material interests. Examples include the Philippines and Italy (the latter’s legislature has been particularly vulnerable because of the difficulties of forming stable coalition governments).
4. A *marginal legislature* performs important legislative functions but has at best tentative support from social elites. At times the executive has decided that it can



Official White House Photo by David Lienemann

**PHOTO 9.4** | China's people have little direct control over their government, despite the major economic changes that have taken place in the past three decades. However, economic growth has now become a key ingredient in the government's legitimacy, putting pressure on it to continue to perform.

do without the legislature and the latter has been unable to resist. Pakistan, Peru, Nigeria, and Russia under Putin are examples.

5. A *minimal legislature* meets rarely and serves mainly to symbolize national unity and regime legitimacy; it does not exercise any effective check on the government. This was the case in a number of communist states and is still largely true of the National People's Congress in China and the Vietnamese National Assembly.

### KEY POINTS

- Legislatures can be classified according to their capacity to impose their will on the executive.
- Some of the factors that determine this capacity are internal; others come from the broader political and social context.

## The Structure of Legislatures

As we mentioned at the beginning of this chapter, roughly two-thirds of the world's legislatures are **unicameral** in structure: That is, they consist of just one chamber or house. Unicameralism is particularly common among smaller, more unitary states. **Bicameralism** (having two chambers) has generally been the choice of larger, more complex nation-states, and for that reason will be the focus of the discussion below. We will also take a look at committees—a structural feature that is central to the way parliaments work.

## ***Bicameral Systems***

There is no set formula for the powers of the two chambers, and there are many different power dynamics. As well, some bicameral systems are far more accountable to voters than others. In the late 1990s, only 19 of the world's 61 second chambers were composed exclusively of directly elected members; 15 were hybrids, with some members directly elected and some appointed; and the remaining 27 had no directly elected members at all (among them was the Senate of Canada; see Box 9.5). Within these three subcategories there is still room for enormous variety in the ways in which the second chambers are constituted; for details, see Patterson and Mughan (1999, pp. 6–7). Nevertheless, it is possible to identify three general reasons for the decision to separate the legislature into an upper and a lower house.

The first is tradition. In the past, bicameralism allowed for the separate representation of different sections of society, usually the aristocrats in one and the ordinary people in the other. Most systems that were historically bicameral have remained so, even in the context of a modernizing society, although there are exceptions: New Zealand, Denmark, and Sweden all chose to abolish their second chambers and adopt unicameralism, in 1950, 1953, and 1970 respectively (Uhr, 2008, p. 476).

### **KEY CONCEPT BOX 9.5**

#### **Reforming the Canadian Senate**

The Senate of Canada currently has 105 members representing the 10 provinces and three territories. Senators are appointed by the prime minister, often as a reward for party loyalty or for public service of some kind, and can serve until the age of 75. For decades political leaders have tried to make the Senate more accountable to voters as well as more efficient in its functioning. In 2015 there were 22 vacancies in the Senate, as former Prime Minister Harper stopped appointing senators in March 2013. The argument was that the Senate was unaccountable and needed to be reformed (Lambert, 2015).

In June 2011, the Conservative government introduced the Senate Reform Act, a bill that would allow the provinces to hold special elections to determine a list of nominees for the Senate from which the prime minister would choose. All senators appointed after 14 October 2008 would be limited to one nine-year term of office, a condition that would not apply to those appointed before this date. The bill was controversial because the federal government cannot force provinces and territories to conduct elections without changing the Constitution, which would be extremely difficult. Provincial governments would have to choose to take part and would have to decide themselves when to hold these elections and how to fund them. The upshot of this refusal to appoint senators was that Quebec, Ontario, and Manitoba have a large number of their Senate seats unfilled, which meant under the Constitution that their provinces were not being fairly represented. Some MPs would prefer that the Senate be scrapped altogether. As Dave Christopherson, the NDP's democratic reform critic, put it: "The safe move would be to get rid of the Senate because we know what we have left and how it works: the House of Commons, warts and all" (quoted in Fitzpatrick, 2011).

At the end of 2015, the Liberal government announced a reform package to make the Senate more equitable and accountable. However, it may take some time before the Senate can shake off its reputation of being an "old boy's club"—a reward for the party faithful of the government.

See Chapter 8, pp. 173–8,  
for a discussion of  
federalism.



The second reason for maintaining an upper house often has to do with federalism. Setting an upper house aside for representatives from provinces, territories, or states serves as a guarantee to those entities that their wishes will not be ignored by the national government, even if their populations are tiny (for example, Prince Edward Island, Rhode Island; see Box 9.6). In Canada, the Senate provides regional representation for each part of the country. It also ensures that the people of the smaller provinces and territories have a greater say in legislation than their numbers would warrant. Whether this is fair or not is a matter of perception.

The third reason is the expectation that an upper house will lead to better legislation. Why should we expect this? First, what Patterson and Mughan (1999, pp. 12–16) call the principle of “redundancy” allows for a second opinion on the best form of a particular law. Thus, in Canada, the Senate was designed to be a “house of sober second thought.” Its members form committees that re-examine, debate, amend, approve, or reject legislation sent up from the House of Commons (Barnes et al., 2011). Second, the need to satisfy two chambers increases the likelihood that the final outcome will represent the wishes of the population at large, especially if the two chambers have been elected or selected according to different principles or at different times.

According to Tsebelis and Money (1997, pp. 4–5), the number of chambers of parliament makes little difference to the relations between the legislature and the executive, but it does affect the legislative process. Most constitutions give more power to one chamber than to the other, especially where control of the government budget is concerned. In Canada and Britain, the House of Commons has far more control over the budget than does the upper house. The exception to the norm of imbalanced power is Italy. The fact that the Senate and the Chamber of Deputies have equal powers means that the Italian government is often paralyzed, although this system has been successful in preventing the return of a fascist dictatorship, as it was intended to do.

Even where one chamber is more powerful than the other, however, compromise is often necessary to get a bill passed into law. How compromise is achieved will also affect the legislative outcome. Must the bill be considered by a joint committee of both houses? By full sessions of each chamber? In either case, what kind of majority is needed? All these factors make a difference.

## KEY QUOTE BOX 9.6

### Qualifications for the US Senate

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen. [U.S. Constitution, Article I, section 3, clause 3]

Delegates to the 1787 Constitutional Convention supported establishing membership limitations for House and Senate members. Influenced by British and state precedents, they set age, citizenship, and inhabitancy qualifications for senators, but voted against proposed religion and property requirements. (United States Senate, n.d.)



## Committees

In practice, legislators spend most of their time working in committees rather than in full sessions of the parliament. Most of the detailed consideration of proposed legislation is carried out in ad hoc or temporary committees created to consider particular bills. In addition, most parliaments establish permanent committees to scrutinize individual ministries. They often interrogate ministers and senior officials, and sometimes they hold enquiries into issues of policy that the members think is worthy of consideration. Committee members with long experience in parliament may be very knowledgeable about particular policy areas. For legislators from parties not in power, committee work offers opportunities to criticize the government's policies and propose alternatives. It also represents another way for parliament to fulfill its functions with respect to the formation of public opinion and the visibility of policymaking. Although some parliaments, such as in Germany and Sweden, allow parliamentary committees to propose legislation to the house as a whole, this does not happen in the Westminster system. In France there are a few large, permanent committees that divide into ad hoc committees to consider specific bills.

### KEY POINTS

- Bicameralism can improve the quality of legislation and ensure that it better reflects the preferences of the population, but it is more time consuming than unicameralism.
- The procedures for resolving disagreements between two chambers will affect legislative outcomes.
- Most parliamentary work is done in committees of the legislature.

## Legislators

Now let us turn to some common features of elected legislators. In Westminster-style democracies, Members of Parliament are theoretically representative of the population at large, although obviously this is true in only a broad sense. For example, legislators in general tend to be white, male, generally better educated than the average citizen, and socioeconomically part of the middle class (even if they represent left-leaning parties).

In fact, it has been suggested that some Western states are now developing what Gaetano Mosca, the Italian theorist of elitism, called a “political class.” By this, according to the journalist Peter Osborne (2007, p. 24), Mosca meant a group that is “self-interested, self-aware and dependent for its economic and moral status on the resources of the state.” Osborne argues that the concept did not fit the reality of Mosca’s time (the late nineteenth century) very well, because there were significant external checks on political figures and because the resources of the state were not so easily bent to serve them. Now, though, “The Political Class has won its battle to control Britain. . . . In an unannounced takeover of power, the public domain has been seized by the Political Class” (Osborne, 2007, p. 310). Two Italian journalists have made much the same claim about Italian politics (Rizzo & Stella, 2007).

Academics have also begun to discuss the “political class.” According to Borchert and Zeiss (2003, p. 6), the term refers to a class that “lives off politics” and acts as a “class for itself.” As we saw in Chapter 7, many accounts of politics in African states emphasize the widespread pursuit of politics for the purposes of making money (Bayart, 1993; Chabal & Daloz, 1999).



See Chapter 1, p. 27, for a discussion of elitism.

What Borchert and his colleagues highlight is a more recent phenomenon, specific to OECD democracies: the emergence of political professionals who are skilled in the art of winning elections, whether as candidates or as advisors, and who have never had another career. A good example is Joseph Biden, who was first elected to the US Senate in 1972 and was then re-elected a further six times before becoming vice-president under Barack Obama in 2009 and again in 2013. In Canada, Stanley Knowles served as an MP from 1942 to 1984 with one four-year absence from Parliament from 1958–62 (Trofimenkoff, 2013). More recently, former Conservative Justice Minister Peter MacKay announced in 2015 that he would not be seeking re-election as MP for the Central Nova riding. MacKay was MP for this constituency from 1997 to 2015. His father, Elmer, represented the same constituency from 1971 (*CBC News*, 2015).

In Japan and Ireland, high proportions of members of the national parliament are the children of former legislators who used to hold the same constituency. In Japan the figure had risen to 28 per cent of deputies to the lower house of the Diet in 2003 (Usui & Colignon, 2004, pp. 408–9), while in Ireland the figure hovered between 22 and 25 per cent from 1992 to 2002 (Gallagher, March, & Mitchell, 2003, p. 114). Although this pattern certainly seems consistent with the emergence of a “political class,” it does not seem to be replicated in other countries to the same extent.

### KEY POINTS

- Some countries show signs of a trend toward professionalization of political representatives.
- Some have suggested that this trend has already led to the emergence of a “political class.”

## Conclusion

We might expect that elected parliaments would enjoy broad popular support, especially in democracies with free and fair elections. However, the World Values Surveys suggest that people in the developing world tend to have greater confidence in their parliaments than those in the developed world. To some extent democratic citizens are becoming more suspicious of their representatives. For selected results from the round carried out in 2005–7 see Table 9.1.

**TABLE 9.1 | Confidence in Parliament, 2005–2007**

Sweden	56.3	Belgium	35.9
Finland	56.1	France	35.5
Switzerland	54.0	Australia	34.1
Denmark	48.6	Netherlands	29.7
Austria	40.7	Japan	23.2
Canada	38.2	West Germany	21.9
United Kingdom	36.2	United States	20.6

Proportion of respondents in various countries answering “a great deal” or “quite a lot” to the question “How much confidence do you have in parliament?”

**Source:** Conference Board of Canada. (2013). Confidence in Parliament. Retrieved from <http://www.conferenceboard.ca/hcp/details/society/trust-in-parliament.aspx>

While this does not suggest a great challenge to the existence of parliaments, it does suggest widespread skepticism about the way parliaments or politicians (or both) operate. Factors such as the constitution, the political culture, and the state of the economy often play crucial roles in determining how a legislature works. When people criticize their parliaments they are often complaining about something else. Mainwaring (2006) came to a similar conclusion in his analysis of legislatures in the Andean states of Bolivia, Colombia, Ecuador, Peru, and Venezuela. He and his collaborators chose this region because it has particularly low levels of public confidence in parliaments by world standards as well as those of Latin America—even though all five countries had experienced a widening and deepening of representation over the previous 30 years. He concluded that the lack of confidence was caused primarily by popular perceptions of broader deficiencies in the political system as a whole. The economies had failed to develop, standards of living were low, and there were serious problems with corruption. While in principle sovereign parliaments in democracies have the power to change government, in practice they may not be able to achieve the changes that the people want. Institutions such as the judiciary or the military may resist political pressure, especially in “weak states” (the category in which almost all of the Andean states can be included). Mainwaring suggests that “Better state performance is key to promoting greater confidence in the institutions of representative democracy and greater satisfaction with democracy” (2006, p. 331). In short, policy implementation is just as important as policy formulation.



See Chapter 7, p. 149, for a discussion of strong states and weak states.

## Key Questions

1. If Canada’s Senate were to be reformed, what should be its powers and functions?
2. Can Trudeau really create a nonpartisan Senate through a centralized appointment process?
3. Does a second chamber of parliament make it more likely that laws will reflect the preferences of the whole population? Are there any circumstances in which it might not?
4. Why do you think New Zealand, Denmark, and Sweden chose to eliminate their second chambers?
5. Assess the arguments in favour of presidential and parliamentary systems. Do the experiences of states that have made the transition to democracy provide any evidence that would justify one choice over the other? What difference, if any, would the replacement of presidentialism with a parliamentary system be likely to make for Filipino democracy?
6. Assess the arguments in favour of quotas to increase gender equality among MPs. Is Kim Campbell’s idea of two MPs per constituency a viable way of correcting the imbalance?
7. Should the same arguments be applied to other groups in society that are currently underrepresented?
8. Does it matter if there are great disparities in the size of constituencies electing representatives to the same legislature? Why?
9. Why do you think citizens in democracies might be becoming more critical of their representatives?
10. How much should parliaments seek to lead public opinion, and how far should they follow and represent it?
11. What would effective Senate reform look like in Canada?