Minority Rights and Majority Rule in European Legislatures

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Abstract:

The evolution of minority party rights has so far been analyzed chiefly in presidential democracies, particularly in the United States, where scholars have mapped such rights and have explained any changes with institutional, partisan and ideological factors. In Europe, a comprehensive focus on the evolution of procedural rights of individual MPs and opposition parties has so far been largely absent. Against this background, the objective of this workshop is to bring together scholars working on legislative politics and organization to examine the conditions under which the rights of individual members and opposition parties are curbed (or expanded) in European legislatures. In particular, the workshop will address the following questions: What rights do individual MPs and opposition parties have in European legislatures? Do such rights change over time and, if so, how and why? How can cross-country variation in the evolution of such rights be explained? We define minority rights broadly to include a variety of formal and informal, constructive and obstructive, individual and partisan privileges that members and opposition parties can resort to in European legislatures to counteract majority (or government) power. Interested participants are invited to submit both theoretical and empirical papers that explain the evolution of and variation in minority rights and parliamentary organisation in European national legislatures. Theoretically informed case studies and systematic cross-temporal and cross-country comparisons are particularly welcome.

Outline of the topic:

What rights do individual MPs and opposition parties have in European legislatures? Do such rights change over time and, if so, how and why? How can cross-country variation in the evolution of such rights be explained? The proposed workshop aims to address these and related questions about the configuration and evolution of minority rights in European legislatures.

The evolution of minority rights has so far been analyzed chiefly in presidential democracies, particularly in the United States (Binder 1997; Dion 1997; Schickler 2001), where scholars have mapped changes in minority rights and have linked them to institutional, partisan and ideological factors. In Europe, legislative research has focused mainly on the role of governments in setting the parliamentary agenda (Döring 1995; Saalfeld 2010; Rasch & Tsebelis 2011) and the opportunities of parliamentary oppositions (Helms 2009), but a comprehensive focus on the origin and evolution of procedural rights of minorities has been largely absent.
The workshop seeks to emphasize the temporal, contextual and organisational perspectives on the evolution of minority rights. An emphasis on temporal aspects implies a focus on the development of minority rights rather than their choice (Pierson 2004). Parliamentary rules may be applied differently over time or even not at all. How do such practices change over time? Under what circumstances are existing rights enhanced and when do they fall into abeyance? The contextual perspective draws attention to the setting within which minority rights evolve. How are decisions on parliamentary minority rights (or their application) related to other choices that shape political competition (such as the electoral system, federalism or referenda)? Are claims of endogeneity warranted (see McGann 2006a, b; Powell 2000; Taylor 2006)? Thirdly, parliaments are not only rule-following institutions, but also resource-based organisations (Z'Graggen & Linder 2004; Z'Graggen 2009). Hence, one should ask: how are parliamentary resources and minority rights related? To answer this question, the workshop aims to combine approaches from both political science and organizational theory.

**Relation to existing research**

The evolution of minority rights has been frequently analyzed in presidential democracies, particularly in the United States. For example, Cox and McCubbins (2005) have argued that the increasing homogeneity of majority parties in the US Congress encourages their members to delegate agenda-setting powers to the party leaders which translates into the introduction of limitations on minority rights. Writing on the US Congress, Binder (1996, 1997) shows that decisive party majorities tend to curb the right of the minorities, especially in the face of minority obstruction. In contrast, Dion (1997) finds that the procedural rights of minorities are more likely to be restricted if governing parties have only a slim majority. Schickler (2000, 2001) argues that the extent of majority dominance is shaped by the ideological position of the median member.

The comparative research has emphasized the role of constitution-level institutions in shaping the scale of minority rights. Cox and McCubbins (2001) and McCubbins (2005) argue that legislative procedures tend to ‘mirror’ the design of constitutional rules (see also McGann 2006a,b). In a comparative study of 55 legislative bodies, Taylor (2006) shows that legislative minorities enjoy limited procedural privileges in large, unicameral or weakly bicameral assemblies. Taylor further finds that governmental dominance increases as the degree of personal vote decreases. Powell (2000) also notes a correlation between the choice of the electoral system and the shape of legislative organization. Last but not least, comparative research points to the impact of party competition. In a study of 57 democratic assemblies, Carroll et al. (2006) show, for example, that the more concentrated the party system, the larger the bonus that majority parties receive in terms of the number of committee chairs, directing board seats and cabinet portfolios.

Research on European legislatures has focused mainly on government agenda control (see Döring 1995; Tsebelis 2002; Tsebelis & Rasch 2010; Zubek 2011 for surveys of cross-national patterns). In examining the evolution of agenda control in the United Kingdom, Cox (1987) shows how changes in the size of the enfranchised electorate and the nature of the media in the 19th century Britain
pushed up the demand for legislative time and led to the centralization of agenda powers. Sieberer (2006) argues that the traditional view of the separation of powers and the traumatic experience of the Nazi regime militated against a concentration of agenda control powers in the German Bundestag in the post-war years (Loewenberg 2003; Slagter & Loewenberg 2009). Zubek (2011) finds that the opportunities for negative agenda control in six east central European legislatures reflect the degree of party system concentration (see also Zubek 2008; Zubek & Stecker 2010).

Against this background, this workshop aims to focus on minority rights. Minority rights denote a variety of formal and informal procedural devices that minority parties can resort to in European legislatures to counteract majority power. Sarah Binder (1997: 21) defines minority rights as “procedural advantages protected from arbitrary change that enable members of the minority party to amend, debate, or obstruct the majority agenda.” Besides from being constructive (e.g. the right to propose own legislation to parliament, to have own legislative initiatives scheduled for floor and committee deliberations, or to arrange for special parliamentary hearings or questions on legislative and other issues) or obstructive (e.g. the right to delay the parliamentary passage of majority initiatives), these rights can either be individual (i.e. granted to every member of the legislative) or partisan (i.e. linked to parliamentary groups) (see McGann 2006: 455; Binder 1997: 23). This enumeration is not exhaustive. Also, to a large extent, minority rights are the reverse of majority rights, and hence a focus on constraints on majority privileges in bill initiation, agenda-setting, debates, committees, etc may yield interesting insights into the configuration of minority rights.

In examining minority rights we would like to pay particular attention to temporal, contextual, and organizational dimensions:

- How do parliamentary minority rights evolve over time?
- How is the evolution of minority rights related to other choices on political competition?
- How is the configuration and evolution of minority rights related to parliamentary resources?

Research on these topics is in a very early phase. As for temporal aspects, Pierson’s (2004) advice to pay more attention to sequencing, slow-moving and self-reinforcing processes opens up manifold new research opportunities for scholars of parliamentary minority rights. For example, Sheingate (2010) illustrated in the US context that parliamentary rules are ambiguous and therefore themselves the objects of political conflict, thus challenging the rational choice view that sees parliamentary rules as mechanisms that allow actors to coordinate among themselves. With respect to parliamentary systems, Hoffmann Slagter and Loewenberg (2009) show that German parties made hardly any use of their broad minority rights in the 1953–1983 period, only reverting to more confrontational politics (and, paradoxically, lower levels of minority protection) when the Greens entered parliament and actually tried to make use of these rights. Recently, Goetz (2011) as well as Patzelt and Dreischer (2009) stressed the importance of different styles of institutionalisation of time in different institutions and especially in legislatures.

As regards contextual aspects, assumptions such as Colomer’s (2005) suggestion of behavioural-institutional equilibria, which pays special attention to the role of uncertainty in decisions about
in institutional design (see Colomer 2001: 210-1), should serve as a background for future research. With respect to another crucial aspect of political competition – party funding – Kolb (2011) shows that the politics of party funding is indeed closely related to other institutional choices (most importantly regarding the electoral system), but that the temporal and causal relationship between allegedly ‘simple’ and ‘constitutional’ decisions was far more complex than the notions of endogeneity in the social choice-inspired literature imply (McGann 2006a, b; Powell 2000; Taylor 2006). Following this line of research, earlier findings from Germany and Britain seem to challenge the assumption that parliamentary minority rights are simply endogenous to constitutional features. In Germany, proportional representation of parliamentary parties in the steering committee was introduced as early as in the 1860s, many years before the adoption of proportional representation in parliamentary elections in 1918 (see Loewenberg 2003). Similarly, in Britain, efforts to privilege the parliamentary majority preceded (or, at least, paralleled) the abolition of most two-member districts (and hence the introduction of the truly majoritarian first-past-the-post system, see Kluxen 1983; Cox 1987). These findings call for a more closely assessment of the relationship between minority protection in different institutions within political systems and their implications for theory-building.

Finally, only recently have scholars begun to regard parliaments as organisations. This comes as a surprise, given that research on political parties emphasised organisational factors from Michels (1989 [1911]) to Katz and Mair (1995). The relation between different levels of parliamentary professionalisation (Borchert 2003; Z’Graggen & Linder 2004; Z’Graggen 2009) and parliamentary minority rights remains largely unexplored. The only exception is the work on parliamentary institutionalisation (Polsby 1968; Sisson 1973; Hibbing 1988), which, however, ran the risk of referring to functionalist claims due to its neglect of symbolic and legitimising aspects of legislative organisation (Patzelt 2011). Therefore, we need to engage with the hitherto largely unconnected literatures of political institutionalism and organisational theory (see also Kropp & Ruschke 2010). The latter argues that organisational design is informed both by its legitimacy and its efficiency (see Brunnsson 1989; Meyer & Rowan 1977). The evidence we have suggests that just as for political parties, organisational factors also matter for parliaments: For instance, the Swiss parliament’s ability to affect policy-making is said to be limited despite high formal levels of minority protection due to its lack of administrative resources (Schwarz, Bächtiger & Lutz 2011). This gives rise to the question under which (temporal and contextual) circumstances the organisational development of parliaments is thus driven by questions of legitimacy, and under which circumstances by questions of efficiency? What do these different developmental paths imply for the protection of minorities in parliamentary democracies?

Types of papers
The workshop seeks to attract papers that trace the evolution of and variation in minority rights and parliamentary organisation, either in the form of single-country studies or through systematic comparisons. We are open to work from different methodological and theoretical traditions.
Biographical note

Michael Köß is an Assistant Professor at the Chair for Politics and Government in Germany and Europe, University of Potsdam. His research focuses on political parties, parliaments, and political competition in Western Europe. Among his most recent publications are *The Politics of Party Funding* (Oxford University Press 2011) and *Left Parties in National Governments* (edited volume, with Dan Hough and Jonathan Olsen, Palgrave Macmillan 2010). He currently prepares a research project on parliaments and political competition in Europe.

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References


