

BOOKS IN
REVIEW

WHAT MAKES LEGISLATURES STRONG?

Thomas O. Melia

The Handbook of National Legislatures: A Global Survey. By M. Steven Fish and Matthew Kroenig. Cambridge University Press, 2009. 800 pp.

Legislative Power in Emerging African Democracies. Edited by Joel D. Barkan. Lynne Rienner, 2009. 277 pp.

Aspiring democratic leaders from many corners of the world are often surprised to learn that the delegates to the Philadelphia Convention of 1787 did not begin the U.S. Constitution by creating the presidency and assigning powers to the holder of that office. Instead, after the famous Preamble, the first Article of the world's oldest extant democratic constitution describes the powers of Congress; the presidency waits until Article Two. This order, moreover, is no accident: The legislature possesses considerably more constitutional power. It can impeach and unseat a president, after all, whereas the chief executive has no authority to dissolve Congress. Even the president's power to name judges, military officers, and ambassadors to carry out executive policy is qualified by a requirement that the Senate must first give its "advice and consent" regarding such appointments.

Today, more than 220 years on, U.S. president (and former senator) Barack Obama is discovering anew how formidable the presidential task of dealing with Congress truly is, even at a time when the president's own party holds large majorities in both houses on Capitol Hill. Like many of his predecessors, he is absorbing the sobering truth of the aphorism that "the president proposes, but the Congress disposes."

How powerful is the U.S. Congress? How powerful should it be? How

powerful should any legislature be in a modern democracy? How should constitutional architects of new or potential democracies frame the powers of a legislature? After all, countries do not actually need legislative assemblies; at least not in the way that they need executive officials and judges. Governments have existed throughout human history, whereas legislative assemblies have been present only in some societies.

In their *Handbook of National Legislatures: A Global Survey*, M. Steven Fish and Matthew Kroenig have undertaken an ambitious effort to catalogue every one of the world's existing national legislatures, scoring each according to the degree of "official power" (the quotation marks are the authors') that it commands. In explaining the value of the exercise, Fish and Kroenig briefly discuss the established scholarly classification of parliamentary, semipresidential, and presidential systems. As they note, "the conventional distinctions among constitutional systems do not fully specify where power resides. And where power resides is what matters for real-life politics and government" (2). The *Handbook* is therefore based on a "legislative powers survey" of their design that was completed by scores of national and international experts. The survey poses 32 questions about key aspects of institutional influence, questions that mostly lend themselves to "yes" or "no" answers.

Adding up all the "yes" answers yields a country's score on a Parliamentary Powers Index (PPI) that measures the national legislature's aggregate strength. Nine of the 32 questions are about the legislature's influence over the executive: Can it select or oust a president, appoint or confirm ministers, can legislators serve in the executive, and the like? Nine questions ask about the body's institutional autonomy: Is it free from presidential veto or dissolution, do members enjoy immunity from prosecution, and so on? Another eight examine specified powers: Does the legislature authorize war, ratify treaties, and influence or appoint heads of the judiciary, the central bank, and state-run media outlets? The final six questions examine the legislature's institutional capacity: Are its members experienced, and do they have the staff and other resources to support their work?

The PPI will prompt discussion about whether Fish and Kroenig have identified the 32 most appropriate aspects of institutional power, and, if so, whether it is wise to accord each aspect equal weight in their numerical calculations. Statisticians and methodologists may ponder whether the questions are properly framed in a consistent, unambiguous manner. For instance, is it good technique to pose a double-barreled query such as Question 24, which asks whether "the legislature reviews and has the right to reject appointments to the judiciary; or the judiciary itself appoints members of the judiciary," and then—after accepting a positive reply to either as a "yes" for PPI purposes—to turn around in Question 25 and ask simply whether "the chairman of the central bank is appointed by the legislature." In the case of the United States, for instance, the

different ways in which these questions are structured sets up a “yes” to Question 24 and a “no” to Question 25—even though the juxtaposition of a president’s power of appointment with the Senate’s power to reject a nomination is exactly the same in the two cases.

The final scores produced by the PPI will provide ample fodder for scholarly disputation and barroom wagering, as global rankings tend to do. Can the parliament of repressive Ethiopia really be more powerful than that of democratic Ghana? Is Nicaragua’s legislature actually stronger than those of Argentina and Chile? Ironically, the legislatures of sixteen ex-communist countries are found to be more powerful than the very U.S. Congress that has just spent twenty years helping most of them to get on their feet and build their institutional prowess. While it seems about right that the U.S. Congress’s PPI ranking puts its powers on par with those of its parliamentary counterparts in India, Australia, and even South Africa, it seems puzzling that the legislatures of Iraq and Bosnia-Herzegovina receive the same score.

Curiously, and perhaps cleverly, the scheme does not inquire directly about the democratic bona fides of a legislature (beyond one question that asks whether the legislature is entirely elected, as opposed to containing legislators appointed by the executive—although even this question does not ask whether they are fairly or competitively elected). Fish wrote an essay in the January 2006 issue of the *Journal of Democracy* arguing that stronger legislatures make for stronger democracies, yet the present volume confines itself to a value-neutral index of institutional parliamentary powers, which may well enhance its suitability for the kind of comparative, quantitative research that the authors say they hope their work will prompt and inform. The PPI does not examine how a legislature relates to the voting public or political parties or the press or other aspects of democratic accountability, such as constituent services. It is a description of formal legislative power relative to the executive (and to a lesser extent other actors, such as the judiciary or the military or the crown).

Joel Barkan’s edited volume is quite different in conceptualization, purpose, and structure, though he begins with a similar lament about the dearth of scholarly literature on legislative powers in developing countries (and he cites Fish’s 2006 *Journal of Democracy* article as a seminal, rare contribution to the field). *Legislative Power in Emerging African Democracies* is all about democratization and is built around the question of whether more democracy leads to stronger legislatures, or stronger legislatures lead to more democracy. The premise is that legislatures across sub-Saharan Africa are generally quite weak, though becoming stronger during the current period of partial, fitful democratization. The discussion is about what enables legislatures to become more powerful over time.

Barkan and the country experts whom he recruited to pen six case studies—on Benin, Ghana, Kenya, Nigeria, South Africa, and Uganda—build their narratives around four core functions of the modern legislature

“that distinguish this political institution from all others”: representation of diverse interests; legislation for the whole of the nation; oversight of the executive branch; and constituency servicing. This is complementary to, and suppler than, the PPI in that it leads to lengthy discussion of the dynamic nature of these complex functions. Several interesting insights are presented that may have relevance beyond sub-Saharan Africa.

Barkan and his colleagues conclude that six factors determine the relative capacity of a legislature to become more powerful, and thereby (in this formulation) to aid its country’s democratization. Four of them are manifestations of human agency: the presence in legislative ranks of reformers who perceive that their legislature is wanting in comparison to more powerful bodies elsewhere and want to catch up; presiding officers, who can be key forces for or against change; national presidents, who invariably oppose the strengthening of legislative capacity no matter how democratic the circumstances of their own election; and civil society groups (and their international donors and supporters), which give legislators training and encouragement designed to make the legislature stronger and more effective as an institution. The other two critical factors are electoral frameworks (proportional representation enables legislators to focus on developing their capacity for legislating more than does first-past-the-post voting) and political parties (counterintuitively, stronger political parties do not necessarily lead to stronger legislatures, as the example of South Africa’s African National Congress reveals).

Interestingly, Barkan concludes that constituency servicing operates in significant tension with the other functions, as the need to deliver political and economic goods to constituents tends to make individual legislators more dependent on the president personally and the executive branch generally—especially when legislators are underpaid, as is conspicuously the case in Benin and Ghana. The Ugandan and South African narratives also serve as unsettling cautionary tales that highlight the ease and speed with which determined executives can undermine their national legislatures.

Fish and Kroenig offer a staggering wealth of data and a global survey, but theirs is a static presentation based mostly on the analysis of constitutions and other legal texts, though the experts consulted were also asked to consider *de facto* realities in making their judgments. The narrower selection of interesting African countries in Barkan’s book provides greater depth and texture—and historical narratives allowing the reader to weigh the hypothesis that “coalitions for change” emerge in nascent democratic legislatures over time and in response to specific political stimuli.

Whether readers prefer one work over the other may come down to how they view “the Kenyan conundrum.” The PPI places Kenya low on the legislative-powers totem pole, scoring it as a 0.31 on a 0-to-1 scale and thereby placing the Kenyan National Assembly on par with counterparts

in Guinea and Zimbabwe, among African parliaments, and with Syria and Tajikistan globally. These are very poor performers, as legislatures go, by almost any measure. Barkan, on the other hand, concludes that Kenya's national lawmaking body is arguably "the most developed legislature of the six considered in this volume." He places it ahead of the legislatures of South Africa and Benin, though these latter two score about twice as high as Kenya on the PPI. The difference may be that the PPI accords greater weight to a series of questions about specific enumerated powers that the Kenyan legislature simply does not possess (powers to make war, to approve treaties and judges, and to grant pardons and amnesties). The PPI does give Kenya high marks on "institutional capacity" questions such as having paid staff and experienced legislators, which are central to Barkan's thesis about democratic power and capacity. By taking such divergent approaches, these two thought-provoking books should help to stimulate a much-needed debate about the power of legislatures and their role in democratization.

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BOOKS RECEIVED

The books listed below were recently received by the editors. A listing here does not preclude a review in a future issue.

Advanced Democracies

America's Uneven Democracy: Race, Turnout, and Representation in City Politics. By Zoltan Hajnal. Cambridge University Press, 2009. 241 pp.

The Death and Life of American Journalism: The Media Revolution That Will Begin the World Again. By Robert W. McChesney and John Nichols. Nation Books, 2010. 334 pp.

Electing the President, 2008: The Insiders' View. Kathleen Hall Jamieson. University of Pennsylvania Press, 2009. 224 pp.

Gender and Elections: Shaping the Future of American Politics. By Susan J. Carroll and Richard L. Fox. Cambridge University Press, 2009. 296 pp.

La V Repubblica francese nel dibattito e nella prassi istituzionale in Italia. By Fulco Lanchester and Vincenzo Lippolis. Jovene editore, 2009. 368 pp.

Party Position Change in American Politics: Coalition Management. By David Karol. Cambridge University Press, 2009. 328 pp.

Presidential Party Building: Dwight D. Eisenhower to George W. Bush. By Daniel J. Galvin. Princeton University Press, 2009. 338 pp.

Africa

Chieftaincy, the State, and Democracy: Political Legitimacy in Post-Apartheid South Africa. By J. Michael Williams. Indiana University Press, 2010. 300 pp.

From Servants to Workers: South African Domestic Workers and the Democratic State. By Shireen A. Ally. Cornell University Press, 2010. 228 pp.

New Presence of China in Africa. By Meine Pieter van Dijk. Amsterdam University Press, 2009. 224 pp.

Asia

Democracy in India. By Niraja Gopal Jayal. Oxford University Press, 2009. 571 pp.

Election and Democracy: Reflections on the Asian Experiences 2009. Korea Democracy Foundation, 2009. 230 pp.

Judicial Independence in China: Lessons for Global Rule of Law Promotion. By Randall Peerenboom. Cambridge University Press, 2009. 272 pp.

Eastern Europe and the Former Soviet Union

Parties and Elections in New European Democracies, Second Edition: An Interactive Process. By Richard Rose and Neil Munro. European Consortium for Political Research Press, 2009. 300 pp.

Religion and Politics in Russia: A Reader. Edited by Marjorie M. Balzer. M.E. Sharpe, 2009. 319 pp.

Terror in Chechnya: Russia and the Tragedy of Civilians in War. By Emma Gligan. Princeton University Press, 2009. 271 pp.

Latin America and the Caribbean

Clandestine Crossings: Migrants and Coyotes on the Texas-Mexico Border. By David Spener. Cornell University Press, 2009. 320 pp.

Criminality, Public Security, and the Challenge to Democracy in Latin America. Edited by Marcelo Bergman and Laurence Whitehead. University of Notre Dame Press, 2009. 360 pp.

The Democracy Perspective in the Americas. By Odeen Ishmael. Roman and Littlefield, 2009. 284 pp.

From Windfall to Curse? Oil and Industrialization in Venezuela, 1920 to the Present. By Jonathan Di John. Pennsylvania State University Press, 2009. 341 pp.

Indigenous Development in the Andes: Culture, Power, and Transnationalism. By Robert Andolina, Nina Laurie, and Sarah A. Radcliffe. Duke University Press, 2009. 360 pp.

The Politics of Cocaine: How U.S. Foreign Policy Has Created a Thriving Drug Industry in Central and South America. By William L. Marcy. Lawrence Hill, 2010. 356 pp.

Reorganizing Popular Politics: Participation and the New Interest Regime in Latin America. By Ruth Berins Collier and Samuel Handlin. Pennsylvania State University Press, 2010. 408 pp.

Comparative, Theoretical, General

- Advancing Democracy Abroad: Why We Should and How We Can.*** By Michael McFaul. Rowman and Littlefield, 2009. 287 pp.
- Civil Society and Peacebuilding: A Critical Assessment.*** By Thania Paffenholz. Lynne Rienner, 2010. 510 pp.
- The Democracy Advantage, Revised Edition: How Democracies Promote Prosperity and Peace.*** By Morton H. Halperin, Joseph T. Siegle, and Michael M. Weinstein. Routledge, 2009. 296 pp.
- Dispersed Democratic Leadership: Origins, Dynamics, and Implications.*** By John Kane, Haig Patapan, and Paul 't Hart. Oxford University Press, 2009. 330 pp.
- Envisioning Reform: Enhancing UN Accountability in the 21st Century.*** Edited by Sumihiro Kuyama and Michael R. Fowler. United Nations University Press, 2009. 380 pp.
- From Political Won't to Political Will: Building Support for Participatory Governance.*** By Carmen Malena. Kumarian, 2009. 310 pp.
- Global Citizens in Charge: How Modern Direct Democracy Can Make Our Representative Democracies Truly Representative.*** Edited by Jung-Ok and Bruno Kaufmann. Korea Democracy Foundation, 2009. 292 pp.
- Non-State Actors as Standard Setters.*** By Lucy Koechlin, Anne Peters, Till Förster, and Gretta Fenner Zinkernagel. Cambridge University Press, 2009. 587 pp.
- On Civic Friendship: Including Women in the State.*** By Sibyl A. Schwarzenbach. Columbia University Press, 2009. 260 pp.
- Political Branding in Cities: The Decline of Machine Politics in Bogota, Naples, and Chicago.*** By Eleonora Pasotti. Cambridge University Press, 2009. 282 pp.
- The Public Domain: Enclosing the Commons of the Mind.*** By James Boyle. Yale University Press, 2010. 236 pp.
- A Pure Theory of Democracy.*** By Antonio García-Trevijano. University Press of America, 2009. 202 pp.
- The Science of Liberty: Democracy, Reason, and the Laws of Nature.*** By Timothy Ferris. HarperCollins, 2010. 384 pp.
- Semi-Citizenship in Democratic Politics.*** By Elizabeth F. Cohen. Cambridge University Press, 2009. 236 pp.
- Shadow Elite: How the World's New Power Brokers Undermine Democracy, Government, and the Free Market.*** By Janine R. Wedel. Basic Books, 2009. 304 pp.
- Victorious and Vulnerable: Why Democracy Won in the Twentieth Century and How It Is Still Imperiled.*** By Azar Gat. Rowman and Littlefield, 2009. 228 pp.
- Visions of World Community.*** By Jens Bartelson. Cambridge University Press, 2009. 226 pp.
- Voting for Policy, Not Parties: How Voters Compensate for Power Sharing.*** By Orit Kedar. Cambridge University Press, 2009. 220 pp.
- When Legal Worlds Overlap: Human Rights, State and Non-State Law.*** International Council on Human Rights Policy, 2009. 176 pp.