

The Venezuelan Electoral System and Interbranch Relations

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## The Venezuelan Electoral System and Interbranch Relations

Explanations for the instability of democracy and its poor quality in Latin America have often focused on interbranch relations in presidential regimes. Breakdown comes from interbranch stalemate and immobilism while the unrepresentative nature of democracy comes from excessive presidentialism. While both these generalizations point to important research questions, recent work has illustrated that institutional designs vary significantly across presidential systems in Latin America (Mainwaring and Shugart 1997). Constitutions allocate, for example, various forms of veto power, decree authority, and legislative initiative. Not only is there variation from country to country in constitutional powers, the same set of powers may operate quite distinctly due to differences in the number of effective parties in congress, the typical strength of the president's party in congress, and the degree to which legislators from the same party can act together as a single unit. In Venezuela, the president has only a suspensive veto, he can introduce legislation but he has no exclusive right to initiation in any particular area, and he has no standing decree authority. Yet, despite these meager constitutional powers, Venezuelan presidents are widely held to dominate politics. How can this be so?

The timing of presidential and legislative elections, the proportional representation system used in the Chamber of Deputies, and the centralized nature of nomination procedures and voting (closed, blocked proportional representation by state) have led to a congress which is willing to capitulate to executive authority. The electoral system creates an inactive congress and a president who is usually mighty beyond his powers. Checks and balances often do not function properly, leading to policies — especially economic development policies — which have protected the few rather than benefitted the many. The legitimacy of the system is declining. Riots, violent repression, coup attempts, and impeachment proceedings have plagued Venezuela since 1989. Ongoing reforms should focus on the electoral roots of current shortcomings if they are to restore popular efficacy.

### Centralized Nomination Procedures and Closed Blocked Lists

By putting immense power in the hands of a small party elite, nomination procedures and the electoral system assured high levels of party discipline. Party discipline led to an institutionally

underdeveloped congress, interest group interaction exclusively with the executive branch, and presidential dominance of the legislative agenda. Centralized nomination procedures and closed, blocked lists make party leaders more important than any constituency of voters to the political survival of individual members of congress. Under the closed list, proportional representation by state electoral system which existed until 1993, individual legislators were not elected by a clearly defined constituency. Rather than choosing among individual candidates, voters only had the ability to choose among parties. Under other voting schemes, voters have the ability to choose among legislators from the same party in a primary, or by changing the order in which they appear on the slate, or by choosing among competing slates from the same party. When voters can distinguish among individual candidates, those candidates, including the incumbent legislator, have a greater incentive to distinguish themselves individually — or to seek a “personal vote” (Cain, Ferejohn, Fiorina 1987; Carey and Shugart 1995). In Venezuela, voters chose among color-coded cards with the parties’ name and logo on them. The party card represented a single, fixed slate of candidates the names of whom did not appear on the ballot itself. Voters could not cast more than one ballot, choose an alternate slate from the same party, change the order of the names on the slate, or add new names to the list.

The candidate selection process also worked to centralize power in the hands of party elites. Most parties allowed state level activists and officials to submit lists of potential candidates, but the national level almost always reserved the right to replace submitted names with choices of their own and the right to determine the order in which candidates would appear (which greatly influenced their prospects for being elected to the legislature). For example, in 1978 the COPEI national executive committee established an ad hoc commission to review the regional committees’ lists, consult leaders of the party, and prepare revised lists. The revised lists were then submitted to the national executive committee for further amendment and final approval (Wells 1980, 43). In the case of AD, state committees send an unranked list of candidates with three times the number of candidates as there are posts to the National Executive Council (CEN), the twenty to thirty member national leadership council. The party will actually nominate twice as many candidates as there are seats, enough for all the seats and an alternate to sit in the congress when the legislator is unavailable. Thus at least one-third of the

list suggested by the state leadership list is rejected. What is more, the CEN has the right to replace half the names on the original state list. So, theoretically it could replace half the original state list with its own candidates (there is no requirement that the candidate even live in the state from which he is nominated), eliminate one-third of the revised list (or two-thirds of the remaining candidates suggested by the state level), and put the remaining one-third of the state list at the bottom of the slate making them alternates if AD won every possible seat, and since it is only likely to win about one-half the seats available the state list could be omitted entirely (Coppedge 1994b, 20-21).

In a system where someone becomes a candidate by simply registering with authorities, by gathering signatures, or by election of a local constituency in a primary, the candidate, once elected, has less incentive to remain universally loyal to the party elite and more incentive to be responsive to those who control the nomination process. Given the way the candidate selection process and the electoral system worked in Venezuela, the constituency of individual legislators was their party leaders rather than any particular group of voters. Legislative delegations have been able to mandate nearly ironclad discipline. Secret ballots were rare and dissent from the party line in a voice vote typically led to expulsion from the party.

There are a number of factors in Venezuela that make it unlikely that the electoral reform instituted in 1993 moving to a compensatory-member system for the Chamber of Deputies will change these incentives. First, this method has only been implemented in one house so its impact will be diluted. Second, because districts and place of voter registration never meant anything before, many Venezuelans are registered to vote in districts other than the one in which they currently live (though this could be corrected over time). What is more, the "electoral circuits" were based solely on number of inhabitants and often do not correspond to any geographic entity that might bind the voters together as a coherent unit desiring like representation. Third, the whole effort is rendered somewhat moot by the highly centralized nomination process. The nomination of Deputies is still controlled by each party's national executive committee. As long as Deputies are obligated to their party leadership they cannot flexibly respond to the specialized demands of their individual constituencies.

Because legislators have no motivation to listen to groups in civil society or to serve geographically small districts (where they could claim credit for their actions), Congress as an institution is internally underdeveloped and is marginalized in the policy-making process. First, it has long been acknowledged that the Congress lacks sufficient professional staff and physical facilities. A study done in the early 1980s estimated that the Congress employed approximately 1,500 people, excluding the legislators themselves (Gabaldón and Oberta 1985, 252-6). There were approximately 800 employees and 700 workers. The workers included messengers, porters, chauffeurs, gardeners, and other non-professional staff not directly related to the process of legislating. Of the 810 employees, 422 were clerks, typists, or secretaries. The Congress, all its committees, and its individual members employed only thirty “advisors”, ten accountants, eight economists, and four librarians. Particularly noteworthy is the lack of legal experts to advise legislators on constitutional and technical issues. As a result, Venezuelan legislation has been criticized for its poor quality and internal contradictions (Brewer-Carias 1991; Njaim and Pérez Perdomo 1995, 137). In addition, the process of hiring and promotion is completely politicized with technical skills and abilities being less important than opportunities to reward followers. There was a great deal of stability in personnel despite changes in party in power, but this did not lead to continuity and accumulated knowledge because personnel were shuffled in each Congress to reflect changing party fortunes. The result is excessive bureaucratization, unqualified staff, some offices with excess personnel, and others with a lack of sufficient employees (Gabaldón and Oberta 1985, 253-4).

The functioning of permanent commissions also indicates the underdevelopment of Congress. While they are numerous and specialized in their field of activity, historically they rarely met and were very poorly attended (Tovar 1973, 89). So few members attended that they often did not have the quorum necessary to convene, and when they did convene, legislators were often unprepared and failed to participate. The mere fact that legislators are appointed annually rather than for an entire constitutional period does not bode well for long tenures and the accumulation of knowledge. There is no systematic data on turnover of committee membership, but there appears to be little effort to build seniority or expertise in a particular substantive area. For example, between 1984 and 1985 nearly half of the COPEI delegation changed committee assignments — twenty-nine of its sixty Deputies switched

committees (Salgado 1988, 185 and 197). In a survey of twenty-seven Senators, only two mentioned committee work as an important part of their workload, while virtually all the remaining twenty-five said that committee work was not taken seriously. The two who did cite committee work as central were committee chairs at the time (Kelley 1971, 472-7). Thus, while virtually all bills are referred to committee, committee consideration does not systematically involve scrutiny by legislators with a great deal of experience or particular interest in a field, and it is not used as an opportunity for legislators to hear from concerned interest groups. Instead, committee consideration is merely a staging ground for party positions to be presented on the floor of the chamber. The committee chair, typically from the party with the most seats, prepares the bill and a statement explaining his party stance. Committee members from other parties do likewise (Tovar 1973, 89). Virtually no interchange among parties or between legislators and groups takes place. The bill is then returned to the floor where a designated member from each party reads his or her parties position and a voice vote is taken.

Even the Legislative Commission which was designed to make the Congress more speedy and efficient failed to invigorate it. Created in 1984, the Commission carried out an important reform of the civil code which was adopted in 1987. After this one accomplishment, the Commission became “paralyzed” and made no other contributions until 1994 (Njaim and Pérez Perdomo 1995, 131). Finally, in 1994 it was used to accelerate the process of approving a series of laws requested by President Caldera which increased his and future presidents’ power to deal with economic crises.

Given that legislators were bound by strict party discipline and therefore had no incentive to develop an institutional structure to interact with pressure groups, these groups focused their attention on the executive branch. Between February 1959, when the first elected president of this democratic era took office, and December 1989, the Venezuelan government created 330 advisory commissions with participants representing interest groups or entire socioeconomic sectors. During this period, AD (Acción Democrática) held the presidency approximately 68% of the time, while COPEI (the Social Christian Party) controlled it the rest of the time. Comparing time in power and the number of bodies created, both parties make equal use of these avenues for participation. In fact, AD created 224, or 68%, of the 330 commissions created while COPEI created 106, or 32%, — proportions identical to their time

in office. As these rates of creation across parties indicate, consultative commissions are an accepted form of doing politics in Venezuela. Each of the commissions institutionalized consultation between the government and private interests. The characteristics that gave some groups numerically superior influence in any given commission were multiplied throughout the system because there was no central coordination. The creation of these commissions was central to Venezuelan policy making across parties and administrations. The government officials who participated in these consultative bodies changed as a result of elections, but the interest groups and socioeconomic sectors represented remained the same.

Presidents used consultative commissions to institutionalize interaction between their appointees and important interest groups. We can get some sense of the relationship among participants across administrations by looking at figure 1. Columns represent the number of consultative bodies created by each administration. The lines represent participants from each category as a percentage of all the participants named by a given administration. Only during the Herrera Campins administration did the percentage of government officials dip below 50%, bottoming out at 42.05%. The Lusinchi administration marked the high point of government official participation at 70.29%.

The representatives of domestic capital have usually been the second most significant group, but, on the whole, their dominance seems to be declining. In the Herrera Campins administration, they were passed by representatives of noneconomically defined groups, and under President Lusinchi they were superseded by professionals. Labor and professionals have remained relatively constant, hovering between second and third place among categories of participants. Noneconomically defined groups do show some signs of gradually increasing their representation, perhaps as a result of growing economic and social diversification in Venezuela.

Consultative commissions regularized business and labor influence, giving them the opportunity to participate in the making of policy. In particular, business and labor were able to promote an import substitution industrialization strategy which made them the beneficiaries of petroleum-funded government spending. Their institutionalized place in the policy-making process allowed them to perpetuate this development policy well after its ability to create shared growth had declined.

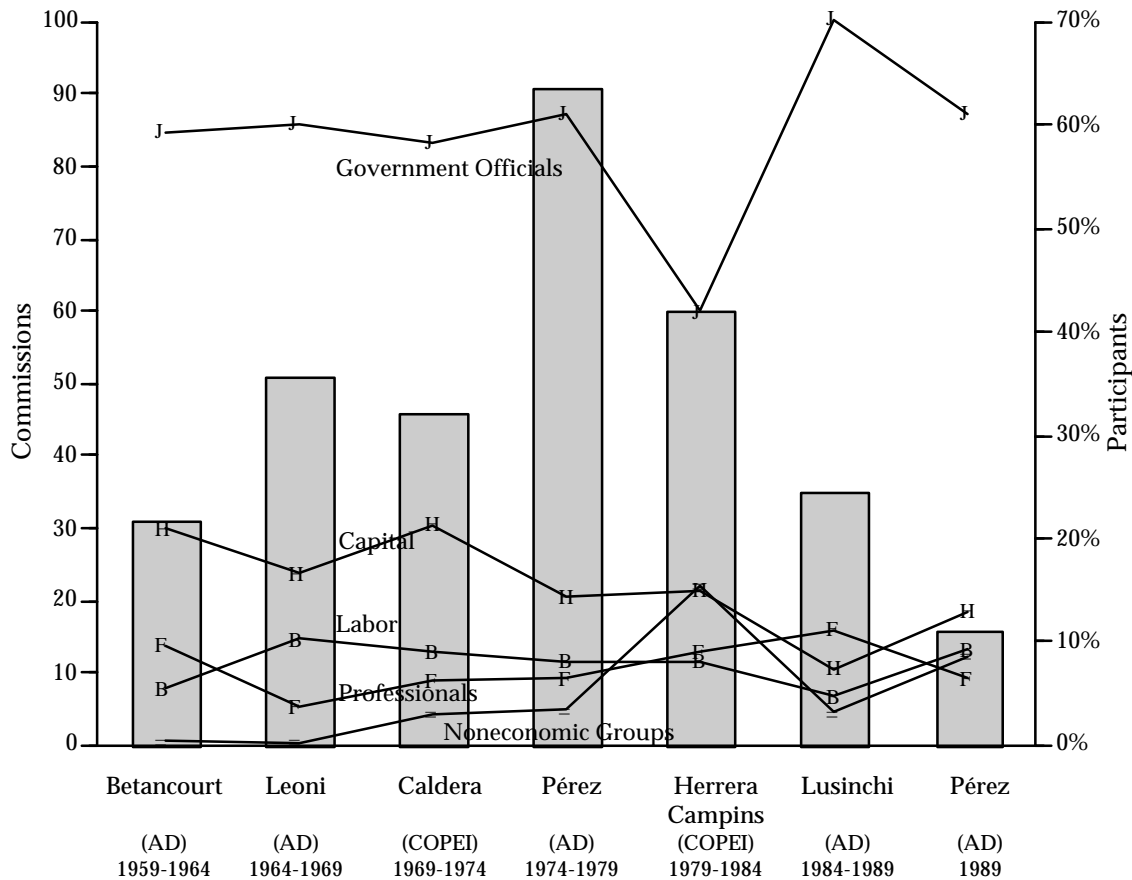


Figure 1. Relative Participation in Commissions Created by Each Administration

Interaction with the executive branch allowed interest groups to influence the legislative agenda because the vast majority of legislation was drafted in and proposed by the executive branch (see table 1).<sup>1</sup> Of all the bills passed in any given Congress, no more than 25% had their origins in the legislative branch itself, and on average 84% of all Venezuelan legislation between 1959 and 1995 was initiated by the executive branch. In fact, for the three congresses elected for the period from 1974 through 1989, 89% of all the laws adopted in each had their origins in the executive branch.

<sup>1</sup> The executive branch's power to introduce legislation does not mean that presidents have been able to prevent legislators from addressing certain issues by introducing their own bills, that presidents do not try to anticipate what the legislature will find acceptable, or that the legislature has been formally restricted in its ability to modify or reject the presidents' proposals. Nonetheless, it does indicate power in terms of the technical/political expertise necessary to draft legislation, the ability to set the political agenda, and, more generally, the wherewithal to pursue a policy program.



Table 1  
Initiation of Legislation by Branch

	Initiated by the Executive Branch	Initiated by the Legislative Branch	Total
Betancourt (AD) 1959-1964	76 84%	14 16%	90
Leoni (AD) 1964-1969	115 86%	19 14%	134
Caldera (COPEI) 1969-1974	108 81%	25 19%	134
Pérez (AD) 1974-1979	124 89%	15 11%	139
Herrera Campins (COPEI) 1979-1984	143 89%	17 11%	160
Lusinchi (AD) 1984-1989	160 90%	20 10%	180
Pérez* (AD) 1989-1994	122 75%	41 25%	163
Caldera (Conv./MAS) 1994- 1995	59 80%	15 20%	74
Total	907 84%	166 16%	1073

\*Pérez was removed from office on corruption charges in the final year of his term, and the term was completed by Ramón J. Velásquez who was chosen from the Congress.

We might expect congresses controlled by the opposition to introduce more legislation than those where the president's party dominates, but this relatively consistent imbalance between the two branches holds up despite the changing positions of the president's party in congress. Of the legislation approved by congresses where the president's party had a majority (during the Betancourt, first Pérez, and Lusinchi administrations), on average 87% of it had its origins in the executive branch. When the president's party had a plurality (during the Leoni and second Pérez administrations), on average 80% of the legislation approved had its origins in the executive branch. When the president's party lacked even a plurality (during first and second Caldera and Herrera Campins administrations), on average 83% of the legislation approved still had its origins in the executive branch.

## Concurrent Elections and Proportional Representation

The partisan make-up of the legislature also influences its relationship with the executive. The concurrent nature of presidential and legislative elections assures that the president's party will be strong in Congress. The proportional representation system scheme makes it difficult for any single party to gain control of the legislative branch. Together, these features have assured that if there is a majority party in Congress, it is the president's party. As a result, the president's copartisanship can usually prevent the legislature from censoring and removing his ministers, when they are a majority, they increase his power by delegating him decree authority.

The legislature should behave in a more unitary and rational fashion when one party has a majority of the seats, and we should expect the legislature to pursue most effectively a program of government when that majority party is a party other than the president's. Institutional factors cannot explain why voters coalesce behind any particular set of parties as opposed to any others, but there are two characteristics of the electoral system which influence the likelihood of an opposition party having majority control of the Congress: the pull effect of presidential elections helps explain the electoral fortunes of opposition parties and the system of allocating seats to parties helps explain the prospects of a majority for any party.

The simultaneity of presidential and congressional elections discouraged divided government. Because voters typically considered their choice for the presidency most critical, simultaneous election encouraged votes for the president's party in the legislative election — which leads to majority or plurality government. In addition, party elites' ability to control individual legislators enhanced the pull effect of presidential elections (Shugart 1995). Because the legislative vote was a vote for a party, that pull was strong and uniform. If individual legislative candidates had relied on their local activities to get nominated and elected, the pull effect would have been diminished because the legislator's personal vote-seeking activity would have figured into the voters' calculations. Without personal vote seeking activity, voters were less likely to split their ticket. Thus, the timing of elections, candidate selection process, and voting procedures all conspired to enhance the electoral fortunes of the president's party and thereby diminish the likelihood that an opposition party would have an outright majority in

congress. Table 2 illustrates how well the president's party has done in congressional elections. In only two instances has the president's party had less than 40% of the seats in both houses of congress. With such strong pluralities, it was almost impossible for any single opposition party to have an outright majority, especially given the number of effective parties in legislative elections.

Table 2  
Electoral Results for the Executive and Legislative Branches  
(for parties receiving at least 10% of the vote for any race that year)<sup>a</sup>

President	Popular Vote in the Presidential Race <sup>b</sup>	Seats in the Chamber of Deputies	Seats in the Senate	Partisan Control of Branches
Betancourt (AD) 1959-1964	AD=49% URD=31% COPEI=15%	AD=55% URD=26% COPEI=14%	AD=63% URD=22% COPEI=12%	President's party has a majority in Congress
Leoni (AD) 1964-1969	AD=33% COPEI=20% URD=18% IPFN=16%	AD=37% COPEI=21% URD=16% IPFN=12%	AD=47% COPEI=17% URD=15% IPFN=11%	President's party has a plurality in Congress
Caldera (COPEI) 1969-1974	COPEI=29% AD=27% MEP=17% URD=12% CCN=n.a.	AD=31% COPEI=28% MEP=12% CCN=10% URD=8%	AD=37% COPEI=31% MEP=10% CCN=8% URD=6%	Opposition party has a plurality in Congress
Pérez (AD) 1974-1979	AD=49% COPEI=35%	AD=51% COPEI=32%	AD=60% COPEI=28%	President's party has a plurality in Congress
Herrera (COPEI) 1979-1984	COPEI=45% AD=43%	AD=44% COPEI=42%	AD=48% COPEI=48%	Opposition party has a plurality in Congress
Lusinchi (AD) 1984-1989	AD=55% COPEI=33%	AD=56% COPEI=30%	AD=64% COPEI=32%	President's party has a majority in Congress
Pérez (AD) 1989-1993 <sup>c</sup>	AD=53% COPEI=40%	AD=48% COPEI=33%	AD=48% COPEI=43%	President's party has a plurality in Congress
Caldera (Conv/MAS) 1994-1999	AD=23% COPEI=22% Causa R=22% Conv. =17% MAS=11%	AD=27% COPEI=26% Causa R=20% Conv. =13% MAS=11%	AD=32% COPEI=28% Conv.=20% Causa R=18% MAS=2%	Opposition party has a plurality in Congress

<sup>a</sup>See Appendix 1: Electoral Results for a list of party names, acronyms, and abbreviations.

<sup>b</sup>Individual candidates may be supported by more than one party. For example, in the 1993 elections Caldera received 30.5% of the vote, 17% from Convergencia, 11% from MAS, and another 2.5% from smaller parties.

<sup>c</sup>Pérez's second term was shortened by impeachment proceedings.

Source: Rey 1994 and my own calculations based on *Consejo Supremo Electoral* figures.

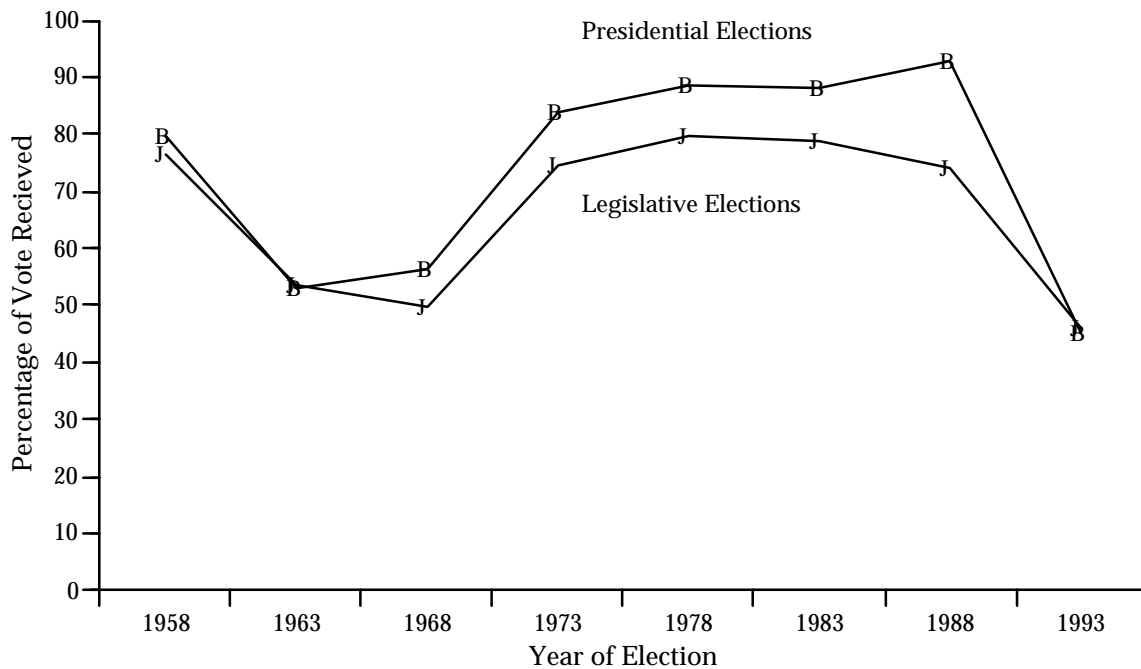
The method for allocating seats among parties in congressional elections has the opposite impact of the presidential pull effect. In the race for the presidency, the district magnitude (number of seats per electoral district) is one with the district being the entire country. Thus, following Duverger's law (1951), in presidential elections voters are encouraged to coalesce behind a major party which has a realistic chance of getting a majority of the votes. The pull effect of presidential elections then encourages a legislative vote that also coalesces behind the major parties who have a realistic chance of winning the presidency. The proportional representation system that characterizes seat allocations in legislative elections, on the other hand, does not mechanically underrepresent small parties and, as a result, it does not psychologically encourage voters to endorse one of the two major parties either. Given this combination, it is not surprising that the president's party tends to do well (pull effect) but any party finds it difficult to win an outright majority in congress (proportional representation) — the best recipe for an inactive legislature.

Figure 2 gives an indication of the relationship between the presidential and legislative votes. The lines represent the percentage of the vote received by the two highest vote getting parties in presidential and legislative elections. Between 1973 and 1988 there is a marked tendency for voters to coalesce around two major parties in the presidential elections as Duverger's law would predict.<sup>2</sup> The pull effect of presidential elections is part of the explanation for why the pattern in legislative elections follows the same trend despite the difference in district magnitude. However, because of the proportional representation there is less incentive for voters to coalesce in legislative elections and the vote total of the two biggest parties remains below the figure for presidential races. The gap between the two lines is an indicator of the effect of larger district magnitude and the constraint on the likelihood of a simple majority.

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<sup>2</sup> An interesting possible explanation for why the presidential vote did not coalesce around two parties earlier was that both Betancourt in 1959 and Leoni in 1964 ran grand coalition governments giving cabinet posts to members of the opposition — in a sense allowing for proportional representation in the executive branch. As a result, voters could cast a presidential ballot for a party assuming it would get representation in the executive branch even if it did not get a plurality of votes. After Caldera chose to govern without a coalition cabinet, the institutional incentive to support third parties in presidential elections disappeared (Shugart and Carey 1992, 195-197).

Figure 2  
 Percentage of the Vote Received by the First Two Parties  
 in Presidential and Legislative Elections



Source: Rey 1994, 12-13 and my own calculations from Consejo Supremo Electoral Data.

Put another way, this gap between the presidential vote and the legislative vote is evidence of “economically” rational ticket-splitting. Major parties get more presidential votes than legislative votes, and minor parties typically get more legislative votes than presidential ones. Venezuelans who prefer third parties and cast their ballots for them in legislative elections are not willing to “waste” their presidential vote on them (Rey 1994, 19-27 & 82-88). Instead, they split their votes between a major party presidential candidate and the minor party of their choice in legislative elections.

Strong disciplined support for the president has led to both a failure to check executive branch activities by censuring cabinet members and a willingness to cede powers to the president in the form of delegated decree authority. When legislators believe they have found evidence of inappropriate activity by a member of the administration they can call for a vote of censure (Article 153:2). A vote of censure which is approved by at least a 2/3s margin of those present requires the resignation of the minister and can include the initiation of judicial proceedings. A vote of censure approved by less than a 2/3s margin carries no required penalty. If party delegations were highly disciplined and the president’s party

always supported him in the legislature, ministers should have been safe from any form of censure when the president's party had a majority, they should have been vulnerable to censure but not removal from office when his party controlled 34% to 49% of the seats, and they should have been vulnerable to removal from office when his party controlled less than 34% of the seats.

Votes of censure have occurred during virtually every administration, but only one minister has been required to resign. On 19 October 1995 the Chamber of Deputies voted by a majority of more than 2/3s to censure Minister of Health and Social Assistance Carlos Walter (see table 3). Those in favor of the minister's censure argued that he was ultimately responsible for the government's poor handling of an outbreak of dengue fever in the state of Zulia. The government claimed that the vote of censure was motivated by the firing of opposition party activists who were fraudulently receiving paychecks as public health workers. President Caldera's parties in the Chamber of Deputies controlled only 24% of the seats (Convergencia = 13%, MAS = 11%), so even with the support of some minor parties they were unable to prevent the removal of Walter. AD, COPEI, LCR, and MEP voted in favor of the censure, though one member of COPEI and eight members of LCR defected from their party line.

Table 3  
Votes of Censure When the President's Party  
Controlled Fewer than 34% of the Seats in the Chamber of Deputies

Date of Decision	Minister Under Scrutiny	Administration in Power	Partisan Control of Congress	Result of the Move to Censure
5/17/72	Public Works Jose Curiel Rodriguez	Caldera COPEI	Opposition Plurality	Approved by less than 2/3s
3/28/95	Agriculture and Livestock Ciro Añez Fonseca	Caldera MAS/Converg.	Opposition Plurality	Withdrawn because Minister left post
5/23/95	Development Werner Corrales	Caldera MAS/Converg.	Opposition Plurality	Defeated
10/19/95	Health and Social Assistance Carlos Walter	Caldera MAS/Converg.	Opposition Plurality	Approved by more than 2/3s
3/27/96	Finance Luis Raul Matos Azocar	Caldera MAS/Converg.	Opposition Plurality	Defeated

Votes of censure when the president's party controlled between 34% and 49% of seats in the Chamber of Deputies often passed, but never with the 2/3s support necessary to require the minister's resignation (see table 4). This occurred several times during the Copeyano administration of Herrera Campins when his party controlled 42% of the seats but AD had a plurality of 44% of the seats. Seven

votes of censure were taken during the Herrera administration, more than under any other administration, and in each one the measure passed but with insufficient support to require resignation.

Table 4  
Votes of Censure When the President's Party  
Controlled Between 34% and 49% of the Seats in the Chamber of Deputies

Date of Decision	Minister Under Scrutiny	Administration in Power	Partisan Control of Congress	Result of the Move to Censure
5/28/81	Education Rafael Fernandez Heres	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
10/27/81	Education Rafael Fernandez Heres	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
5/4/83	Energy and Mines Humberto Calderon Berti	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
5/4/83	Development José Porrás Omaña	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
5/4/83	Agriculture and Livestock Nidia Villegas	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
5/4/83	CORDIPLAN Maritza Izaguirre	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
5/4/83	Venezuelan Invest. Fund Hernan Luis Soriano	Herrera Campins COPEI	Opposition Plurality	Approved by less than 2/3s
3/27/92	Agriculture and Livestock Jonathan Coles	Pérez AD	Presidential Plurality	Approved by less than 2/3s
3/27/92	Finance Roberto Pocaterra	Pérez AD	Presidential Plurality	Defeated
3/27/92	CORDIPLAN Miguel Rodríguez	Pérez AD	Presidential Plurality	Defeated

Votes of censure against ministers in the cabinets of Carlos Andrés Pérez in his first term and Jaime Lusinchi when their party, AD, had a majority in the Chamber of Deputies failed to get even the 50% necessary to send a signal of congressional opposition short of requiring resignation. However, a move for a vote of censure against Minister of Justice, José Manzo Gonzalez, was withdrawn on 5 April 1988 because the Minister left his post after the motion was made and before the vote could be taken. In all of these instances which came to a vote, a disciplined Adeco majority of 51% under Pérez and 56% under Lusinchi was sufficient to defeat the measure (see table 5).

Table 5  
 Votes of Censure When the President's Party  
 Controlled at Least 50% of the Seats in the Chamber of Deputies

Date of Decision	Minister Under Scrutiny	Administration in Power	Partisan Control of Congress	Result of the Move to Censure
6/2/76	Finance Hector Hurtado	Pérez AD	Presidential Majority	Defeated
6/2/76	Development Jose Ignacio Casal	Pérez AD	Presidential Majority	Defeated
6/2/76	Agriculture Carmelo Contreras	Pérez AD	Presidential Majority	Defeated
6/2/76	CORDIPLAN Gumersindo Rodriguez	Pérez AD	Presidential Majority	Defeated
6/2/76	Basic Industries Carmelo Lauria	Pérez AD	Presidential Majority	Defeated
9/2/86	Secretary of the Presidency Carmelo Lauria	Lusinchi AD	Presidential Majority	Defeated
9/2/86	Finance Manuel Azpurua Arreaza	Lusinchi AD	Presidential Majority	Defeated
4/5/88	Justice Jose Manzo Gonzalez	Lusinchi AD	Presidential Majority	Withdrawn because Minister left post

Party discipline influences how congressional oversight is exercised. Votes of censure generally follow party lines, and the position of the president's party in the Chamber of Deputies is usually sufficient to explain the outcome. Even when it is not, disciplined voting in blocks by members of opposition parties determines the outcome rather than divisions within parties. Thus, the institutional factors which discourage divided government (a simple opposition majority in the congress) inhibit the congress from exercising control over the executive branch.

Presidents whose party had a majority of the seats in congress have also benefited from delegated decree authority. Article 190:8 allows the president in a meeting of his Council of Ministers "to dictate extraordinary measures in economic and financial matters when the public interest requires it and he has been authorized to do so by a special law." Decree authority in economic and financial matters has been delegated to five different presidents. In the first three cases this authority was requested by the executive branch as was used to enact much of the president's program.

On 29 June 1961 the Law of Urgent Economic Measures was passed by an Acción Democrática (AD) controlled Congress delegating decree authority on economic and financial matters to President Betancourt, also of AD (*Gaceta Oficial* 26,590, 6/29/61). The enabling law specified a wide array of



issues to be faced and only loosely defined how they should be addressed. It authorized the president to reorganize the decentralized public administration, to reorganize public services, to defer collective contracts, to fix prices of goods of primary necessity, to modify the Property Tax Law, to modify inheritance and other national taxes; and to establish an insurance system for deposit and savings accounts.

Given the breadth and vagueness of the enabling law, Betancourt's use of the authority seems quite moderate, issuing only fifteen decree laws. In the area of collective contracts, he lowered public employee salaries, suspended their current contract, and postponed their ongoing contract negotiations until 1962. Regarding taxes, he revised several tax laws, some of them more than once. He made a number of moves to make credit for building urban housing more available, including the establishment of a particular credit fund for this purpose, the releasing of funds to banks, and the provision of incentives for private lenders. In terms of public administration and services he intervened in the management of Social Security Institute, created the School of Public Administration, and reorganized the telecommunications services (Brewer-Carias, 1980, 108-111). While all these measures are important, they are also limited in number and clearly within the bounds of the enabling legislation. Betancourt may have been circumspect in his actions because he was pledged to follow a "common minimum government program" which had been approved by the major parties prior to the election and because he had created a grand coalition government with cabinet representation for other parties.

Decree authority in economic and financial matters was next delegated to Carlos Andrés Pérez of Acción Democrática, again AD had a majority in both houses of the legislature. In April, a month after taking office, Pérez asked the Congress for the power to dictate measures to transform the economic structure of the country in light of the tremendous increase in income from petroleum exports, and the next month Congress obliged with enabling legislation on 31 May 1974 (*Gaceta Oficial* 30,412, 5/31/74). The Congress did grant Pérez substantial powers, though they were less broadly defined than those for which he had asked. In particular, the enabling law omitted the right to decree a tax reform.

Pérez dictated fifty-three decree laws (he actually issued thousands of more decrees and decree laws but on different constitutional grounds that did not require delegation), most of which were designed to

distribute the oil wealth to the economy through credit institutions, development plans for particular industries (including aeronautics and automobiles), or subsidies to types of producers (such as small and medium industry). The sheer number of decree laws and their wide scope indicate the degree to which the executive assumed legislative authority. The authority was delegated, not taken on the president's initiative (though he did propose the enabling law to Congress), but it was done in such a vague manner that far reaching decrees did not fall outside its limits.

Pérez's own party Acción Democrática (AD), through its majority in Congress, attempted to prevent his complete autonomy and to avoid the opposition charge that they were bypassing the legislature altogether by including in the enabling law a congressional vigilance committee. It was composed of thirteen members from eight parties and was to receive all decrees before they were promulgated and to get trimesterly reports from the Venezuelan Investment Fund, a financial institution that the enabling legislation required the president to create. In practice, none of this happened. The Pérez administration ignored the commission. The congressman often received decrees after they were issued, if at all. In stages, the opposition parties resigned from the commission in protest over what they saw as Pérez's *decrotamania* and AD's blatant disregard for the separation of powers critical to democratic rule (Fernandez 1976, 35-98; Karl 1982, 220-221). AD as a party was either unwilling or unable to rein in Pérez. The party was unwilling to because much of the time Pérez was carrying out policies acceptable to it and because he and his supporters were significant in the party leadership bodies. In addition, an intra-party split would jeopardize their future electoral winnings. The congressional delegation of AD was unable to further limit Pérez's activities because individual members of Congress were bound by party discipline and because after creating the oversight committee it lacked any institutional mechanisms to enforce compliance, short of rescinding the delegation completely or passing countervailing legislation.

President Jaime Lusinchi of Acción Democrática received decree authority next on 20 June 1984 (*Gaceta Oficial* 33,005, 6/22/84). By the mid-1980s the petroleum boom was over, and servicing Venezuela's extensive foreign debt was putting a drain on government revenue. Congress delegated authority for an extensive list of items to be addressed, totaling nearly twenty different activities. Most

of them focused on cutting government spending, raising government revenue, and refinancing public debt. What distinguishes them from previous delegated tasks is their specificity. For example, the president was given authority to decrease government spending by cutting public salaries and the percentage was defined for him (10%). Likewise, he was told he had authority to increase revenue by raising the tax on alcohol, but, again, the range (between 5 and 30%, depending on the type of alcohol) was defined for him. He was given somewhat greater leeway in reorganizing the public sector for efficiency, including the right to dissolve public enterprises. The enabling law also required that the president report his activities to Congress.

Lusinchi issued 71 decrees justified in this manner, but the sheer number is tempered by the significant repetition of particular acts. More than half (36) of these decrees were used for the single purpose of selling government bonds to refinance the public debt — which was explicitly called for in the enabling legislation. Unlike the Pérez case, it appears that the powers delegated were much more clearly expressed and carefully followed as a result of the specificity of the instructions given Lusinchi and the oversight placed on his activities. This is true despite the fact that, like Pérez, Lusinchi's AD party had a majority in both houses. It may be the case that the legislators learned from their broad delegation of authority to Pérez, and as a result, did not risk losing their efficacy in the case of Lusinchi. It is also likely that the differences in the motivating factors behind the delegation, an economic boom under Pérez and a bust under Lusinchi, and the leadership styles of the executives made a difference in how the decree power was exercised. The original draft of the enabling legislation was written by the executive branch itself, and it is likely that many of these moderating factors were reflected in the president's original request.

The next two times in which decree authority was delegated, it was less clearly an opportunity for the president to pursue to enact his program. Power was delegated to President Ramón J. Velásquez 23 August 1993 (*Gaceta Oficial* 35,280, 8/23/93). Velásquez, an independent in Congress, was the interim president serving the remainder of Carlos Andrés Pérez's second term. Pérez's administration, after surviving public riots, the unpopularity of the military's action to quell those riots, and two attempted coups, had been forced from office as a result of corruption charges. Due to his interim status and the

upcoming elections in December, decree authority was only delegated until the end of the year — the end of his interim term. Article 1 of the enabling legislation grants the president decree authority in "the specific economic and financial areas" listed in the rest of the article (emphasis added). Article 1 takes up more than two pages of the *Gaceta Oficial* detailing ten areas in which Velásquez was instructed to act, including tax reform, banking regulation, provision of credit for low cost housing, the sale of a government owned airline, and the stimulation of the agricultural sector. The tax reform was intended to raise government revenue (by establishing a wholesale sales tax of between 5 and 15%, depending on the particular good or service, and a tax on corporate assets) and to promote foreign investment in petroleum related industries by covering these companies under the normal tax laws rather than their previously exceptional status. The banking reform was designed to standardize oversight and regulation and open the industry to increasing foreign participation. Stimulation of the agricultural sector included increased credit, refinancing of existing debt, promotion of exports, and protection against imports.

On 14 April 1994 the Congress delegated presidential decree authority in economic and financial matters to President Rafael Caldera; formerly of COPEI but supported in the 1993 elections by the *Convergencia* coalition, *Movimiento al Socialismo* (MAS), and others (*Gaceta Oficial* 35,442, 4/18/94). It gave the president decree authority for only thirty days. Article 1 of the enabling legislation authorized the president to establish a luxury tax, a wholesale sales tax, and a tax on savings accounts. It also gave him power to reform a number of existing tax regulations, and to abolish the extremely controversial value added or wholesale tax. Subsequent paragraphs detailed exceptions that could be made, ranges for tax rates, and the requirement of an expression of congressional support for particular tax rates established during the reform of existing tax regulations. It also authorized Caldera to establish norms for contracting with private companies to provide public works and public services and to abolish parts of existing laws that restricted this possibility. It gave the president a great deal of discretion to enforce these changes and to establish punishments for people found to be disobeying them. In the thirty days allotted him, Caldera issued only four decrees justified by the enabling legislation. He partially reformed the budget regimen, he put a .75% tax on bank deposits, he declared a wholesale sales tax and

a tax on luxury consumption, and he established mechanisms for contracting out public services to private companies. Congress did restrict his authority through a relatively limited list of tasks, some detailed instructions regarding their completion, the limitation of thirty days, and the requirement that he report his actions.

It appears then that delegated authority has grown substantively more specific and temporally shorter over time. One explanation for this trend is that Congress learned from its early agency loss, especially to Carlos Andrés Pérez in the 1970s. The severity of this lesson was compounded by the fact the Pérez has been one of the most activist of Venezuelan presidents and was governing by decree in a time of abundance so his activities were not constrained by budgetary concerns. The first three times that presidential decree authority in economic and financial matters was delegated, it was to presidents from AD by Congresses where AD had a simple majority in each chamber (Betancourt, Pérez in his first term, and Lusinchi). In other words, of the eight regularly elected presidents since 1958, every president with a majority in both houses has been delegated decree authority for a year. AD's majority in the Senate ranged from approximately 60 to 64% in each case, and its majority in the Chamber of Deputies ranged from approximately 51 to over 56%.

The delegation of authority in 1994, to Caldera the *Convergencia*/MAS candidate does not contradict the importance of the partisan composition of the legislature for explaining delegation. In both chambers of the legislature, no party had more than 32% of the seats, and in the Chamber of Deputies there were five parties and in the Senate four parties with at least 10% of the seats. Using Rae's (1971, 55-58) index of factionalization, party system coherence reached its second lowest score,  $Fe=.82$ , in the democratic era.<sup>3</sup> Thus, it was a highly divided legislature that was willing to delegate authority, but

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<sup>3</sup>The factionalization index is:

$$Fe = 1 - \left( \frac{\sum_{i=1}^n T_i^2}{n} \right)$$

where  $n$  equals the number of parties participating in the election and  $T_i$  equals any party's decimal share of the vote. Thus a value of  $Fe=0$  would indicate a perfect one party system,  $Fe=.5$  would indicate a perfect two party system; and  $Fe=1$  would indicate that each voter selected a different party (total fractionalization). For 1993 I calculated the index using votes by party for the senate,  $Fe=.817$ ; votes by party for the Chamber of Deputies,  $Fe=.821$ ; and votes by single-member district candidates for the Chamber of Deputies,  $Fe=.823$ . Prior to 1993 all legislators were elected through a single ballot.

only for a short time and in a carefully defined manner. What is more, Venezuelan presidents have only a suspensive veto so their decrees could be relatively easily countermanded with subsequent legislation. In addition, the court that adjudicates executive — assembly disputes is composed of judges appointed by a body controlled by the Congress, so legislators might assume the president could be controlled through legal action.

Even most of the cases when decree authority was not delegated seem to support the importance of the partisan composition of the congress. In no case has a president faced an opposition majority. Leoni and Pérez (in his second term) from AD were not delegated authority by congresses where their party had clear pluralities, but no majorities, in each house. The two Copeyano presidents have faced opposition pluralities. Caldera as a member of COPEI in the 1960s did not receive decree authority from a Congress in which AD had a plurality in both houses, and Herrera Campins also from COPEI did not receive decree authority from a Chamber of Deputies where AD had the plurality and a Senate where AD and COPEI had an equal number of seats.

#### A Recipe for Reform

Despite having only a suspensive veto, no exclusive rights to initiate legislation, and no constitutionally allocated decree authority, Venezuelan presidents have dominated politics. They consult extensively with civil society, draft the vast majority of legislation, and issue decrees with the force of law. Legislators, on the other hand, have developed no professional structure, rarely interact with organized interests, draft little legislation, fail to oversee executive appointees, and willingly give up their authority to the president. This lopsided set of characteristics does not result from the constitution itself but from the interaction of constitutionally allocated powers and electoral characteristics. Features of the electoral process which give power to party elites lead to strict party discipline on the chamber floor and few incentives to gather information, gain expertise, or distinguish oneself from other legislators. Any effort to democratize the democracy in Venezuela should begin with electoral regulations.

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Successful reform of the Venezuelan political system hinges on the relationship between the electoral arena and the consultative arena. There are a series of mutually reinforcing changes to each arena that could help restore the legitimacy of the regime. Civil society has evolved and its further organization and mobilization must be accommodated by providing more institutional channels for consultative participation — channels that are not immune to mass electoral pressures as they were in the past.

Connecting the two arenas requires that consultative politics involve more elected officials who are accountable to voters. Opening the consultative arena to more groups and imbedding it within the electoral arena can both be accomplished by increasing the participation of the congress in the policy-making process. The plural nature of the legislative branch means that the interests of more groups could be expressed, and because legislators are eligible for reelection their interaction with interest groups would be subject to popular oversight. If voters found the outcomes of legislators' previous interaction with business, labor, and other interest groups unacceptable, they could simply throw them out of office.

Increasing the participation of congress in the policy-making process and making individual legislators responsive to diverse interests can be achieved by reducing the degree of party discipline on the chamber floor. If legislators were free to form their own individual positions, they could better respond to local constituencies. They could introduce legislation targeted at their particular district or state. What is more, Congress would become a target for lobbying as interest groups recognized that individual members could be persuaded. Diverse interests could compete to influence hundreds of legislators rather than just the president and a hand full of party leaders. Increased lobbying and the freedom to respond to pressure would in turn require that the legislative branch form a better developed internal structure and professional staff. Members would have an incentive to create legislative committees with professional staffs and means of gathering information from civil society. Legislators would rationally seek committee assignments that matched their constituencies and build expertise and seniority on those committees so they could deliver popular policy outcomes and take credit for policy accomplishments. These changes would help to decentralize political power by taking back many legislative activities from the executive branch. The president's consultative committees

filled these roles previously because legislators had no incentive to construct an institutional infrastructure of their own.

The key to reducing party discipline is democratizing the candidate selection process and completing the reforms to the electoral system which would more directly connect legislators to a constituency. There are a number of electoral systems that would strengthen the connection between legislators and a geographically defined constituency better than the original closed, blocked list system did, including single-member districts or an open list system. Perhaps the easiest change would be to use open rather than closed, block lists in the compensatory-member system. Approximately half the chamber would continue to be elected in single-member districts while the allocation of seats to parties would still be the result of proportional allocation of seats at the state level. Moving to an open list would give voters more influence over who the individual legislators elected from party lists were. Changes to the electoral system would have to be coupled with reforms to the candidate selection process. The power to nominate makes incumbents and challengers responsive, and leaving this power in the hands of a numerically small party elite would centralize power despite changes in the electoral system. For example, in a single member district system with a closed nomination process, voters can only choose among parties because party elites have already decided who the individual candidates are. An open list system would allow voters to rank candidates from within a party, but the list of candidates available to them would be predetermined. The use of primaries or caucuses at the district and state level would increase voters' choices and the accountability of candidates by subjecting them to competition from within their own parties.

Accountability is not synonymous with a complete lack of party discipline. Parties should stand for a particular ideological position and members of the same party should have incentives to work together to pursue national programmatic goals. Even with the changes suggested above, members of congress would still be encouraged to act together with their copartisans. Party leaders who set national goals and ideological stances could still be given the power to determine the original order of names on open lists even if voters could later change them. So, candidates would have an incentive to be in good standing with party leaders. In addition, the allocation of seats among parties would still be determined



by votes for all its open list candidates pooled at the state level. Thus, legislators would have an incentive to think about the party's reputation and the electoral prospects of their copartisans. These changes would increase legislators' incentive to cultivate a personal vote without completely destroying their reasons to act together as members of an ideologically coherent party (Carey and Shugart 1995).

With these new incentives, legislators would make fuller use of their constitutionally allocated powers. For example, no substantive area of policy is off limits to them because the right of legislative initiative is reserved for the executive. Thus, presidents cannot protect the status quo by simply refusing to introduce a bill on a particular subject. In addition, the president does not have decree authority that a motivated legislature could not remove. Decree authority in economic and financial matters is only available to the president when the legislature delegates it to him, and with increased accountability to voters, individual legislators, even from the president's party, would have an incentive to make and take credit for policy themselves. Decree authority that results from the suspension or restriction of constitutional guarantees could also be limited because congress has the right to reinstate all rights — though Caldera was able to intimidate Congress and override this power in 1994.

Surprisingly, given the dominance of presidents in the current system, the constitutional powers of presidents might actually need to be increased. Without the consent or complacency of congress, Venezuelan presidents have virtually not proactive or reactive powers (Mainwaring and Shugart 1997). They cannot proactively pursue their programs through decrees without the consent of Congress. They cannot reactively defend the status quo by refusing to introduce bills in areas where they have an exclusive right of legislative initiative nor can they stop legislation with a veto that requires anything more than a simple majority to override. If the incentives of legislators were changed to reinvigorate the institution, it might be wise to increase the veto authority of presidents, requiring, for example, a two-thirds vote to override. In this case, presidents confronted by an opposition controlled congress could have some moderating influence. The concurrent timing of elections promotes a sizable partisan contingent for the president, and, as a result, overriding a presidential veto would often require that members of his own party or virtually every member of other parties vote against him .

Under this revised system presidents with majority support in the congress would not only have a partisan contingent predisposed to think about their party's reputation, but these presidents would also have the opportunity to receive delegated decree authority. An opposition controlled congress could refuse to delegate authority, curtail other decree authority by reestablishing constitutional guarantees, and have every likelihood of assembling the two-thirds majority necessary to avoid a veto. The chances of destabilizing interbranch stalemate would only result when the allocation of seats in congress was highly divided among several parties (Maiwaring 1993). In such instances the congress would find it difficult to be sufficiently unified to exercise its constitutionally allocated powers and presidents would lack the proactive powers to rule without congressional consent. However, despite the proportional representation system with its formula for assuring representation of small parties, there are several electoral characteristics which discourage a large number of effective parties. The winner take all nature of presidential races encourages coalescence behind one of two major parties. In concurrent elections the first-past-the-post nature of presidential elections exerts a pull effect on legislative elections, thus promoting a two-party system in the legislature as well. Single-member districts for one half the legislature would have the same effect. Likewise, senate elections with only two seats per state, though allotted proportionally, also discourage the formation of many small parties.

Putting these reforms in chronological order, a series of mutually reinforcing changes could be set in motion by changes to the candidate selection process and the electoral system. The resulting decline in party discipline would make Congress responsive and therefore a target of pressure. Legislators would then have reason to bolster the institutional structure of the legislative branch and play a more central, day-to-day role in policy making. The consultative arena would thus be opened to more actors and be subject to increased popular oversight. Legislators would have also have a greater incentive to respond to the parochial interests of their districts. It might actually be necessary to augment the constitutionally allocated powers of the president to prevent him from becoming marginalized.

These changes focus on institutional design or the process of choosing governments and making policy. Policy outcomes, including economic development strategy, are not predetermined. By opening the process to more groups in civil society and increasing the accountability of elected officials, the

reforms outlined here would assure that policy outcomes had popular support and thereby restore legitimacy to the system.

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