

## Legislatures and Foreign Policy

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**Abstract:** This chapter examines the many different ways that parliaments influence foreign policy. Citing the US Congress as an example, it challenges the claim about weak parliaments and explains why legislatures nowadays are more involved in foreign affairs than ever before. It then considers how European parliaments have responded to the challenge brought about by regional integration. In particular, it looks at the increasing external constraints faced by the European Union and the concerns about the “deparliamentarization” of European governance. It also discusses how Congress and other legislatures can influence foreign affairs and international bargaining by highlighting two major policy questions: war powers and international political economy. The article concludes by suggesting avenues for future research.

**Keywords:** parliaments, foreign policy, US Congress, legislatures, foreign affairs, deparliamentarization, European Union, international bargaining, war powers, political economy

### 26.1 Introduction

It is customary to argue that foreign policy is very much dominated by the executive, with parliaments wielding marginal or at best limited influence. According to this accepted wisdom, parliamentary democracy functions less well in foreign policy than in domestic policy. Decision-making in foreign policy is characterized by limited openness and secrecy is often presented as integral to the protection of the national interest. As the

efficient conduct of foreign policy, especially regarding use of force, also requires flexibility and fast reactive capacity, parliamentary involvement may cause unnecessary delays that obstruct the achievement of important foreign-policy goals. International issues are also significantly less relevant for voters, and this further reduces the incentives for parliamentary engagement. Foreign policy is hence determined by the political and bureaucratic elite and does not engage the legislators and much less the general public. Foreign policy also often requires national unity and demands that the major political parties at least try to build consensus on these issues. These notions apply particularly to decisions with military implications: “as security policy is taken to require particularly rapid decision-making and, at times, a high degree of secrecy, it is regarded as the exclusive domain of the executive and thus lying outside the sphere of parliamentary control.” (Peters et al. 2010, 3)

This line of thinking is nothing new, and can be traced back to political philosophers such as Locke (1660) or de Tocqueville (1835). But what accounts for this low level of parliamentary influence? There are essentially two interconnected explanations: either legislatures voluntarily acquiesce to such government-driven policy-making or they simply fail to control the government in the field of external relations. According to the first perspective, parliaments delegate policy-making to the executive branch which represents the country in international negotiations. The effective formulation and defense of national interest requires that the executive is given sufficient flexibility and room for manoeuvre, with parliamentary participation thus limited to setting ex ante constraints to government action. Ex post control is in turn politically difficult, as rejecting unilaterally international agreements reached by governments can

be exceedingly costly, potentially damaging the reputation of the country and its success in future negotiations. Delegation is also attractive for parliamentarians as foreign relations are not that important for re-election. There are thus more costs than benefits for legislators in subjecting the government to tight scrutiny. The second perspective, on the other hand, argues that the structural two-level games logic of international bargaining shields governments from parliamentary control. The executive branch uses international institutions to insulate themselves from parliaments and other domestic actors, and to push through or legitimize even unpopular internal reforms. And beyond such possible strategic considerations, global or regional governance is by its very nature intergovernmental, thus empowering governments at the expense of legislatures. But importantly, the two-level game scenario also emphasizes that governments are often constrained by domestic actors such as legislatures that in the end can unilaterally veto the agreements, and that the executive can use this legislative constraint as a bargaining advantage (Putnam 1988; Evans et al. 1993; Moravcsik 1994; Wolf 1999; Pahre 2006)

This chapter provides a critical re-evaluation of such argument, providing evidence that parliaments are definitely not—and have hardly ever been—marginalized in foreign policy. Quite the opposite, legislatures have multiple ways to influence external relations, particularly with European parliaments becoming more assertive vis-à-vis their governments. Focusing mainly on the US Congress, the next section revisits the claim about weak parliaments, and explains why legislatures are more involved in foreign affairs than ever before. Building on that Congressional literature, the third section analyzes how European parliaments have coped with the challenge caused by regional integration. While parliaments throughout the world are subject to increasing external

constraints through political and particularly economic globalization, it is inside the European Union (EU) that such constraints are most strongly felt, with the gradual but consistent empowerment of the EU triggering concerns about the “deparliamentarization” of European governance. The final section concludes by suggesting avenues for future research.

## 26.2 The Myth of Weak Parliaments

The accepted wisdom about parliaments not really mattering in foreign affairs probably explains in part why scholars have paid relatively little attention to this interesting subfield of legislative studies. In Europe it has been commonly understood or almost taken for granted that the logic of parliamentarism further marginalizes legislatures, with foreign policy viewed as an issue area where parliaments exercise most delegation to the executive. However, recent work on parliamentary scrutiny of EU affairs has increasingly challenged such notions of executive drift, and as argued in the last section of this chapter, there is a need to investigate whether domestic legislatures also manage to influence government activities on other foreign policy questions.

The situation is very different in the United States, where the constitutional system with its checks and balances has stimulated a wealth of research on the relationship between the president and the Congress in foreign policy. This research basically consists of two strands of literature. On the one hand, there is an abundance of publications on the rivalry between Congress and the president, driven to a large extent by the argument about “two presidencies,” initially proposed by Wildavsky (1966), with the president allegedly enjoying considerably more discretion in foreign affairs than in domestic matters.<sup>1</sup> Much of this research has focused on various Congressional activities,

mainly roll-call voting, to analyze partisan coalitions and the positions of individual legislators in a variety of foreign policy issues. On the other hand, primarily international relations scholars, or more precisely those specializing in international political economy, have extrapolated linkages between domestic politics and international negotiations, thus also focusing on the role of parliaments in influencing the outcomes of such global or regional bargaining rounds in trade and security policies.

According to this body of research, Congress seldom questioned executive leadership in foreign policy from the end of the Second World War until the 1960s. But by all accounts, the role of Congress underwent a dramatic change during the Vietnam War in the 1960s and 1970s. From then on, the interventions of Congress have become more detailed and substantive. Previous discretion to the president was replaced by a more assertive Congress, willing to question and reject executive decisions in foreign economic and security policies. Partisan consensus, or so-called bipartisanship, gave way to ideological disputes between Democrats and Republicans, and also an increasing number of legislators became active in foreign policy questions. In the 1970s the Senate cut off all funds for US military operations in Cambodia, and Congress succeeded in cutting off aid to South Vietnam. With the 1973 War Powers Resolution over a presidential veto, Congress asserted its intention to check any future presidential decisions concerning use of force (see Section 26.2.1.). Congress also made significant cuts to the defense budget. In the 1980s Congress took so many decisions contradicting the Reagan administration that arguably US policy toward Central America was effectively made by the legislature, not the president. During the 1990s, Clinton had to

readjust his policies towards Haiti, Bosnia, and Somalia in order to avoid more extensive interference from Congress.

Indeed, the original drafters of the US constitution had deliberately given Congress substantial powers in foreign relations, concerning both the declaration of war and trade (Schlesinger 1989). As foreign policy is based less on legislation than domestic policy, the toolkit of Congress with regard to foreign policy contains a broad array of instruments. In addition to voting on budgetary items and ratifying international agreements, members of Congress can set *ex ante* limits to presidential action, change the rules of delegation in the direction of less executive discretion, or use public posturing and grandstanding to influence the nation's foreign policy. For example, Congress has introduced stricter reporting requirements or procedures that force the president to consult Congress prior to decision-making or during international economic negotiations and military conflicts. Perhaps not very surprisingly, Congressional influence is on average stronger under divided government.<sup>2</sup>

Let us examine more closely the way Congress and other legislatures can influence foreign affairs and international bargaining by turning to two major policy questions—war powers and international political economy.

### 26.2.1 War Powers

Decisions about use of force abroad, for short war powers, are central to understanding the development of parliaments. The authorization of conscription for armies, raising funds for military expenditure, and subsidies to foreign powers were at the heart of early modern parliamentarianism ever since the English nobility reached a constitutional settlement in the Glorious Revolution of 1688. Foreign policy was also regularly debated

in the British parliament, with MPs questioning the executive about international issues and demanding explanations for proposed or undertaken courses of action (Black 2004). Beyond such historical legacies, parliamentary participation rights regarding war can also be defended from a more normative point of view. As few decisions potentially have a more severe impact on the lives of citizens than decisions regarding military missions, it can be argued that no meaningful notion of democracy could possibly exempt security policy from parliamentary control. Here the question is not necessarily about the actual influence of the parliament—what matters perhaps more is that the legislature provides a forum for debate where the security policy decisions are justified and explained (Lord 2011).

However, there is no denying the challenges that legislatures face in wielding influence over security policy, particularly decisions relating to military operations (Born and Hanggi 2004). Effective control must primarily be exerted ex ante, with parliaments themselves also recognizing that the executive needs a certain level of manoeuvre for the successful conduct of military missions. As summarized by Peters and Wagner (2011, 178):

Proponents and critics of parliamentary control do not dispute that parliamentary involvement slows down decision-making over military missions and increases public ex ante scrutiny to the effect that, if conflicting, the interests of a reluctant public are more likely to trump security considerations. The main disagreement concerns the desirability of this effect with critics having more confidence in the executive's capacity to respond adequately to international pressures and requirements

and proponents being more alarmed about possibilities of misjudgement and even abuse of executive freedom.

Indeed, in the US the discretion accorded to the president in security policy was extended during and after the Second World War, in part because Congress itself saw that its interventions had worked against an effective security policy in the inter-war period.<sup>3</sup> In 1950 President Truman simply informed Congress of his decision to enter the Korean War. Congress was also marginalized during the Cuban Missile Crisis of 1962 and in sending troops to Vietnam. But during the Vietnam War the resurgence of Congress culminated in the War Powers Resolution. Passed in 1973 against a presidential veto, the resolution was intended to curb and constrain president's right to use force abroad. It would make sure that the executive consulted Congress and also got its approval during military operations. According to the resolution the president can send armed forces into action abroad only by authorization of Congress or in the case of a national emergency. The president is required to notify Congress within forty-eight hours of committing armed forces to military action; the resolution also forbids armed forces from remaining for more than sixty days, with a further thirty-day withdrawal period, without authorization for the use of military force or a declaration of war by Congress. No president has acknowledged the constitutionality of the resolution, and several presidents have disregarded it. President Reagan did so in 1981 when sending the military to El Salvador; likewise President Clinton in 1999 during the bombing of Kosovo and President Obama in 2011 when he did not seek Congressional approval for the attack on Libya, arguing that the resolution did not apply to that action.



The War Powers Resolution is also a good example of the limitations of parliamentary involvement. Many voices inside Congress have argued that the resolution is too ambitious and goes too far—some issues are simply just better left to the executive, and the president needs a certain level of discretion for the efficient conduct of military operations. Beyond the specificities of the resolution, Congressional involvement can also be hampered by procedural complexity, especially as military decisions often require fast reactions to suddenly changing circumstances. But Congress and other parliaments can, if necessary, use special procedures that facilitate confidentiality and faster processing of issues (Howell and Pevehouse 2007; Stevenson 2007)

Comparing the war powers of forty-nine legislatures between 1989 and 2004, Peters and Wagner (2011; 2014) show that parliamentary veto power over military deployments is relatively widespread, albeit still restricted to a minority of countries in their study. According to Peters and Wagner there is considerable variation between countries, concerning whether they allow the legislature to veto troop deployments and regarding the kinds of operations to which parliamentary control applies and the procedures through which this control is exercised. A parliamentary veto right over troop deployments is associated less with general aspects of the political system (e.g. the distinction between presidential and parliamentary systems) and more with the specific culture and past experiences of a country, together with the level of threat it faces. Parliamentary veto is found almost exclusively in countries without connections to the British constitutional tradition. Second, past experiences of lost wars with heavy casualties appear to contribute to the institutionalization of parliamentary veto rights over warfare. The best examples are Japan or Germany, where the experiences of the Second

World War produced strong concerns about misuse of executive freedom and extensive parliamentary involvement in military issues. Furthermore, the external security environment plays a role, with higher levels of threat associated with lesser parliamentary powers over troop deployments.

Joint military missions, coordinated primarily by North Atlantic Treaty Organization (NATO), the United Nations, and the EU, or collective defense clauses create further problems for parliamentary involvement (Born and Hänggi. 2004; Peters and Wagner 2011; 2014). In the context of accession to NATO and the EU, many Central and Eastern European states relaxed their parliamentary restrictions and abolished their parliamentary provisos for NATO and EU operations:

Especially NATO membership apparently amplified the trade-off between creating legitimacy through procedures of ex ante parliamentary control and gaining efficiency through lean, executive-centred decision-making. From a NATO perspective, having some member state governments tied to domestic parliamentary veto power must seem highly unattractive. Arriving at unanimous decisions in the North Atlantic Council is difficult already, especially after NATO enlargement. The prospect of having domestic parliaments veto a deployment even after a decision had been arrived at in the North Atlantic Council therefore created some unease on the NATO level. NATO's efforts to limit national parliaments' interference in decision-making focused on the states in the accession process and to which conditionality therefore applied (Peters and Wagner 2011, 186).

It was precisely this collective action aspect which made it so surprising when the Turkish Grand National Assembly refused to ratify the government's decision in March 2003 to permit the United States to use Turkey as an air base for its operations in Iraq (Kesgin and Kaarbo 2010).

A number of “democratic peace” school studies have focused on the role of the legislature as a potential constraint in conflict situations—that is, whether there is a “parliamentary peace” effect at work, with parliamentary engagement reducing the likelihood of the use of force. These analyses have produced mixed findings. According to Elman (2000, 98), who compared different types of regimes, single-party governments with strong majorities are not constrained by parliament in conflicts:

Despite the fact that the executive is chosen by the legislature and is dependent on its confidence, there are no institutional veto points to thwart the . . . [executive]. The executive can count on legislative approval for its foreign policy positions largely because voting against the government implies handing it over to the opposition.

Auerswald (1999) also argued that single-party majority governments are more likely than coalition cabinets to use force. Leblang and Chan (2003) in turn suggested that countries with proportional representation electoral systems are less likely to be involved in war. Reiter and Tillman (2002) showed that countries with stronger parliamentary powers in treaty ratification are less likely to initiate military conflicts. Studies that go beyond comparisons of regime and coalition types enrich the picture through incorporating the level or degree of parliamentary involvement into the equation. Dieterich et al. (2009; 2010) examined the parliamentary war powers of EU member

states in relation to countries' degree of participation in the Iraq War that started in 2003, finding that countries that were involved militarily had "basic" or "deficient" parliamentary war powers, while countries with "comprehensive" war powers made no contribution beyond logistical support. Also analyzing the degrees of participation in the Iraq War among thirty countries, Mello (2012, 447) stresses that parliamentary veto rights alone are not a sufficient constraint, emphasizing instead the interaction between constitutional rules and party politics: "under conditions of broad executive majorities or partisan convergence mandatory parliamentary approval is unlikely to amount to a legislative veto point."

To conclude, it is certainly true that both the legislative and the executive branches of the government have good reasons to avoid or limit parliamentary involvement in security policy. Electoral considerations can favor executive discretion. While legislators may vote against trade agreements that have negative distributional consequences for their constituencies (see Section 26.2.2.), attacking the executive on military issues is more risky business and can even result in deputies losing their seats. Parliamentarians may also believe that public criticism of the government might compromise or jeopardize national security. Hence blame avoidance can seem like a persuasive tactic, at least during the military operations.

The executive, on the other hand, may not always prefer maximal discretion. Governments can ask for ex ante parliamentary approval either because of its positive impact on military morale or in order to avoid domestic opposition in the course of the conflict. As argued by Lindsay (1993, 613):

Presidents are especially likely to anticipate the mood in Congress on foreign policy, because public defeats threaten to weaken their credibility on the world scene. As Secretary of State James Baker explained President Bush's reluctance to request congressional authorization for Operation Desert Storm: 'The President has not wanted to ask for such a resolution unless the leadership of the Congress could assure him that such a resolution would be forthcoming, because your hand would be weakened if it were not forthcoming.'

But obviously parliamentary ex ante acceptance of use of force abroad does not automatically produce favorable domestic conditions for warfare. In the UK, the Iraq War that began in 2003 divided public opinion despite cross-party support in the House of Commons for the government's action.<sup>4</sup>

### 26.2.2 Political Economy

Parliamentary involvement in international, regional, or global trade at least partly follows a different logic, concerning both the rules of parliamentary engagement and the nature of domestic party-political competition. Overall, foreign trade has much more direct economic distributional consequences, producing winners and losers inside individual countries. As a result, legislative bargaining and voting about trade is driven considerably more by constituency interests.

Analyses of Congressional voting clearly confirm the explanatory power of political economy theories. Overall these results are in line with the Stolper-Samuelson theorem's predictions about the economic implications of such policies: constituencies that stand to gain from trade and aid are more supportive of international economic

engagement. Legislative support in Congress and other select parliaments for foreign economic aid, trade, and funds for international financial institutions such as the International Monetary Fund (IMF) is more likely when a legislator comes from a district that is well endowed with a relatively high skilled constituency. Left-leaning legislators are more likely to favor foreign aid and funding of international financial institutions (e.g. Bailey 2001; Broz 2005; 2008; 2011; Broz and Hawes 2006; Hiscox 2002a; 2002b; Milner and Tingley 2011; 2012).

Constitutionally, legislatures including Congress, have enjoyed stronger rights in international political economy than in security policy, especially through their right to approve and reject international treaties and agreements. Consistent with insights from veto-player literature and the logic of two-level games referred to in the introductory section of this chapter, international cooperation among governments is constrained by domestic politics, such as interest groups, splits within governing parties, or parliament. Hence granting parliaments veto powers makes international bargaining more difficult—and can certainly be expected to work against major reforms to the rules of global or regional cooperation. Status quo bias thus increases when the role of the legislature and other domestic veto-players is more institutionalized. However, the cabinet can naturally also use such domestic constraints as a bargaining chip, for example, by making clear what kinds of decisions are acceptable to the legislature which must ratify the agreements. This latter feature is known as the “Schelling Conjecture” (Schelling 1960), according to which an executive whose hands are tied by a domestic ratification constraint such as a parliamentary veto can negotiate more favorable outcomes than an

unconstrained executive (Putnam 1988; Evans et al. 1993; Milner 1997; Pahre 2006; Mansfield and Milner 2012).

However, ex ante legislative engagement can also increase the credibility of the negotiators and have a positive impact on the eventual implementation of the pacts:

As long as legislatures have the capacity to impede implementation of international agreements, closing them out of the initial stages of international cooperation and attempting to prevent their preferences from influencing the course of negotiations has the potential to cause severe commitment dilemmas. Insulated executives are not, in the final analysis, strong executives, because they find it difficult to implement international agreements. In contrast, bringing legislators into the cooperation process in a formalized, regular manner allows states to bargain more effectively and to assure others that agreements signed at the international table will in fact be put in place at the domestic level (Martin 2000, 198).

Focusing on Congressional support for economic sanctions, executive agreements, and food aid, and the role of national parliaments in the EU, Martin (2000) showed in her important work that tighter legislative constraints on the executive result in improved implementation records and can improve the bargaining position and credibility of the executive. Martin also illustrated how Congress utilizes a variety of tools to influence American foreign economic relations, and how Congressional influence or assertiveness is greater under divided government.<sup>5</sup>

But despite the more obvious constituency linkages and stronger constitutional rights, trade also shows how parliaments need to strike a balance between executive

discretion and active control. For example, the Trade Act of 1974 made the United States Trade Representative more directly accountable to Congress, and that institution is considered to be highly sensitive to Congressional opinions. That same Act also established the practice of having legislators from both chambers of Congress directly present in trade talks alongside members of the executive branch. In 1988 the Congress in turn approved the Omnibus Trade and Competitiveness Act which extended the negotiating authority of the president, and this enabled the executive to more effectively negotiate major deals such as the North American Free Trade Association (NAFTA) and the Uruguay round of General Agreement on Tariffs and Trade (GATT).

### 26.2.3 Toward Stronger Parliamentary Engagement?

There are also good reasons to expect that parliamentary influence, and the general interest shown by legislators toward non-domestic matters, will increase in the future. Already in the late 1970s Manning (1977) paid attention to the rise of issues falling somewhere between pure foreign and domestic policy—or what he referred to as “intermestic” issues. Clearly the world has become much more interdependent over the past few decades, particularly since the end of the Cold War. How to manage global and regional trade, energy and environmental policies, and immigration are now regularly on the political agendas of democratic countries throughout the world, and such policies also have more explicit distributional consequences for constituencies than “traditional” foreign policy issues. International commitments are probably more expensive than before, and when considering the financial uncertainty and budget deficits that characterize most democratic countries, legislatures have stronger economic incentives to curb executive discretion in foreign policy.



Moreover, recent studies from the United States and Europe also show that foreign policy matters in terms of elections and vote choice. There is thus an “electoral connection” at work in foreign affairs—citizens’ preferences about foreign policy have shaped the policies pursued by political leaders in the United States, and there is also evidence that foreign affairs questions have impacted on the voting behavior of the electorate (Aldrich et al. 2006) And even in the post-9/11 world, there appears to be more readiness to debate policy alternatives and to question the policies of governments in international affairs. Indeed, many recent studies of US foreign policy have noted that Congressional assertiveness in foreign policy increased after the Cold War, with more varied foreign policy issues on the legislative agenda—but it is less clear how this has affected either the level of bipartisanship or relations between Congress and the president (Wittkopf and McCormick 1998; Kupchan and Trubowitz 2007; Chaudoin et al. 2010). Individual members of Congress have also become more active and vocal in foreign affairs, using a variety of parliamentary instruments to shape US foreign policy, particularly when they disagree with the president about foreign affairs issues (Carter and Scott 2004).

However, such increasing levels of parliamentary engagement can, at least in certain countries, be counteracted by the fight against terrorism—and more broadly by what is termed in international relations literature “securitization” which focuses on how policy questions are transformed by actors in security matters. After all, as the research reviewed in this section indicates, the executive is normally allowed more discretion in security and military policy than in foreign economic policy, with such delegation and overall parliamentary support particularly pronounced during military conflicts (Howell

and Rogowski 2013). There is certainly evidence of the salience of “homeland security” issues in Congress (Middlemass and Grose 2007). Interestingly, Milner and Tingley (2012) show how presidents can benefit from framing foreign policy issues as security or military matters. The president may thus imply that the issue at hand transcends party-political boundaries and affects the entire country. For example, instruments such as military aid and deployments and bilateral aid allow the president greater freedom from Congressional constraints than foreign economic policy issues. Hence the president can be tempted to use military or security instruments since other types of foreign policy questions are subject to greater legislative constraints. Milner and Tingley show that in their large sample of foreign affairs votes, the influence of the president is greater on votes with an explicit national security dimension (for example, the president’s influence is more pronounced in votes on military aid compared with votes on development aid). Presidential influence is also stronger in those areas of the federal budget that deal with defense and weaker when it comes to foreign policy areas with less immediate national security connections. However, comparing the impact of the “war on terror” on the legislative–executive relationship in eight countries, the volume edited by Owens and Pelizzo (2009) suggests that parliaments are not necessarily weakened during such crisis, with only three cases—the United States, Great Britain and Russia—providing evidence of executive empowerment.

To conclude, while the research reviewed in this section may paint a rather positive picture about parliamentary influence on foreign policy, it is nonetheless important to recognize certain real-world constraints. Essentially none of the studies claim that legislators in the US or elsewhere would enjoy the same level of information

about foreign affairs than members of the executive branch. Hence there is a persistent problem of informational asymmetry, and just as in domestic policy, many of the procedural innovations or reforms introduced by parliaments have been designed to address such asymmetries. The executive also has considerably more resources to invest in foreign affairs, and in the end it is always the government that represents the country in international negotiations. The logic of international bargaining thus sees to it that the parliament must really seek to influence government *ex ante*, but also that the executive itself has an incentive to seek parliamentary approval for its positions, particularly when the legislature has the power to reject the outcome of global or regional agreements. These cautionary notions also apply to the role of national parliaments in the EU, a topic we shall address in the next section.

### 26.3 National Legislatures and the European Union

When examining parliamentary responses to European integration, it is interesting to observe the similarities between the domestic legislatures of EU member states and the US Congress. This applies both to the considerable challenges the parliaments face in attempting to influence policies, and to the constitutional rights and procedural innovations that facilitate such influence. In light of these similarities it is noticeable and indeed frustrating how little of the research reviewed in this section has been informed by insights from Congressional studies.

European countries have joined the EU in order to benefit from regional integration. But while member states can certainly benefit from EU membership economically and politically, Europe also acts as a significant constraint on national democracy. However, there is no scholarly consensus about the extent to which the EU

actually impacts on the work of domestic legislatures. It is nonetheless generally agreed that European integration and the consistent empowerment of the EU have presented a major challenge to national parliaments. According to the so-called “deparliamentarization” thesis, the development of European integration has led to the erosion of parliamentary control over the executive branch. The argument about deparliamentarization is based on constitutional rules and on the political dynamics of the EU policy process (Raunio and Hix 2000).

The EU member states have transferred policy-making powers to the European level in a broad and significant range of questions, and as a result, parliaments have directly lost influence. With the partial exception of Treaty amendments and other issues decided by unanimity, in EU affairs the influence of national legislatures is mainly limited to scrutinizing the Commission’s initiatives and to influencing the government that represents the country at the European level. The increased use of qualified majority voting in the Council (which means that individual governments can find themselves in the losing minority), and the often complicated bargaining in the Council and the European Council in turn, make it difficult for national parliaments to force governments to make detailed ex ante commitments before taking decisions at the European level. But the main point is that national governments represent their countries in EU negotiations and hence this results in informational asymmetries between the executive branch and the legislature. Considering the dominance of this deparliamentarization thesis in scholarly work and political debate, it is not surprising that national parliaments are often labeled as the main “losers” or “victims” of European integration (Goetz and Meyer-Sahling 2008; Raunio 2009).

However, constitutionally, parliaments enjoy strong participation rights in EU governance. National constitutions typically give domestic legislatures certain rights (such as to receive information from the government on EU affairs) and set them specific responsibilities (such as transposing EU laws or approving Treaty amendments), with the constitutions often containing rules about how EU matters are processed by parliaments. Beyond such rules parliaments are free to decide how and whether to become involved in EU politics. EU Treaties also give national parliaments certain rights (such as to receive EU documents), and allocate them certain specific duties that mainly deal with the division of competencies between the EU and its member states (Cygan 2013). The Lisbon Treaty introduced the “early-warning mechanism,” with the national legislatures assigned the right to monitor whether initiatives for EU laws comply with the principle of subsidiarity. There is broad scholarly consensus that the early-warning mechanism is unlikely to have much significance. It was mainly introduced in response to legitimacy concerns, and it is likely that its impact will remain modest (e.g., Rittberger 2005, 189–92; Kiiver 2012).

The role of national legislatures in the EU first received serious political and academic attention in the mid-1990s in connection with debates on how to cure the EU’s democratic deficit (Norton 1995; Raunio 1999). Academic interest in the topic drew further inspiration from the first comparative projects that showed domestic legislatures to be largely ineffective or uninterested in controlling their governments in EU matters (Laursen and Pappas 1995; Norton 1995; Smith 1996). Since then the role of national parliaments has featured quite prominently on the research agenda of parliamentary and EU scholars, with several comparative research projects completed since the turn of the

millennium. Scholars have been particularly interested in comparing the effectiveness of alternative scrutiny systems and in explaining the adoption of specific scrutiny models.<sup>6</sup>

There is also a small but growing body of research on inter-parliamentary cooperation among national legislatures (and the European Parliament). (Goetz and Meyer-Sahling 2008; Raunio 2009; 2011)

Thanks to this lively academic debate, we are now in a much better position to evaluate the ways in which national legislatures are affected by and get involved in European integration. While national parliaments have certainly been late adapters to integration, there is no doubt that they exercise tighter scrutiny of their governments over EU matters than before. This is not surprising. After all, European integration has taken major steps forward since the late 1980s, with the competence of the EU extending to basically all policy sectors. Domestic legislatures have quite logically responded to this empowerment of the EU, mainly through upgrading the powers and resources of the European Affairs Committees (EAC) and involving specialized committees more regularly in EU affairs. Inter-parliamentary networking in The Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC)<sup>7</sup> and other forums has facilitated the sharing of “best practice,” with the individual parliaments assessing the strengths and weaknesses of the scrutiny arrangements in other legislatures. This learning of best practice applies particularly to those countries that joined the EU in 2004 and 2007. Indeed, early evidence from these newer member states indicates that their parliaments have on average implemented more comprehensive scrutiny mechanisms than the parliaments of the older EU countries (Szalay 2005; O’Brennan and Raunio 2007; Karlas 2012; Winzen 2012; 2013).

Considering this exchange of ideas among the parliaments, it is not surprising that the same literature also points toward gradual institutional convergence among the twenty-eight parliaments. All national parliaments have an EAC, the main function of which is to coordinate parliamentary scrutiny of the government in EU matters. But importantly, the status of EACs appears to vary significantly between the member states. For example, while in the three Nordic EU countries the EAC is a fairly prestigious committee, the opposite is largely the case in the Mediterranean countries. Further research on EACs could explore the attractiveness of these European committees, for example, through surveys among MPs or by analyzing the committee careers of legislators. There is more diversity concerning the involvement of specialized committees. The delegation of authority from the EAC to specialized committees has been necessitated by the huge workload of the EACs, but is also motivated by the need to utilize the policy expertise of the MPs. However, while in some legislatures (such as the Finnish Eduskunta, the German Bundestag, the Estonian Riigikogu, and the Slovenian National Assembly) the role of the specialized committees has become institutionalized, in around half of the parliaments they only become rather sporadically involved in EU matters.

When we examine the role of plenary, the research points again in the direction of substantial convergence. Existing evidence, though very scarce, suggests that the role of the plenary tends to be rather limited in European affairs. Indeed, the main difference between domestic and EU politics seems to concern the role of the plenary. Domestic laws and other nationally salient issues are normally debated in the full chamber while it seems that normal EU matters such as the Commission's legislative initiatives are only

seldom on the agenda of the plenary. Most parliaments do, however, have debates about “high politics” EU issues such as Treaty reforms, multiannual financial frameworks, European Council meetings, or the euro crisis and the associated bail-out measures (de Wilde 2011; Wendler 2013; Maatsch 2014). This limited role of the plenary is probably explained by a combination of institutional choices and the interests of political parties. The establishment of EACs reduces the use of plenary, as the former coordinate parliamentary work in EU matters and are normally authorized to speak on behalf of the whole parliament in these issues. While MPs may defend committee deliberations behind closed doors with the need to further national interests and to allow confidential exchange of views between the national government and the parliament, this mechanism clearly also serves the interests of the mainstream parties. Governing parties in particular may want to monitor the government behind closed doors without public criticism that might damage the reputation of the cabinet (Auel 2007).

Considering that most of the main opposition parties in the EU member states are on average no more coherent over EU issues than governing parties or have similar preferences on integration, they are also unlikely to demand more plenary debates about Europe. Besides, were the opposition to attack the government, the prime minister might blame the opposition for undermining the success of the government in defending the “national interest” in EU negotiations (Benz 2004, 881; Auel and Benz 2005, 379). Hence, probably the only parties that would like to have debates about Europe are those that are more in tune with their electorate over Europe and internally cohesive about integration. These parties are normally either populist parties or parties located at the extremes of the left–right dimension that can, for example, use such debates to criticize



the government for not defending the national interests well enough in EU negotiations. Hence a plausible hypothesis for future research is that plenary debates on Europe are more likely in countries with more Eurosceptical party systems or with more polarized or differentiated party preferences about integration. In such member states, parties should have more to win by having public debates about Europe, either because they can thus challenge the governing parties or they can use the debates to send signals to their electorates (Auel and Raunio 2014)

In terms of institutional adaptation, domestic change has often been incremental and path-dependent, with the implemented reforms in the older EU countries reflecting the domestic parliamentary cultures and “ways of doing things.” Moreover, it appears that despite the gradual institutional convergence, the priorities or even basic goals of the scrutiny systems differ between the legislatures. For example, the volume edited by Maurer and Wessels (2001) makes the distinction between parliaments that engage in more document-based, supportive, or consensual processing of EU matters, while other legislatures emphasize the mandating of Brussels-bound cabinet members. Considering these differences in the basic orientation of the scrutiny process, future research should be more critical about how to measure the strength of scrutiny. The ability of the EAC to mandate ministers on behalf of the whole parliament through setting the bargaining range or even issuing explicit voting instructions has so far been used as the primary indicator of powerful scrutiny (access to information, the powers of the EAC, and the involvement of specialized committees have been the other main indicators). This results from the influential Danish system, where the EAC is famous for its ability to constrain ministers through issuing voting instructions. However, this emphasis on mandating is not entirely

unproblematic, and future studies should analyze the multiple strategies—e.g., use of control instruments, reporting requirements, direct contacts with the European level—that legislators and political parties employ to influence European affairs.

These measurement concerns are directly related to the validity of the “rankings” of the national scrutiny models. The literature on explaining cross-national variation in the level of scrutiny of EU matters has produced somewhat mixed findings, but it suggests that the variation is primarily explained by three factors: parliamentary strength independent of integration, presence of Euroscepticism in the party system, and later accession to the Union correlate with government subjected to tighter scrutiny in EU affairs (Pahre 1997; Bergman 1997; 2000; Raunio 2005; Saalfeld 2005; Karlas 2012, Winzen 2013). There is also a demand for research on actual behavior within the different institutional and party-political contexts. Only through in-depth empirical analyses can we answer whether parliaments really influence government behavior – and indeed, which EU matters receive attention from MPs and why. There is evidence that, at least in some member states, the level of parliamentary scrutiny is explained by the importance of co-decision legislation or the incentives of government and opposition parties (De Ruiter 2013; Finke and Dannwolf 2013). Another potential way forward would be to compare parliamentary scrutiny in two modes of EU governance, with the sample containing both supranational laws and matters falling in the domain of various forms of inter-governmental coordination. Examples of the latter mode could be coordination of national policies in the framework of EU security policy (Peters et al. 2008; Peters et al. 2010) or the Open Method of Coordination (Duina and Raunio 2007).<sup>8</sup>

Despite this proliferation of research, we lack empirical studies about the extent to which national parliaments have, in fact, been Europeanized—that is, how much and in what ways EU has impacted or constrains national parliaments. The existing literature has almost exclusively focused on law production. The inspiration for this research has been the often-repeated “eighty percent” claim made in the late 1980s by the Commission President Jacques Delors about the share of legislation that would flow from Brussels. Research has shown this share to be much lower, even when including domestic laws that are in some way “inspired” by the EU—however, the impact of the EU has increased over the years (Brouard et al. 2012). In the only study to adopt a more comprehensive approach, Raunio and Wiberg (2010) examined the Europeanization of the Finnish Eduskunta with five indicators: share of EU-related national laws, the use of control instruments (confidence votes and parliamentary questions) in EU matters, and the share of committee, plenary, and party group meeting time spent on European matters. Raunio and Wiberg showed how the impact of Europe varied inside the legislature, with parliamentary committees most burdened by EU affairs. This finding probably resulted from the constitutional obligation in Finland of the committees to report on EU matters. The extent to which EU matters are centralized to the EACs may thus be a key variable in explaining how Europe impacts on domestic legislatures. In parliaments where EU matters are mainly isolated to the EAC, the other committees should deal much more infrequently with EU questions.

But perhaps a more interesting point concerns the methodological challenges involved in distinguishing between EU affairs and domestic issues. While certain questions—such as Treaty amendments, enlargements, or EU budget—can be rather

uncontestedly categorized as European matters, more typical are cases where EU and domestic spheres have become increasingly intertwined. This applies particularly to policy-related questions (e.g. agriculture, economy, environment, etc.), regardless of whether the matter is of European or national origin. Not only does an increasing share of matters formally decided at the national level have a European dimension, but also debates on EU laws or European-level processes can be dominated by domestic issues. This interesting finding is also in line with multilevel governance theorizing according to which integrative Europe is characterized by growing inter-connectedness of national and EU agendas. Here it is easy to draw a parallel with the Congressional studies that paid attention to the rise of “intermestic” issues that fall somewhere between the categories of domestic and foreign policies (Raunio and Wiberg 2010; Auel and Raunio 2014)

The need for further research on Europeanization brings us to our final and highly important point: can parliaments still be considered “losers” or “victims” of European integration? As has been discussed in this section, national parliaments clearly subject their governments to tighter scrutiny in EU matters than before. Legislatures have fought back and have in many ways become better at controlling governments in EU politics—and given the increasing political weight of the EU, there is no reason to expect this trend not to continue. Domestic scrutiny can also benefit the overall effectiveness of EU governance. Bergman (2000) and Martin (2000, 164–89) showed that effective ex ante parliamentary involvement is correlated with better implementation rates of EU directives. This point is important, for all too often active scrutiny by individual parliaments has been viewed as something evil (particularly by those who favor deeper

integration), slowing down or even blocking EU decision-making through reducing the bargaining range of national governments (Sprungk 2013).

But as is the case with the Congress, there is no doubt that despite this increased assertiveness national parliaments are structurally disadvantaged vis-à-vis their governments in EU governance. Future research should approach this equation more from the perspective of individual legislators or political parties. That is, what are the payoffs and costs—either in terms of re-election, policy influence, or career advancement—for legislators in becoming involved in EU affairs? If the incentive structure works against active engagement in EU issues, then studies reporting limited scrutiny of EU affairs or low levels of interest in European issues shown by MPs should not necessarily be understood as parliamentary weakness (Møller Sousa 2008, 441). Interestingly, recent evidence points in the direction of the EU becoming increasingly politicized and salient in domestic politics, with Europe as an issue also affecting the performance of parties in national parliamentary elections (de Vries and Tillman 2011; Hooghe and Marks 2012). Whether this translates into more effective parliamentary engagement in EU issues remains to be seen, but at least Europe features more prominently in domestic politics than before.

## 26.4 Future Research Agenda

The literature reviewed in this chapter shows how the US Congress and European parliaments have several avenues to influence foreign policy—from setting ex ante limits to governments to holding the ultimate veto power in treaty ratification. By all accounts, the level of executive drift in foreign policy has decreased over the decades, perhaps in part through the higher interdependence of domestic and foreign policy agendas. As

foreign affairs have clearer and more varied domestic distributional consequences, legislators probably have more incentives to engage in foreign affairs.

However, that same body of research also offers consistent reminders of the difficulties legislators face in trying to keep up with the executive that enjoys a vast informational advantage and represents the country abroad. A further difficulty is posed by the multilevel governance nature of global or regional politics. According to this framework, the modern global political architecture offers actors such as national parliaments multiple access points to influence politics. But the main lesson of the multilevel governance school is a more negative one, indicating that legislatures tend to be excluded from inter-governmental policy coordination and negotiations that dominate decision-making in multilevel systems of government. Several scholars have argued—often without any real empirical evidence—that multilevel governance involves the sharing of policy competencies by actors at different levels, muddled lines of accountability, and the marginalization of representative bodies (e.g. Bache and Flinders 2004; Benz and Papadopoulos 2006; Benz et al. 2007; Curtin et al. 2010; Bellamy 2011). Legislatures have responded through the creation of transnational or regional parliamentary assemblies and more regular inter-parliamentary cooperation, with European parliaments especially engaged in a variety of parliamentary networking arrangements. It appears that the main function of this activity lies in exchange of information, but more research is needed to establish the actual importance of the various forms of inter-parliamentary cooperation (Slaughter 2004, 104–30; Marschall 2005; Kraft-Kasack 2008; Šabič 2008; Crum and Fossum 2013).

Future research should also pay more attention to the interests of individual legislators to engage in foreign policy issues. As noted above, members of the Congress have become more active in foreign affairs, using a variety of parliamentary instruments to influence US foreign policy (Carter and Scott 2004). While it is customarily argued that the incentive structure works against parliamentary activity in foreign policy, the developments examined in this chapter—e.g. increasing globalization, consistent empowerment of the EU, and the blurring of lines between domestic and foreign policy—certainly suggest that legislators should have good reasons to focus more on foreign or EU affairs. For example, one could examine whether and what types of parliamentarians are more likely to ask questions, table or sponsor legislative motions, or hold speeches related to foreign policy questions (Burgin 1991; Patten 2005; Martin 2013).

Finally, perhaps the most important lesson to be drawn from this chapter is the lack of comparative research. While the US system with its constitutional checks and balances is quite different from most democracies, insights from the voluminous literature on Congress should be utilized to conduct empirical comparative enquiries into the work carried out on foreign affairs by legislatures in other parts of the world. For example, the Congressional research on trade policy coalitions could be replicated in other countries. American scholars have also paid a great deal of attention to the various ways in which Congress shapes US foreign relations, and it is worrying that no similar research tradition exists in Europe. And as research in the US and Europe has been preoccupied with the legislature–executive relationship, there is a need to investigate whether foreign policy also matters in terms of MPs linking with the citizens, for example through constituency work and parliamentary debates. As the world has become

more interdependent, are parliamentary agendas also more influenced by such foreign or “intermestic” issues—and if so, to what extent are there behavioral, coalitional, or procedural differences between such issue categories?

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<sup>1</sup> Wildavsky's original argument was based on empirical evidence from Congressional roll-call votes. Utilizing *Congressional Quarterly Almanac* presidential box scores, he found that Congress supported presidential proposals concerning foreign policy and national security more than presidential proposals concerning domestic policy. Since then it has generally been assumed that the president receives more support from Congress in foreign policy.

<sup>2</sup> The literature on Congress and foreign policy is extensive. See, for example, Robinson (1967): Wilcox (1971): Franck and Weisband (1979): Pastor (1980): Spanier and Noguee (1981): Mann (1990): McCormick and Wittkopf (1990): Meernik (1993):

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Lindsay (1993; 1994a; 1994b): Hinckley (1994): Wittkopf and McCormick (1998): Henehan (2000): Hersman (2000): Kelley (2005): and Howell and Pevehouse (2007).

- 3** In fact, in August 1941 President Roosevelt had barely managed to persuade Congress to extend the draft (by a vote of 203 to 202). Overall, Roosevelt was, in the initial stages of the Second World War, repeatedly frustrated by isolationist tendencies in Congress, which only disappeared after Japan had attacked Pearl Harbor. Indeed, a standard argument in US foreign policy literature is that the president tends to be more internationalist, preferring more extensive foreign engagement while legislators, representing geographically small constituencies, are more parochial in their outlook.
- 4** After the controversial decision to send British forces to Iraq, the Labour government had indicated its willingness to introduce a form of parliamentary veto over future troop deployments. Such reform, however, has so far not taken place even though it had been included in the government's proposals for wider constitutional reform in 2008 (Peters and Wagner 2014).
- 5** Martin (2000, 201) also makes the interesting proposal for future research that the executive may try to evade or manage to avoid legislative constraints in one-off situations, whereas parliamentary engagement will be more institutionalized in stable and repeated forms of international cooperation. Certainly the stronger role of legislatures in controlling international trade and the EU than in security policy (where no two conflicts are exactly alike) suggests the real-life existence of such a behavioral pattern.

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<sup>6</sup> This literature has predominantly focused on institutional adaptation by national legislatures, with a specific focus on European Affairs Committees. See Martin (2000); Maurer and Wessels (2001); Auel and Benz (2005); Szalay (2005); Gates (2006); Kiiver (2006); Holzacker and Alback (2007); O'Brennan and Raunio (2007); Tans et al.(2007); Barrett (2008).

<sup>7</sup> The biannual COSAC meetings bring together delegations from the EACs of the national parliaments and the European Parliament. COSAC decides normally by consensus but its non-binding decisions (called “contributions”) can be passed with three-quarters of votes cast (which must constitute at least half of all votes). COSAC also has a secretariat in Brussels.

<sup>8</sup> The EU and its member countries have in the new millennium increasingly relied on various forms of intergovernmental policy coordination, or “soft law” instruments as opposed to binding supranational legislation, for achieving their policy objectives. In fact, given the intergovernmental or informal nature of such policy coordination, there appears to be procedural ambiguity in several countries about how to process such matters in the parliament. Research also suggests that so far such European level coordination processes have largely escaped national parliamentary scrutiny.