

Equilibrium Veto Players

Veto Institutions, Cabinet Formation and Institutional Change

Steffen Ganghof

ganghof@uni-potsdam.de

Sebastian Eppner

eppner@uni-potsdam.de

University of Potsdam

August 2016

Abstract

The paper explores the conditions under which institutional veto players can be influential in parliamentary and semi-presidential systems without being subject to significant reform pressures themselves. We argue that institutions with equal formal veto power differ systematically in their “restrictiveness”, i.e., in the extent to which they constrain the processes of legislation and cabinet formation. Based on a sample of 21 advanced democracies between 1955 and 2015, we argue that a newly created index of the restrictiveness can help us to explain patterns of cabinet formation as well as constitutional reform. Based on conditional logit analyses, we show that potential coalitions that control restrictive veto institutions are more likely to form, everything else being equal, whereas the same is not true for permissive veto institutions. We also show that restrictive veto institutions are more likely to be weakened or abolished, if their restrictiveness is not neutralized through consistently high levels of compositional congruence.

1. Introduction

Institutional veto players such as upper houses with absolute veto power are frequently used to explain a variety of political processes and outcomes (Tsebelis, 2002). However, there are two oft-neglected puzzles about such veto players. The *stability puzzle* is that institutional veto players were abolished in some parliamentary and semi-presidential democracies (such as Denmark, Finland or Sweden) but have been remarkably stable in others (e.g. Australia or Germany). These differences may, in part, be explained by differences in “constitutional rigidity”, but comparative studies doubt that this is the whole story (Heeß, 2015, 2016). The *formation puzzle* is that in some countries, but not in others, institutional veto players seem to have a clear and substantial effect on cabinet formation. In countries like Finland, Japan or Sweden, qualitative accounts have argued that institutional veto players affected cabinet formation (Karvonen, 2014, Woodall, 2014) whereas in countries like Australia and Germany, an effect of upper houses seems completely absent (Ward, 2012, c.f. Fortunato et al., 2013).

In this paper we explore the possibility that the solutions to both puzzles are systematically connected. Our main idea is that institutional veto players are not created equal. They may be equal in their legislative veto power but still differ systematically in the extent to which they constrain actors’ choices in legislation and cabinet formation. For example, an upper house might be a lesser constraint in the legislative process than a minority veto (cf. Riker, 1992); an upper house with the right to dismiss the cabinet in a no-confidence vote might be a greater constraint on cabinet formation than one that lacks this right (Diermeier et al., 2007); and a veto institution that can be dissolved might be a lesser constraint on legislation and cabinet formation than one that cannot (cf. Becher and Christiansen, 2015). Based on these and other differences between veto institutions, we build an index of the *restrictiveness* of institutional veto players. We argue that restrictive veto institutions are more likely to affect cabinet formation but also more likely to be substantially reformed or abolished. In other words, institutional veto players are more likely to be

“equilibrium” veto players if they are designed to be “permissive”.

Section 2 briefly reviews what we know about the stability of veto institutions as well as their effect on cabinet formation. Section 3 elaborates on our distinction between the legislative power of veto institutions and their restrictiveness. Section 4 specifies the sample and our measurement of institutional veto players along two dimensions (power and restrictiveness). Section 5 uses conditional logit analyses to analyze how restrictiveness conditions the effect of institutional veto players on cabinet formation. Section 6 relates restrictiveness to the likelihood of constitutional reform, while controlling for compositional congruence. Section 7 is a brief conclusion.

2. Literature review

We briefly review the literature on the two puzzles, starting with the stability puzzle. To our knowledge, there are very few systematically comparative studies on the stability or instability of veto institutions. An obvious reason is that the outright abolishment of a veto institution, especially one with absolute veto power, is a rare event. The literature is therefore dominated by case studies of individual cases, such as the abolishment of the upper houses of the Denmark (1953) or Sweden (1970) (e.g. Arter, 1991, Sydow, 1991). A number of more systematic hypotheses have been advanced, however.

The most obvious hypothesis, perhaps, is that stability of veto institutions increases with the constitutional rigidity, i.e., with the institutional difficulty of constitutional reform (e.g. Russell and Sandford, 2002: 83). This hypothesis is unlikely to be the whole story, however, because institutions interact with preferences. For example, the Finnish minority veto has been abolished at the end of the 1980s (Sundberg, 1993), despite the fact that Finnish constitutional rigidity is estimated to be fairly high (Lijphart, 2012: 208). Heeß (2015, 2016) has recently evaluated the constitutional rigidity hypothesis in a comprehensive comparative analysis (based on case studies and QCA of 88 veto institutions in 38 democracies) and found

only weak evidence for it.

When absolute veto power can be weakened or abolished despite constitutional rigidity, the likely reason is a convergence of preferences. In the Finnish case, for example, reform was possible because all veto players in the constitutional reform process developed a preference for reform. We need an explanation for this sort of preference convergence. This explanation is likely to be found, in part, in the characteristics of the veto institutions itself.

Perhaps the most obvious characteristic of veto institutions is their democratic legitimacy. Indeed, it is often assumed that veto institutions “have better prospects for survival if they are being directly elected by the people, because then they cannot be branded as illegitimate or undemocratic” (Massicotte, 2001: 156). It is clear, however, that direct election is not sufficient to protect a veto institution against weakening or abolishment. Cases in point are the abolishment of the upper house of Nebraska (1937), Belgium (1995) and, again, the abolishment of the minority veto in Finland.

Heeß (2015) suggests that when it comes to the stability of veto institutions, direct election might be a liability as much as an asset. The reason is that one way to stabilize a veto institution is the *behavioral self-restraint* of the actors that populate it; and that direct election makes this self-restraint more difficult if not impossible. For instance, it is widely believed that the Canadian Senate practices self-restraint in using its absolute veto power over legislation and that this restraint helps to stabilize the veto point. Heeß (2015) suggests a more substantive understanding of legitimacy, according to which upper houses must improve the democratic process in a way that does not compromise the political equality embodied in the process of democratic representation in the lower or only house of parliament (cf. McGann, 2006). She is thus better able to explain the abolishment of veto power for a case like Finland: the minority veto did compromise the political equality embodied in a median-oriented process, and the direct election of the minority pivots implied that the pivotal actors could not

practice effective self-restraint.

Our perspective on the stability or instability of veto institutions partly builds on these existing explanations, but adds another element. Our idea is that veto institutions are stabilized if they – and the overall system in which they are embedded – are designed in a way that reduces the constraints the veto institutions puts on the process of legislation and cabinet formation. Before we elaborate on this perspective, we briefly review the literature on how veto institutions affect cabinet formation.

It has long been hypothesized that veto institutions may affect cabinet formation (Lijphart, 1984). The evidence on this hypothesis has been mixed, however. Some studies suggest an effect (Druckman et al., 2005, Ganghof, 2010), others deny it (Druckman and Thies, 2002, Eppner and Ganghof, 2015), and still others present mixed results (Mitchell and Nyblade, 2008, Bergman et al., 2015, Volden and Carrubba, 2004). These conflicting results might partly be due to differences in the operationalization of veto institutions. Some studies focus only on upper houses, whereas others also consider functional equivalents such as minority vetoes; and some studies focus only on veto institutions with absolute veto power (veto players in a narrow sense), whereas others also include veto institutions with only suspensory veto power.

However, Eppner and Ganghof (Forthcoming) suggest that taking account of these differences is not sufficient to reconcile the conflicting results. More specifically, they show that even if the focus is on all veto institutions with absolute (or quasi-absolute) veto power, their effect on cabinet formation seems to differ systematically. In countries with veto institutions potential cabinets were, *on average*, more likely to form when they controlled a majority in this institution; however, the effect was substantially larger in those countries that ended up abolishing the veto institution. One possible explanation of this result is that veto institutions differ systematically in how restrictive they are for the legislative and cabinet

formation process, and that these differences in restrictiveness explain differences in the (1) effects on cabinet formation as well as (2) the likelihood of reform, everything else being equal.

Eppner and Ganghof (Forthcoming) do not model these differences in “restrictiveness”, however, but use the incidence of constitutional reform as a proxy. Here we try to take this analysis one step further by trying to derive differences in restrictiveness from an institutionalist perspective. The next section elaborates on our theoretical expectations.

3. Theory: Restrictiveness beyond veto power

Our theoretical starting point is the idea that the “restrictiveness” of veto institutions with respect to the legislative and cabinet formation process is not solely determined by the extent of their veto power as defined by the absoluteness of veto power, the length of delay induced by a suspensive veto or possible override requirements. We think of the extent of veto power as one institutional dimension of restrictiveness and want to specify potential elements of a second, separate institutional dimension. We do so by gathering arguments that have been made in the literature. Throughout, our focus is on parliamentary and semi-presidential democracies.

Decision Rules: Bicameralism is often treated as a form of super-majoritarianism (e.g. McGann and Latner, 2013). As Riker (1992: 112-113, but see Tsebelis and Money, 1997: 216) has suggested, though, there may be a difference between bicameralism and supermajority rules. In a bicameral system and a one-dimensional space, it is possible – depending on institutional design and voting behavior – that the medians of the two houses are proximate. In contrast, it may be less likely that the veto pivot in a super-majoritarian system is proximate to the median. In Riker’s (1992: 113) words, “the delay mechanism of supermajorities upsets the one-dimensional equilibrium of simple majority, while the delay mechanism of multicameralism does not.” Hence minority vetoes might be more restrictive

than upper houses, everything else being equal.

Party Discipline: It has been suggested that veto institutions are more restrictive if the parties therein are disciplined (Riker, 1992: 113, Tsebelis, 2002: 84). For example, if parties are disciplined, it may not matter whether the medians of the two chambers are proximate; the question is rather whether the upper chamber establishes additional partisan veto players and how distant these players are from the existing ones (Tsebelis, 2002). In general, the high party discipline of parliamentary democracies extends to upper houses, even when the confidence relationship between cabinet and parliament does not. However, some upper houses have *institutional rules* that effectively prevent party discipline. Most notably, state delegations in the German Bundesrat are constitutionally required to vote as a block (Swenden, 2004: 330-331). Veto institutions that are designed for lack of party cohesion may reduce policy stability and may thus be less restrictive.

Issue-specific coalitions: Portfolio coalitions in parliamentary systems are typically based on the unanimity norm which establishes each coalition party as a partisan veto player. This may lead to high policy stability. By contrast, policy stability may be lower with an identical preference configuration if a centrist party forms a minority cabinet and governs with flexible, issue-specific legislative coalitions. The cabinet party may always find a support party that prefers the cabinet's ideal point to the status quo and there are no veto players (Tsebelis, 2002: 99-100). This argument is usually applied to one-party minority cabinets in unicameral systems like Denmark's, but it may also be extended to bicameral systems. That is, policy stability may be reduced if bicameralism is designed so as to consistently produce centrist one-party cabinets in the two-party lower house that govern with issue-specific legislative coalitions in a multi-party upper house. This is the case in Australia, and it has been argued that the upper house is less restrictive a veto player as a result (Ganghof and Bräuninger, 2006, Ganghof, 2014).

Dissolution Power: With respect to minority cabinets, it has also been argued that the threat of parliamentary dissolution can increase the bargaining power of the cabinet (Becher and Christiansen, 2015). Again, this argument can be extended to upper houses. Upper houses that can be dissolved might thus be less restrictive than those that cannot, because the dissolution threat strengthens the bargaining position of the cabinet.

The aspects of restrictiveness discussed so far concern the legislative process and, by extension, also the process of cabinet formation. In addition, there are features of veto institutions that may affect cabinet formation more directly.

No-confidence vote: For obvious reasons, upper houses that possess the right to dismiss the cabinet in a no-confidence vote may constrain the process of cabinet formation more than those that lack this right, everything else being equal (Diermeier et al., 2007). These upper houses may therefore be seen as more restrictive.

Time inconsistency: Fortunato et al. (2013) argue that when the composition, and hence preference configuration, of an upper house changes frequently during a legislative term, there is a reduced incentive to take this composition into account in the cabinet formation process. In this sense, an upper house whose composition is designed to change frequently might be less restrictive with respect to cabinet formation.

We assume that these six aspects of veto institutions can be thought of as a latent dimension of “restrictiveness”. Based on this assumption, we postulate two hypotheses relating to our two puzzles.

H1: The more restrictive a veto institution, the greater is its effect on cabinet formation, everything else being equal.

H2: The more restrictive a veto institution, the more likely it will be abolished or reformed, everything else being equal.

In testing these two hypotheses, we must take into account the compositional congruence between the lower or only house of parliament and the relevant institutional veto player. For example, if the two houses in a bicameral system have the identical partisan composition, the upper house – even if its design is restrictive – is unlikely to affect cabinet formation or be subject to reform pressures. In the conditional logit analyses of cabinet formation in section 5, congruence or incongruence are reflected in the potential coalitions and their majority status in the relevant veto institution. In the analysis of constitutional reforms, we consider both aggregate levels and recent changes in congruence. Before we come to our empirical analyses, however, the next section specifies our sample and our measurement of the power and restrictiveness of institutional veto players.

4. Measuring veto institutions along two dimensions

We will test our hypotheses with a sample of parliamentary and semi-presidential systems that have been continuously democratic for at least 30 years¹ and whose lower house composition was accessible via the ParlGov-database (Döring and Manow, 2016).² These requirements are met by 21 countries (see note 5 below for details). We select 1955 as the starting year of our analysis. This starting point seems useful because the period after 1945 was characterized by great political uncertainty and volatility in many countries and could thus add a lot of noise to the empirical analysis.

The Formal Power of Veto institutions

Since we focus strongly on the effects of veto institutions on cabinet formation, our

¹ We used the annual Polity IV dataset (Marshall et al., 2014) and treated all country-years with a polity score higher than 6 as democratic.

² We use ParlGov's stable version 2015.

analysis is restricted to institutions that can, at least in principle, be controlled by specific partisan majorities. We thus exclude constitutional courts and presidents with legislative veto powers.

We distinguish veto institutions along two dimensions. First we make a dichotomous distinction between institutional veto players and weaker forms of veto power. We assume that to be an institutional veto player, a veto institution requires absolute or quasi-absolute veto rights in normal (non-constitutional, non-financial) legislation. Veto institutions without these forms of veto power are disregarded in our analysis. Eight veto institutions fulfill the requirement. Seven of these institutions are upper houses. Upper houses in three countries have absolute veto power during the entire period under investigation: Australia, Italy and the Netherlands. A constitutional reform of the Senate is currently underway in Italy, but its success is of course uncertain.³ Two countries abolished the absolute veto power of upper houses during the period under investigation: Belgium (1995) and Sweden (1970). Two countries had upper houses with stable but special forms of veto power. The German Bundesrat has absolute veto power on most important legislation. In Japan an upper house veto can only be overridden by a two-thirds majority in the lower house, which we also treat as a form of quasi-absolute veto power. Finland is the only country that chose supermajority rules as an alternative to bicameralism (e.g., Saraviita, 1978: 139). Until 1987 a one-third minority in parliament could suspend legislation until after the next election. We treat this as a form of quasi-absolute veto power too, partly because coalition-building incentives were essentially identical to that of an absolute veto (cf. Saraviita, 1971: 392).

The restrictiveness of veto institutions

As argued above, we assume that the “restrictiveness” of veto institutions does not

³ One of the missing steps towards a weakened Italian senate is a successful referendum, which is to take place in autumn this year (Faraguna, 2016: 14).

only depend on their formal veto power. For the purposes of our analysis, we try to measure restrictiveness as a separate dimension. We build a simple additive index of restrictiveness based on the six theoretical considerations outlined above. We code country differences in purely institutional terms, and assign a value of one to institutional features that increase restrictiveness. We discuss the six items in turn (see Table 1).

1. *Decision Rule*: Supermajority rule is coded as being more restrictive than bicameralism. Finland receives the value one.
2. *Party Discipline*: Institutional rules that substantially reduce or prevent party discipline *reduce* the restrictiveness of a veto institution. The German Bundesrat is the only upper house that explicitly designs against party discipline. State delegations are constitutionally required to vote uniformly (Swenden, 2004: 330-331). Party discipline is thus impossible to achieve if the portfolio coalition within a state is divided on an issue. State delegations typically abstain in this case, which – given an absolute majority requirement – is equivalent to a vote against a proposal. All countries except Germany thus receive the value one.
3. *Issue-specific coalitions*: Institutional rules that simultaneously facilitate a two-party system with centrist one-party majority cabinets in the lower house and multi-party systems in the upper house are considered less restrictive. To operationalize this argument, we simply compare the electoral systems in the two houses. As Table 1 shows, electoral systems in the two houses were of the same type in all countries except Australia. Hence we assign the value one to all countries except Australia.
4. *Dissolution power*: We treat the *absence* of any kind of dissolution possibility as an indicator of greater restrictiveness. Hence Germany, Japan and the Netherlands receive the value one (see Table 1).
5. *No-confidence vote*: We treat the existence of an upper house no-confidence vote as an indicator of greater restrictiveness. Hence we assign the value 1 to Belgium, Italy and

Sweden.

6. *Time inconsistency*: Institutional rules that systematically increase the frequency and magnitude of changes in the partisan composition of the veto institutions during lower house terms are considered less restrictive. Since 1955, on average, the party composition of the German Bundesrat changed 4.4 times during lower house terms, which is by far the highest value in the sample. Instability of partisan composition in the Bundesrat is also exceptional in that the term length of Bundesrat members is more similar to those in the lower house than in other countries. Hence all countries except Germany are assigned a one.

The resulting index values are shown in Table 1. While the index values between 0 and 6 are possible, we observe only two values in our sample: 2 and 4. That countries cluster in this manner is probably no coincidence, as a number of features are systematically related. For example, when an upper house possesses the right to dismiss the cabinet, there is also usually the possibility to dissolve the upper house. Similarly, an upper house whose composition changes frequently could hardly be given the right to dismiss the cabinet. The clustering of values simplifies our analysis, as we can simply distinguish two groups: the more restrictive veto institutions in Belgium, Finland, Italy, Japan, Netherlands and Sweden and the less restrictive ones in Australia and Germany.

Table 1: Restrictiveness of veto institutions

	(1) Super- majoritarianism	(2) Issue-specific coalitions ¹⁾	(3) Party discipline	(4) (no) Dissolution possibility	(5) Confidence authority	(6) Time inconsistency ⁷⁾	Index of Restrictiveness
Australia	0	0 Maj / PR	1	0 ⁴⁾	0	1 (0)	2
Belgium	0	1 PR / PR	1	0	1	1 (0)	4
Germany	0	1 PR / PR	0	1	0	0 (4.4)	2
Finland	1	1	1	0	0	1 (0)	4
Italy	0	1 Mixed /Mixed ²⁾	1	0	1	1 (0)	4
Japan	0	1 Mixed/Mixed ³⁾	1	1	0	1 (0.9)	4
Netherlands	0	1 PR / PR	1	1 ⁵⁾	0	1 (0.8)	4
Sweden	0	1 PR / PR	1	0	1 ⁶⁾	1 (1.8)	4

notes: 1) Approximated by combination of electoral systems in lower and upper house.

2) PR in both chambers before 1994.

3) Before 1996 SNTV in lower house (district magnitude around 4) and PR in upper house (average district magnitude 13).

4) Dissolution is only possible if *both* houses are dissolved.

5) In the Netherlands, the dissolution of the upper house is possible, but it is indirectly elected by provincial councils which the government cannot dissolve. Therefore it is impossible to dissolve the upper house with the aim of changing its partisan composition (Besselink, 2014: 1216).

6) In Sweden, the no confidence vote – like the vote on the budget - is attributed to a joint session of lower and upper house, while the upper house has a veto on normal legislation its own (Sydow, 1991, Druckman and Thies, 2002: 768).

7) In brackets are given the average number of composition changes during one lower house term. Moreover, in Sweden and Japan (and Netherlands until 1983), terms of senators are significantly longer than those of members of the lower house (8 and 6 years respectively, compared to 4 year lower house terms) than in Germany (4 or 5 versus 4 years). Thus, in Germany, not only does the composition change often, the amount of change is also comparably high.

5. Restrictiveness and cabinet formation

Method and data

We test the effect of the veto institutions on government formation (H1) with conditional logit models and use mixed logit models to gauge the robustness of the results (Martin and Stevenson, 2001, Martin and Stevenson, 2010, Glasgow et al., 2012). In these models, the governments that actually formed are modeled as being chosen out of all potential government coalitions. Any combination of parties with parliamentary representation at the time of the government formation is one of those potential governments. The models estimate how different properties of those potential governments affect their relative probabilities of being chosen as the new government.

In our analysis we include all democratic government formations until 2015 for which we could obtain the required data. In line with the existing literature, we exogenously identify a new government formation opportunity if (a) an election takes place, (b) the premier minister is replaced or (c) the party composition of government changes. We exclude formations that resulted in caretaker governments. Moreover, partly following Martin and Stevenson (2001), we exclude all government formation opportunities in which a single party won a majority in the lower house *as well as enough seats to control the relevant veto institution*.

Altogether we analyze 430 government formations in 21 countries, 206 of which were formed in the presence of institutional veto players.⁴ The dependent variable in the

⁴ The breakdown by country is: Australia (27 government formations from 1956 to 2015), Austria (19, 1956-2008), Belgium (28, 1958-2011), Canada (10, 1957-2008), Denmark (31, 1955-2014), Finland (37, 1956-2014), France (21, 1962-2012), Germany (23, 1955-2013), Greece (6, 1989-2015), Iceland (24, 1956-2013), Italy (49, 1955-2014), Ireland (17, 1961-

conditional logit models is a dummy that identifies the potential government that actually formed the government. Thus 430 observations of the dependent variable are coded one, whereas 320496 potential governments did not form and are coded zero.

Our first central independent variable is the dummy variable *Veto Control* which indicates whether the coalition alternative controls a majority in a symmetric second chamber or in another institutional veto player. The variable is constructed using our own dataset on the composition of second chambers which is based mainly official statistics, complemented with data from the Inter-Parliamentary Union (2015) and *EJPR* Yearbooks. Generally, the variable is coded one if a potential government controls a majority in a symmetric second chamber, and zero otherwise. In the case of Japan we consider the second chamber controlled if a potential coalition either controls a majority in this chamber or a two-thirds (veto-overriding) majority in the first chamber. In the Finnish case veto control exists when a proto-coalition controls at least two-thirds of the parliamentary seats.

For those countries (or country-periods) that lack an institutional veto player, *Veto Control* is zero. Note that for the country-periods that lack an institutional veto player, *Veto Control* is zero for all potential governments. Since *Veto Control* does not vary between coalition alternatives in these government formations, it has no influence on the choice of the coalition alternative. Hence government formations in the absence of relevant veto institutions do not directly influence the estimation of *Veto Control*. They only matter indirectly by influencing, and presumably improving, the estimation of the coefficients for the control variables.

2011), Japan (25, 1983-2012), Luxemburg (14, 1958-2013), Netherlands (19, 1956-2012), New Zealand (9, 1996-2011), Norway (23, 1961-2009), Portugal (14, 1976-2011), Sweden (23, 1956-2010), Spain (8, 1977-2008) and the UK (3, 1955-2010). Switzerland is excluded because its government cannot be removed by parliament once voted into office.

Our second central independent variable captures the restrictiveness of veto institutions as it is measured in our index. Since our index returned two groups of countries, it boils down to a comparison of those two groups. Thus, we use a dummy that is one for countries with higher restrictiveness (Belgium, Finland, Japan, Netherlands, Sweden) and zero for those that are more permissive (Germany and Australia). We include an interaction of this dummy with the *Veto Control variable* in the models. The constituent dummy variable drops out of the models because it does not vary within formation opportunities (and the conditional as well as mixed logit models only use variation *within* formation opportunities for estimation).

As to control variables, we basically rely on the studies of Martin and Stevenson (2001, 2010), which have influenced the choice of control variables in subsequent work on government formation (Glasgow et al., 2012, Druckman et al., 2005). One group of variables captures size-related factors. It includes dummy variables which identify potential governments that have a minority status in the lower house, that are oversized and that include the largest party. It also includes a variable indicating the number of parties of the respective potential government. As suggested by Druckman et al. (2005: 538), we also add a variable that describes the seat-share of the potential government in the lower house and interact it with the minority status of the coalition. This prevents a potential overestimation of the influence of our *Veto Control variable* and thus constitutes a stronger test of the vetoes genuine influence. Furthermore, following Martin and Stevenson (2001), the minority status of the potential government is interacted with a dummy variable measuring whether or not a country has a positive investiture rule. We use the ParlGov database (Döring and Manow, 2016) for the construction of these variables.

A second group of variables focuses on policy-related aspects based on one-dimensional position data, in our case the left-right score (RiLe) provided by the Comparative

Manifesto Database (Volkens et al., 2016). We include a dummy which indicates whether the lower house median party (on the left-right dimension) is included in the coalition alternative. A second variable measures the ideological division within the coalition alternative by calculating the range between its left and right flank parties. A third one measures the ideological division within the opposition of those coalition alternatives that control only a minority of lower house seats.

Moreover, we use a dummy variable to measure pre-electoral commitments. It takes a value of one for any coalition alternative that splits a pre-electoral pact. The variable is coded with the help of a new dataset of pre-electoral coalitions which we constructed with the help of a wide variety of election reports and newspaper articles. Two further variables capture the potential advantages of incumbent parties. One dummy variable identifies the proto-coalition of the (status quo) government, another one all coalition alternatives that include the incumbent premier minister's party.⁵ Again, these variables are constructed using ParlGov data. Note that this third group of variables may absorb "too much" of the variance. The reason is that a government may form at time t and then become the status quo governments at time $t+1$, *because* of its size- and ideology-related properties. Our basic model therefore excludes this group of variables.

Results

Table 2 shows the basic results. Model M1 is the baseline model consisting of the variables measuring size- and position-related features. Results are in line with existing studies. A coalition without a majority in the lower house forms with lower probability than a minimal winning coalition, especially under positive parliamentarism. The effect becomes smaller as the parliamentary support of the minority coalition increases and approaches 50

⁵ A number of studies have constructed more sophisticated models to test for the advantage of incumbent parties (Martin and Stevenson, 2010, Glasgow et al., 2012).

percent. Oversized coalitions also form with a smaller probability than minimal winning coalitions. The number of parties has a negative effect on a coalition's probability of forming, while the inclusion of the largest party as well as the inclusion of the median party on the left-right dimension has a positive effect. A larger ideological heterogeneity significantly decreases the chances of a potential government being formed. We do not find a significant, moderating effect of the ideological heterogeneity on the formation of minority governments, but the results for this variable are negative or mixed in other studies as well (Martin and Stevenson, 2001, Martin and Stevenson, 2010).

Model M2 introduces our main variables of interest: the *Veto Control* variable as well as the interaction between *Veto Control* and the restrictiveness-dummy. In this specification the coefficient of *Veto Control* indicates the effect of *Veto Control* for countries with permissive institutions. We can see that in these countries, there is no significant effect of *Veto Control*: potential governments that control the veto are not formed with a higher probability than those that do not control the veto. The coefficient of the interaction term is positive and significant, indicating that the effect in the countries with restrictive veto institutions is significantly larger. The size and significance of the effect are reported in the shaded row below the interaction term.⁶ We see that veto control does have a positive and significant effect if the vetoes are restrictive: potential governments that control the veto are 2.5 times as likely to form as those potential governments that do not control the veto, everything else being equal.

⁶ This implied coefficient can easily be calculated by adding constituent and interaction term. We used Stata's *margins* command to calculate its standard error.

Table 2: Conditional Logit Models explaining government formation

	(1) M1	(2) M2	(3) M3
Veto Control		-0.45 (0.45)	-0.34 (0.61)
Veto Control X Restrictiveness		1.35*** (0.49)	0.93 (0.65)
<i>Control of restrictive veto institutions</i>		<i>0.91*** (0.24)</i>	<i>0.60** (0.26)</i>
Lower-Chamber Seat Share	-0.76 (0.66)	-0.91 (0.68)	-0.49 (0.77)
Seatshare of Minority Coalition	14.27*** (1.38)	13.87*** (1.38)	12.72*** (1.48)
Minority Coalition	-7.42*** (0.68)	-7.21*** (0.68)	-7.15*** (0.73)
Oversized Coalition	-0.44** (0.17)	-0.56*** (0.18)	-0.44** (0.20)
Number of Parties in the Coalition	-1.35*** (0.09)	-1.35*** (0.09)	-1.18*** (0.09)
Largest Party in the Coalition	0.46*** (0.18)	0.49*** (0.18)	0.46** (0.19)
Median Party in the Coalition	0.39*** (0.14)	0.40*** (0.14)	0.25 (0.16)
Ideological Divisions in the Coalition	-0.03*** (0.00)	-0.03*** (0.00)	-0.03*** (0.00)
Ideological Divisions within Majority Opposition	0.00 (0.00)	-0.00 (0.00)	0.00 (0.00)
Minority Coalition where Investiture Vote Required	-1.34*** (0.23)	-1.14*** (0.24)	-0.76*** (0.27)
Previous Prime Minister in the Coalition			-0.55*** (0.19)
Incumbent Coalition			2.47*** (0.16)
Coalition splits Pre- Electoral Pact			-2.33*** (0.26)
Potential governments	320926	320926	320926
Countries	21	21	21
Government formation opportunities	430	430	430
Log-likelihood	-1332	-1324	-1112

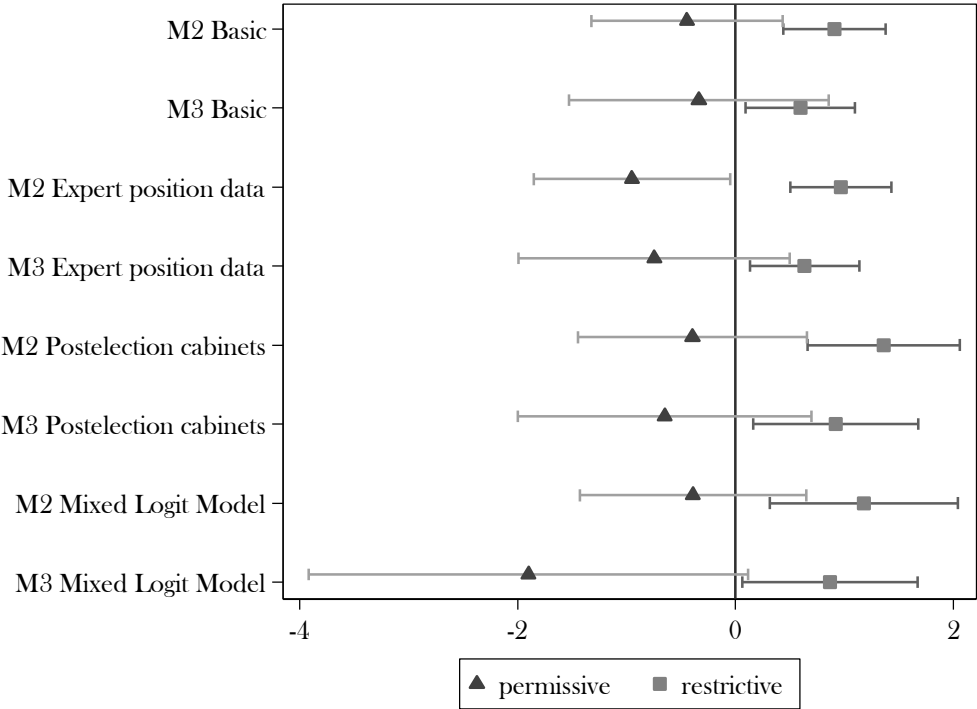
*Standard errors in parentheses * p < 0.1, ** p < 0.05, *** p < 0.01*

Shaded row shows implied coefficients

We checked the robustness of the result in several ways. First, we introduced the variables capturing incumbency advantage and pre-electoral coalitions (M3). These variables perform as expected but leave our main result unchanged. There continues to be no effect of

veto control for permissive veto institutions, whereas the effect for restrictive institutions remains positive and significant at 5% level. The introduction of the additional variables decreases the size of the coefficient, however: a potential government controlling a restrictive veto institution is now estimated to be 1.8 times more likely than one without this control.

Figure 1: Coefficients and Standard errors of veto control



The results are also robust with regard to the estimation of a mixed logit model, the use of expert position data⁷ and to restricting the sample only to government formation opportunities that follow elections. Figure 1 illustrated the coefficients and their respective five percent confidence intervals for the groups of permissive and restrictive veto institutions in the different specifications. The first two rows show the results of the basic models M2 and M3 already discussed and reported in Table 2. The other rows show the coefficients and confidence intervals for the variation of position data, sample and statistical model. In all

⁷ We use an averaged left-right scores of a number of expert studies as it is provided by the Parlov database.

specifications, restrictive veto institutions have a significant positive influence on the choice of the government, while permissive institutions have no effect.⁸

6. Restrictiveness and constitutional reform

The previous section has suggested that more “restrictive” veto institutions have a greater effect on cabinet formation. This section explores our second hypothesis, according to which restrictive veto institutions are more likely to be abolished or substantially reformed, everything else being equal. Note that we do not claim that a constraint on cabinet formation is the only or even main causal mechanism through which restrictiveness affects the likelihood of reform. In particular, a strong constraint on the legislative process may well be sufficient to increase the likelihood of constitutional reform.

Table 3: Restrictiveness, Congruence and Reform

	Major reform	No major reform
Restrictive veto institution	<u>BEL,FIN,SWE</u>	<u>JPN,NLD,ITA</u>
Permissive veto institution		AUS, DEU

note: underlined one time: high congruence; underlined two times: very high congruence

Table 3 relates the distinction between permissive and restrictive institutional veto players to the incidence of major reforms during our period of investigation. A major reform is either a complete abolishment of the veto institutions or a replacement of absolute with a suspensive veto power. As explained in section 3, an analysis of how restrictiveness impacts

⁸ In one case (M2 Expert position data) we even find a significant negative effect for permissive institutions, which we consider spurious given the patterns of the overall findings. In the case of the mixed logit models the figure shows the coefficient means.

the likelihood of reform needs to control for the “congruence” of the lower (or only) house of parliament and the relevant veto institution. The reason is that even restrictive veto institutions can be stabilized through very high congruence. We measure congruence as the average share of potential governments that have the same majority status with respect to both the lower house and the veto institution. Table 4 presents descriptive statistics on this variable, and Table 3 represents this information with single or double underlines of the cases with high or very high congruence, respectively.

Table 4: Congruence of partisan composition of lower house and veto institution

	Government formations in presence of veto	Mean congruence	SD congruence
Australia	27	0.76	0.10
Belgium	21	0.97	0.03
Germany	23	0.71	0.11
Finland	23	0.75	0.02
Italy	49	0.96	0.03
Japan	25	0.90	0.08
Netherlands	19	0.93	0.06
Sweden	5	0.91 (0.95)	0.04

note: Sweden brackets show values when veto is controlled via joint session

Let us begin with the *permissive veto institutions*, i.e., the bottom row in Table 3. The pattern here is entirely in line with our hypothesis. Both veto institutions classified as permissive have not been subject to major reform.⁹ As noted in section 3, high constitutional rigidity, especially in the context of federal systems, is a complementary explanation of the stability of the upper houses in Australia and Germany. We nevertheless believe that our analytical perspective provides additional explanatory leverage. For if the behavioral

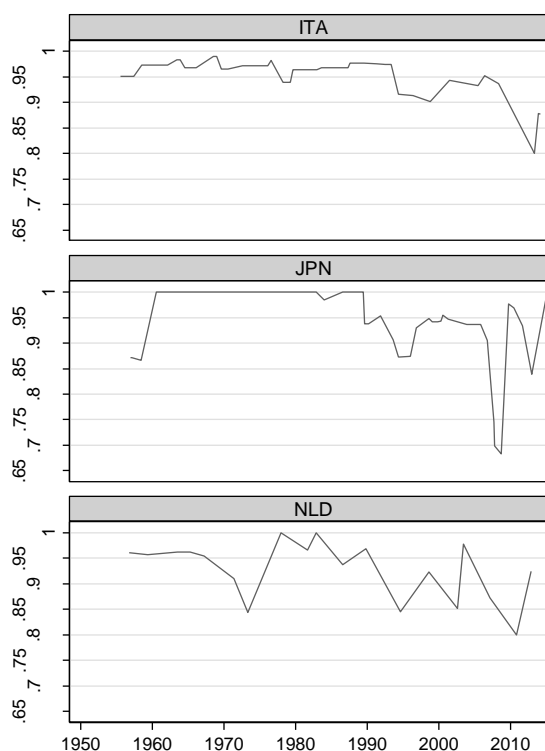
⁹ It should be noted that in 2006 Germany did implement a reform of its federal system which partly aimed at reducing the share of legislation subject to the Bundesrat’s absolute veto (Reus and Zohlnhöfer, 2015). However, more direct constitutional reforms, which had been discussed, were not pursued. Most notably, the decision rule for adopting a proposal in the Bundesrat was not changed from absolute to simple majority rule.

constraint implied by a veto institution becomes large enough, even high hurdles for constitutional amendment can be overcome (cf. Tsebelis and Nardi, 2016). It is causally important, therefore, that a variety of institutional rules reduce the restrictiveness of the upper houses in Australia and Germany. We have shown above that these houses have no effect on cabinet formation, a result that is corroborated in qualitative studies (Bach, 2003, Ward, 2012). Moreover, the case specific evidence also shows that institutional factors we highlighted – most notably upper house-PR in Australia and the lack of party discipline in Germany – have contributed to avoiding frequent legislative deadlock on important policy issues (Bach, 2003, Renzsch, 1999, Swenden, 2004: 323, Ganghof and Bräuninger, 2006: 532-533).¹⁰

As to the more *restrictive veto institutions*, the patterns are more complex. Three cases (Japan, Italy and the Netherlands) have not yet experienced a major reform, although an attempt is currently being undertaken in Italy. From our perspective, the main explanation for veto point stability in these countries is the historically high level of congruence (see Table 4). In the Netherlands, for example, lower house majorities typically translate automatically into upper house majorities, which neutralizes the potentially restrictive veto institution (Andeweg and Irwin, 2009: 149-150, de Swaan, 1973: 206). Exceptions to this rule happened mainly when parties were split internally. Examples include a veto against allowing abortion in 1976, when Christian Democrats were split, and a veto against the introduction of an instrument of direct democracy in 1999, when the liberal VVD was split (Berndt, 2010: 398).

¹⁰ It should be noted that our explanation is largely behaviorally equivalent to an explanation based on the “substantive legitimacy of a veto institution (Heeß, 2015). That is, the specific features of Australian and German upper houses tend to render them legitimate *and* less restrictive.

Figure 2: Congruence in Italy, Japan and Netherlands at times of government formations



Explaining the stability of restrictive veto institutions on the basis of congruence implies an additional observable implication at a lower level of aggregation: Pressures for reform should be higher at times when congruence is low and/or decreasing. As shown in Figure 2, congruence has decreased on all three cases and especially in Italy and Japan. Incongruence is of special importance in Italy because the Senate can dismiss the cabinet in a no-confidence vote. The decreasing congruence has therefore complicated the formation and maintenance of cabinets and contributed to the current attempt at a major reform initiated by the Renzi government (Faraguna, 2016: 9). In Japan, reform pressures increased as congruence decreased; yet as Figure 2 shows, congruence has increased again in recent years, and reform pressures reduced accordingly (Heeß, 2015).

The three cases with restrictive veto institutions that have been reformed are *prima facie* consistent with our explanation. However, here too we have to consider congruence (Table 4). The case that is fully consistent with our explanation is Finland: the minority veto

was restrictive *and* consistently incongruent, which created strong reform pressures and eventually led to the abolishment of the veto institution.¹¹

The consistency of the Swedish case with our explanation seems less clear. While the veto institution was restrictive and was reformed, the question is why the relatively high level of congruence has not protected the upper house against reform. The answer is that our quantitative indicator of congruence does not adequately capture the extent to which, and the precise way in which, the upper house constrained legislation and cabinet formation. Due to the detailed design of this house, Swedish social democratic were over-represented in the upper house and this had clear effects on cabinet formation. Despite high measured levels of congruence, therefore, the abolishment of the upper was indeed “driven by the problem of conflicting majorities in both houses” (Massicotte, 2001: 160). The bourgeois parties wanted to reform the upper house: “it was precisely their wish for changes in government that led the three non-socialist parties away from the bicameral system and to an advocacy of unicameralism” (Sydow, 1991: 186). Social Democrats opposed these demands until they experienced own electoral setbacks. They eventually agreed to unicameralism as part of a package deal that also included the electoral system of the lower house. Social Democrats believed that the electoral reform would benefit them by reducing incentives to form electoral alliances and thereby securing an „institutional division of the non-socialist forces” (Sydow, 1991: 174). The Swedish case is thus fully in line with our explanation: a restrictive and incongruent veto institution was eventually abolished.

Finally, measured congruence was even higher in Belgium, so that our explanatory approach would not have predicted the abolishment of the upper house’s veto power. Two remarks are in order here. On the one hand, it seems clear that the *original impetus* of reform

¹¹ In addition, as emphasized by Heeß (2015), the minority veto was vulnerable on legitimacy grounds despite the fact that the minority pivots were directly elected.

had nothing to do with any constraining effect of the upper house on legislation or cabinet formation. The 1993 reform of the Senate was rather implied by the (ongoing) efforts to federalize the Belgian state (Dandoy et al., 2015, Swenden, 2004). On the other hand, our explanatory perspective might help to make sense of the *precise nature* of the reform. After all, it is not clear why the upper house's veto power, as well as its restrictiveness (in terms of the no-confidence vote), should be *reduced* in a more federal system. However, federalization with respect to language groups implied that the Senate would be less congruent *after the reform*, so that the reduction of veto power and restrictiveness might have been rational responses to this expected increase in incongruence. This is a somewhat speculative claim, however, that still needs to be evaluated qualitatively.

All in all, the case evidence is consistent with our explanatory approach. Institutional veto players are likely candidates for reform if they are *restrictive and incongruent*. Restrictive and congruent veto institutions might nevertheless be reformed for reasons other than their restrictiveness, however, as the Belgian case shows. The case evidence also suggests that incongruence might have to exist for a prolonged period of time, before reform pressure becomes large enough. The future development of incongruence and reform debates in Italy, Japan and the Netherlands are therefore of great interest.

7. Conclusion

We have argued that institutional veto players (i.e. veto institutions with absolute or quasi-absolute veto power) differ in how “restrictive” they are for legislation and cabinet formation in parliamentary and semi-presidential systems. We have proposed an index of restrictiveness and used it to explain the varying effect of veto institutions on cabinet formation as well as the comparative patterns in the stability of institutional veto players. The overall evidence is in line with our expectations.

The analysis thus adds to our understanding of “equilibrium veto players”, i.e., of

institutional veto players that can be influential without becoming subject of strong reform pressures themselves. Upper houses in Australia and Germany are influential and stable, because a number of institutional features limit their restrictiveness for the processes of legislation and cabinet formation. On one hand, both houses lack specific institutional features that tend to increase their restrictiveness, such as the right to dismiss the cabinet in a vote of no-confidence. On the other hand, both houses – as well as the systems in which they are embedded – have specific institutional features that limit their restrictiveness. Most notably, Germany limits party discipline and thus facilitates flexible, issue-specific coalition-building in the Bundesrat by requiring state delegations to vote in a bloc. Similarly, whilst party discipline is high in Australia's Senate, issue-specific decision-making is facilitated by the combination of a two-party system and one-party cabinets in the lower house and a multi-party system in the upper house.

Our argument thus has obvious implications for institutional designers of parliamentary and semi-presidential systems. Efforts to limit majority rule through powerful, restrictive and incongruent veto institutions might ultimately be self-defeating (unless constitutional rigidity is extremely high). Here as elsewhere, moderation might be a virtue.

References

- Andeweg, R. B. & Irwin, G. A. (2009). *Governance and politics of the Netherlands*. Basingstoke ; New York: Palgrave Macmillan.
- Arter, D. (1991). One Ting Too Many: The Shift to Unicameralism in Denmark. In Longley, L. D. & Olson, D. M. (Eds.), *Two into One. The Politics and Processes of National Legislative Cameral Change*. Boulder; Oxford: Westview Press.
- Bach, S. (2003). *Platypus and parliament: The Australian Senate in Theory and Practice*. Canberra: Department of the Senate.
- Becher, M. & Christiansen, F. J. (2015). Dissolution Threats and Legislative Bargaining. *American Journal of Political Science* 59(3): 641-655.
- Bergman, T., Ersson, S. & Hellström, J. (2015). Government formation and breakdown in Western and Central Eastern Europe. *Comparative European Politics* 13(3): 345-375.
- Berndt, U. (2010). Zwischen Selbstbeschränkung und Parteipolitik: Die "Erste Kammer" der Niederlande. In Riescher, G., Ruß, S. & Haas, C. M. (Eds.), *Zweite Kammern*. 2. ed. München: R. Oldenbourg.
- Besselink, L. F. M. (2014). The Kingdom of the Netherlands. In Besselink, L., Bovend'Eert, P., Broeksteeg, H., Lange, R. d. & Voermans, W. (Eds.), *Constitutional law of the EU member states*. Deventer: Kluwer.
- Dandoy, R., Dodeigne, J., Reuchamps, M. & Vandeleene, A. (2015). The new Belgian Senate. A (dis) continued evolution of federalism in Belgium? *Representation* 51(3): 327-339.
- de Swaan, A. (1973). *Coalition theories and cabinet formations: A study of formal theories of coalition formation applied to nine European parliaments after 1918*. Amsterdam: Elsevier Scientific Publishing Company.
- Diermeier, D., Eraslan, H. & Merlo, A. (2007). Bicameralism and government formation. *Quarterly Journal of Political Science* 2(3): 227-252.
- Döring, H. & Manow, P. (2016). Parliament and government composition database

- (ParlGov): An infrastructure for empirical information on parties, elections and governments in modern democracies. Version Stable 15 ed.
- Druckman, J., Martin, L. & Thies, M. (2005). Influence without confidence: Upper chambers and government formation. *Legislative Studies Quarterly* 30(4): 529-548.
- Druckman, J. N. & Thies, M. F. (2002). The importance of concurrence: The impact of bicameralism on government formation and duration. *American Journal of Political Science* 46(4): 760-771.
- Eppner, S. & Ganghof, S. (2015). Do (weak) upper houses matter for cabinet formation? A replication and correction. *Research & Politics* 2(1): 1-5.
- Eppner, S. & Ganghof, S. (Forthcoming). Institutional Veto Players and Cabinet Formation: The Veto Control Hypothesis Reconsidered. *European Journal of Political Research*.
- Faraguna, P. (2016). How Does the EU Challenge Bicameralism? First Reflections from the Italian Constitutional Experience. *Bicameralism under Pressure: Constitutional Reform of National Legislatures*. Rome.
- Fortunato, D., König, T. & Proksch, S.-O. (2013). Government agenda-setting and bicameral conflict resolution. *Political Research Quarterly* 66(4): 938-951.
- Ganghof, S. & Bräuninger, T. (2006). Government status and legislative behaviour: Partisan veto players in Australia, Denmark, Finland and Germany. *Party Politics* 12(4): 521-539.
- Ganghof, S. (2010). Democratic inclusiveness: A reinterpretation of Lijphart's Patterns of Democracy. *British Journal of Political Science* 40(3): 679-692.
- Ganghof, S. (2014). Bicameralism as a form of government (or: Why Australia and Japan do not have a parliamentary system). *Parliamentary Affairs* 67(3): 647-663.
- Glasgow, G., Golder, M. & Golder, S. N. (2012). New empirical strategies for the study of parliamentary government formation. *Political Analysis* 20(2): 248-270.
- Heeß, K. (2015). Institutioneller Wandel legislativer Vetopunkte in parlamentarischen

- Demokratien. University of Potsdam.
- Heeß, K. (2016). Institutional change of legislative veto points – an equilibrium explanation for parliamentary democracies. *ECPR General Conference*. Prague.
- Inter-Parliamentary Union (2015). *PARLINE database on national parliaments*. Web. 10/1/2015, <http://www.ipu.org/parline>.
- Karvonen, L. (2014). *Parties, governments and voters in Finland: Politics under fundamental societal transformation*. Colchester: ECPR Press.
- Lijphart, A. (1984). *Democracies. Patterns of majoritarian and consensus government in twenty-one countries*. New Haven: Yale University Press.
- Lijphart, A. (2012). *Patterns of democracy. Government forms and performance in thirty-six countries*. New Haven: Yale Univ. Press.
- Marshall, M. G., Jaggers, K. & Gurr, T. R. (2014). Polity IV Annual Time-Series 1800-2013. Center for International Development and Conflict Management at the University of Maryland College Park.
- Martin, L. W. & Stevenson, R. T. (2001). Government formation in parliamentary democracies. *American Journal of Political Science* 45(1): 33-50.
- Martin, L. W. & Stevenson, R. T. (2010). The conditional impact of incumbency on government formation. *American Political Science Review* 104(3): 503-518.
- Massicotte, L. (2001). Legislative Unicameralism: A Global Survey and a few Case Studies. *Journal of Legislative Studies* 7(1): 151-170.
- McGann, A. J. (2006). *The Logic of Democracy. Reconciling Equality, Deliberation, and Minority Protection*. Ann Arbor: University of Michigan Press.
- McGann, A. J. & Latner, M. (2013). The Calculus of Consensus Democracy: Rethinking Patterns of Democracy Without Veto Players. *Comparative Political Studies* 46(7): 823-850.
- Mitchell, P. & Nyblade, B. (2008). Government formation and cabinet type. In Müller, W.

- C., Strøm, K. & Bergman, T. (Eds.), *Cabinets and coalition bargaining: The democratic life cycle in Western Europe*. Oxford: Oxford University Press.
- Renzsch, W. (1999). Party competition in the German federal state: New variations on an old theme. *Regional & Federal Studies* 9(3): 180-192.
- Reus, I. & Zohlnhöfer, R. (2015). Die christlich-liberale Koalition als Nutznießer der Föderalismusreform? In Zohlnhöfer, R. & Saalfeld, T. (Eds.), *Politik im Schatten der Krise: Eine Bilanz der Regierung Merkel 2009-2013*. Wiesbaden: Springer.
- Riker, W. (1992). The Justification of Bicameralism. *International Political Science Review*: 101-116.
- Russell, M. & Sandford, M. (2002). Why are Second Chambers so Difficult to Reform? *The Journal of Legislative Studies* 8(3): 79-89.
- Saraviita, I. (1971). *Lakiehdotuksen Lepäämään Jättäminen. The right of a parliamentary minority to hold over proposed legislation until after the election of a new parliament*. Helsinki: Akat. Kirjakauppa.
- Saraviita, I. (1978). The planned constitutional reform in Finland. *Scandinavian Studies in Law* 22: 135-147.
- Sundberg, J. (1993). Finland. *European Journal of Political Research* 24(4): 419-423.
- Swenden, W. (2004). *Federalism and second chambers : regional representation in parliamentary federations : the Australian Senate and German Bundesrat compared*. Brussels, Belgium ; New York: P.I.E.-Peter Lang.
- Sydow, B. v. (1991). Sweden's road to a unicameral parliament. In Longley, L. D. & Olson, D. M. (Eds.), *Two into one. The politics and processes of national legislative cameral change*. Boulder; Summertown: Westview Press.
- Tsebelis, G. & Money, J. (1997). Bicameralism in historical perspective. In Tsebelis, G. & Money, J. (Eds.), *Bicameralism*. Cambridge University Press.
- Tsebelis, G. (2002). *Veto players. How political institutions work*. Princeton: Princeton

University Press.

Tsebelis, G. & Nardi, D. J. (2016). A long constitution is a (positively) bad constitution: evidence from OECD countries. *British Journal of Political Science* 46(2): 457-478.

Volden, C. & Carrubba, C. J. (2004). The formation of oversized coalitions in parliamentary democracies. *American Journal of Political Science* 48(3): 521-537.

Volgens, A., Lehmann, P., Matthieß, T., Merz, N., Regel, S. & Werner, A. (2016). *The Manifesto Data Collection. Manifesto Project (MRG/CMP/MARPOR). Version 2016a*. Wissenschaftszentrum Berlin für Sozialforschung (WZB).

Ward, A. (2012). *Parliamentary Government in Australia*. Noth Melbourne, Victoria: Australian Scholarly Publishing Pty Ltd.

Woodall, B. (2014). *Growing democracy in Japan : the parliamentary cabinet system since 1868*. Lexington, Kentucky: University Press of Kentucky.