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Studies presented to the International Commission for the History of Representative and Parliamentary Institutions Vol. LXXX  
Etudes présentées à la Commission Internationale pour l'histoire des Assemblées d'Etats

## The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America

Joseba Agirreazkuenaga ed.

6

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## Note on contributors

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Munhoz, Sidnei J. (Org.) *Impérios na História*. Rio de Janeiro: Elsevier (Campus), 2009; p. 205-214.

**Sandro Guerrieri** is Professor of History of Political institutions at the University of Rome “La Sapienza”. He is author and editor of several books about French and Italian constitutional history and the European Union’s institutions. He has also written many articles on the same topics. His current interests include the history of the European Parliament, devoting particular attention to the period before the direct election and to the role of Italian members. His most recent publications include: “The Start of European Integration and the Parliamentary Dimension: the Common Assembly of the ECSC (1952-1958)”. In: *Parliaments, Estates & Representation*, vol. 28, 2008; “Il processo costituente in Italia e in Francia dopo la Liberazione”. In: Fioravanti, M. (ed.) *Culture e modelli costituzionali dell’Italia repubblicana, collana I quaderni del “Giornale di Storia Contemporanea”*. Cosenza: Pellegrini, 2008; “Il contributo degli europarlamentari italiani ai progetti di unione politica: dall’Assemblea ad hoc al progetto Herman (1952-1994)”. In: Craveri, P.; Varsori, A. (eds.) *L’Italia nella costruzione europea. Un bilancio storico (1957-2007)*. Milano: Angeli, 2009.

**Peter McGrath**: Clerk at the Scottish Parliament since 2000. Head of Legislation Team 2003-2008, Clerk to the Standards and Procedures Committee 2007-2008, and from 2008 to present; Clerk to the Rural Affairs and Environment Committee. Research assistant at the Scottish Law Commission 1997-1999, co-authoring a number of papers on reform of Scottish private law. Tutor in Scots private law, University of Edinburgh 1998-2000. His current professional interests include reform of the law on rural land tenure and on conservation. His paper Upholding Parliamentary Standards in the UK and Scottish Parliaments (La defensa de los valores morales parlamentarios del Reino Unido y Escocia) was published by the Basque Parliament (Instituciones de Derecho Parlamentario, V) in 2006.

**Joseba Agirreazkuenaga** is Full professor of Contemporary History at the University of the Basque Country (UPV-EHU) and author of several books and articles on the history of Representative Assemblies, biographies and politics. His current interests include research about Bilbao, the Basque Country, the prosopographical analysis of MPs (Members of Parliament) and the articulation between Europe, the state and the local community. His most recent publications are: “Bilbo aldeko euskaltasun politikoaren ahotsen literatur moldeak eta ideologia ildoak: Jose Paulo Ulibarri eta Cosme Belaunde, herri literaturaren adierazle (1812-1839). *Bidebarrieta. Revista de humanidades y ciencias sociales de Bilbao*. Nº XIX Bilbao, 2008, pp. 105-162; “De Monarquías transoceánicas a “Estado-nación” y al Estado plurinacional post-soberano en la Unión Europea: *Governance multinivel y paradiplomacia (1776-2008)*”. In: *Brasil-União Europeia-América do Sul*. Rezende Martins, Estevao C. De; Gomez Saraiva, Miriam (Eds). Rio Janeiro: Fundação Konrad Adenauer, 2009; pp.208-226.; “Catalunya y Euskadi como problema y cuestión, en el debate parlamentario español (1918-1919)”. In: *La qüestió catalana y la qüestió basca al debat parlamentari espanyol- Katalan auzia eta Euskal auzia Espainiako Parlamentuan eztabaidagai (1808-2008)*. Barcelona: Generalitat de Catalunya, 2009; pp. 71-102.

**Jean Garrigues** il est professeur d'histoire contemporaine à l'Université d'Orléans. Depuis 2002, il préside le Comité d'histoire parlementaire et politique (CHPP) et dirige la revue *Parlement(s)*. Colin, Armand. *Revue d'histoire politique. Les Grands discours parlementaires de la Cinquième République*, 2006; 385 p.; Colin, Armand. *Histoire du Parlement de 1789 à nos jours*, 2007; 515 p. Colin, Armand. *La France de la Vème République 1958-2008*, 2008.

**María Sierra** is Full professor of Contemporary History at the University of Seville (Spain) and author of several books and articles on the history of Liberalism, Parliamentary systems and political culture. In the last years she had directed a research project aimed to delve deeper into the concepts of political representation developed by the Spanish deputies during the Nineteenth Century, contextualized by comparison with other occidental – both European and Latin American – models. Her most recent publications are: “Electores y ciudadanos en los proyectos políticos del liberalismo moderado y progresista”. En: Pérez Ledesma, Manuel (dir.). *De súbditos a ciudadanos. Una historia de la ciudadanía en España*. Madrid: Centro de Estudios Políticos y Constitucionales, 2007; pp. 103-133; “El espejo inglés de la modernidad española: el modelo electoral británico y su influencia en el concepto de representación liberal”. *Historia y Política*, 22, 2009; pp. 139-167; *Elegidos y elegibles. La representación parlamentaria en la cultura del liberalismo*. Madrid: Marcial Pons, 2010, en colaboración con M<sup>a</sup>Antonia Peña y Rafael Zurita.

**Mikel Urquijo** is Full professor of Contemporary History at the University of the Basque Country (UPV-EHU) and author of several books and articles on the history of Representative Assemblies, biographies and politics. His current interest includes researches about political biographies and the prosopographical analysis of the MPs (members of Parliament). His most recent publications are: *Diccionario biográfico de los parlamentarios de Vasconia, 1876-1939* (Vitoria, 2007, 3 vols.), “De la biografía a la prosopografía: los parlamentarios de los distritos de Vasconia en la II República española (1931-1939)” (*Cuadernos de historia contemporánea*.- (2009) n° 31, pp. 193-221) and “The Biographical Dictionary of the Spanish Parliamentarians: sources and methodological approach” (*Parliaments, Estates & Representation*.- (2008) n° 28, pp. 7-25). Actually is a Director of the research project: *The Biographical Dictionary of the Spanish Parliamentarians (1810-1854)*, founded by Spanish Parliament.

**Mario di Napoli** fellow of the “Scuola Normale” (Pisa), studies Italian Risorgimento and parliamentary history. He is the secretary of the Foreign affairs Committee at the Chamber of Deputies and teaches history of political parties at the Faculty of Sociology (Rome, “Sapienza” University). Recent publications: “Il caso Mazzini a Westminster”, *Mazzini compagno di vita* (Pisa, 2010); “Garibaldi and parliamentary democracy”, *Journal of Modern Italian Studies* (2008); “Ezio Garibaldi e la “Camicia rossa” negli anni del fascismo”, *I Garibaldi dopo Garibaldi* (Manduria, 2005); “I Rosselli e la lezione mazziniana”, *Repubblicanesimo, democrazia, socialismo delle liberta* (Milano, 2004).

## Introduction

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During two days of the May 10th and 11th of 2007 at the European Studies Centre of the St. Antony's College (University of Oxford) it was organised a workshop about Parliament history as a part of the Basque Visiting Fellow Programme. The workshop was inaugurated by the Vice-minister of the Universities and scientific policy of the Basque Government Dr Ibone Amezaga and by Professor Knick Harley (European Studies Centre).

How have Parliaments been designed and evolved over the last two centuries in European and the Americas? Specifically, to what extent have various kinds of parliaments been able to accommodate the birth and rise of complex unions and composite states and how did have they reflected the politics and power relations of their time?

The aim of the workshop was twofold. First to seek to address these questions through both horizontal comparative analysis of national parliaments (including the British, French, Italian and Spanish cases) as well as vertical comparative analysis "below and above", eg substate and the supranational Parliaments. Special emphasis will be given to the Basque and Scottish case.

The second aim of this workshop is to bring together scholars representing the major research institutions and projects devoted to the study of the history of Parliaments in order to assess alternative research methods and agenda. It will explore in particular biographical and prosopographical approaches to analysing membership in Parliaments.

I would like to thank the collaboration of the director of the European Studies Centre Dr. Kalypso Nicolaidis, the participants in the event and I want to mention for their invaluable contribution during the debates session the leading members of the International Commission for the History of Representative and Parliamentary Institution, Dr. John Rogister, (former President), Valerie Cromwell (Vice President) and Dr. Henry J. Cohn (Director of the Publications) the professor of Oxford Brooks University Jeremy MacClancy, Dr. Katja S. Ziegler Deputy Director of the Institute of European and Comparative Law and the head of Studies of the Basque Parliament Andoni Iturbe.

The organisation of the workshop was sponsored by the History branch of the Society of the Basque Studies-Eusko Ikaskuntza and the research group of University of the Basque Country (IT-184-07) and the collaboration of the European Studies Centre.

Joseba AGIRREAZKUENAGA  
*Editor*



# Program

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***The Basque Visiting Fellow Programme***

Convenor: Dr. Joseba Agirreazkuenaga

***The Basque Visiting Fellow Programme***

**The Making of Parliaments in 20<sup>th</sup> Century Europe and America**

Workshop

University of Oxford. May 10<sup>th</sup> -11<sup>th</sup> 2007

**May 10th**

***12:45-14:15 Lunch***

***14:15-14:45: Welcoming Remarks***

Dr. Kalypso Nicolaïdis, Director - European Studies Centre

Dr. Tontxu Campos, Minister of Education - Basque Government

Dr. Joseba Agirreazkuenaga, Basque Visiting Fellow 2006-2007

***14:45-15:45: Session 1 : Introductory Session: At the Foundation***

Parliament and a United Kingdom: stresses and strains in a multi-national legislature, 1707-2007. Dr. Paul Seaward, Director - History of Parliament Trust



Dr. Ibone Amezaga (Vice-minister of the Universities and Scientific Policy of the Basque Government), Professor Knick Harley (European Studies Centre), Professor J. Agirreazkuenaga.

**15:45-16:15 Coffee / Tea**

**16:15-18:15: Session 2: History of Parliaments: Methodology and research agendas**

Chair: Estevao de Rezende Martins (University of Brasilia)

**16:15-17:00**

‘Contributions of the International Commission (ICHRPI) to the debate’ Dr. Maria Sofia Corciulo, Professor, University of the Sapienza. Rome

**17:00-18:00**

The ‘Comité d’Histoire Parlementaire et Politique (CHPP)’. Dr. Jean Garrigues, Professor, University of Orleans and CHPP President

The ‘History of Parliament Trust’. Dr. Paul Seaward, Director

‘The Spanish MPs Biographical Dictionary’. Dr. Mikel Urquijo, University of the Basque Country

**19:00: Dinner**

**May 11<sup>th</sup>**

**9:15-10:30: Session 3: Sub-State Parliaments**

Chair: Dr. Maria Sofia Corciulo

The Scottish Parliament 1999-2007 and the “Westminster model”. Peter McGrath, Clerk of Legislation at the Scottish Parliament

‘Exploring the *Longue Durée*: From the Representative Assemblies to the Basque Parliament’ (1839-1980). Dr. Joseba Agirreazkuenaga, Basque Visiting Fellow 2006-2007

**10:30-11:00: Coffee / Tea**

**11:00-12:45: Session 4: Nation-State Parliaments**

Chair: Dr. Paul Seaward

‘The French Parliament, 1958-2000’. Dr. Jean Garrigues, Professor, University of Orleans - CHPP President

‘The Italian Parliament, 1861- 2000’. Mario di Napoli, Secretary of the Foreign Affairs Committee, Italian Chamber of Deputies

‘Parliamentary Political Representation: a comparative view of Spain & the UK’. Dr. Maria Sierra, University of Sevilla

**13:00-14:00 Lunch**

**14:15-16:00: Session 5: Supranational Parliaments**

Chair: Dr. Jean Garrigues

‘Power vs Representation? The making of the European Parliament from 1951 to 2007’. Dr. Sandro Guerrieri, University Sapienza, Rome

‘Parliaments in the Americas: transatlantic political culture and parliamentary institutions’. Dr. Estevao de Rezende, Professor, University of Brasilia

**16:00-16:30: Coffee break**

**16:30: Concluding remarks**

The workshop is supported by the Research team (GIU 05/16) of the University of the Basque Country-Euskal Herriko Unibertsitatea and the Historical sciences section of the Society of Basque Studies-Eusko Ikaskuntza.



*Standing:* M.S. Corciulo, S. Guerrieri, A. Iturbe, H. J. Cohn, M. di Napoli, P. Seaward, E. Rezende, V. Cromwell, P. McGrath, M. Sierra, J. Garrigues. *Crouching:* M. Urquijo, J. Agirreazkuenaga.

# Contributions of the International Commission for the History of Representative and Parliamentary Institutions (ICHRPI) to the Debate on Methodology

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*Erakunde parlamentario eta ordezkariatzako biltzarren historiarako Nazioarteko batzordea, Lausannen sortu zen 1936an. Erakunde honen baitan ikertu ziren gaiak aztertzen dira. Emile Lousseren ekarpenak alde batetik, bereziki, konstituzionalismo korporatiboa. Bestetik, Antonio Marongjiuren teoria neoparlamentarioa. Azken 20 urteotan Batzordean baitan Europan erregionalismoa deitzen dena aztertu ohi da eta eskualde ordezkariatza batzarrak.*

*Giltza-Hitzak: ICHRPI. Lousse. Marongiu. Batzarrak. Parlamentua. Erregionalismoa.*

*Este artículo revisa las contribuciones más destacadas de la Comisión Internacional de Historia de las asambleas representativas e instituciones Parlamentarias. Esta comisión fue creada en 1936 en Lausanne. Analiza las aportaciones de Emile Lousse al constitucionalismo corporativo, así como la contribución de Antonio Marongiu acerca de la teoría neoparlamentaria. En los últimos 20 años en el seno de la Comisión las reflexiones han derivado hacia el llamado regionalismo en Europa y sus formas de representación.*

*Palabras Clave: ICHRPI. Lousse. Marongiu. Asambleas. Parlamento. Regionalismo.*

*Cet article revient sur les contributions les plus importantes de la Commission internationale pour l'Histoire des Assemblées d'États. Cette commission a été créée en 1936 à Lausanne. Elle analyse les apports d'Emile Lousse au constitutionnalisme corporatif, ainsi que la contribution d'Antonio Marongiu quant à la théorie néoparlamentaire. Ces 20 dernières années, au sein de la Commission, les réflexions se sont orientées vers le « régionalisme » européen et ses formes de représentation.*

*Mots-Clés : CIHAE. Lousse. Marongiu. Assemblées. Parlement. Régionalisme.*

Reviewing the history of the International Commission, from its origins to the present means, as is customarily pointed out, examining the historical studies of the European parliamentary institutions of the past century, starting from its founding father, Emile Lousse, the Belgian Professor from the University of Louvain. He, in fact, inspired the creation of a permanent Commission –within the International Committee of Historical Sciences– to deal with the complex problem about the bonn of the first Assemblies of Estates. This took place in 1933, at the 7<sup>th</sup> International Congress held in Warsaw.

Lousse's wishes were carried out in 1936 when that Commission was created during the International Congress of Historical Sciences in Bucarest; he became the Secretary-General. The french scholar Coville, the President, and Pier Silvio Leicht, from Italy, the Vice-President. That body was called the *Commission pour l'étude des origines des Assemblées d'États*.

It was first made up of a limited number of scholars - 10 – which gradually gave way to the French, German, Spanish, Italian, Dutch, Polish, Hungarian and Belgian national sessions. The latter was the most active and had the largest number of members.

In those years, it became all the more essential, politically speaking, to keep alive the debate on representative institutions, which were being neglected and disregarded by the authoritarian regimes then reigning. Doubtless it was simpler in order to avoid possible and foreseeable censorship to deal with these subjects in scientific circles. It was certainly not by chance that the *Société Jean Bodin pour l'histoire du droit et des institutions politiques* was created in Belgium in 1935, along with the prestigious «Revue d'Histoire politique et constitutionnelle» directed by Boris Mirkine Guetzévich.

But let us now speak about the **life** and **works** of the Commission. The first Congress was held in 1936, in Lausanne. Among the speakers there were, in addition to Lousse, the english scholar Helen Cam, and Leicht who, on that occasion, publicly praised the italian Antonio Marongiu, then a young scholar.

As would occur in a play, those who were to be the prime movers in the scientific activities of the Commission were all present from the first scene onwards. This was the case above all for Lousse, who would play a leading role in the twenty-year period from 1933-1953, thanks to the formulation of the well-known methodological theory on the origins and development of the representatives Assemblies of Nations. I say “well-known” because it gave rise to a far-reaching, learned debate involving all the specialists of the period.

The methodological construction of Émile Lousse has come to be known as the Constitutional-Corporative Theory, where, by “Constitution” is meant the political, social and economic condition of a given “Order” or “Estate”, the *Ständische Verfassung* which developed in three, institutionally significant phases:

- a) the aggregation of larger and larger territories that had previously been independent and had possessed autonomous legal forms;

- b) the formation of an **administrative hierarchy** made up of a tightly-knit network of officials chosen by the *princeps* and those under him;
- c) subsequently, thanks to the corporative nature of the social organisation, the **political hierarchy** was established, i.e. the Assembly of Estates, which was in charge of the privileges and representation of the interests of the social classes, in short, the defence of its representatives in case of any abuses on the part of the sovereign.

In that context, the distinction between the inhabitants of a single territory was based on the diversity of functions performed, within each of which, those who had interests in common gathered into associations that became privileged bodies if they were endowed by the *princeps* of their own charter. In turn they constituted themselves into Orders or Estates. "The corporative organisation is based on the existence of corresponding functions and rights, services and privileges: the functions performed in turn lead to the granting of privileges, and the liberties granted limit the service to be rendered in future" (G. D'AGOSTINO, *Argomenti di storia delle Istituzioni parlamentari*, Napoli, 1975).

Yet, in the light of these considerations, Lousse defined the Assembly of Estates as follows: "a political assembly made up of the representatives of the politically privileged Order or Orders of a Country **which act (*agissant*)** in the name of these Orders and the Country as a whole to supervise, on the one hand, the maintenance of the privileges of the Orders, bodies and individuals and, on the other, maintenance of the fundamental rights of the Country, and to render the services to the Prince that are set forth in the Charters [of liberties] as the *quid pro quo* of the rights recognised and privileges granted by himself" (É. Lousse, *Parlementarisme et corporativisme. Les origines des Assemblées d'États*, in «Revue Historique de droit français et étranger», XV (1935), (pp. 683-706), p. 699). Therefore, Lousse saw in the Assemblies of Estates the inevitable point that late Medieval society would reach in its corporative and class division (or rather, constitution). It was a dualistic construction, in which the Estates and the Prince were both called upon to conduct the power they shared. It was not easy for this process of institutional change to get under way: often the Orders had to face a hard struggle to prevent the prince from failing to keep the agreements into which he had entered. This struggle generally ended in a compromise when it finally became possible to break the Assembly of the Estates off from the fruitful disorder of the Orders. In confirmation of his theory Lousse maintained that it could apply not only to the German Estates, where the phenomenology he described had manifested itself to the greatest degree, but also to much of Christian Europe. In so doing, he carried on a controversy with the so-called **institutionalists** or **parliamentarists** trained primarily in the Anglo-French school. He criticised them for underestimating the society and actions of these first class assemblies, on behalf of their political and institutional aspects (for example, the pre-eminence of the Third Estate) which could be related more easily to the examples of nationalism and constitutionalism triumphing in the 19<sup>th</sup> Century. In short, Lousse explicitly accused liberal scholars of having made history the servant of political ideology, by emphasising the function and importance of the activity of the assemblies –vaguely called representative– practical-

ly cut off from any connection with the society which had given rise to them. He likewise criticised them for the shortcomings in their methodology concerning representative institutions, which had thus far limited itself to studying each individual assembly without placing them in a comparative context: an approach which Lousse had always strongly supported.

By bringing out the socio-economic aspects of late-Medieval society, the Belgian scholar must certainly be credited with having contributed to attenuating the adverse effects of that limiting approach –which we might call superstructural– that tended to single out and qualify political institutions on an almost exclusively juridical basis. But did the typology that he outlined really lend itself to becoming a valid model for identifying the origins of all representative assemblies, as he maintained? And for this “identification” was it possible to use other tools in the methodology?

The first criticisms of Lousse’s construction came after the war: for example, the famous historian Dhondt, a member of the Belgian session, countered the idea of the static unanimity of interests in Medieval society –proposed by Lousse– with the repeated confrontations and struggles among the Orders, which he preferred to call “powers”, for supremacy, a struggle which inevitably moved to within the Assemblies of the Estates. The English scholar, Helen Cam, who presided over the Commission after 1949 did not fail to draw attention to the fact that Lousse’s corporative theory could not apply to England, where the division by classes within *Parliament* took place to a moderate degree, and there was more of a “concentration of local communities” in a context of “self-government at the King’s command” (H. CAM, *The theory and practice of Representation in Medieval England*, in *Law-finders and Law-makers in Medieval England*, London, 1963, pp. 159-175). It was not by chance that under the Cam presidency –in 1950– an English Commission was set up to widen the range of investigation of the original one. It was called the *International Commission for the History of Representative and Parliamentary Institutions*, after its French counterpart whose name had changed to the *Commission Internationale pour l’histoire des Assemblées d’États* (*les origines* had disappeared from the title). The purpose was to expand the area of research beyond that of the origins of assemblies and no longer restricted to the Assemblies of the Estates. In 1950, together with Antonio Marongiu and the Swedish scholar Günther Stöckl, Cam gave a report on the origins and development of representative assemblies, in Rome, at the 10th International Congress of Historical Sciences. (H. Cam –A. Marongiu– G. Stöckl, “Recent Works and Present Views on the Origins and Development of Representative Assemblies”, in *The Tenth International Congress of Historical Sciences*, (Rome 4-11-Sept. 1955), *Relations* Vol. 1, Florence, pp. 1-101.) The term **Estates** did not figure in the **title** and, *pour cause*. Lousse’s methodology was called into question in the interpretative scheme put forth by Marongiu, whose work was already widely known. The essential point and key question he asked himself was the following: **why** and **how** did the Assemblies of the Estates assume such importance politically that they were considered bodies which had become parts of the state apparatus? Would it be possible to find a method, somehow secure, that would enable us to understand **when** a new public-law subject emerged from the various types of assemblies that followed one another from the Low Middle Ages?



Marongiu began his analysis with a division between pre-parliaments and parliaments:

the first took place, according to a practice which was very common up to approximately the year 1000, when the sovereign sporadically called for a few great assemblies in which the most prominent dignitaries took part, for the most important events in the realm: the birth of the heir to the throne, weddings, declarations of war, the drawing-up of treaties, the celebrations of victories, etc.

Marongiu called those assemblies –which were limited to hailing the decisions of the *princeps*– **assemblies for events or ceremonies**.

Alongside these –or subsequent to them– other assemblies, which he calls **consultation or reception**, were called by the sovereign to obtain advice from their members and the aid (financial or military) requested.

Marongiu distinguishes these first type, pre-parliamentary assemblies, from the second type, similar in appearance to the preceding, but with totally new subjective and objective features arising from the **awareness** of members that they were the guardians of a form of legal and political representation heretofore unknown, a fact which was recognised by the **princeps** at the same time.

Marongiu considers this personal awareness of the members of such an assembly the basic characteristic that justifies referring to a new power of the State, one which introduces a new and heretofore unknown juridical and political dimension. We find ourselves face to face with those assemblies that he calls **parliaments**. While these somehow arise from the preceding ones, the transition from the former to the latter was not to be considered automatic –as Lousse maintained– since it was the result of a specific and precise political **will**. (Hadn't Georg Jellinek, in fact, stated that juridical institutions –hence political ones, all the more– were based above all on the psychological component?). This transformation in institutions could only be identified through careful *ad hoc* consultation of the documentation in the archives. At times, some evidence suggested that transition from the **pre-parliamentary** to the **parliamentary** typology itself was under way (I refer, for example, to the most frequent convocations, or the participation of the Assemblies of the so-called “third estate” as well); but that evidence, if not backed by the documented awareness of the members that they were the sole guardians of the will of the inhabitants of the realm, was not enough for the assembly to be considered **representative** and **deliberative**. This new juridical and collective status, along with political solidarity, were components of a common and higher state of being in which, through the expression of will, the powers of the sovereign would from then on be limited. In accepting those limitations, the sovereign would be recognising the right and duty of the assembly to take part “constitutionally” in the *res publica*: the new assembly would become the institutional body that linked the king to his subjects who were in close personal contact with its members.

This methodological scheme of Marongiu –further improved by him with the listing of the historical and institutional means by which the parliamentary assem-

blies were developing– was adopted by many european scholars (*de facto Cortes*, *de jure Cortes*, *true Parliament*, were the terms used); it had moved quite far from what Lousse had constructed, since it followed that the Assemblies of the Estates were none other than a *species* of the broader category of parliamentary ones, which, in theory could have been such even **prior to** the division into Orders; conversely, not all the class assemblies were to be considered real parliaments.

As a consequence of his thesis, Marongiu replaced Lousse’s present participle, *agissant* (which photographed the *de facto* situation of the assemblies) with the phrase “which have the function-awareness of acting”.

It is clear that the illustrious scholar was reassessing the contribution, which might be called “individual”, of the members making up the institution, the assembly, in the creation of a modern consciousness and political representation; hence his theory has been called **neo-parliamentary** to distinguish it from the nineteenth-century one.

In general, representative assemblies, went through four phases in a period that lasted approximately four centuries, from 1100 to 1500: after they had become significant representative and deliberating bodies they reached a compromise agreement with the sovereigns, thereby bringing about a limitation of the power of the latter; subsequently – in the 15<sup>th</sup> to 16<sup>th</sup> centuries, they began to weaken, and finally, declined as the early absolutist forms of sovereignty developed.

It was impossible to generalise about the periods of time and manner in which these institutional changes came about –as Lousse maintained– because the historical contexts for that political phenomenology were diverse and more complex.

The application of Marongiu’s methodology contributed –it might be said– to bringing about a certain order within the numerous examples of more or less representative assemblies, often postponing the data that an alleged parliamentary assembly began, assemblies in which some zealous historians had perceived the beginning of a proto-nationalism. It has been wittily observed that “in the study of medieval and early modern assemblies, scholars are like ichthyographers: seeking to classify fish of all shapes and sizes. There is always the thrill of discovering a new specie” (J. REGISTER, *Scientific balance-sheet of the work of ICHRPI*, London, 1996, p. 328). In a recent article in the “Journal” of the ICHRPI, the famous american historian Thomas Bisson warns that: “...even in the best of hands typology may be thought too abstract to illuminate historically the patterns it usefully discloses.” (Cf. T. Bisson, “The Problem of medieval parliamentarism: a review of work published by the International Commission for the History of Representative and Parliamentary Institutions, 1936-2000” in *Parliaments Estates & Representation*, Vol 21, 2001), subsequently adding, however, that the “conceptual and methodological problems face all those who wish to study and teach the early European experience of power and consultation” (Ibidem....).

The parliamentarist tradition has had many, highly respected followers in Eastern Europe, among whom are very important contributions of eminent

scholars like Szeftel, Bardach, Russocki, Bonis, Georgescu. Subsequently, other historians dealt with the methodological scheme of Marongiu – at times revealing certain limitations: such as those expressed “by the *nouvelle vague* critical of the history of parliamentary institutions” (Marongiu’s own definition). Especially since the 70s, they have emphasised the importance of the “representative” impulse coming from the society (obviously taken with a much broader and dynamic meaning that what Lousse conceived). I refer in particular to the Italian scholar Guido D’Agostino and the dutch scholar Wym Blockmans; the latter, observing the structures, organisations and functions of the representative institutions singled out five typologies corresponding to an equal number of diverse social situations from which they had arisen. The appeal not to become caught in rigid methodological schemes also came from one of the most famous contemporary historians, Helmut Königsberger, *honorary past president* of our Commission. In a masterful lesson held at King’s College, he expressed his appreciation of the importance of the typologies, underscoring their usefulness if they were combined “with the observation of the dynamic forces, because real political forces always vary in a continual struggle for power” (S. MASTELLONE, *The 50th Anniversary of ICHRPI*, Florence, 1986, p. 12).

The social contribution means that in the study of representative and parliamentary institutions, neither the theories or the political “practices” are neglected (for example the internal organisation of the assembly bodies), nor the vast cultural context implied, in particular the social extraction, political and cultural background of their components (especially for the parliaments closer in time to the present the importance of the “myth” of representation has been demonstrated).

The studies of the last twenty years have moved more and more towards consolidating those aspects that bring out the vitality and force of so-called European “regionalism” in the framework of the dynamics of power and the related forms of representation. This historical and institutional evidence seems to have left much more clarity of what was not known in Lousse’s and Marongiu’s time (cf. L. Blanco, “Notes on the most recent historiography concerning the modern state”, in “Storia, Amministrazione, Costituzione”, 2/1994).

Marongiu –the Chairman of the Commission from 1970 to 1980– always liked to present the results of his research in the form of dialogues with those who respectfully offered him their critical observations, which, in 1982, he himself summarised in a brief article, in French, published in the journal of the ICHRPI. The title was significant: *Progrès et problèmes de l’histoire des Assemblées d’États et Parlements*. The now elderly scholar observed, at the end of a careful scrutiny and with praiseworthy modesty “that the origin of representative assemblies was undoubtedly a complicated problem, of which he had attempted to explain –perhaps only partially succeeding– *le pourquoi et le comment*” (p. 12).

To understand *le pourquoi et le comment* of the origin, evolution and institutionalisation of political representation, in short, the early “parliamentary” typologies, the International Commission sets up a study conference in one of the member-nations every year; publishes a *Journal* likewise biennial: “Parliaments,

Estates and Representation” and continues to produce what could certainly now be called an historical series, *Les Études présentées à la Commission*.

In the last twenty years, the experts on parliamentary history of the 19<sup>th</sup> and 20<sup>th</sup> centuries, members of the Commission, have become as numerous as those dealing with the modern period; the Middle Ages, after having received so much attention, perhaps for that reason, now turns out to be rather neglected, as Bisson himself observed (cf. T. BISSON, *op. cit.*, p. 10).

The members of the *Commission* come mostly from Western Europe, but some come from the East and the USA, as well as a few Asian countries, Japan and China in particular. There are fewer from Latin America.

In the final analysis, if the scientific purpose of the Commission is certainly to encourage research on the **origins**, **evolution** and **changes** of parliamentary institutions all over the world and in every period –Königsberger, in his speech at the conclusion of his term of office, added another one of a more purely ethical and political nature–:

Parliaments have not by their existence solved our great contemporary problems: liberty and equality, war and peace. But no other system of societal organization has been able to do so either. I believe that political dialogue must remain open. The history of this problem has been the subject of the labours of this Commission (S. MASTELLONE, *op. cit.*, p. 13).

# Parliaments in Latin America: Transatlantic Political Culture and Parliamentary Institutions

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*Amerika latinoaren historia parlamentarioa eragin bikoitzarepean agiri zaigu. Batetik erregimen presidentzial sendoak daude indarrean eta horrek boterearen ikuspegi partekatua eragozten du eta beraz eragin parlamentarioa murriztu. Independentziaren ostean, Espainiako kolonietan errepublikak ezarri ziren. Brasilen, ordea, monarkia gisa antolatatu zen, Europako metropolien antzera.*

*Giltza-Hitzak: Amerika latina. Parlamentua. Erregimen presidentziala. Kultura politikoa.*

*La historia parlamentaria de América Latina sufre una doble ambigüedad. Por un lado, la tradición de un régimen presidencial fuerte tiene en entredicho la aptitud de un ejercicio compartido del poder en el Estado con una institución como la Parlamentaria. Después de los diferentes movimientos de independencia se han implantado sistemas de gobierno republicano en las antiguas colonias españolas. Brasil, sin embargo, se mantuvo organizada siguiendo los patrones de las áreas metropolitanas europeas, como una monarquía.*

*Palabras Clave: América Latina. Parlamento. Régimen presidencial. Cultura política.*

*L'histoire parlementaire de l'Amérique latine souffre d'une double ambiguïté. D'un côté, la tradition d'un régime présidentiel fort met en question l'exercice partagé du pouvoir dans l'État avec une institution du type parlementaire. Suite aux différents mouvements d'indépendance, des systèmes de gouvernement républicain se sont implantés dans les anciennes colonies espagnoles. Le Brésil, cependant, a maintenu son organisation monarchique en suivant les modèles de zones métropolitaines européennes.*

*Mots-Clés : Amérique latine. Parlement. Régime présidentiel. Culture politique.*

The parliamentary history of Latin America suffers under a twofold ambiguity. On one hand, the tradition of a strong presidential regime has deeply compromised the aptitude of a shared exercise of power in the State. After the different movements of independence, which have installed republican systems of government all over the old Spanish colonies, only Brazil remained organized as the old European metropolitan sieges, as a monarchy. Also since the very first form of independent State in the Spanish speaking countries the Republic has been the formal shape of the countries. This was not a participative republic, but a centralized one, mostly under the leadership of one man. Bolívar, San Martín and O'Higgins have profoundly influenced the republics in Spanish America as a bundle of countries mimetically following the former political and territorial structures of the Spanish Vice-Kingdoms. On the other hand the model of the United States –federation, bicameralism, republican values of equality and freedom– has been repeatedly invoked as the best possible form of shaping a really new world. All during the 19<sup>th</sup> century the transatlantic culture of a parliamentary system of government seemed to bring together two different traditions: the composite one of the United States (strong presidency under parliamentary control: double legitimacy, double majority not always coinciding) and the 'straight one' of the United Kingdom (parliamentary legitimacy of government and investiture of the prime minister on the basis of one and the same electoral majority). Although the traditional political practice of the UK is not based upon a formally exact bicameralism, this tradition prevailed in the most Latin American countries including the Brazilian Empire.

In 1889 Brazil became a republic too. The political system adopted then has been inspired by the North-American. It is however an old practice in the Latin American countries that Parliaments do not play an important role in political life. Strong presidents and other forces have mostly exercised power in the many countries. Parliamentary practice seems to become a new sure value in politics, mainly since the mid-1980s for the most countries in the region. Reference is made directly to the parliamentary history of success in (Western) Europe and to the trend in the USA to conciliate the presidential strength with the parliamentary one. We can affirm that –with the exceptions of Cuba and newly Venezuela– Latin America witnesses in the last 20 years a slow but sure evolution towards a reevaluation of parliaments and of their role in political life.

In the case of the Brazilian Constitution of 1988, as one might refer to it as a paradigmatic case, three main political streams came together to shape a new basis for the 'Republic under reconstruction' after the authoritarian rule 1964-1985. The first main stream was the reconstruction of a democratic consensus on the values of freedom, civic rights and political liberties. The second main stream was related to idea of shared power in the State, in order to avoid future appropriation or usurpation of effective power by persons or corporations as the newly experienced dictatorship had made to fear. Combining the two streams mentioned, a third one played an important role: the reconciliation within the social forces. Many political actors feared the persistence of ruptures in the Brazilian society and the hard concurrence between the political ambitions of social, political, economic and military forces in the country. So reconciliation itself had vested three complementary dimensions. The first one was the recon-

ciliation of the former rulers (mainly military and their civilian collaborators) and all the others, back into the political arena. The adopted solution was a wide conceived amnesty bill (in the first version in 1979 and later inserted in the Constitution in 1988). The second dimension was the efforts to consolidate the democratic rule and the rights (much more than the duties – the critic stand into the 2000s), in writing a far too much detailed Constitution with the logic of recovering the imagined lost paradise of the 1960s. In order to assure a social environment able to make such a reconstruction viable, a wide social reconciliation must be done. So the third dimension was the search of a large social consensus among all political and social groups, mainly the Government, the working classes and the businesspeople through the elected Parliament. The openly evoked inspiration for this third dimension was the Pacto de la Moncloa, established in 1977 in Spain very early in the redemocratization process after Franco's death in 1975. The Brazilian experience is analogous to these lived by the South American neighbors in the 1980s and 1990s as democracy has been introduced again. Nevertheless the inspiration provided by the Moncloa Pact was not successful in these countries, where the difficulties of an inadequate electoral system do not create a favorable climate to stabilize the political decision making and taking process. The developments in the period since 1999 in Venezuela, 2006 in Bolivia and 2007 in Ecuador show it abundantly.

The idea of Latin America is well established. Its scope, however, is changeable and its sense arguable. In order to define it usefully and so to have a necessary reference, Latin America is taken here as a concept covering the countries constituted out of the former Spanish and Portuguese colonies in the American continent. The territories of French expression (Québec, Guyane, Guadeloupe, Martinique) are left out, although they could be considered from the quite general perspective of the 'latinity' (a too much theoretical approach, however, for the purpose of the present study). Furthermore they have been developed and consolidated under a different legal and political regime, compared with the traditions practiced in and applied to the Spanish and Portuguese speaking countries. The case of Puerto Rico, albeit its Hispanic cultural origin is left equally apart, for its legislative system being closely associated the American, following, therefore, the anglo-saxon tradition. It is a fact to be recognized, however, that the modern political systems and their legislative production in the region present similarities that regardless of their cultural origins in the remote colonial period follow similar procedures and, considering their constitutions, adopt philosophical and legal doctrines which place them in the general model of a representative democracy. This model has spread out throughout the 19<sup>th</sup> Century and became widely valued mostly in the second half of the 20<sup>th</sup> Century. This valuation took place under the impact of the 2<sup>nd</sup> World War and under the strong and continuous tension of the Cold War. Latin America lived a divided 20<sup>th</sup> Century, going forth and back from formal democracy to the sad reality of the authoritarian intervals, in which the power was exerted in a dictatorial way by civilians and/or military, indistinctly. Social and economic factors were and are highly influential on the level of development in the region, marked by strong inequalities –that persist into the ongoing 21<sup>st</sup> Century–, and had served frequently of excuse, reason, pretext or argument for interventions in the political life: coups d'état, *pronunciamientos*, revolutions. Although the issue of econom-

ics is not the point of the present analysis, one must keep it in mind, for it brings an important background element of the real politics, and, consequently, of the real parliamentary and legislative activity. The economic depression of the 1930s attained Latin America hardly. The flows of foreign investment had withdrawn and the prices of the exportation commodities (essentially primary products) had fallen rapidly. The economic fall down was an excellent occasion for nationalistic policies, leading many countries to adopt programs of economic development to promote the substitution of importations and to diminish as far as possible the strong dependence upon external sources both industrial and financial, the least what concerned goods of infrastructure and durable consumption. This economic nationalism, also known as *national-developmentism*, served as a reference axle, in years 1950-1970, for diverse countries of Latin America. The main representatives of this theory were grouped mainly in the Cepal (Economic Commission for Latin America, of the Organization of United Nations), hosted in Chile, and some distinguished Argentine, Brazilian and Mexican authors as well. The crisis and the international political environment of the between-wars period mobilized the working masses deeply touched by the following hard poverty wave, especially the urban ones. These masses had been turned toward populist leaders who promised immediate relief, as Getúlio Vargas, in Brazil, and Juan Domingo Perón, in Argentina. Supported by the organized workers and having also the support of the enterprises whose interests in the production's expansion and in the market's growth, these political leaders had sped up the industrialization process, making possible the increase of the wages and the widening of the industrial and commercial job's market. The evolution of the economic politics after 1945, however, caused the return of the pressures for the redemocratization, so that in middle of the decade of 1950 both Vargas and Perón must leave the political scene in Brazil and in Argentina. Unfortunately for the parliamentary practice and the development of democratic culture, many countries in Latin America felt down again in dictatorial military regimes in the 1960s. Only after two decades the so-called 'democratic normality' came back.

It is interesting to note, that the pressure put on Latin American countries (like Brazil, Argentina, Chile, Paraguay, Uruguay, among others) by the United States and by other European countries concerning Human Rights was moderated by the apparent formality of democratic institutions – Parliaments existed, votes took place, elections were held. The large Atlantic tradition of formal democracy seemed to be preserved. One might say, looking at the period 1965-1985, that (economic, financial) business were made as usual, so that a sort of political tolerance regarding the harshness of the regimes could be practiced.

Another important economic and social element for the delimitation of the democracy's political space and its parliamentary expression is the agrarian question. In years 1940 and 1950, attempts of radical agrarian reform had been an intense expectation from the peasants and a strong fear of the landlords. Even in Mexico, pioneer of the social revolution in Latin America, the results had been comparatively modest. The Guatemalan assay of agrarian reform promoted by President J. Árbenz Gusmán in 1951 failed and unhappily the North American intervention –so usual at the time in the countries Latin American (and over all Central America)– led to the deposition of Árbenz in 1954. This episode exempli-



fies the difficulty –which is still current up to date– Latin America encounters in promoting public welfare state politics without having enough sources of financing. Landlords opposed systematically to the governments on the ground of insufficient compensations and common people blamed the same governments for their weakness. This quandary was echoed by the political decisions as by the forms electoral systems were defined. It was reflected by the electoral results and by the composition of the parliaments. It influenced the relationship between the authorities of regional and of central offices and played a determinative role in the confrontations between groups in the Latin American societies. As an example, one may recall that the Cuban revolution of 1959 emerges as a proposal of simultaneous social and economic change. All the sectors of the economy had been nationalized, the land collectivized and the provisions of health and education, for all the Cuban, universalized. Cuba, in the landmark of the Cold War, became an emblem –if more theoretical than effective– of an initially violent and soon authoritarian format of social guardianship. The contagion effect has been rapidly perceived in Latin America (and, later, in Africa) in 1960's. The armed movement of the revolt seemed to place in check the viability of the transformations by the democratic and electoral way. This was, however, the way effectively adopted in Venezuela and Chile in the 1970's. But the political instability and the institutional immaturity have quickly lead these countries, as before Brazil and Argentina, to the dictatorial formulas of government, with military juntas assuming an strong centralized executive power, with clear support of the business' circles (internal and external) and exerted with the aid of a new technocratic state bureaucracy, very little interested in democratic processes of decision, which are by their very nature complex and slow. The financial crises following the oil shocks after 1973 and the increasing internal plea in all the Latin American countries lead to the democratic transition and to the fall of authoritarian regimes in Brazil, Chile, Argentina, Uruguay, Paraguay, Bolivia, Peru, in Nicaragua. The 1980s inaugurate, therefore, a new phase of social mobilization and generalized democratic re-institutionalization. This movement went on although the United States (mainly in the Reagan Administration) pursued their (eventually armed) interventions, in particular in the Caribbean (Granada) and in Central America (Panama). During the 1990s the Latin American countries saw the return the democratic life in all fields, although its intense economic and financial difficulties remained. The population growth aggravated old structural gaps in Latin America, overloading the dependence of external financing of the current expenses. The crisis of the debt, as it is known, becomes thus a factor of heavy effect on the social and political pleas in the various local societies. Thus Peru, Mexico, Argentina and Brazil have seen themselves forced to face the challenge of conceiving and adopting consistent public policies. In this evolution parliaments acquired a role of increasing importance in the political play. The former merely formal role (and so far quite artificial role) in the apparent democracy evolves, in the new established constitutional frame, into an important role of a social relevant forum for political expression and mediation.

This was clearly to note in the processes of impeachment of President Fernando Collor (Brazil) in 1992, and, immediately afterwards, of President Carlos Andrés Pérez, Venezuela. Analogous social, political and parliamentary movements had promoted decisive changes in Peru, in Paraguay and Argentina,

between 1999 and 2002. The regional difficulties of Mexico and Colombia, with armed fight and social conflict, represent a remaining factor of instability not yet equated, nor internally nor externally.

The end of the Cold War and the substantial modifications of the political international context had contributed to force a sped up rhythm of institutional revision in the Latin American countries: throughout the 1990s practically all the States had promoted constitutional reforms. Moreover, the proposal of creating regional blocks and their development, mainly in their economic and commercial matrix, imply political and legal adjustments and adaptations, and a new shaped political culture as well. The North American Free Trade Agreement (NAFTA) and the *Mercosul*, beyond the project of an Association of Free Trade of the Americas (AFTA) had brought new and sped up rhythms for the mechanisms of Latin American insertion in the globalized world. The privileged forum of political debate and decision in the Latin American countries (excepted Cuba and Venezuela) has migrated into the national parliaments and slowly into the versions (incipient, for certain) of the supra-national parliamentary organisms.

Here are presented the predominant characteristics of the effective systems in the nineteen Latin American countries, in the political sense mentioned and in the defined geographic space, as they subsist in the 2000s. All political regimes of the examined States are republican and presidential. In this regard, the American political structure has been adopted in all countries so far they are a republic. The traditional European form of parliamentary legitimacy of the Executive is not in use. Only Brazil had an European political system during the monarchy (1822-1889).

The eventually subsistent light parliamentary shades, for example, in Cuba or Peru, do not modify the centralized and strongly concentrated exercise of power in the in fact much more presidential way of governing.

In thesis, the parliamentary regimen means that the see of the legitimate power lay in the deliberative parliamentary assembly. The parliamentary regimen means, additionally, that the government is, moreover, invested by a specific vote of the assembly and is responsible before it. This is not the case for all political regimes in Latin America. The Latin American States have a recurrent history of power concentration: it can occur in an individual, in a party, in a corporation. The democratic practice of the alternation in power was till now an intermittent and relatively recent experience, whose slow expansion came only in the last quarter of the 20<sup>th</sup> Century. The occurrence of suspension or dissolution of parliaments in Latin America, was always the consequence of institutional rupture, if violent or not, and never occurred for legal mechanisms.

The contemporary parliamentary law includes three specific branches. The first one is the constitutional one. It provides the institutional definitions for the power partition and for the competences INCOMBANT the parliaments (national, regional, local). The second one is constituted by the internal rules of functioning, which reproduce the pertinent habitually constitutional disposals: the organization, the composition, the powers and the functioning of the political assem-

blies. The third encloses what can be called the “special law of the assemblies”, that consecrates their autonomy and their power of auto-organization and self management. The attention will not be lingered, here, in the theoretical quarrel of the power structure in a democracy. The presentation is restricted to the formal elements of the nature and the qualities of the parliamentary assemblies.

## **1. THE MAIN COMMON LINES OF THE PARLIAMENTARY SYSTEMS IN LATIN AMERICA**

At the beginning of 21<sup>st</sup> Century, it can be said that, in the perspective of the long historical duration, Latin America recouped –with the exception of Cuba and halfway Venezuela– democratic normality, in general terms. All the countries adopted, from the strict formal institutional point of view, the necessary legal definition of democracy and its political practices, so coping with the traditional model of the modern democratic State. The rule of law prevails, although some distortions still subsist, which reflect old inertial economic and social problems still remaining unsatisfactorily or barely solved. The detailed analysis of the multiple specificities of a so vast region and with so diverse demographic and economic characteristics, as Latin Americans, is impossible to be carried through in a study that just presents a comparative set of common points of the parliamentary systems.

### **1.1. The democratic State and the rule of law**

The first common point that emerges of the political trajectory of the State in Latin America is the reestablishment of the full rule of law on one hand and the practice of political democracy on the other hand. This movement started for the most countries in the late 1980s. In the States where the democratic constitutional regimen existed or remained, important constitutional reforms have occurred in the same period and have been carried out since then. The beginning of 21<sup>st</sup> Century sees the many political and social entities in the Latin American space looking forward to reshaping the political life in a way that makes possible the economic development, under the increasing pressure of the globalization mechanisms.<sup>1</sup> This new shaping of politics takes place not only within the legal and political frames of each country, but equally in regional dimensions, with the process of block formation, as the *Mercosul*, congregating Argentina, Brazil, Paraguay, Uruguay, and Venezuela, with the associated Bolivia and Chile.

### **1.2. The presidential regime**

The historical tradition of a personalized and autocratic system of decisions in the Latin American countries explains the institutional option for the presidential

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1. Cf. Jürgen Osterhammel. *Geschichte der Globalisierung. Dimensionen – Prozesse – Epochen*. München 2003 (with Niels P. Petersson).

regime of government. With the exception of Brazil, constitutional monarchy from 1815 to 1889<sup>2</sup>, all the other Latin American countries are republics since their founding moment. In this particular point, it is justified to leave unconsidered the French supported neocolonial experience of Maximilian's empire in Mexico between 1864 and 1867. The presidential form of power exercise was taken to the paroxysm in numerous revolutions and dictatorships, throughout practically two centuries of independent political life until the late 20<sup>th</sup> Century. It is also the reason for which the role played for the parliaments, throughout the time, always was secondary and subordinate. In the periods of authoritarian regime, the parliaments, when they still subsisted, were barely more than a convenient façade for legitimacy purposes when not only a so-called "chamber of validation" or "registration" for decisions in whose making processes they participated very little or in nothing. With the re-democratization process in the last quarter of the 20<sup>th</sup> Century, parliaments had started to play a role of increasing importance in the political decision systems. However, the choice for the totality of the Latin American countries for choosing the presidential regimen discloses the long and persistent duration of the centralized culture of a personalized highest authority.

### 1.3. The system of political parties

In this specific point, the multi-party system still seems to take very hesitating steps. In the case of Brazil –the largest electoral body in the region (132,629,575 voters<sup>3</sup> in February 2010)– the structure of political parties have just began to stabilize itself, for authoritarian interruptions had for the most part dismantled almost all participation in the party-political system in the different countries of the region. Countries like Uruguay, Paraguay or Peru –which were used to a two party system since a long time– have not resisted to authoritarian rule and to the instrumentalization of politics by the eventual rulers.<sup>4</sup> The proscription of the left parties, but after all of any party, and the repression unfortunately not uncommon of all divergent forms of thought had contributed to give advantage to a wide spread attitude of 'officialism' and rather preferred adhesion of many politicians to the current authority *de facto*, especially in its military form – as the Cuban and Venezuelan ways seem to maintain. In certain cases, as in Mexico, the long prevalence of an only-one-party system (the *Partido Revolucionario Institucional* [PRI] and its former presentations, from 1928 till 2000) has certainly marked a form of 'over-presidential' political life.

From an abstract point of view, the academic discourse and public opinion are obviously favorable to the consolidation of trustworthy political parties, with

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2. In 1815 as united kingdom with Portugal; since 1822 as an independent country.

3. Cf. TSE (Superior Electoral Court) in [http://www.tse.gov.br/internet/eleicoes/evolucao\\_eleitorado.htm](http://www.tse.gov.br/internet/eleicoes/evolucao_eleitorado.htm) (access 31.3.2010).

4. Cf. Juan J. Linz/Alfred Stepan. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore: The Johns Hopkins University Press, 1996.

clear programs and transparent proposals of management. Still it remains, however, much way to cover, as the repetitive “invention” of new parties demonstrates, frequently only *ad hoc* to run for such or which election, as in the case of *Peru Posible*, of President Alejandro Toledo, in 2001, for instance. One might remember also the renaissance of the traditional parties, as the Uruguayan Colorado, for example. The sprouting of new parties may also be registered. Many of these can more or less be considered as pertaining to the “left wing” of the political spectrum, some ones deriving from previous revolutionary movements, as the Sandinist Front of National Liberation, in Nicaragua. One of the examples most interesting, in the Latin American partisan landscape, seems to be the Brazilian Party of the Workers, founded in 1980, shortly after the Amnesty Bill.

In the case of Latin America, the maturity and, from an historical perspective, the duration and the persistence, are requirements of the politician-partisan life that still must be appraised by the political theory. The continuity of the democratic practice, that seems to have been assured for the many political transitions lived since the 1980s in the region and the overcoming of the crises in Paraguay, Peru, in Venezuela and Argentina, in the years 2000-2005, indicate a positive evolution to be recognized, when compares with the recent past. Still subsists the risk (or either the factual) risk of populism. The eventual financial difficulties that devastate the Latin American region since the 1990a can serve as a cutting line, as in the past, for the new tendencies in politics. The trend, however, indicates an ongoing strong interest in the public space to prevent any distortion or ‘hard-lined’ option, as it occurs, since 2002, in Venezuela.

It can be said, anyway, that the transatlantic political traditions in political life have been restored and –as one could say without exaggerating– consolidated as a political asset: electoral regimes and government practices are legitimated by a party-political life –so fragile it could yet be– whose system is institutionally protected (with still two major exceptions in 2010: Cuba and Venezuela). Indeed, the structural function of political parties in politics offers the only admitted platform for running for offices and for instituting representative elected bodies in the republic. This is a political value imported out of the European matrices through the North-American experience clearly expressed in the renewed constitutions of the Latin-American countries since the 1980s.<sup>5</sup>

This institutional architecture contributes, for certain, for the better valuation of parliaments and for the reestablishment of the prerogatives of the Legislative. The long transition of the re-constitutionalization, of the institutionalization of the electoral system and parties system, and the slow recovery of the capacity of effective participation of the citizens in the public life of the countries appears in the main movements of renewal of the political capacity of social self-determination in Nicaragua, Argentina, Uruguay, Brazil, Paraguay and Chile, mainly.

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5. Cf. for more details Horst Dippel/Berend Wispelwey (eds.) *Constitutions of the World 1850 to the Present / Verfassungen der Welt 1850 bis zur Gegenwart*. Btrlin: de Gruyter, 2003-2007.

#### 1.4. The parliamentary system

The Latin American States are approximately divided, for a half, between the bicameral and unicameral system of parliamentary representation. Nine States adopt the bicameral, composed system of a lower chamber (Chamber of Deputies or Representatives) and of a higher chamber (Senate). The political tradition has usually instated bicameral systems in States with a federal structure, even if it is not always the case. In Latin America following countries have a bicameral system: Argentina, Bolivia, Brazil, Chile, Colombia, the Dominican Republic, Mexico, Paraguay, and Uruguay. In the organization of the State, habitually the Chamber of Deputies is the house of popular representation. The Senate usually congregates the representation of the federated entities, defined according to their territorial unity. It is a direct influence of the US political system, that the republican parliaments in Latin America have adopted this system. Federalism and representation concur together in the form of conceiving a 'democratic and popular' (also not a 'monarchic and selective') political system.<sup>6</sup>

The ten other Latin American States considered here adopt the unicameral system: Costa Rica, Cuba, Equator, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru and Venezuela. Proportionally one can remark that the unicameral system is concentrated in the Central American countries, a region composed by States comparatively of small territorial dimension and lesser population. The relative exception is the Dominican Republic. Among the countries of bigger territorial extension and population, Peru and Venezuela constitute cases to the part, of recent unicameralism. In the case of the Venezuela, that adopted the system of only chamber with the Constitution of 1999, it kept the definition of the Venezuelan State as being federal.

Peru is the only Latin American State to have foreseen, constitutionally, the position of a prime minister (*presidente del Consejo de Ministros*). This seems to be a relic of a pseudo-parliamentarism, as the president-centered exercise of power is very much the same as in the other countries. As for the effective constitutional law, all the effective incumbencies of the executive belong to the President of the Republic. The Presidency of the Peruvian Council of Ministers is therefore a political operative function only to assist the President of the Republic in the coordination and management of the governmental action.

The parliamentary mandates in the region have terms of office between three and eight years, with concentration in the period of four the five years, as most of the contemporary parliaments:

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6. Cf. Alfred Stepan. Federalism and Democracy. Beyond the U.S. Model. In: *Journal of Democracy* 10.4 (1999) 19-34.

**Figure 1: Terms of office**

Term of office	3 years	4 years	5 years	6 years	8 years
Deputies	2	7	8	1	-
Senators	-	3	3	1	2

With exception of Mexico, Colombia and the Dominican Republic, that forbid the re-election for any position, including parliamentary mandates, members of the Chamber of Deputies and Senators can indefinitely be re-elected. All the parliaments have full budgetary autonomy and internal management. This autonomy can be absolute (although practically it is not the case), fitting to the parliament to decide by itself all its budget and to only communicate to the Executive for inclusion in the 'master budget of the nation'. It prevails, however, the relative autonomy: the parliament foresees its budget and votes it together with the whole of the national bill of finances and means. The tradition wants that the Executive does not oppose its veto to the specific budgetary endowment of the Legislative. All the parliaments are endowed with absolute autonomy for the internal legislative administration and of their employees, including when the legal regime of civil servants it common to all the branches of the State.

All the parliaments work with four types of committees: permanent, thematic, technical, and of inquiry. The number is changeable and if it repeats itself (in both chambers), in the case of the bicameral parliaments. There are bicameral committees which congregate the elected representatives, chosen by the respective House, to handle subject-matters of common parliamentary interest. The technical committees are usually put together to examine themes that are a common subject (to both Chambers) for deliberate (mainly budgetary matters). The thematic committees are usually temporary and handle specific questions, of relevant topical interest, on which they produce special reports for later use. The inquiry committees investigate questions of relevant public policies or examine public agents with sights to elucidate suspicion or accusations of condemnable public behavior.

It is usual for parliaments to elect and to instate a 'special representative committee', to take the decisions needed, on behalf of the parliament, in the periods of recess. Each committee is composed proportionally to the political groups represented in parliament. The parliaments are –without exceptions– competent to examine governmental indications for provisions of high positions of the public administration (for example: directors of central banks and regulating agencies, heads of permanent or temporary diplomatic missions, judges of superior courts) or to directly choose members of the high national magistracy. The parliament functions can equally, when it is the case, act as a court to judge the president and the vice-president of the Republic. In the case of the bicameral system, the accusing chamber is of the Chamber of Deputies, and the judging chamber the Senate.

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The legislative process is, usually, an initiative of the parliamentarians, the executive, the superior courts of justice, as of a number of agencies of administration (the Public prosecution service, for example) and, under determined conditions, of popular authorship. All bill draft is always submitted to one or more committees. Eventually there is a possibility of choosing a special committees according to the complexity of matters to be examined. The principle of the simple majority is the usual one applied to pass bills. The constitutional bills require qualified majority (absolute or of two thirds) and the constitutional amendments demand a majority of two thirds of the whole composition of the House or of both the legislative houses. In the case of Brazil, the constitutional amendments demand majority of two thirds, in two turns of voting, by both the houses of the National Congress and that the approved text must be literally the same. Historically, independently of the regime of functioning of the legislative process, most of the projects transformed into law in all the Latin American States are of initiative of the Executive. This trend is not exclusive, by the way, for the region. This is the case in practically all the Occidental representative democracies, as a consequence of the force of the political play of parliamentary majorities.

The presidential centered regime in all the Latin American countries, explains why the President of the Republic is in charge of the promulgation of all the bills passed. The presidential right to veto exists and reinforces this centralization in the Executive. The veto, partial or total, has of being submitted to the approval or the rejection of the parliament –but in general almost 100% of the vetoes are maintained. The rare rejection of a presidential veto would demand a qualified majority of two thirds– specially difficult to gather under the specific rules of electoral majorities.



Figure 2: Government and State form

Country	Parliamentary System		System of Government		State form		Polling system	
	Two chambers	One chamber	Presidential	Parliamentary	Federal	Central	Obligatory vote	Optional vote
Argentina	x		x		x		x	
Bolivia	x		x		x		x	
Brasil	x		x		x		x	
Chile	x		x			x	x	
Colombia	x		x			x	x	
Costa Rica		x	x			x	x	
Cuba		x	x			x		x
Dominican Rep.	x		x			x	x	
Ecuador		x	x			x	x	
El Salvador		x	x			x		x
Guatemala		x	x			x	x	
Honduras		x	x			x	x	
Mexico	x		x		x		x	
Nicaragua		x	x			x		x
Panama		x	x			x	x	
Paraguay	x		x			x		x
Peru		x	x			x	x	
Uruguay	x		x			x	x	
Venezuela		x	x		x			x

### 1.5. The electoral system

The Latin American electoral system is strongly under a kind of social and political guardianship. The guardianship appears through the fact that a citizen is compelled to vote in fourteen countries, and free to vote in only five. It is the so-called right-duty to vote. The standard age to have active right to vote is of eighteen years. The age standard to cease the obligation to vote is seventy years. But three countries admit the exercise of the vote before the eighteenth anniversary: with sixteen years of age it is possible to vote in Cuba, Nicaragua and Brazil. Illiterates are no longer interdict of vote in any Latin American State. Some countries exclude from the right to vote the military of the active service and the members of the police. The full ownership of the civil rights is a previous condition for the exercise of the vote and the candidacy. Venezuela is the only country to grant the right to vote to the foreigners resident in the country, after a certain time of permanent residence.

All the States, without exception, fix minimum ages for the passive electoral right. For the Chamber of Deputies, this age limit lays between 21 and 25 years. But Guatemala and Cuba admit a minimum age of 18 years to be elected. For the Senate, the required minimum age is fixed between 25 and 40 years. The criterion prevails in the proportionality for the setting of the number of mandates that composes each house of the Legislative. This proportionality can be straight (a head, a vote; a head, an elected), as in the case of the Brazilian Chamber of Deputies. In this case there is a major difference with all the Atlantic tradition of electoral constituencies. The mixed voting system as the German, or the simple, as the British, or yet the double voting as the French are not practiced in Latin America. Lists of candidates are put together by the political parties and the electoral circumscription usually coincide with the whole province/State in which the vote is exercised.

In the case of the Federative states, the number of senators for the province/State circumscription is a fixed one, like in the US. The election obeys the electoral principle of a simple majority. No Latin American State adopts the system of majority vote in two turns for legislative mandates. Neither the notion of imperative mandate exists. All legislative mandates are considered as a direct empowerment of the elected, without coercitive obligation of obedience to the respective political party or 'electoral basis' – beyond the political interest of the parliamentarian and of his own conscience. Each Deputy or Senator is fully free to exercise his vote in the legislative process. In general terms, the title of the political mandate, while a personal investiture, admits the resignation at any time, as an unilateral act of will.

All Latin American States establish (at least formally) the regime of absolute immunity for opinions and votes in the exercise of the mandate. The immunity also includes, as a general rule during the mandate, a full protection concerning all possible pursuits under civil and criminal law, but excludes the crime *in flagrante*. This is the only case in which the arrest of a parliamentarian is possible. Ceased the mandate, the law suit starts again. Otherwise it is necessary to obtain from the respective House a specific authorization, by qualified majority to make the case against a Deputy or a Senator. The immunity is an important gain in the structural political maturity in the ongoing democratic life in Latin America, although much progress has still to be reached concerning the excessive immunity in ordinary civil and criminal matters. This is a point in which more influence of the North American and European practices is still awaited.

## CONCLUSION

The Latin American parliamentary experience is, simultaneously, long and brief, old and recent. All the Latin American countries know the constitutional architecture of the division of powers and the importance of being able to give all three republican and democratic powers a stable and continuous ground, since the processes of independence –200 years in 2010– and consolidation of the national projects. The roots of these convictions are old and deep and go back to

political program of the Enlightenment. The rhythm of the political experiences of the States, however, suffered under long lasting authoritarian mal-functions and institutional discontinuities – at least in very general terms until the second half of the 20<sup>th</sup> century. The political stability of was rare in this long period.

The end of 20<sup>th</sup> century brought for the Latin American region the valuation of the shared power by the institutions of the State and the revitalization of the legislative. The reconstruction of the political culture as a legacy inherited from founding fathers of the society, in all the countries of Latin America, started, since the 1980s, to take the contours needed –gradually– to avoid any totalitarian temptation that for so many years haunted the region. It can be said, at risk of a small exaggeration, that the political development and the social participation in the representative democracy grow regularly. The regularity of the elections and the increasing institutional tranquility of the last 30 years, strengthened the conscience of the interdependence and regional solidarity, contribute for the incorporation of the segments of the society in the public life. The creation of supranational regional entities, as the Andean Pact or the *Mercosul*, comes equally demanding to be followed by proper parliamentary institutions or similar, in order to make possible an ample legitimization of what, at its beginning, was just an initiative of governments (like the European Union). The regional parliaments, however, not yet constitute an immediate active element of the political all-day life of Latin American societies. The agenda of the Latin American countries, although does not under-estimate the dimension of the parliamentary activity, is still heavily overloaded by the economic and financial difficulties. The political life and the consciousness of the collective responsibility in the decision-making processes, express themselves through the electoral participation and the direct performance in the social movements. The Latin American public opinion unquestionably reflects a collective consciousness of the political importance of common Euro-American legacy of democratic full participation in politics, which is still to fulfill extendedly. The Latin American public space recognizes the parliamentary forum as an expression of the collective will and privileged scope of political negotiation and decision.

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# Power versus Representation? The Making of the European Parliament

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*Europako batasuna honezkeroko Estatuaren arteko kooperazio maila, nazioarteko zuzenbidezko arauetan oinarriturik, gaindu du. Gaur egungo bereizgunetarikoa da ordezkartze Batzarrek garrantzia irabazi duela. Europako parlamentua da gehien aldatu den erakundea azken urteotan.*

*Giltza-Hitzak: Europako parlamentua. Altiero Spinelli. Lisboako ituna. Maila askotariko goberna-  
era.*

*La Unión Europea es una organización que ha superado el carácter de una simple cooperación entre los Estados basado en las normas del derecho internacional. Una de sus principales peculiaridades es el importante papel que actualmente se atribuye a una asamblea representativa, el Parlamento Europeo, que es la institución europea que más ha cambiado en el curso de los años.*

*Palabras Clave: Parlamento europeo. Altiero Spinelli. Tratado de Lisboa. Gobernanza multinivel.*

*L'Union européenne est une organisation qui a dépassé le caractère d'une simple coopération entre les États basée sur les normes du droit international. L'une de ses particularités principales est le rôle important que l'on attribue actuellement à une assemblée représentative, le Parlement européen, l'institution européenne qui a le plus changé au fil du temps.*

*Mots-Clés : Parlement européen. Altiero Spinelli. Traité de Lisbonne. Gouvernance à multi-niveaux.*

1. The European Union is an organization that has overcome the character of a simple cooperation between states based on the standards of international law. Over time, an extremely original political system has been created, characterised by the combination and interaction of the inter-governmental and supranational dimensions. One of its main peculiarities is the important role now attributed to a representative assembly, the European Parliament, which is the European institution that has changed most over the years. The first parliamentary assembly –whose name was the Common Assembly– created by the Treaty of the European Coal and Steel Community in 1951, was formed by 78 members appointed by the parliaments of the six member states and had no legislative powers. Today, the European Parliament has more than seven hundred members<sup>1</sup> elected by the citizens of 27 States and in most legislative fields is an equal partner of the Council of ministers<sup>2</sup>. The empowerment of the European Parliament bears, from several standpoints, important similarities to the parliaments' development process in their respective national contexts. But it also presents significant differences, which are due in part to the originality of the overall European institutional system, and are responsible for the problems it has to face in order to exercise its representative function.

2. On 12 March 2008, the European Parliament celebrated its 50<sup>th</sup> anniversary<sup>3</sup>. But the history of this representative institution began in fact with the Common Assembly of the ECSC, the first European Community, founded by the Treaty of Paris of 18 April 1951. The idea underlying this sectoral cooperation was that according to which European integration was to proceed through de facto solidarities, with the creation of supranational structures aimed at governing the sectors that had been united. Jean Monnet, who had drawn up the Schuman Declaration of 9 May 1950, in particular thought of an organ composed of independent experts<sup>4</sup>. But, in order to avoid giving the Community an excessively technocratic stamp, it was decided that this organ –which was named the High Authority– would be controlled both by a Council of ministers (whose creation was supported especially by the Benelux Countries) and by a

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1. In 2007, after the accession of Romania and Bulgaria, the number of seats in the European Parliament rose to 785. In June 2009, citizens have elected, on the basis of the Treaty of Nice, 736 MEPs. With the entry into force of the Treaty of Lisbon of December 2007, the number of seats will rise to 751.

2. See, e.g., R. Corbett, *The European Parliament's Role in Closer EU integration*, Basingstoke, Macmillan, 1998; P. Delwit, J.-M. De Waele, P. Magnette (eds.), *A quoi sert le Parlement européen?*, Bruxelles, Complexe, 1999; O. Costa, *Le Parlement européen, assemblée délibérante*, Bruxelles, Editions de l'Université de Bruxelles, 2001; L. Bardi and P. Ignazi, *Il Parlamento europeo*, Bologna, Il Mulino, 2004; B. Rittberger, *Building Europe's Parliament. Democratic Representation beyond the Nation-State*, Oxford, Oxford University Press, 2005; R. Corbett, F. Jacobs and M. Shackleton, *The European Parliament*, seventh edition, London, John Harper, 2007; D. Judge, D. Earnshaw, *The European Parliament*, second edition, Basingstoke, Palgrave, 2008; Y. Mény (ed.), *Building Parliament: 50 years of European Parliament History (1958-2008)*, Luxembourg, Office for Official Publications of the European Communities, 2009.

3. Agence Europe, *Le Parlement européen souffle ses cinquante bougies*, in « Bulletin quotidien Europe », n. 9621, 13 March 2008, p. 6.

4. A. Isoni, *L'Alta Autorità del carbone e dell'acciaio. Alle origini di una istituzione pubblica*, Lecce, Argo, 2006.

representative assembly. A Court of Justice completed the Community's institutional system.

The ECSC Treaty of 1951 gave the Common Assembly limited but not negligible duties, if one compares them to those of the Consultative Assembly of the Council of Europe founded in 1949: without legislative power, the Assembly of the ECSC nonetheless exercised political scrutiny over the High Authority, which was forced to resign if the Assembly approved a censure motion<sup>5</sup>. According to the Treaty, the Assembly was to limit itself to exercising control over the activities of the High Authority in retrospect, examining the annual report that the latter was required to submit to it prior to its ordinary session, set for May. The Assembly, however, immediately showed its intention to give a broad interpretation to its supervisory function. Not only did it exercise its right to hold extraordinary sessions, but also, and above all, it created a system of committees that would enable it to monitor and discuss High Authority activity more closely. Another important step was taken towards enhancing the role of the Assembly on 16 June 1953, when political groups were officially recognised and offered financial contributions, notwithstanding the resistance of supporters of a more individualistic conception of representation. Considerable attention was also given to developing the Common Assembly's Secretariat. Thus, in 1954, the first report presented by the Common Assembly to the Consultative Assembly of the Council of Europe stated:

It is now possible, after two years of existence, to judge how the texts have been given practical application, and to form an idea of the way in which the Assembly has interpreted its mission, the means it has adopted to carry it out, the broad lines of its activities and its characteristic juridical features.

The Assembly has passed beyond the stage –where it might have remained– of exercising supervision after the event to that of discussing the future policy of the High Authority. Its Committees keep a watchful eye on the activity of the Community. It has assumed a definite parliamentary character<sup>6</sup>.

We may say, therefore, that the start of European integration saw the emergence of an element we will find in its subsequent developments: aware of its own role, the representative assembly showed the tendency to increase its influence by expanding the possibilities offered by the treaties. And I think that this will to maximize its formal powers is a significant aspect that connects the experience of the European Parliament to that of national parliaments, since they often acted in the same way –at the beginning of the history of constitutionalism– in their institutional contexts.

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5. P.J.K. Kapteyn, *L'Assemblée commune de la Communauté européenne du charbon et de l'acier. Un essai de parlementarisme européen*, Leyde, A.W. Sythoff, 1962.

6. *First Report to the Consultative Assembly of the Council of Europe on the activities of the Common Assembly of the European Coal and Steel Community from 10th September, 1952, to 30th June, 1954*, presented, on behalf of the Common Assembly, by M. Alain Poher, rapporteur, Consultative Assembly of the Council of Europe, Sixth Ordinary Session, 28th October 1954, Doc. 319, p. 4.



At its first session in September 1952, the Common Assembly was also given the task, by the Council of ministers of the ECSC, to draw up a draft of political community to complete the creation of the European Defence Community (EDC), whose Treaty had been signed in Paris on 27 May 1952. To prepare this draft, a constitutional commission of 26 members was appointed. The text developed by this commission was approved by the Assembly (which for this task had re-dubbed itself the “ad hoc Assembly” and had been supplemented by 9 more members) on 10 March 1953<sup>7</sup>. It provided for a government system hinged on a relationship between the Executive and Parliament (which was composed of a Chamber of Peoples elected directly by the citizens and of a Senate whose members were elected by national parliaments) that mirrored various traits of the national parliamentary regimes. This political community draft was destined to be cast aside once the EDC Treaty ran aground due to France’s failure to ratify it. Nevertheless, the conferral of this sort of “constitutional” task had contributed, albeit temporarily, to raising the value of the European parliamentary assembly, whose institutional proposals would re-emerge later on in the community integration process.

The failed possibility of creating a common defence system of the Six and the consequent abandonment of the political community draft approved by the Assembly didn’t halt European construction, which was relaunched in June 1955 by the Messina Conference, which started the process leading to the Treaties of Rome of 25 March 1957. These treaties, which established the EEC and Euratom, partially increased the powers of the representative body, the European Parliamentary Assembly of the three Communities (whose members were still appointed by national Parliaments), that on 30 March 1962 decided to call itself the “European Parliament” in order to emphasize its political role. This increase was partially due to the fact that, while the ECSC Treaty consisted of a set of precise legislative rules, the EEC Treaty was a *Traité-cadre* which gave the institutional bodies broader room for action. This characteristic of the EEC Treaty gave a very important role above all to the Commission, which had the monopoly on legislative initiative, and to the Council of ministers, which became the main decision-making body (in contrast with what took place in the ECSC Treaty). The parliamentary Assembly, once again, was actually given a task of secondary importance. Nonetheless, it had achieved participation –albeit quite limited– in the exercise of the legislative function, thanks to the introduction in various cases of a consultation procedure. And it was allowed to exercise its supervisory function in a broader way<sup>8</sup>.

3. As had occurred with the ECSC’s Common Assembly, the Assembly of the three Communities tried to interpret in an extensive way the provisions of the Treaties. With regard to its legislative function, it obtained from the Council of ministers an extension of the practice of consultation<sup>9</sup>. On the institutional level,

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7. D. Preda, *Sulla soglia dell’Unione. La vicenda della Comunità politica europea (1952-1954)*, Milano, Jaca Book, 1994.

8. P. Gistenet, *L’Assemblée parlementaire européenne*, Paris, Presses universitaires de France, 1959.

9. A.-M. Houbdine, J.-R. Vergès, *Le Parlement européen dans la construction de l’Europe des Six*, Paris, Presses universitaires de France, 1966.

in order to simplify the governing system, it asked, starting November 1960, to merge the three Councils of the communities on the one side, and the High Authority of ECSC with the EEC and Euratom Commissions on the other. The merger took place with the Treaty of 1965, which led, in 1967, to the formation of a single Commission<sup>10</sup> and a single Council of ministers. The Assembly tried also to participate in the debate about the Fouchet plan proposed by Gaullist France in 1961, which aimed at introducing (but with a strong intergovernmental vision that made it impossible to reach an agreement with France's five partners) a political cooperation between the member states<sup>11</sup>. The necessity of strengthening the parliamentary powers within the Community, in order to offset the transfer of legislative powers from the national to the Community sphere, was emphasized in a resolution approved on June 1963, that was presented by German Christian Democrat Hans Furler. In pointing out the foundations of the functions of the Assembly, his report made reference not only to the Treaties, but also to the important experience of the Common Assembly, to the "droit coutumier" and to the "droit parlementaire non écrit et en particulier sur la tradition parlementaire européenne". In this regard, the historical experience of national parliaments had to be considered a notable model:

L'histoire, le développement et l'identité fondamentale des parlements nationaux sont autant de points d'après lesquels le Parlement européen doit s'orienter. Encore que le Parlement européen ait à assumer des fonctions particulières et essentielles, la position qu'occupent les parlements dans le système institutionnel des Etats membres lui donne une force et des droits importants. La conception théorique d'un parlementarisme parfait ne suffit pas ici. L'exemple et l'activité des parlements sont essentiels. L'histoire et la vie des parlements ainsi que la tradition parlementaire européenne constituent une grande force constructive pour le Parlement européen<sup>12</sup>.

In 1965, the president of the EEC Commission, Walter Hallstein<sup>13</sup>, sought to create a new axis with the European Parliament regarding the Community's budget procedures: in presenting an organic common agricultural policy funding, which would be based on resources introduced directly into the Community budget, he proposed granting the Parliament significant budget powers. According to Hallstein, this had to be considered as a sort of application of the traditional maxim "no taxation without representation": now that the Community was going

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10. M. Dumoulin (ed.), *The European Commission, 1958-72: history and memories*, Luxembourg, Office for Official Publications of the European Communities, 2007.

11. M.-T. Bitsch, *La construction européenne. Enjeux politiques et choix institutionnels*, Bruxelles, P.I.E. Peter Lang, 2007, pp. 125-141.

12. Parlement européen, *Documents de séance*, 1963-64, 14 juin 1963, n. 31, *Rapport fait au nom de la Commission politique sur les compétences et les pouvoirs du Parlement européen* (Rapporteur : Hans Furler), pp. 3-4. Regarding the way the European Parliament had exercised its prerogatives thus far, Furler's report stated: "Le Parlement européen a souvent utilisé les moyens d'action dont il dispose jusqu'à la limite de ses possibilités. Certes, il y a eu des cas où le Parlement n'a pas pu atteindre le maximum d'efficacité. Mais, dans l'ensemble, il faut retenir qu'il a réussi à développer ses positions sur la base des dispositions du traité et à s'assurer une place influente parmi les institutions, compte tenu des limites qui lui sont imparties » (*ibidem*, p. 5).

13. C. Malandrino, *"Tut etwas Tapferes": compi un atto di coraggio. L'Europa federale di Walter Hallstein (1948-1982)*, Bologna, Il Mulino, 2005.

to have its own resources, the European Parliament was the only parliamentary institution that could ensure the necessary control.

However, the process of European Parliament's empowerment was blocked by Charles de Gaulle, who, considering the Commission as a sort of "aréopage technocratique, apatriote et irresponsable"<sup>14</sup>, wanted to prevent a supranational evolution of the Community institutional system. The conflict with France gave rise to the "empty chair" policy and ended with the Luxembourg compromise of January 1966, which established the primacy of the intergovernmental dimension<sup>15</sup>. But during the phase of relaunching European construction that began after the end of de Gaulle era, new possibilities of development opened for the representative body<sup>16</sup>. With the Treaties signed in April 1970 and July 1975, Parliament achieved important budget prerogatives, and in 1974 the government of the nine member states (the first enlargement had taken place the previous year) agreed to transform it into an elected representational body<sup>17</sup>. This was obviously a turning-point in the exercise of its representative function: citizens would thereafter be directly involved in European construction<sup>18</sup>.

It is certainly true that the Parliament elected by universal suffrage in 1979 suffered greatly from the fact that it wasn't given new responsibilities, but, thanks especially to the impulse of the Italian federalist Altiero Spinelli<sup>19</sup>, who created a pressure group inside the Parliament that was named the "Crocodile club"<sup>20</sup>, it adopted a constitutional strategy that, thirty years after the experience of the *Assemblée ad hoc*, relaunched the goal of a supranational political union. A Committee on institutional affairs was formed, wherein Spinelli was appointed general rapporteur and another Italian MEP, Mauro Ferri, chairman. This Committee presented a Draft Treaty on the European Union which was approved by the European Parliament on 14 February 1984<sup>21</sup>. This Draft Treaty strongly invigorated the supranational dimension of the institutional system of EC

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14. Ch. de Gaulle, Conférence de presse tenue au Palais de l'Élysée, 9 septembre 1965, in *Discours et messages*, IV, *Pour l'effort (Août 1962-Décembre 1965)*, Paris, Plon, 1970, p. 379.

15. N. Piers Ludlow, *The European Community and the Crises of the 1960s. Negotiating the Gaullist Challenge*, London & New York, Routledge, 2006.

16. P. Scalingi, *The European Parliament. The Three-Decade Search for a United Europe*, London, Aldwych Press, 1980, pp. 105 sqq.

17. R. Corbett, *The European Parliament's Role in Closer EU Integration*, Op. cit., pp. 92 sqq.

18. D. Pasquinucci, L. Verzichelli, *Elezioni europee e classe politica sovranazionale (1979-2004)*, Bologna, Il Mulino, 2004.

19. P. Graglia, *Altiero Spinelli*, Bologna, Il Mulino, 2008.

20. "Au Crocodile" was the name of the Strasbourg restaurant where, on 9 July 1980, the initiative's promoters first met.

21. J.-M. Palayret, *Spinelli, entre cellule carbonara et conseiller des princes. Impulsions et limites de la relance européenne dans le projet Spinelli d'union politique des années 80*, in G. Bossuat (ed.), *Inventer l'Europe. Histoire nouvelle des groupes d'influence et des acteurs de l'unité européenne*, Bruxelles, P.I.E Peter Lang, 2003, pp. 355-382; D. Preda, *L'action de Spinelli au Parlement européen et le projet de Traité d'Union européenne (1979-1984)*, in W. Loth (ed.), *La gouvernance supranationale dans la construction européenne*, Bruxelles, Bruylant, 2005, pp. 185-203.

Community: it gave the European Parliament an important role in the legislative process (stating that it would exercise legislative power jointly with the Council of the ministers), reinforced its relationship with the European Commission (which would be submitted to a vote of confidence before taking office) and, regarding the Council of ministers, established that majority voting was to become its general rule.

The first wide-range reform of the Community institutions –the Single European Act signed in February 1986– took into account in a quite limited way the Draft adopted by the European Parliament. While, on the one hand, the result of extending the use of the majority vote within the Council of Ministers was partially achieved, on the other, Parliament’s demand for a more incisive role in the legislative process was, with the introduction of the cooperation procedure, upheld in a highly partial fashion. The fact remains that the 1986 treaty reform was the first in a cycle that over the years has led to adopting several proposals included in the Parliament’s Draft Treaty of 1984. The Treaties of Maastricht (1992), Amsterdam (1997) and Nice (2001) have constantly increased the powers of the European representative body. As regards the function of political control, the relationship between the Parliament and the European Commission has been considerably reinforced thanks to the establishment of a relationship of trust (Parliament has been given the right to express its favourable vote first regarding the appointment of the President, and then on the entire body), the lack of which could result in the fall of the Commission, as took place in 1999 with the Santer Commission. And the Parliament has strengthened this relationship of trust by the procedure of the preliminary hearings of the proposed commissioners – a procedure that, on the occasion of the appointment of the Barroso Commission in 2004, led to replacing two of the designated members. Just as important are the legislative powers gradually obtained: starting out as a purely consultative body, the European Parliament transformed itself into an institution which, with the co-decision procedure introduced in the Maastricht Treaty and perfected and expanded with the subsequent treaties, in various areas has been given powers equivalent to those of the Council of Ministers, once the single decision-making body. In 2006, the relevance of its legislative role has been demonstrated by the radical modifications that the European Parliament was able to introduce in the directive on the liberalisation of services, the well-known “Bolkestein Directive”, which had given rise to strong apprehensions in large sectors of the European public opinion, as came to light in the French referendum on the Constitutional Treaty on May 2005.

Lastly, the Lisbon Treaty signed in December 2007<sup>22</sup>, which retains most of the provisions of the Constitutional Treaty of 2004, has further strengthened the role of the European Parliament. The co-decision procedure has been considerably extended and has become the “ordinary legislative procedure.” Parliament’s prerogatives concerning the budget have been developed, thanks, for instance,

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22. S. Griller, J. Ziller, *The Lisbon Treaty: EU Constitutionalism without a constitutional Treaty?* Wien, New York, Springer, 2008.

to the abolishment of the distinction between compulsory and non-compulsory expenditure – a distinction that, in the case of compulsory expenditure (which included the most costly Community policy, the Common agricultural policy), limited Parliament's role. Regarding the appointment of the president of the Commission, the Lisbon Treaty states that he will be elected by the European Parliament on a proposal from the European Council, which will have to take the results of the European elections into account.

For these reasons, and in light of the overall reinforcement of the political dimension of European construction, the European Parliament approved the Lisbon Treaty on 20 February 2008 with 525 votes against 125 and 29 abstentions. The adopted resolution, whose rapporteurs were Richard Corbett, of the socialist group, and Iñigo Méndez de Vigo<sup>23</sup>, of the group of the EPP, affirmed that the new Treaty

(...) is a substantial improvement on the existing Treaties, which will bring more democratic accountability to the Union and enhance its decision-making (through a strengthening of the roles of the European Parliament and the national parliaments), enhance the rights of European citizens vis-à-vis the Union and improve the effective functioning of the Union's institutions<sup>24</sup>.

4. In the space of some decades, the European Parliament has thus obtained prerogatives that national parliaments have historically conquered after very long struggles. And one could add that the empowerment of this supranational Parliament takes all the more importance as it hasn't occurred in a context of continuous expansion of parliamentary prerogatives on a national level: on the contrary, it has taken place while national parliaments have found, on their part, increasing difficulties in facing such challenges as the growing role of the executive in their respective political systems (as has occurred in France's semi-presidential Republic). Underlining these results does not mean, however, concealing the gaps that persist in this European Union parliamentarization process. The traditional functions of the parliamentary institutions are still exercised in an incomplete fashion: the intensified political oversight over the European Commission continues to be offset by scant control over the Council of Ministers, and Parliament has not a right of direct legislative initiative: its proposals have to be submitted to the Commission. Moreover, as far as the representation function is concerned, there are two major negative aspects: on the one hand, turnout in European elections fell constantly after the first elections. In fact, it dropped from 63% in 1979 in the Community of Nine to 2009's figure of 43% in the Union of 27. In 2004 and 2009, participation was very low mainly in many of the new

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23. European Parliament, *Report on the Treaty of Lisbon* (29 January 2008), A6-0013/2008.

24. *European Parliament resolution of 20 February 2008 on the Treaty of Lisbon*, Texts adopted, P6 TA(2008)0055. The resolution regrets the lowering of the ambitions of the Constitutional Treaty of 2004, but it underlines the importance of the preservation of outstanding innovations; for instance, thanks to the extension of the legislative prerogatives of the European Parliament and of the reinforcement of prior scrutiny by national parliaments, "the adoption of all European Union legislation will be subjected to a level of parliamentary scrutiny that exists in no other supranational or international structure".

member states<sup>25</sup>. On the other hand, European elections are very often dominated by issues of a national character<sup>26</sup>.

The negative trend in turnout points to a sort of paradox in the experience of the European Parliament: the increase in its prerogatives seems to be inversely proportional to the interest that European citizens show in it<sup>27</sup>. This paradox is due to several reasons, which originate from the special features of this supra-national parliamentarianism. In fact, contrary to what occurs in national political elections, European voters are not called upon to pass their judgement on the choice of a government. The governance of the European Union is a highly complex system, whose major players are not only the Commission (now linked to Parliament by a relationship of trust), but also the Council of Ministers and the European Council of heads of state and government. This helps explain a very important difference between the European Parliament and the national parliaments: the absence of a dialectic between majority and opposition. Since the beginning of its experience, the European Parliament has in fact been marked by the research of cooperation between the two major groups, the Socialists and the Christian-Democrat group (renamed group of the European People's Party after the founding of this trans-national party in 1976). This cooperation was necessitated by Parliament's need to present a compact front in claiming the importance of its role in comparison with the other institutions. Now, the consensus-style decision-making, the technical characteristics of most European legislation, and the fact that everyone can speak in his or her own language (so that one can listen to a parliamentary debate mostly by the voice –inevitably a little bit monotonous– of the interpreters), are not factors that help elicit great interest among citizens in this supranational Parliament's life. Above all, while, on the one hand, trans-national parliamentary groups established themselves very early as the key actors in the activity of the European Parliament, and in recent years they have been able to act also as a remarkable factor of political integration in the impressive enlargement process (in today's Europe of 27 countries, the EP hosts members from a huge number of national parties, but they are assembled in just seven political groups)<sup>28</sup>, the trans-national federations of European parties –to which the most important of these groups are linked– are, on the contrary, still too weak<sup>29</sup>. They have difficulty elaborating European issues in a way that gives electors the perception of a clear contrast between different large-scale programs. On the contrary, a real interest in European problems often

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25. In 2009: 28.2 in the Czech Republic, 20.98 in Lithuania, 24.53 in Poland, 28.33 in Slovenia, 19.64 in Slovakia, 27.67 in Romania.  
([http://www.europarl.europa.eu/parliament/archive/elections2009/en/turnout\\_en.html](http://www.europarl.europa.eu/parliament/archive/elections2009/en/turnout_en.html)).

26. Y. Déloye, M. Bruter (eds.), *Encyclopedia of European Elections*, New York, Palgrave, 2007.

27. P. Delwit, Ph. Poirier (eds.), *Parlement puissant, électeurs absents? Les élections européennes de juin 2004*, Bruxelles, Editions de l'Université de Bruxelles, 2005.

28. As it had occurred in the first European legislature at the time of the Europe of Ten. In the 2009-2014 legislature, 25 members, representing at least one quarter of the member States, are needed to form a political group.

29. P. Delwit, E. Külahci, C. Van de Walle (eds.), *Les fédérations européennes de partis. Organisation et influence*, Bruxelles, Editions de l'Université de Bruxelles, 2001.

emerges in the referendums, when the issues become more visible to the citizens, as occurred with the referendums of 2005 on the Constitutional Treaty, or the Irish referendums of 2008 and 2009 on the Treaty of Lisbon. But the problem with this kind of referendum is that national and European aspects are often mixed in a confused way.

In conclusion, in the history of the European Parliament, similarities with the process of the historical affirmation of national parliaments are very significant, but this experience is to be assessed within the context of an original system of multi-level governance in which “power” is articulated in a very complex way, so that the problem of political accountability has its specific features.

Now that the Treaty of Lisbon has entered into force, there is the possibility that the European Parliament will act in a Union in which political features will become more visible, thanks, for instance, to the introduction of two new prominent institutional figures: the president of the European Council with a two-and-a-half-year term, and the new High Representative of the Union for Foreign Affairs and Security Policy, who is vice-president of the Commission and the chairman of the Foreign Affairs Council at the same time. Moreover, political dialectic could become more lively by virtue of the obligation for the European Council to take electoral results into account when presenting a candidate for the presidency of the Commission: European elections would become more important for the choice of the executive, and trans-national political parties could be spurred for this reason to develop clearer and broader programmatic identities. The European Union will continue to be characterised by an unprecedented mix of intergovernmental and supranational features, but this mix could be oriented in a more political and parliamentary way.

# The Scottish Parliament and the “Westminster Model”: A Decade of Law-Making at the Scottish Parliament (1999-2009)

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*Gaur egungo Eskoziako Parlamentua, Erresuma Batuko Westminsterreko Parlamentuaren semea da. Erresuma Batuko Parlamentuak legez sortu zuen. Parlamentua sortu zen funtziorako eta bere jatorrizko kultura politikoaren artean tirabirak sortu ohi dira. Eta horrela jarraitzen dute deboluzio edo descentralizazio prozesuan. Lan honek zera aztertzen du: Eskoziako Parlamentuaren ekin-tzabidea kultura politiko berri baten eragile ote den edo Westminsterreko ereduaren errepikapen eta jarraipena erakusten duen, hasieran batean uste zena baino estuagoa alegia.*

*Giltza-Hitzak: Eskoziako Parlamentua. Westminster eredu. Kultura politikoa. Aginteen deboluzioa.*

*El actual Parlamento de Escocia es un hijo de Westminster, el Parlamento del Reino Unido que lo creó mediante una ley. Se han producido tensiones entre la función prevista para el Parlamento y la cultura política donde se ha formado. Y estas continúan en el dinámico proceso de descentralización. En este texto se analiza si el Parlamento escocés ciertamente incorpora una “nueva política” o si por el contrario sigue el modelo de “Westminster” de gobierno parlamentario, de una manera mas estrecha de lo que en un principio estaba previsto.*

*Palabras Clave: Parlamento de Escocia. Modelo Westminster. Cultura política. Devolución de poderes.*

*L'actuel Parlement d'Écosse est un enfant de Westminster, le Parlement du Royaume-Uni, qui l'a créé grâce à une loi. Des tensions ont éclaté en raison des divergences dues à la fonction prévue pour le Parlement et la culture politique où il s'est formé. Et ces dernières se poursuivent dans le processus dynamique de décentralisation. Dans ce texte, on analyse si le Parlement écossais incorpore certainement une « nouvelle politique » ou si, au contraire, il suit le modèle de gouvernement parlementaire de « Westminster », d'une façon plus étroite de ce qui était initialement prévu.*

*Mots-Clés : Parlement d'Écosse. Modèle Westminster. Culture politique. Restitution de pouvoirs.*



## **1. INTRODUCTION: THE ARCHITECTURE OF THE SCOTTISH PARLIAMENT AND THE “NEW POLITICS”**

The architects of the new Scottish Parliament wanted to create a legislature that would embody a “new politics”, a vague term carrying positive undertones. Perhaps because of this, it seems to have something of an enduring popularity amongst politicians in the English-speaking world<sup>1</sup>.

“Architects” may be taken to refer to the designers of both the institution and the building. In many respects, they had similar aims. It was Winston Churchill who declared that “we shape our buildings and then they shape us”<sup>2</sup>. He was referring at the time to the House of Commons Chamber. The striking and controversial structure housing the Scottish Parliament, sited in the Holyrood district on the edge of Edinburgh’s Old Town, appears to be almost everything that the Palace of Westminster is not.

The main chambers of both Parliaments stand out in particular as an exercise in contrasts. Where the Commons Chamber at Westminster is a rectangle, the Debating Chamber at Holyrood is a semi-circle, in the continental style. At Westminster, government and opposition sit on opposite sides facing each other, the front benches of each separated by a distance equivalent to the length of two swords. At Holyrood, every politician faces in the same direction, towards the Presiding Officer’s chair. At Westminster the benches and walls are of darkly varnished wood panelling, reminiscent, it is sometimes said, of a gentleman’s club. There are few windows and they look onto nothing other than adjacent parts of the Palace complex, making the Commons a literally inward-looking institution. At Holyrood, by contrast, natural light dominates, with extensive views outwards to the green hilly landscape just beyond the Parliamentary campus.

Here we have a concrete representation of what the “new politics” was meant to embody in post-devolution Scotland; it was to be everything that the old Westminster politics was not. Westminster politics was adversarial; Scottish politics was to be consensual, more “European”. Westminster was dark, Gothic, clubby, conservative, traditional; Holyrood was to be modern, open, transparent, outward-looking. And so on.

This narrative of the Scottish Parliament as a place practising a new and better sort of politics goes back some time, at least as far as the 1980s, when Mrs Thatcher’s strongly anti-devolutionist Conservative administration was in power. In its final report, in 1995, when the Conservatives still ruled, the Scottish Constitutional Convention, a civic body set up to maintain the momentum for home rule during those years, and (as it was to turn out) one of the Parliament’s main institutional architects, predicted that

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1. At their first joint press conference on 12 May 2010, the two leaders of the new UK coalition Government both described that their agreement to govern together as a sign of a “new politics”.

2. Hansard, Commons. 28 October 1943

The coming of a Scottish Parliament will usher in a way of politics that is radically different from the rituals of Westminster: more participative, more creative, less needlessly confrontational<sup>3</sup>.

This theme was carried forward in the work of the Consultative Steering Group on the Scottish Parliament, a body of respected individuals from politics and civic life set up by the new Labour Government in 1997 to propose rules for the new Parliament, and another of the main shapers of the new Parliament. The CSG proposed that the Parliament run itself (and by implication distinguish itself from Westminster) according to four guiding principles<sup>4</sup>:

- *Power-sharing*: power should be shared between the people, the legislators and the Scottish Executive;
- *Accountability* the Executive should be accountable to the Parliament and the Parliament and Executive accountable to the people of Scotland;
- *Accessibility*: the Parliament to be accessible, open and responsive, and develop procedures allowing a participative approach in developing, considering and scrutinising policy and legislation;
- *Equal opportunities*; the Parliament in its operation and appointments should promote equal opportunities for all.

The notion of Holyrood being a different sort of Parliament continues to be an important element in the Parliament's own self-perception. For instance, in his speech<sup>5</sup> welcoming Queen Elizabeth to Holyrood on the Parliament's tenth anniversary last year, the Presiding Officer of the Parliament invoked it as a "modern" Parliament that had "established itself as one of the most open and innovative in Europe".

Perception and reality are not of course always the same. And there can be a danger of reading too much into symbols. The House of Commons Chamber itself dates from just 1950; a brilliant imitation of Victorian neo-Gothic, it is a pastiche of a pastiche<sup>6</sup>. The story about the swords' lengths may be apocryphal. And, *pace* Churchill, confrontation and partisanship are surely as possible when your political adversaries are facing in the same direction as when they sit opposite you. In this regard, it is significant that, in his speech, the Presiding Officer did not make the claim that the Parliament had established itself as one of the least confrontational in Europe.

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3. Scottish Constitutional Convention. *Scotland's Parliament, Scotland's Right*. (1995).

4. Consultative Steering Group on the Scottish Parliament. *Shaping Scotland's Parliament* (1998), page 3.

5. Available at: <http://www.scottish.parliament.uk/nmCentre/news/news-09/pa09-po-speech.htm> [Accessed June 2010].

6. The Churchill quote is from a speech made in the aftermath of the Commons' destruction by a German bomb, arguing that the replacement chamber should be a facsimile of the old. This duly came to pass.

This paper aims to examine whether the perception of the Scottish Parliament as a place practising a new politics matches the reality, based on consideration of its first ten years of considering laws. (There are of course other things that the Parliament does that may provide insight into whether the Constitutional Convention’s prediction has come true, but restricting the discussion to this one aspect is intended to keep the discussion more focussed). There will be a short discussion of how laws for Scotland were considered pre-devolution to give an insight into the “old politics” that the new Parliament was supposed to supersede. The institutional architecture of the Scottish Parliament will then be considered; both the superstructure; the parameters set by Westminster under the Scotland Act, and, as it were, the interior design; the Parliament’s own internal rules and procedures. There will be a short analysis of how the Parliament has in fact gone about considering legislation, followed by some concluding reflections on whether the Parliament has now become a place that examines laws proposed for Scotland in a distinctive and better way.

## 2. LAW-MAKING FOR SCOTLAND BEFORE DEVOLUTION

The independence and distinctiveness of the Scottish legal system was largely preserved under the 1707 Treaty of Union. Accordingly, Scotland was in the unusual position of being a legal jurisdiction without its own legislature.

The UK Parliament made new laws for Scotland in two ways. One was to add clauses to mainly English Bills so as to make them apply to Scots law in an appropriate way (a practice that came to be irreverently known to Scots lawyers as “putting a kilt on it”). The other was to introduce Bills applying solely to Scotland. Such Bills were relatively rare (especially viewed from the perspective of post-devolution Scotland)<sup>7</sup>, and also tended to be of an omnibus character, covering a variety of unrelated matters<sup>8</sup>. Both these approaches led to concerns that the modernisation of Scots law was taking place in a fragmentary, unsystematic manner<sup>9</sup> and that major reforms were being indefinitely sidelined<sup>10</sup>.

To this might be added more general concerns about the way legislation was being considered (for instance the absence of rules enabling Committees to take public evidence on Bills<sup>11</sup>, requiring stakeholders to seek access and influence through informal or private channels), plus the simple fact that what public legislative processes there were took place hundreds of miles from Scotland. Another more fundamental issue was as to the democratic legitimacy of the

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7. Between 1979 and 1999, an average of six such Bills were introduced.

8. Most such Bills went by the name of the Law Reform (Miscellaneous Provisions) (Scotland) Bill.

9. Eg DM Walker, *The Scottish Legal System* (7th edition).

10. An example was reform of heritable property laws; by 1997 Scotland was the last jurisdiction in Europe, outside of the Channel Isles, to have retained a feudal system of land tenure.

11. Any such concerns, it should be added, would apply as much to England-only legislation, since the procedural rules were the same.

process, given the lack of Government MPs elected in Scotland, particularly from the 1987 election onwards. Such concerns may have helped contribute to a growing consensus north of the border that there was a “democratic deficit” in the governance of Scotland, and a lack of genuine openness and meaningful participation in the formulation of policy, both of which might be addressed through the establishment of a Scottish Parliament.

### **3. THE ESTABLISHMENT OF THE SCOTTISH PARLIAMENT; THE SCOTLAND ACT AND THE “WESTMINSTER MODEL”**

In 1997, a UK Labour Government was elected, pledging to establish a Scottish Parliament. Following a successful Scottish referendum, a Bill was introduced into the UK Parliament and passed in 1998 as the Scotland Act. The Scottish Parliament came into being the following year.

Parliaments in the Commonwealth (including state or provincial Parliaments in federal or mainly federal countries such as Australia and Canada) tend to exhibit many of the characteristics of the UK Parliament. They belong to the “Westminster family”. Features of this Westminster model include:

- the sovereignty of Parliament (ie the supremacy of Parliament; rules made by Parliament trump other laws, including earlier statutes that they contradict)<sup>12</sup>;
- absolute privilege in Parliamentary proceedings; proceedings in Parliament are not justiciable in any court of law (other than the Parliament itself sitting as a court);
- Two-party politics with strong party discipline, and the institutionalisation of an adversarial approach to political discourse (for instance by way of weekly Prime Minister’s Question Time)<sup>13</sup>;
- the notion of the Parliament as a place where the Government decides most of the business to be considered and consequently as primarily the place where that business gets done. On legislation, it is the Government rather than the Parliament that holds the initiative: Parliament’s role is primarily reactive; scrutinising the legislation that the Government has laid before it;
- two Chambers, one having primacy, with the most important role of the other being as a revising body for legislative proposals. (This feature is of course also common in non-Commonwealth assemblies).

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12. Most Commonwealth democracies now have written constitutions, which has of course led to limitations being imposed on their Parliaments’ sovereign powers. Even state or provincial Commonwealth Parliament are usually at least partly sovereign, however, in that they have exclusive legislative jurisdiction over matters within their competence.

13. In fact, it is not at all uncommon for Government Bills at Westminster to be agreed to with Opposition support, but this is not how the business of politics is generally presented to the UK public.

Most (though not all)<sup>14</sup> of these features are absent from the Scottish Parliament, by virtue mainly of the Scotland Act itself. The terms of the Act make clear that the Scottish Parliament is not sovereign<sup>15</sup>. This does not mean merely that there are some matters on which it has no power to legislate (in respect of which the Act has provided a referral procedure enabling Ministers in the UK Government to obtain a Supreme Court ruling on whether the Parliament has exceeded its powers). It also means that the courts may competently be asked to rule on decisions of the Parliament, and to grant judicial review<sup>16</sup>.

### 3.1. Legislative consent motions: Westminster legislating for Scotland

More fundamentally yet, the UK Parliament retains the power to make law for Scotland even over matters devolved to the Scottish Parliament. This power has been exercised quite frequently<sup>17</sup>, though thus far never without the prior consent of the Scottish Parliament, by way of what the Scottish Parliament's standing orders call legislative consent motions (LCMs).

An LCM involves the Parliament (following consideration by the relevant Parliamentary committee) deciding whether to consent to Westminster legislating on a matter devolved to the Scottish Parliament<sup>18</sup>. The question of what would happen if the Scottish Parliament decided to withhold its consent remains hypothetical. Clearly, there would be political repercussions. However, the legal power of Westminster to legislate would be unaffected. In short, an LCM is an

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14. For example, the Scottish Parliament has imported from Westminster a weekly half-hourly question time slot for the First Minister, which is usually no less adversarial in character. The extent to which party discipline plays a part in Scottish Parliamentary business may become evident in the discussion on legislation-related statistics later in the paper.

15. Of course, the mere fact that the Parliament is created by Act of Parliament in itself underlines that the Parliament is not sovereign. It is, however, important to acknowledge the view that sovereignty in Scots law rests with the Scottish people rather than with (to use AV Dicey's celebrated formulation), the Queen-in-Parliament, as at Westminster. It is debatable whether those espousing this point of view are seeking to make a legal and constitutional point or (no less validly) a political and rhetorical one. However, there has been some qualified judicial support for the viewpoint that Scottish and English concepts of sovereignty differ and, in particular, that Parliamentary sovereignty is a concept of English rather than Scots law. (*McCormick v Lord Advocate* 1953 SC). The issue is interesting, but for the purposes of this paper it is sufficient to note that the Scotland Act 1998 is determinative as to the status of the *current* Scottish Parliament.

16. *Whalley v Watson* (2000 SC 340). The jurisprudence on the extent to which the courts can judicially review decisions of the Scottish Parliament is still very undeveloped, there having been very few reported cases and none in which a decision has in fact been successfully reviewed.

17. A notable example was the law giving same-sex couples the right to enter into civil partnerships, despite family law being devolved to the Scottish Parliament. The majority of cases are far less significant, often relating to points of detail in UK-wide legislation or to minor cross-border issues. A fairly recent example was of UK legislation for civil defence in relation to reservoirs straddling the Scottish/English border. No such reservoirs currently exist.

18. A possible weakness of this procedure is that consent is sought only at the point of the legislative proposal entering the UK Parliament and not after it has been passed, leaving open the possibility of the Bill having been radically amended, but this has not so far emerged as a bone of contention.

instrument of inter-Parliamentary etiquette, not a device to “lend” sovereign power from Holyrood to Westminster.

It is sometimes overlooked that an LCM is also required where a UK Bill seeks to *extend* either the devolved powers of the Scottish Parliament or the administrative functions of the Scottish Government. This is not especially uncommon, although usually the power or function being extended is of a relatively technical nature, for instance in relation to the environmental management of a river basin whose catchment straddles the Scotland/England border<sup>19</sup>. There is of course a separate, ongoing and wide-ranging political debate as to whether the competence of the Scottish Parliament should be more comprehensively extended<sup>20</sup>.

Thirty-nine LCMs were lodged in the first four-year session of the Scottish Parliament; 38 in the second, and thus far in this session (with around ten months to go), 25. In other words, the flow of LCMs has been fairly constant over the first decade of the Parliament’s existence. The advent of a Scottish Nationalist administration following the 2007 Scottish general election appears to have had no significant effect on their frequency.

### **3.2. The electoral system**

Another area of divergence is in relation to the relative strengths of political parties in Holyrood. The Scottish Parliament has multi-party politics rather than a two-party system. To state that this is because Scotland has multi-party politics appears truistic. In fact, it is the proportional element of the two-party system for elections to the Parliament set out in the Scotland Act that has helped prevent one-party dominance, as, under the first-past-the-post part, the Labour Party would have had an absolute majority in all three Scottish elections held so far.

Either way, it is all but certain that no one party will hold an absolute majority in the Scottish Parliament in the foreseeable future<sup>21</sup>. This would appear to help set the conditions for a participative and less confrontational model of political discourse predicted by the Constitutional Convention, including of course in the consideration of legislation.

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19. Legislative consent motion for the UK Marine and Coastal Access Bill (2009).

20. The Scottish Parliament voted to establish a Commission on Scottish Devolution in 2007. The UK Government supported the establishment of the Commission. The Commission reported in 2008, making a number of proposals for reform of aspects of the Scotland Act, some of which would extend the Scottish Parliament’s tax-raising and law-making powers. The new UK Government has indicated that it is interested in taking some of the Commission’s proposals forward.

21. In the first and second Parliamentary sessions (1999-2007), the Labour and Liberal Democrat parties governed as a majority coalition. In the third session, the Scottish National Party governs as a minority with 47 seats out of 129, relying on its use of Executive powers or on ad hoc support from other parties in order to pursue its agenda.

### **3.3. The absence of a second chamber and Scottish Parliament Committees**

The Scottish Parliament's Standing Orders provide for two main types of Committee; those set up to consider particular policy areas (eg Justice; Economy, Energy and Tourism) and those exercising particular cross-cutting or house-keeping roles (eg Parliamentary Standards and Procedures; Equal Opportunities). Committees are appointed having regard to overall proportionality in the Chamber meaning that no party enjoys a majority on any committee.

The Scotland Act did not provide for a second chamber in the Scottish Parliament. The Consultative Steering Group on the Scottish Parliament noted that this had “led many to focus on the important role that Committees may play as the “revising chamber” in scrutinising draft legislation”<sup>22</sup>. The CSG went further however, arguing for a paradigm shift in the role of committees and indeed of the public in considering legislation

(...) there is a need to extend the process to form a recognised policy development stage ... A formal, well-structured, well-understood process would not only deliver a scrutiny stage pre-introduction but would also allow individuals and groups to influence the policy-making process at a much earlier stage than at present. By making the system more participative, it is intended that better legislation should result<sup>23</sup>.

Allied to this was another key CSG recommendation, subsequently incorporated into the Parliament's Standing Orders; that Committees should have the joint function both of scrutinising Government performance and of considering legislation within their area of responsibility. This is to be contrasted with Westminster, where there are separate committees to exercise those roles, the latter type usually existing only for as long as the life of a particular Bill. The view taken was that this would better ensure the building up of subject matter expertise, and the shift to a policy-shaping legislative culture envisaged by the CSG. In the first session of the Parliament, this aspiration was rather hampered by fairly frequent changes to Committee membership. In sessions two and three, committee membership has been slightly more stable.

There will be further consideration as to whether committees have fulfilled the role envisaged by the CSG later in the paper.

### **3.4. Consideration of legislation; the three stages of Parliamentary consideration**

The Scotland Act also laid down some ground rules for the consideration of legislation in the new Parliament. First, there must be provision for “general debate” and the opportunity to vote on the “general principles” of any Bill.

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22. Consultative Steering Group on the Scottish Parliament. *Shaping Scotland's Parliament* (1998), page 64.

23. *Ibid.*

Secondly, there must be an opportunity to consider and vote on the details of a Bill. Thirdly, there must be “a final stage at which a Bill can be passed or rejected”. Here we see the genesis of the three stage procedure for the consideration of Bills, set out in the Parliament’s Standing Orders:

**Stage 1:** The Bill is assigned to a Committee for consideration of its general principles. The Committee takes evidence on the Bill and then produces a report to the Parliament. In the light of that report, the whole Parliament then debates whether the general principles be agreed to. If so, the Bill proceeds to Stage 2.

**Stage 2:** the Bill returns to Committee. There is the opportunity at this point for what tends to be described as “detailed” or “line-by-line” scrutiny of the Bill, which is perhaps misleading since the main focus is on considering textual amendments to the Bill. There is no opportunity to reject the Bill outright at Stage 2 and “wrecking” amendments are inadmissible.

**Stage 3:** The Bill (together with any amendments to it made at Stage 2) returns to the chamber for consideration in plenary session. There is a final opportunity for textual amendments, followed by the Parliament debating whether to pass the Bill in its final form.

At Stage 3, the Bill either passes or falls. Because there is no second chamber, there is no “ping pong” as in many Commonwealth jurisdictions, with competing versions of the Bill being volleyed from one chamber to the other until there is complete textual harmony. Instead, the version of the Bill agreed to at Stage 3 simply supersedes that agreed to at Stage 2. There is, however, provision for the final debate on whether to pass the Bill to be suspended to another day, to enable further amendments to be lodged. This was intended to deal with situations where drafting or policy infelicities have occurred because of unexpected decisions on amendments at Stage 3. Of the 139 Bills that Parliament has so far passed, this power has been invoked only once. It is perhaps no surprise that this was in the case of a non-Government Bill<sup>24</sup> (a Committee Bill –see below– on the registration of members’ interests), when members were not “whipped” but instead left free to vote with their consciences.

### **3.5. Amendments**

Any member may lodge textual amendments to a Bill at either Stage 2 or Stage 3 of the legislative process. All amendments are debated at Stage 2, whilst at Stage 3, the Presiding Officer has the discretion not to select amendments, in order, for instance to weed out those debated at Stage 2 that received little support. Backbench members receive some assistance from Parliamentary staff in preparing their amendments. Ministers of course receive specialist civil service assistance in the drafting of amendments.

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24. Now the Interests of Members of the Scottish Parliament Act 2006.



All amendments are publicly notified on the Parliament’s website the day after being lodged and lists of the amendments to be considered on a particular day are also published online.

The deadline for lodging amendments has been pushed back, by increments, since the Parliament was established, in large part in response to recurring concerns from members as to the volume of amendments being lodged, Government amendments in particular. Deadlines are now reasonably generous by the standards of many Commonwealth legislatures<sup>25</sup>, although from time to time concerns are still expressed about the difficulties of carrying out proper scrutiny when a large number of amendments have been lodged.

### **3.6. Pre-introduction provision for legislation**

The Consultative Steering Group also emphasised the importance of Bills being introduced only after a proper opportunity had been afforded to individuals or bodies likely to be affected by the legislation to contribute to the policy-making process. The CSG envisaged committees having an important role at pre-introduction; for example it expected that a committee would want to take evidence from the relevant Government Minister on the consultation process on whether and how policy was being developed.

However, in practice, Committees have tended to purposefully avoid being involved in the formation of policy at the pre-introductory stage, seeing that as a matter for the Government and the affected stakeholders. As a matter of fact, the vast majority of Government Bills, of successive administrations, have been the subject of consultation (sometimes involving draft Bills) prior to their introduction into the Parliament. This may be one of the reasons why Committees have generally been content not to involve themselves in the pre-introductory process.

Standing Orders do however provide that each public Bill be accompanied by a policy memorandum, setting out (amongst other things) the consultation undertaken on the Bill, alternative proposals considered and why they were rejected, and an assessment of the Bill’s likely impact on matters such as equality issues, island communities or human rights.

### **3.7. Financial scrutiny of legislation**

Bills must also be accompanied by a financial memorandum setting out the best estimates of the cost implications of the Bill on the Government, local

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25. Three sitting days at Stage 2, four at Stage 3. Given the pattern of sitting days, this effectively means that the weekend will always come between an amendment being lodged and an amendment being considered. Successive administrations have also given a commitment to lodge their own amendments five working days before the day of consideration whenever possible.

authorities and other persons, and of the margins of uncertainty of such estimates. Scrutiny of financial memorandums falls primarily on the Parliament’s Finance Committee, which reports its findings to the Committee assigned to lead scrutiny on the Bill at Stage 1. The role of the Finance committee in so doing is to assess whether the memorandum is accurate and helpful, rather than whether the Bill is worth the money, which is more properly for the lead Committee.

The Parliament also makes provision in its Standing Orders for a discrete procedure for “financial resolutions” for legislation. This provision is somewhat complex but in essence, it gives whoever is in Government a power of veto over legislation deemed by the Presiding Officer either to incur “significant expenditure” on the Scottish Government or to confer a power to incur charges that may be “significant”. The Government holds this veto power because, under Standing Orders, it is only the Government that has the power to lay the motion for approval of the financial resolution, and a Bill cannot proceed past Stage 1 unless the motion is agreed to.

The financial resolution procedure appears in the Parliament’s Standing Orders having left little in the way of a paper trail (for instance in the report of the CSG) explaining why it was considered useful or necessary. It is evident, however, that it is essentially an inheritance from Westminster, where “money resolutions” and “ways-and-means resolutions” fulfil essentially identical functions (one for spending; the other for charging). The underlying justification for the veto power (at least for legislation incurring significant expenditure) is that the Government has a fundamental duty of care towards the nation’s finances, which may over-ride even the democratic will of the Parliament. That said, successive Presiding Officers have tended to take what might be considered a fairly cautious approach towards financial resolutions, generally deeming them necessary where expenditure is upwards of around £500.000 or more<sup>26</sup>.

Only one Bill has fallen because of the financial resolution procedure and that was in fact a Government Bill<sup>27</sup>. Concerns as to the budgetary implications of the Bill were raised during the Stage 1 debate, and the minority administration went on to lose the vote on the resolution, despite the general principles of the Bill having just been agreed to. This is very much the exception to a general rule of financial resolutions being agreed to without debate. It will be interesting to see whether this continues in future years or whether (as the UK and Scotland enter an era of more straitened financial circumstances) greater opportunity will be taken to debate resolutions on the basis that while the policy of the Bill may be unexceptionable, the financial cost exceeds the policy benefit delivered.

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26. To provide context, the overall Scottish budget in recent years has been around the £25-30 billion mark. Successive Speakers of the House of Commons at Westminster have taken a broadly similar approach in relation to money resolutions.

27. Creative Scotland Bill (2008).

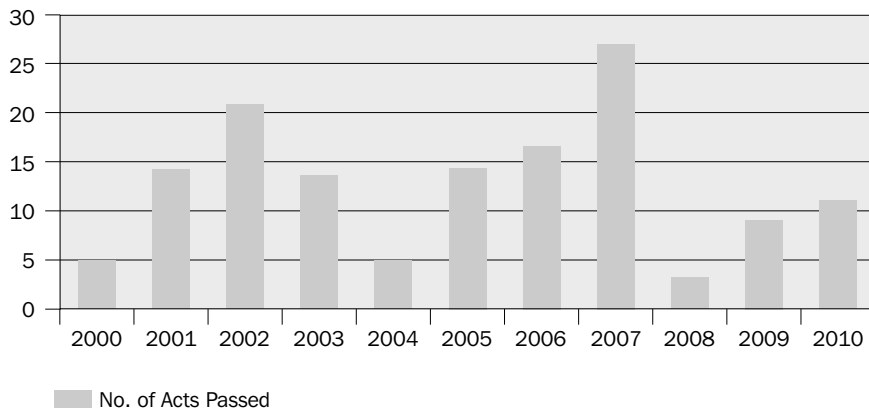
### 3.8. Members Bills and Committee Bills

The Consultative Steering Group proposed, and accordingly Standing Orders provide, that both Committees and individual members may initiate legislation. This was seen as flowing from the guiding principle identified by the CSG that there be a sharing of power between Government and Parliament. The view was that this should include sharing the power of initiative in proposing legislation. The rules could also be seen as flowing from a wish to do things better than at Westminster<sup>28</sup>.

Some provision has been made to ensure that non-Government Bills are fit for purpose at the point of introduction. In particular, Standing Orders effectively require both Committees and individual Members to consult on their legislative proposals, and to demonstrate whether and how they have developed their policy as a result. In addition, in 2000, the Parliament established a Non-Executive Bills Unit, believed to be the first body of its kind in the Commonwealth. NEBU's role is to provide assistance to individual members and Committees in consulting and refining policies on their proposed Bills, and in taking the Bill through all three stages of the legislative process. NEBU also instructs the drafting of Bills that it supports, and has an annual budget to spend on securing professional drafting assistance.

## 4. GENERAL OBSERVATIONS ON THE PARLIAMENT'S CONSIDERATION OF LEGISLATION

At the time of writing, 139 Bills have been passed in the Scottish Parliament<sup>29</sup>. The following table shows the number of Bills to have reached the statute book in each Parliamentary year (which runs from May to end April):



28. Members' Bills are permitted under rules at Westminster, but are rarely successful. Usually, it is only the first handful of MPs selected under a lottery system each year who have any realistic chance of success, owing mainly to the lack of Chamber time allocated for debate. Committees at Westminster have no power to introduce legislation.

29. This includes ten private Bills, ie, Bills seeking for particular persons powers or benefits in conflict with the general law, to which a slightly different Parliamentary procedure, including a quasi-judicial element, applies.

Some general trends might be picked out:

- *Number of Bills.* There have been an average of around 14 Bills a year, compared with around 6 Scottish Bills per year at Westminster in the two decades before devolution. Predictions that devolution would provide more opportunity to update the Scottish statute book have clearly been proven true;
- *Parliamentary cycles:* there is a lag phase between a general election taking place and laws being enacted. Election years (1999, 2003, 2007) are quiet years for legislation. This is no surprise and no different from Westminster;
- *Minority rule:* the advent of minority government in 2007 appears to have had an effect on the volume of legislation: fewer Bills are being passed. This is mainly because fewer Government Bills are being introduced rather than because more Government Bills are being defeated. An obvious conclusion to be drawn is that minority rule has made for a more cautious approach to legislation. However, this may also be a reaction to a growing perception in session two of the Parliament that too many new laws were being made, and at too fast a pace. Many of the most pressing law reform issues pending at the time of devolution may also have been dealt with by now<sup>30</sup>.

The raw statistics explain nothing of course about the type of legislation being passed. Many of the largest and (arguably) most significant Bills agreed to by the Parliament were passed in the first four years, particularly a suite of major Bills making radical changes to Scottish land and property law.

Another significant trend of both the first and second sessions of Parliament was the extent to which legislative proposals in the Scottish Parliament were along similar lines to those being pursued at roughly the same time at Westminster. This might be considered unsurprising given that the main party in the governing coalition at Holyrood for the first eight years was the party in charge at Westminster. To say that this amounted to the Parliament updating the practice of "putting a kilt" on English law would, however, be entirely inaccurate, not least because many of the Scottish Acts differed in significant respects from the parallel English Act, often as a direct result of Scottish Parliamentary scrutiny. In some cases, Scottish laws have led where English laws have only subsequently followed (most notably the law banning smoking in public places), while in others the Scottish Parliament has adopted policy solutions explicitly rejected south of the border<sup>31</sup>.

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30. The CSG anticipated that there might be 10-12 Bills per year to begin with, but that this number would probably reduce. However, the Scottish Law Commission, which makes recommendations to the Government on improving Scots law has expressed concerns about the low implementation rate of its recommendations in recent years, suggesting that there is still some work to be done in updating the statute book.

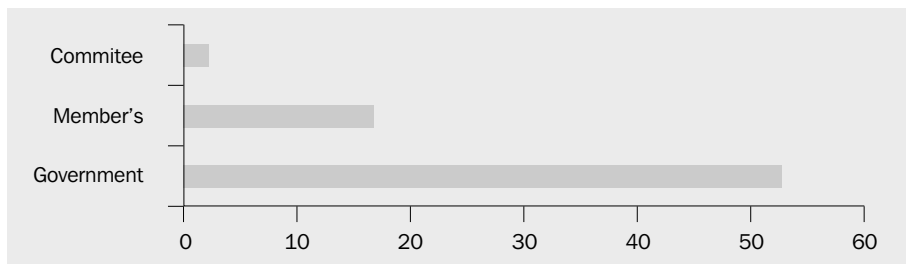
31. Amongst the most significant of these were laws to provide free personal care to the elderly in need of such care and to abolish tuition fees for students at Scottish universities.

The trend of there being some complementarity between Bills introduced at Holyrood and at Westminster has not entirely abated since the Scottish National Party took office<sup>32</sup>. Nor, as already noted, has there been a significant diminution in the number of legislative consent motions agreed to by the Parliament. Cross-border co-operation on non-contentious legislative issues has been, and continues to be, the rule rather than the exception so far during the lifetime of the Scottish Parliament. The Parliament also awaits its first case of the UK Government referring a Bill agreed to by the Parliament to the UK Supreme Court on the grounds of its being *ultra vires*<sup>33</sup>.

#### 4.1. More specific trends: types of Bills

In order to consider whether Holyrood has evolved into the power-sharing Parliament envisaged by its architects, it may be helpful to subject the statistics on Bills to closer consideration.

The spread of Government and non-Government Bills and Acts may provide interesting evidence. The following table shows how many public Bills of each of the three types – Government, Member’s, and Committee were introduced in the first (1999-2003) Parliamentary session:



The numerical dominance of Government Bills is evident. To be fair, this accords with the CSG’s prediction that after devolution most legislation would still originate from the Government, despite provision for Member’s and Committee Bills<sup>34</sup>.

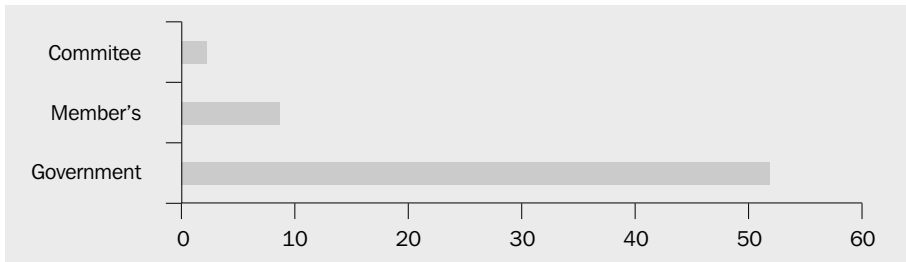
The next chart shows how many of these Bills actually went on to be enacted. The issue to note in this table is the difference between the number of non-

32. Eg Marine (Scotland) Bill (Scottish Parliament) and Marine and Coastal Access Bill (UK Parliament).

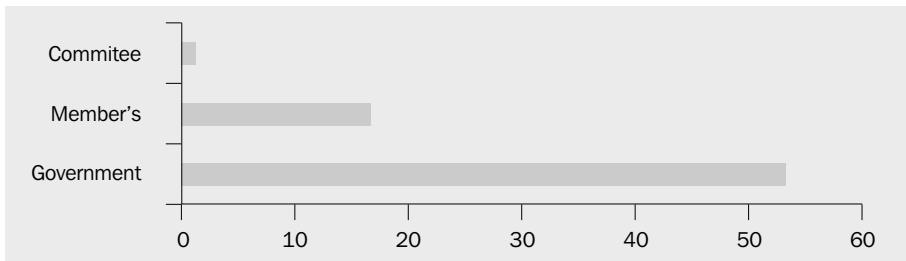
33. Just two Bills (both Members’ Bills) have been introduced to the Parliament accompanied by a statement on competence from the Presiding Officer (as required by Standing Orders) that he did not consider them to be within the competence of the Parliament. Neither came close to being passed.

34. Consultative Steering Group on the Scottish Parliament. *Shaping Scotland’s Parliament* (2008), page 65.

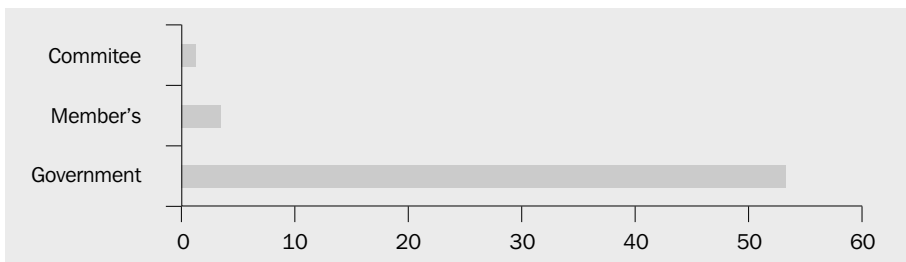
Government Bills introduced and the number passed. Note the shrinkage in Members' Bills:



The next two tables perform the same task for the second Parliamentary session (2003-07). First, the number of Bills introduced. The pattern is much the same as for session 1:

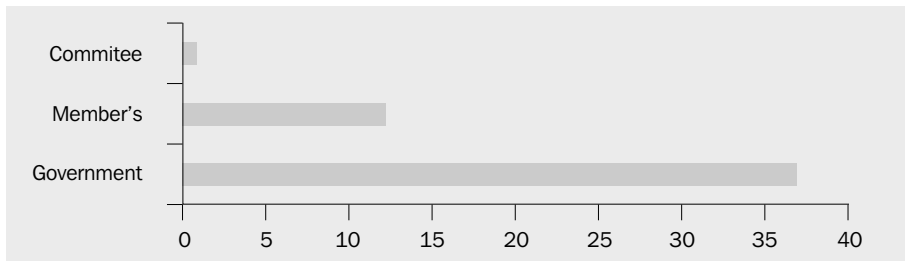


Now, Bills passed:



So members' Bills fared even more badly in session 2. Just three out of 17 were passed, whereas all 54 Government Bills were successful.

For completeness, here is the number of Bills introduced thus far in session 3<sup>35</sup>:



Since this session still has around ten months more to run, it might not be helpful to provide full statistics on Bills passed so far, other than to note that 23 Government Bills introduced has been successful (with two falling), whilst three Members' Bills have been passed.

As far as content and subject matter is concerned, successful members Bills have tended to be quite short and focussed, dealing with matters such as making Saint Andrew's Day a bank holiday, tackling dog fouling, or addressing homophobic hate crime. What committee Bills there have been have tended to focus on reforming or codifying particular practices and procedures of the Parliament, for instance, establishing the office of Parliamentary Standards Commissioner<sup>36</sup>.

#### 4.2. Types of Bill: analysis

At first glance, all this appears to disclose a rather traditional model of politics, rather than that envisaged by the Parliament's architects. In particular, the authors of the CSG report might be disappointed and surprised to note that just six Committee Bills have been successful in the past seven years. Particularly in Session 2, however, this might be partially explained by the sheer volume of legislation introduced by the Government over that session, eating into committees' time to pursue matters of their own choosing – although this only serves to underline that Committees are perhaps more subject to the priorities of the current Government than might have been hoped for.

Members' Bills are more of a grey area. It was perhaps always to be expected that the Member's Bill procedure would have a high failure rate, as there was always the potential for the system to be used to make political points rather

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35. At this point in the Parliamentary calendar, there will be no more Member's Bills and almost certainly no more Committee Bills. There may be a handful more Government Bills.

36. A notable exception to this general trend was the Parliament first Committee Bill (emanating from the then Justice and Home Affairs Committee), which sought to extend the protection available to people being harassed by their former partners.

than to promote policies with a realistic prospect of success. It was this that led the Parliament, in the second session, to tighten the rules on the introduction of Member's Bills so as to require members to demonstrate far greater cross-party support than had previously been required. The Non-Executive Bills Unit was also formally given the power to prioritise its support for Member's Bills, based on agreed criteria, including the likelihood of the proposal gaining enough cross-party support to succeed.

More importantly, concealed amongst “failed” Members' Bills are legislative proposals that helped provoked subsequent Government action on the same matter. Notable examples of these are Member's Bills to require all public bodies to adopt official Gaelic language policies and to ban smoking in all public places. The policy aims behind these and other Bills were almost entirely realised in subsequent Government legislation.

This underlines a key point in any analysis of the Parliament's legislative record thus far (which will be returned to in the discussion on amendments below: it is clear that the power of legislative initiative has not been shared equally between the Parliament and the Government. Given the breadth and depth of legal and policy-making support available to Government by way of the civil service, this arguably should not have come as a surprise, despite the aspirational tone of the Consultative Steering Group's report. On the other hand, committees and individual members of the Scottish Parliament have had a consistent record of success in securing influence over the direction of policy set out in legislative proposals. Legislative procedures have been used as a bargaining device, so as to persuade the Government to refine or redirect its approach, and also to cajole it into using its own drafting and policy-making resources to introduce or to make the necessary changes to the legislation.

Holyrood has thus not really turned out to be a “legislating Parliament”. But it has used procedural leverage to exercise influence over the ultimate form that legislation takes. Whether this means that it has turned out to be more of a scrutinising Parliament than a policy-making one is not clear but this debate is perhaps more one of semantics than substance.

#### **4.3. More specific trends: amendments**

The passing or rejecting of Bills is not of course the whole story. The Parliament can exert influence over legislation by the way of the amending process. Again, statistics can be used to help illustrate the point, but again (as will be discussed below) they may not tell quite the whole story.

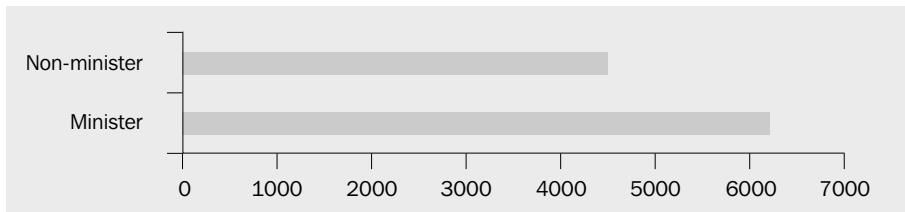
The following statistics are from session two of the Parliament (2003-2007). They show the total number of amendments to Bills lodged at Stage 2<sup>37</sup> over

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37. I.e. the stage intended for detailed consideration in committee, and the main amending stage.

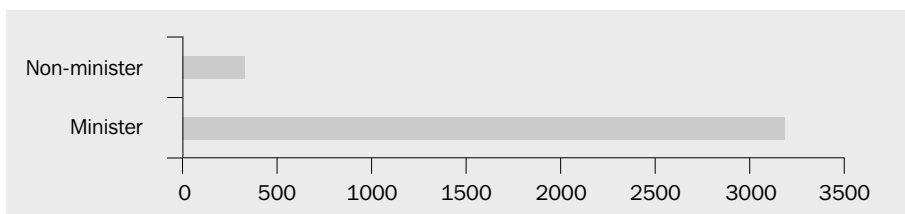


those four years, divided into Government amendments (amendments lodged by ministers) and amendments lodged by anyone else – whether Government backbenchers or opposition members).



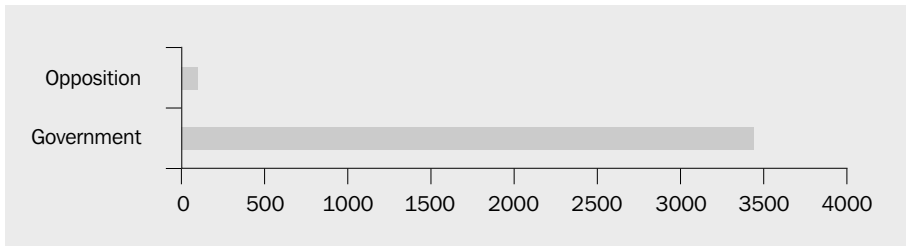
So Government amendments outnumbered non-Government amendments, but not overwhelmingly. This is no great surprise, following on from statistics showing that the vast majority of Bills were Government Bills. It is to be expected that Government Ministers would have more cause to lodge amendments to their own Bills, in large part to make technical refinements identified by Government civil servants and drafters after the Bill was introduced.

The next table shows the number of *successful* amendments lodged (ie amendments that were agreed to). In a Parliament following the “typical” Westminster pattern of adversarial two-party politics, the column showing non-Ministerial amendments would be expected to shrink markedly, whilst Government amendments would hold up. One sign of a “new politics”, however, might be a much higher success rate for non-Ministerial amendments, and also perhaps rather fewer Ministerial amendments being supported. Here are the figures<sup>38</sup>:



For completeness, the next table makes a further distinction between the same amendments; between successful amendments lodged either by Government Ministers or by *backbench members of the two governing parties* and successful amendments lodged by members of opposition parties.

38. These figures, and those in the next graph cover only the Parliamentary years 2005-2007 because full statistics on the success rate of amendments for session 2 only began to be collated mid-way through that session. However, it is highly unlikely that figures for the first two years of the session would disclose a different trend.

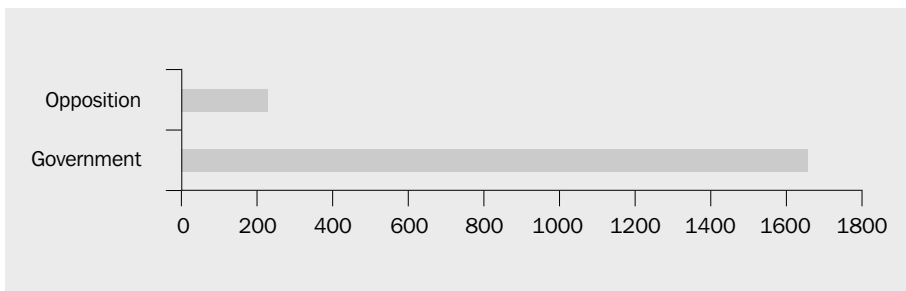


(The fact that a significant proportion of amendments lodged by Government backbenchers have been lodged with the awareness, support and, at times, assistance of Government ministers and civil servants may help in explaining these figures).

So, as with the Bill statistics, these figures appear to show a rather traditional model of legislative practice, with Ministers and non-Ministers lodging roughly equal numbers of amendments, but Ministers (and their backbench supporters) being vastly more successful in having them agreed to.

The figures require to be interpreted with care, however. The first point to be made is an obvious one, though it was perhaps somewhat overlooked by commentators at the time of the Parliament’s formation, as well as in the reports of both the Constitutional Convention and the CSG. Whilst a highly proportional electoral system might well have guaranteed multi-party politics, it did not preclude two or more of those parties forming a relatively stable coalition so as to govern with a secure majority for the duration of a Parliamentary session. This was the story in sessions 1 and 2, and helps explain how the Government was largely able to “get its business through”, in the Westminster fashion and to repel most opposition amendments.

Figures from session 3 of the Parliament, in which only one party has governed, and as a minority, help bear this out. As with the last table, this shows the number of successful amendments at Stage 2 coming, on the one hand, from Government ministers or Government backbenchers and, on the other, opposition members. Note the marked difference in the proportion of opposition amendments agreed to compared to the last table:



Clearly, successful Government amendments are still statistically dominant though. Again, the number of technical amendments lodged by the Government to its own Bills helps explain this<sup>39</sup>.

#### 4.4. Stage 1 scrutiny

More importantly and fundamentally, a large proportion of amendments lodged by the Government would have been in response to concerns raised by the Committee scrutinising the Bill at Stage 1 of the process. This underlines one of the main trends of the last ten years; the emergence of Stage 1 of the legislative process as the main period at which Committees exercise influence over policy.

As already noted, Stage 1 is the point at which the committee tasked with the Bill inquires into the Bill's general principles, and reports to the whole Parliament on whether they should be approved. The term “general principles” is not defined in Standing Orders, but in its report, the CSG proposed that the role of the committee at Stage 1

(...) would be to provide a report to the Parliament as to whether or not the Bill should be approved in principle. It would not at this stage be a detailed consideration on a line by line basis of the Bill's content. At this stage, the Committee would also be able to ... recommend whether further evidence should be taken to inform the next stage of consideration of the Bill<sup>40</sup>.

Very early on in the life of the Parliament, this sort of pattern was followed. For instance, the report of the Committee considering the Abolition of Feudal Tenure (Scotland) Bill, a 112-page proposal for nothing less than the complete overhaul and replacement of Scotland's 800 year-old system of property tenure, ran to just 36 paragraphs.

This quite quickly ceased to be the norm, though. Reports have become much longer<sup>41</sup>. Unsurprisingly, given this trend, reports have also tended to delve far more into the detail of the Bill and to make more, and more detailed, recommendations, amounting in some respects to a “shopping list” of amendments that the Committee proposes should be incorporated into the Bill at amending stages.

The language of such recommendations tends to be in terms of inviting the Government to note the Committee's concern and, accordingly, lodge amend-

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39. The number of technical Government amendments made to Government Bills has been a recurring concern over the Parliament's first ten years.

40. Consultative Steering Group on the Scottish Parliament. *Shaping Scotland's Parliament* (2008), page 66.

41. To pick a later Bill more or less at random, the Stage 1 report on a two-page 2008 Bill to establish that former industrial workers who had developed non-symptomatic pleural plaques had the right to claim damages, ran to 153 paragraphs.

ments to the Bill, rather than of indicating that the Committee is minded to lodge amendments itself at Stage 2. Again, committees may have adopted this approach on the pragmatic grounds that the Government is logistically better placed than the Parliament to draft amendments to correct or improve the Bill with the necessary care and expertise. In other words, politicians at Holyrood have not radically departed from the “old” Westminster notion that the Parliament’s role is to point out flaws in Bills and the Government’s role is to correct them.

By contrast, the CSG’s expectation that evidence heard at Stage 1 about gaps in the pre-introduction consultative process might lead to more evidence being taken at amending stages has not generally come to pass. Under Standing Orders, it is possible for committees to take evidence at Stage 2 of Bills, but in practice this is rare, and usually saved for occasions when especially controversial Government amendments are being proposed.

In short, the legislative process has become “front-loaded”, with the main debates not just as to the general principles of a Bill, but also important points of detail taking place during stage 1. This must be in large part because of the extent to which individuals and organisations outside of Parliament have become involved in the process at Stage 1.

#### **4.5. Evidence-taking on Bills**

It has become standard for any committee considering a public Bill at Stage 1 to take evidence on it from a cross-section of stakeholders at meetings, and by issuing calls for written evidence, to the point where it would be almost literally unthinkable not to do so<sup>42</sup>. It is therefore worth reiterating that before devolution this would have been the exception and not the norm. (The UK Parliament has, in fact, since followed the Scottish Parliament’s lead, reforming its procedures in 2006 to enable standing committees –renamed public Bill committees– to take evidence on Bills before deciding whether and how to amend them).

The Parliament has also sought to ensure that calls for evidence are well publicised, for instance through targeted emailing or by notifying local media, community groups, or trade magazines, an approach that has been largely successful<sup>43</sup>.

All evidence-taking on Bills is also in public<sup>44</sup>. There is of course nothing to prevent individual Parliamentarians from receiving informal briefings on legisla-

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42. The exception are the handful of so-called emergency Bills thus far agreed to by Parliament, which are dealt with through an expedited procedure because of their perceived urgency.

43. To take a recent example, the calls for evidence on what became the Climate Change (Scotland) Act 2009 secured 489 individual responses.

44. Standing orders do permit private evidence-taking where the Committee decides that this is “appropriate”. This was intended to enable evidence-taking on matters of a particularly sensitive nature from persons who might otherwise be unwilling to address the Committee. This provision has almost never been used.

tion from stakeholders or constituents but all stage 1 reports are based on evidence provided in public.

Efforts have also been made to secure evidence and information on Bills by other means, including

- site visits to parts of Scotland likely to be particularly affected by the Bill (often tied in with formal committee meetings in that area);
- “round table” evidence-taking sessions, where a number of witnesses offering various perspectives join the committee at the table, and are encouraged to engage directly with each other, rather than simply answer politicians’ questions;
- “open microphone” sessions at meetings, where members of the public are invited to make statements from the floor.

Putting questions to witnesses at meetings, and considering their written submissions, does however remain the main method of gathering evidence on Bills.

It is very evident that stakeholders invited to comment upon a Bill at Stage 1 have not felt constrained to restrict their comments to the “general principles” of the Bill, whatever those may. Instead, they have generally taken the opportunity to avail themselves of concerns as to details, albeit, from their perspective, important details. In so doing, they have perhaps recognised that the best opportunity to influence the direction of a legislative proposal is always at the earliest possible point in the process. This has emerged as one of the main factors causing the drift mentioned earlier towards a far more detailed analysis of the Bill at Stage 1 than the CSG had intended or envisaged.

#### **4.6. The influence of evidence-taking on policy development**

To sum up, by any objective assessment, the Parliament has, in its consideration of legislation, largely met the CSG’s aspiration that it be open and accessible. Likewise, it has largely met the aspiration that it enable a participative approach to the scrutiny of policy, although the challenge of finding new and better ways to enthuse and interest the public, particularly those sectors of society less likely to engage with the Parliament, is ongoing.

Whether a participative approach has been enabled in the *development* of policy, as the CSG also intended, turns on the question, raised earlier, as to where the boundary actually lies between policy development and policy scrutiny. After more than a decade, instances of the Government failing to get its own legislation through Parliament are extremely rare. But there are also a number of cases of legislation proceeding to enactment only because of the Government’s acceptance of radical reforms demanded by the committee at Stage 1, these being based in turn on serious concerns raised by stakeholders as to the direction of the

proposed policy<sup>45</sup>. There are also innumerable examples of the Government at Stage 2 giving ground by way of an amendment in response to witnesses' concerns amplified in a committee's Stage 1 report. All of this would suggest that the CSG's aspirations on policy development have been at least partly met.

## 5. GENERAL CONCLUSIONS

What conclusions can be drawn from the foregoing discussion? Firstly, predictions that the creation of a Scottish Parliament would mean more time for the consideration of legislation and more time to update the Scottish statute book have been proven entirely true. There has been a high turnover of legislation, although this has slowed in the third session.

Secondly, the UK Parliament's reserve power to pass legislation on matters devolved to Scotland has been exercised perhaps more frequently than might have been anticipated but largely on administrative matters with cross-border implications, with no major controversies arising. Legislative consent motions have accordingly come to be accepted as a relatively quotidian aspect of the Scottish Parliament's working life.

Thirdly, the Parliament benefited generally from a relatively benign economic climate in the first years of devolution. There is the potential for the Parliament's scrutiny of the financial implications of legislation to develop as we enter lean years for the public sector and choices about public spending become more difficult.

How different from Westminster has Holyrood turned out to be in the way that it considers legislation? Were the aspirations of some of the Parliament's institutional architects realised? Do we have a new politics at Holyrood?

In terms of the Government's overall legislative programme, the Parliament has established itself as a place where the Government's business "gets done", in the Westminster fashion. In part, this is a product of eight years of relatively stable coalition Government. In part, this is because many Government Bills have cross-party support. Minority government has, however, probably led to fewer and less controversial Bills.

The Government has clearly retained the power of legislative initiative. In particular, the power of committees to initiate legislation has so far been little used. In that respect, there has perhaps not been the sharing of power between the Government and the Parliament that was envisaged.

On the other hand, Parliamentarians have become relatively adept at making use of the legislative levers at their disposal to secure concessions from the

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45. Examples include the Bills that became the Crofting (Scotland) Act 2007, the Prostitution (Public Places) (Scotland) Act 2007, and the Scottish Commission for Human Rights Act 2006.

Government. Statistics showing a clear imbalance between the success rate of Government and opposition amendments are interesting but partially misleading in that they conceal the number of Government amendments based on committee recommendations. Again, this underlines a pragmatic acceptance by Parliament that it is the Government that is usually best placed to write (and re-write) the law.

Overall, there is therefore no clear answer to the question as to whether, in its handling of legislation, Holyrood is a “scrutinising” or a “policy making” Parliament, although it is more perhaps more of the former than the latter.

As to the role of Parliamentary committees, they have perhaps confounded expectations in generally eschewing involvement with legislation prior to its introduction. Instead, Stage 1 of the legislative process has emerged as the key period for seeking to influence the direction of legislation.

The Parliament’s rules and practices for the consideration of Bills at Stage 1 of the legislative process have enabled Bills to be considered in an environment of openness and transparency, and in a manner that enables genuine public participation. There has been a paradigm shift since pre-devolutionary days, bringing the legislative process far closer to the people it affects.

It is recognised within the Parliament that ensuing the same level of openness and participation at amending stages is more of a challenge, given the speed at which events can move and the innately technical nature of the process. The main challenge, however, lies with the promoter of the legislation (be they a Government Minister, a committee, or an individual member) to ensure that the legislation is at a fit state of preparedness when it enters Parliament so as to reduce the need for too many potentially confusing technical corrections.

This paper began by noting the intention of the Holyrood chamber’s architects’ to create a space that would be a concrete expression of the sort of politics the Parliament would practice. With the benefit of hindsight, the most appropriate design might have been a peculiar hybrid of Westminster box and European hemicycle.

# Exploring Resilience Patterns amongst National Minorities: From the Historical Representative Assemblies (1812-1877) to the Basque Parliament (1980)

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*Europa nazio-estatuaren baitan garatu dira erregioetako parlamentuak kasu batzuetan nazionalaren izendapena ere hartzen dute. Maila desberdinetako parlamentuen garapena da gobernaeraren etorkizuneko erronka. Erresilientziaren eta epe luzearen ikuspegiari oinarriturik, azken 200 urteotan Euskal Herriko Batzar nagusien azterketa egiten da. Batzar nagusiak aldaketa sakonak jasan eta une batez deseginak izan arren, egokitzapenak ere bideratu ziren eta azken batean berriz indarrean ezarri ziren eta horrez gainera Eusko Legebiltzarra eta Nafarroako Foru Parlamentuak ere sortu ziren.*

*Giltza-Hitzak: Batzar nagusiak. Eusko Legebiltzarra. Erresilientzia. Maila askotariko gobernaera.*

*Los estados-nación de Europa, también han desarrollado parlamentos regionales que en algunos casos se manifiestan en tanto que nacionales. La coexistencia de parlamentos de distinto nivel es uno de los retos de la gobernanza. Desde el pensamiento resiliente y en una perspectiva de larga duración se analizan las Asambleas representativas del País Vasco. Durante los últimos 200 años dichas Asambleas han desarrollado una capacidad de adaptación al cambio en medio de las turbulencias y sucesivas aboliciones, hasta su recuperación y la constitución del Parlamento vasco y el Parlamento foral de Navarra en 1980.*

*Palabras Clave: Asambleas representativas. Parlamento vasco. Resiliencia. Gobernanza multinivel.*

*Les états-nations d'Europe ont également développé des parlements régionaux qui, dans certains cas, s'expriment autant que les nationaux. La coexistence de parlements de niveau différent est l'un des défis de la gouvernance. De la pensée de résilience et dans une perspective sur le long terme, on y analyse les Assemblées représentatives du Pays Basque. Durant ces 2 derniers siècles, ces mêmes Assemblées ont développé une capacité d'adaptation au changement au milieu des turbulences et des abolitions successives, jusqu'à leur récupération et la constitution du Parlement basque et du Parlement autonome de Navarre en 1980.*

*Mots-Clés: Assemblées représentatives. Parlement basque. Résilience. Gouvernance à multi-niveaux.*



## INTRODUCTION

In the cycle of liberal revolutions from 1789 onwards there were different transitions in the European kingdoms, in the systems of values and in the organisation of everyday social life. A new concept and new institutions articulated the political communities: “nation” and the “national assembly”. In place of *royal*, the army and the public institutions were to have the denomination *national* from then onwards, especially in the continent.

One of the questions relating to the continuity of the Representative Assemblies of the Basque Country is how political and cultural communities with representative institutions during the “Ancien” Regime, respond to systemic breakdown or convulsion in the context of the building of the new nation-state.

In the process of construction of the new nation-state some political leaders conceived a single national parliament, and a single public administration directed from a centre of power: one nation, a single parliament.

The forms of Union of the European monarchies brought the formation of a Europe of composite monarchies (Elliot, 1992). In the United Kingdom after the “Glorious Revolution of 1688”, the parliament became the centre of political power. According to J. H. Elliot this was a new historical phenomenon, “a composite *parliamentary* monarchy.” (Elliott, 2009). In Spain between 1707 and 1716 the new Bourbon dynasty drastically altered the legal constitutional system, abolishing the institutions and laws of the Crown of Aragon (Aragon, Valencia, Catalunya) and “horizontal Spain” was replaced by “vertical Spain” (García R., 2002) except in the Basque Country: the institutional system of the Kingdom of Navarre remain in force until 1841 and the representative assemblies of Biscay, Alava and Gipuzkoa until 1877.

During the 19<sup>th</sup> century, the national Parliament try to transform the inhabitants into national citizens, with a single law, a single language, a single cultural symbolic cultural view and a single religion. The nation-state model was exported from Europe to the rest of the world spreading towards America and others continents (Woolf, 1991). It was established as a norm of organisation in the world by the League of Nations (Geneve, 1920) and more effectively by the United Nations (1945). Two hundred years later it is the key question for many peoples, the model of the nation-state model (Douglas & White, 2009).

The nation is not a territory, or a fixed concept but mainly a symbolic organisation for a human group. The parliament is its material and institutional stage. All nations face problems in consolidating the loyalty of the population to the new legitimacy of the national construction. Nations are dynamic and open flows, and their symbolic recognition and loyalty change in a daily plebiscite, in the words of E. Renan. Individual or collective identity is not something given that one “has” or one “loses”, but a swampy and shifting terrain of permanent confrontation. Identity works as a fluid element in a state of permanent reconstruction and invention.

The creation of the new European Parliament is opening a new political era. Other national-regional parliaments coexisted within the historical nation-states. The coexistence of multi-level parliaments is a challenge.

To explore the *longue durée* of the Representative Assemblies we will employ resilience thinking. "Resilience is the capacity to deal with change and continue to develop" (B. Walker & D. Salt, 2006). In the case of the Basque Representative Assemblies there has been a capacity over the last 200 years to deal with change and, after their abolition in 1877, to build new Representative Assemblies and new Parliaments: the Basque Parliament and the Foral Parliament of Navarre (1980). In the XIX century many authors in Europe, following an evolutionist social view (Engels), said that the old peoples and national minorities would disappear (Garate, 1979). But there have been different experiences in Europe. The level of resilience in each case is different. In this paper I will emphasise the reference of the Representative Assemblies, which are an element and pattern for understanding the index of social and political resilience in dealing with the political and cultural continuity of the national minorities.

In summary, parliaments are constituted today as centres of debate and management: the management of resources (the budgetary debate) and the management of identities (a transversal debate that affects the cultural and educational system, the health system, religious issues). But in real politics, during recent decades, the sovereignty of Parliament has been transformed into the effective sovereignty of the executive.

## **1. THE REPRESENTATIVE ASSEMBLIES OF THE BASQUE COUNTRY AND THE NEW NATIONAL PARLIAMENTS OF FRANCE AND SPAIN**

In the Basque Country, as in other areas of the Pyrenees from the XVI century onwards, an anti-feudal political culture developed. The foundation and development of the representative assemblies of the Basque regions occurred from the XVI century onwards (Peronet, 1998). The assemblies were the meeting point of the clans for speaking, to make use of the "parole". The politics of war became a politics of negotiation. These assemblies promoted a system of representative government, a habit of public governance and their own financial system.

With the appearance of the national parliaments and the project of the political nation, a problem of compatibility arose between the Basque Representative Assemblies (*Juntas Generales*) and their executive governments (the Deputations) and the new French and Spanish National Parliaments. There have been two experiences with different results concerning the role of the Basque Representative Assemblies in relation to the new National parliaments:

### **1.1. France**

In the 18th century, the French monarchy expanded the royal administration, which accounted for the almost permanent conflict between French civil servants

and the representatives elected by the territorial assemblies, particularly in the peripheral Pyrenees area. The Representative Assemblies of the Basque Country were the subject of debate in the National Assembly. In short, the Representative Assemblies of the Basque area were abolished. The *Département* of Basses Pyrénées unites the Basque Country and Bearn, but the choice of Pau as capital gave Bearn greater influence in the administration of its affairs (Goyhenetche, M.).

In France, the National Assembly was formed as the representative depository of public power and in the report of the committee of “Public Health” to the National Assembly Barère declared:

Nous avons observe (...) que l’idiome appelé bas-breton, l’idiome basque, les langues allemande et italienne ont perpetué le règne du fanatisme de la superstition, assuré la domination des prêtres, des nobles et des praticiens (...) et peuvent favoriser les ennemis de la France.

Frequently, people who spoke other languages apart from the French language became “enemies” of France and the use of languages began to become politicised. Besides, opposition to “national” was to be “feudal”.

Le federalisme et la superstition parlent bas-breton, l’émigration et la haine de la République parlent allemand; la contre-révolution parle l’italien, et le fanatisme parle basque.

But at the same time the individual rights of persons and their equality were proclaimed, although slaves and women were not included. Human rights are a referential element of our political modernity. Democracy and identity were “the two issues driving modern-day politics and the question was how they could be reconciled” (J. Straw, 2007).<sup>1</sup>

## 1.2. Spain

The resistance, continuity and change of the Representative Assemblies turned out to be different in Spain. As Humboldt observed in 1801, the influence of the social networks of the Basque elite in the political and institutional structures of Spain were more important than in France (Humboldt, W.).

The Spains (*Españas*) were organised as a transoceanic empire-monarchy. The constitution of 1812 was designed for inhabitants of Europe, America and the Philippines: “Spaniards of both hemispheres”.

We will now analyse the powers, the relationship and evolution of the Basque Representative Assemblies and their continuity in relation to the Spanish

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1. J. Straw “Democracy and identity: building a global Union” *Blueprint. The newsletter of the University of Oxford*. Vol. 7, nº 6. 1 February 2007. p. 3.

National Parliament. In 19<sup>th</sup> century constitutional Spain there were no other Representative Assemblies.

We can distinguish between five periods that correspond to the victory of the liberal revolution.

1. 1812-1876: The Spanish system of dual trust or Crown-Parliament balance. The end of the arbitrary powers of the monarch. The Basque Assemblies were adapted to Spanish liberal constitutionalism. The Basque Assemblies tried to become *parliaments* in the accommodation process.

2. From 1877 to 1931: The Basque Representative Assemblies were abolished in 1877. From the legal viewpoint it was the end of the “*Legal Foral Constitution*”(self-rule statute) of the Basque Provinces and the end of the accommodation process. The single National Parliament was organised for the single Spanish State according to the Spanish Constitution of 1876.

3. 1931-1936. The Constitution of the II Republic. The Spanish National Parliament was formed. But a regional Parliament was also formed in Catalonia. (1932). The Basque government was formed in 1936 but the Basque Parliament was not constituted because of the Civil War.

4. 1937-1978. The Totalitarian-Corporatist State in Spain was opposed to the liberal parliament and against the self-government of the nations of Spain: Catalonia, the Basque Country and Galicia.

5. In 1978 a democratic constitution recognised the “nationalities” and regions but not the “nations” of the Spanish nation-state. In 1979 and 1980 the *Juntas Generales* or historical Assemblies of the Basque Provinces were re-established and in 1980 the Basque Parliament and the “*Foral* Parliament of Navarre” were founded.

## **2. THE TENSION BETWEEN THE NATIONAL PARLIAMENT AND THE REPRESENTATIVE ASSEMBLIES OF THE BASQUES (1812-1877)**

The Spanish Congress became the new representation of the “Spanish nation”. This nation in 1812 grouped together citizens from the Iberian Peninsula, America and the Philippines. Three models of parliament and governance succeeded each other during the 19<sup>th</sup> century:

1. Monarchy governed by an Assembly: Influenced by the system of the French Convention of 1791. Opposing this constitutional view were the royalists who favoured the Monarchy: this Monarchy should be an organic aggregate of estates and regions, with the sovereignty of the King.

2. Parliamentary monarchy: 1837-1868. Shared sovereignty between the crown and the parliament. But the Crown legislates by decree separately from the Parliament and the Crown plays an increasing role facing the Parliament. There is a system of dual trust or balance during the reign of queen Isabel II de Bourbon.

3. Model of a democratic-liberal Parliament with male universal suffrage: power resides in the Parliament: Amadeus of Savoy, 1869-1873. In 1873 the first Republic of Spain was founded, with a federal organisation.

4. The constitution of 1876 returned once again to the system of dual sovereignty and trust: the king and the Parliament (1876-1931). But the crown was more subjected to the will of Parliament.

## **2.1. Evolution of the Basque Assemblies in the Context of the Spanish Parliament**

During the first liberal constitutional power, (1813-1814) the Assemblies had to disappear because as in France there was one nation, one Parliament for Spaniards in America and the Philippine islands. But in 1839, at the end of the Carlist civil war, during the period of dual trust, the Basque Representative Assemblies began to undergo a new evolution within the liberal system. A tendency can be observed in the assemblies towards their becoming the equivalent of a parliament. The aim of the liberals who governed the Basque provinces was to create assemblies that were comparable to the National Parliament, under the sovereignty of the Spanish Crown. It was the political theory of the "Pact between the Basque Assemblies and the Crown." As a result, the Basque representatives in the Spanish National Parliament wanted to be nominated from the territorial assembly (C. Loizaga).

In fact, during the 1839-1876 period, the Deputations controlled the elections in the Basque districts of the MPs to the Spanish National Parliament. The candidates were nominated from the political group in the Deputations favourable to the "Foral Constitution." The Deputations directed the political strategy of the Basque MPs in the Spanish National Parliament and they were in Madrid as a "Basque Delegation". A. I. Altuna (1854) and other liberal *fueristas* understood that the Basque elected parliamentarians should act as a Basque delegation, aside from the divisions of party and opinion found in the Spanish Parliament. Hence what he identified as the "Basque cause" should not be identified with any of the Spanish parties,<sup>2</sup> an idea that was also developed by the parliamentarian from Álava, Ortiz de Zarate.<sup>3</sup>

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2. "Los que aspiran a que la causa Vascongada no aparezca unida a la de ninguno de los partidos en que por desgracia está subdividida la nación no hostilizan al poder constituido, sea cual fuere" ALTUNA A. I., Refutación al discurso del Sr. D. Francisco Manuel Egaña procurador de la unión de Arguisano en las Juntas Generales de Hernani. San Sebastián, 1855.

3. "Los Fueros, buenos usos y costumbres de las provincias Bascongadas sufren todos los días y sufrirán constantemente en lo sucesivo repetidos ataques de parte del gobierno supremo, cualesquiera que sea el color político de los hombres que ocupan el poder. ...Conviene que las Conferencias de las tres Diputaciones sean más frecuentes y periódicas en cada uno o dos meses(...) Salvar las instituciones forales. Esta debe ser la bandera de todos los bascongados, sin distinción de partidos políticos". (1855) ORTIZ DE ZARATE, R. Escritos de Don Ramón Ortiz de Zarate. Bilbao, 1900.

During the period 1808-1876, for 672 seats were elected MPs 291 individual.

On the other hand, the Deputations organised a permanent office with delegates (*"Diputados en Corte"*) in Madrid.<sup>4</sup>

## 2.2. The Internal Evolution of the Basque Representative Assemblies

The representatives to the Basque Assemblies were elected or appointed by the municipalities. This type of representation generated internal debates. In Biscay, for instance, from 1864 onwards, there were reform efforts aimed at applying the proportional system of representation in the Assembly to mitigate the discrimination suffered by Bilbao and the more densely populated urban centres.

The progressive liberals had, since 1837, been opposed to this discrimination, and by 1860 the influence of the press and public opinion in Bilbao was increasing. The system of representation in the Representative Assemblies and the government of the Deputations appeared anachronistic. In 1870, after the failure of the Carlist uprising, the Spanish Home Minister ordered that the rules of representation of the Representative Assemblies be reformed, introducing the principle of proportionality, to reduce the presence of rural populations. The Commission elected by the Assembly decided that the number of representatives of all towns should depend on the size of their population and importance. Five urban centres demanded that the reform take effect immediately, giving rise to the reform project of 1872.

The 1872 project recognized that the Biscay Assembly "at least until now, has been more of an administrative body than a true parliament, and all the Town Councils in the land have used it as a sort of court of appeal".<sup>5</sup> The liberal elite decided to define the Representative Assembly as an "administrative representative body" rather than a true parliament to avoid conflict with the Spanish government.

In Spain the Constitution only accepted one single National Parliament. The traditional Assemblies were in origin "corporative" bodies and a Parliament composed of members representing different political tendencies was a modern cre-

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4. During the debate in the Senate in 1864, when P. Egaña expressed the concept "Basque nationality", the industrial leader F. de las Rivas, member of the Senate and delegate of the Biscay Deputation declared: "*Otra equivocación de S.S. es la de que los Comisionados en Corte de las Provincias Vascongadas estaban asalariados. Yo, que igualmente he merecido de aquella Diputación ser elegido como su Comisionado en Corte y que lo soy actualmente, ...jamás se ha cruzado un solo real entre aquella Diputación y el que tiene la honra de dirigirla palabra al Senado, y en el mismo caso se encuentran mis dignos compañeros de Diputación por Vizcaya. (...) Lo que he dicho tiene por objeto deshacer la equivocación del Sr Sanchez Silva, en nombre de mis compañeros de Diputación de Vizcaya.*" (D.S.C. Senado. 1864, p. 730).

5. Bizkaiko Foru Artxiboa. (Bilbao). Regimen Foral, R. 19 leg. 15.

ation. But in fact the Representative Assemblies of Biscay, Gipuzkoa and Alava were being transformed during the 19<sup>th</sup> century into bodies similar to liberal parliaments. There were two political tendencies: Carlist and Liberal. Proportional representation was introduced. The reform eliminated the privileges of the classes of land owners (that had become the sole wielders of political power), and provided for the direct election of the members of the executive. (The tradition had been to draw lots).

The reform, however, did not have major consequences due particularly to the outbreak of a new civil war. The Carlists controlled the Basque Country militarily, except for the urban capitals, and the new Carlist state took over the government of the Basque Country until its defeat in 1876.

### **3. ABOLITION OF THE BASQUE REPRESENTATIVE ASSEMBLIES IN 1877 AND THE EMERGENCE OF BASQUE NATIONALISM FROM “FORAL” POLITICAL CULTURE**

A. Cánovas del Castillo, president of the Spanish Government, presented the project for the constitutional modification of the Legal *Foral* Law, or Constitution, of the Basque provinces in accordance with article 2 of the Law of October 25th, 1839. This Law accepted the adaptation of the Basque *Foral* Legal Law in constitutional terms.

The new Law was approved by the Spanish Parliament on 21<sup>st</sup> of July 1876 but the MPs from the Basque country voted against it: they argued that rather than a modification it defined the abolition of the legal constitutional system of the Basque provinces, the legal source of self government and the Representative Assemblies. The Government was in fact empowered to use the most convenient strategy to ensure that the new Statutory Law was applied (art. 5).

In September 1876 the representative bodies of the Assemblies of Biscay,<sup>6</sup> Alava and Gipuzkoa met to analyse the new situation and agreed to oppose the new Law and any attempts to apply it.

So two tendencies arose: the radicals (“intransigents”), opposed to any collaboration with the Central Government in the application of the new Law and the “moderates”, in favour of negotiating the Law’s eventual application. However, majority opinion in the Assemblies and amongst the members of the Basque administration opposed its application. In consequence the Government prohibited common institutional meetings amongst the three executive powers of the Basque Provinces, as well the meetings of the Assemblies. Meanwhile, military control continued in the Basque area together with the suspension of constitutional rights (1877).

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6. ACTAS de las Juntas Generales de Vizcaya. Bilbao 1876.

But while the Assemblies of Gipuzkoa and Alava analysed the manner of adapting Spanish Parliamentary Law (21.7.1876) during 1877, the Assembly of Biscay rejected any type of collaboration. In response, the commander-in-chief of the Army in the North, following orders from the president of the Government, A. Canovas del Castillo, dissolved the Biscay Assembly.<sup>7</sup> Later, the Assemblies of both Alava and Gipuzkoa were also abolished, thus making way for the new provincial Deputations appointed by the president of the Central Government.

In 1877, the newspaper *La Paz* (with a conservative liberal tendency, favourable to the Basque Legal Foral Statute, published in Madrid because in the Basque Country it was forbidden to set out opinions about the Foral system in the press), considered that the Assemblies were the parliament of the Basques. This was in order to defend the idea that the *Basque Assemblies* and the National Parliament were representative assemblies of the same rank. As a result it faced legal proceedings. The liberal politicians of Madrid would not accept more than a single National Parliament.

Finally, according to the new Spanish law (21.7.1876), the Government decided to establish new provincial *administrative* councils, as in the rest of Spain.

So continuity of the Assemblies was ruled out. It was not until a century later, in 1979, that the Assemblies were reinstated, this time under the party system, as a “parliamentary” representation.

The case of Navarre was different because modification and constitutional adaptation had taken place in 1841 by Law (the Kingdom of Navarre became a Spanish Province with autonomy in tax and public finance), and the continuity of its application was respected by reintroducing the rates governing tax contributions.

In Biscay, Gipuzkoa and Alava, the new political and institutional situation was interpreted as the end of continuity and a break with the past. But the social and political solidity of the Foral administration forced the state to compromise with the elite of the new Provincial Councils, or Provincial Deputations as they called. In 1878, taxation remained in the hands of the Provincial Council. So a new economic, administrative and tax autonomy, or “Economic Agreement”, came into being, although it was established by a simple decree by the Government for a transitional period of 8 years (Alonso, 1993).

The abolition of the Assemblies meant something more than the disappearance of a representative institution. They were the symbol of Basque political power.

The military defeat of the Carlists and the political defeat of the Basque liberals in the Spanish Parliament, together with the disappearance of the Basque

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7. Extraordinary issue of the gazette of the Province of Vizcaya, 26-IV-1877.



Assemblies and power, all left their mark on the political consciousness and the subsequent political experience of the Basques.

In 1844, P. Egaña, (an MP from the Basque Country and a Spanish government minister) was already talking of the loss of “Basque nationality” as a result of the abolition of the Foral Constitution and the Assemblies in 1841. He defined the nationhood of the Basques in political and institutional terms. This view is something of a contrast to later 19th-century formulations, essentially based on ethnic considerations.

Other political reflections were made in 1877: Tellitu, a former member of the executive power in Biscay and liberal representative of the intransigent tendency, claimed the right for Biscay to become an independent state “after the manner of a small Switzerland”.<sup>8</sup>

The imaginary of Basque political liberalism with respect to the Spanish nation generated an ambivalent discourse. In the crisis of 1877, a foundational event occurred that marked a break with the Spanish national imaginary: one sector became a pillar of Spanish monarchism, joining the Spanish parties. Another sector carried on the doctrine established in 1856, (the Basque political constitution) by the “Partido fuerista” or “Foral party”, alien to the division of the Spanish parties.

Liberalism, which was the majority political force in Bilbao from 1836-37 onwards, defended the conservation of the Foral regime in the sphere of private and public law in the framework of the Liberal Constitution in Spain. The newspapers *El Bilbaino* (1837) and *El Vascongado* (1840-1841), published by the printer from Piedmont Nicolas Dalmazo, who became N. Delmas in Bilbao, were the public expression of the new ideology. In 1846 his son J. E. Delmas undertook his first project in graphic and journalistic communication under the business tutelage of his father Nicolas.<sup>9</sup> In 1852 he founded a new newspaper: *El Boletín de Comercio*, but on April 1<sup>st</sup> 1856 the Spanish Government suspended its publication because of its criticisms of the Central Government. However, J. E. Delmas immediately undertook the publication of *Irurac Bat* (June 26<sup>th</sup> 1856). In the editorial of issue number 1, written in Spanish and the Basque language, he declared: “The newspaper that is born today will not be systematically partisan to any political banner that waves in the Peninsula. Irurac Bat belongs to its own party, the party that lives incarnated in the land that is covered by its name, the most clearly Basque party, the *Fuerista Party*”. In 1859 it was published on a daily basis, with the subtitle of *Political newspaper*. It printed news stories that were sent by telegraph from the Havas agency in Paris. This Bilbao newspaper contributed to the diffusion and consolidation of a political *fuerismo* with a liberal inspiration, independent of the options that followed the party organisations in

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8. Bizkaiko Foru Artxiboa. (Bilbao), Régimen Foral, 16.

9. *Viaje pintoresco por las Provincias Vascongadas. Obra destinada a dar a conocer su historia y sus principales vistas, monumentos y antigüedades etc. en láminas litografiadas copiadas al daguerrotipo y del natural por J.E.D. y acompañadas de texto.*

the capital of Spain. The new party and political conception launched by Delmas aspired to represent the interests of the “Vascongada Country”. “Vascongada politics”, or “*vascongadismo*”, was a new political conception, the theory of which had already been set out in the newspaper *Boletín de Comercio* by Ramón Ortiz de Zarate from Álava. The editorial of the first issue of *Irurac Bat* is a text with a programmatic character, representative of the political elite that governed the Basque Foral institutions. A renewal of the political and discursive categories can be glimpsed that evoke the start of a new period in Basque politics. From then onwards the “*Fuerista* party” was the defender of the institutions of self-rule and the Representative Assemblies. However, its leadership began to decline in 1880 when the Representative Assemblies had been abolished. The most representative political parties, the Carlist-Traditionalist party and the Dynastic Liberal party, integrated into the party system of Spain, proclaimed themselves to be the defenders of *Fuerismo*. As a result, the *Fuerista* party became a minority force at the end of the XIX century.

From 1898 onwards this sector formed the social and political basis of the Basque Nationalist Party founded by Sabino Arana in 1895.

In the last third of the 19th century, the advent of the industrial revolution was accompanied by the appearance of two new movements: Basque nationalism and socialism. But the genesis and subsequent shaping of this nationalism cannot be seen exclusively as an effect of industrialisation. The most popular formulation of Basque nationalism called for the “complete restoration” of the Basque political power including the Assemblies.

At least after 1878 management of the tax resources was in the hands of the new Provincial Councils but they wanted juridical security. The new political elite of the Basque Country was affiliated to the Spanish liberal or conservative parties. They were monarchists and in favour of Spanish nationalism with a rhetorical discourse about the economic and administrative independence of the three provinces.

The three Provincial Councils (Deputations) reached an agreement, according to the minutes of the conference, in favour of “*the economic and administrative independence of the three provinces*” (January 24<sup>th</sup> 1898).<sup>10</sup>

Following the Cuban insurrection (1895), the question of autonomy and self-rule once again emerged in Spanish political debate. But the Spanish government decreed a status of autonomy when the insurrectionists were already looking towards independence. After 1898, the idea of political autonomy became

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10. “The three Deputations of Vizcaya, Guipúzcoa and Alava meeting in conference in Bilbao, as a consequence of the alarm that is spreading in the Country, due to the acts carried out by the Civil Governor of Vizcaya, with evident infringement on the faculties recognised to the Basque Deputations in the economic and administrative order, have agreed unanimously to present Your Excellency with a collective exposition claiming against the affronts that are inflicted in the Basque Country, invading the sphere of action of its Deputations, creating in this way a situation full of difficulties and dangers.” AGIRREAZKUENAGA, J. (Ed) 1995.

identified with a state prior to independence for Spanish conservative sectors. And as a result they were opposed to administrative decentralisation and the demands for autonomy in Catalonia and the Basque Country.

The discourse of Foral reintegration, or devolution of historical rights, continued in force in the Basque political debate. However, it was not raised in the Spanish parliament. The elected parliamentarians contented themselves with consolidating fiscal autonomy, that is, the system derived from the "Administrative-Economic Agreement". But autonomy, the devolution of Foral power, was called for in the institutional statements of the Deputations. From 1905 onwards, the concept of autonomy became a banner, or symbol, with the founding in Gipuzkoa of the Autonomist Foral League, formed by Catholic-confessional, secular liberal and republican parties. Nonetheless, in the negotiation of the "Administrative-Economic Agreement" of 1906, once it had been agreed that the "Administrative-Economic Agreement" should be in force for a period of twenty-five years, the question of Foral reintegration and autonomous power was postponed *sine die*.

The creation and first stage of development of the Catalan Mancomunitat in 1914 was decisive in encouraging the autonomist discourse. In Catalonia the discourse in favour of autonomy began to be formulated in terms of sovereignty. In 1916, the deputy F. Cambó made an autonomist speech to develop Catalan sovereignty in the field of its autonomous powers. While the Basque nationalist parliamentarians based their political discourse on the principles of Foral reintegration and the devolution of historical rights.

Basque nationalism, which had been represented in the Spanish parliament since 1918, defended autonomism from Catholic confessional postulates and demanded the right to recover the power that had been usurped in 1877. The Basque nationalist delegation (Luis Elizalde, Isaac López de Mendizabal) which participated in Lausanne in the Conférence des Nationalités in 1916, offered the following response:

What the Basques of the Peninsula ask for is Foral Reintegration without any restriction at all. This means a return to the situation prior to the Law of the Madrid Parliament that deprived the Basque regions of the Peninsula (Navarre, Biscay, Álava and Guipúzcoa) of the right to meet in Representative Assemblies (Juntas Generales and Cortes) that had an unrestricted legislative power in their respective regions.<sup>11</sup>

But within the European perspective, and due in particular to the influence of Catalan autonomism (movement in favour of self-rule), Basque political autonomism achieved a new formulation about the future self-rule of the Basque Country, in 1917: Basque nationalism, based on traditionalism (E. Aranzadi, T. Epalza, R.Sota) found ground for common consensus with the autonomism of the Catholics (the "integrist" party) and of the liberals led by J. Orueta.

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11. "Respuesta de la delegacion baska a la encuesta sobre las nacionalidades. Párrafo 1º (Reivindicación de la nacionalidad) ANTXUSTEGI (2007).

Autonomism in Catalonia appealed to the will of the citizens and to the principle of their nationality to argue for the legitimacy of the demand for autonomy, while the Basque nationalist parliamentarians, perhaps conscious of their minority role in Basque society, posed the question within the wide spectrum of political Catholicism and traditionalism, of which they claimed to be the representatives. In that context they called for autonomy in terms of the devolution of usurped rights, since theoretical "Foral reintegration" was a claim of principle supported by the political majority in the Basque Country.

However, its concrete formulation in terms of autonomy, gave rise to divergences in Basque politics. Basque nationalism began to organise the common program for the autonomous territory. However, the leaders of the Monarchic League, which brought together dynastic liberals, conservatives and Mauristas, described the projects for political autonomy as

(...) an exotic branch of a secular regionalism, thought up by Mr. Cambó, while, Basque regionalism sets out from the depths of the Catholic soul of our country (...) Our dispute is completely different from that of Catalonia and although Nationalism might wish it, we will not become donkeys following in line, nor will we, at least not Guipúzcoa and Álava, climb onto the back of the cart of the Catalan Mancomunitat.<sup>12</sup>

For these monarchists, the preferable and only option had to be restricted to defence of the "Administrative-Economic Agreements", appealing to "Foral reintegration" without any precision in juridical and political terms.

#### **4. FIRST PROJECTS TO ORGANISE A BASQUE GOVERNMENT AND PARLIAMENT, 1918**

The political conjuncture of 1917-1918 was a changing one in Europe and also in Bilbao, the industrial and financial centre of the Basque Country. New political concepts emerged in the public debate: Basque government, Basque congress-senate, self-determination and autonomy statute. Political self-government sought to manage education, culture, languages (Spanish and Basque), that is to say the symbols of the Basque community.

Basque nationalism, heir to one branch of the liberal Foral Party of the 1880s, articulated a policy to reclaim the political power that had been lost in 1877 in order to manage Basque modern society. It aspired to recover the power of the Assemblies. Basque nationalism had success on the city council of Bilbao and in Biscay in the 1917 and 1918 elections. It promoted a movement in favour of the devolution of the Basque Assemblies and at least, an autonomy statute.

The presidents of the Provincial Councils of Alava, Biscay and Gipuzkoa, with the vice-president (effectively the president) of Navarre and the elected mem-

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12. La prensa regional y la expedición del Sr. Epalza a Cataluña. *El Pueblo Vasco*. (Newspaper) (1.1.1919).

bers of the Provincial Councils formulated a new political project in 1917: On the one hand, it called for “Devolution of the Old (*Foral*) Law”, but as they did not expect this to be recognised by the Spanish Government, they demanded autonomy, precisely specifying the powers that would correspond to the Spanish state: “Foreign Relations, War and Navy, Customs, Post and Telegraphs, Weights and Measures, Currency and Public Debt”.

The Provincial Councils would concern themselves with

(...) the faculty of resolving on their own the affairs referring to promotion of instruction at all levels, the practice of charity, works and hydraulic services, agriculture, industry and trade, and others that it is not necessary to specify, which do not at all go against the sovereignty of the state.

Full exclusivity would be applied in the respective spheres of power. This message was ratified by the municipal councils meeting in an assembly, but had no effect on the Central Government.

On 1918 (October 25<sup>th</sup>) the Basque nationalist Deputies<sup>13</sup> in the Spanish Parliament sent a message to the president of the USA, Thomas Woodrow Wilson. Previously (on January 8<sup>th</sup>), he had defended a 14 point program in the American Congress for the reconstruction of the new Europe and had appealed to the doctrine of the self determination of the peoples. On the one hand, the text of the message specified the interpretation of the law of 25/10/1839 made by the group of Basque parliamentarians and, on the other, they expressed their adherence to the doctrine of the self determination of the peoples as one of the principles for establishing permanent peace in Europe:

On completion of the 79 anniversary of the annulment by the Spanish government of the independence of the Basque people, the signatories, Deputies and Senators in the Spanish Parliament, in the name of all Basques who, conscious of their nationality, desire and work to see the latter freely develop itself, greet the President of the United States of America, who on laying the foundations of future world peace, has based them on the right of every nationality, big or little, to live as it wishes, foundations that, accepted by all of the belligerent states, we hope to soon see applied for the better fulfilment of what justice and collective and individual freedom demand.

The journal *Hermes* also echoed the principles defended by the president of the USA W. Wilson, as well as the project for the “League of Nations”, and its editor Jesús de Sarria and R. Belausteguigoitia defended the constitution of a Basque government. According to J. Sarria

In the Old Law, interpreted according to the sentiments and needs of 1918, is to be found all of the content of the Constitution that the Basque people need... The Basque people asks for integral national autonomy, freedom to govern itself internally

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13. José Horn y Areilza, Arturo Campión, Pedro Chalbaud (senators for Biscay) Ramón de la Sota, Domingo Epalza, Antonio Arroyo, Anacleto Ortueta, Ignacio Rotaetxe (deputies for Biscay) José Eizagirre (deputy for Gipuzkoa), Manuel Aranzadi (deputy for Navarre).

according to its broad social and juridical spirit. That means that Basque nationality and democracy are in reality together... (Hermes, No. 28, 1918).

Autonomy (self-rule) projects were drawn up envisioning a Basque parliament and a Basque government (1918). There were news aims.

But in 1919 the Central Government and the Spanish Parliament rejected the autonomy statute project for Catalunya and for the Basque Country. On the other hand, on January 7<sup>th</sup> 1919, in Bilbao, liberals and conservatives in favour of Spanish nationalism, founded the Monarchist Action League in order to “*confront the separatist movement*” and its pro-autonomy strategy. G. Balparda and other leaders appealed also to historical *Foralismo* to oppose the pro-autonomy position, which they considered to be the threshold to a pro-independence position. The independence of Cuba was still fresh in the memory. Between 1920 and 1979, the political discourse of this group governed the Basque Country during two dictatorships, except during the period of II Republic (1931-1937). They represented the conservatives that supported the army in organising a military and totalitarian system (Primo de Rivera and Franco).

## **5. THE NEW REPUBLICAN CONSTITUTION AND THE SPANISH PARLIAMENT, ACCEPTANCE OF THE FIRST REGIONAL PARLIAMENT IN CATALONIA (1932)**

In the Basque Country the Parliament could not be constituted because of the civil war. The autonomy statute was approved and a Basque Government was formed in 1936. J. A. Aguirre was the first Basque president; he was a member of the Basque Nationalist Party, a Catholic confessional party. The other members of the Basque Government were republican, socialist and communist. In fact, the provisional Parliament and the autonomous Government formed a fragment of a state, with shared signs and symbols.

But during the dictatorship of Franco(1937-1978) Biscay and Gipuzkoa even lost their self-rule power in tax questions, (Alonso, 2001) which did not happen with Alava and Navarre, the two conservative regions with an agricultural economy. The new Spanish State imposed Centralism and Uniformity under Military tutelage and repression from 1937 to 1978.

## **6. DEMOCRATIC RECOVERY: CONSTITUTION OF 1978, SPANISH PARLIAMENT, REPRESENTATIVE ASSEMBLIES, BASQUE PARLIAMENT**

The provincial Assemblies as a continuity of the historical Assemblies were re-established in 1979 with direct elections. These are not provincial parliaments but administrative assemblies with significant powers for managing tax resources.

The Basque Parliament, founded in 1980 with exclusive legislative functions in certain areas, articulates powers and authority with the Spanish National Parliament, the Provincial Assemblies and the European Parliament.

When the Basque Parliament was constituted different concepts on its institutional organisation were expressed (Figuerola, 2004). The conservatives wanted to reinforce the traditional Assemblies to avoid, or reduce, the Basque national dimension that the formation of the Parliament and the Basque Government represented. A very significant tendency of the Basque nationalists, appealing to the Foral tradition, wanted the Assemblies to have more power in such a way that the Basque Parliament would be a second chamber, a senate. On the other hand, the left wanted to strengthen the Basque Parliament. Representation in the Basque Parliament is not proportional. The three provinces have the same number of parliamentarians. As a result the population of the most densely populated province, Biscay, has a reduction in its representation of 1 to 3 in comparison with Alava. At present, it is the space of representation and political management of the Basque community. It is the axis of Basque politics. The Parliament has been organised administratively in the image of the Congress of Deputies of Spain in Madrid.

A question of permanent interest in the present day is the concurrence of powers: the Basque Parliament and the judicial power. Two independent powers. The organisation of judicial power has been kept centralised, and appointments depend on the Spanish National Parliament. At present, it is attempting to exercise political leadership, against the legislative power and the executive in the Basque Country. (Mancisidor, 2008) (The Supreme Court of Spain would like to change the rules of the internal organisation of the Basque Parliament. There is a conflict because the Court decided to put the President of the Basque Parliament on trial).

For a comparative view, in the U.K. there is not a codified constitution and there is an absence of a constitutional court to protect it. The Parliament is the centre, but in the last decade the dominance of the executive over Parliament has been notorious. In the U.K. the Parliament also works as a constitutional court. This is a big issue in the balance power and for the future of the representative Parliaments.

## **CONCLUSION**

I have emphasised the relationship between the National Parliament and the Basque Representative Assemblies over the last 200 years. At the beginning of this period the National Parliament in the nation-state did not permit other territorial Representative Assemblies inside the Nation. But if social reality persistently favours other models of political self recognition, in the end another nation-state has to emerge. This experience is a representation of Basque political resilience. The Assemblies reflect the public power of the Basques. And the foundation of the Basque Parliament in 1980 represented the recognition by the Spanish State of the Basque political power, 100 years after the abolition of the Assemblies. Inside the Basque Country there is also a balance between the new Basque Parliament and the Assemblies, today called "historical territories". In fact there is a federal organisation.

Europe, as a supranational State, recognised (in the Maastrich Treaty of 1992) the subsidiary principle in order to organise the political unification of Europe with national-state members. But national-state members deny the subsidiary principle at the national level for their own sub-national-state political communities.

The political discourse of national minorities in Europe, the right to self-government and self-determination, became a reference in Basque politics from 1918 onwards, to make a demand in favour of the recognition of the Basque Representative Assemblies.

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# La Première histoire du Parlement Français

(The History of French Parliament)

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*L'histoire du Parlement français est la première histoire globale du système parlementaire français sur une époque récente. Dans l'historiographie française, l'histoire du parlementarisme jouie d'une longue tradition et l'histoire politique de France se nourrit de la vie parlementaire.*

*Mots-Clés : France. Parlement. Histoire. Politique. Historiographie.*

*Frantziako Parlamentuko historia, azken urteotan argitaratu den lehen ikuspegi globala dugu. Frantziako historiografian parlamentarismoaren historia berebiziko garrantzia izan du eta Frantziako historia politikoa idazterakoan, bizitza parlamentarioaren azterketa halabeharrezkoa izan ohi da.*

*Giltza-Hitzak: Frantzia. Parlamentua. Historia. Política. Historiografía.*

*La historia del Parlamento francés es la primera historia global del sistema parlamentario francés en la época reciente. En la historiografía francesa la historia del parlamentarismo goza de una larga tradición y la historia política de Francia se nutre de la vida parlamentaria.*

*Palabras Clave: Francia. Parlamento. Historia. Política. Historiografía.*

Depuis une trentaine d'années, l'historiographie politique française a connu un profond renouveau<sup>1</sup>, dans des domaines multiples, que ce soit la biographie<sup>2</sup>, la monographie<sup>3</sup>, les partis<sup>4</sup>, les familles politiques<sup>5</sup>, les ligues<sup>6</sup>, les associations<sup>7</sup>, les formes d'expression<sup>8</sup>, les cultures et les sensibilités politiques<sup>9</sup>, l'administration publique<sup>10</sup>, ou encore les groupes d'influence<sup>11</sup>.

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1. R. Rémond (dir), *Pour une histoire politique*, Le Seuil, 1988; J-F Sirinelli (dir), *Dictionnaire historique de la vie politique française au XXe siècle*, PUF, 2003.

2. P. Sorlin, *Waldeck-Rousseau*, Armand Colin, 1966; J-M Mayeur, *L'Abbé Lemire. Un prêtre démocrate, 1853-1928*, Castermann, 1968; J-N Jeanneney, *François de Wendel en République; l'argent et le pouvoir, 1914-1940*, Le Seuil, 1976; J-C Allain, *Caillaux*, 2 Vol, Imprimerie nationale, 1978-1981; P. Levillain, *Albert de Mun. Catholicisme français et catholicisme romain du Syllabus au ralliement*, Ecole Française de Rome, 1983; D. Lefebvre, *Guy Mollet, le mal-aimé*, Plon, 1992; P. Harismendy, *Sadi Carnot, l'ingénieur de la République*, Perrin, 1995; O. Dard, *Jean Coutrot de l'ingénieur au prophète*, PUFC, 1999; F. Roth, *Raymond Poincaré*, Fayard, 2001; S. Jansen, *Pierre Cot. Un antifasciste radical*, Fayard, 2002; E. Phelippeau, *L'invention de l'homme politique moderne. Mackau, l'Orme et la République*, Belin, 2002.

3. J. Garrigues, *La République des hommes d'affaires, 1871-1900*, Aubier, 1997; M. Bernard, *La Dérive des modérés. La Fédération républicaine du Rhône sous la Troisième République*, L'Harmattan, 1998; D. Bensoussan, *Les Droites en Bretagne dans l'entre-deux-guerres. Tensions et déchirements dans le monde catholique et rural*, Thèse sd S. Berstein, IEP Paris, 2002; G. Le Beguec, *La République des avocats*, Armand Colin, 2003.

4. S. Berstein, *Histoire du Parti Radical*, 2 Vol, PFNSP, 1980; J-C Delbreil, *Centrisme et démocratie chrétienne, le Parti démocrate populaire, 1919-1944*, Publications de la Sorbonne, 1990; E. Duhamel, G. Le Beguec (dir), *La renaissance du parti radical, 1944-1948*, L'Harmattan, 1993; S. Courtois, M. Lazar, *Histoire du parti communiste français*, PUF, 1995; G. Richard, *Le Centre national des indépendants et paysans de 1948 à 1962*, Presses universitaires du Septentrion, 2000; A. Bergounioux, G. Grunberg, *L'ambition et le remords. Les socialistes français et le pouvoir (1905-2005)*, Fayard, 2006.

5. J-F Sirinelli (dir), *Histoire des droites*, 3 Vol, Gallimard, 1992; J-J Becker, G. Candar (dir), *Histoire des gauches en France*, 2 Vol, La Découverte, 2004; G. Richard, J. Sainclivier (dir), *La Recomposition des droites en France à la libération 1944-1948*, PUR, 2004; S. Guillaume (dir), *centrisme en France aux XIX et XXe siècles: un échec?*, MSHA, 2005; S. Guillaume, J. Garrigues (dir), *Centre et centrisme en Europe (XIX-XXe siècles)*, Peter Lang, 2006.

6. R. Paxton, *Le Temps des chemises vertes. Révoltes paysannes et fascisme rural, 1929-1939*, Le Seuil, 1996; C. Bonnafoux, A la droite de Dieu. *La Fédération nationale catholique (1924-1944)*, Fayard, 2004; A. Kéchichian, *Les Croix de Feu à l'âge des fascismes*, Champ Vallon, 2006.

7. G. le Beguec, C. Andrieu, D. Tartakowsky, *Associations et champ politique. La loi de 1901 à l'épreuve du siècle*, Publications de la Sorbonne, 2001.

8. O. Ihl, *La Fête républicaine*, Gallimard, 1996; D. Tartakowsky, *Les manifestations de rue en France 1918-1968*, Publications de la Sorbonne, 1997.

9. C. Nicolet, *L'idée républicaine en France (1789-1924), essai d'histoire critique*, Gallimard, 1982 et 1995; S. Berstein, O. Rudelle (dir), *Le Modèle républicain*, PUF, 1992; F. Furet, J. Julliard, P. Rosanvallon, *La République du centre ou la Fin de l'exception française*, Calmann-Lévy, 1998; S. Berstein (dir), *Les Cultures politiques en France*, Le Seuil, 1999; J. El Gammal, *Politique et poids du passé dans la France «fin de siècle»*, PULIM, 1999; F. Roth (dir), *Les Modérés dans la vie politique française*, PUN, 2000; V. Duclert, C. Prochasson (dir), *Dictionnaire critique de la République*, Flammarion, 2002; P. Rosanvallon, *Pour une histoire conceptuelle du politique*, Seuil, 2003 et *Le Modèle politique français. La société civile contre le jacobinisme de 1789 à nos jours*, 2004.

10. M-O Baruch, V. Duclert, *Serviteurs de l'Etat. Une histoire politique de l'administration française 1875-1945*, La Découverte, 2000.

11. J. Garrigues (dir), *Les Groupes de pression dans la vie politique contemporaine en France et aux Etats-Unis de 1820 à nos jours*, PUR, 2000; D. Barjot, O. Dard, J. Garrigues, D. Musiedlak, E. Anceau (dir), *Industrie et Politique en Europe occidentale et aux Etats-Unis (XIX-XXe siècles)*, Presses de l'Université Paris Sorbonne, 2005.

Sous l'impulsion de quelques pionniers, notamment Maurice Agulhon et Jean-Marie Mayeur, l'histoire parlementaire a trouvé une place de choix dans ce bouillonnement créateur. Une vaste enquête collective lancée en 1984 sur les parlementaires de la Troisième République a permis d'aboutir à la constitution d'un fichier rassemblant plus de deux tiers des parlementaires concernés, et à la publication d'un ouvrage sur les sénateurs<sup>12</sup> et de nombreuses synthèses régionales<sup>13</sup>, dont un colloque organisé en 2001 a fait le bilan national<sup>14</sup>.

Cette enquête, dirigée par Jean-Marie Mayeur, Jean-Pierre Chaline et Alain Corbin, a permis non seulement de relancer une histoire parlementaire archaïque et moribonde, mais aussi de lui offrir des pistes multiples de renouvellement. Ce faisant, elle rejoignait les efforts déployés par les fonctionnaires des assemblées afin d'entretenir la flamme de l'histoire parlementaire<sup>15</sup>, ainsi que les recherches entreprises (parfois de très longue date) par les politistes<sup>16</sup>, les juristes<sup>17</sup>, les litté-

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12. A. Corbin, JM Mayeur (dir), *Les cent seize inamovibles de la Troisième République*, Publications de la Sorbonne, 1995.

13. S. Guillaume, B. Lachaise (dir), *Dictionnaire des parlementaires d'Aquitaine sous la Troisième République*, Presses Universitaires de Bordeaux, 1998; JP Chaline, AM Sohn, *Parlementaires de Haute-Normandie 1871-1940*, Publications de l'université de Rouen, 2000; B. Ménager, JP Florin, JM Guislin (dir), *Les Parlementaires du Nord-Pas-de-Calais sous la Troisième République*, Université Charles de Gaulle, Lille, 2000; J. El Gammal, P. Plas (dir), *Dictionnaire des Parlementaires du Limousin sous la Troisième République*, PULIM, 2001; JM Mayeur (dir), *Les Parlementaires de la Seine sous la Troisième République*, 2 Vol, Publications de la Sorbonne, 2001.

14. JM Mayeur, JP Chaline, A. Corbin, *Les Parlementaires de la Troisième République*, Publications de la Sorbonne, 2003.

15. Outre la publication en cours du *Dictionnaire des parlementaires français 1940-1958*, La Documentation française, on peut citer : M. Mopin, *Les Grands débats parlementaires de 1875 à nos jours*, La Documentation française, 1988; M. Mopin, B. Pingaud, *L'Assemblée nationale*, A. Biro, 1992; P. Séguin, *240 dans un fauteuil : la saga des présidents de l'Assemblée*, Le Seuil, 1995; M. Mopin, *L'Assemblée nationale et le Palais-Bourbon d'hier à aujourd'hui*, Assemblée nationale, 1998; *Le Parlement et l'Affaire Dreyfus. Douze années pour la vérité*, textes choisis et commentés par V. Duclert, Cahiers Jean Jaurès n° 147, 1998; *L'Assemblée nationale*, Albin Michel, 2004; B. Fuligni, *Les Quinze Mille. Députés d'hier et d'aujourd'hui*, Horay - Assemblée nationale, 2006.

16. R. Cayrol, JL Parodi, C. Ysmal, *Le Député français*, Armand Colin, 1973; J. Joana, *Le Parlement contre le monde. Les lieux de formation et d'agrégation du personnel politique au XIXe siècle (1815-1877)*, Thèse Montpellier I, 1997; M. Offerlé (dir), *La Profession politique XIX-XXe siècle*, Belin, 1999; D. Mineur, *Archéologie de la crise de la représentation politique*, Thèse IEP Paris, sd JM Donegani, 2004.

17. C. Buniet, *Les Règlements des assemblées parlementaires en France depuis 1871*, Thèse Paris, 1967; JP Machelon, *La République contre les libertés ? Les restrictions aux libertés publiques de 1879 à 1914*, PNFSP, 1976; F. Laffaille, *Le Président du Sénat depuis 1875*, Thèse Université René Descartes, 1997; F. Chevalier, *Le sénateur français (1875-1995). Essai sur le recrutement et la représentativité de la seconde chambre*, LGDJ, 1998; A. Laquieze, *Les Origines du régime parlementaire en France 1814-1848*, PUF, 2002; A. Coutant, *Droit parlementaire et fait majoritaire à l'Assemblée nationale sous la Ve République*, Thèse Paris I, sd M. Guillemin, 2004; Y-A Durzelle-Marc, *Pétitionnement et droit de pétition durant l'Assemblée nationale constituante (1789-1791). Contribution à l'histoire du régime représentatif*, Thèse Paris I, sd M. Morabito, 2004.

raires<sup>18</sup>, les sociologues<sup>19</sup>, voire les ethnologues<sup>20</sup> sur l'histoire des assemblées représentatives, ou encore les travaux consacrés par les historiens aux élites politiques dans leur ensemble<sup>21</sup>.

C'est pour stimuler cet effort de renouvellement méthodologique et scientifique que le Comité d'histoire parlementaire et politique a été créé en 2002, avec le soutien des deux assemblées, et avec la mission essentielle d'animer de façon systématique les recherches consacrées au parlementarisme. De nombreux colloques et journées d'études ont pris pour objet l'histoire parlementaire<sup>22</sup>, un séminaire spécifique lui est dédié<sup>23</sup>, et une revue semestrielle, intitulée *Parlement(s). Revue d'histoire politique*, en a fait son thème privilégié<sup>24</sup>. Grâce à l'engagement personnel de Jean-Louis Debré, président de l'Assemblée nationale, une première collection d'histoire parlementaire a même été créée, consacrée à l'étude des grands discours depuis la Révolution française jusqu'à la Cinquième République, et dont l'aboutissement est un ouvrage collectif, dirigé par Jean Garrigues, et intitulé *L'Histoire du Parlement, de 1789 à nos jours*<sup>25</sup>.

Pourquoi avons-nous souhaité écrire une histoire du Parlement français depuis 1789 ? Tout d'abord, et c'est une raison majeure, parce que cette histoire globale du parlementarisme contemporain n'existait tout simplement pas. Aussi étonnant que cela puisse paraître, aucune synthèse n'a été réalisée jusqu'à ce jour sur cet élément central de notre histoire politique qu'est le Parlement. Des réflexions de grande ampleur ont été menées sur l'élection et la représentation<sup>26</sup>. Des moments

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18. M. Stein, *Victor Hugo orateur. Etude des discours politiques prononcés de 1846 à 1880*, Thèse Paris VII, sd G. Rosa, 2004.

19. M. Dogan, «La stabilité du personnel parlementaire sous la Troisième République», *Revue française de science politique*, avril-juin 1953; «Les filières de la carrière politique en France», *Revue française de science politique*, octobre-décembre 1967; *Political ascent in a class society: French deputies 1870-1958*, Free Press, 1961.

20. M. Abélès, *Un ethnologue à l'Assemblée*, Odile Jacob, 2000.

21. P. Birnbaum, *Les sommets de l'Etat. Essai sur l'élite du pouvoir en France*, Seuil, 1977; C. Charle, *Les élites de la République (1880-1900)*, Fayard, 1987; S. Guillaume (dir), *Les Elites fin de siècles, XIX-XXe siècles*, MSHA, 1992.

22. *Femmes et pouvoir (XIX-XXe siècles)*, Les Colloques du Sénat, 2004; *La laïcité. Des débats, une histoire, un avenir (1789-2005)*, Les Colloques du Sénat, 2005

23. «Varia» de la revue *Parlement(s)*, n°3, 2005.

24. Les thèmes de ces numéros: «Faut-il tourner le dos à la politique?», «L'Europe, l'Europe!»; «Les urnes de l'Oncle Sam»; «Changer de République? 1962-2004»; «Laïcité»; «Politique en Aquitaine. Des Girondins à nos jours»; «Quarante ans de présidentielles. 1965-2005»; «Monde rural et politique en Europe (XIX et XXe siècles)»; «Socialistes au Parlement»; «Jeunes en politique»; «Mai 68 en débats»; «La Guerre des mots. 14-18 dans les parlements européens»; «Second Empire»; «Gaullistes au Parlement sous la Ve République»; «A l'heure du Coup d'Etat.»

25. Cette collection, dirigée par Jean Garrigues, comprend six volumes présentant et commentant les *Grands Discours parlementaires*, depuis la Révolution française jusqu'à nos jours.

26. R. Huard, *Le Suffrage universel en France (1848-1946)*, Aubier, 1991; P. Rosanvallon, *Le Sacre du citoyen. Histoire du suffrage universel en France*, Gallimard, 1992 et *Le Peuple introuvable. Histoire de la représentation démocratique en France*, Gallimard, 1998; P. Perrineau, D. Reynié, *Dictionnaire du vote*, PUF, 2001.

particuliers de l'histoire parlementaire ont été traités. Plusieurs travaux universitaires (pas toujours publiés, malheureusement), biographies, monographies, études prosopographiques ont pris pour objet central, voire unique, l'activité parlementaire. Des ouvrages ont été consacrés à l'histoire de l'Assemblée nationale et à celle du Sénat, mais aucune histoire totale de la vie parlementaire contemporaine n'a encore vu le jour en France<sup>27</sup>.

On peut avancer plusieurs explications à cet étrange trou noir historiographique. La première tient aux caractères spécifiques de l'histoire des institutions, qui apparaît bien souvent (à tort) comme surannée, conventionnelle, trop juridique, déconnectée des facteurs économiques et sociaux. Cela explique les réticences de certains chercheurs, qui pensent trouver dans la micro-histoire, dans l'histoire des sensibilités ou des mentalités collectives, dans l'histoire des représentations ou encore dans la socio-histoire des grilles de lecture plus stimulantes pour la compréhension de notre évolution politique contemporaine. Nous pensons que c'est une fausse querelle, et que la nouvelle histoire parlementaire se nourrit précisément de tous ces champs d'histoire en pleine expansion.

La deuxième explication de cette carence historiographique parlementaire est complémentaire de la précédente, car elle repose précisément sur les difficultés méthodologiques et scientifiques posées par l'histoire institutionnelle. Elle nécessite en effet une réflexion sur le droit et sur la pratique constitutionnelle, administrative et réglementaire que les historiens sont moins aptes à mener que les juristes ou les politistes. C'est l'une des raisons qui nous ont poussés à associer à cet ouvrage collectif des chercheurs issus de ces disciplines, connaissant par ailleurs leurs compétences sur les périodes qu'ils avaient à traiter.

Le troisième élément d'explication est peut-être le plus fondamental, car il nous renvoie à la méconnaissance, voire au discrédit de la vie parlementaire dans l'opinion publique. Depuis la fin du XIXe siècle, l'anti-parlementarisme, nourri à la fois par l'ignorance et par l'extrémisme, n'a cessé de gangrener le débat politique français. Depuis une vingtaine d'années, le divorce croissant entre les élites et les citoyens s'est bien souvent polarisé sur des assemblées jugées élitistes, incompétentes et inefficaces. Il faut reconnaître que les pratiques parlementaires de la Ve République et leur médiatisation ne concourent pas toujours à améliorer l'image des représentants de nation. Mais c'est précisément dans la réhabilitation du parlementarisme que la plupart des acteurs et des observateurs du politique voient l'un des instruments majeurs d'une rénovation démocratique. Dans cette perspective, il n'est pas un ouvrage, il n'est pas un programme de candidature qui n'évoque le renforcement du rôle et des pouvoirs du Parlement, voire des systèmes constitutionnels fondés sur sa prépondérance<sup>28</sup>. A l'heure où la vie parlementaire semble réhabilitée, il est particulièrement intéressant de se pencher sur son histoire.

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27. Paul Smith, *A History of the French Senate*, 2 Vol, Edwin Mellen Press, Lampeter, 2005.

28. A. Montebourg, B. François, *La Constitution de la 6e République : réconcilier les Français avec la démocratie*, Odile Jacob, 2005.

Le moment nous donc a paru particulièrement opportun pour entreprendre une histoire du Parlement contemporain. Nous l'avons conçue selon un plan chronologique, afin de respecter les grandes césures politiques et institutionnelles qui ont jalonné son existence. Chaque période a sa spécificité, et il aurait été artificiel de les noyer dans des thématiques anachroniques. En revanche, il était évident à nos yeux que cette nouvelle histoire parlementaire ne pouvait être une chronologie des débats et des votes, telle qu'on la pratiquait au XIXe siècle, et telle qu'elle figure dans les indispensables instruments de travail qui sont les nôtres<sup>29</sup>. Notre objectif est de donc de présenter une approche aussi problématisée que possible des enjeux et des évolutions spécifiques de chacune des périodes traitées.

C'est pourquoi il nous a semblé indispensable de commencer cette histoire en amont de la Révolution française, par une réflexion menée sur la vie politique d'ancien régime, conduisant à mettre en place les fondements de la vie parlementaire de l'époque contemporaine. C'est pourquoi aussi chacune des grandes périodes parlementaires a été confiée à un historien spécialiste, à charge pour chacun de donner une cohérence à l'époque qu'il avait à traiter<sup>30</sup>. La pluridisciplinarité s'est donc imposée à nous, comme elle s'impose naturellement sur un objet historique aussi vaste que la vie parlementaire. Il ne s'agit pas de faire une histoire des lieux du Parlement, il ne s'agit pas de faire l'histoire des parlementaires, ni celle du processus législatif. Il s'agit de faire tout cela à la fois, en inscrivant dans une dynamique historique problématisée. Notre histoire globale du Parlement est donc à la fois une archéologie des lieux de la vie parlementaire, une sociologie, une prosopographie et une anthropologie des acteurs, une géographie des rapports de force politique dans les assemblées, mais aussi une histoire des règlements, des processus législatifs, des débats, de la délibération, de l'éloquence, ou encore de la représentation, qu'elle soit médiatique, iconographique ou fictionnelle.

Tout au long de cette histoire, nous faisons intervenir les grands noms de notre vie politique contemporaine, les événements et les débats majeurs qui l'ont jalonnée, les grandes lois qui ont transformé la société française, mais aussi les changements de salles, les transformations de l'hémicycle, l'évolution du rôle des présidents d'assemblée, des bureaux, des commissions, des groupes, ou encore les mutations de l'éloquence parlementaire, de la discipline partisane, du public des tribunes ou de la médiatisation des débats.

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29. Par exemple *L'Année politique*, publiée de 1874 à 1905 par André Daniel, pseudonyme d'André Lebon puis de Georges Bonnefous; G et E. Bonnefous, *Histoire politique de la troisième République*, 7 Vol, 1956-1957; *L'Année politique* a été reprise à partir de 1946.

30. Bernard Gainot pour la Révolution française, Jacques-Olivier Boudon pour le Consulat et l'Empire, Eric Anceau pour la Deuxième République et le Second Empire, Jean Garrigues pour la Troisième République de 1871 à 1914 et Nicolas Roussellier pour la période 1914-1940, Gilles Le Beguec pour celle de l'Occupation et de la Quatrième République. Dans un souci de précision problématique, c'est le juriste Alain Laquière qui nous explique la naissance du système parlementaire bicaméral sous la Restauration et la Monarchie de Juillet. De même, le politiste Bastien François traite-t-il la période de la Ve République avec des instruments méthodologiques mieux adaptés que ceux d'un pur historien.

Plus le projet s'est concrétisé, et plus nous nous sommes rendus compte de l'immensité du travail à mener. C'est pourquoi le présent ouvrage est conçu dans notre esprit comme un commencement plutôt que comme une fin. Il fallait que cette histoire existe, pour souligner l'importance que la vie parlementaire a joué dans notre destinée collective contemporaine, pour manifester à notre façon l'essence délibérative de la démocratie à la française. Nous avons souhaité que cette histoire soit la plus globale, la plus ouverte possible, et la plus réceptive aux derniers acquis de la recherche.

Mais chacune des portes ouvertes, chacune des pistes explorées nous poussent à aller beaucoup plus loin. A l'instar du projet britannique *The History of Parliament*<sup>31</sup>, chacune des périodes historiques traitées dans notre *Histoire du Parlement* mériterait d'être approfondie en détails. Un *Dictionnaire de la vie parlementaire* et une enquête sur les parlementaires de la Cinquième République figurent (entre autres) parmi nos projets. Que ce soit dans la biographie, dans la prosopographie ou dans la sociologie des parlementaires, de leurs collaborateurs ou des administrateurs des assemblées, dans le processus législatif ou le fonctionnement des chambres, dans l'étude de la rhétorique délibérative ou de la représentation des débats, sur des questions importantes comme la diplomatie parlementaire et plus encore la représentation des diversités, ou encore dans le registre des groupes d'intérêts et d'influence, il reste d'énormes champs à défricher. Quant à l'histoire comparatiste, notamment avec les grands systèmes parlementaires occidentaux, elle ouvre des perspectives immenses<sup>32</sup>. Le Comité d'histoire parlementaire et politique a été conçu pour aider et encourager les chercheurs qui voudraient s'y lancer.

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31. Vingt-huit volumes ont déjà été publiés à ce jour, couvrant la période 1396-1820.

32. Voir la revue *Parliaments, Estates and Representation – Parlements, Etats et Représentation* (Ashgate), publiée chaque année par la Commission internationale pour l'histoire des Assemblées d'Etats.



# Introduction to Political Representation in Spanish Parliamentary History

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*Azken 200 urteotan Espainian ere sistema parlamentarioa garatu zen. Historia parlamentario honek mendebaleko beste sistemekin parekatuz gero, joera komunak adierazten ditu. Baina bestalde baditu bereizgarriak ere, batzuetan joera antiparlamentarioak gailendu zirelako eta horrez eragin zuen parlamentarismoaren porrota.*

*Giltza-Hitzak: Espainia. Parlamentua. Historia. Liberala.*

*El sistema moderno parlamentario también se desarrolló en España durante los últimos 200 años. Esta historia parlamentaria manifiesta aspectos comunes con otros sistemas parlamentarios del occidente. Pero al mismo tiempo muestra algunas características distintivas en algunos momentos a raíz del éxito del antiparlamentarismo y consiguiente fracaso del sistema parlamentario.*

*Palabras Clave: España. Parlamento. Historia. Liberal.*

*Le système moderne parlementaire s'est également développé en Espagne durant les 2 siècles derniers. Cette histoire parlementaire présente des aspects communs à d'autres systèmes parlementaires de l'Occident. Mais en même temps, elle montre des caractéristiques différentes à certains moments en raison du succès de l'antiparlamentarisme et de l'échec découlant du système parlementaire.*

*Mots-Clés : Espagne. Parlement. Histoire. Libéral.*

Modern Spanish Parliament has been in existence for two centuries. Its history shares common features with the histories of other Western parliamentary systems, but at the same time also shows some distinctive characteristics<sup>1</sup>. In spite of the efforts of the deputies themselves to present the liberal Parliament of the XIX century as the heir of the medieval *Cortes* of the country, the truth is that the parliamentary institution that emerged in 1812 in Cadiz with the Liberal Revolution bore little resemblance to the old consultative assemblies based on social categories. The hegemony of the legislative power over the monarchic executive was so explicitly affirmed in the 1812 Constitution that the system came to suffer from a lack of balance amongst the powers. In any case, universal (indirect) suffrage favoured a very broad design of political citizenship, in consonance with the results of other European revolutions<sup>2</sup>.

Shortly afterwards, and again in keeping with what was happening in post-revolutionary Europe, the conservative drift of liberalism rectified the initial design of the parliamentary system through a constitutional scheme in which the legislative power lost its supremacy over the Crown. Thus, the moderate Constitution of 1845 established a system of "shared sovereignty" in Spain, which gave the Crown significant powers such as legislative initiative, the convening of elections and the dissolution of the *Cortes*. Moreover, the electoral legislation placed notable restrictions on the right to vote, setting a high economic requirement as a condition for being able to participate. Even more important than these laws, even more determinant for the loss of prestige of the parliamentary system under Isabel II, was a series of political practices aimed at guaranteeing the predominance of the executive branch and also conceived as a barrier on the political mobilisation of society. Put very briefly, it could be said that the distortion of parliamentary system resulted from the tendency of the ruling political class to deprive the Parliament of numerous legislative initiatives, from the abuse of royal prerogatives in the choice of the head of governments and from the manipulation of elections in order to create artificial parliamentary majorities; all aimed at maintaining a monopoly of government control<sup>3</sup>. This in turn fueled pejorative views of the parliamentary system, such as that reflected in the cycle of novels *Episodios Nacionales* by Benito Pérez Galdós, in one of which the protagonist is a novice deputy who, along with his colleague, kills time in the fruitless parliamentary sessions by analysing the wigs worn by the other founding fathers<sup>4</sup>.

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1. A general view can be found in MARCUELLO, Juan I.; PEREZ LEDESMA, Manuel. "Parlamento y poder ejecutivo en la España contemporánea (1810-1936)". *Revista Estudios Políticos* 93, 1996, pp. 17-38. This article is part of the projects funded by the Ministerio de Ciencia BHA2002-01007 y HUM2006-00819).

2. Recent interpretations have give less relevance to the contribution of this Constitution with respect to the declaration of citizens' rights, considering it rather to have been an affirmation of a concept of the unitary and catholic nation, PORTILLO, José María: *Revolución de nación. Orígenes de la cultura constitucional en España, 1780-1812*. Madrid. Centro EPC, 2000. On the contrary, other authors have emphasised the innovative content of the Cadiz revolution, PEREZ LEDESMA, Manuel "Las Cortes de Cádiz y la sociedad española", *Ayer* 1 (1991), pp. 166-206.

3. MARCUELLO BENEDICTO, Juan Ignacio. "La Corona y la desnaturalización del parlamentarismo Isabelino", *La política en el reinado de Isabel II, Ayer* 29, 1998; pp. 15-36.

4. PEREZ GALDOS, Benito. *Narvéez. Episodios Nacionales*, Serie IV. Madrid: Librería y Casa Editorial Hernando, 1943; pp. 169-173. (written in 1902).

In spite of these negative stereotypes, which found an efficient projection in the XX century's anti-parliamentarianism, the fact is that there were periods of promising and genuine parliamentary activity, above all in those brief stages when advanced liberalism dominated the government. This occurred during the *Bienio Progresista* (1854-1856) and especially during the *Sexenio Democrático* (1868-1874). Political life in this second period, marked by the government of the progressive liberal, democratic and republican parties, rested on a new Constitution (1869) that recovered the supremacy of the Parliament over the other powers and limited the privileges of the Crown. Moreover, the political practices confirmed the principal role of the Parliament recognised by constitutional theory: in spite of the government instability, there was an intense legislative activity in the *Cortes* and the key political decisions were made there (whether the regime should be a Monarchy or a Republic, for example)<sup>5</sup>. The greater role of the legislative power was completed with a democratic electoral system, which for the first time established direct universal suffrage in Spain. And although this certainly did not imply the disappearance of the various formulas of electoral corruption, which in some ways became more sophisticated, it was in consonance with a broad conception of citizen's rights and freedoms.

The restoration of the Monarchy in 1876 marked a return to the more closed model of conservative liberalism, with the Crown recovering lost political powers and the reestablishment of "shared sovereignty". Even more problematic than the return to the restrictions on suffrage through criteria based on income, which substantially reduced the electoral census with respect to the previous stage, was the form in which the King interpreted his powers. Well into the XXth Century, and with an increasingly mobilised society, Alfonso XIII wanted to act as a moderating referee in political life –supposedly impartial, but in fact highly conditioned by his attachment to the most conservative institutions of Spanish life, the Army and the Church–. Although there were some reformist initiatives, the political class of this period wasn't overly inclined to taking the risk of favouring an authentication of the representative system either, because they would lose control of arranged elections whose results had been agreed upon beforehand. For these reasons, while from the later decades of XIXth Century other European countries made a legislative and political effort to authenticate the representative bodies, the Spanish Parliament was entering a dead-end street of inactivity and loss of prestige. Finally in 1923, the military coup d'état of Primo de Rivera, with the acquiescence of the King, suspended parliamentary activity<sup>6</sup>. Although a Consultative National Assembly was created, this did not fulfill the basic characteristics of a parliamentary assembly; and neither did the *Cortes* of Franco's dictatorship soon after.

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5. PEREZ LEDESMA, Manuel. "La vida parlamentaria en España: de la Revolución de 1868 a la derrota republicana de 1939". In: CAPELLAN DE MIGUEL, Gonzalo (Ed). *Parlamento y parlamentarismo en la España liberal. Manuel de Orovio y Práxedes Mateo-Sagasta*. Logroño: Parlamento de la Rioja-Ateneo Riojano, 2000; pp. 23-65.

6. On the Parliament of the Restoration and the reform proposals cut short by the coup of Primo de Rivera, see CABRERA, Mercedes (Dir.). *Con luz y taquígrafos. El Parlamento de la Restauración (1913-1923)*. Madrid: Taurus, 2001.

Between the two dictatorships of the XX century, there was a brief hint of parliamentary hegemony during the II Spanish Republic (1931-1936). In this time, the supremacy of the legislative power was strengthened by the participation in Parliament, above all during the first legislature, of numerous intellectuals who made the cause of the Republic and its project of change their own. The Constitution of 1931 clearly established the leading role of the Parliament in legislative initiatives and its legal authority to appoint the President of the State; but also envisaged the articulation of powers in the inverse direction<sup>7</sup>.

The most outstanding peculiarity of the Spanish trajectory resides in the lengthy suspension of parliamentary tradition with Franco's dictatorship from 1939 onwards. In spite of the existence of the *Cortes* during this period, these were neither representative nor pluralist, and they did not exercise any type of effective power. Defining itself as an "organic democracy", through its double opposition to liberal democracy and Marxism, Franco's regime created some *Cortes* in which representation corresponded to the three supposedly constitutive corporations of Spanish society (the members of the *Cortes*, so-called *procuradores*, "represented" the Family, the Municipality and the Vertical Trade Union [*Sindicato*], through a strongly conditioned vote). That these *Cortes* were empty of any representative substance, in the context of a dictatorial regime whose head of State monopolised all authority, is evident from the fact that they did not possess any of the functions that correspond to assemblies of this type in parliamentary systems: they had no legislative initiative, nor were they entrusted with any function of control over the executive power, nor over the government emanating from them<sup>8</sup>.

The transition to democracy that took place from 1975 onwards managed to recover the Parliament as one of the fundamental spaces of political life. The change from the organic *Cortes* to the democratic *Cortes* was led by Adolfo Suárez and channelled through the *Law for Political Reform*. This operation involved a process of political transition for which it would be difficult to find any comparison: it was unique due to the attitude of the official political class of the previous regime, which to a large extent accepted its own dissolution as such; it was also unique because of the attitude of the democratic opposition which, going back on its previous radical discourse, agreed to negotiation; and it was singular because of the maturity of the citizenry that responded positively to the proposals for political modernisation. In a complementary way, the electoral laws of 1977 introduced, together with direct universal and secret suffrage, the novelty of indicating that the political parties were the protagonists of the electoral processes, especially those aimed at forming the *Cortes* of Deputies.

This eventful history, with its advances and setbacks, has been approached from different angles, although with a certain lag with respect to other western

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7. CABRERA, Mercedes. "Las Cortes republicanas". In: JULIA, Santos (Ed.). *Política en la Segunda República*, Ayer 20, 1995.

8. SOTO CARMONA, Alvaro. "De las Cortes orgánicas a las Cortes Democráticas". In: REDERO SAN ROMAN, Manuel (Ed.). *La Transición a la democracia en España*, Ayer 15, 1994; pp. 109-133.

historiographies. Recently, I've developed a research project designed to delve deeper into the liberal origins of the Spanish parliamentary system and, more precisely, into the concepts of representation evolved by the diverse political groups during the XIXth Century<sup>9</sup>. The research has been developed along three lines of work. Firstly, reconstructing the process of elaboration of the electoral legislation, clarifying what were the main issues of debate and the solutions adopted in response to the most critical questions (extension of suffrage, requisites for eligibility, parliamentary incompatibilities, electoral offenses, etc.). Secondly, reconstructing the prosopographical outline of the political class that was especially involved in the elaboration of this legislation –as a whole, but also delimiting the nuances of each ideological or party group. Thirdly, analysing the discourse that gave form to the the concept of representation, focusing to the linguistic and intellectual resources and lines of argument employed, from a comparative perspective that contextualises the Spanish case by contrasting it with those of France, Great Britain and Italy<sup>10</sup>.

The conclusions of this research allow me to point out an observation regarding the success or failure of this parliamentary system whose gestation I have summarised. Although the history of its origins does not offer an idyllic panorama that would perfectly complement the parliamentary canon, but instead an irregular path made up of as many setbacks as achievements (as would occur in the historical analysis of any other case), what is certain is that the suspension of the Spanish parliamentary system by Franco's dictatorship did not constitute the merely formal elimination of an empty institution. However much anti-parliamentarianism of this or of any other kind successfully spread the image of the Parliament as a decorative and useless assembly into the XX century, the reality is that in the XIX century the Parliament had been one of the central spaces of the political struggle. Not the only one, nor the most decisive one when compared with the power of the Army or the Court pressure groups. But it was a space where Spanish liberal politicians attempted to define themselves with their gaze fixed on Europe, looking for effective models of the ideal representative government. Its potential contribution, the creation of a tolerant political culture that encouraged dialogue, should be kept in mind.

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9. The project, "The Profession of Deputy. The Idea of Political Representation in Liberal Spain (1845-1890)", was developed in cooperation with other colleagues of the University of Huelva – M<sup>a</sup> Antonia Peña – and the University of Alicante – Rafael Zurita. A more complete presentation of the research can be found in SIERRA, María; ZURITA, Rafael; PEÑA, María Antonia. *La representación política en la España Liberal, Ayer* 61, 2006.

10. The main conclusions in SIERRA, María. "The Profession of Deputy. The Idea of Political Representation in Liberal Spain". *Parliaments, States and Representation*, 30. 2010.

# The Biographical Dictionaries in Europe\*

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*Espainian oraindik orain ez da egin parlamentarioen hiztegi biografikorik. Lan honetan 1810tik gaur egun arteko hiztegi biografiko parlamentarioaren egitasmoa aurkezten da. Europan Erresuma Batuko eta Frantziako hiztegi biografikoak dira bibliografiaren baitan premiako erreferentziak.*

*Giltza-Hitzak: Biografia. Parlamento. Hiztegia. Espainia. Europa.*

*En España no se ha producido hasta la fecha un diccionario biográfico parlamentario. Se presenta el proyecto en curso del diccionario biográfico parlamentario desde su nacimiento en 1810 hasta la actualidad. Los diccionarios biográficos del Reino Unido y de Francia representan la referencia bibliográfica referencial.*

*Palabras Clave: Biografía. Parlamento. Diccionario. Spain. Europa.*

*En Espagne, aucun dictionnaire biographique parlementaire n'a été produit jusqu'à présent. On y présente le projet en cours du dictionnaire biographique parlementaire de sa naissance en 1810 à aujourd'hui. Les dictionnaires biographiques du Royaume-Uni et de France représentent la référence en matière de bibliographie.*

*Mots-Clés : Biographie. Parlement. Dictionnaire. Spain. Europe.*

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Over the last two decades there has been a renewed interest in biographical studies within European historiography. This period has seen an increase in the number of biographical books published and sold. A study made in the United Kingdom in 1994 reported that 19% of the books read that year had been biographies, while in the United States research carried out by the Library of Congress confirmed that biography was the most widely read genre and that it was one of the four subjects most watched on the A&E cable TV of that country; this had encouraged the creation of a “mini-industry of biographical programs”<sup>1</sup>.

At present some authors even speak about a “culture of biography”<sup>2</sup>, which would include biography in a broad sense, covering an interest in the lives of people and intruding into the private sphere. Justin Kaplan has rightly called this “a fascination with the singularity and surprise of individual existences”<sup>3</sup>.

But not all the works that are published as biographies should be considered in the same way. Already in 1928 André Maurois spoke of “biography as an art”, “scientific biography”, “biography as a means of expression”, “autobiography” and “biography and the novel”<sup>4</sup>. Amongst these types we can define biography as historical if it arises out of a serious cognitive requirement, considers the interrelationships between the individual and his reality, contributing in this way to the study of society, and comparing oral and written sources<sup>5</sup>. J.E. Neale pointed out the importance of understanding the individual in order to understand the group within which he develops his life:

I state the obvious when I say that we cannot fully understand the nature and functioning of any human group without knowing about the individuals who compose it<sup>6</sup>.

But this biographical work can be aimed at the analysis of one person or of a group of persons, in the form of a serialised biography. Such series of biographies must include the same questions in all of them, that is to say, a research scheme must be created that is common to all of them. This makes the serialised biographies into something different from individual biographies. In this way: “When the same questions are asked and –if possible– answered in each biography, the results can and should be summarized and given in tabular form

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1. BACKSCHEIDER, PR. *Reflections on Biography*. Oxford: Oxford University Press, 1999; p. XIII. In the Spanish case a considerable number of biographies have been published in recent years, see CARTAÑA, E. DEVESA, D. “Algunes notes sobre la biografia històrica a Espanya, 2000-2005”; In: *Cercles*, n. 10. 2007; pp. 301-306.

2. SALWAK, D. (ed.). *The Literary Biography. Problems and Solutions*. London: MacMillan Press, 1996; p. 1. This is the title of the chapter prepared by Justin Kaplan; pp. 1-11.

3. WALTER, J. “The utility of short lives”. In: *Biography*, n. 29-2, 2006; p. 329.

4. MAUROIS, André. *Aspects de la biographie*. Paris, 1928. These are the titles of the chapters of the book.

5. POZZI, R. “Genere minore o impresa da maestri?”. In: *Contemporanea*, n. 2, 1999; pp. 289-294.

6. NEALE, J.E. “The Biographical approach to History”. In: *History*, 1951, october; p. 196.

as statistics”, in order to extract valid conclusions about the groups studied and the institutions to which the personages belong:

As we construct these group biographies significant points emerge as common elements in the evidence; points which were not likely to reveal their significance in a non-biographical approach. (...) Very many questions in their nature presuppose biographies: the facts are unobtainable without at least skeleton biographies. Then again, the tables showing the prevalence of the phenomena in which one is interested postulate a biographical basis<sup>7</sup>.

## **1. BIOGRAPHICAL DICTIONARIES: THE RETURN OF WHAT NEVER DEPARTED**

One expression of the serialised biographies of which Neale speaks can be found in the biographical dictionaries. Not all of them, however, respond to the premises established by this author. In contrast to the ups and downs in the production of individual biographies, the genre of biographical dictionaries has not fallen off at any time and their publication continues. It is however true that their characteristics have changed over time.

In our exposition we shall use the classification of K. Thomas<sup>8</sup>, which divides them into three groups: universal biographical dictionaries; biographical dictionaries referring to a specific geographical area, amongst which national dictionaries are outstanding; and biographical dictionaries of groups.

In the first case, the criterion for inclusion of the personages whose biography is to be written is their pre-eminence. In the second, their place of birth or relationship with a territory is added to pre-eminence. And in the third, the criterion is the profession or occupation carried out by the personages about whom the biography is written.

### **1.1. The origin of biographical dictionaries: universal biographical dictionaries**

We can date the origin of biographical dictionaries to the work: *The Biographia Britannica, or the Lives of the most Eminent persons who have flourished in Great Britain and Ireland from the Earliest Ages down to the Presente Times*<sup>9</sup>, which started a flourishing line of work that has continued down to the present day.

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7. NEALE, J.E. “The Biographical approach to History”, pp. 196 and 203.

8. THOMAS, K. *Changing conceptions of National Biography. The Oxford DNB in Historical Perspective*. Cambridge: University Press, 2005.

9. Published between 1747 and 1766 in 7 volumes. A second edition was prepared between 1778 and 1793, which was left incomplete at the letter “F” of the fifth volume (LEE, Sidney. “The Dictionary of National Biography. A Statistical Account”. In: STEPHEN, Leslie; LEE, Sidney (ed.). *The Dictionary of National Biography*. Oxford: Oxford University Press, 1973 (8th ed.), vol I, p. LXII).



The novelty of this work resides in its posing the biographical work as a dictionary which brings together a series of biographies defined by a common criterion. This is one of the basic questions to bear in mind when analysing biographical dictionaries: What is the criterion for the inclusion/exclusion of personages?

Following this pioneering work, we find the project directed by A. Chalmers *The General Biographical Dictionary: containing an historical and critical account of the lives and writings of the most eminent persons in every nation; particularly the British and Irish; from the earliest accounts to the present time*<sup>10</sup>, published in 32 volumes in London between 1812 and 1817. This biographical dictionary aimed to include outstanding people from all countries and all professions (politicians, writers, religious figures, etc.) Its introduction poses the difficulty inherent in correctly selecting the personages whose biography is to be written; in this recourse is taken to the authorities on the subject, that is, to other dictionaries. This is very interesting as it points out our idea of utilising a clear and objective criterion for selecting the biographies.

Another interesting work was that edited by M. Hoefer, *Nouvelle Biographie Générale depuis les temps les plus reculés jusqu'à nos jours, avec les renseignements bibliographiques et l'indication des sources à consulter*<sup>11</sup>. Its most important innovation was the inclusion of the sources, which must be considered innovatory with respect to earlier models<sup>12</sup>.

## 1.2. National Biographical Dictionaries

From 1835 onwards the projects for great universal biographical dictionaries were replaced by national biographical dictionaries.

In the XIX century, the construction of the new liberal states in Western Europe gave a new impulse to biography. The emergent bourgeoisie called for the preparation of new cultural instruments in order to legitimise the new model of society and to spread the principles of liberalism. It is within this framework that we must understand the proliferation of histories and national biographical dictionaries.

These dictionaries, unlike individual biographies, have continued to be elaborated throughout the contemporary period. The countries that undertook this task

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10. CHALMERS, A. *The General Biographical Dictionary: containing an historical and critical account of the lives and writings of the most eminent persons in every nation; particularly the British and Irish; from the earliest accounts to the present time*<sup>11</sup> / A new edition revised and enlarged by Alexander Chalmers, F.S.A. London, 1812-1817, 32 vols. (reprint in New York, AMS Press Inc. & Kraus Reprint Co., 1969).

11. HOEFER, M. *Nouvelle Biographie Générale depuis les temps les plus reculés jusqu'à nos jours, avec les renseignements bibliographiques et l'indication des sources à consulter*. Paris: Firmin Didot Frères, Fils et Cie éditeurs, 1857-1866, 46 vols. (reprint Copenhagen, Rosenkilde et Bagger, 1963-1969, 23 vols.).

12. HOEFER, M., vol. I, p. I.

have given it continuity by publishing new editions, extending the originals or preparing new dictionaries. This has meant that the editions of national biographical dictionaries reach down to the present day<sup>13</sup>.

In the preparation of these works we can observe two different models, connected with their origin. The continental European model and the Anglophone model.

In the countries of continental Europe the original impulse was provided by the governments, which wished to make known the lives of persons of merit of their countries, offering the citizens a model to follow in the process of national construction. Following this model, national biographical dictionaries were prepared in Sweden, Holland, Austria, Germany, Belgium, France, Denmark, Norway, Luxembourg, Italy and Spain.

Facing this list of national biographies publicly promoted by governments, academies of sciences, etc., the Anglophone world was to see the primacy of projects funded by private individuals. The best known of these is the English *The Dictionary of National Biography* (London, 1885-1901).

### **National Biographical Dictionaries**

When analysing these dictionaries we can formulate the following conclusions. One of the fundamental questions to be born in mind when analysing biographical dictionaries is: What is the criterion of inclusion / exclusion of the personages? This criterion is also conditioned by the material possibilities of the project. This question is clearly exemplified in the Italian case. The project of the *Dizionario biografico degli italiani*<sup>14</sup> was begun with an initial list of personages whose biography was to be written that numbered 200,000. Given the enormous extension and cost of this work, they decided to limit the number of biographies in the *Dizionario* to 40,000, and to create a second work, the *Repertorio*, in which the entries excluded from the former would be included<sup>15</sup>.

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13. A more detailed account of the appearance and evolution of biographical dictionaries in the contemporary period can be found in AGIRREAZKUENAGA, J.; URQUIJO, M. "Biographical Dictionaries of Parliamentary Members in Southern Europe: History Starting from its Actors". In: *Parliaments, Estates & Representation*, n. 25, 2005; pp. 227-232.

14. Some of the most outstanding precedents, dictionaries and biographical repertories, can be found in DIONISOTTI, Carlo. "Biografia e iconografia". In: VIVANTI, Corrado (a cura di). *Storia d'Italia. Annali 4. Intellettuali e potere*. Torino: Einaudi, 1981; pp. 417-426 and in ROMANI, Valentino. "Élites allo specchio: notabilato e repertori italiani di biografia corrente tra Otto e Novecento". In: *Le Carte e La Storia*, n. 1, 2001; pp. 22-30.

15. *DIZIONARIO biografico degli italiani*, vol. I, p. XVII.

Country	Title	Vols	Edition
Suecia	<i>Biographiskt Lexikon öfver namnkunnige Svenskamän</i>	23	1835-1857
	<i>Svenskt biografiskt lexikon</i>	10	1857-1907
	<i>Svenskt biografiskt lexikon</i>	30	1918-2000
Holanda	<i>Biografisch Woordenboek Der Nederlanden</i>	24	1852-1878
	<i>Nieuw Nederlandsch Biografisch Woordenboek</i>	11	1911-1937
	<i>Biografisch Woordenboek Van Nederland</i>	5	1979-2001
Austria	<i>Der grosse Oesterreichische Hausschatz: biographisches Lexicon des Kaiserthums Oesterreich</i>	60	1856-1891
	<i>Neue Österreichische Biographie Ab 1815: Grosse Österreicher</i>	22	1923-1987
	<i>Österreichisches Biographisches Lexikon 1815-1950</i>	10	1957-2001
Bélgica	<i>Biographie Nationale</i>	28	1866-1944
Alemania	<i>Allgemeine Deutsche Biographie</i>	56	1875-1912
	<i>Neue Deutsche Biographie</i>	22	1953-2005
Reino Unido	<i>Dictionary of National Biography</i>	22	1885-1901
	<i>Oxford Dictionary of National Biography</i>	60	2004
Noruega	<i>Norsk Biografisk Leksikon</i>	19	1921-1983
EEUU	<i>Dictionary of American Biography</i>	20	1926-1937
	<i>American National Biography</i>	24	1999
Francia	<i>Dictionnaire de Biographie Française</i>	20	1933-2004
Dinamarca	<i>Dansk biograhisk Leksikon</i>	27	1933-1944
	<i>Dansk biograhisk Leksikon</i>	16	1979-1984
Luxemburgo	<i>Biographie nationale du Pays de Luxembourg depuis ses origines jusqu'a nos jours</i>	11	1949-1975
Italia	<i>Dizionario biografico degli italiani</i>	66	1960-2006
Canadá	<i>Dictionary of Canadian Biography – Dictionnaire Biographique du Canada</i>	14	1966-1989
España	<i>Diccionario biográfico de los españoles</i>	20	2010

Given that the inclusion of personages in a national biographical dictionary can make them into an object of study, since those included supposedly make up the elite of that country<sup>16</sup>, the way in which the process of selection of the personages whose biography is included in such works can be highly relevant.

16. An interesting reflection on the importance of the criterion of inclusion in biographical dictionaries and the transcendence of the exclusion of personages can be found in BELL, Colin. "Some Comments on the Use of Directories in Research on Elites, with Particular Reference to the Twentieth-Century Supplements of the Dictionary of National Biography". I: *British Political Sociology Yearbook*, vol. I Elites in Western Democracy, 1974; pp. 161-171.

Another serious problem is deciding on the starting date: When does a country start to be one? Was France a country at the time of the Gauls? When did Italy start to exist?

Nor is it easy to establish a clear geographical framework: What should be done with the colonies or with territories that have passed into the hands of another state? Should Rosellón be considered Spain or France? Does Nice form part of Italy? Should Alsace and Lorraine be included in the dictionary of France or that of Germany?

A fourth question to be considered in this type of work is that they are never finalised, since they must be constantly renewed. This situation has led to a serious problem with some works given the numerous appendices and new series that must be consulted. This is why the option of publishing on computer formats has been adopted by many of them, since extensions can easily be integrated into the original work and the cost of republication is less.

In this evolution of the biographical dictionaries the compilation of the lives of eminent personalities has been acquiring a scientific character to the degree that two requirements are met:

In the first place, the works must be elaborated with first-hand information and in general from archive documents. This is to say they cannot be a mere re-elaboration of previously published articles. An example of this condition being met is found in the *Dictionary of National Biography* of the United Kingdom, where it is an indispensable requirement for all of its entries<sup>17</sup>.

In the second place, the incorporation of the sources employed in each of the entries must be obligatory, as is normal practice in any scientific work, which enables the reader to check what the author asserts<sup>18</sup>.

### 1.3. Biographical dictionaries by subject or group

But the biographical dictionaries we have cited are only a small part of what this type of study can offer. There are numerous biographical dictionaries of groups or by speciality, which are tools for the study of a specific subject or of a concrete group of personages, defined by objective elements. Such is the case with *A Biographical Dictionary of Dissenting Economists*<sup>19</sup> or *The Biographical*

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17. LEE, Sidney. *The Dictionary of National Biography. A Statistical Account*, vol I; pp. LXI-LXXXIV.

18. This requirement was first introduced in the XIX century in the work HOEFER, M. Le Dr. (dir.). *Nouvelle Biographie Générale depuis les temps les plus reculés jusqu'à nos jours, avec les renseignements bibliographiques et l'indication des sources à consulter*, vol. I, p. I.

19. ARESTIS, Ph.; SAWYER, M. (ed.). *A Biographical Dictionary of Dissenting Economists*. Hants: Edward Elgar, 1992.

*Dictionary of British Feminists*<sup>20</sup>. Given that it would be an interminable task to enumerate all of the possible group or subject orientated dictionaries, we shall concentrate on those that are closest to our object of study, that is, the biographical dictionaries referring to members of parliament.

## 2. BIOGRAPHICAL DICTIONARIES OF PARLIAMENTARIANS

Within this group of biographical dictionaries the two most complete studies that have served as referents are those of the United Kingdom and France.

The first large-scale project in Europe concerning the study of parliamentarians was that begun in France on the centenary of the French Revolution. The *Dictionnaire des Parlementaires Français*, made up of three series, which includes the period 1789-1958<sup>21</sup>.

From the outset this dictionary established a methodology of work that we can qualify as scientific. The first consideration was to include “all” the parliamentarians “*sans en omettre un seul*” (p. I) of the assemblies elected after 1789. That is to say that the selection criterion employed is that of being an elected parliamentarian, not an evaluation of the parliamentarian’s importance, which might be made by the author of the dictionary.

The second methodological contribution of this work is the use of original archive sources in order to avoid the errors included in many of the biographies published about parliamentarians. The authors work with the parliamentary archives on electoral documentation, personal files and all of the personal information concerning the personages. An outstanding aspect in their library work is the research using the press of the period, biographies already published on the personages, family genealogies and the catalogues of the departmental or local archives. Finally, they work with the collections of manuscripts concerning the personages, using family archives and civil registers in order to support the biographical data. That is to say, a whole range of sources –general and local, public and private– that makes it possible to offer a complete view of the personage.

There is one question that in our opinion is not considered by this dictionary and its continuations, and that is the specific analysis of parliamentary activity.

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20. BANKS, Olive. *The Biographical Dictionary of British Feminists. Volume One: 1800-1930*. New York: University Press, 1985.

21. ROBERT, Adolphe; COUGNY, Gaston (dir.). *Dictionnaire des parlementaires français, comprenant tous les membres des assemblées françaises et tous les ministres français, depuis le 1er mai 1789 jusqu’au 1er mai 1889, avec leurs noms, état civil, états de services, actes politiques, votes parlementaires, etc.* Paris: Bourolton, 1889-1891, 5 vols.; JOLLY, Jean (dir.). *Dictionnaire des Parlementaires Français. Notices biographiques sur les ministres, députés et sénateurs français de 1889 à 1940*. Paris: Presses Universitaires de France, 1960-1977, 8 vols. and BARBIER, F.; BERGOUIGNIUX, M.A.; CHARLE, M. Ch. (dir.). *Dictionnaire des Parlementaires Français. Notices biographiques sur les parlementaires français de 1940 à 1958*. Paris: La Documentation française, 1988-2001, 4 vols. The first two dictionaries can be consulted in PDF format at <http://www.assemblee-nationale.fr/histoire/biographies>. Besides, the database on parliamentarians created by National Assembly offers the same biographies.

They do however follow the political evolution of the personage, which includes the work developed in parliament.

As a complement to this work we can consider a partial work dedicated to the Revolution, the *Dictionnaire des Constituants (1789-1791)*<sup>22</sup>. This is a dictionary of biographies of the members of the Constituent Assembly. The biography makes a brief reference to their biographical data, their family, their professional career and their parliamentary career, a section which is given greater importance.

But the most ambitious project in existence for the study of parliament is probably *The History of Parliament*<sup>23</sup>. Its aim is the study of the British parliament from its origins in the XIV century to the present, and the work is being carried out in a research institute dependent on the House of Commons<sup>24</sup>.

It originated in 1936, during the crisis of parliamentarianism of the inter-war period, when the project was set up to strengthen the democratic institutions: "The aim was as much a celebration of this 'peculiarly English' institution, a consolation in the face of chaos and dangers abroad, as it was a piece of scientific history"<sup>25</sup>. In the same sense David Hayton adds: "[the] history of the 'mother of parliaments' (...) would prove to be an inspiration to democrats in other countries, and somehow turn back the rising tide of totalitarianism"<sup>26</sup>.

It was initiated by Josiah Wedgwood, as Speaker of the House of Commons (he occupied the post between 1929 and 1942), and the great driving force behind the project was Lewis Namier. For Namier the basis of the project was to be the Dictionary of Parliamentary Biography, formed of "biographies grouped, stratified and analysed in a number of self-contained, manageable sections to form in aggregate a motion picture film of the House of Commons"<sup>27</sup>. In short, a biographical dictionary that should give rise to a prosopographic analysis<sup>28</sup>.

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22. LEMAY, E.H. (dir.) *Dictionnaire des Constituants (1789-1791)*. Paris: Universitas, 1991, 2 vols.

23. There is a presentation of the project in SEAWARD, P. "The history of Parliament Project and the future of parliamentary history". In: SOBREQUES, J.; AGIRREAZKUENAGA, J.; MORALES, M.; URQUIJO, M.; CISNEROS, M. (eds.). *proceedings of the 53rd Conference of the ICHRPI (Studies presented to the ICHRPI. Volume LXXXII)*. Barcelona: Palament de Catalunya- Museu d'Història de Catalunya, 2005, vol. II; pp. 1583-1593.

24. This project receives funding from the two Houses of the British Parliament. Twenty-five researchers work on writing the project. In principle they have no outside collaborators. Their office is located in London (15 Woburn Square, London, WC1H 0NS). More information can be found at their website (<http://www.history.ac.uk/hop>).

25. DAUNTON, M.J. "Virtual representation: the *History of Parliament* on CD-ROM". In: *Past & Present*, 2000, n. 167; p. 240.

26. HAYTON, David. "The History of Parliament". In: *History Scotland*, 2002 Sept-Oct., p. 20.

27. DAUNTON, M.J. *Op. cit.*, p. 241.

28. It should be recalled that contemporary historical prosopography was born with this author, and was centred on the study of parliamentary life. See NAMIER, L. *The structure of Politics at the accession of Georges III*, London, 1929 y NAMIER, L. *England in the Age of American Revolution*, London, 1930.

In the inter-war years this project received less support due to the scarcity of funds that were available for it, but after the Second World War it received fresh impetus with the contribution of more funds from the public institutions and the creation of a publishing committee to give it impetus<sup>29</sup>. For many years it has received funding from the House of Commons and since 1993 it has also received funding from the House of Lords.

At present 28 volumes have been published, dealing with the House of Commons between 1386 and 1820<sup>30</sup> and with the House of Lords between 1660 and 1832<sup>31</sup>. The first 23, dealing with the Commons and containing 17,000 biographies, were revised and republished on CD-ROM in 1998<sup>32</sup>. At present the elaboration of four more series is underway that will close the period 1386-1832<sup>33</sup> and work is being done on planning the periods prior to 1386 and subsequent to 1832<sup>34</sup>.

Besides these two big European projects, we can find some smaller scale initiatives.

In Italy there is no biographical dictionary of parliamentarians, but there is the work *Il Parlamento italiano 1861-1992*<sup>35</sup> (24 volumes and 2 atlases), which offers a biographical approach to some of the parliamentarians. There is also a small dictionary dealing with the parliamentarians of Sardinia included in a broader work on the island<sup>36</sup>, although this has less depth than the models cited previously.

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29. HAYTON, David. *Op. cit.*, pp. 19-23.

30. Twenty-five volumes have been published that are structured in eight series: 1386-1421, 1509-1558, 1558-1603, 1660-1690, 1695-1715, 1715-1754, 1754-1790, 1790-1820.

31. The reason for starting the study with the House of Commons is that there was already a work on the members of the House of Lords: *Complete Peerage*. It was also due to the interest of the project directors in deepening knowledge of the process by which the Parliament adopted its present form. In this respect it was essential to study the Commons rather than the Lords, as the promoters of the process of democratisation of British political life.

32. DAUNTON, M.J. *Op. cit.*, pp. 238-261.

33. The series that are being elaborated are 1422-1504, 1604-1629, 1640-1660, 1820-1832.

34. On the evolution of this work see SEAWARD, P. "Local history in the *History of Parliament*". In: *The Local Historian*, vol. 32, 2002, n. 3; pp. 173-177.

35. BUCCOMINO, Pasquale (ed.). *Il Parlamento italiano 1861-1992*, Milano, Nuova CEI, 1989-1993, 24 vols. y 2 Atlantes. This is a work on the Italian Parliament (1861-1983) and an Atlas (in 2 volumes) of the institutions from 1848 up until 1990. The Atlas offers a description of the state institutions, while the work on the Parliament analyses their history: it includes chronologies of their work, the composition of governments, various articles on parliamentary debates and some biographies of the protagonists of parliamentary life and lists of the members of parliament of each legislature. The final volume includes the composition of the republican governments and the composition of parliament by parties. In a certain way, this is a biographical dictionary of parliamentarians and politicians, but it does not include all of the elected parliamentarians of the period studied.

36. ORRÙ, Tito. "Dizionario biografico dei parlamentari sardi". In: BRIGAGLIA, M. (a cura di) *La Sardegna*. Cagliari: Ed. della Torre, 1988; pp. 336-402.

In the United States there is no printed biographical dictionary, instead the Congress has created the *Congressional Biographical Directory*<sup>37</sup>, which can be consulted on Internet. On this database it is possible to access a brief biography of the parliamentarians that does not include a specific section about their parliamentary activity.

Another model of a database for the study of Parliament is that of *Indbio*, which contains biographical material for the study of the parliamentarians of India since 1977. The aim in this case has not been to produce a dictionary but a database as an empirical tool for studying the Parliament and representation<sup>38</sup>.

A work of greater interest was elaborated in Switzerland on its Federal Parliament. The work is in two parts. A biographical dictionary<sup>39</sup>, which contains the biography<sup>40</sup> of all the Swiss parliamentarians elected between 1848 and 1920, and a study of the parliamentarians on the basis of their biographical data<sup>41</sup>, which is not strictly speaking a biographical dictionary.

In Portugal a project has been set underway by the *Instituto de Ciências Sociais de la Universidade de Lisboa*<sup>42</sup> in collaboration with the Parliament to prepare a *Dicionário biográfico Parlamentar (1834-1910; 1935-1974)*<sup>43</sup>. The biographies are excessively brief and simple, without entering into any detail about the parliamentary aspects of the personage.

In Spain, to date, we do not have a biographical dictionary of the Spanish parliamentarians. In contrast with this lack of a Spanish project, several works of a regional scope have been prepared which do not always coincide in their methodological approach. Notable in these works is the interest in evaluating the parliamentarians and their work from a national and local perspective, to thus

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37. <http://bioguide.congress.gov/biosearch/biosearch.asp>.

38. DAWES, I. "Studying India's Leaders: Potential and Pitfalls of an Electronic Database". In: *Asian Studies Review*, vol. 17, 1994, n. 3; pp. 119-123.

39. GRUNER, Erich (dir.). *Die Schweizerische Bundesversammlung 1848-1920. Band I Biographien / L'Assemblée Fédérale Suisse 1848-1920. Volume I Biographies*. Bern: Francke Verlag, 1966, 2 vols.

40. The file used has fourteen headings: the first four are data concerning life and family, the rest cover religious belief, education, military career, professional career, political career, membership of political parties, economic relations and economic associations, public activity, works and sources. This data is the source for analysing the parliamentarians included in volume II. An original element of this work is that the biography is written in the mother tongue of the personage, except in the case of the Romansh language. In this way a solution is provided to the choice of language in a plurilingual country.

41. GRUNER, Erich (dir.). *Die Schweizerische Bundesversammlung 1920-1968 / L'Assemblée Fédérale Suisse 1920-1968*. Bern: Francke Verlag, 1970.

42. The team that is preparing it is formed by Maria Filomena Mónica, Manuel Braga Cruz, Maria de Fátima Bonifácio, Nuno Monteiro and Rui Ramos.

43. FILOMENA MÓNICA, Maria (dir.). *Dicionário biográfico parlamentar (1834-1910)*. Lisboa: Instituto de Ciências Sociais da Universidade de Lisboa – Assembleia da República, 2004-2006, 3 vols. and BRAGA DA CRUZ, M.; COSTA PINTO, A. *Dicionário biográfico parlamentar (1935-1974)*. Lisboa: Instituto de Ciências Sociais da Universidade de Lisboa-Assembleia da República, 2004-2005, 2 vols.



understand their political activity in its totality, since their activity in parliament is related to their activity in their areas of origin and their legislative proposals are related to their regions and to regional interests<sup>44</sup>.

The first work, prepared by our team, had as its object of study the parliamentarians who represented *Vasconia* [The Basque Country] in the period between 1808 and 1876<sup>45</sup>. In this work we began to elaborate a model of biographical dictionary that we have been refining in subsequent works and that has served as the basis for the *Diccionario biográfico de los parlamentarios españoles* [Biographical Dictionary of the Spanish Parliamentarians]. We opted for a clear criterion of selection of the personages whose biographies would be written: the parliamentarians. The biographical research scheme we chose is based on the proposal of life circles, elaborated by Julio Caro Baroja<sup>46</sup>. With respect to sources we opted for searching in original archive sources as the basis of work, which was complemented by existing printed sources. On the basis of these proposals we prepared this work, which will be continued with another Dictionary that ends in 1939. This work was carried out thanks to the financial support provided by the Basque Parliament between the years 2002 and 2006<sup>47</sup>.

In Castilla y León, a team directed by Pedro Carasa (University of Valladolid) published a work on the political elites of Castilla y León during the Restoration, which includes a biographical dictionary of the parliamentarians who represented these provinces between 1876 and 1923<sup>48</sup>. The biographical research scheme and the sources are similar to those employed in the work dealing with the Basque Country. What is notable about this work is that together with the volume of the biographical dictionary they include a prosopographical analysis of the parliamentarians. This same group is at present preparing the *Diccionario biográfico de los parlamentarios castellanos y leoneses (1834-1874)* [Biographical Dictionary of the Parliamentarians of Castilla y León (1834-1874)].

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44. On this question see SEAWARD, P. "Local history in the *History of Parliament*". In: *The Local Historian*, vol. 32 (2002) n. 3, pp. 173-177 and CRAGOE, M. "A Cheaper Short of Member? Welsh MPs, Select Committees and the Representation of Local Interest in Parliament 1852-1865". In: *Parliaments, Estates & Representation*, vol. 14, 1994, n. 2; pp. 133-148.

45. *DICCIONARIO biográfico de los parlamentarios de Vasconia (1808-1876)* [Biographical Dictionary of the Parliamentarians of Vasconia (1808-1876)], Vitoria-Gasteiz, Parlamento Vasco – Eusko Legebiltzarra, 1993.

46. CARO BAROJA, J. *Biografías y vidas humanas* [Biographies and Human Lives]. San Sebastián, 1986.

47. In the year 2002 an Agreement was signed between the University of the Basque Country and the Basque Parliament in order to finance the research project that made it possible to prepare this new work: *Diccionario biográfico de los parlamentarios de Vasconia (1876-1939)* [Biographical Dictionary of the Parliamentarians of Vasconia (1876-1939)]. Vitoria-Gasteiz: Parlamento Vasco – Eusko Legebiltzarra, 2007, 3 vols.

48. CARASA, Pedro (dir.). *Élites castellanas de la Restauración. Vol I. Diccionario biográfico de parlamentarios castellanos y leoneses (1876-1923). Vol II. Una aproximación al poder político en Castilla*. Salamanca: Junta de Castilla y León, 1997, 2 vols.

In Galicia, a group coordinated by X.R. Barreiro Fernández has prepared a work dedicated to the study of the parliamentarians of Galicia<sup>49</sup>. Unlike the two works cited previously, it covers the XIX and XX centuries, but the biographies are briefer, the sources consulted are less exhaustive and it does not include a section dedicated to the analysis of parliamentary activity.

In Cantabria, a team at the University of Cantabria under the direction of Aurora Garrido, and funded by the regional parliament, is developing a project for a biographical dictionary of the parliamentarians who represented this Community. In the first place, they published the volume dedicated to the XX century<sup>50</sup>, and in 2006 they published the volume dealing with the XIX century<sup>51</sup>. Besides including the parliamentarians in the *Cortes Generales* [Spanish parliament], it also includes parliamentarians of the autonomous parliament and representatives to unelected assemblies such as the National Consultative Assembly of the Dictatorship of Primo de Rivera and the *Cortes* of the Francoist Dictatorship. The biographical research scheme contains the different aspects of the life of the personage, although it does not dedicate a specific section to the analysis of parliamentary activity. With respect to sources, great importance has been given to local and oral sources for the parliamentarians of more recent periods.

Finally, there are several projects underway to prepare biographical dictionaries of parliamentarians. In Catalonia, Borja de Riquer is directing a project to draw up the *Diccionario biográfico de los parlamentarios catalanes del siglo XX* [Biographical Dictionary of the Catalan Parliamentarians of the XX Century]. In Almería, Fernando Martínez is directing a team that is finishing the *Diccionario biográfico de diputados, senadores y procuradores en Cortes de Almería (1810-1977)* [Biographical Dictionary of the Deputies, Senators and Lawyers in the Parliament representing Almeria (1810-1977)]. And in Cadiz, Diego Caro is directing the project for the *Diccionario biográfico de los parlamentarios del primer liberalismo en Andalucía (1810-1869)* [Biographical Dictionary of the Parliamentarians of the First Liberalism in Andalusia (1810-1869)].

### 3. THE BIOGRAPHICAL DICTIONARY OF THE SPANISH PARLIAMENTARIANS

As we have indicated there are significant methodological differences in each of the works cited. This leads us to propose the need for preparing a *Diccionario biográfico de los parlamentarios españoles* [Biographical Dictionary of the Spanish Parliamentarians] that will coordinate the tasks of the different research groups that have been working in the different Spanish universities.

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49. BARREIRO FERNÁNDEZ, X.R. *Parlamentarios de Galicia, biografías de deputados e senadores (1810-2001)*. A Coruña: Real Academia Galega, 2002, 2 vols.

50. GARRIDO, A. (dir.) *Diccionario biográfico de los parlamentarios de Cantabria (1902-2002)*. Santander: Parlamento de Cantabria, 2003.

51. GARRIDO, A. (dir.) *Diccionario biográfico de los parlamentarios de Cantabria (1813-1901)*. Santander: Parlamento de Cantabria, 2006.

To this end we set out from the individual experience of each of the existing groups, the experience of our relationship with the International Commission for the History of Representative and Parliamentary Institutions and the knowledge of the French experience of the *Comité d'histoire parlementaire et politique*. With this experience we proposed to proceed from work in individual research groups to the formation of a network of groups, thus advancing to the new form of knowledge production<sup>52</sup>.

On the basis of the cited reflections on the production of biographical dictionaries and the experiences mentioned in the previous paragraph, we formed a group of six lecturers<sup>53</sup> from five different universities and we have started to structure a research network, coordinated from the University of the Basque Country. Each of these lecturers is responsible for directing the preparation of the works in an area of Spain. Starting from these groups, the network has been extended to forty Spanish universities that are collaborating in the research tasks.

To carry out this research an Agreement of collaboration has been signed between the University of the Basque Country and the Spanish Parliament<sup>54</sup>, in which the periods and aims of the work are regulated and the Parliament agrees to finance the project for the first five years (2006-2010).

### **3.1. Object of study**

The dictionary that we are presenting has as its aim to provide a biography of all of the parliamentarians of the two Chambers of the Spanish Parliament from the origin of the liberal Parliament in 1810 until the present day.

But given the high number of personages, we have started the project with a first phase that covers the period 1810-1854. This will involve the preparation of 3,744 biographies.

### **3.2. Research methodology**

Having defined the object of study and the scientific context in which it is situated, we will explain the biographical structure that we have employed and the sources with which we are working to carry out our task.

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52. GIBBONS, M. et al. *The new production of knowledge*, London, 1994.

53. Joseba Agirreazkuenaga and Mikel Urquijo (University of the Basque Country), Borja de Riquer (Autonomous University of Barcelona), Pedro Carasa (University of Valladolid), Javier Moreno (Complutense University of Madrid) and Maria Sierra (University of Seville).

54. Agreement signed in Madrid on June 26th 2006.

### 3.2.1. Biographical research scheme

The internal structure of each of the biographies is similar to that employed in earlier works<sup>55</sup>. With the inclusion of the different sections of the life of the personage we aim to fill the existing vacuum that is due to the non-existence of general biographical dictionaries and, on the other hand, to present the personage in all of his complexity<sup>56</sup>, attempting to analyse the relationship existing between his family, his education, his patrimony, etc., and his public activity.

The biography begins with the heading. This contains the Christian name and surnames of the personage, his noble title should he possess one, the date and place of his birth and of his death, the districts he represented, together with the year of the elections when he was elected as a parliamentarian or senator, or the year when he was appointed senator for life or became one by right.

Next, the first section is a description of his family circle, which contains his personal data and his family relations: the names of his parents, grandparents, etc., and their political, economic or cultural activities if these might be important for understanding the biography of our personage.

The second section is the socio-cultural circle, in which his training, both academic and professional, is analysed. We should not forget that regulated training was not very extensive in professions like commerce and was complemented in the family businesses themselves or in those of corresponding companies in other parts of Spain or Europe. In this section we also include the professional activity in which the personages were involved.

The third section, closely linked to the previous one, is the material basis: his patrimony and the source of the personage's income. Here we find his remunerations due to his political dedication, if he held positions remunerated by the public administration, together with the income from his profession and the income from his patrimony.

In the fourth place his political circle is analysed, that is, his political activity and his participation in the local, provincial or national institutions. Within this section special attention is paid to the analysis of his work as a parliamentarian: both his election and his activity in the *Cortes* (Houses of Parliament), through his speeches and his participation in the commissions of the *Cortes*.

The study of the parliament in general, and of his parliamentary activity in particular, is carried out by attending to the sources and to his activity in the Parliament and in his district. As Paul Seaward points out the study of parliamentarians must include the two spheres –the national and the local– because their activity in the Parliament is related to their activity in their districts, where they had their property and their business interests, since these personages pro-

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55. *DICCIONARIO biográfico de los parlamentarios de Vasconia (1800-1876)*, pp. 20-22.

56. STONE, L. "Prosopography". In: *Daedalus*, vol. 100, 1971, n. 1; pp. 46-79.

moted legislation that was related to their districts and modified projects depending on local interests<sup>57</sup>.

In the fifth place, a collection is made of his writings and of the sources and biography used for preparing the biography of the personage<sup>58</sup>. Amongst the sources we only cite in each biography those that contribute something significant to the biography. Other works that have provided information are cited in the bibliography at the end of the work, either because these have not been so outstanding, or because they duplicate some of those works cited, or because they are less relevant for the specific case, although they might be important in placing the personages in their social, political or economic context.

Nor do we cite the diaries of sessions of the Congress of Deputies and of the Senate, in order to avoid excessive reiteration, although they have been used as a source in all cases for the analysis of parliamentary activity.

All of the above is completed with a portrait and a signature of the personage, in the cases where it has been possible to obtain these. The image and signature are not decorative elements, but rather references of great utility for identifying the personage in cases of confusion between fathers and sons, or other relatives, who share the same Christian name and surnames.

### 3.2.2. The sources used

The starting point for producing the biographies is that they must be prepared from first hand information. This criterion, used by all of the great biographical dictionaries, was clearly established in the model that has inspired many of them:

the principles of the Dictionary obliged contributors to seek information from first-hand authorities, and often from unpublished papers and records. It was made an indispensable condition that writers should append to each article a full list of the sources whence their information was derived<sup>59</sup>.

Once the list has been established of the personages about whom biographies will be prepared, an examination is made of existing encyclopaedias and general biographical works, the *Indice Biográfico de España, Portugal e*

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57. SEAWARD, P. "Local history in the *History of Parliament*". In: *The Local Historian*, vol. 32, n. 3; pp. 173-177.

58. This is not done in all of the biographical dictionaries, although since the XIX century it has been considered as an addition that confirms the rigour of the work, see HOEFER, M. Le Dr. (dir.). *Nouvelle Biographie Générale depuis les temps les plus reculés jusqu'à nos jours, avec les renseignements bibliographiques et l'indication des sources a consulter*, Vol. I, p. I.

59. LEE, Sidney. "The Dictionary of National Biography. A Statistical Account". In: STEPHEN, Leslie; LEE, Sidney (ed.) *The Dictionary of National Biography*. Oxford: Oxford University Press, 1973 (8<sup>a</sup> ed.), vol I; p. LXIV.

*Iberoamérica*<sup>60</sup> [the Biographical Index of Spain, Portugal and Iberoamerica] and compendiums of biographies of parliamentarians, as well as the specific monographs on different personages.

The work in the archives has two phases: the first aimed at seeking information in the general archives and the second in the local archives.

The general archives in which work will be done are:

- Parliamentary Archives: Archive of the Congress of Deputies and Archive of the Senate.
- Archives of the Civil Administration of the State: National Historical Archive (Madrid), General Archive of the Administration (Alcalá de Henares), Archive of the Ministry of Foreign Affairs and Central Archive of the Ministry of Justice.
- Military Archives: General Military Archive of Segovia, Archive of the “Don Álvaro de Bazán” Museum (El Viso del Marqués. Ciudad Real).
- Archives of other public bodies: General Archive of the Royal Palace (Madrid), Archive of the Bank of Spain (Madrid).
- Archives of the Academies.

The principal local archives in which work will be done are:

- Archives of the Universities.
- Historical Provincial Archives.
- Archives of the Provincial Deputations.
- Municipal Archives.

### **3.2.3. The system of documentary information: the database**

This information is organised into a system of documentary information formed by three databases. The system is articulated around a principal biographical database from where the information contained in the other database can be accessed through links.

The databases designed in the establishment phase are: the Biographical Database, the Bibliographical Database and the Archival Database.

The design and structure of these databases is flexible and open to modifications and changes that the fieldwork might make necessary: incorporation of new fields or sub-fields, etc.

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60. HERRERO MEDIAVILLA, V.; AGUAYO NAYLE, D.R. (ed.). *Indice Biográfico de España, Portugal e Iberoamérica*. München - New Providence - London - Paris: K.G. Saur, 2000, 10 vols. (3rd ed.).

The computer program that permits the documentary management of the different related databases is WINISIS 1.5 (December 2003). This is a high level documentary management system (DMS) designed by the Unesco<sup>61</sup> and distributed in Spain by the *Centro de Información y Documentación Científica* (Centre of Information and Scientific Documentation - CINDOC) of the CSIC.

The biographical database structures the information gathered on each parliamentarian grouped in different areas: personal, professional, academic and parliamentary data and sources of information.

The assignment of a single registration number to each parliamentarian, which identifies him within the system, makes it possible to interrelate this database with the other databases that have been designed.

Interrelation and “surfing” between different databases makes it possible to obtain the biography, bibliography and most representative documentary sources for each parliamentarian. From the main screen of the biographical database specific information on each parliamentarian can be accessed through different hyperlinks to:

1. The same database (Personal data, professional and academic data, parliamentary data).
2. Other databases:
  - a. Bibliography and written works.
  - b. Documentation localised in the different archives consulted.
  - c. Electronic documentation (websites [HTML documents], Internet links [URLs], images, entries in digitised dictionaries, etc.).

The bibliographical database collects and describes both the bibliography and/or the printed work localised by the research team on the parliamentarians and the work written by them.

The Archival database collects and describes the archive documents (files and documentary units) localised on each parliamentarian in the different collections and archives consulted in the project.

#### **3.2.4. Plan of work**

The work will be structured over a period of five years (2006-2010).

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61. [http://portal.unesco.org/ci/ev.php?URL\\_ID=2071&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201&reload=1035195531](http://portal.unesco.org/ci/ev.php?URL_ID=2071&URL_DO=DO_TOPIC&URL_SECTION=201&reload=1035195531).

- **Year 2006:** organisation of the structure of the Network, elaboration of the list of personages about whom biographies will be prepared and start of the work in the national sources.
- **Year 2007:** continuation of the work in the national sources.
- **Year 2008:** work on the local sources.
- **Year 2009:** all of the researchers who are going to write the biographies will carry out research to complement that already done by the group, in order to finish the work on the personages.
- **Year 2010:** writing of the biographies and the digitisation of signatures and images of the personages.

The final result of this work will be the publication in different phases of the Biographical Dictionary of Spanish Parliamentarians<sup>62</sup> and the creation of an open database on these personages that will serve as a source for other types of work that might be proposed in the future.

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62. In September of 2010 will be published the *Diccionario biográfico de los parlamentarios españoles (1810-1814)* by the Spanish Parliament (Cortes Generales).



# Reflections on Italian Parliamentary System

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*Italiako Parlamentua, 1861 urtetik, ohizko erakunde legegilea edo gobernuaren kontrola egiten zuen baina horrez gain, Italiaren nazio eraikuntza gidatu zuen: Buruzagi ezberdinen nahiak bateratuz, trenbide sarea bultzatuz edo kode edo lege komunak burutuz. Parlamentuaren errolaren inguruan gaizki ulertzeak gertatu ohi dira eta horren inguruan gogoeta egiten da. Italian politika erlijio edo ideologiaren arloan planteatu ohi da, zeregin praktikoa eta sekularra izan beharrean, intelektualen eraginez antiparlamentarismoa bizituz. Baina politikoak bateraguneak eta balore partekatuak bultzatu dituzte, bereziki Parlamentuan eta berau izan da ekintza politikoaren erdigunea.*

*Giltza-Hitzak: Italia. Parlamentua. Antiparlamentarioa. Intelektuala. Política. Erlijioa.*

*Además de su función ordinaria legislativa y de control, el Parlamento del Reino de Italia desde 1861 se ha distinguido por su compromiso con la construcción nacional italiana, amalgamando las clases dirigentes, fomentando la red ferroviaria y legislando códigos y leyes comunes. Este artículo reflexiona acerca del rol del Parlamento y los malentendidos que provoca. La política adquiere una dimensión religiosa o ideológica mas que una actividad secular o pragmática, fomentado desde ámbitos intelectuales y antiparlamentaristas. Sin embargo los políticos han contribuido a fomentar lugares de encuentro y valores compartidos particularmente desde el Parlamento, en tanto que centro de la acción política.*

*Palabras Clave: Italia. Parlamento. Antiparlamentario. Intelectual. Política. Religión.*

*En plus de sa fonction législative ordinaire et de contrôle, le Parlement du Royaume d'Italie depuis 1861 s'est distingué par son engagement avec la construction nationale italienne, amalgamant les classes dirigeantes, développant le réseau ferroviaire et légiférant des codes et des lois communs. Cet article examine le rôle du Parlement et les malentendus qu'il provoque. La politique acquiert une dimension religieuse ou idéologique plus qu'une activité séculaire ou pragmatique, fomentée depuis des milieux intellectuels et antiparlamentaristes. Néanmoins, les politiques ont contribué à fonder des lieux de rencontre et des valeurs partagées particulièrement depuis le Parlement, comme centre de l'action politique.*

*Mots-Clés : Italie. Parlement. Antiparlamentaire. Intellectuel. Politique. Religion.*

The aim of this presentation is to emphasize the contradiction between the role that Parliament has played in modern Italian history and the common negative opinion against politics that is spread in Italian society.

Firstly, I want to underline that Italian Parliament is characterized by a strong continuity, although it has changed different political regimes during the century and half since the unification of the country.

This continuity is marked by the bicameral system. Two Chambers have always worked with the same powers, excepted the Constituent Assembly after the second world war. With the Monarchy, senators were appointed by the king; with the Republic, they have been elected directly as the deputies. But the balancing function of bicameralism has survived in its integral version.

Beyond this structural aspect, Parliament has been in all the times the focal place for the political struggle. Every transition has been approved by the Parliament. Also the March on Rome by Mussolini was ratified in the Parliament through the confidence vote to his cabinet in November 1922. On the contrary, the authoritarian attempt made at the end of the XIX century by Pelloux was defeated in the Parliament thanks to the filibustering of the alliance between liberals, radicals and socialists. No other institution has had in Italian history the same capacity to legitimize or not political actors.

This role derives from the nation-building function that Italian Parliament has fulfilled even before the unification of the country. The Savoy dynasty linked its destiny to Italian future with the preservation of constitutional orders after the loss of the first independence war in 1849. The young king Vittorio Emanuele II was irremovable to the pressure of the Austrians for the abolition of the Constitution given by his father, king Carlo Alberto. So Turin became the only Italian capital to keep a Parliament open. Exiled patriots, politicians and intellectuals coming from the other States of the peninsula were elected deputies or appointed senators. They lent to Piedmont assemblies a true national aspect that attracted sympathies from all the country.

Since 1849 to 1859, under the direction by Massimo D'Azeglio and after by Camillo Cavour, the Parliament of the Kingdom of Sardinia was acknowledged as the Italian Parliament in embryonic stage. Its work was oriented to adequate public legislation and administration to the national aspirations of the dynasty, particularly in the field of the relations with the Catholic Church, the historical obstacle to Italian unification because of the Papal States. That Parliament used also to discuss the political strategies to achieve national objectives. The majority was created by an alliance of centre-right and centre-left, called the "connubio", but both the extreme right and the extreme left accepted parliamentary dialectics.

It is not casual that the legislatures of the new Kingdom of Italy, proclaimed in 1861, maintained the numeration of the previous Parliament. So the first one (1861-1865) was the eighth: another mark of institutional continuity. The

national function was obviously developed by the Parliament during the first decades of the unification. In both Chambers, representatives coming from different regions progressively amalgamated in a national ruling class. Initially, regional membership influenced political orientation (rightists were more from North and Central Italy; leftists more from the South). But after 20 years, a new alliance –the so called “trasformismo”– allowed to overcome the regional gap. Italian Parliament was in that period the protagonist of the legislative unification of the country, emanating new codes, laws and practices. Also the geographic unification was achieved by the Parliament financing the railway net and promoting statistics and parliamentary enquiries on social issues in order to make the country better known.

In that Parliament, the old republican Francesco Crispi –as many other fellows of democracy– declared his adhesion to the Monarchy; than became Speaker and Premier. Parliamentary life was the framework for the integration of revolutionary patriots, of regional representatives, of social rebels. Another old fellow of the irreducible Giuseppe Mazzini, the prophet of Republicanism, Alberto Mario admitted that Parliament was developing the Monarchical Constitution in a democratic sense. In 1882, the first socialist, Andrea Costa, was elected deputy. Only catholic representatives were out of Parliament because of the papal ban on supporting the State responsible of his exile in Vatican. But they were also destined to be integrated in the beginning of the twentieth century.

In the first fifty years of the Italian State, Parliament was involved in the progressive enlargement of the right to vote. Male universal suffrage was accomplished in 1912, after some intermediate stages. This objective was pursued by the left, but had supporters on the right too. Many liberals thought that the allowance to vote would have been able to attract the confidence of working classes. The result was achieved by Giovanni Giolitti, the father of modern industrial society in Italy, who should be recalled for his choice to make the State neutral in the conflict between workers and employers. His strength derived from the Parliament, where he was able to dialogue with socialists, in the attempt to make them accept the logic of reforms instead of that of revolution.

Although all these achievements could be ascribed to the Parliament, it is between the XIX and XX century that a negative image of representative institutions became to spread in Italian culture. The anti-parliamentary movement had many sources: aspirations to authoritarian changes, political scandals, criticism to patronage system, and so on. Polemics on Parliament and against parliamentarians was popular in the newspapers, in the novels, in the journals, and not only in the satire. A famous slogan was created at that time: “the real country is better than the legal country”. In other words, civil society is better than political class.

It is very interesting to mention that the stronger opponent to this vision was the first intellectual who studied the so called “Southern question”, the problem of the integration of Southern regions in the national framework, Giustino Fortunato. Thanks to his long parliamentary experience, he affirmed the opposite

vision, that legal country was better than the real country, that politicians and particularly parliamentarians were better than their electors, because they used to find solutions to the problems and not to complain or to protest merely.

This critical attitude towards politics is –as well known– a returning phenomenon in Italian history. But its roots are in this period and are perhaps linked with some original defects of the political system. I think that it should be more underlined who are the most promoters of the anti-parliamentary movement. They are intellectuals, journalists, writers, political thinkers, historians, coming essentially from middle classes. In Italy, this kind of people is too much embroiled with politics. So their analyses are not really independent and their aspirations are often concentrated in replacing politicians.

Polemics against Parliament has been one of the principal source for the naissance of Fascism. The declared hostile target for Mussolini was the Parliament. Fascism was also determined by the consequences of the first world war. And it is not casual that the entrance in the war was the first strategic political choice that was made in Italy not in the Parliament but exploiting mass demonstrations. For the first time the “piazza” prevailed over the Parliament, where the majority of deputies were against the war.

However, Fascism too was not able to cancel the Parliament. While the Senate was protected by the royal prerogatives, the Lower Chamber was transformed according to the principle of corporativism, but kept the numeration of the legislatures and even improved the system of parliamentary committees. Elections were firstly reduced to plebiscites and than abolished. But Parliament was always the negative mirror of the regime and so it was nevertheless in the heart of its rhetorical propaganda. On the other hand, the regime was the first big turn-over in Italian ruling class on the political side: a lot of new men (“*homines novi*”) came up.

It is not usual to recall that Dino Grandi, the author of the order of the day against Mussolini approved by the Great Council of Fascism in the night of July 25<sup>th</sup> 1943, signed that document as “*Presidente della Camera*” (speaker of the chamber), omitting the following words of “*fasci and corporazioni*” so to come back to the old name of the assembly. Parliament was still perceived as a national political symbol if Mussolini wanted it to be transferred to the North after his removal by the king and the foundation of the RSI (Italian Social Republic) under the Nazi control. At the same time, the new government appointed in Rome the speakers of the two Chambers, although it was clearly impossible to go on with any parliamentary activity. But it was the attempt to vindicate the legitimacy of the continuity of representative power.

The restoration of democracy after the second world war was passed of course through the Parliament. Even before the institutional referendum between Monarchy and Republic, antifascist parties agreed to create a representative body composed of delegations appointed by themselves. The bigger parties accepted to have the same number of seats as the smaller ones. The so

called “Consulta Nazionale” met in 1945 at Palazzo Montecitorio in Rome, the historical location of the Chamber of Deputies since 1871.

The Italians (males and females for the first time) elected the Constituent Assembly on June, 2<sup>nd</sup> 1946, in coincidence with the referendum. The election was held on the basis of the proportional system, firstly introduced in 1919 and than abolished by fascism. Although the leading Christian-Democrats broke in 1947 the cabinet alliance with leftist parties according to the world division imposed by cold war, they all cooperated in the redaction of the new Constitution that was finally approved in December 1947 by a large majority. Parliament became so the place of political mediation, mutual respect and institutional agreement. That is why the Republican Constitution, as the new national pact for Italy, confirmed the Parliament as its heart.

As well known, till 1992 Italian political system was characterized by the continuous presence of Christian Democrats (DC) in power and Communists (PCI) in opposition. But the constitutional solidarity survived and was very fructuous in the 70s and 80s in the fight against political terrorism. But also on the rightist side the mechanism of parliamentary legitimization worked. The neo-fascist movement –although forbidden by a constitutional provision– was allowed to parliamentary representation under the name of MSI (“Movimento Sociale Italiano”) and its leader was so keen in parliamentary practice to become the record-man in parliamentary eloquence.

Because of their exclusion from the cabinet area, both extreme parties found in Parliament their natural field of activity and became its strong advocates. In 1971, thanks to a reform of parliamentary standing orders, functions of political groups were strengthened promoting their cooperation instead of their confrontation. This role of Parliament was moreover emphasized in 1976, when for the first time a member of the opposition Communist party was elected speaker of the Lower Chamber. In those years, even some chairpersons of standing committees came from opposition parties.

Giorgio Amendola, one of the most prestigious leaders of PCI since antifascism, acknowledged that Italy developed more in the decades after the second world war than in the last centuries. Parliament contributed mainly to this process. It granted political stability to the country thanks to the constitutional pact. It made better known Italian society through fact-finding inquiries on poverty, emigration, but also organised crime. It passed historical reforms on agriculture, education, workers rights, environment, family law, public health, regionalism.

This view could seem too much optimistic in consideration of the collapse of Italian political system after the end of the cold war and the fall of Berlin wall. Otherwise, it would be a mistake to consider only the international situation as the cause of Italian political change since 1992. Many other factors have influenced it, but their specific role is differently evaluated according to various political tendencies.

One tendency privileges the moral issue and underlines the corruption of the old political class, praising the judiciary for its commitment in trials against political leaders. Another tendency stresses the vindications coming from localism in contraposition with the government of the capital, according to the arguments of the Northern League. But in my opinion the main factor was the binding power of the criteria of European Monetary Union that obliged Italy to leave out the political misuse of public expenditure and the substantial tolerance of fiscal evasion.

However, I think that a so radical change of the political system was possible only because of the persistence of the antiparliamentary attitude rooted in Italian public opinion and raised by intellectual elites. Since the 50s, political scientists denounced the phenomenon of the so called "partitocrazia", meaning by this neologism that political parties occupied all institutional and social spaces overcoming their constitutional position. In the following two decades, the extreme left boycotted parliamentary practices, calling people to political violence. In 1978, after a series of political scandals that involved also the President of the Republic of the time, who was obliged to resign, the proposal to abolish public funding to parties received the support by the 40% of the electorate.

According to this conception, Italian Parliament has never been representing citizens, but only political oligarchies or even criminal organisations. More moderately, another explanation criticizes the Italian political system in terms of "consociativismo", considering a poison for democracy the so called "compromesso storico".

It is obviously hard to tell today which is or will be the final result of long transition phase in Italian politics opened after the end of the cold war. But I want, concluding this reflections, to try to offer an interpretation based not on contingent events, but on a *longue durée* perspective, looking at the historical discrepancy between the role played by the Parliament and its misunderstanding in the dominant cultural streams. The underestimation of Parliament has been unfortunately practiced also in historiography. For example, one of the most spread collective history of Italy ("Storia d'Italia Einaudi") has published only in 2000 a volume on the Parliament, while in the previous volumes on Italian political and social history references to representative institutions are not considered central.

The interpretative-key is for me given by the fracture in Italian history between politicians and intellectuals, the first ones oriented to pragmatism, the second ones to ideology. So parliament has been the best place for ones, and the worst for the others. It is true that popular polemics against politics and politicians ("antipolitica") is certainly spread among all Italians, and relies upon a traditional mistrust in the public. But anti-parliamentarism has been more and more nourished by intellectual elites. That is why, till now, in both the political sides, politician pragmatism and intellectual radicalism have not still reached an affordable agreement able to give to the country a self-confident identity and constructive alternatives of government.

## The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America

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Analytic  
Summary

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**Corciulo, Maria Sofia** (Univ. "La Sapienza" Roma. Fac. di Scienze Politiche. Dpto. di Studi Politici. Piazzale Aldo Moro. I-00185 Roma): **Contributions of the International Commission for the History of Representative and Parliamentary Institutions (ICHRPI) to the Debate on Methodology** (Orig. en)

In: *The Making of Parliaments in 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 13-20

Abstract: This paper reviews the most important contributions of the International Commission from its origins to the present. The first Congress of this Commission took place in Lausanne in 1936, and its founding father was Emile Lousse. The methodological construction of Émile Lousse has come to be known as the Constitutional-Corporative. The Italian scholar Antonio Marongiu, whose theory was called neo-parliamentary, made a distinction between pre-parliamentary and parliamentary Assemblies. The studies of the last twenty years have moved more and more towards consolidating those aspects that bring out the vitality and force of so-called European "regionalism" in the framework of the dynamics of power and the related forms of representation.

Key Words: ICHRPI. Lousse. Marongiu. Assemblies. Parliament. Regionalism.

**Rezende Martins, Estevão de** (Univ. de Brasília. Inst. de CC. Humanas. Dpto. de História. BRA-70910-900 Brasília): **Parliaments in Latin America: Transatlantic Political Culture and Parliamentary Institutions** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 21-37

Abstract: The parliamentary history of Latin America suffers under a twofold ambiguity. On one hand, the tradition of a strong presidential regime has deeply compromised the aptitude of a shared exercise of power in the State. After the different movements of independence, which have installed republican systems of government all over the old Spanish colonies, only Brazil remained organized as the old European metropolitan sieges, as a monarchy.

Key Words: Latin America. Parliament. Presidential regime. Political culture.

**Guerrieri, Sandro** (Univ. "La Sapienza" Roma. Fac. di Scienze Politiche. Dpto. di Studi Politici. Piazzale Aldo Moro. I-00185 Roma): **Power versus Representation? The Making of the European Parliament** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 39-48

Abstract: The European Union is an organization which has overcome the character of a simple cooperation between states based on the standards of international law. One of its main peculiarities is the important role now attributed to a representative assembly, the European Parliament, which is the European institution that has most changed during the years.

Key Words: European Parliament. Altiero Spinelli. Lisbon Treaty. Multi-level governance.

**McGarth, Peter** (The Scottish Parliament. Edinburgh EHH99 15P): **The Scottish Parliament and the "Westminster Model": A Decade of Law-Making at the Scottish Parliament (1999-2009)** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 49-72

Abstract: Yet the current Scottish Parliament is a child of Westminster (it was the UK Parliament that of course agreed the Act creating it) and of its time. There are tensions between the role envisaged for the Parliament and the political culture that shaped it - and continues to do so in the dynamic process of devolution. This short paper will consider whether the Scottish Parliament indeed embodies a "new politics" or whether it follows a "Westminster model" of Parliamentary governance more closely than might have been anticipated.

Key Words: Scottish Parliament. Westminster model. Political culture. Devolution of powers.



**Agirreazkuenaga, Joseba** (UPV/EHU. Social Sciences and Communication Fac. Contemporary History Dept. Sarriena, s/n. 48940 Leioa): **Exploring Resilience Patterns amongst National Minorities: From the Historical Representative Assemblies (1812-1877) to the Basque Parliament (1980)** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 73-90

Abstract: In Europe, within the nation-states there are other national-regional parliaments. The coexistence of multi-level parliaments is a challenge. To explore the longue durée of the Representative Assemblies of the Basque Country we will employ resilience thinking. There has been a capacity over the last 200 years to deal with change and, after their abolition in 1877, to build new Representative Assemblies and new Parliaments: the Basque Parliament and the Foral Parliament of Navarre (1980)

Key Words: Representative Assemblies. Basque Parliament. Resilience. Multi-level governance.

**Garrigues, Jean** (Univ. of Orleans President du Comité d'histoire parlementaire et politique. UFR Lettres, Langues et Sciences Humaines. 10, rue de Tours. BP 46527. 45065 Orléans Cedex 2): **Le Première histoire du Parlement Français** (The History of French Parliament) (Orig. fr.)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 91-97

This is the first global history of French parliamentarism in the contemporary period. It's surprising, because parliamentary history is an old tradition in the French historiography. Long time ago, history of French politics has been based upon the parliamentary life.

Key Words: France. Parliament. History. Politics. Historiography.

**Sierra, María** (Univ. de Sevilla. Fac. de Geografía e Hª. Dpto. de Hª Contemporánea. María de Padilla, s/n. 41004 Sevilla): **Introduction to Political Representation in Spanish Parliamentary History** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 99-103

Abstract: Modern Spanish Parliament has been in existence for two centuries. Its history shares common features with the histories of other Western parliamentary systems. At the same time also shows some distinctive characteristics regarding the success or failure of this parliamentary system

Key Words: Spain. Parliament. History. Liberal.

**Urquijo, Mikel** (UPV/EHU. Social Sciences and Communication Fac. Contemporary History Dept. Sarriena, s/n. 48940 Leioa): **The Biographical Dictionaries in Europe** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 105-123

Abstract: In Spain, to date, we do not have a biographical dictionary of the Spanish parliamentarians. The dictionary that we are presenting has as its aim to provide a biography of all of the parliamentarians of the two Chambers of the Spanish Parliament from the origin of the liberal Parliament in 1810 until the present day. Within this group of biographical dictionaries the two most complete studies that have served as referents are those of the United Kingdom and France.

Key Words: Biography. Parliament. Dictionary. Spain. Europe.

**Napoli, Mario di** (Italian Chamber of Deputies. Secretary of Foreign Affairs Committee. Piazza Montecitorio. 00186 Roma): **Reflections on Italian Parliamentary System** (Orig. en)

In: *The Making of Parliaments: 19<sup>th</sup> and 20<sup>th</sup> Century, Europe and America*, 125-130

Abstract: In modern Italian history, the national Parliament has played a role other than the classical functions related to legislation and oversight. Parliament has been essentially a strong mean for the nation-building, the Parliament of the Kingdom of Italy, since 1861, gave common laws and codes to the country, created a national railway network, amalgamated the ruling classes. The paper is directed to try an explanation of this misunderstanding. In Italy, politics has been more a religious or ideological than a secular or pragmatic matter. This vision, however, has influenced more the intellectuals than the politicians that often have instead managed to agree on shared values.

Key Words: Italia. Parliament. Antiparliament. Intellectual. Politics. Religion.