

MR. WILLIAM. H. ROBINSON
CRS

URGENT

Hope you find it acceptable
WHR

**INFORMATION AND POLICY ANALYSIS
IN A DEMOCRATIC LEGISLATURE:
A LATIN AMERICAN PERSPECTIVE**

Prepared by
N. Guillermo Molinelli *
University of Buenos Aires

***Presented at the
Tenth International Conference of Parliamentary Libraries***

***San José de Costa Rica
August 18-19, 1994***

* Fax (54-1) 312-4800

LAT /1859

Sist /686

Adq /113

Fecha: 06-10-2010

As a sort of introduction, it is fitting to explain that the purpose of this paper is to share some thoughts on information in legislatures, from a Latin American perspective. In the context of this paper, the word "information" refers, mainly but not exclusively, to that (a) produced internally, within the legislature itself, (b) by permanent, neutral staff, such as that usually found in parliamentary libraries. But, is there a *Latin American perspective*? I submit that there is, on account of geography, some cultural similarities, a basically similar presidentialist design (1), and certain common features regarding electoral systems and party systems: party-elite selection of party candidates to the legislatures, multiple member districts, (often) proportional representation, and the resulting party discipline.

This is why you will find here an analysis with some emphasis on presidentialist systems, although I hope that some concepts may be of a more general use. Also, this is the reason for a certain emphasis on information as related to legislation: in presidentialist countries legislatures normally do not have a role in the election/removal of the president, but they are expected to have a role as legislators. Furthermore, in Latin America "oversight" seems to be more partisan-oriented than legislation activity as such although, as we shall see, this partisan orientation has effects as well on the legislation-producing realm.

Let me add finally that there is not enough empirical research on this subject regarding Latin American reality. It would be useful to know systematically, for instance, the sources of information actually used by legislators, who produces it, how it is produced, how the legislature processes that information, etc. But this is not known, unlike the situation in the United States (2).

1. Yes, knowledge is power. It is very frequent in books and articles on the subject of this paper to find the famous Bacon maxim: "Knowledge is power" (*nam et ipsa scientia potestas est*). When I started work on this paper I swore to myself that I would avoid it, in order not to fall into what has by now become a cliché quoted *ad nauseam*. And yet, I found I could not, because the basis of this paper is, indeed unavoidably, that knowledge is power.

But why and, more specifically, how does it relate to our subject? One way to approach this is to remember that Bacon had a very "practical" --some would say "instrumental"-- idea in mind. Knowledge for Bacon is power in the sense that it is not mere argumentation or spiritual ornamentation, it is something to use (3). At this point, another well-known Bacon saying may help: "Nature, to be commanded, must be obeyed," that is, to act upon reality, reality must be

known. Knowledge means knowing reality in order to act upon it (4). However, Wright Mills starts from a different assumption: knowledge as an ideal, and resents the fact that nowadays knowledge is valued as an instrument (5).

In fact it does not matter, at least not in this context, whether Wright Mills was right in a historical sense, or whether Bacon was the originator of the changes he deplures. Wright Mills may be useful in this context to remind us that knowledge and power are not always united in the same individual or group:

The problem of knowledge and power is, and has always been the problem of relations of men of knowledge with men of power ... there is little union in the same person, of knowledge and power. (6)

Knowledge and power are united in Plato's ideal political community. But usually, in reality, there is a separation between individuals/groups with power (powerful because they are descendants of the previous ruler or because they enjoy more coercive means than others or --in democratic societies-- because they are successful in being elected by the voters) and those who have knowledge and assist (or criticize) the first.

Of course, in a democratic society, the politically powerful --the people's representatives-- do know something which others usually do not. They know how to be elected, which certainly is a kind of knowledge (of an "agonistic" kind). But here, in this paper, we are concerned with another kind of knowledge, that related with another endeavour, i.e., what to do with power once it is acquired and while it is maintained ("architectural") (7). And here, in this field, the powerful need a little help from those who have that kind of knowledge.

One can further think about this issue in two different directions, both relevant to our subject:

- In the context of a relationship between different individuals, groups, organizations, institutions. In this context, one has to bear in mind, *ceteris paribus*, that he who knows more is in an advantageous position. Exclusive knowledge is power. If a second party has access to knowledge, the power of the first --originally based on exclusive knowledge-- diminishes, and the second party --that which acquired knowledge initially the exclusive possession of the first-- increases its own. This results in more than just shared power, it may imply a transformation of the power relationship.
- Knowledge affects the characteristics of organizations ("institutions" included), such as size. Limits in communications systems within an organization imply limits on how much knowledge that organization can

handle efficiently. But more knowledge in the form of technology may also mean an improvement in the communications system, allowing a larger size to the organization itself (8). Substitute "size" with "power" and the implications are relevant to our subject.

Some further analysis on knowledge/power may be useful here, following an author who some would not hesitate to qualify as "lowbrow." I refer to Alvin Toffler, who in his attractively titled book "Powershift. Knowledge, Wealth and Violence at the Edge of the 21st Century" has helped to call attention to some relevant properties of knowledge, thus:

The main weakness of violence ... is its sheer inflexibility. It can only be used to punish. It is, in short, low quality power. Wealth, by contrast, is a far better tool of power ... It can also offer finely graded rewards ... either in a positive or negative way. It is therefore much more flexible than force. (But) the highest quality power, however, comes from the application of knowledge. High quality power is not simply clout.... It implies efficiency --using up the fewest power resources to achieve a goal. Knowledge can often be used to make the other party like your agenda for action. ... Of the three ... it is knowledge the most versatile. It can transform enemy into ally ... Knowledge also serves as a wealth and force multiplier. (9)

Furthermore, Toffler adds that:

- Today both force and wealth themselves have come to depend in an astounding degree on knowledge. Witness the military and business relying more and more on technology.
- While both wealth and force are finite, knowledge is not and, further, is not used up.
- Force and wealth are the property of the strong and the rich (the few) but knowledge can be obtained by the weak and poor.

Thus, says Toffler, knowledge is the most democratic source of power and its control is the crux of tomorrow's worldwide struggle for power in every human institution.

If you discount hyperbole and replace "institution" with "political system," this introductory case on the relevance of knowledge to legislatures becomes apparent.

2. Information is information is information. Assuming then that knowledge is power and so forth, what do we mean in this context by "knowledge"? In the book "Knowledge, Power and Congress" edited by W. H. Robinson and Clay H. Wellborn (Congressional Quarterly Inc., 1991), there are several sophisticated analyses of what knowledge means. Thus, Lowi distinguishes between "amateur" and "professional" knowledge, the former being accessible to everyone, drawn from experience, while the latter is organized around concepts and definitions of reality agreed upon beforehand. Lowi concludes that professionalization of knowledge in the United States Congress has diverted it from the concrete to the abstract and he encourages Congress to return to amateur knowledge.

In the same volume, Schick says there are two kinds of knowledge: "ordinary knowledge" and "policy analysis." The first would be unsystematic and biased while, ideally, policy analysis would be a systematic and objective enquiry into public policies and programs. He argues that policy researchers should improve their understanding of the way ordinary knowledge accumulates *not because conventional wisdom is right --it often is not-- but because an understanding of this kind would enrich the value that research adds to society.* Price agrees with Schick's analysis but identifies another kind of knowledge, "particularistic knowledge," which comprises the needs and interests of particular groups and communities. Several authors contribute other very interesting points.

To Toffler knowledge means: (a) data, i.e., facts; (b) information, i.e., data that has been fitted into categories and classification schemes or other patterns and, (c) knowledge in a more restricted sense, meaning information that has been further refined into more general statements.

Finally, Cooper and McKenzie distinguish several categories of information: (a) concrete or factual information about circumstances and conditions; (b) empirical knowledge about means-ends relationships; (c) knowledge of broad modes of analyses and (d) information about attitudes and preferences. (10)

However, and I dare to say this without blushing, for the purposes of this paper, in the present context, I find those distinctions perhaps too sophisticated. They strike me as belonging to a more complex, more developed reality than the one present in legislatures outside the United States, particularly so in Latin American countries.

For the purposes of this paper, knowledge might well be disaggregated into:
1. Information: all of Cooper-McKenzie's (a), some of (b) plus (d); and 2. Policy analysis: some of (b), plus (c). (For a description of "policy analysis" see hereunder page 13, a transcription from an Honduran source).

3. Arenas, transformative legislatures, etc. Polsby, a well-known political scientist, knows a few things about political systems in general and legislatures in particular. And Polsby has written:

Most of the world's famous legislatures are parliamentary in character and hence are organizations that exist primarily as electoral colleges for governments. Typically, they are controlled by leaders of a single political party, and sometimes by a coalition of political parties. These legislatures are at best what the British sometimes call "talking shops" —arenas in which issues may be raised, questions asked, and speeches made. When the time comes to make laws, however, legislation is enacted more or less pro forma, as received ... [The U.S.] Congress makes laws, exercises political judgement and transforms proposals that it receives from agencies other than itself. If one wishes to predict the output of a legislative arena, one must consult the intentions of the body, usually a one-party cabinet that possesses the authority to control the program of the legislature in question. What the cabinet wishes, more or less, the legislature does. This is not, to put it mildly, the way [U.S.] Congress works. To understand the outcomes of the legislative process in a transformative legislature, of which [U.S.] Congress is the most conspicuous example, it is necessary to understand the internal writing diagram of the institution itself. (11)

This is a good description of the by now famous classification of legislatures as arenas and transformative legislatures. If you are not convinced by Polsby or if it strikes you as much too biased by what some would designate as nationalistic boasting, please read Dennis Healey's "Knowledge, Power and Legislatures: A British perspective," in the same book. You will find there a sort of impressionistic confirmation from a former deputy leader of the British Labour Party. And if you wish to understand this in a larger context, I strongly recommend reading French political scientist Patrick Chamorel's "The Integration of the U.S. Political System in Comparative Perspective" in Robert Dahl's *The New American Political (Dis)Order*, Berkeley, 1994.

If Polsby is believed, it becomes immediately obvious that (a) the information needs of each type of legislature will not be the same, and (b) the information needs of transformative legislatures are larger (at least, legislation-wise).

Therefore it is important to bear this in mind when analyzing the role of information and policy analysis in legislatures. In the case of Latin American legislatures in general, and consciously contradicting usual clichés unsubstantiated by empirical research, I believe it is fair to say that some (many?) of them are more than just "arenas." In some Latin American legislatures, for example, the Argentine Congress the one I obviously know most

about, congressional legislative initiative is relatively high (about 50% of all laws enacted, about 40% if only substantive legislation is considered), "viscosity" (that is, rejection of and amendments to Executive bills) is also substantial (41% of Executive bills were not approved during the 1983-1987 period. In 1983-89 62% of "substantive" Executive bills which became law were amended by Congress) and the existence of numerous vetos and a sometimes surprising number of overrides suggests that it has a substantial level of influence on legislation as such (see, for a more ample analysis, chapter 9 of N. G. Molinelli's "Presidentes y Congresos en Argentina, mitos y realidades," GEL, Buenos Aires, 1991). Please note that the literature on the subject usually maintains that other Latin American legislatures, such as the Chilean, have traditionally been "stronger" than the Argentine Congress. (12)

It is not unrealistic to assume, then, that (some, many?) Latin American legislatures may be considered as somewhere between arenas and transformative legislatures ("semi-transformative," perhaps?).

If this is the case, then the role of information is important. How much so? Less than in the United States Congress (as the latter maintains a higher degree of control over legislation than that possible to any of the more powerful Latin American legislatures) but still considerable.

It is important to take note that the source of the difference is not merely nor mainly constitution-text-related. Rather, the difference arises from the conjunction of:

- party-elite selection of party candidates to the legislatures, which provokes a strong party-elite control of political careers;
- multiple-member districts (often with proportional representation), which to a large extent dissolve any possible direct, personal link between citizens and individual legislators.

In Latin America, in the case of "divided" government (a party controls the presidency but does not have a majority in the legislature), party discipline (consequence of the above-mentioned variables) makes less probable the *ad hoc* coalitions usual in the United States Congress. If *ad hoc* coalitions do happen, the parties --or their factions-- are usually the relevant actors, not individual legislators. More permanent coalitions are not promoted by the mechanics of presidentialist systems, where the Executive is elected for a fixed term and is not subject to change by legislative will, other than the very exceptional impeachment. (This is not the case in parliamentary systems where creation/maintenance of the Executive is related to the legislature's --parties, actually-- will. This is a permanent inducement to the creation of coalitions

when needed). On the other hand, when government is not divided (presidential party has a majority in the legislature), legislators do not usually split, as in the United States Congress, along non-party axis but, prompted by party discipline tend, in general, to follow the party line. (13)

The message here is, then, that semi-transformative legislatures, as perhaps many Latin American legislatures might be called may (1) need/allow higher levels of information than "arenas" but not as much as "transformative" legislatures; and (2) acquire and process whatever information is available, in a peculiar fashion, giving due importance to party.

4. But why strengthen legislatures at all (in presidentialist systems)? Knowledge is power, knowledge implies information (and policy analysis). Latin American legislatures may perhaps be classified, in general, as "semi-transformative," and information might help them to become more "transformative" (up to a certain point, never as in the United States), but why bother? Why would we want to do that? Or better still, why would we want to suggest/recommend that to those who could do something about it, i.e., the political leaders and citizens of those countries?

4.1 Democratic theory may help to find an answer, but... I pose here that (a) superficially, democratic theory provides an answer, but (b) in a deeper analysis it may not; however, (c) eventually, modifying the customary approach, it might.

Democracy implies at least two basic principles: One is "representation," i.e., government by consent of the governed. Governmental decisions are taken through a process which includes some (substantial) level of citizen participation. Usually, this is achieved through election of the representatives by the represented (the citizens). The other principle is the existence of "freedoms," individual and group rights, the erection of some limits to governmental conduct in protection of the individual and groups in civil society (14). Let us see whether we can find here a rationale for strengthening the power of legislatures in presidentialist systems such as those that exist in Latin America.

Electoral procedures create an electoral link (which translates into accountability) between the citizens and the delegates. Of course, at this point we face an old dilemma: should the delegates decide (vote in favour or against some proposals of public policies) as the concrete citizens wish, as the delegate believes or --as is usually the case everywhere but in the United States-- as the (external) party or as the (internal) congressional party leadership or caucus decides (or some combination of the three alternatives in some sort of balance)? It could be argued that the best (in the sense of more) representation is achieved

through the application of the first alternative, that is, to follow whatever the concrete voters actually wish, based on their stated values, opinions, interests, prejudices, etc. And it could further be argued that certain features of the United States political system (primaries and single member districts, together) provide a very strong electoral link and thus a strong representation, strengths which do not appear elsewhere. (And, finally, it could be argued that the most "democratic" system in the world is that of the United States because it allows for stronger representation of actual wishes of concrete voters. Lower voter turnout might be evaluated as supplying intensity-expression, which improves representation. But I do not wish to discuss here this last proposition which would exceed the scope of this paper, although I believe it would be most interesting and useful to check it.)

In any democratic political system, an electoral link must exist. In parliamentary systems this is achieved through the election of parliaments by popular vote and the parliament then, at least formally, electing the Executive (or that portion of the Executive which usually enjoys more real power, i.e. prime minister, cabinet, etc.). But in presidentialist systems such as those of the United States and Latin American countries, there are two electoral links: one between the president and the citizenry (even when presidents are formally elected through electoral colleges such as in the United States, and Argentina till now) and another between the legislators and the citizens. Thus, in presidentialist systems --as well as in semi-presidential, such as France's 5th Republic-- the following question arises: why strengthen the legislature if, after all, there already exists an electoral link (representation) through the president-citizens relationship?

One answer might be found in the second principle of democracy already mentioned, viz, that to avoid authoritarianism power must be divided and that the separate branches thus created must be all somewhat strong. I find a problem with this answer.

As we know, in parliamentary systems power is divided but less strongly so than in presidentialist systems. In fact, parliamentary systems are usually described as of branches "fused," mainly through two devices: one is the formal authority of parliaments to appoint/remove the "government" (the Executive branch), and the approximately symmetrical government authority (somehow, through different formal means) of dissolving the legislature. The other device is the party link: in parliamentary systems there is no --nor can there be other than for very short periods-- "divided government" (at least not in the same sense and degree in which divided government can happen and in fact does happen in presidentialist systems). It is true that some times there is a "minority" government, but whenever that is the case, it implies that there is no united opposition. In the case of a united opposition there would not exist a minority government but a majority one of a different party or coalition of parties and, thus, no divided government.

Now then, European experience after the Second World War shows that even when power is very softly separated as happens in parliamentary countries, no danger of authoritarianism appears. In European parliamentary countries, power is in fact very highly concentrated in the Executive (this usually means the leader(s) of the party(ies) in government), to a degree which in Latin America would be considered by some as dangerous (15).

Besides, experience shows that dictators everywhere usually have the resources needed to overcome checks (such as separation of powers) written into a constitution. Witness Hitler's and Mussolini's accession to power, overcoming existing constitutional restrictions. I am sure that readers will be able to add similar examples in other countries. Argentina's experience shows that existing constitutional restrictions did not impede military-civilian groups from ousting President Yrigoyen in 1930 nor the conversion of Perón from a democratically elected president into a popular/authoritarian leader, nor his ousting in 1955 by military-civilian groups nor similar events later in 1966 and 1976.

More problematic still, some historical events in no less than the United States (Lincoln's transgressions of the Constitution during the Civil War (16), massive internment of Japanese-Americans during World War II and last but certainly not least, the non-punctual 100-years' long massive violation of rights of a majority of blacks, until relatively recently) show that constitutional checks are of relative efficacy, particularly when backed by public opinion.

Of course, the acid test here would be to verify whether separation of powers has actually ever succeeded in avoiding encroachment of authoritarianism, when similarly strong impulses exist. I know of no research on the subject. In the meantime, the previous negative examples, though not decisive to settle the issue --you could say the jury is still out-- throw enough shadows on the traditional idea that separation of powers helps avoid tyranny.

After all, neither Great Britain nor Israel have a written Constitution. Some democratic countries do not have a Bill of Rights or had not until recently (such as Canada until 1982 where, additionally, the Parliament is able to pass legislation affecting the Bill of Rights in an exceptional procedure called override). In other democratic countries there is no judicial review of constitutionality of legislative acts (such as The Netherlands until today and Sweden until 1979). (17)

Checks and balances may delay or make somewhat more difficult the success of strong tyrannical trends, but are not able to stop them. Checks are useful in cases of relatively isolated violations, but not vis-à-vis a general and determined tyrannical trend.

The point I am trying to make here is that the authoritarian danger is more related to political culture (values, attitudes, traditions) and to related social conditions than to the formal separation of power. Dahl put it quite clearly a few years ago:

...in the absence of certain social prerequisites, no constitutional arrangements can produce a non-tyrannical republic. The history of numerous Latin American states is, I think, sufficient evidence... (social prerequisites) may be far more important in strengthening democracy than any particular constitutional design ... the first and crucial variables to which political scientists must direct their attention are social and not constitutional. (18)

If the above is correct, we are left without a good case for strengthening the legislature in a presidentialist system.

The case may well be found going back to the first principle, but in a different fashion.

In presidentialist systems there are two electoral links. But there are differences between the two. Presidents and legislators are elected independently and by different constituencies, an outcome derived from diverse electoral units and staggered terms. Of the two links the Executive one implies a "national" representation while the other --the legislative one-- reflects a more fragmented representation of a more diverse electorate. While the first is important, it may (or should) not be considered enough. The legislative link provides a more concrete-directed, specific-oriented, less technocratic-influenced kind of representation, even when mediated by "national" parties. After all, the whole legislative process is

built around the process of acquiring information and intelligence with respect to particular conditions and situations, and the application of that information to the fashioning of laws. (19).

And this kind of representation is as important as the first. Having two strong electoral links implies a further democratization of an already (basically) democratic political system.

4.2 Is there another reason? I submit here that there is. As Balutis put it: *A political system does not work well unless all its parts work well (20).* A "system" is any group of real objects inter-related (21). A political system is a set of inter-related human relations through which authoritative decisions are taken and implemented in a society. Those human relations are organized through several roles and institutions which are themselves inter-related. In a democratic

political system a legislature is one of those institutions, with specific roles. Some of those roles are different in different sub-systems: parliamentary, presidentialist, etc. But in any sub-system, that part usually called legislature has to fulfill certain roles. If a legislature is so weak (and one aspect of weakness is not to have the capabilities corresponding to its functions) that it cannot fulfill its expected role, the whole political system will suffer.

5. But why increase knowledge? Let us remember Toffler's three sources of power: coercion, wealth and knowledge. Legislatures usually do not command the police or the armed forces nor do they collect taxes or directly spend the collected monies. These activities, usually, are in the Executive's jurisdiction. It is the Executive which has direct control over coercion and wealth. Notably, it is the Executive too which usually has at its disposal expert bureaucracies. Thus knowledge is also in the Executive's domain.

What then do legislatures generally have? A source of power not taken into account by Toffler (after all, he is "lowbrow"): a written document usually called Constitution which provides them with the authority to take some decisions (appoint/remove the Executive in parliamentary countries, enact laws, etc.), and engage in other activities (such as public debates, investigations, etc.). To put it another way, legislatures do have (in varying degrees) legitimation to act and that usually translates into obedience, acceptance of its decisions, public interest in its actions and some practical consequences, in spite of lacking coercion/wealth and even knowledge. But this, experience shows, is not enough.

Accordingly, which is the appropriate road to improve the position of legislatures vis-à-vis its environment, for example and more concretely, with regard to other actors of the political system such as the Executive Branch and interest groups? To claim direct command of coercion or of monies seems rather extreme, inadequate to this kind of institution and, in any case, a claim with scarce chances of success. Among other reasons, because coercion and monies are somewhat finite and thus any legislature's acquisition of them would imply some level of reduction in the coercion and money available to the Executive. Knowledge, however, not being finite, precludes this. Legislatures are able to acquire more knowledge without decreasing the knowledge available to the Executive.

In a presidentialist country one of the legislature's main roles is to enact public policies in the form of legislation. To do this well, a legislature needs appropriate levels of information (22). Among other reasons, because, as Weiss noted:

[information] can settle some points that people used to argue about and raise the level of discussion about remaining uncertainties (23).

Thus, if a legislature wishes to improve its power relationship with the environment in general and, more specifically, with another branch of government, such as with the Executive Branch, knowledge, as Bacon suggested, is an appropriate instrument. Access to knowledge previously possessed exclusively or preponderantly by the Executive means a transformation of the existing relationship.

However, increasing the power of a legislature will probably mean increasing conflict with the Executive. A more powerful legislature will be able to oppose more and in a more efficient fashion Executive initiatives and actions in general. In a presidentialist system at least, this should not cause too much worry, as a conflict between branches is a known expected characteristic of same. In a presidentialist system, branches "cooperate" to a common end also through conflict. *Frictions and disagreements are an indication not of imminent chaos but of proper functioning (24).* However, in presidentialist systems with party discipline (without the flexibility of the United States presidential system), conflict may more easily reach higher levels, beyond functionality.

The nice thing about increasing legislative power through improvement of information capabilities (instead of through other, more formal/rigid means) is that it seems to be the less potentially conflict-increasing device to obtain the above objective.

The remaining danger here is that excessive information may be counter-productive (25). The question is if Latin American legislatures have reached excessive information levels or are even close to it. The answer, as we shall see now, is negative. There is still ample room for improving capabilities without reaching a danger level (26)

6. Latin American reality is still far from bright information-wise. As regards our subject --as certainly in others-- the Latin American reality is not very attractive. The following is mainly, but not exclusively (some direct observation plus P.S. Rundquist and C.H. Wellborn, "Building Legislatures in Latin America," a paper delivered at the IPSA Conference of Legislative Specialists, Paris, May 1993) based on fourteen national reports presented at the First Ibero-American Meeting of Parliamentary Libraries held in Mexico, October 1993. I had access to the reports from Argentina, Bolivia, Brazil, Chile, Dominican Republic, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Uruguay and Venezuela (27). From these reports can be surmised that:

- Creation of parliamentary libraries is in some cases relatively "old" (1859 Argentina, 1883 Chile, 1886 Ecuador) but others date from very recent decades. It should be further pointed out that in some cases non-democratic governments meant an interruption of their activities --in some cases with loss of books and data-- although in others, such as Argentina, the absence of Congress did not hinder its continuation.
- "Policy analysis" as such, meaning as described in the Honduran report, *factual and impartial presentation of alternative courses of action, possible options and scenarios for the solution of concrete legislative issues ... analysis and evaluation of public policies... elaboration of studies and prognosis on issues of national interest*, does not seem to be a service actually provided to the legislators by the staff. It is true that in some reports similar but briefer descriptions are indicated as services provided by parliamentary libraries (Argentina, Chile and Ecuador report "analysis and research" or similar words, Mexico talks of "reports on issues of interest"), but others mention "documentary research" (Venezuela), and others still do not specifically identify any of this as the sort of service potentially available to legislators (Bolivia, El Salvador, Nicaragua, Panama, Paraguay, Dominican Republic, Uruguay). Even in those cases where this service is mentioned, it does not appear as much more than a wish. In Argentina, concretely, congressional staff interviewed by the author of this paper acknowledged that work which could be classified as "policy analysis" is, at the very best, rather "infrequent."
- Not all Latin American legislatures have access to computers and in many cases that do, the existing systems are rather elementary (PCs) or in the process of initial implementation.
- In general, it is clear that in Latin American legislatures, "research" often means bibliographic reports or analysis of a juridical nature.
- In many cases (all?) there are not yet enough adequate resources (either personnel or infrastructure or both).

There is, therefore, a lot of room for improvement. But a pertinent question here is, what future does "policy analysis" in particular have in Latin America? And the answer may well be that a rather limited one, not only because of probable lack of resources but because of more structural reasons related to certain characteristics of the political system. Thus, the following proposition.

7. No (or not yet) to "policy analysis." The last proposition concluded that in Latin American countries in general, as of today, "policy analysis" either does not exist as a service available to legislators or is minimal. Could it or should it

be different? I hereby argue that no, that it may be impractical, too ambitious, to aspire to "policy analysis" in Latin American legislatures. At least for the time being.

In Latin American countries --as compared with the United States where policy analysis provided by permanent, non-partisan staff is a fact-- there are two features which may well impede any increasing activity of this sort:

- Ideology plays a larger role. This is not to say that there is no ideology in the United States political process or that everything is ideological in Latin American countries. All I am saying is that ideologies (for now, at least) play a larger role than in the United States. This means, among other things, that there may be more difficulty in achieving a realistic level of objectivity and neutrality in any policy analysis or, what could be worse, the client (legislators) will resist or disbelieve the policy analysis.
- Politics is more partisan oriented. Parties as such in Latin American countries usually control the legislator's conduct (in varying degrees but in all cases to a higher degree than in the United States). It is the norm (as always, with occasional exceptions) for legislators to vote as the external or internal party (the party caucus) decides. Even when it is the caucus which formally decides how its legislators will vote, said decision is influenced in varying degrees by the external party, that is, the leaders of the party outside the legislature (or by leaders of party factions outside the legislature). This fact means, among other things, that, again, there will be more reluctance (less perceived need, too) by legislators to ask for/accept "policy analysis" from neutral, non-partisan staff.

*Could use
policy analysis
to shape
conclusion
The members*

Policy analysis in Latin America, in short, has a greater ideological and partisan slant. It might be argued that precisely this would be a reason to have more "policy analysis" produced by congressional permanent staff (neutral, not party related) but needs must be perceived as such by the clients and it seems that in such an environment clients do not demand it. In fact it could well be argued that policy analysis by congressional neutral staff may well create more problems than solutions.

To the above may be added that in view of the still prevailing lack of resources and the existing room for improvement in the other kinds of services (information in general in all its varieties other than policy analysis), it may be eminently rational not to expect too much with regard to policy analysis, leave the emphasis on it for an eventual future stage and concentrate on what is more basic and feasible.

8. Who produces/handles (or should produce/handle) information within legislatures? The answer is, in principle, simple: the staff.

... (staff) helps (legislators) with two essential ingredients of good policy decisions: (1) accurate, thorough, relevant information, carefully analyzed from the legislature perspective; and (2) the necessary time for the legislators to apply this information and analysis accurately in evaluating available policy alternatives ... (staff) specializes in interpreting technical aspects in terms comprehensible to the legislator. (28)

This has been the most distinctive mode in which the modern legislature has come to adapt itself to information needs and resources (29). However, what kind of staff? Politically sensitive, partisan-appointed, neutral, non-partisan? The answer, it seems to me, should be all of the above.

In discussing this issue it is worthwhile to remember Baaklini's work of 1975 on the experience of legislative reform in Brazil, Costa Rica and Lebanon to increase information capabilities of its legislatures (30). He called attention to the fact that said reforms were not justified as a means to increase the political power of the legislature vis-à-vis the Executive. Rather, reform was justified exclusively in terms of allowing the legislature to acquire an increased rationality in making policy choices, thus ignoring the political nature of the legislative process. This produced, in his view, a wrong (technocratic) outlook in staffers, with the latter seeing themselves as saviours and redeemers of the legislature and educators of ignorant legislators. Baaklini contrasts this with previous reforms in the United States Congress, where due attention was paid to the politics involved in Congress, producing a more humble, self-limiting, professional attitude in staffers. Baaklini points out, among the negative consequences of the wrong approach, that staff is subject to loss of influence.

The cases analyzed by Baaklini certainly show an improper balance between the needs of more rationality in general and not conflicting with party politics in the legislature. This warning is particularly relevant with respect to legislatures where party politics is important.

It seems to me that a reasonable and balanced approach is followed in the Argentine Congress where four different kind of staffers co-exist:

1. The personal staff of individual legislators, appointed by the latter for the duration of his/her term. This staff is usually, but not always, party-linked and takes into account the individual legislator's political needs. This staff filters and interprets whatever information reaches the legislator or its own desks.

2. Staffers who work in party caucuses, appointed by the leadership of each caucus. Again, they are temporary, are party-linked and take into account party needs. They also filter and interpret whatever information reaches the caucus (mainly its leadership).
3. Staffers who work in congressional committees, appointed by the president, vice president and secretary of the committee for a temporary duration. Some are permanent and not party-linked, others are temporary and often, but not always, party-linked. These staffers are more subject-specialized than all the others.
4. Permanent, tenured, neutral staff, working in purely information-oriented units. I refer here to the Library of Congress (particularly its Section of Legislative Reference) and the Department of Parliamentary Information (D.I.P., where employees are hired on the basis of a public competition process, with explicitly required qualifications such as university degrees and knowledge of foreign languages). Both the Library and the D.I.P. are supervised by a committee, provide services to anyone who asks for them whether individual legislators, committees, caucuses, staffers of categories 1, 2 and 3, House and Senate leadership, etc. This kind of --permanent-- staff is neutral (as much as is realistically possible) and non-partisan, but duly appreciative of their political environment (31).

Leadership
Staff

Experience suggests that this staff structure --which of course can and should be improved in several aspects-- fulfills in a balanced way both the technical (neutral) and political (partisan, etc.) aspects of information services in a legislature.

Whether this structure is applicable to other legislatures depends on several variables:

- the existence and role of party caucuses
- the existence and role of committees
- in general terms, the degree of legislature centralization/decentralization (32)
- the perceptions, interests and will of legislators and parties.

The Argentine Congress has both party caucuses and committees and both substructures are relatively strong (caucuses more so than in the United States by far, committees less so but not equally far). Thus power and influence are relatively decentralized but not to the extent of the Congress of the United States. Finally, it seems that legislators are satisfied with the existing structure.

9. A few (miscellaneous) messages. At some point this paper has to end, at the very least for the protection of readers. And yet, the subject certainly deserves a lot more than what has been considered here. Allow me a few, brief remarks of a diverse nature.

9.1 Oversight, etc. Information is also required for other activities of any legislature (other than legislation), such as what is usually considered under the word "oversight," i.e., a parliamentary question, -full debate on issues of the day, an investigation, etc. Demand for advice for a "public hearing" (a sort of recent novelty in some Latin American countries) seems to be increasing. The point may well be that as already mentioned above, these activities, not always but usually, are more "partisan" in nature than legislation. Consequently, it would not be surprising to find that central, permanent, neutral staff is less used in this endeavour. However, at least in Argentina's experience, they are also used. Service in this context may imply extra precautions related to objectivity.

9.2 Too much staff. In the same way that excessive information is detrimental, excessive staff may be dysfunctional. Excessive staff leads to excessive information, inefficiently processed. Furthermore, as Meller put it, *indiscriminate staffing could well lead to each legislator becoming captive of his own staff* (33). A way to deal with this last particular way in which too much staff is damaging, is to have different kinds of staffs, not all or most of it "personal."

9.3 Staff arrogance. Democracy requires that advisors be clothed in humility when giving advice. This is sometimes difficult because of the ever present tension between the intellectuals (advisors) and the powerful (recipients of the advice). Staff must keep clearly in mind that the boss is the legislator (individually or aggregated in caucus or in committee), which is another way of saying that, as in any kind of service, the client is always right, particularly when he is not. The legislators earned this "privilege" when they were elected by the citizens, an accomplishment which many of us intellectuals and non-legislators have not invested the necessary time and energy to achieve, or assuming we have made --or might make-- the effort, the necessary "agonistic" skills may just not be there. On this distinction between intellectuals and action-oriented individuals --as politicians usually are-- it is wise to read or re-read, Max Weber (34).

9.4 Legislation is a political product, not a technical one. Legislation implies a lot more than producing the technically right answer to a problem or issue. Or, to put it differently, "public interest" seems to be a more elusive concept than it is usually considered. Particularly in non anglo-saxon countries, the idea that legislation is or should be the exclusive result of objective reasoning guided by public interest, still prevails to a substantial degree. This is, in fact, seldom so anywhere, and many believe it should not really be so: a legislation which

contains the input of interest groups --biased as they are-- may not be "perfect" from a superficially ideal point of view, but may actually be the best practical alternative for a given time and place. For staff this means being flexible, having a sense of what is practical and, once again, humility.

10. Conclusions. Summarily, now in a somewhat different order of exposition, what this paper has tried to allege is that:

- It is worthwhile to try to increase the power of legislatures in Latin American presidentialist countries, but not so much because of the traditional separation-of-powers-as-a-bulwark-against-tyranny idea but (a) in order to improve representation and (b) for the political system as a whole to work more efficiently.
- Insofar as knowledge increases power, an appropriate way of achieving the above-stated objective is to improve information capabilities.
- However, this improvement of information capabilities --for which there is ample room in Latin American legislatures-- must be achieved taking into account the importance of political party mediation and the relative relevance of the majority of individual legislators whose political careers are in fact strongly influenced by their party elites.
- For the time being at least, policy analysis as such should not be the focus of efforts to improve information capabilities.
- It may be convenient to have different kinds of staff, party-related and party-neutral, distributed in central organizations, committees, caucuses and in the individual legislator's office.
- All staff, particularly the non-partisan, must respect the legislators' earned power and be sensitive to politics, a human endeavor where technical knowledge is only part of the game.

NOTES

- (1) A word of caution here: Latin American presidentialism is somewhat different from the paradigmatic presidentialist system (the United States) used as the model. Not only is this so in actual practice. It is also different in that constitutional texts are different; for example, the Argentine founding fathers (1853) consciously (and with hindsight we can say that wrongly) provided the president with more authority than the United States president, and Congress with less. Also, some of these countries are not federal and this geographical division of power is relevant to understand and evaluate the mechanics of presidentialism. Further, some Latin American countries have been parliamentary for years, such as Chile (1891-1924) and many others have had (and some still do) in their constitutions varying degrees of ministerial (not presidential) responsibility vis-à-vis the legislatures (for example, Chile after 1924, Peru after 1933 and today; Brazil 1961-64; Honduras 1924-57; Ecuador 1878-1959; Cuba 1940-1950; Uruguay 1934 and the 1970s; Guatemala 1945-post 1960s) etc. A well-known Uruguayan scholar, **Alberto B. Real**, concluded that, in fact, almost always in Latin America the system of government has been a "**hybrid**" (*Neoparlamentarismo en América Latina*, Ed. Cuadernos de la Facultad de Derecho, Montevideo, 1962). I do not know of any empirical research on how these ministerial responsibilities have been, if at all, exercised by legislatures. I believe it would be illuminating to know precisely if it was done and how. Let me add that my curiosity is more urgently prompted nowadays by the recent constitutional amendments in Argentina, in accordance to which a "cabinet chief" will be appointed by the president but may be removed by Congress.
- (2) See, for example, **Hamm, K.E.**, "Interest Group" in **Loewenberg, G., Patterson S.C. and Jewell, M.E. (Ed.)**, *Handbook of Legislative Research*, Harvard Univ. Press, 1985; **Mooney, C.Z.**, "Information Sources in State Legislative Decision Making," *Legislative Studies Quarterly*, XVI, 3 (1991); **Robinson, W. H.**, "Policy Analysis for congress: Lengthening the Time Horizon," *Journal of Policy Analysis and Management*, Vol. 8, No. 1 (1989); **Bimber, B.**, "Information as a Factor in Congressional Politics," *Legislative Studies Quarterly*, XVI, 4 (1991); **Webber, D.J.**, "Legislator's Use of Policy Information," *American Behavioral Scientist*, 30:6 (1989). On both U.S. and other legislatures see **Heaphey, J.J.-Balutis, A.P. (Ed.)** *Legislative Staffing-A Comparative Perspective*, Sage, 1975; **Loewenberg, G.-Patterson, S.C.**, *Comparing Legislatures*, 1979, and **Webb Hammond, Susan**, "Legislative Staff" in the *Handbook* above-mentioned. A little on France, **Gibet, C.**, "L'Évolution des moyens de travail des parlementaires," *Revue Française de Science Politique*, Vol. 31, No. 1 (1981).

In accordance with Lipphardt the actual dominance of the Executive in parliamentary systems is the consequence of what he calls the "paradox of the confidence vote": *[confidence vote] in theory, makes the Executive more dependent on the Legislature but, in fact, it means that in each important voting, legislators must vote not only on the merits of any specific proposal but, also, on whether to keep the cabinet in power or not. The fact that a majority of legislators does not want to change the cabinet, frequently gives the latter a very strong power in the legislative process* ("Presidencialismo y democracia de mayorías" in Linz, J. et al (ed.) *Hacia una democracia moderna-La opción parlamentaria*, Universidad Católica de Chile, Santiago, 1990). In the paradox mechanism is included the fact that cabinet removal may imply new general elections which, in its turn, may imply a change of the party in government or, at least, the possibility of some legislators losing their seats. Furthermore, as regards legislative initiative, elaboration and enactment, it is well known in political science that parliamentary legislatures are weak, meaning that their actual participation is low. This is particularly true if compared with the United States Congress (see for example Jann, W., "The Internal Workings of Congress and Bundestag: Surprises and Second Thoughts," *Political Science*, Autumn 1984). but it is also the case if compared with Latin American (or, at least, some) legislatures. Compare, for example, data on Argentine Congress initiative --page 6 of this paper-- with only 14% of parliament-originated laws approved by the British Parliament during 1966-67; 3.9% in Switzerland in 1966; 33% in Federal Germany during 1949-65; 25% in Italy during 1948-68; 13% in France during 1959-73 and 14% during the Fourth Republic. Also compare the 41% of Executive bills not approved by the Argentine Congress during 1983-87, with the 3.4% not approved by the British Parliament during 1945-78; 7% in Finland; 9% in Australia; 11% in Denmark; 13% in Austria; 15% in New Zealand; 36% in Canada (during an unspecified five year period as reported by Rose, R., "British MP's: More Bark Than Bite," in Suleiman, E.N. (ed.) *Parliaments and Parliamentarians in Democratic Politics*, Holman & Meier, 1986. For a description of executive domination in the Fourth and Fifth Republics see Goguel, F., "Parliaments under the Fifth French Republic," in Loewenberg, G. (ed.) *Modern Parliaments*, Aldine 1971; Baumgartner, F.R., "Parliaments Capacity to Expand Political Controversy in France," *Legislative Studies Quarterly*, XII, 1, 1987; Chandernagor, S., *Un Parlement pour quoi faire?* P.U.F., Paris, 1967; Williams, P., *The French Parliament: Politics in the Fifth Republic*, Praeger, N. York, 1969. For other legislatures, see Oppenheimer, B., "Legislative Influence on Policy and Budgets" in the above-mentioned *Handbook of Legislative Research*.

- (16) As reported by Schlesinger Jr., Arthur M., in Chapter III, Section VIII of his *The Imperial Presidency*, Boston, 1973.
- (17) See *International Political Science Review*, Vol. 15, No. 2 (April 1994, an issue on "The Judicialization of Politics").

- (18) *A Preface to Democratic Theory*, Chicago, 1956, 12th Printing 1973, page 83.
- (19) Smith, H. Alexander, quoted by Balutis, *op. cit.*, page 26.
- (20) *op. cit.*, page 29.
- (21) Dahl, R., *Análisis sociológico de la política*, Barcelona, 1968, page 17; (translation of *Modern Political Analysis*, Prentice Hall, 1963).
- (22) Evidence of which are the effects of increased information capabilities in the Congress of the United States after the 1946 Reorganization Act (see, for example, Robinson, W.H., "The Role of Information in a Democratic Legislature: The Case of the Congressional Research Service," paper presented at the First Ibero-American Conference of Parliamentary Libraries, Mexico, 1993, and Rothstein, J., "The Origins of Legislative Reference Services in the United States," *Legislative Studies Quarterly*, XV, 3 (1990).
- (23) In the Robinson-Wellborn (ed.) book, page 123.
- (24) See literature mentioned in note (1)
- (25) Verney, D.G., *Análisis de los sistemas políticos*, Tecnos, Madrid, 1961, translation of "The Analysis of Political Systems." See also Egger, R., *The President of the United States*, McGraw Hill, New York, 1967, page 150; see also Olson, D., *The Legislative Process, a Comparative Approach*, Harper & Row, 1980, page 158; Fisher, L., "The Constitution Between Friends," *Congress, the President and the Law*, St. Martins Press, New York, 1978, page vi; and Moe, R.C. (ed.) *Congress and the President: Allies and Adversaries*, California, 1971, page 1, and more in general, about positive aspects of conflict, see Coser L., *Nuevos aportes a la teoría del conflicto social*, Amorrortu, Buenos Aires, 1970 (translation of *Continuities in the Study of Social Conflict*, 1967).
- (26) For a sceptical vision of proposals towards improving information capability in legislatures of underdeveloped countries, see Packenham, Robert A., "Legislatures and Political Development," in Kornberg, A. and Musolf, L.D., (ed.) *Legislatures in Developmental Perspective*, Duke University Press, 1970/.
- (27) Provided by M.T. Píanzola (Biblioteca del Congreso, Argentina) and W.H. Robinson (CRS).
- (28) Balutis, *op. cit.*, page 27.
- (29) Porter, quoted in the Loewenberg-Patterson (ed.) book, page 163.
- (30) In Heaphey-Balutis.

- (31) See Amestoy, J.L., "Información y consultoría técnica en el proceso legislativo," *Revista de Derecho Parlamentario*, No. 2, Buenos Aires, 1989.
- (32) See Jann, *op. cit.*
- (33) Quoted by Balutis, *op. cit.*, page 24.
- (34) Particularly his "Politik als Beruf," reproduced in *Gesammelte Politische Schriften*, 2nd ed., Tübingen, 1958; in Spanish: *El sabio y la política*, Eudecor, Buenos Aires, 1966.