8

Designing semi-parliamentary democracy

Each basic form of government allows for a great variety of specific constitutional designs. This chapter explores some potential designs of semi-parliamentary government. The exploration serves three main purposes. First, it highlights how semi-parliamentarism could be flexibly adapted to different contexts and how its design could better mimic the potential advantages of presidentialism. Second, it will keep us from exaggerating the lessons of Chapter 6. While we have seen that semi-parliamentarism can mitigate the tension between different visions of democracy, between simple and complex majoritarianism, this tension resurfaces in the design of inter-branch relations. Third, the discussion suggests that semi-parliamentary government can mitigate the problem of legislative deadlock in ways that would be more problematic under presidentialism or other forms of bicameralism. Strengthening the *agenda and dissolution powers* of the government or the first chamber may be less dangerous than under presidentialism because this power is not given to a single human being. At the same time, the equal or higher democratic legitimacy of the second chamber makes it possible to weaken the *veto power* of the first chamber—thus making deadlock less likely.

I first discuss how the two parts of the assembly may be constituted in terms of their relative sizes and their electoral systems. This discussion begins with bicameral versions of semi-parliamentarism and then explores ways in which the chamber of confidence may be turned into a committee of confidence, whose relative size may even be determined endogenously by the behavior of parties and voters. Then I discuss some issues in the design of inter-branch relations, focusing first on assembly dissolution and popular referendums and then on the legislative veto power of the two parts of the assembly.

Constituting the two chambers

Let us begin with the bicameral version of semi-parliamentarism and specifically with the *relative size* of the two chambers. We have seen in Chapter 6 that

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in the existing cases of semi-parliamentarism the second chamber is invariably smaller. Through the conceptual lens of semi-parliamentarism, however, this arrangement can hardly be viewed as justified. If the first chamber is most of all a chamber of confidence, whereas the second chamber is the chamber of fair representation and deliberation, legislative scrutiny, and of controlling the government, the latter should arguably be larger than the former. The comparison to presidentialism is instructive here, as the relative sizes of the two branches are reversed. Presidents can be seen as a one-person confidence chamber (giving confidence to themselves), whereas assemblies are much larger. A larger second chamber would make the goals of complex majoritarianism and horizontal political accountability easier to achieve. It would increase mechanical proportionality, everything else being equal, and allow for a greater division of labor.

A second important issue is the way in which the chamber of confidence is elected. If our goal is to mimic presidentialism (i.e. to enable voters to directly legitimize a single political force as the government), single-seat districts are a liability, rather than an asset. A superior approach is to elect the chamber of confidence in a single at-large district. This solution is also fairer in that every vote counts equally for the election of the government, regardless of where it is located.

What electoral system should be used? One option, prevalent under presidentialism, is a two-round system with a run-off election between the two parties with the greatest number of first-round votes. The difference to presidentialism is that the party that loses the run-off would still get confidence seats in proportion to their vote share in the run-off election. It would become the official opposition party. Run-off elections have the advantage of being relatively simple, while requiring the winning party to gain support from an *absolute* majority of voters in the final round of voting. Spurious majorities are avoided.

A more complex but potentially fairer option would be a modified alternative vote (AV) system (Ganghof 2016a). In this system, voters can rank as many party lists as they like in order of preference and thereby determine the two parties with the greatest support. The parties with the least first-place votes are iteratively eliminated, and their votes transferred to each voter's second-most preferred party, third-most preferred party, and so on. In contrast with a normal AV system, the process does not stop when one party has received more than 50% of the votes, but it continues until all but two parties are eliminated. Only these two top parties receive seats in the chamber of confidence in proportion to their final vote shares in the AV contest. Based on voters' revealed

preference rankings, a mandate to form the cabinet is conferred to the winner of the AV contest.[1]

Electing the chamber of confidence in a single at-large district might be considered problematic because it removes constituency interests as a concern of assembly members, thus making them more dependent on the centralized leadership within the party and/or the chamber. I want to make three observations in this regard. First, there is a basic tension in the kind of Westminster model logic defended by authors like Rosenbluth and Shapiro (2018), which is that "the principle of local accountability and national accountability are logically mutually exclusive" (McGann 2006: 148; see also Cox 1987; Shugart and Carey 1992). National accountability based on a party platform requires party discipline and thus must weaken accountability to the constituents of single-seat districts. Moreover, given that the candidate/party vote is fused in single-seat districts, voters cannot sanction the local candidate and the party separately (Rudolph and Däubler 2016). The point of a single, jurisdiction-wide district would be to strengthen the programmatic accountability of the government—just as it does under presidentialism.[2]

Second, proportional representation might, to some extent, be seen as an alternative counterweight to the centralized power of party elites. This power is of particular concern when a single government party dominates the entire assembly. Within the logic of the Westminster model, therefore, single-seat districts may be a potential safeguard against excessively centralized power. In a semi-parliamentary system, by contrast, this safeguard can take the form of multiple parties that are liberated from the task of keeping the cabinet in office. A potential advantage of this solution is that the institutional safeguard against centralized party power avoids the inherent tension of the Westminster model. If this tension is resolved in favor of the party elite, the safeguard becomes ineffective; if it is resolved in favor of individual assembly members, the programmatic discipline of parties suffers. Semi-parliamentarism may provide a safeguard against too much centralized power that is fully compatible with the ideal of programmatically principled parties.

[1] Some may argue that there would still be better options, such as Coombs rule or the Borda count (Grofman and Feld 2004). While I do not want to enter this debate, it is worth highlighting three attractive properties of AV: (a) a party with an absolute majority of first-preference votes will always be selected as the winner; (b) voters can submit incomplete preference rankings without being discriminated against (Emerson 2013); and (c) a manipulation of the outcome via strategic voting would require very sophisticated voters (Grofman and Feld 2004: 652).

[2] As discussed in Chapter 5, using absolute majority rule in a single at-large district allows many parties or candidates to participate. It therefore increases voters' cognitive burden and reduces identifiability.

Finally, if additional counterweights are considered necessary, they might be better placed in the separated part of the assembly, where they are less constrained by the logic of parliamentarism and may be combined with proportional representation. Examples include moderate district magnitudes combined with upper-tier compensation (as, for instance, in Denmark) or open party lists.

In sum, the goals of both visions of democratic majority formation—simple and complex majoritarianism—might be achieved to a greater extent if first-chamber elections are clearly designed as a vote for a government in a single at-large district, while the vote for the second chamber is a vote for a programmatic party (and perhaps also specific candidates of this party).

Semi-parliamentarism within a single chamber

Once we accept the rationale for making the second chamber the larger chamber, it is not clear why we need two entirely separate chambers in the first place. If most or all of the actual deliberation about and scrutiny of legislative proposals ought to happen in the—at least equally legitimate—second chamber, the bicameral structure seems inefficient. We might potentially improve upon it by systematically differentiating the right to a no-confidence vote within a single chamber.

Perhaps the simplest way to do so, already discussed in Chapters 3 and 4, would be a *legal threshold of confidence authority*. Parties with a vote share below the threshold would be denied participation in the vote-of-no-confidence procedure. Only the parties that pass the threshold would become members of the confidence committee. Such a threshold might be useful even if it does not reduce the number of parties with confidence authority to only two. When party fragmentation in parliament is very high, as, for example, in the Netherlands, a moderate legal threshold of confidence authority might facilitate cabinet formation and governance without requiring a higher threshold of parliamentary *representation*.

Any legal threshold is arbitrary, however. If it affects one side of the political spectrum more than the other, the legitimacy of the election results may become questionable. For example, after the 2013 federal elections in Germany, Social Democrats, Greens, and the Left Party held a majority of seats (50.7%), despite their combined vote share only being 42.7%. The main reason was that two parties on the right—the Liberals and the Alternative for Germany—had vote shares just below the legal threshold of 5%. Had it been possible to form

a center-left government, its electorally "manufactured" nature could have undermined its legitimacy.

A more systematic way to differentiate confidence authority could build on the logic of mixed-member proportional (MMP) electoral systems in countries such as Germany or New Zealand. That is, participation in the confidence committee could be limited to those assembly members elected under plurality rule in single-seat districts, whereas those elected from party lists would be denied this right. As discussed above, however, this would leave it to the voters to decide whether they interpret the constituency vote as one for the government—which it would essentially become—or one for a constituency representative. Moreover, since single-seat districts are used, it is far from guaranteed that the individual district contests would aggregate to a two-party system with a clear one-party majority in the confidence committee. And even if it did, the determination of the government party could hardly be considered fair.

For these reasons we might prefer a mixed-member system, in which the members of the confidence committee are elected in one at-large district. This approach could also be applied to the potential democratization of the European Union, for example. There has long been a discussion about transnational lists for European elections (Leinen 2015). The basic idea is to elect a fixed number of members of the European Parliament (MEPs)—say 20 or 30%—in a single pan-European district. Voters would have two votes, one of which is truly Europeanized. This idea of transnational lists could be combined with semi-parliamentarism by giving only the Europeanized members of the European Parliament the right to participate in a no-confidence vote against the European Commission. The elections to this pan-European confidence committee or chamber could be based on absolute majority rule (e.g. a run-off system), thus giving all voters a clear choice between competing programmatic mandates. The election of the rest of the European Parliament could be based on proportional representation in national or local constituencies.

Semi-parliamentarism with a single vote

It would, of course, also be possible to elect both parts of the assembly in a single at-large district. If this option were chosen, semi-parliamentary government would not necessarily require voters to cast two separate votes. They could simply be asked about their ranking of parties for two different purposes:

(a) forming the government; and (b) representation in parliament. These different purposes can be taken into account by allowing voters to rank parties on the ballot or by deciding on the governing party in a run-off election. These options may have a number of potential advantages, such as reducing partisan fragmentation and allowing for pre-electoral alliances.

In the run-off variant of such a single-vote system, voters vote for their preferred party and thereby determine the proportional composition of parliament. The two parties with the highest vote shares then enter a run-off election to determine their relative vote shares in the confidence committee. In the AV variant, voters can rank party lists according to their preferences. Their first preferences determine the proportional composition of parliament (with or without a legal threshold of representation), whereas their rankings determine the two parties with the greatest overall support. Only these two top parties receive seats in the confidence committee in proportion to their final vote shares in the AV contest.

One might wonder why the runner-up should be represented in the confidence committee at all. The main answer is that without this representation, the power of the executive would probably be strengthened. With opposition party representation in the confidence committee, the defection of a few members of the majority party might be sufficient for a successful no-confidence vote. By contrast, if a majority within the majority party were needed, the threat of a no-confidence vote would be less credible. It would be easier for the prime minister and cabinet to secure their power—especially if a substantial share of the members of the confidence committee are ministers themselves.[3] Another rationale for representing the runner-up in the confidence committee is that this party can be recognized as the main opposition party, as determined by the voters' preference rankings.

Determining the size of the confidence committee endogenously

The size of the confidence committee could be fixed in advance, but it might also be determined by the election itself. One option would be to give one of

[3] As noted in Chapter 3, it is not necessary that the cabinet is drawn only from the part of the assembly with confidence authority (here, the confidence committee). A substantial share of second-chamber ministers is common in Australia, partly because a ministerial presence in the second chamber facilitates the successful conduct of the government's parliamentary business and legislative program.

Table 8.1 A single-vote, mixed-member, semi-parliamentary system

Party	Seats based on first-preference votes	Final top party vote share	Confidence seats	Legislative top-up seats
A	27	43%	17	10
B	23	57%	23	
C	18			18
D	12			12
E	10			10
F	5			5
G	3			3
H	2			2
Total	100	100%	40	60

Source: Ganghof (2016a).

the two parties in the committee all of the seats it receives, based on the proportional count, as "confidence seats," while all other parties get additional top-up seats to make the overall composition of parliament proportional. Table 8.1 illustrates the procedure with a fictitious example of a 100-member legislature. The first column shows eight parties A–H, the second column their proportionally allocated seats. We assume that after the elimination of all but the top two parties, the winning party B has gained 57% of the votes, the runner-up A 43%. Given its proportional vote share of first preferences, B gets 23 seats overall, all of which are confidence seats. A's confidence seats are determined based on its two-party vote share, so that it gets 17 seats ($43/57 \times 23 = 17.4$). The confidence chamber thus comprises 40 members. In order to maintain proportionality in the legislature, parties receive top-up seats. For parties outside of the confidence committee (C–H), all seats are "top-up" seats. Party A, the official opposition party in the confidence committee, receives both confidence and top-up seats.[4]

The system would allow voters to confer two mandates: one for a party that represents them in the legislative and deliberative process and one for the party

[4] While, in this specific example, the government party B determines the size of the confidence committee, this is not necessarily the case. If the goal is to have one party without any top-up seats, the size of the confidence committee must be fixed by the party with the smaller ratio between its total seats and its vote share in the AV contest. In the table, the ratio is 0.4 for B (23/57) and 0.63 for A (27/43). Imagine that A wins the AV contest against B by 60 to 40 and the two parties get 30 and 18 seats, respectively, in the proportional count. The ratio would then be larger for the winning party A (30/60 or 0.5 versus 18/40 or 0.45). If A's seats fixed the size of the confidence committee in this case, B's number of confidence seats would be 20, which is greater than B's total seats. This is why B should get all of its 18 seats as confidence seats and A should get 27 confidence seats plus three top-up seats.

that is put in charge of forming a government—the "formateur" in political science jargon. Ideally, the formateur's policy position would be identical or close to that of the median party in the assembly on the most important issue dimensions. Absolute majority rule does not guarantee a centrist outcome, but it may make it more likely than plurality rule (first past the post), at least under some range of background conditions (Grofman and Feld 2004; McGann et al. 2002). A moderately non-centrist outcome might also be desirable because it gives voters a meaningful choice between programmatic alternatives. However, it might also increase the likelihood of inter-branch conflict, to be discussed below.

The single-vote version of semi-parliamentarism sketched in Table 8.1 may also help to contain the partisan fragmentation of the assembly because voters cannot engage in ticket-splitting. As Israel's experience with the direct election of the prime minister has shown, ticket-splitting can increase partisan fragmentation, as voters' separate vote for the government may prompt them to choose a different, smaller party in the assembly elections (Chapter 2). Under the AV or run-off systems described, ticket splitting is not possible. While voters can certainly rank a number of smaller parties highly, they must also worry that their preferred party of government is eliminated early in the process.

Allowing for pre-electoral coalitions

Finally, when the size of the confidence committee is determined by the election itself, parties may be allowed to form pre-electoral alliances for the purposes of the AV count. For example, a centrist party might worry that it will be eliminated early on, even though it would profit from vote transfers in later counting rounds. Parties might thus be allowed to form a joint list with other parties in order to increase their chances to gain representation in the confidence committee. This also implies that if most parties group into two competing pre-electoral alliances, the size of the confidence committee increases. Table 8.2 illustrates this by modifying the example of Table 8.1. We now assume that parties group into two competing pre-electoral coalitions: AEF and BCD. Only G and H compete independently. Assuming the same voter preferences as before, the size of the confidence committee now increases from 40 to 93 seats and the two pre-electoral blocs get all, or most, of their overall seats as confidence seats.

This scenario differs in important ways from the situation in presidential systems. While parties and presidential candidates often build pre-electoral

Table 8.2 A single-vote, mixed-member, semi-parliamentary system with alliances

Lists	Seats based on first-preference votes	Final top list vote share	Confidence seats	Legislative top-up seats
AEF	42	43%	40	2
BCD	53	57%	53	
G	3			3
H	2			2
Total	100	100%	93	7

Source: Adapted from Table 8.1.

alliances that carry over into post-electoral coalition cabinets, the allies of the elected president have relatively little control over the terms of the post-electoral cooperation (e.g. Borges et al. 2020; Freudenreich 2016; Kellam 2017). By contrast, alliance formation under the version of semi-parliamentarism sketched in Table 8.2 would give the prime minister's pre-electoral allies representation in the confidence committee and thus a powerful position after the election.

Designing inter-branch relations

In a separation-of-powers system, the design of inter-branch relations becomes crucial. There has been much debate about how best to design these relations under presidentialism (e.g. Cheibub 2007; Colomer and Negretto 2005; Shugart and Carey 1992). I cannot provide a systematic review of this debate here but pursue two more modest goals. First, I sketch how the tension between simple and complex majoritarianism described in Chapters 5 and 6 resurfaces in the design of inter-branch relations. Second, I explore the potential advantages that semi-parliamentary government may have over presidentialism and other forms of bicameralism with respect to institutional fine-tuning. Strengthening the agenda and dissolution *powers* of the government or the first chamber may be less dangerous than under presidentialism because this power is not given to a single human being. At the same time, the equal or higher democratic legitimacy of the second chamber makes it possible to avoid legislative deadlock by weakening the veto power of the first chamber.

As shown in Chapter 6, semi-parliamentary democracies can achieve the goals of simple majoritarianism, especially identifiability and cabinet stability,

in the first chamber and the goals of complex majoritarianism in the second chamber. However, the tension between the two visions resurfaces when we think about the relative constitutional power of the two parts of the assembly. When we strengthen the chamber or committee of confidence, we strengthen the goals of simple majoritarianism, including clarity of responsibility; when we strengthen the second chamber or the assembly at large, we strengthen complex majoritarianism.

Finding the right balance of formal powers is not easy because these powers must be fixed in the constitution, whereas political constellations vary. It matters where parties' preferences are located relative to one another and to the status quo but also whether actors behave "responsibly" or "obstructively." For example, when the cabinet party is the median party on most dimensions, we might want it (or its first-chamber majority) to have certain institutional prerogatives in the legislative process. These prerogatives would not necessarily be used *against* the second chamber but could be seen as "mechanisms that help the majority to organize itself" (Cheibub and Limongi 2010: 46) by solving collective action problems, facilitating party discipline, counteracting obstructive behavior, or limiting the power of anti-system parties (see also Huber 1996; Koß 2019). Once the formal prerogatives are in place, however, an executive with non-centrist preferences can also use them as weapons against a second-chamber majority (see, e.g. Weale 2018: 239). The resulting dilemmas are well known from the literature on presidentialism (e.g. Alemán and Tsebelis 2016; Chaisty et al. 2018; Cheibub 2007; Cheibub and Limongi 2010; Colomer and Negretto 2005; Shugart and Carey 1992). Constitutional design becomes a balancing act, in which we must gauge the relative risks of different scenarios.

I cannot pretend to know what the optimal design of inter-branch relations looks like, but I want to emphasize once more the differences between presidentialism and semi-parliamentarism in this regard. Any perils of constitutionally powerful executives are likely compounded by executive personalism. Under semi-parliamentarism, by contrast, the prerogatives of the executive or the first chamber must ultimately be exercised in line with the preferences of the first-chamber majority. The extent to which the government accommodates the policy preferences of the second chamber is ultimately decided by the majority *party* in the first chamber and is less dependent on the idiosyncrasies of the chief executive. There is an additional layer of protection against chief executives that act on the basis of extreme preferences or fail to accommodate a constructive second-chamber majority. This point also matters in the resolution of legislative deadlock, to which we now turn.

Resolving conflict: assembly dissolution

Early elections are a common way to resolve legislative deadlock under pure parliamentarism. Importantly, this resolution is not predicated on the assembly actually being dissolved. It may be sufficient for the prime minister or the government to make a dissolution *threat* (Becher and Christiansen 2015). When public support for the prime minister and her policies are relatively high, coalition parties—or opposition parties in the case of minority governments—may make concessions in order to avoid an election. Denmark is an example of a country in which the prime minister enjoys wide discretion in calling early elections (Goplerud and Schleiter 2016) and there is clear evidence that Danish prime ministers use this prerogative to increase their bargaining power and avoid legislative deadlock (Becher and Christiansen 2015; Green-Pedersen et al. 2018).

It has long been noted that assembly dissolution could be used to resolve deadlock under presidentialism, too, especially when it also implied an early election of the president. While such a "double dissolution" election represents a deviation from ideal-typical presidentialism, which is defined by its fixed terms, the principle of the separation of powers is still retained in the sense that one branch cannot dismiss the other without standing for re-election itself (Mainwaring and Shugart 1997: 453). Yet, the problem under presidentialism is that any institutional prerogative given to the chief executive becomes the power of a single human being, which can have negative consequences.

Ecuador's 2008 constitution might serve as a case in point. Its so-called *muerte cruzada* ("mutual death") provision (Art. 148) allows presidents—once in the first three years of their term—to dissolve the assembly, force new legislative and presidential elections, and rule by decree on urgent economic matters in the interim. While this provision has been conceived as "quasi-parliamentary" and a way to "align the incentive structure of the Executive and the Legislative branches of government," Ecuador's president Rafael Correa "found a way to parlay his popularity into the threatened misapplication of the muerte cruzada provision with the aim to quell dissent" (Sanchez-Sibony 2018: 105). When the ruling party caucus engaged in actions that defied or contravened the wishes of the president, he threatened to issue the *muerte cruzada* coupled with harsh admonitions directed at nonconforming ruling party lawmakers. Hence, the provision has probably strengthened the presidentialization of the governing party in Ecuador (Samuels and Shugart 2010). The literature on authoritarian forms of presidential supremacy also highlights the dangers of dissolution power under presidentialism (Stykow 2019).

Under semi-parliamentarism, by contrast, any formal prerogatives of the prime minister are not personalized, which reduces their risks. Moreover, the right to initiate a double dissolution may be placed in the hands of the chamber or committee of confidence, rather than the chief executive. As suggested in Chapter 7, the possibility of a double dissolution may contribute to the willingness of the majority party in the first chamber to govern as a minority cabinet in the second chamber.

Resolving conflict: referendums

Assembly dissolution may be seen as too blunt an instrument for resolving deadlock. If legislative stalemate is restricted to a particular issue, a more limited way to resolve it would be to refer only this issue back to the voters and allow them to decide the issue in a deadlock-resolving referendum. Since both branches claim to represent "the" majority, it seems straightforward to let the voters decide which of these claims is (more) correct. As in the case of assembly dissolution, however, giving the power of initiating a deadlock referendum to the president may strengthen the personalization of power in a presidential system. This is true especially when the president controls the agenda in the referendum process (Durán-Martínez 2012; see also Tsebelis 2002: Chapter 5). Under semi-parliamentarism, by contrast, the dangers of executive personalism are avoided, as the party of the chief executive and the majority in the first chamber remain in charge.

A popular referendum to resolve legislative deadlock is provided for under section 5B of the New South Wales Constitution Act (Twomey 2004: 254–267). The full process involves a "free conference" between "managers" of the two chambers, a joint sitting with a debate but no vote, and finally the first chamber initiating a popular referendum on the disputed bill in the version it prefers. The first chamber is thus the sole agenda setter in the referendum. If a majority of voters support the bill, it can be presented to the Governor and become law. While it is true that the process in New South Wales is "long and arduous" and that few governments have even contemplated it (e.g. Smith 2018a: 259), it could be streamlined. Moreover, we must not forget that—as in the case of assembly dissolution—a popular referendum does not necessarily have to be initiated to have an effect. The *threat* of a referendum, or even the common knowledge that the path is available to the government and its first-chamber majority, might be sufficient to influence bargaining and make opposition parties in the second chamber more accommodating.

It is also not clear that the first chamber must necessarily be the agenda-setter in the referendum process. The power to control the referendum agenda cancels the second chamber as a veto player (see also Tsebelis 2002: 130). This is justifiable when the second chamber is democratically inferior. As we noted in Chapter 3, the second chamber in New South Wales can be seen as democratically inferior because its members serve longer terms (eight vs four years). The government's legislative program could thus be blocked by second-chamber members elected several years earlier. When the two chambers have equal terms and legitimacy, as they do in Victoria, other design solutions become possible. One is to let voters decide on competing proposals; another is to let the second chamber control the referendum agenda and thus cancel the veto power of the first chamber. To discuss the latter option, we need to consider the veto power of the first chamber in more general terms.

Does the chamber of confidence require veto power?

So far, I have focused on how the absence of executive personalism may allow semi-parliamentary systems to avoid deadlock in ways that would be more risky under presidentialism. Now I turn to the comparison of semi-parliamentarism and other forms of bicameralism. The literature on bicameralism generally presumes the veto power of the first chamber and asks whether and to what extent the veto power of the second chamber is compromised (see Chapter 3). This perspective is warranted in most cases because second chambers are democratically inferior to first chambers: they are not (fully) directly elected, more malapportioned, and/or have longer terms. Even in the minimally semi-parliamentary systems, the democratic legitimacy of the second chamber is usually compromised (see Chapter 3). The only exception is the post-2003 Legislative Council of Victoria, but this has not kept the Labor government from curbing its veto powers (Chapter 7).

Once we fully accept the logic of a semi-parliamentary system, though, it is not obvious that it is the second chamber whose veto power on ordinary legislation should be compromised. It is, after all, the chamber of legislation, deliberation, and control. By contrast, the chamber (or committee) of confidence can be compensated for weakened veto power by its power over the survival of the government, as well as its (formal or informal) role as the agenda-setter in the ordinary legislative process. Hence, if absolute veto power must be denied to one of the two parts of the assembly, it might well be the

chamber or committee of confidence. An obvious example would be to allow a two-thirds majority in the second chamber (or the assembly at large) to override a veto of the first chamber (or the confidence committee), but also a veto override by a simple or absolute majority is conceivable. This would be comparable to presidential systems like those in Peru or Nicaragua, where the president's veto can be overridden by the majority of a unicameral assembly (Alemán 2020: 138). Regardless of the requirements for a veto override, the veto of the first chamber could also be combined with agenda-setting power, as is frequently the case for the veto power of presidents (Tsebelis and Alemán 2005).

A semi-parliamentary system in which the chamber or committee of confidence lacks absolute veto power can be seen as a solution to the problems of minority governments under pure parliamentarism outlined in Chapter 5. Following Tsebelis (2002), I argued that minority governments might be most attractive when a single party in the center of the policy space can build issue-specific legislative coalitions in a multidimensional and multiparty parliament, but that *single-party* minority cabinets are unlikely to form and difficult to legitimize under these conditions. A semi-parliamentary system provides a solution because it allows voters to directly authorize a single cabinet party in one part of the assembly that can govern as a (stable) minority government in the other part. From this perspective, the first chamber's lack of veto power would reflect the nature of the second chamber as the—proportionally constituted—chamber of deliberation, legislation, and control. The first chamber would not be an institutional veto player but a venue through which voters select the government party as the executive and legislative agenda-setter. The resulting institutional design would balance simple and complex majoritarianism by giving agenda and dissolution powers to the government and/or the first chamber but absolute veto power only to the second chamber.

A proper understanding of semi-parliamentarism should thus also lead us to question the widespread view that (strong) bicameralism is necessarily "a method for protecting the status quo" and that there is no "nonconservative defense of bicameralism" (Przeworski 2010: 142; see also McGann 2006: 184; Tsebelis and Money 1997: 217). I have already argued in Chapter 6 that the situation under Australian-style semi-parliamentarism is not so different to that of single-party minority cabinets in parliamentary systems (Tsebelis 2002: 97–99). The majority coalitions in the second chamber will usually include the government, so that the *first chamber* will often be "absorbed" by the

second chamber, rather than the other way around.[5] This point is reinforced when the first chamber lacks veto power and ceases to be an institutional veto player. In addition, the semi-parliamentary separation of powers may reduce the number of *partisan* veto players in comparison to pure parliamentarism because the placement of proportional representation in the second chamber, combined with this chamber's lack of confidence power, makes the formation of a fixed-majority coalition less likely (Chapter 7). In sum, then, the logic of semi-parliamentarism helps us to see a nonconservative defense of bicameralism.

To be sure, a chamber or committee of confidence without absolute veto power is merely an option under semi-parliamentarism, rather than a requirement. Moreover, the veto power that the two parts of the assembly have over ordinary legislation must cohere with their power over the budget. Hence, if the second chamber (or the assembly at large) is the only institutional veto player on ordinary legislation, it should probably also be able to veto the budget.[6] Rather than discussing these issues further, I want to explore possible behavioral consequences of denying the chamber or committee of confidence absolute veto power.

Veto power and cabinet formation

When the chamber or committee of confidence lacks veto power or certain types of agenda control, the government might have to accept at least some changes of the status quo that it rejects and that go against its own agenda (Damgaard and Svensson 1989; Tsebelis 2002: 98–99). A proponent of complex majoritarianism might welcome this acceptance from a normative perspective, in the hope that the government and its first-chamber majority are forced to implement the preferences of the issue-specific median in parliament and in the electorate (Ward and Weale 2010; Weale 2018). Yet, strategic political actors in the real world may not behave accordingly.

In particular, studies of presidential systems suggest that when presidents lack veto power, they are more likely to build majority coalitions in order to protect their agenda and prevent alternative majorities (Chaisty and Power 2019; Cheibub-Figueiredo et al. 2012; Negretto 2006). Something similar may

[5] On the "absorption" of veto players, see Tsebelis (2002).

[6] While this would raise the possibility that the budget veto can be used as a de facto no-confidence vote, we have seen in Chapter 3 that country experts disagree on how likely this is. Whether or not a government that cannot ensure supply must resign also depends on the details of constitutional design (Bach 2003: 304–305).

happen under semi-parliamentarism, so that the lack of first-chamber veto power might increase the likelihood of coalition cabinets and reduce legislative flexibility. This possibility is another example of how the tension between simple and complex majoritarianism resurfaces under the separation of powers. It should not be exaggerated, however, for several reasons.

First, we must be mindful of the differences between presidentialism and semi-parliamentarism. Under presidentialism, majority cabinets might also form because of executive personalism and the constitutional attempts to contain it. In particular, they might provide a "legislative shield" (Pérez-Liñán 2007) against politically motivated impeachments. This is not necessary under semi-parliamentarism. In addition, I argued above that, under semi-parliamentarism, it is less risky to give the government strong dissolution power, which tends to increase its bargaining power (Becher and Christiansen 2015). Coalition governments might thus be less likely to emerge under well-designed semi-parliamentarism than under presidentialism, even if the first chamber lacks absolute veto power.

Second, even if the first chamber's lack of veto power did lead to fixed veto player coalitions—in the form of majority or "formal" minority cabinets—this outcome might still be normatively preferable to that under pure parliamentarism on the grounds that the selection of the formateur is fairer. As noted in Chapter 4, the formateur is selected by the assembly under parliamentarism, which tends to favor the largest party and may thus create a bias against whichever side of the political spectrum is fragmented into a greater number of parties (Döring and Manow 2015). Under semi-parliamentarism, by contrast, voters can determine the formateur through the first chamber, based on absolute majority rule. This may be fairer, all things considered.

Third, we also have to be mindful of the differences between parliamentary and semi-parliamentary government. Even if the majority party in the first chamber builds a majority coalition in order to achieve a second-chamber majority, the additional coalition parties would not be veto players in a strict sense. They could always be excluded from the legislative coalition without any consequence for the survival of the government. This fact changes the underlying bargaining situation and may lead to distinct behavioral equilibria. While these are difficult to anticipate, the experiences of countries like Denmark or New Zealand may fuel our imagination.

Denmark shows us that even when veto player coalitions are built under parliamentarism, these may vary across policy areas. Danish governments use an informal institution called *forlig*, political accommodations, or legislative agreements (Christiansen and Klemmensen 2015). Between one-fifth and

one-third of all laws result from such agreements. While all parliamentary parties in Denmark participate in agreements, the legislative coalition differs from one agreement to the next. An agreement grants all participating parties a veto right over the legislation covered in it. The government is willing to extend veto rights to opposition parties because it is able to prevent alternative majorities in return (Klemmensen 2010: 226). Legislative agreements also allow for logrolling across different issues; for example, economic and immigration policies (Christiansen and Klemmensen 2015: 37). Some agreements can last a long time, enduring beyond general elections and potential shifts in government. In sum, Danish minority cabinets are able to maintain some degree of legislative flexibility while also reducing uncertainty and preventing alternative majorities.

Minority governments in New Zealand have also created a number of innovative solutions to coalition management in complex assemblies (Boston and Bullock 2010). First, even where formal coalition governments were built, coalition discipline was loosened somewhat by way of agree-to-disagree provisions. Second, enhanced cooperation agreements were made, with the parties agreeing to collaborate on issues of shared interest in return for the opposition party's pledge not to oppose the government on confidence and supply. "Enhanced" meant that they could nominate spokespersons to speak *for the government* in specified policy areas. Such spokespersons enjoyed direct access to departmental officials, were able to request reports, and could attend cabinet committees dealing with policy issues in their designated areas. Finally, minority cabinets also negotiated "enhanced" confidence and supply agreements that allowed support parties to receive ministerial positions, albeit *outside cabinet*. These ministers no longer required the cabinet's consent to oppose government policy, except on matters directly affecting their portfolios or issues identified as matters of confidence. They were able to speak freely as assembly members or leaders of their party on any matter outside their portfolio areas. The agree-to-disagree provision could also apply to policies affecting their portfolios. Interestingly, this last innovation was continued even after the Labour Party won a parliamentary majority in October 2020. The party negotiated a "cooperation agreement" with the Greens, offering two ministries outside cabinet plus some shared policy priorities for the legislative term.

These examples suggest that when, in a semi-parliamentary system, the chamber or committee of confidence lacks veto power, the majority party does not necessarily have to build a rigid veto-player coalition in the second chamber. It can, rather, use its institutional advantage of not needing confidence

(and possibly supply) from the second chamber to build more flexible arrangements, along the lines of Danish legislative agreements. In addition, it might negotiate enhanced cooperation agreements with some parties; for example, those that occupy the median position in the second chamber on specific issue dimensions. These parties might also receive ministerial positions but without becoming fully fledged veto players.

In sum, denying the chamber or committee of confidence veto power in a semi-parliamentary system may well be a workable solution, especially when this denial is compensated with some degree of agenda and/or dissolution power.

Conclusion

This chapter considered some of the constitutional fine print in potential semi-parliamentary systems. The discussion was necessarily explorative, selective, and preliminary. My goal was not to suggest an optimal semi-parliamentary democracy but to highlight the potential of the semi-parliamentary constitution. I emphasized how this constitution could be flexibly adapted to different contexts, how its design could be improved as an alternative to the presidential separation of powers, how the tensions between different visions of democracy might resurface in inter-branch relations, and how semi-parliamentarism could deal with the problem of legislative deadlock in ways that would be more problematic under presidentialism or other forms of bicameralism. Much more empirical and theoretical work remains to be done to understand the interactive effects of institutional rules under different forms of government.