Explaining the Performance of the Colombian Congress: Electoral and Legislature rules, and Interactions with the Executive\textsuperscript{1}

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Abstract
The aim of this paper is to show how Congress was organized internally and to explore what explained the Committees and legislators’ behaviour in the period 1994-2001. Former research on the Colombian Congress has been mainly focused on the effect of electoral rules on the Congress’ performance. Those studies did not take into account the effects of internal rules and the power of the executive. This paper will prove that these variables are important for understanding what the current situation of Congress is\textsuperscript{3}.

Additionally, the objective of this research is to analyze how the institutional framework governing the Colombian Congress affects both the behaviour of legislators and the way parties are organized. Examinations of Colombian legislative performance have usually focused on the features of the electoral system and the weaknesses of party discipline. From the electoral rules, studies have concluded that although the Colombian President has important constitutional powers, it is impossible to overcome the deadlocks generated by a system that promotes intra-party and inter-party competition. However, the Colombian Congress’s performance shows a certain level of organization and even efficiency in passing bills and getting through the legislative agenda. How can we explain this paradox? My proposal is that by taking into account the electoral rules, the internal rules of Congress and the power of the executive branch in imposing its preferences both in procedural and substantive matters, one can solve the paradox of the Congress performance and policy outcomes.

The period analysed, 1994-2000, covers two presidential periods after the Constitutional reform of 1991, and will contemplate both behaviour towards policy outcomes and procedural matters that account for the three main variables – the electoral rules, the internal rules of Congress and the resulting power from the executive- that account for the committees’ and legislators’ behaviour in the Colombian Congress.


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0. Introduction

The 1991 Constitution of Colombia was an attempt to recover the legitimacy of the political regime. The purpose was to broaden political participation for excluded political forces, intensify decentralisation, achieve an economic reform and improve the human rights situation. This was to be achieved in part by diminishing executive political power. After ten years, there have been changes. However, the performance of Congress and the executive has not turned out as desired. Electoral reform has remained on the agenda since 1994, partly because the transformation of political practices has not taken place in the way expected, and the responsiveness of political parties towards citizens and policy results have by all appearances deteriorated. The number of effective parties in both chambers has increased, beyond the usual two of the previous decade, - improving the quality and levels of participation of different political forces-. However, more participation has had consequences for governability.

The Colombian party system has changed with the 1991 Constitution. The opening of political scope and the new electoral rules regarding congressional and other elections, the new ballot system, and the decentralisation process, have all opened new channels of representation. This is certainly a good result. However, these rules have also made intra-party competition severe, giving party organizations less control over the party label compared to the previous period. These changes have had an impact on the Congress’ behaviour and the executive’s ability to manage coalitions in the legislature. This research is an attempt to observe the behaviour of committees and legislators from an institutional perspective.

Since in Colombia there is no record of roll-call votes, which are the main basis of this sort of research elsewhere, the paper concentrates on the committee system and the law-making procedure to reveal how the different political actors take advantage of these rules, in the absence of strong party directorates. A number of questions are to be answered. For example, if the rules have established a certain order of procedure, what is the hierarchy in the committee system that results? Are some committees more important than others? What power do party leaders exercise?

Regarding the committees’ and legislators’ behaviour in Congress, it is important to explore how and to what extent electoral rules are the main explanation of legislators’ behaviour towards policy outcomes and performance while in office. The objective of this research is to analyze how the institutional framework governing the Colombian Congress affects the behaviour of legislators and the way parties are organized. Examinations of Colombian legislative performance have usually focused on the features of the electoral system and the weaknesses of party discipline. From the electoral rules, studies have concluded that although the Colombian President has important constitutional powers, it is impossible to overcome the deadlocks generated by a system that promotes intra-party and inter-party competition. However, the Colombian Congress’s performance shows a certain level of organization and even efficiency in passing bills and getting through the legislative agenda. How can we explain this paradox? My proposal is that by taking into account the electoral rules, the internal rules of Congress and the power of the executive branch in imposing its preferences both in procedural and substantive matters, one can solve the paradox of the Congress performance and policy outcomes. (See next Figure).
Figure 1: Relationship between the Electoral system, legislative rules and Executive power with the Congress’ performance.

Source: author.

It is not here claimed that the Colombian Congress is very well organized. A great deal of criticism of it has been made, and rightly, from a normative point of view. Likewise, much remains to be desired in terms of efficiency and effectiveness to achieve a better performance from parties and legislators. Yet, the claim here is that there is an internal organizational logic. Attempting to make sense of legislators’ behaviour exclusively on the basis of electoral rules leaves much unexplained. Only when incorporating additional variables can one make sense of Congress’s behavioural logic.

The period analysed, 1994-2000, covers two presidential periods after the Constitutional reform of 1991, and will contemplate both behaviour towards policy outcomes and procedural matters that account for the three main variables – the electoral rules, the internal rules of Congress and the resulting power from the executive- that account for the committees’ and legislators’ behaviour in the Colombian Congress.

This paper is divided into five main parts. The first part is the conceptual framework that encompasses the concepts used for this research. It covers the definition of party and party systems, the debate over the influence of electoral rules and the internal rules of Congress, and explains the approach used in the paper to measure the effects of the internal rules of Congress. Finally, there is a brief discussion of the theories that account for committee’s behaviour.

The second part deals with the description of the actual rules inside the Colombian Congress that govern the law-making procedure, and the process of Committee formation. Likewise, it describes who are the main players in these two processes, and emphasises on the executive’s predominance in the agenda-setting process.

After a brief description of the methodological issues, the third part shows the aggregate results from the data gathered for all the Congress, and explains how the three variables are important when analysing policy outcomes. The fourth part deals with the case studies – Committee of Constitutional reform (First Committee), the international relations Committee (Second Committee) and the Committee that deals with budget and taxation, the Third Committee, to give some evidence of how these three variables impinge in the different jurisdictions. Finally, the fifth chapter presents some conclusions about the implications of this organization for the efficiency of the regime and its viability.
1. Conceptual Framework

For a better understanding of parties, party systems, coalitions, and other concepts that are going to be used throughout the text, this chapter covers the main theories used, and their implications for this analysis. The conceptual framework is divided into three parts. The first part is concerned with party and party-system definitions. The second part discusses the two main theories that pretend to explain legislative behaviour; one that considers that party dynamics in a Congress can be understood mainly by focusing on internal rules, and the other that considers that electoral rules are the main explanation of how parties behave, without taking into the account internal rules of the Chambers. The third part reviews the different theories of committee behaviour in Congresses.

1.1 What do we mean by political parties?

This paper is concerned with parties as public office holders, specifically concerning parties in legislatures. Parties in Colombia have always been closely related with the state organization, due to a tradition of consociational pacts and proportional representation. **Parties then are defined as networked organizations of leaders in the local, regional and national arenas who share the desire both of securing institutional posts and surviving by getting re-elected.** As Thies explains, parties solve collective action dilemmas in which their members enhance cooperation, because obeying their particular rules will provide benefits that could not be attained by them working as individual politicians. Thus, there is some certainty about the outcomes regarding parties in office, constituting a semi-institutionalised party system.

Parties, as the structural units of Congress, share certain characteristics once in office that are closely related with the institutionalisation of norms that maintain the status quo, and thus, their survival and amount of power in the Congress’s organization. The challenge for Colombian parties has been to adapt to new rules that have promoted intra-party and inter-party competition during elections, and to act collectively once in office. This constitutes one of the greatest challenges of the Colombian Congress.

1.2 Internal rules vs. electoral rules: which explain best the behaviour of parties in Congress?

The literature that explains how parties behave in Congresses show two main approaches: the two-arena model, and the one arena model. The first approach states that the electoral arena is the principal variable for understanding legislators’ and party behaviour in a Congress. Therefore, is not necessary to look at the internal rules of Congress or its Committee structures to infer their performance, in terms of voting patterns of preferences. The electoral system is the one responsible for the discipline of legislators and their cohesiveness in office. It is argued that there is a connection between the “electoral” and the “legislative” arenas.

The second approach, states that electoral rules are not the only rules that matter in understanding legislative behaviour. The internal rules of the Chambers provide information

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6 "The theory is that legislator’s policy preferences are determined by the outcome of elections, the distribution of preferences determines whether the parties differ greatly and whether the parties are internally cohesive, and that internally cohesive, polarized parties generate centralization. The integrative capacity of party leadership flows primarily from “party strength”, defined as cohesion in policy preferences.” Smith, S., "Positive Theories of Congressional Parties", *Legislative Studies Quarterly*, XXV, 2, 2000, 193-207.
about the real power of those elected, constraining coalition formation. In other words, parties have “fraction benefits”.¹⁰

If we accept this model, it will be in the individual legislator’s own interest to participate in coalitions and work within a group, despite the need for looking after his own individual electoral interests. Benefits resulting from being allied with more legislators are greater than those that result from staying alone, both in policy and in spoils. In addition, it is important to highlight that this model takes into account “party leadership” as a relevant variable for understanding both policy outcomes and distribution of power in the Houses.¹¹

This research takes a look at the committees in Congress to see if the internal rules of Congress in the Colombian case influence the behaviour of parties and legislators in a different way from what could be expected from just analysing the electoral rules.

1.3. The Committees and the Legislature’s Rules.

From the neo-institutionalism we have learned that rules are not judged neutral, as they often reflect a certain status quo or median preference and determine the type of result reached in any corporate decision. Internal rules of Congress are not an exception. We assume these rules to be exogenous, because from their “organic character”. As in most countries, in Colombia a simple majority in the House cannot change the Constitution or the organic laws: reform or amendments to these rules have to be made by the absolute majority of the members, not a deliberative quorum, of both chambers. Likewise, they are also taken as exogenous because the costs of changing these rules are very high, not only for the majorities required, but for the time and effort that has to be invested in order to accomplish such change. A better strategy is usually adapting, rather than amending.

Cox states that rules can have three different types of effects:¹²

a. **Proximal effects**: the effects on distribution of resources, as for example staff and agenda power. These proximal effects are different depending on who has been assigned the task of controlling the agenda. For example, in the *Theory of the Majority Party* one could argue that the majority party controls the proximal effects, as in the *Theory of Executive dominance* is the executive who has the control of the agenda.

b. **Intermediate effects**: how rules affect members’ votes in any given policy choice. Generally, voting behaviour has been explained as a result of three different orders of preferences: the constituents’ preferences, personal preferences and party preferences.¹³ Rules governing the voting procedure can monitor or control the legislator’s behaviour as they can provide side-payments depending on their particular choices. When there exists nominal vote for example, the cost of voting against the party line is higher compared to the one obtained when the there is secret vote.

c. **Final effects**: Impact on the policy actually chosen. In Colombia, the committee decides which bill goes to the floor, and what types of amendments are accepted. If members of the committee are unsatisfied with amendments made by the floor, they can always prolong the law-making process, making amendments very costly in time and for the viability of the bill. Committees and the executive’s agenda power control indirectly the final effects, as they define the alternatives.

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⁹ This is specially true in systems that establish Committee appointments on party or group basis, establish the possibility that members are removed by the party leaders, and where members that are not attached to parties have less rights than the ones that are.


¹² It is also important to see that changing particular rules entrenched in a Constitution has large costs that legislators are not likely to assume.

¹³ Ibid., p. 180.
Is the design promoting a system where parties or majorities have a better position relatively to individual legislators for the policy-making procedure? How centralized or decentralized is the process? What are the powers of committees and what type of outcomes can be expected?\textsuperscript{14}

In recent literature, there have been some attempts to explore congressional committee systems to determine who has benefited from their design. All these theories offer one common principle: rules have a certain purpose, and can serve different types of results: either in the policy result, in the election process, or in the way legislators decide to vote.

**i. Distributive Theory.** Shepsle and Weingast, using the rational choice approach, advanced the distributive theory.\textsuperscript{15} This theory has as its main assumption that legislators have their re-election as their main objective, overriding their policy preferences. Committees are designed to promote specialization. Legislators are distributed between jurisdictions, choosing the one that best fits their needs to use the resources managed for their electorate in order to get re-elected. Coalition building is a result of cooperation between congressmen who negotiate for spoils.\textsuperscript{16}

Coalition would then result even without enforcement by political party, due to the independence of the committees and the cooperation efforts between legislators. Cooperation would match with political party criteria, only if the electoral system gave the power of “gate-keeping” to political parties.\textsuperscript{17}

**ii. Informational Theory.** Krehbiel proposes that committees, rather than being distributive agents, are “specialized factors of production”\textsuperscript{18}. Committees then are created to improve the information necessary for policy deliberation, as well as a filter of the information legislators want to reveal in certain committees in order to influence decisions on the floor. In addition, legislators provide the necessary information about the relationship between the policy proposals and the social outcomes that result from their implementation. Committees are important because, in these terms, they have an information monopoly, giving legislators an opportunity of influencing the floor and the decisions of other legislators.

**iii. Majority Party Theory.** Cox and Mc Cubbins main point is that the majority party behaves as a “legislative cartel”, with two main consequences for the political system:

First, the legislative process in general, the committee system in particular, is stacked in favour of majority party interests. Second, because members of the majority party have all structural advantages, the key players in most legislative deals are members of the majority party, and the majority party’s central agreements are facilitated by cartel rules and policed by the cartels’ leadership.\textsuperscript{19}

As they conclude, rules governing legislatures can favour the majority party giving leaders the necessary incentives and power to generate a cohesive result in which the party overcomes the minority’s potential power by managing the agenda and the policy results.

**iv. Theory of Executive Dominance.** Pereira and Mueller designed the theory of executive dominance as a response to the other theories which, they believe, do not adequately describe the

\textsuperscript{14} Is important to understand rules as an endogenous variable for politicians’ s behaviour. They are the ones that create the rules, as well as they are the ones who have to adapt to them. Rules and committees system are not taken as a given, but are understood as a part and a result from the political process.


\textsuperscript{16} Ibid; p. 8.

\textsuperscript{17} Escobar-Lemmon, M., *Personal Vote Seeking and Membership in Colombia*, Latin American Studies Association XXIII International Congress, Washington DC, September 6 - 8, 2001. In the Colombian case, Escobar-Lemmon argues that Committees work as distributive institutions with the exceptions of the First and Second Committee mainly because the issues that concern both Committees. However, the evidence collected here will demonstrate that this is not necessarily true for the Second Committee.


Brazilian committee system. The main assumption of this model is that the executive has control over expenditure and other assets (institutional framework, legislative initiative and decree powers) that the US president does not command. Since most theories are made with the United States political system in mind, they fail to explain accurately as they do not consider cases where the executive commands more power. Given this characteristic of the Brazilian system, they demonstrate that committees are understood more as agents of the executive, especially when their policy preferences are closer to the ones of the executive. If committees’ preferences are far from the executive’s desires, they can be easily evaded. Legislators then, have a greater incentive to share policy preferences with the executive, since observing this discipline will benefit their re-election and enhance their ability to deliver resources to their particular constituencies.

These four theories rely on different institutional characteristics and explore how these affect the relations between legislators, parties, and the executive. They also differ depending on the political power of each actor in the law-making process and the level of cooperation required for adequate aggregate results in policymaking and governance.

The next step is to analyse what is the particular institutional framework in the Colombian policy-making process to see how these theories can help to explain the Colombian legislative process and legislative behaviour.

2. How does the Colombian Congress works?

The main purpose here is to explain the internal rules of Congress, to understand how the Colombian Congress is organized, and the nature of its decision-making process regarding administrative issues and law-making procedures. These two features of the system are essential for understanding how parties are organized in Congress and how rules benefit the different political parties represented in the legislature.

2.1. Congress and Committee’s composition

The Colombian Congress is divided into two Chambers, each with different constituencies. The Senate is elected in a national constituency, while regional constituencies that are equivalent to the political and administrative divisions of the country elect the House of Representatives. In the regional constituencies, the number of elected representatives range from five to eight. The electoral system allows intra-party competition, reducing the party’s label value to a minimum degree. The number of seats (adding both chambers is 263) divided as follows:

<table>
<thead>
<tr>
<th>Chamber</th>
<th>National Constituency</th>
<th>Regional Constituency</th>
<th>Special Constituencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senate</td>
<td>100</td>
<td>2</td>
<td>102</td>
</tr>
<tr>
<td>Representatives</td>
<td></td>
<td>161</td>
<td>161</td>
</tr>
</tbody>
</table>

Source: Political Constitution of Colombia

Each chamber has a *mesa directiva*, of which the president and the two vice-presidents are elected annually by each of the chambers. The presidency is given to the coalition that has the most seats in the Congress, and the two vice-presidencies are given to the minority forces. Before 1998, the majority party had both the presidency and the second vice-presidency. Since 1998, the “independents” have made an alliance, occupying this second vice-presidency. Although their power is not great, it gives them some influence on the agenda, as well as a larger budget for more

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staff. It also gives the second vice-president certain leadership among the independents. No re-election is allowed.

The mesa directiva of the Senate and the House differ in one of their functions. The Chamber’s mesa also manages the administration of the House itself, while the Senate has an independent organism that performs this task. This makes the House mesa much more attractive, because it has not only political power but assets under its direct control. Both mesas have certain attributions that provide the legislators who are elected to them with more power than the general run:

- They determine the annual budget for the Congress, to be included in the annual national budget,

- Establish the complementary rules needed for the good performance of the general secretariat as well as for the secretaries of the different committees. They have power over the Presidents of the Committee because these are compulsory for each permanent committee. These complementary rules can be either in terms of procedure or administrative issues.

- Calling of sesión de comisiones conjuntas, a law-making procedure through the joint deliberation of two committees that have jurisdiction over a project. This is also an attribute that the executive has in order to accelerate the Chambers.

- Request from the Consejo de Estado the pérdida de investidura, or loss of investiture of a congressman who has broken the rules. If the process is successful, it means that the legislator cannot ever run again for election.

- Additionally, the President of each Chamber distributes bills between the committees, designates the temporary committees, comisiones accidentales, and becomes the principal link between the Executive and the Congress. As will be shown, apart from chairing the floor debates and having control over the agenda, the listed attributions generate important incentives for legislators to run for this office.

The Colombian Congress has different types of committees: seven permanent committees in each chamber, a number of legal committees, special committees and accidental committees. For the purpose of this research, we are only going to consider the permanent committees. Elections to committees are held on the first meeting of the elected Congress, and the procedure is by party lists that are elaborated previously by the compromisario, or representative of each of the parties. Each legislator needs a certain number of votes to be chosen in a particular committee. The system is by electoral quotient. Legislators who do not have the number of votes needed, have the chance to bargain with representatives for a seat in their second preference committee, or take places that have not been assigned at the end of the process. Belonging to a party in this procedure gives the legislator better chances depending on his popularity among fellow legislators, of choosing the Committee where he wants to be, according to his specialization and interests.

Congressmen who have been in office more than two periods usually have a better chance to get onto the committee of their choice, as they have greater know-how compared to new legislators, previous experience of the necessary procedural coalitions. The committees, by law, have a fixed number of legislators:

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21 This means that congressman that do not have enough votes to enter their preferred committee have to run for other committees that have available seats.
Table 2: Committees and Jurisdictions

<table>
<thead>
<tr>
<th>Committees</th>
<th>Jurisdiction</th>
<th>Senate</th>
<th>Chamber</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee 1</td>
<td>Constitutional Reforms, Statutory Laws, District Organization, peace strategies</td>
<td>19</td>
<td>33</td>
<td>52</td>
</tr>
<tr>
<td>Committee 2</td>
<td>International Relations, National Security and Defense, Treaties, Diplomacy issues</td>
<td>13</td>
<td>19</td>
<td>32</td>
</tr>
<tr>
<td>Committee 3</td>
<td>Treasury, Taxation, subsidies</td>
<td>15</td>
<td>27</td>
<td>42</td>
</tr>
<tr>
<td>Committee 4</td>
<td>Organic Budget Law, Financial System Control, Sale of National Assets</td>
<td>15</td>
<td>27</td>
<td>42</td>
</tr>
<tr>
<td>Committee 5</td>
<td>Agriculture regime, ecology, environmental issues, and regional development agencies</td>
<td>13</td>
<td>18</td>
<td>31</td>
</tr>
<tr>
<td>Committee 6</td>
<td>Mass media, communication, public emergencies, public services, transport, and public works</td>
<td>13</td>
<td>18</td>
<td>31</td>
</tr>
<tr>
<td>Committee 7</td>
<td>Public service regime, union organizations, societies, social securities</td>
<td>14</td>
<td>19</td>
<td>33</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>102</td>
<td>161</td>
<td>263</td>
</tr>
</tbody>
</table>


Each of the committees has its *mesa directive*, elected obeying the majority rule principle and the respect for minorities. Their period of office is for one year only, and there is no re-election. The president’s attributions are very similar to those of the president of the House. However, since he chairs a body with fewer legislators, his influence is greater in the law-making process. But not every president can exercise his potential power. We will try to see if there are differences between the committees, and between the committees and the floor.

2.2 Law-making procedure

Law making procedure is complicated in its details. One of the main tasks of any Congress is to make laws, subordinated to the Constitution. As expected, procedural matters are one of the main reasons why laws can be declared unconstitutional and rejected. Knowledge of the procedure is of great importance. It is important to understand how this process generally works, to understand how legislators and the executive take advantage of it.

There are some offsetting disadvantages in the study of legislator’s behaviour with the current set of rules. One of the most difficult is the study of party behaviour. Party performance in this process

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22 The rule of Congress states that *mesas directivas* have to include the different parties and forces that have seats in Congress. As a consequence, the two largest minorities in Congress occupy the first and second vice-presidencies.
has hardly been studied for a variety of reasons, which have both historical and institutional explanations. The 1991 Constitution was written with the objective of opening out the political spectrum, as it was felt that the regime’s allegedly “exclusionary” character was one of the main causes of violence and institutional decay. The widening of the political spectrum in violent circumstances had as a consequence the vulnerability of its institutions, as it permitted criminal interests in some cases to constrain the vote of the legislators.23 Influencing votes in Congress was one of the main targets. As a consequence, secret votes remained the rule. The Congress rules state:

The ordinary vote will be used in every case in which the Constitution, the set of rules of the Congress, or other law does not explicitly require a nominal vote.

Article 129. Ordinary vote. The ordinary vote is when legislators, with their hand, knock on their desk as the sign of approval of what is being voted. The secretary of the Floor or Committee will announce the result of the voting, and if there are no objections, the result will be assumed. 24

This protected legislators from external threats regarding violent retaliation for their political positions. However, this meant as well greater independence from party discipline and party leadership. **Without the nominal vote as the default rule, it is difficult to recreate how legislators vote on the different bills.** Although a nominal vote is required for some specific bills, the results have not been systematized. One might think that coalitions not benefiting from this situation would use their right to ask for a nominal vote. In such cases, if there is a petition for a secret vote and a nominal vote together, the rules of Congress state that there will be secret vote. Under these circumstances, regularities in the voting behaviour of parties and legislators are quite a complicated subject to study. Who is gaining with this procedure? Do minimum coalitions work when there is no need for nominal votes? Who asks for nominal voting? These questions cannot be answered with the information currently available. Nonetheless, the information collected here is a first attempt to understand how legislators behave despite the limitations established by the voting rule inside Congress.

### 2.3. Bill Initiative and Debates.

The law making process is divided in the number of debates each bill requires to pass. Ordinary Colombian bills must pass four debates in at most two legislatures to become law. In charts 1 and 2, the process is explained.

**a. Bill initiative.** In the Colombian Congress there are five main institutions that are entitled to present bills: The Executive, the Judiciary and the Legislative powers. The control organisms such as the Procuraduria or Contraloria are also entitled to present bills in certain subjects. Finally, citizens can also present bills if they succeed to fulfil certain requirements. These five sources can send bills to Congress to be discussed and voted. However, as in other presidential regimes, the executive has some special prerogatives, which give it a lot of power when it comes to passing legislation and setting the agenda of Congress.25 Some of these powers are:

**a. Procedural veto and substantive veto:** procedural veto regarding the legislation path, respecting the deadlines and the number of debates. This procedural veto is important as the first legal evaluation is made by an executive’s office. The substantive veto that has to do with the subject and its constitutional consistency. A Congress majority can over-ride this veto, after the bill has been returned to the last chamber were it was approved and is passed by 2/3 of the deliberative quorum.

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23 A notorious example was the debate on extradition.
25 Mainwaring and Shugart demonstrate in a comparative perspective that the Colombian President has an important constitutional active power over legislation, but a medium-low partisan power. Mainwaring, S. and Shugart, M. S., Presidentialism and democracy in Latin America, Cambridge, 1997.
b. **Urgency petition**: This enables the president to demand that the Chambers study a bill that is considered a priority for the government. The Congress then has 30 days to debate the bill. This power is frequently used by the president to control the agenda-setting power of the mesas directivas.

c. **Exclusive introduction of legislation**: The Executive has the exclusive right to present bills concerning the structure of the ministries, salaries of public employees, foreign exchange, external trade, the national debt, and tariffs, bills granting authority to negotiate contracts and loans.

All these powers give the executive legislative power and agenda setting power in all the law-making process.

The next step once the bill is presented to Congress is the Choice of Ponentes. The secretaries of the Senate and House are responsible for receiving bills. The president of the chamber and the secretary distribute them into the different Committees depending on their jurisdictions. The secretary of the Committee receives the bill, and it is given to the committee’s president who designates the ponente. The president of either the Chamber or the Committee is here able to exert his influence. For example, if certain project is not in his interest to pass, he has various options to delay its processing: they can either take a long while to pass the bill; make an strategic move deciding the bill’s jurisdiction; or to name a low profile ponente for the project. The second option is important as some projects are not easily classified because of the general subjects and can be passed to more than one committee. The president of the mesa directiva can also designate a ponente with no political power and then the bill will have a lesser probability of succeeding. After deciding the bill’s jurisdiction and naming a ponente, the bill must pass the first debate.

### 2.4. First Debate in the Committees

Once the bill has a designated ponente, it needs to be presented before the Committee with a recommendation that proposes either the approbation or rejection of the bill. The president can decide to name more than one speaker, as well as to determine the time needed to prepare a bill. These decisions have an important strategic value. For example, when the executive has proposed the bill, it will be interested in having speakers that favour its policies. Then the president of the committee can negotiate with the executive. If there is interest in passing the bill, either the executive or the Committee Chair can ask for a Comisión Conjunta Permanente. Consequently, both can then speed the process, and name a legislator who will be more capable of organizing a favourable majority.

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26 When the Comisiones Conjuntas are needed, the president of the respective Committee in the Senate is the one in charge of the Comisión Conjunta, and the vice-president is the President of the Committee in the House. This means that both, President and Vice-president are from the same political majority.

This chart illustrates the law-making process in the first House. The first House were the bill is passed is decided by the author and is constrained by the Congress rule. But almost all legislation that is not about the budget can go either to the House of Representatives or to the Senate.

The bill can be accepted or rejected. If accepted, it has to be approved generally by a simple majority of the deliberative quorum. Some bills related to specific matters, need other majorities stipulated in the Congress law, Section No. 7.28 The committee has the power of amending a bill, the exclusive right of discussing the modifications needed for a bill to pass. Without the Committee’s approval, the floor can only make non-substantive modifications. 29

2.5. Second Debate in the Floor.

Once the bill passed the first debate, the next step is the Second debate in the respective floor. The ponente chosen by the President of the relevant Committee acts as the ponente on the floor of the respective house (either Senate or House of Representatives). As in the Committee, a summary presentation of the bill must be made, as well as a recommendation whether the bill should be approved or rejected. If this recommendation is positive, the debate and its roll call should be general. 30 However, if one member of Congress or one ministry asks for the discussion of a particular section or article, part of the debate will be on this particular matter.

If the project is approved, there has to be a 15-day delay between the dates of approval in the second and third debates. The third and fourth debates work in a similar way to the first and second

28 Constitutional reforms need a second round, as well as Organic laws such as the Annual Budget, the four year Development Plan, bills concerning territorial organization and competence, among others. Reglamento del Congreso, pp. 40-43.
29 “Art. 177. Diferencias entre el pleno y la Comisión. Las discrepancias que surgen entre las plenarias de las Cámaras y sus Comisiones Constitucionales acerca de los proyectos de ley, no deberán corresponder a asuntos nuevos, o no aprobados, o negados en la Comisión Permanente respectiva. Si así fuera, las mismas Comisiones reconsiderarán la novedad y decidirán sobre ella, previa remisión del proyecto dispuesta por la Corporación.”
30 General in this context means a debate about the bill as a whole. One can also discuss part by part of the bill, but this is only in cases where there is an explicit interest in doing so.
debates, with the exceptions of the amendments. Once a bill is approved by the floor and passes to the other House, the number of subsequent amendments should be smaller. If not, it is likely that it will have more than the usual four debates.

If there is a high level of discrepancy between the chambers and the floors, the President of the Congress can call for a *comisión accidental*, drawn from the members of each permanent committee, to discuss the bill and propose a new text that satisfies both parts.

**Figure 3: Law process in the Second Chamber**

This chart shows the law-making process for the second and third debate in the Second Chamber.

### 2.6. What can be concluded?

From only observing the rules, one can reach some conclusions about the way the structure of the organization and how parties can adapt to these rules. Certainly, there is a great deal of decentralization as the distributive theory suggests, even if the majority coalition exercises a kind of political entrepreneurship. Parties should behave as procedural coalitions for all nomination procedures, especially the majority party. Furthermore, it can also be said that the executive has clear advantages in the law-making procedure, and in defining the procedures for bills it shows an interest in, and which might prove difficult to pass.

Electoral rules seem to have an effect on the way the Colombian Congress is organized. The election for all committees by quotient, and the no re-election rule in the *mesas directivas* is *a clear characteristic of a highly personalized environment*. This allows legislators to have always an opportunity to run for office inside the chamber, imposing the minimum constraints of belonging to a certain party. Nonetheless, it is also clear how parties –understood in this case as procedural coalitions- have great incentives to control those posts which give them the possibility of being agenda-setters for national and regional policy goals, and the opportunity of generating among their groups certain degrees of hierarchy and organization, as they can use selective incentives to constrain their behaviour.
Second, the executive has great agenda power, especially regarding what Cox calls the final effects of legislature rules. This means that the executive changes the ordinary agenda-setting power of the mesas directivas to establish which bills are going to be discussed when desired, and decides what procedure is used. The call for comisiones conjuntas, or comisiones conciliatorias gives the president enough power to form a winning coalition and secure the content of a bill. Nonetheless, the Congress remains a very sensible and powerful organism as it has a veto power, and cannot be attacked nor controlled for long periods of time. The executive then, needs to decide when and where does he use his power to achieve its goals.

Third, committees play an important role in the success or failure of certain bills. Presidents of chambers and committees, and ponentes in each chamber have the bill-specific knowledge, and are the most important decision-makers. However, in order to play this important role a legislator cannot be alone. As the election for Chambers and Committees’ mesas directivas is by electoral quotient, the bigger coalition or party has the advantage. In the absence of strong Party Directorates, one expect to find an organized horizontal network that secures these posts, which has power in matters of policy as well as the administrative power to distribute spoils, and provide legislators with the opportunity of showing off their capabilities to their electorates. The committees’ nomination works in a similar way. If legislators have the support of other legislators, they can join the committee of their preference, benefit their electorate and at the same time play a more prominent role in policy issues.  

‘Political entrepreneurs’ are prominent in all these procedural coalitions, where one can see that there are at least temporary institutional leaders who can solve the collective action dilemmas that are created as a consequence of the lack of a permanent leader:  

The purpose of the next section is to estimate how coalitions inside Congress exemplify this type of leadership. As can be inferred, sometimes these coalitions match with the political party line but at other times they do not. Evidence is not conclusive in showing which has been the most prominent behaviour.

3. The historical context of the period considered.

The Colombian party system during the period considered has experienced important electoral changes that need to be taken into account when analyzing congressional behaviour. First, it is necessary to point out that the Colombian system of open lists without a minimum threshold for Congress elections, along with the decentralization process, generalized what is known as operación avispa, the practice of the political parties of dividing their candidacies into a great number of lists, as the system rewards inter-party and intra-party division. The 1994 and 1998 congressional election’ results are clear evidence of this. Pizarro shows that the number of lists that achieved more than one seat in Congress in 1994 was just three, with six seats; the 1991 election results had shown nine lists electing 34 senators. In the 1998 elections just two lists obtained four seats.  

Without central control of the lists, the number that carry the name of a party has increased a great deal, well beyond the number of seats, which means that parties are losing votes. Although the

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31 Interview with Representative Miguel de la Espriella.
system still results in the return of more or less the same number of members of each party in Congress, it is clear that members are being elected with fewer votes, though with the same level of party concentration that was meant to be discouraged by the 1991 reform.

The two legislatures studied, as the two charts show; follow the pattern that has been established in terms of party inter-competition. Both Congresses show the Liberals to be the largest party, with almost 60% of the seats in 1994, and with a little less than 50% in the period 1998-2002. The Conservative party has lost seats during the period, both in the Senate and in the Chamber, from 30% in 1994 to 26% in 1998. Nonetheless, they still equal the independent senators and representatives, now account for 25% of the seats.  

Figure 4: Percentage of members of the different parties in the House of Representatives 1970-1998.  

Figure 5: Percentage of members of the different parties in the Senate 1970-1998.  

Electoral efficiency then, is achieved by getting out the minimum required number of votes for a seat in Congress. Furthermore, public financial electoral subventions are paid to the candidate and not to the party, after elections have taken place. Party directorates, then, are left with little power to impose any discipline, as they cannot control the number of lists -it would not be rational to do so- nor they can offer direct financial support to create a party compromise with the candidates. Consequently, legislators use this as one of the facts that support their independence from the central organization, producing a generalized party indiscipline that can only be tackled by the internal rules of Congress, where the presidents of the chamber are the ones that can establish certain levels of hierarchy. In this environment, both President Ernesto Samper and Andrés Pastrana had to deal with unstable coalitions in Congress, and interfered directly in congressional politics to achieve their policy goals and overcome the different institutional crises that appeared during the period.

Ernesto Samper won the Presidency in 1994, after defeating Andrés Pastrana by a very small margin. Shortly after the election results were announced, Pastrana denounced the existence of drug-traffic money in the Liberal campaign, with evidence that indicated that important officers of the campaign had received more than three million dollars from the Cali Cartel. However, this scandal did not at first appear so important, and it was referred to the Fiscalía. In April 1995, the Fiscalía decided that there was enough material to start an investigation, and this turned into the

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34 Although the number of independents is the same as to the number of conservative seats, the independents are a much more heterogeneous group. The independents only started working as a group in Congress until the period 1998-2002.
35 Professor at the National University of Colombia, Instituto de Estudios Políticos.
biggest political scandal of the decade. As the process evolved, various members of Samper’s government as well as members of Congress and the Directors of the Contraloría were involved. The situation remained more or less contained until Fernando Botero, the Minister of Defense, decided to give his own version of the story. From the evidence given by Botero, the Fiscalía decided that the President had to go to trial.

The Liberal Party divided into two: pro and anti-Samper wings. Some powerful members of the party and influential journalists, in the magazine Semana for example, campaigned for the President’s resignation. The President decided that if prosecuted, this would only be possible by the institutional procedure, which meant by Congress.

Samper had lost the support of an important number of Liberal congressmen, and he therefore needed to build a fresh coalition both to pass legislation and to secure a majority to confront the expected trial. The trial took place during May and June 1996, the most difficult months for his government, and although the acquittal was achieved, the consequences for the political regime persisted. The crisis left the parties and bancadas in the Congress seriously affected by the maneuvering of the executive to form a new coalition, more in a for and against his government division, rather than the usual Conservative and Liberal division.

Andrés Pastrana won the Presidency in 1998 by a narrow margin against Horacio Serpa, the candidate of the Liberal Party. Aware that he did not have majority support in Congress, he created a supra-party alliance, the Alianza por el Cambio, to exert influence legislative posts and committees.

This supra-party alliance was eventually broken by a referendum proposal initiated by the executive in April 2000, which included the revocation of the existing Congress. Corruption scandals of the mesa directiva of the House of Representantives had appeared few days before the referendum proposal. The Congress rejected the proposal, accusing Minister Nestor Humberto Martinez for being responsible for the corruption scandal, and the Liberal party proposed a call for general elections. This left the government with a Congress re-aligned, and the Alianza por el Cambio at an end.

4. Methodological design

To look at the consequences of rules on the behaviour of the Colombian Congress, and being aware of the potential power that the mesa directiva has in each committee and chamber, I decided to scrutinize the decision-making process governing the election of mesas directivas for the first, second and third Committee in the Senate and in the House in the period 1994 -2000. These elections are normally held annually for each corporation. This information is from the official record, the daily Gaceta del Congreso. From this information, coalitions in the chambers were reconstructed, differentiated by parties and factions. The record also has qualitative, valuable information about the way rules were manipulated by the different boards and coalitions on the Congress floors, and the way the executive interfered in appointments. Furthermore, they show the difference between Chambers and the particular manner in which each adapts to the rules. As the period considered involves two governments, it is also possible to discern a pattern of executive-legislative negotiations.

In addition, other documents and sources have been analysed to determine whether the pattern of coalitions made for these elections are stable when it comes to votes on bills: minutes of congressional meetings both from Liberal and Conservative party, as well as twenty-two personal interviews to Legislators’ and Committees’ secretaries. These interviews are revealing regarding coalition formation, since there is a great deal of party factionalism.

For the purpose of analyzing the intermediate and final effects of rules on legislatures, I constructed a database including all the bills passed in Congress between 1996-2001 to observe the common
and diverse features of policy outcomes, differentiated by Committee, initiative, and type of bill. I also tried including partisan criteria, but it is very difficult to assume the speaker’s position when presenting a bill. That is why we limit the analysis to the nature of the jurisdiction, type of law and the Committee where it was first introduced.

As has been shown in the description of the law-making process and the way committees are elected and work, one of the hypothesis proposed here is that the members of the mesas directivas of the Chambers, and that of the Committees and the Executive, have important influence over legislative procedure. Thus, although the electoral rules produce a decentralized and individualistic environment, it is still possible to enact part of the agenda.

This is because the Mesas control rules, and take advantage of what Cox had labelled the proximal, intermediate and final effects of these legislative rules. Although these are not as powerful as in some other presidential or parliamentary systems, where they have the backing of more disciplined parties, they have to be taken into account to understand how the Colombian Congress is organized. As Haggard and Mc Cubbins have demonstrated, governments with more proportional electoral systems tend to be less stable, and hence the policy outcome is less decisive due to the complexity and fragility of multiparty coalitions. This hypothesis stands for the Colombian Congress and the results in terms of policy implementation. However, the process is not chaotic and although there are more costs to meet policy expectations, it has been possible to be successful in certain areas.

5. Congress behaviour: Towards a three dimensional analysis

The performance of Congress in the two legislatures chosen follows patterns in its behaviour. First, I am going to analyse the type and number of laws enacted from the period, in order to make certain generalizations concerning the influence of electoral rules, legislative rules and the executive’s power. Then, I give a brief description of the mesas directivas composition both in the Senate and in the Chamber to see the main differences between the two houses.

5.1. The electoral cycle, and bills initiative

As is shown in the figure, the percentage of laws enacted by subject reflects the electoral cycle, as the higher production of laws is in the year prior to elections in the period 1994 – 1998, and although is not as clear in the second period, the same pattern is repeated, with a slight change in the year 2000-2001, as is not the most productive year in the period 1998-2002. However, this can be attributed more to the end of the government coalition than to a real change in the way the Congress behaves.

Another interesting feature that emerges is the number of laws enacted differentiated by subject. During the two periods, national laws are the majority of laws enacted. The percentage oscillates between 40% and 55%. By comparison, regional laws enacted as a percentage of all laws enacted is lower than that for national laws, oscillating between 30% and 10%. It can be seen that Congress passes more national than regional laws, although from general assumptions about the importance of electoral considerations the amount of regional laws should be higher, as congressmen need them in order to get reelected.

The next chart shows that from all laws enacted in Congress, national bills were presented half by the executive and half by the Congress. The case of regional bills is different, as Congressmen present them all. These facts indicate the power of the executive to pass its legislation easily, without high costs in terms of legislation. However, costs cannot be measured solely in terms of laws enacted, as the executive has many ways of getting congressional support. There have been numerous scandals concerning executive-legislative relations in these matters.


<table>
<thead>
<tr>
<th>Type of Law</th>
<th>Initiative</th>
<th>Legislative</th>
<th>Executive</th>
<th>other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>National laws</td>
<td>Count</td>
<td>101</td>
<td>111</td>
<td>9</td>
<td>221</td>
</tr>
<tr>
<td></td>
<td>% within Subject</td>
<td>45.7%</td>
<td>50.2%</td>
<td>4.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Regional laws</td>
<td>Count</td>
<td>83</td>
<td></td>
<td></td>
<td>83</td>
</tr>
<tr>
<td></td>
<td>% within Subject</td>
<td>100.0%</td>
<td></td>
<td></td>
<td>100.0%</td>
</tr>
<tr>
<td>Treaties</td>
<td>Count</td>
<td>12</td>
<td>127</td>
<td>1</td>
<td>140</td>
</tr>
<tr>
<td></td>
<td>% within Subject</td>
<td>8.6%</td>
<td>90.7%</td>
<td>.7%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>Count</td>
<td>196</td>
<td>238</td>
<td>10</td>
<td>444</td>
</tr>
<tr>
<td></td>
<td>% within Subject</td>
<td>44.1%</td>
<td>53.6%</td>
<td>2.3%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

There is obviously a pattern of delegation of the national legislative agenda from the Congress to the executive. The ministers and other government offices are usually writing and presenting bills concerning national issues. This pattern changes depending on the issues and on the importance it has for the executive’s performance. From all the national bills enacted, the executive presents the ones with a more explicit political character, and although there are some that originate from a legislator’s initiative, it proves much harder to get them passed as legislators’ veto power or active power is small compared to what the executive commands. The next figure shows the ratios of bills presented to bills enacted, comparing the executive and the congressmen.

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Figure 7: Ratio of bills presented to bills enacted in the House of Representatives

The ratio of executive success is always higher than for legislative initiatives. If one includes treaties in the analysis, it would certainly be even higher than it appears.\footnote{The amount of treaties ratified by the Congress each year is high as can be seen in the Chart No. 1. If included, it is difficult to analyse the legislative process of the other bills.} Almost a 100\% of them pass and are enacted into law by the Second Committee. In this case, the negotiations are very subdued, as the “political character” of treaties is scant.

As will be shown, committees vary and this can be shown by how much legislation is presented and approved by the different committees. It is also plausible that different governments have varying success with different committees, as they have coalitions or members that can be potentially helpful or unhelpful.

Figure 8: Ratio of bills presented to bills enacted by Committee.

As can be seen in the chart, the committees with a high rate of passing legislation are the Second Committee of International Relations and National Defence, the Third and Fourth Committees that deal with taxation, budget and the economy, and the Fifth Committee that deals with energy resources. The sixth and seventh Committees have an uneven performance, not following a clear pattern, though having a more or less stable performance during the Samper’s government. The case that shows a more radical change is the one of the First Committee, that seems to be much more

Source: Informes Legislativos de la Cámara de Representantes (1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001). I excluded the treaties for the purpose of analysing only the national and regional bills, as these are generally ratified with no major discussions and the Congress has no right to change it.
effective in passing legislation during the Pastrana government. This case will be analysed in more
detail further on.

This also demonstrates that some committees have a closer relationship with the executive, as their
jurisdictions are more important to the executive’s interest in delivering results from its own
agenda. Committees Three and Four are a clear example of this fact.

Until now, we have observed that both electoral laws and the power of the executive have a great
influence on legislative performance. Both variables account for patterns and cycles that repeat in
both presidential periods. The next section analyses the *mesas directivas* from both chambers. As
stated before, elections to these are held annually. The members of Congress who form part of the
*mesas directivas* are the other actors who have power over legislative procedure, in terms of
proximal, intermediate and to a certain extent, final outcomes.

**5.2. Mesas directivas in the period 1994-2000.**

The *mesas directivas* are the main agenda-setters in the Congress along with the executive, as they
control when and how the bills are discussed. Timing and procedure are always important variables,
as they determine the efficiency of the procedure. The president is in charge of the procedure,
giving certain times to speakers, and exercising the power to call *comisiones ad hoc* when in his
belief these are necessary to accomplish either the rejection or approbation of a bill. The parties
have always managed to behave in a strategic way in these particular decisions, since they know it
makes a great difference to have a president in the Senate or in the House. Additionally, there are
numerous pacts made around these elections, since the possibility of being the president gives more
power inside Congress and in public opinion in general. In this situation, the traditional political
parties act as systems of preference-aggregation: the decision of who is elected reflects both inter-
party and intra-party deals.

The period studied is revealing in this matter, because these elections show the general environment
of the Congress. There are other attachments that become important when a president is elected.
Being attached to a certain party is the most important, as they majority party or coalition gets the
seat. Furthermore, there are regional arrangements that are carefully followed in order to balance
the power among representatives and senators from different constituencies. Although the Senate is
theoretically a national constituency, it also follows this same pattern. The next table shows the
names of the presidents, first vice-presidents and second vice-presidents, and their party label, for
the Senate.

**Table 4: Mesas Directivas in the Senate, 1994-2002**

<table>
<thead>
<tr>
<th>Legislature</th>
<th>President</th>
<th>Party</th>
<th>First Vice-president</th>
<th>Party</th>
<th>Second Vice-president</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995-1996</td>
<td>Julio Cesar Guerra Tulena</td>
<td>PL</td>
<td>Jose Antonio Gómez Hermida</td>
<td>PC</td>
<td>Rodrigo Villalba</td>
<td>PL</td>
</tr>
<tr>
<td>1996-1997</td>
<td>Luis Fernando Londoño</td>
<td>PL</td>
<td>Guillermo Ocampo Osipina</td>
<td>PC-L</td>
<td>Maria Cleofe M. De Mesa</td>
<td>PL</td>
</tr>
<tr>
<td>1997-1998</td>
<td>Amylkar Acosta</td>
<td>PL</td>
<td>Consuelo D. De Mustafá</td>
<td>PC-L</td>
<td>Hugo Serrano Gómez</td>
<td>PL</td>
</tr>
<tr>
<td>1999-2000</td>
<td>Miguel Pinedo Vidal</td>
<td>PL-APC</td>
<td>Ciro Ramirez Pinzón</td>
<td>PC-APC</td>
<td>Luis Elmer Arenas</td>
<td>Ind</td>
</tr>
<tr>
<td>2000-2001</td>
<td>Mario Uribe Escobar</td>
<td>PL</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001-2002</td>
<td>Carlos Armando García</td>
<td>PL</td>
<td>Isabel Celis de Yañez</td>
<td>PC</td>
<td>Francisco Rojas Birry</td>
<td>Ind</td>
</tr>
</tbody>
</table>

Source: author.
During Samper’s government, the legislature always had Liberal presidents. The regional arrangement done among the Liberals, was that the liberal senators from the Atlantic Coast and from the Andean region would take turns in the Senate’s presidency. This pact was always respected: Senator Juan Guillermo Angel and Senator Luis Fernando Londoño from the Andean region, and Senator Amylkar Acosta and Senator Julio César Guerra Tulena for the Atlantic Coast. The members of other parties also support these arrangements inside the Liberal Party, as inside the Congress, especially on the floor, regional alliances are formed to pass regional bills that benefit the regional constituency.41

This organization then benefits both national interests for the parties and regional interests. The president then becomes a party leader for procedural matters, as well for policy issues. In the case of the vice-presidencies the role of the member elected is less important, and although they act as leaders of their own groups or parties, they have little power to impose or constrain decisions on the floor.42 It is more an opportunity of projecting their role in a more national way, and have a vote on some administrative issues. In the case of the House, this administrative power is higher as its members manage their own budget: in the case of the Senate this position offers somehow additional staff, but no more than that.

Analysing the alliances is also interesting. The Liberal Party and a faction of the Conservative Party elected the first vice-presidents in the last two years of his period. This was due to the coalition made by the government, as President Samper needed some additional support as the campaign scandal had an impact on the Liberal majority that had as a consequence the retirement of some senators from the government coalition. The support of some Conservatives had as a quid pro quo the control of the vice-presidency as the Liberal vote always favoured a Conservative Senator member of the government coalition.43

Liberals were confronted with the same situation in Pastrana’s government, as the Alianza por el Cambio imposed a Conservative president for the Senate, although the majority in party terms was Liberal. In this election, members of the official faction of the party, currently in opposition to the government, decided to vote en blanco, and to serve as an opposition following their leader, Horacio Serpa.44 Furthermore, the presence of independent Senators made it possible to create a winning coalition that did not include a large number of Liberals. These senators decided to become part of the coalition as Senator Fabio Valencia Cossio promised them to give them leverage in the political reform presented by the government, and for the first time, presence on the mesas directivas, as a signal of their influence in a procedural coalition of the minorities. This negotiation was also made for the election for committees, Senator Fabio Valencia Cossio obtained majorities on the floor by promising the presidencies of certain committees to independent Senators.

This was the first time Senators not from the traditional parties, gained seats on the mesas directivas, and served as presidents of Committees. Senator Fabio Valencia Cossio carefully

41 Interview with Senator Amylkar Acosta, 14 September 2001.
42 “Quien nos representa a nosotros políticamente es, el que nombremos Vicepresidente. Entonces en el primer periodo estuvo de Vicepresidente Chamorro, después Arenas, después Dussán y ahora el Dr. Francisco Rojas Birry. Si nosotros le damos como una jefatura natural, pero nosotros todos nos reunimos y debatimos, porque cada quien es un militante de su partido y obedece a las instrucciones de su partido. Pero como ha sido tan fraternal en nuestras relaciones, nuestras relaciones como tan sinceras, todos somos parlamentarios, digamos, transparentes, venimos de movimientos democráticos y no hay entre los parlamentarios independientes ningún rico, ningún capitalista, ningún terrateniente, ningún bandido, entonces nos ha dado la posibilidad de parecernos fácilmente.” Interview with Senator Jaime Dussán, 5 September 2001.
43 First Minute of the period 1996-1997 in the Senate, mimeo.
44 Former candidate to the Presidency in the period 1998-2002.
controlled the *Alianza por el Cambio*. His power to enact legislation was impressive and the concessions in terms of the re-organization of Congress were important. As seen in the table, the Liberals who had had almost all the control of the *mesa directiva*, no longer had either the president or second vice-president.\(^{45}\) The regional arrangement was once again made between the Atlantic Coast and the Andean region *bancadas*, as the second president was a Liberal from the Coast. However, once the coalition had came to an end, the Liberals took control once again of the *mesa directiva*, returning to the scheme at the beginning of 1994, with a change in the second vice-presidency assigned to the Independents. Gustavo Petro, member of the House of Representatives explains:

> Con Manuel Cepeda (former representative), en este último día hacíamos un análisis sobre cómo las mayorías de aquel entonces del Congreso de la República, había impedido, había asfixiado la posibilidad de que fuerzas nuevas independientes ajenas a los dos partidos tradicionales, participaran en la coordinación del Congreso de la República.

> Hoy una fracción liberal reconoce esos nuevos criterios de democratía consensual y le da la mano a los sectores independientes al reconocer nuestro espacio en la dirección del Congreso de la República. Por esa razón, por ese hito que es histórico en el sentido que jamás la Mesa Directiva había permitido presencia ajena al Partido Liberal y al Partido Conservador, por ese hito nosotros vamos a apoyar, nosotros los independentes vamos a apoyar la candidatura de Emilio Martínez...\(^{46}\)

The situation in the House follows the same pattern.\(^{47}\) In terms of its composition, the Liberal majority in the House was more numerous than in the Senate, so the presidents in the Pastrana’s government were all Liberals, members of the *Alianza por el Cambio*. Nevertheless, the costs for coalitions were high since an important number of initiatives needed qualified majorities to be approved. If the only attachments that existed were particularised incentives provided by the executive or the *mesa directiva*, the procedural coalitions become rather unstable as they depend on specific bargains, as it is easy to change positions forming another winning coalition. Senator Juan Manuel Ospina explains an additional reason for the instability of these coalitions. Usually, the president of the Senate or the House, or the executive, will pay more attention to those members whose vote is not secure, in this case the Liberal votes. This leaves stable members less satisfied with their bargains, as their subordination or support is understood as automatic.

> A través de todo este tiempo del Presidente Pastrana, al interior del partido conservador ha habido una actitud muy crítica con el Presidente por varias razones: Primero, porque los conservadores creían que llegando el Presidente conservador a la presidencia iban a tener su cuarto de hora y que el Presidente se iba a preocupar de darle las manos al partido para que pudiese recuperar terreno, coger un segundo aliento, y eso no ha sucedido. (la semana pasada estuve en un almuerzo de parlamentarios y había unos que salieron con unos botafuegos contra el presidente terribles) Entonces, no ha habido nunca una relación, por lo menos en este gobierno, armoniosa entre los conservadores y el Presidente. Puede que el directorio conservador le haga odas las genuflexiones y todos los gestos al Presidente, pero a la hora de la verdad el parlamentario de carne y hueso se ha mantenido muy crítico con el Gobierno.\(^{48}\)

\(^{45}\) These posts are also important because the give the possibility of a bigger staff. The law establishes that the Presidents have 10 more employees independent from their permanent staff, and vice-presidents 8 each. Congreso de la República, *Reglamento del Congreso*, 1992., chapter V.

\(^{46}\) *Gaceta del Congreso*, No. 173, 7 September 1998.

\(^{47}\) In the case of the House of Representatives, the regional alliances proved to be very powerful in the Samper government. In Pastrana’s government, these regional alliances faded as the coalitions pro and anti-government were more important. “La Alianza por el Cambio derrumbó un poco lo que se había visto antes, porque el cuatrienio anterior que tuve la oportunidad también de haber llegado a Cámara, por ejemplo las coaliciones regionales eran muy importantes. Por ejemplo el bloque costeño era muy importante, lo conformaban 22 representantes liberales. Y tenía mucha incidencia entonces sobre las decisiones de los demás congresistas que en total del partido liberal éramos como 90. Entonces eran bloques fuertes al interior de los congresistas liberales y casi por donde nos inclináramos nosotros, inclinábamos otra balanza presionando a los demás. Pero en estas dimensiones después de lo que tuviste, de la alianza por el cambio, eso se rompe prácticamente, esos diálogos regionales, con algo que dije que es como las coaliciones, se vuelven gobierno, antigobierno.” Interview with Representative Miguel de la Espriella, 25 September, 2000.

For all these reasons the House of Representatives proved to be much more difficult to control. The first election for the Presidency of the House in Pastrana’s government was close -Emilio Martinez with 89 votes versus Guillermo Gaviria with 72 votes -, if compared to the elections held for president both in the House of Representatives and in the Senate. As a result, the executive intervened heavily by providing contracts and other spoils that resulted in a big corruption scandal in the year 2000. Senator Hector Helí Rojas comments on major executive-legislative relations:

Entonces, los Presidentes y los Ministros acusan e incentivan a los Congresistas a que so pretexto de colaborar, so pretexto de ayudar al Gobierno y con su autonomía, su capacidad de control político y su capacidad de intervención autónoma en los asuntos del Estado, por puestos, o por auxilios, que ahora se llaman cupos o participaciones, o cualquier otro nombre, pero que en el fondo significan atentar contra la idea del parlamento autónomo e independiente que colabora con el Ejecutivo en los altos fines del Estado, pero que no signifiquen la muerte de los partidos políticos porque definitivamente en un país con tanto desempleo, con tanta pobreza, los Congresistas no resisten los cañonazos burocráticos del Ejecutivo.49

Table 5: Mesas Directivas in the House of Representatives

<table>
<thead>
<tr>
<th>Legislature</th>
<th>President</th>
<th>Party</th>
<th>First Vice-president</th>
<th>Party</th>
<th>Second Vice-president</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994-1995</td>
<td>Alvaro Benedetti</td>
<td>PL</td>
<td>Roberto Camacho</td>
<td>PC</td>
<td>Jorge Carmelo Pérez</td>
<td>PL</td>
</tr>
<tr>
<td>1995-1996</td>
<td>Rodrigo Rivera</td>
<td>Salazar PL</td>
<td>Isabel Celis de Yañez</td>
<td>PC-L</td>
<td>Hernando E. Zambrano</td>
<td>PL</td>
</tr>
<tr>
<td>1997-1998</td>
<td>Carlos Ardía</td>
<td>Ballesteros PL</td>
<td>Roberto Londoño</td>
<td>PC</td>
<td>Antenor Durán Carrillo</td>
<td>PL</td>
</tr>
<tr>
<td>1998-1999</td>
<td>Emilio Martinez</td>
<td>PL-APC</td>
<td>Jorge Gerlein</td>
<td>PC-APC</td>
<td>Sergio Cabrera</td>
<td>Ind</td>
</tr>
<tr>
<td>1999-2000</td>
<td>Armando Pomárico</td>
<td>PL-APC</td>
<td>Juan Ignacio Castrillón</td>
<td>PC-APC</td>
<td>Octavio Carmona</td>
<td>Ind</td>
</tr>
<tr>
<td>2000-2001</td>
<td>Basilio Villamizar</td>
<td>PL</td>
<td>faction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001-2002</td>
<td>Guillermo Gaviria</td>
<td>PL</td>
<td>Marino Paz</td>
<td>PC</td>
<td>Jose Walter Lenis</td>
<td>Ind</td>
</tr>
</tbody>
</table>

Source: author.

This also can be understood as a product of the institutional rules that laid down qualified majorities for an elevated number of issues.50 The higher the level of consent required, the bigger the power of negotiation of legislators and minorities.

As in the Senate, the president of the House becomes a very important figure inside the Congress as he controls the procedure and additionally, the administration of the House’s budget. Representative Miguel de la Espriella gives his opinion on this issue:

Da mucho poder ser presidente, sobre todo porque cuando se inicia una candidatura de la presidencia de la Cámara por ejemplo, el presidente normalmente comienza con 5, 6 o 7 amigos a realizar su campaña y eso se convierte en su bloque. Ese bloque se encarga de proyectarlo y de buscar los demás adeptos, y prácticamente que las campañas toman un sentido fundamentalista que aflora unos odios y unas divisiones al interior del partido de las elecciones en la junta parlamentaria respectivas. El señor Presidente obviamente, trata de favorecer en el debate al candidato por ejemplo al gobierno, le da la información a su bancada para que haya un buen debate. Inclusive en cosas tan mínimas como reparto de cuestión simplemente administrativa, que por ejemplo que si vamos a cambiar muebles, por decir algo, entonces obviamente se le cambian los muebles a los amigos, si le van a cambiar computador, si hay que adjudicar un carro blindado, pues primero al que votó por mí. Y evidentemente tiene mucho poder frente al Ejecutivo, porque los presidentes y los vicepresidentes son los que designan las agenda respectiva para un debate.51

49 Interview with Senator Hector Helí Rojas, 18 September 2001.
50 Although the default rule to enact a law is simple majority, there are a great number of exceptions. This gives more power to minorities.
51 Interview with the Representative Miguel de la Espriella.
As described, the *mesas directivas* play an important role coordinating the legislative behaviour in the absence of strong party directorates and a horizontal relationship among senators and representatives. The possibility of delivering sanctions and incentives to constrain the agenda and the way congressmen behave is important when understanding the Congress. The *mesas directivas* generate temporal hierarchies that are accepted and followed by the legislators. The internal rules then work, counteracting the atomization present in the Congress when is needed, as well as it permits decentralized decision-making in the committees.

However, these horizontal relationships do not exclude the possibility of having policy leaders that also have power in shaping the opinion of the committees and on the floors. In almost all interviews with members of Congress, the reference to natural policy leaders was clear. This natural leadership arises from prestige in the party and advanced knowledge of policy areas that are a priority for the Congress. Other legislators and the executive recognize these leaders, and see that enlisting them can always generate a multiplication effect. Policy leaders are not as common in the House as they are in the Senate. The House has a higher rotation of members and less expertise. Minister on the Interior Humberto de la Calle comments on the policy leadership in the Senate:

> Usted toma el caso por ejemplo del Senador Victor Renán Barco, él ejerce gran influencia en el Congreso, no tanto por el número de votos, finalmente él es un jefe en un Departamento relativamente pequeño como es Caldas y además su actividad política opera en solo algunas regiones del Departamento y no en todas, entonces de por sí Victor Renan Barco si solo fuera por número de votos o influencia territorial no sería un gran líder. ¿Por qué lo es? Yo diría que por experiencia, porque lleva mucho tiempo en el Congreso, porque tiene condiciones personales de liderazgo, dijéramos, la gente respetaba su inteligencia y él mismo dice que en la medida en que él, dijéramos, no depende tanto de la opinión bogotana, digámoslo así, porque tiene su elección asegurada en La Dorada, Caldas, pues tiene mas libertad para sumir tareas impopulares. Por eso casi siempre es el ponente de las Reformas Tributarias, Y casi siempre es exitoso, y esa tradición de éxito le ha dado un liderazgo natural en el Congreso.\textsuperscript{52}

Senator Victor Renán Barco is one of the Senators usually recognized by all members of the Congress as a great leader. His expertise in issues related with taxation and the budgetary process, despite the relatively small size of his regional constituency, gives him power and influence. Senator Amylkar Acosta comments on the subject:

> Me atrevo a decir que de 102 Senadores que componen el Senado de la República, no hay más de 20 Senadores a los que se les escucha, y ahí me incluyo yo, porque como decía Gaitán “la modestia es el orgullo de los hipócritas”. ¿Qué quiero decirte con esto?. Quiero decir que cuando otros distintos a estos 20, es como el que oye llover. ¿Por qué? Porque se sabe que no son estudiosos, que se paran a decir cualquier cosa con tal de salir en la TV.

Entonces cada quien va adquiriendo en sus temas, cierta respetabilidad en el tema. Por ejemplo, yo puede que esté desubicado con la cantidad de proyectos que se presenten, entonces a veces llega un proyecto sobre Régimen Municipal, o sobre impuestos, y uno tiene dudas y uno plantea la duda e interviene el Senador Victor Renán Barco, puede que uno no haya entendido del todo el tema, pero uno confía en lo que está diciendo Victor Renán Barco porque es una autoridad en el tema. En temas económicos, un Luis Guillermo Vélez o Carlos García; en el tema de Régimen de Pensiones, sin duda el Senator Alfonso Angarita. Temas como de comunicaciones y de TV, Juan Fernando Cristo; Sobre temas de fronteras, Luis Eladio Pérez; de reformas constitucionales, Juan Martín Caicedo, Rodrigo Rivera o Vivian Morales. En temas Sociales está Piedad Córdoba o Jaime Dussán aunque él es mas ordinario que una “caterpillar con pasacintas”.\textsuperscript{53}

As we have seen, leaders do exist in Congress and they usually establish paths that are followed by low-profile senators and members of the House of the Representatives. The procedural leadership in the *mesas directivas*, the regional and party coalitions, and the policy leaders act as preference aggregators, and as powerful negotiators. The influence of the presidents as the natural leaders of congress coalitions in the Senate and the House is primordial to understand both procedures and policy outcomes.


\textsuperscript{53} Ibid unpublished Interview with Senator Amylkar Acosta, 2001.
The next section addresses three Committees to show how these features differ depending on the Committee’s jurisdiction and its weight in the national political context.

5.3. First Committee in the Senate and House, 1994-2000

The first Committee is one of the most important committees in the Senate and House because its jurisdiction covers constitutional reforms and all matters related to human rights, electoral and political reform, and peace negotiation. These subjects over the period have been at the top of the executive’s agenda. Consequently, they have also been high on the legislature’s agenda. This part refers to the actors in the First Committee that have the agenda power, and the positioning of it in the Congress as a whole. It will be shown that this Committee plays a very important role, as its jurisdiction concerns national issues that have an essentially political character. Committee jurisdiction plays an important role in understanding hierarchies inside the houses, and the preferences of the legislators.

Following Cox’s analysis of the effects of legislative rules, this part is divided between the proximal effects of rules, the intermediate effects and the final effects. The last can only be evaluated on the basis of bill outcomes, and cannot be measured accurately without the roll-call records, which are unfortunately not available.

5.3.1. Proximal and intermediate effects

As defined before, ‘proximal effects’ refers to the immediate distribution of resources, for example staff and agenda power. The internal rules of the legislature favour the position of legislators who are part of the mesas directivas from Committee and Houses to shape the decision-making process. Moreover, the Executive seeks to exert its power over the mesas as it has control over some procedural rules of the game. This does not predetermine a given policy outcome, but it certainly constrains it. The power exercised by the mesas has proved to be important and sometimes independent from the executive’s interest. An extreme example is the corruption scandal involving the former General Secretary of the Congress. It was discovered that he was paid by the drug cartels to control and manipulate bills so that they could be rejected for procedural reasons. Another example where the executive exerts its power is the scandal known as the “Pomaricazo”, where the President of the House of Representatives was involved in serious accusations for mis-management of the House’s budget.54

The First Committee is composed of 19 Senators, and 32 members of the House of Representatives, who are generally the most important members of the parties. Membership of this committee is considered to be the most desirable. Indeed, congressmen who want to be part of this Committee need to have a greater number of supporters than is the case with other Committees in the House. The different parties’ and movements’ representatives or compromisarios, who are appointed by the Party Directorate, organize the Committees, taking into account not only an aspirant’s supporters but also their leadership qualities and particular specializations.55

54 “¿Qué esta sucediendo? Que un presidente como el caso de Pastrana puede en una segunda vuelta capturar la votación importante que le da la posibilidad de ganar, pero no le da la posibilidad de gobernar, entonces se enfrenta a un Congreso mayoritariamente opuesto, mayoritariamente Liberal, y ¿a qué recurre? Recurrió a las mismas prácticas que se había en el momento criticado, y eso ¿en qué derivó? Derivó en el escándalo de la mesa directiva de la Cámara de representantes, cobijada por el gobierno que es la gran verdad, por las relaciones incestuosas a que hizo alusión posteriormente el señor Nestor Humberto, cuando hablaron ellos de la convocatoria del referendo. Fue precisamente aduciendo que había que promover una reforma por fuera del Congreso para de esa manera lograr erradicar esas relaciones incestuosas entre el Congreso y ejecutivo cuando ellos mismos la habían propiciado.” Interview with Amylkar Acosta, 14 September 2001.

55 “Los compromisarios hacen un acta, y en el acta queda establecido como quedaría la conformación de las comisiones. Esa acta es la que se somete a decisión de la plenaria, y solo en el momento que la plenaria acepta ese compromiso, queda establecida la conformación de las comisiones. Esa designación es por cuatro años. Cuando un senador de la república quiera cambiarse de comisión, tiene que hacer un acuerdo con el miembro de la comisión a la que quiera pertenecer, y que ese senador acepte el puesto en la comisión en que está quien
organizational scheme established by the *compromisarios* (lists of the members of the committees—planchas) is accepted by all legislators, and members not included in the lists usually fill the gaps left by the dominant procedural coalition.

Senator Jose Renán Trujillo explains the procedure for electing members of this Committee:

Indiscutiblemente uno tiene que tener el respaldo de otros senadores de la república para poder acceder a unas comisiones. La comisión primera, es la que más número de respaldos exige. Tu tienes que tener nueve senadores de la república para que respalden tu elección. Hay otras comisiones en donde no son necesarios tantos requisitos. ¿Esto qué significa? Que debes llevar una proposición donde tu nombre se postula para ser elegido por la comisión primera, y esta debe llevar el nombre y la firma de nueve senadores de la república. Esto lleva implícito, que senador que se comprometa con uno para la comisión primera, no puede comprometerse con nadie más para apoyar la elección. En mi caso personal, yo me puedo comprometer con un senador, respaldándolo para cada comisión, pero no puedo otorgar un respaldo doble.  

As is clearly explained above, senators entering the legislature have to build their own coalitions and have the support of the ‘*compromisario*’ in order to get elected. In return, those senators that become part of this procedural coalition support the decision made by the *Junta de Parlamentarios* to elect both presidents of the House and the Senate, and the presidencies of the Committees that have already been arranged. This gives a clear advantage to senators and members of the House with more experience, and to those with a larger political network within Congress, to attain the membership of the committee they prefer. These majority coalition advantages are not backed by credible sanctions. Therefore, the only ones with the power to enforce the agreements are members of the *mesas directivas*. As Senator Aurelio Iragorri states,

Las únicas sanciones que pueden imponerse son de orden legal o de orden reglamentario. Si hay alguno (congresista) “que se la hace” [defects from] al partido y falta a los acuerdos que se han establecido, pues entonces lo hacen a un lado. Solo podría aplicarse en el procedimiento parlamentario.  

As can be observed in the tables below, the Liberal Party had the majority in both of the periods. However, this has not meant that the Liberal Party has had the power to enact all the bills they have proposed, nor has it meant that they have the *mesas directivas*, especially during the period 1998-2002. As has been suggested by recent literature, the possibility of making multiparty coalitions has reduced the power that parties have in the decision-making process.

Table 6: Senate Composition in the Period 1994 - 2002

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberal Party</td>
<td>57</td>
<td>48</td>
</tr>
<tr>
<td>Conservative Party</td>
<td>31</td>
<td>25</td>
</tr>
<tr>
<td>Coalitions</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>Other minority movements or parties</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td><strong>Total number of seats</strong></td>
<td>102</td>
<td>102</td>
</tr>
</tbody>
</table>

Nonetheless, there are examples that show how cooperation based on the confidence of members imposes a negative power on certain election procedures. Senator Amylkar Acosta gives an example of his own learning process:

Yo me inicié en la política como independiente, yo la primera vez que fui elegido, fui elegido al concejo municipal, tendría que 24 años, 23 años tenía yo cuando fui elegido al concejo, no había terminado y yo fui elegido por la Unión Nacional de Oposición, que en ese entonces era la izquierda.Y se unió la izquierda y yo fui elegido en representación de la izquierda. Y mi posición en el concejo era una posición meramente contestaria, porque yo absolutamente todos los proyectos que se presentaban los votaba en contra y dejaba constancia, porque además esa era la directriz que yo tenía.

Pero eso delataba de alguna manera también falta de seguridad, ¿en qué sentido? Es abrigar el temor de que si uno llega a tratos o a entendimientos con las otras fuerzas políticas entonces ya me voy a contaminar, entonces una manera de mantenerme incólume es precisamente manteniéndome en mis preces, asi eso represente a la hora de la verdad al final de la legislatura, tu no tienes un proyecto que mostrar. Porque si tu asumes esa actitud también frente a los proyectos, todos lo demás colegas tuyos el día que tú presentes un proyecto pues todos ellos se te vienen en contra del proyecto y te cierran el paso.59

The case of the president of the *mesa directiva* is interesting for illustrating the made point by Senator Acosta. In the Congress, or in any corporative organism, non-cooperative behaviour can easily be punished via policy results. In electoral terms being apart from the network can have an important value as the electorate rewards this “anti-political” behaviour. However, this independence is inconvenient once in office. The next table shows the members that have been Presidents and vice-presidents during the period analysed in the Senate.

### Table 8: Mesas directivas in the First Committee in the Senate

<table>
<thead>
<tr>
<th>Period</th>
<th>President</th>
<th>Party-faction</th>
<th>Vice-president</th>
<th>Party-faction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994-1995</td>
<td>Uribe Escobar Mario</td>
<td>Oficial Liberalism</td>
<td>Angulo Gómez Guillermo</td>
<td>Conservatism</td>
</tr>
<tr>
<td>1995-1996</td>
<td>Trujillo García José Renán</td>
<td>Oficial Liberalism</td>
<td>Castro Borja Hugo</td>
<td>Conservatism</td>
</tr>
<tr>
<td>1997-1998</td>
<td>Rojas, Hector Eli</td>
<td>Liberal- Independent</td>
<td>Martínez Simahan Carlos</td>
<td>Elected by a division of the conservative party</td>
</tr>
<tr>
<td>1998-1999</td>
<td>Rivera Salazar Rodrigo</td>
<td>Liberal- Independent</td>
<td>Holguin Sardi Carlos</td>
<td>Official Conservatism-Alianza por el Cambio</td>
</tr>
<tr>
<td>1999-2000</td>
<td>Blum de Barberi Claudia</td>
<td>Alianza- elected by a division</td>
<td>Sanchez Mesa, Jorge Leon</td>
<td>Alianza por el Cambio</td>
</tr>
<tr>
<td>2000-2001</td>
<td>Martinez, Oswaldo Dario</td>
<td>Independent liberal</td>
<td>Carrizosa, Jesus Angel</td>
<td>Conservatism</td>
</tr>
<tr>
<td>2001-2002</td>
<td>Trujillo García José Renán</td>
<td>Oficial Liberalism</td>
<td>Gerlein Echeverria, Roberto</td>
<td>Conservatism</td>
</tr>
</tbody>
</table>

Source: author.

As there is no possibility of re-election during the term, almost one out of five members have the possibility of running for president of the Committee. Nonetheless, getting the nomination depends on the discipline each Congressman has shown to his own coalition. If there is a perception that the
member who wants to be part of the *mesa* is not faithful, there is a smaller chance of his getting elected. An example is the case of Senator Oswaldo Darío Martínez. Senator Martínez declared himself an “independent liberal”, as a result of some conflicts with President Samper and his staff. Consequently, the same members of his previous coalition contested his election while Serpa was the chair of the Liberal Party.

Si el Dr. Horacio Serpa, me quiere expulsar del Partido Liberal lo puede hacer. Lo puede hacer, estoy a su disposición, si él considera que ha sido una aptitud indebida de Darío Martínez aspirar a la Presidencia para que el Partido Liberal Oficialista no pierda esa posición, si él cree que he traicionado los elevados intereses del Partido, lo puede hacer. No tiene los instrumentos jurídicos, por cierto porque insisto ni siquiera le merezco el aval al Partido Liberal.

Si sus voceros en esta Comisión, quienes se consideran los voceros, están actuando a nombre de Horacio Serpa y del Partido Liberal Oficial, tienen que decirlo. Tienen que decirlo, si actúan a nombre del Partido Liberal. Pero mi querido Dr. Carlos Espinosa, a mi no me va a dar lecciones nadie del Liberalismo.

Yo no fui esta mañana Dr. José Renán a negociar puestos, ni notarías, ni Institutos Descentralizados, ni a pedir Consulados. No, yo he demostrado grandeza y autonomía frente al Gobierno y frente al Partido Liberal. Yo he entendido que aquí represento al Pueblo que me eligió en aras del bien común, por encima de un Partido Político al que quiero y el que hoy me descalifica, y el que hoy me derrota.  60

As is observed, congressmen who have procedural power do impose sanctions and provide incentives for other congressmen to behave or vote in a certain way. These incentives are given by the possibility of having a better access to staff, being *ponentes* of the bills that are important, and the possibility of membership of subcommittees. Senator Oswaldo Martínez, has had a history of “independence from the official party line”, that has not been particularly helpful in his career when he has wanted to run for executive posts in congress. Senator Amylkar Acosta comments on this subject,

Ahora, hay quienes dicen dentro de ellos, mi gran amigo Darío Martínez... que él dice que “el Liberalismo en su esencia es el libre pensamiento”. Pura demagogia, porque el hombre, la humanidad por su propia naturaleza es gregaria. Es decir, siempre tiende a organizarse. Y no hay una organización que subsista, sino sobre la base de unos mínimos consensos. Desde luego, que para llegar a esos consensos se tienen que buscar vías democráticas. Pero una vez alcanzado el consenso, el consenso se tiene que respetar y hacer respetar.  61

There are testimonies that show how members of committees allege that there is bias by the *mesa directiva* in distributing bills, and denounce the behaviour of other members of the committee to gain some of the political benefits outlined above. Senator Jesús Piñacué states:

Pero tengo la fé en que podemos avanzar en el ejercicio del debate y finalizo diciendo: Es demasiado importante, para quien sea Presidente en este año Legislativo, procurar en cualquier caso y en cualquier oportunidad la conversación con cada uno. En esto yo creo que es muy sabia la estructura del Congreso, al habilitar Comisiones para ser ágil, operativo, oportuna la posibilidad de hablar con cada uno. Segundo, es muy importante, hacer un esfuerzo por darle la oportunidad de que todos participen en la exposición de motivos que supondrá defender un Proyecto de Ley en sus circunstancias de Ponentes. El Senador Pinedo fue muy responsable, muy admirable en su gestión de Presidente. Y sólo tengo un reproche, es que todas las Ponencias, se las pone él. Claro eso puede ser una virtud y una posibilidad que ofrece ser Presidente. Pero ahí comienzan las dificultades y los males entendidos.  62

These situations are not uncommon. Cooperation between Senators, and cooperation between Senators and the *mesas directivas* is important is one is to be named as *ponente* for an interesting bill, if one is to participate effectively. Bills on the executive’s agenda or projects that attract wide public attention give legislators a chance of being recognized. These bills are usually the ones that make parties define a “party line”. Bills not that important in policy terms and public debate work

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60 First Committee of the Senate, Minute No. 01, 1999.
61 Interview with Senator Amylkar Acosta, 14 September 2001.
62 First Committee of the Senate, Minute No. 1, 1999.
differently, as legislators have more freedom to create either regional coalitions or to vote independently from their party line. Senator Jose Renán Trujillo explains:

El hecho de ser liberal no necesariamente prima en las decisiones sobre un proyecto de ley. Hay casos específicos donde es tal la importancia de un proyecto de ley o del acto legislativo, que sí necesariamente juega la directriz del liberalismo, del conservatismo o de los independientes. Pero son casos muy específicos. Una reforma política por ejemplo, lleva a consulta de los miembros del partido, para llegar con un criterio unificado. El partido liberal acude a la Dirección Nacional, expone los criterios para la reforma política, y se toman las decisiones en conjunto. Allí se actúa como partido. De igual manera lo hacen los independientes, de igual manera lo hace el partido conservador. Pero en otro tipo de proyectos que no tiene tanta significación, se toman internamente las decisiones de acuerdo a los entendimientos que se produzcan entre las diferentes representaciones políticas. Cox in fact argues that this is also product of the electoral system. In systems that foster personal votes, one could think that is not in the best interest of the party to force its members to vote in a certain way, since this could reduce the probabilities of their getting reelected. This in turn will affect the parties’ performance in election, as it would be more difficult to preserve its current participation, its number of seats.

5.3.2. Final Effects of Rules.
Final effects are understood as the ability to affect the menu of policies actually chosen and the impact on legislators’ voting behaviour. As we have seen in the proximal and intermediate effects, the committee structure affects the law-making process as it is responsible for passing the bill to the floor, and its mesa directiva controls procedural incentives and sanctions which can be used to induce certain results. Nonetheless, these proximal and intermediate effects cannot assure the outcome. To see the possible control of outcomes it is necessary to look at the different ad-hoc committees, as well as the executive’s power of imposing timing and vetoes on membership, as they can privilege congressmen who are positioned in these committees and have certain preferences different from the rest.

When coordination is needed, the president of the Committee has the possibility of creating sub-committees: comisiones conciliatorias and comisiones conjuntas. The first have been intensely criticized as they are appointed via an agreement made by the presidents of the Houses and the presidents of the committee. These sub-committees are the ones that decide the content of the law if there is an important discrepancy between the committee and the floor. Leyla Rojas, an advisor of a Senator, comments as follows:

Las comisiones accidentales tienen una doble connotación. Están las comisiones conciliatorias, que es realmente donde se hacen las leyes, y que eso es lo que ha tratado de tumbar la Corte Constitucional todas las veces. La comisión accidental de conciliación es la que se forma cuando por ejemplo existen discrepancias entre el proyecto que sale de la cámara en su última vuelta, y el proyecto que sale de senado en su última vuelta. Entonces lo que hace el presidente por su voluntad es designar a dos o tres personajes del senado y tres personajes de la cámara. Concilian los dos textos, y sacan un proyecto definitivo. Ellos son realmente los legisladores porque ellos pueden cambiar todo el rumbo. Se eligen generalmente los que hayan sido ponentes del proyecto. Entonces yo me atrevería a decir que el presidente coge el listado de los que fueron ponentes. Y una vez que ellos sacan el texto conciliado, se somete a votación en cámara y en senado.

Another type of committees can also be formed either by the executive or on the initiative of the president of a committee: a comisión conjunta. As explained before, such committees are particularly useful because the majority coalition is the one that controls the mesa directiva. If the executive has called them, the president of the mesa directiva is the member who will receive most of the attention from the executive. However, members of the executive branch can always speak to

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63 Interview with Senator Jose Renán Trujillo, 28 August 2001.
other members of the committee to secure the majority they require. President Samper describes his political strategy to secure the passage of a bill:

Yo trabajé mucho con ayuda de la comisión interperlamentaria que existe en los estatutos. Y es que hay una comisión que reúne las dos comisiones constitucionales y como todos eran liberales, la mayoría son liberales para coordinar digamos iniciativas de carácter general. Pero por ejemplo, ya para proyectos específicos pues uno cita a todos los miembros liberales de la Comisión Sexta del Senado, cuando ya es un proyecto que le interesa a uno y se va siguiendo.  

As shown, the executive tries to influence the decisions concerning the members that are going to be part of the *mesas directivas* in the Houses and in the main committees. One of the main consequences in the period 1994 – 1998 was the deepening of the profound divisions in the Conservative Party when some of the members decided to enter the Liberal Party coalition. The chosen candidates for the vice-presidency for some committees turned out to be members of the same coalition as the one of the president of the committee. Without any representation, the Conservatives not part of the coalition were left aside in the Committee. Nonetheless, this was not so for all the period. Once the presidential elections were nearing, political alignments among senators proved to be important when electing the last two presidents of the Committees. In the period 1998-2002, the *Alianza por el Cambio*, the government coalition, was capable of dividing the Liberals. But after a corruption scandal and the executive’s initiative in calling a referendum to revoke Congress and pass a political reform, this coalition ended. This meant re-alignment by party criteria in the case of the First Committee.

The election of Senator Darío Martinez, and the election for the last period of Senator Jose Renán Trujillo who was always in opposition to the government, show that re-alignments occur when elections are closer. Nonetheless, the executive can always exercise its agenda power until the end of the period, helped by the attributes given to it by the Constitution both in terms of procedure and policy. The next chart shows the ratio of bills presented to bills enacted during the period in the First Committee, differentiated by initiative. We can suggest there is a pattern that is followed in the two presidential periods where the president has a greater power to enact bills than the legislators.

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66 Interview with President Ernesto Samper, October 2001.
67 “Desde el primer momento en que gané la Convención liberal dije que iba a buscar otros sectores que participaran conmigo en la elección. Entonces tenía un grupo de gente que había votado por mí y que desde el punto de vista político tenía derecho a seguirme acompañando así no fuera liberal digamos; que ha creído en el proyecto político desde antes, esa gente estuvo muy firme. Lo que pasa es que como la mayoría liberal no era una mayoría del total tan abrumadora, pues el poder de chantaje la gente era muy grande porque los votos valían mucho. Entonces digamos que la configuración de una alianza con una parte del conservatismo pues me permitía a mí manejar más fácilmente el congreso porque había un espacio de maniobra.” Interview with President Ernesto Samper, October, 2001.
68 Senator Iragorri stated in the interview that the Liberal’s party criteria will appear when there is a national matter that were national issues are at stake. “El partido lo veo muy dinámico cuando está cerca al peligro. Existe el instinto de conservación, eso dinamiza mucho al partido. Eso está ligado a la marcha del ejecutivo. Si este tiene programas de orden nacional, en el cual esté claro el bien común, no hay ningún problema para que se hagan unos acuerdos de partido a partido que adelante ese tipo de iniciativas. Eso es muy común, aún existiendo una coalición. Por ejemplo, nosotros nos opusimos al plan de desarrollo, el gobierno lo pasó a pupitrazo con la Alianza, pero nosotros lo demandamos ante la corte y se cayó. “ Interview with Senator Aurelio Iragorri.
In terms of its power in the law-making procedure, the executive during the period performs well, as the ratio of getting bills passed is higher and constant compared to the legislators’ performance. As is shown in the figure, the ratio of bills presented to bills enacted during the two presidential periods is two to one for the executive. In other words, from two bills presented one is enacted. In the case of the legislator’s initiative, the amount of legislation enacted is not necessarily less in absolute terms, but its ratio is different. For almost all the years studied, the ratio of bills presented to bills passed is seven to one, and for the last year is three to one, which matches the end of the Alianza por el Cambio, Pastrana’s coalition.

This has meant that initiative from legislators largely diminished, an implicit “delegation contract” from the Congress to the executive and the ministries of responsibility for the most important bills. In Congress proceedings, I found numerous references to the need to work independently, and to the excessive dependence on the executive, especially in relation to political reform. Senator Juan Martín Caicedo Ferrer states:

Invito que aquí en medio de esta citación, hagamos un pequeño debate sobre el alcance y la importancia que el Gobierno quiere o no quiere darle a la cultura de la iniciativa parlamentaria. Aquí hemos llegado a la conclusión de que el esfuerzo serio, reposado, responsable que hacen muchos Congresistas, para que después de muchos años de estudio, someter a consideración de sus colegas unos Proyectos importantes, se quedan en el vacío. Aquí no se ha podido estudiar una Ley Orgánica que se ha radicado dos veces con el argumento de que tenemos que esperar a que el señor Ministro del Interior, algún día nos traiga su Proyecto. Y resulta, que nos hemos quedado allí, esperando a que el Ministro llegue. Como nos quedamos usted recuerda, el año pasado, esperando aquí a que los Ministros nos llegaran con otros Proyectos de Ley, sobre otras materias que nunca fueron radicados en el Congreso de la República.70

This situation is not necessarily the same in each committee in Congress. As is shown in the next figure, the ratios of bills presented to bills enacted in the Congress differ a great deal. The case of

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69 “El ejecutivo ha logrado un alto grado de especialización en el arte de redactar leyes. Es de su resorte constitucional orientar la construcción de herramientas normativas para mejorar gobernar y administrar. De ahí que la mayor parte de la legislación finalmente aprobada por el Congreso sea de iniciativa gubernamental. En las relaciones ejecutivo-legislativo la parte activa parece ser el gobierno y la pasiva el Congreso, aún tratándose de la función constitucional propia de este último que es la de legislar. Si bien muchas veces esta resignación del legislativo a la determinante orientación del gobierno en materia de leyes puede resultar práctica, no es siempre conveniente para el funcionamiento democrático del Estado, ni para propiciar la mejor calidad de la legislación.” Hernández, A., Los servicios Técnicos del Congreso deben tener una organización especial, Foro sobre Reforma Política, Bogotá, Universidad Externado de Colombia, 2000.

70 Minute No.2, First Committee of the Senate, Legislative period 2000, 2001.
the First Committee both for the House and the Senate is the most extreme, as it only deals with National Laws, which are mainly bills concerning modifications that qualify as Constitutional reforms, and regulation that complements the constitutional order. These laws, as Senator Caicedo Ferrer stated, are mostly promoted by the executive, and because of its agenda power, it becomes somewhat irrational to invest much effort in projects that cannot be passed without the executive’s back-up.

The First Committee in the House of Representatives is very similar to its equal in the Senate. Different from other Congresses, the jurisdiction is exactly the same, and they differ mainly because of the number of members and the circumscription they are elected from.

Nonetheless there are important differentiations that could potentially change the outcome of the application of the rules and procedures. In the case of the House, the regional alliances are very important inside the Committees, as they combine a procedural “party criteria” with regional criteria. The elections for president of the Committee are held annually. Nonetheless, there is an informal agreement where presidents elected resign on December after 6 months in office, going another member the opportunity to be President as well. Since there are 32 members, this arrangement provides the possibility of one representative in four being president, the normal election would give one representative in eight.

5.4. Second Committee in the Senate and the House

The Second Committee in the Senate and in the House Representatives deals with international relations and national defense issues. This Committee has not been traditionally popular among legislators, as there is little room for maneuvering given that international relations are almost entirely a matter for the executive. As a consequence, this committee is not the first preference among legislators, and is not a target of the political parties. This Committee in the House and in the Senate has had the greatest number of Independents in both periods.  

Table 9: Party Composition of the Second Committee of the Senate

<table>
<thead>
<tr>
<th>Party Composition of the Second Committee in the Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>--------</td>
</tr>
<tr>
<td>Liberals</td>
</tr>
<tr>
<td>Conservatives</td>
</tr>
<tr>
<td>Independents</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Source: author.

The control over the proximal, intermediate and final effects are similar, almost the same compared to the First Committee, with the difference that this Committee, more than any other one, has very little initiative as it basically ratifies what the Executive does. The mesas exert the agenda-setting power, and are benefited as they control the proximal effects of the legislative rules. Nonetheless, the mesa directiva has no need to use the powers to control the intermediate and final effects. These are controlled by the Cancillería, the Ministry of Foreign Affairs, for all bills that have to do with treaties and international agreements. In the case of the regional bills the mesas exert the power.

Its behaviour is very different from that of the First Committee, as well as the amount and type of legislation enacted. The rules that govern this committee are the same as the ones that rule the First

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71 “Muchos de los que llegamos a ella por primera vez somos el resultado de la falta de acuerdos que se dan al nivel de la plenaria, yo les quiero confesar a los compañeros que en el año 91 cuando por primera vez llegue al Congreso de la República pues mi aspiración era de llegar a la Comisión Sexta, en la medida que ya tenía estudiado y analizado unos temas que tenían mucho que ver con dicha comisión, pero los acuerdos finales resultamos pues echando casi a la cachiporra con otro compañero que aspiraba a la misma comisión y terminé en carambola en la Comisión Segunda...” Representative Emilio Martinez, Minute 01, 20 July, 1998, p.11.
Committee. Nonetheless, its jurisdiction and lack of importance for the executive and legislators reveals a very different dynamic. Compared to the First and Third Committee, the second committee does not deal with issues with the potential political character that the others have, and their members are not usually active participants in the national political debate. As a consequence, this Committee looks for the media and public opinion attention by exercising political control to the executive.

Partly due to this fact, the Second Committee works independent from the public opinion and the agenda established in the national political debate. This gives it the possibility of discussing bills without much pressure, and without much conflict. This is proved by the fact that this Committee has been chosen by the Mesas Directivas both in the Senate and House of Representatives to deal with regional bills, which have in principle nothing to do with its own jurisdiction. The next chart shows the percentage of the bills enacted by the Second Committee between 1995-2001.

Figure 10: Percentage of bills enacted with origin in the Second Committee.

![Figure 10: Percentage of bills enacted with origin in the Second Committee.](chart)

Source: author.

As is clear in the chart, the number of laws enacted in the Second Committee is high and diverse. First, the Committee enacts treaties, all are from the Foreign Minister’s initiative, and they are always approved. The few cases when they have not been is when the minister has presented the Convention or treaty late and it cannot pass the usual four debates. Second, the Committee deals with regional bills that have no clear relationship with its jurisdiction. This is mainly explained by the mesa directiva from the floor decision to do so, as it decides which committee is going to discuss a bill. From all regional bills enacted in Congress, the Second Committee accounts for a percentage between 20% and 100%. The absolute numbers of laws enacted varies, but it nevertheless shows a division of labour in Congress not obvious from the rules. The figure also shows an electoral cycle, as the percentage of laws approved varies depending on the year. This does not apply to treaties and conventions, as they are always approved without a great deal of debate.

The initiative for regional bills comes from the legislators. As stated before, the electoral rules give incentives for them to favour their own constituencies in the delivery of public goods. These laws often have the pretext of anniversaries and order resources for the construction of some public building or other such item. The second Committee has proved to be a good channel for passing this type of legislation, as it is not in the public eye and receives no direct attention. As it is seen in the next figure, the ratio of bills presented to bills passed is less compared to the one of the First Committee.

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72 My findings on the Second Committee contradict results given by Escobar Lemmon, who states that the Second Committee along with the First Committee serves members who want to “prosecute partisanship and engage in issue representation rather than pork-barreling.” See, Escobar-Lemmón, M., *Personal Vote Seeking and Membership in Colombia*, Latin American Studies Association XXIII International Congress, Washington DC, September 6 - 8, 2001.
Legislators are able to pass legislation easily, as is the executive. It is reasonable to argue that the Second Committee does not exercise any veto power to the executive’s proposals, nor to other legislators. The floor almost always gives a confidence vote on the Committee’s decision – as explained in the informational theory and ratifies any decision taken by the Committee. For regional laws the floor can potentially change its strategy and become a gatekeeper, but this does not necessarily happen.

5.5. Third Committee in the Senate and the House, 1994-2002
The third Committee is composed of 15 senators and 27 members of the House of Representatives. It deals with issues related with the national treasury, fiscal policy, monetary policy, the Central Bank and monopoly regulation. The Third and Fourth Committees that deals with economic issues, have been among the first preference Committees for legislators. They have a closer relationship with the executive than other committees, although this does not mean that their members can be considered its agents. As the issues of resource distribution are crucial for legislators and their political future, the costs of “delegating” the final decision is higher.

Consequently, they negotiate in a strategic way legislative timings and amendments, and they often have a difficult task on the floor, as the budget is “everybody’s business”. If we observe for example, the law-making process of any tax reform, it is not obvious that what the Committee decides is going to be ratified by the floor of the House. Although they can constrain the discussion, the final outcome cannot be controlled. In the case of the Second Committee, the floor gives a confidence vote to the Committee’s decisions, and bill discussions are general. In the case of a tax reform, the floor debate is important, since regional coalitions and party coalitions are stronger and are united.

Generally, the First and Third Committee attract the “party leaders”. Likewise, in the First Committee, leaders are important since the issues discussed are salient in the national debate. Consequently, the mesas directivas in these Committees exercise great power, as they try to effectively to constrain the agenda and the policy outcomes. The third Committee uses more “ad hoc committees” and resumed procedures than the other Committees. It shares this position with the Fourth Committee. As is seen in the table, the mesas directivas of the Third Committee have leaders such as Luis Guillermo Vélez, Director of the Liberal Party, Juan Camilo Restrepo, and
other senators such as Omar Yepes and Juan Manuel López who are widely known among the electorate and respected by other legislators.\footnote{During the 2001 election for the Mesa Directiva of the Third Committee in the House of Representatives, one member complained to the president that was retiring, since all the bills where he was assigned as ponente were about portage. “Quiero aprovechar el momento para felicitar a la Mesa Directiva saliente, a mi paisano y amigo Representante Heli Cala y agradecerle profundamente los gestos de solidaridad que tuvo para con la Comisión y también el hecho que gracias a él pude conocer un poco más sobre estampillas, que fue muchas ponencias que él me ayudó en este Congreso.” Representative Jorge Julián Silva Meche, Minute No. 1, 25 July 2001.}

Table 10: Mesas Directivas in the Third Committee, 1994-2000

<table>
<thead>
<tr>
<th>Legislature</th>
<th>President</th>
<th>Party</th>
<th>Vice-president</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994-1995</td>
<td>Londoño Capurro, Luis Fernando</td>
<td>PL</td>
<td>Hernández Restrepo, Jorge</td>
<td>PC</td>
</tr>
<tr>
<td>1996-1997</td>
<td>López Cabrales Juan Manuel</td>
<td>PL</td>
<td>Restrepo Salazar, Juan Camilo</td>
<td>PC</td>
</tr>
<tr>
<td>1997-1998</td>
<td>Caballero, Enrique</td>
<td>PL</td>
<td>Cruz Velasco, Maria Isabel</td>
<td>PC</td>
</tr>
<tr>
<td>1998-1999</td>
<td>Yepes Alzate, Omar</td>
<td>PC</td>
<td>Sánchez Ortega, Camilo</td>
<td>PL-APC</td>
</tr>
<tr>
<td>1999-2000</td>
<td>Camargo Salamanca, Gabriel</td>
<td>PL-OF</td>
<td>Celis, Isabel</td>
<td>PC</td>
</tr>
</tbody>
</table>

Source: author.

Likewise, the Committee has a high level of expertise since it has policy leaders such as Senator Victor Renán Barco, or Senators Juan Camilo Restrepo and Juan Martín Caicedo Ferrer during Samper’s period. The Liberal and Conservative Parties have always maintained the majority of seats on this Committee. During the period 1994-1998 only one Independent, Senator Gabriel Muyuy, was a member of the Committee. During the 1998-2002 period Senator Jaime Dussán was the only Independent on the Committee. As one can suspect, the independent’s role is insignificant and ultimately their strategy is to vote with one of the coalitions.

Table 11: Party Composition of the Third Committee of the Senate.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberals - official wing</td>
<td>9</td>
<td>5</td>
</tr>
<tr>
<td>Liberals - coalition</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Conservatives-coalition</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Conservatives</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Independents</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: author.

The relationship established between the Senators and members of the House of Representatives with the Finance Minister or Minister de Hacienda is crucial for understanding coalitions. He leads fundamental part of the bargaining process and always tries to have the best legislators of his coalition on his side. However, coalitions made for passing the budget are not permanent. In other bills, the executive does not interfere.

Evidence of the influence of the executive is found number of legislators who change parties to become part of the winning coalition. During Samper’s government just one Conservative on the Committee joined the President’s coalition. In Pastrana’s period the number of members joining his coalition increased to five, a third part of the Committee in the Senate. Senator Victor Renán Barco describes the process:
Ahora, sí, unos congresistas más allegados al gobierno, ahora los conservadores consiguen esquemas por estos en el servicio diplomático, en los puestos de libre nombramiento y remoción en los ministerios, en los institutos descentralizados, en los gobiernos liberales pues eso lo hacemos los liberales. Pero sin yo decir que eso condiciona nuestra manera de pensar y de votar los proyectos... Lo que pasa es que si aquí hay un Presidente Liberal y nosotros somos elegidos con el aval del Partido Liberal, lo menos que podemos hacer es respaldar las políticas de ese Presidente Liberal y eso fue lo que hicimos con Samper y eso fue lo que hicimos en el gobierno de Barco. Y ahora este gobierno para poder avanzar con unas reformas propias de los compromisos de los pactos con el Fondo Monetario Internacional, tuvo que escoger un Ministro de Hacienda Liberal (Juan Manuel Santos) con mucho ascendiente, porque al fin y al cabo la familia es dueño de un periódico, del periódico más importante y él atiende unas sugerencia de los Liberales que junto con los Conservadores a quien de otro lado manejan los de Palacio u orienten desde Palacio, votamos algunas cosas; pero no en blanco y negro como ellos pretenden, sino incorporando nuestros criterios, nuestros puntos de vista.

The appointment of the Liberal politician Juan Manuel Santos in a Conservative cabinet provides a good example understanding how the relationship between the Congress and the executive works. The Ministry of Finance naturally one of the most important posts in the cabinet, and it is usually given to a member of the President’s coalition. However, when President Pastrana realized he no longer had a consolidated coalition, the strategy was to delegate his best post to a member of the Liberal Party, which enabled him to pass his economic legislation. Party labels are important in these negotiations, and veto powers can be used, causing a radical change in the executive’s strategy.

The Third and Fourth Committee have a very similar pattern of behaviour until the year 2000. When observing the ratio of bills presented to bills enacted for the same period differentiated by initiative, one can observe that the executive has passed its entire economic agenda. A further analysis of the content of the laws must be done in order to observe how legislators affect the final policy outcome, to see what Senator Barco described as of the legislators’ own influence in the legislation. Although the ratios are similar to the ones in the Second Committee, there are differences in the process and level of difficulty for all the reasons given above.

Figure 12: Ratio of bills presented to bills in study and enacted of the Third Committee, 1996-2001.

As seen in the chart, the legislators can pass legislation very easily, as its ratio ranges from two or three bills presented to one bill enacted in all the period. When comparison is made with the Second Committee, the pattern is exactly the same, though the ratio for legislators in the Third Committee is lower. The pattern seems to prove that the legislatures where Congressmen present most of the bills are in the second and third year of each period, one year after elections and one year previous to elections. Nevertheless, the legislators in the Third Committee prove to be more

74 Interview with Senator Victor Renán Barco, October 2001.
successful as the issues are more difficult and generate more debate, and they still pass more legislation than the ones in the other Committees.

This also is evidence of the power the Third Committee has over the floor. This may be explained as consequence of the executive and mesas directivas’s power in the intermediate and final effects of the internal rules of legislation. The rules of Congress state that it is mandatory for the Third and Fourth Committee to hold joint sessions to study the budget proposals. This particular rule abbreviates the process and favours the presidents of the mesas directivas, who are usually from the governing party or of the governing coalition. Although these legislators have strong bargaining powers, they are aware that if they delay long, they will have a worse bargaining position. These rules provide incentives to legislators to more to the executive and coalition’s preferences, rather than contest the projects. As seen in the table, almost 32% of all laws enacted by the Third Committee are passed through an abbreviated procedure.

Table 12: Amount of Bills enacted by each Committee, 1995-2001

<table>
<thead>
<tr>
<th>Committees</th>
<th>Frequency</th>
<th>Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Committee</td>
<td>60</td>
<td>13.5</td>
<td>13.5</td>
</tr>
<tr>
<td>Second Committee</td>
<td>180</td>
<td>40.5</td>
<td>54.1</td>
</tr>
<tr>
<td>Third Committee</td>
<td>56</td>
<td>12.6</td>
<td>66.7</td>
</tr>
<tr>
<td>Fourth Committee</td>
<td>27</td>
<td>6.1</td>
<td>72.7</td>
</tr>
<tr>
<td>Fifth Committee</td>
<td>22</td>
<td>5.0</td>
<td>77.7</td>
</tr>
<tr>
<td>Sixth Committee</td>
<td>29</td>
<td>6.5</td>
<td>84.2</td>
</tr>
<tr>
<td>Seventh Committee</td>
<td>37</td>
<td>8.3</td>
<td>92.6</td>
</tr>
<tr>
<td>Third and Fourth Committees</td>
<td>22</td>
<td>5.0</td>
<td>97.5</td>
</tr>
<tr>
<td>Joint First Committees</td>
<td>5</td>
<td>1.1</td>
<td>98.6</td>
</tr>
<tr>
<td>Joint Second Committees</td>
<td>2</td>
<td>0.5</td>
<td>99.1</td>
</tr>
<tr>
<td>Joint Third Committees</td>
<td>3</td>
<td>0.7</td>
<td>99.8</td>
</tr>
<tr>
<td>Joint Fourth Committees</td>
<td>1</td>
<td>0.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>444</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: author.

In addition, the Third Committees have sub-committees like the Junta interparlamentaria de crédito público, important for legislators and parties, as these ad-hoc Committees are the ones that influence the most legislation. These processes have been widely criticized: there is much questioning of the transparency of these negotiations.

In addition to laws regarding the budget and taxation, the Third Committee also deals with regional bills, as does the Second Committee. These regional bills are proposed by legislators and have clear electoral purposes, as they are designed to deliver benefits and resources to their own constituencies. As seen in the figure, the number of regional bills increased during Pastrana’s government, as did the percentage passed in this Committee.
Following the same pattern as the other Committees, the legislature of 2000-2001 reveals the breakdown of the government’s coalition, affecting not only national but regional laws. It will be interesting to see what happens in the next legislature, to see whether this model is persistent or if a new coalition formed is as successful as was the former.

After a closer look of the evidence at the Committees and Legislator’s behaviour, we have found important differences between the Committees and the way each explanatory variable interacts with the others, depending on the issue. The internal rules of Congress are the same for each Committee, but they are applied differently, depending on the need of the agenda-setter to constrain and guide the presentation and debates of the bills and the salience of the bill in the public sphere. There are bills that are not important, there are other bills that are important but are not political in nature, and there are the political bills.

The bargaining procedures and the interactions between legislators and the executive are criticized as individualistic and inefficient, as parties can sometimes act as preference aggregators, but not always. Not very popular bills will always be difficult to pass if parties have no real sanction power. Although the extraordinary powers of the President of the Republic can always force or constrain an outcome, we have seen important failures concerning for example political reform. Rules provide the possibility, but politics are still important, and the art of building consensus is not just a matter of bargaining with individual incentives.

5. Conclusions.

The aim of this paper has been to show how Congress was organized internally and to explore what explained the Committees and legislators’ behaviour in the period 1994-2001. Former research on the Colombian Congress has been mainly focused on the effect of electoral rules on the Congress’ performance. Those studies did not take into account the possible counter-effects of internal rules and the power of the executive for both the agenda setting power and the success in passing legislation. This paper has demonstrated that these variables are important for understanding what

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the current situation of Congress is. This is a first attempt to see the Committees behaviour using a different method, where one can observe how these variables interact and how they constrain the fate of bills.76

There exists a hierarchy and a pattern of behaviour in Congress that cannot be explained by looking merely at the electoral rules. Effectively, the electoral rules have been important, since they go a long way to explain the fragmentation of the political parties, as well as the absence of incentives for more cohesive structures. The electoral system established favours division, as it leaves party directorates and party leaders with few instruments to promote discipline. As the literature shows, this makes it difficult to construct public goods and lowers accountability. There are important trade-offs between the widening of participation and governability. If more people from different movements and parties are represented, the institutions are considered more legitimate. This was one of the purposes of the Constitution of 1991. However, this conscious effort to foster minorities at the same time favoured indiscipline in the parties and fragmentation. Before 1991, the cost to exit a party was greater, as participation was mainly through the two traditional parties, though there existed some third forces that had already entered the political spectrum. After 1991, the cost to exit a party is very low, especially since voters more easily support independent candidates, a consequence of candidate-based campaigns. Although the President’s legislative powers have been reduced, the executive continues to be the main agenda setter as well as the most successful in passing bills. This is especially true when the president is capable of constructing a somehow stable majority coalition in Congress.

Thus, fragmentation has not meant chaos in the corporate bodies. The members of the fragmented parties, once elected, follow the informal rules of organization that already existed in Congress and that are functional for their interests as representatives for their constituencies and as policy-makers. However, compared to the centralization of the agenda setting power in other countries, Colombia is still much decentralized.

There is not a linear relationship among the type of electorate and the legislator’s performance concerning policy issues. Parties behave as procedural coalitions inside the Houses, and they also function as policy coalitions when the issues are nationally important. However, candidates do not rely in bills enacted, but more in their capacity to present bills to Congress. Nowadays, the Independents in the Senate and House have copied this same strategy with good results. The main example of these “procedural coalitions” is the election of mesas directivas inside the Committees and Houses. As demonstrated, the parties and the Gran Alianza coalition took these elections seriously, as controlling the mesas meant controlling the agenda and defining the debate.

Parties do not control all elections in Congress, nor seek to control all bills, as they know it would not be rational to do so. They all need to deliver goods to their constituencies as in the case of regional laws in the Second and Third Committees.

The number of regional bills is high, but passing them is not the only occupation of Congressmen. As seen in the tables presented, the proportion of national bills enacted with congressional initiative were almost 50%. They are necessary, and not new. Before, the existence of auxilios parlamentarios or budget quotas for Congressmen was the rule, so there was less need for this type of legislation. After 1991, the initiatives of Congressmen has to be discussed and has to pass the law-making procedure. Law procedure is meant to act as a “filter” for the quality and salience of laws. Furthermore, congressmen cannot execute the budget approved by the bill, making it difficult for the appropriation of public goods as in the previous system. In other words, the institutional design is still problematic, but it has also meant great advances over the previous order.

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76 Although there exists various criticisms in measuring the Congress performance with “productivity measures”, similar research in other countries with a very similar methodology has proved to work giving explanations about the Congress performance and its relationship with the executive. See for example, Mejía-Acosta, A., Weak Coalitions and Policy Making in the Ecuadorian Congress, 1979-1996, Meeting of the Latin American Studies Association., Miami, March 16 -18, 2000.
Parties have also recognized that the internal rules of Congress are useful to moderate and sanction high levels of indiscipline in the coalitions. As seen in the Committees and in the floors of the two houses, presidents of the Committees and Houses who have agenda-setting power and control over the debate, have access to other assets that other legislators lack. These factors have created a particular organization and a hierarchy inside Congress. The First and Third Committees are at the top of this organization. They are both considered key players with veto powers. As observed, the most obvious evidence of this hierarchy is gained by looking at the legislators’ preferences for being elected on a Committee or a mesa directiva. However, the misconduct of some legislators in administrative management has made the Congress as a whole suffer from corruption allegations, and given it a very bad image among the voters. These allegations and scandals have led some legislators to abstain from running for office inside Congress: they feel it is better to stay with a low profile rather than to get a national profile, where they can easily be the target of corruption accusations. This is especially true for the House of Representatives since there the legislators manage their own budget.

Members of the two traditional parties with long history in Congress, tend to be the policy leaders rather than the procedural leaders. They are able to impose and constrain decisions, especially as law-making procedure can sometimes often demand expertise. Levels of knowledge and experience are then important characteristics of party leaders. The independent congressmen have also had to learn the lesson given by the traditional parties. They have tried to organize as a bancada to become better potential negotiators. They have achieved inclusion in most of the Committees, and have sometimes had the chance of being part of winning coalitions.

If we take a look once again at the theories that explain Committee behaviour, there is no clear answer. The majority party theory cannot be proved, as there is not enough evidence to see how consistent the Liberal Party legislators are with their own party over time. However, we know that the power of the Directorate over legislators is small, and that during Pastrana’s period a number of Liberal legislators moved to make part of the Gran Alianza coalition.

The Colombian Committees behave as informational agents—it can be posited that most Committees behave like this—for any type of legislation, but the level of acceptance of their decisions is related to the importance of the issue. Generally, as is shown by the Second Committee, there are some bills that are passed through without great discussion, such as treaties or commercial agreements. In these cases, the Committee behaves as an informational agent and the decision taken by the floor will reflect the Committee’s decision. However, there are bills that have to do with resource distribution that are always contested by the floor, as the floor has a bigger representation of the regional coalitions, and more consolidated party position. Legislators can be expected to improve their bargaining position by not being very decisive.

The Committees have also behaved as distributive agents. The existence of vote-trading and the possibility of presenting legislation that favours particular constituencies is true for the Colombian Congress during the period considered. There are also particular interests that are revealed when a legislator chooses a Committee. Examples can be seen in the Fifth Committee that deals with energy resources like oil, or with the Third Committee dealing with the budget. The strategy of the floor when approving regional legislation is also an evidence. However, this is not exclusive of the Colombian Congress. Vote-trading is a very common strategy since not all legislators have the same interests, and cooperation is needed if they want to pass legislation themselves.

Regarding the executive’s power, Congress is trapped in various dilemmas when confronting its veto and agenda power. As was stated in the hypothesis, the Colombian president and ministers have important powers over the two houses, as they manage the distribution of resources. Since legislators pursue re-election, they need resources to deliver to their constituencies. One of the ways to get them is by bargaining individually with the executive. They have a great incentive to share policy preferences with the executive, since observing this discipline will benefit their re-election.
Contrary to previous analysis, what seems to be the rule is the dominance of the executive over the Congress agenda in almost all subjects.\textsuperscript{77} However, these negotiations are not considered a “good thing”, because voters believe this should not be the pattern. In turn, the institution suffers from illegitimacy, and others campaign against the corporate bodies as it happened during 1998, and in the current election.\textsuperscript{78}

The institutional design ought to be improved to achieve better levels of coordination quality, and effectiveness in legislation. Nonetheless, reform has to be product of a more profound analysis of the interactions between institutions, where as we have seen, some of the more damaging scandals and misunderstandings occur.

\textsuperscript{77} Archer, R. and Shugart, M. S., “The Unrealized Potential of Presidential Dominance in Colombia”, in Mainwaring, S. and Shugart, M. S., \textit{Presidentialism and Democracy in Latin America}, Cambridge, 1997. “ In this chapter we have noted that there is a dichotomy between the apparently vast powers of the presidency and the actual weakness of presidential authority in carrying out reformist policies. In spite of their powers, presidents have tipically been thwarted when they attempt policy initiatives. The reason we have identified is the powers have been crafted in such a way as to serve the interests of the clientelistic rank- and file party members. Thus, it is the Congress that seeks to preserve the status quo, and the president’s proactive powers are a limited tool for attempting to take the Congress beyond the rather narrow limits that is places on policy making.”

\textsuperscript{78} As an example, Pastrana proposed a referendum to close the Congress and call for new elections, and the presidential candidate Alvaro Uribe Vélez has proposed the same thing.
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