

FEDERAL INSTITUTIONS AND POLICY STABILITY: THE ROLE OF FEDERALISM  
IN VETO PLAYERS THEORY

By

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## **Abstract**

The veto players theory claims that there are institutional and partisan actors, individual or collective, that act as veto points in the process of legislation. Each veto point must give its consent for a new law to pass, thus altering the status quo. This study investigates the role of federalism, which is generally characterized by bicameralism and a decentralized state, as a veto player in 20 OECD states. The results suggest federal institutions do act as important veto points and affect the likelihood of changes to a status quo. OLS regressions and event history analyses, using methods borrowed from Beck, Katz and Tucker (1998), demonstrate the pivotal role federal institutions play in promoting status quo policies.

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## Part I

# Introduction

A federalist state, in theory, guarantees degrees of sovereignty and influence to certain political groups, which are generally represented through geographic areas. Riker (1964) says the term federalism applies to countries that have at least two governmental levels with authority over (or represent) the same land and people; each level has a minimum of one area where it has autonomous jurisdiction; and a guarantee for each level's autonomy in its area of jurisdiction. Elazar (1997) says federalism is a polity of "arenas within arenas held together by common framing institutions and shared communications network" (239). Sharma (2005) takes another approach, federalism is not about set levels of governmental autonomy or a distribution of authority, but rather a process that is "structured by a set of institutions, through which authority is distributed and redistributed" (174). Duchacek (1987) says there isn't any accepted theory or overarching "agreement as to what, exactly, federalism is. The term itself is unclear and controversial" (189). Whatever the preferred definition, it is an extremely important political institution. Loose confederations can be traced back to ancient times, but the modern conception of a federal state is still only a few centuries old.

Federalism has been studied in a variety of contexts. Perhaps foremost have been studies in fiscal federalism that generally promote either advantages or drawbacks to centralized or decentralized policy responsibility, though some claim there is no difference between the two (Oates, 1991). Fiscal federalism studies have been ubiquitous within the literature of economists and political scientists, yet the legislative and institutional implications of federalism on producing new policies have been generally neglected.<sup>1</sup> Many have simply

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<sup>1</sup>There has been a number of significant studies that consider in institutional importance of federalism, however. Aside from Tsebelis' work, Lijphart (1999) perhaps produced the foremost conclusion about the implications of federal institutions in his "kinder and gentler" hypothesis (Ch. 16). Though this study also considered a series of additional institutional variables.

assumed federalism promotes a status quo, this study aims to actually test that assumption.

I attempt to further understand the relationship between federalist institutions, which I relate closely though not completely to bicameralism and the unitary-federal state, and the enactment of significant new laws. It demonstrates that federal institutions (in this case, the extent of the federal state and strength of bicameralism) can play a significant role in vetoing new laws and promoting the status quo. The research question that prompted this study was:

Do federal institutions increase the number of veto points in the legislation process? If so, do strong federal institutions (the extent of the federal state and strength of bicameralism) promote greater policy stability than weaker federal institutions?

Following Tsebelis' (2002) examination of federal institutions as veto players, this study examines how federal representation in national legislatures can act as a veto point on the legislating of new laws. Veto players theory says there are certain institutional and partisan actors, individual or collective, who must agree to a change of the status quo in order to legislate new policies. The consent of each constitutionally necessary actor, representing veto points, must be achieved for a new law to be passed. In this study, I demonstrate the salience of the veto players theory in respect to federal institutions. Unlike Tsebelis' book and many articles, I am not striving to produce spatial models of federal veto players. Rather, an empirical analysis of veto playing institutions. The goal is not to say country A has X veto players and country B has Y, but to determine if the strength of federalist veto playing institutions does in fact promote status quo policies and make the legislation of new laws more difficult. Federalist veto players are, for present purposes, the extent of the federal state and bicameralism.

This may sound a bit murky, so I will establish definitions for a few important terms right off the bat. Federalism is the idea or concept that is witnessed in the governing process of a federal state. A federal state is generally characterized by decentralization, though

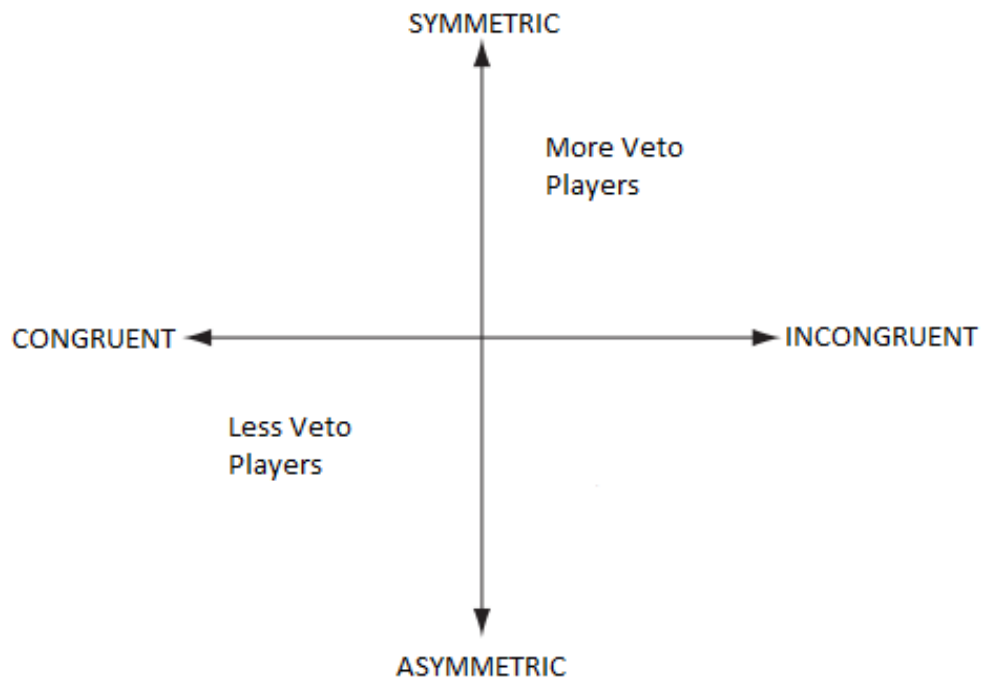


this is different from the term federalism. So federalism should be considered an abstract conception of a particular governing structure, while a federal state (decentralization of power and responsibility) could be considered what we actually see in the governance process. The difference between these terms will be discussed in greater detail in later sections. At times, federalism is also referred to as federalist or federalisms, but each is considered the same general abstraction of a governing structure. Finally, bicameralism is a parliament or legislature with two chambers, a lower chamber and an upper chamber. Unicameral is a parliament or legislature with one chamber. Weak and strong bicameralism are the terms used to discuss the “strength” of bicameralism. These differences will be hashed out in following pages.

Federalism, as a general concept, will be captured by both the strength of the federal state and bicameralism. Federal strength seems intuitive: States range from unitary to federal. Though in practice this is quite arcane. These issues are discussed later, but a measure is still needed to capture this convoluted type of state. So a federalism index is demonstrated to capture the federal state to a reasonable extent. I will argue veto players are derived from bicameralism based on two dimensions of symmetry and congruency (see Figure I). Strong bicameral systems are considered to have greater symmetry and greater incongruency, thus these systems are hypothesized to feature more veto points than weaker bicameral systems or unicameral systems. Taken together, I argue, strong federal-bicameral states will produce fewer significant new laws than states with weaker federal-bicameral institutions. Unitary-unicameral states will produce the most significant new laws. So a strong federal-bicameral system like that in the United States (US) would pass fewer significant new laws than a unitary-unicameral system like Greece.

Federalist attributes can act as veto players depending on the structure of a government. Federalism can increase the number of veto players through bicameralism, by which a second or upper chamber holds veto powers over legislation. Or through qualified majorities, which

Figure I: Dimensions of Bicameralism



*Note: Dimensions based on Lijphart's (1999) measures of bicameralism.*

is a majority that is more than 50 percent of a voting population.<sup>2</sup>The more veto players in a system, the greater the policy stability because it is more difficult to legislate changes to the status quo. Veto points within a given government are determined by electoral results and the rules of a constitution.

This paper includes three parts and five sections. It begins by discussing some features of federalism and bicameralism, and how they might play the veto player role. The nature of federalism, the federal state and bicameralism are then discussed in the context of existing literature. Having established the peculiarities of federal institutions, a series of hypotheses are presented that predict the role such institutions play in the production of new laws. I then discuss the relevance of veto points generally to the nature of social policy, which is the primary realm of significant laws considered. Once the theoretical foundations are laid, the variables and observations used in this study are discussed. An analytical section then empirically demonstrates how federal institutions may have affected the production of two different types of laws. It concludes with an overview of the shortcomings and limitations of the methodological approaches used. Finally, the results are discussed in the context of theoretical arguments made in this study and existing literature; a short conclusion poses further questions and avenues for research.

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<sup>2</sup>The European Union (EU), for instance, requires a qualified majority of 255 out of 345 votes representing a majority of the EU states. Furthermore, legislation must represent a qualified majority of 62 percent of the EU's population, if verification is requested by a member state. These qualified majority measures will be altered to a "double majority" system in late 2014 under the Treaty of Lisbon.

# 1 Veto Players and Federal Institutions

Tsebelis' 2002 book argues the institutional structure of federal states create more veto players. The two institutional structures, bicameralism and qualified majorities, mean that "federal countries have *ceteris paribus* more veto players than unitary ones" (2002, 136). However, there are distinct differences and implications between these two institutional structures. For reasons that will be explained, I will concentrate on bicameralism. In addition to bicameralism, I am arguing that the nature of the federal state in and of itself encourages vetos and policy stability. Federalism has also been identified with strong courts and the power of constitutional review to protect sub-national units from the federal government, while ensuring supremacy of a constitution. However, again, I will focus here on bicameralism as it is the means by which sub-national units are represented in the policy-making process at a national level. The extent of the federal state likely affects the behavior of legislators, elected by and for sub-national units, in a national legislature.

The upper chamber in bicameral legislatures or parliaments is purposed with the interests of the minority and sober deliberation. This brings about a "stable" status quo when paired with the capriciousness of the lower chamber. Meaning a new policy may not be legislated by the majority, but rather by "unanimous assent," as Madison says of the US Constitution in Federalist Paper No. 39. Madison continues in Federalist No. 51:

Whilst all authority in it [the Constitution] will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority...This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government...

Yet, federal states have been created with different purposes. Learning from frailties of the polarizing federalism in the US Constitution, revealed by the American Civil War, Canada

was established as a more nuanced federal state by the British North America Acts,<sup>3</sup> with features that would not be quite so “peripheralising,” particularly as relates to the “allocation of functions among the governments and in the structure of the Senate” (Riker, 1964: 116). Put succinctly, bicameralism, particularly apportionment within chambers, is very important: It creates conflict and impedes the legislation of significant new policies. Constitutional architects may institute bicameralist structures to impede the will of a capricious majority, protect interests of old elites or protect minority interests.

Lijphart (1999) uses the term “strong bicameralism” as a characteristic of consensus democratic institutions, many scholars conflate this with federalism.<sup>4</sup> And rightly so, despite a number of issues, as it seems the most appropriate measure of federalism in a national legislature. Within the scope of this study, all federal countries also have bicameral national legislatures. Bicameralism is appropriate to capture federalism because the interests of two chambers, even if controlled by the same party, differ on a number of issues because of different rules (Tsebelis & Money, 1997). The interests of each chamber are not a priori congruent because “constitutional veto players have independent power bases and sources of legitimation” (Roller, 2005: 90).

While it is quite easy to identify the source of policy stability in bicameral systems, i.e., that it is easier to pass a bill through one chamber than two, the source of stability in federal states is not as clear. A federalism means there are sub-national units or constituent units that compete with one another. Some prefer more centralization, while others prefer more decentralization. When governing some will prefer policy A, others policy B. In the process of democratic governance, these disagreements are settled through elections and governments, and everyone cannot get their preferred policy (Arrow, 1950). However, if changing the status quo is significantly more difficult in systems with federal institutions, then the stakes

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<sup>3</sup>As will be seen from other aspects of the Canadian government, the establishment of Canadian federalism was significantly influenced by the fear of the français québécois of being a minority. This fear is often assuaged by the adoption of federal constitutions; most recently seen in the new Iraqi government.

<sup>4</sup>Indeed, Lijphart notes that within his study of 36 democracies, all that boast federal systems have bicameral legislatures. While even among unitary systems, about half are bicameralist. (1999: 203).

for those participating in federal systems are much greater than unitary ones. If there is a change you don't like, then just wait for the next election and reverse the change. However, if multiple veto points in federal systems make reversing changes significantly more difficult, then there is much more to lose because it is unlikely such a change could be reversed in the future. This dynamic, perhaps, encourages conflict.

One might expect regional conflict to be more defined in federal systems, perhaps because many federal systems were born out of regional mistrust and animosity. Because constituent units have some degree of independence, there is much to lose by surrendering powers to a federal government. Unless external conditions necessitate the surrender of power, constituencies will vigorously defend their autonomy (Riker, 1964). This creates a problem for both the principal and the agent. Constituencies could see very positive results by surrendering some autonomy for a number of benefits, but such benefits, unless required immediately due to external forces, would not be seen immediately. So even if surrendering a few powers would create better outcomes, we shouldn't expect such decisions to be made because short-term considerations will dominate (Kahneman & Tversky, 1970). The inherent nature of federalism means that constituent units will end up advocating for their region's (short-term) interests. Partisan loyalties strongly dictate preferences, but we should expect regional loyalties to act similarly. For instance, members from opposite parties will likely join together for or against legislation important to their region against members of opposite parties from a different region (Krauss and Luke, 2004). A discussion about the nature of Canadian and American federalism is presented later that will demonstrate how regional preferences blocked the preferences of national majorities and altered resulting policy. In both cases, there was regional-based policy preferences that affected the scope of nationalized policy. This point will be further developed in following sections, but the important takeaway is that federalist structures contribute to policy stability, i.e., a stable status quo.

## 1.1 Policy Stability

The point of this study is to consider whether or not, and the degree to which, federalist institutions contribute to policy stability. Policy stability is defined as the impossibility of passing significant new laws. For real world purposes, we could settle on policy stability as being considered the very high probability that significant new laws will not be passed. Previous considerations have shown policy stability to be affected by a number of different veto players (the different types of veto players will be discussed later). For instance, proportional representation (PR) systems in which coalition governments are likely should experience greater stability than majoritarian systems (Tsebeils, 1999). Presidential systems might also experience much less stability relative to parliamentary ones (Linz, 1994). Systems with more veto players should also expect a more difficult time reforming budgets (Tsebelis and Chang, 2004). The number of competitive parties in a given system is also a good predictor of policy stability (Colomer, 2011).

Spacially, policy stability can be visualized as a circumstance in which there is a large number of veto points with large distances between such points. The more veto points there are and the greater the distance between the points, the less likely it is that common ground will be found; if the actors in a given model's indifference curves do not overlap, then it is likely the status quo will not be changed.

## 1.2 The Federal State

As discussed in the first paragraph of the introduction, there are multiple definitions of federalism. Though these definitions consistently feature concepts of decentralization, separate levels of government and the role of geographically separated units, there isn't necessarily a universally accepted definition. The definitions provided by Riker and Elazar leave a lot of room for interpretation, particularly as to what degree of power should be held by different levels of government in order for it to be a federalism. Certainly some power in unitary states will be delegated to locally elected officials. However, this distinction isn't perfectly

clear. Though political scientists have pretty good measures for determining if a country is unitary or not. This study will utilize one such measure. This section will discuss iterations and features of federalism. It takes a very loose definition of federalism to trace its history and clearly present its features in the modern world.

### **1.2.1 Iterations of federalist structures through history**

The earliest federalist looking structures seem to have come from the ancient Greeks following their victory in the Peloponnesian War. This earliest iteration of federalism was, however, a military arrangement more than our modern conception of a federal state. This federalist arrangement failed quite dramatically as a result of the weak union amongst the constituent units that comprised the ancient Greek federation. The primary (if not only) purpose of the federation was military in nature, so treaties, diplomatic matters, trade and civic affairs were left up to each constituency. Riker (1964) says of this myopic arrangement:

As a consequence, the military function was ill-performed; the poor performance was used by the rulers of constituent units as a justification for further restrictions on the authority of federal military officials; and such restrictions led in turn to even worse military performance. First Macedon, then Rome, triumphed. And the notion of federalism was not heard of again until the Middle Ages (8).

Those Middle Age iterations of federalism came from Northern Italian and Southern German cities that united for common interests. Like the Greeks, these federations of medieval cities joined together for a common defense from imperial states or empires. And again, like the Greeks, these federations went through the same process that destroyed the Greek federation. The lesson seems to be that too weak of a federation will likely result in its collapse. Like the challenges that came from the weak arrangement created by the Articles of Confederation in the years following the American Revolution, numerous federations or federal-looking structures have failed throughout political history. Madison and his colleagues wrote the US Constitution with the goal of strengthening the federation. He then joined Hamilton and Jay



to write the Federalist Papers to sell the new federal arrangement to skeptical audiences tied closely to their states. Fortunately for the US, Americans were able to ratify the Constitution and create a stronger union of the states with the help of figures like Madison, Hamilton, Jay and Washington. This made the United States the first lasting federation and the oldest in the world today. However, the oldest confederation comes from the Swiss.

Before going much further I'd like to quickly make the distinction between federations and confederations. A federation is a group of constituent units unified by a federal, central or national government. These units are bound together, generally, by a constitution, but still maintain degrees of independence from each other and the central government. A confederation is a looser agreement among sovereign constituent units. These units are generally considered more independent than those in federations. Confederations are also considered more likely to be established by treaties, rather than the constitutions binding a federation. Yet, there is still somewhat of a hazy middle ground for particular examples that some might argue fall into a confederation and others into a federation. In this section, these terms are used somewhat interchangeably to trace the origins and developments of the overriding concepts that make modern federalism. Federation is often substituted for confederation. Though these terms are conflated in this short discussion, it should be remembered that they are technically two separate unions of constituent units.

### **1.2.2 The emergence of centralized federalism**

Before the establishment of the US, there were several previous iterations of federal-looking political structures. The Dutch established a federation out of efforts to free Dutch elites from imperial Spanish policies in the 16th Century. The Dutch federation was more centralized than any previous federation, thus marking a significant step forward for the consolidation of a federal state (Riker, 1964). Though in practice the Dutch federation operated as a monarchy for most of its existence, it did last more than 200 years.<sup>5</sup> The US Constitution

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<sup>5</sup>Late in the 18th Century Napoleon ended the Dutch experiment in federalism.

was in part modeled on the Dutch iteration of federalism. Madison touts the merits of this “confederacy of republics” in Federalist No. 20. The US Declaration of Independence was also analogous to the Act of Abjuration, or Plakkaat van Verlatinghe, which ended allegiances of Dutch magistrates to the Spanish Crown.

The lessons of Dutch and American federal iterations, especially when contrasted with the other cases discussed, is that a more centralized state is stronger and more durable than a weaker confederation of constituent units. So federal structures are most likely to collapse because of weak unions, which has often been the case because federal unions are created based on the needs of self-interested actors. Leaders have little reason to surrender powers to a federal state or centralized organization if it isn’t in their self-interest to do so.

### **1.2.3 Why would a federation be established?**

Whether it be the case of the Greeks, the Dutch or the Americans, federalist structures generally arise as a result of necessity on behalf of the actors or constituencies involved. Riker identifies two conditions that create an atmosphere conducive to bargains establishing federal arrangements among a group of actors. The first is the “expansion condition,” which comes from actors who want to expand their territorial control, but cannot pursue this goal by conquest for whatever reason (weakness, military limitations, ideology, ect.). In order to expand, offers or concessions must be made to the rulers of other constituent units the actor wishes to control. Thus, a federal bargain is established. The second is the “military condition,” which occurs when leaders strike a bargain to give up some degree of sovereignty to a federation in order to achieve security from an external “military-diplomatic threat” or realize gains from a potential “opportunity” (12). Meeting one of these two conditions are, Riker says, always necessary to strike a federal bargain.

Among modern nation states, particularly developed democracies, there aren’t any weak confederations or federations like those of the ancient world or middle ages. One could reasonably say the EU is a weak federation, but even the EU is integrated more than loose

military structures like those of the Greeks or Northern Italians. If there is a threshold at which point a centralized federation is strong enough to last, only time will tell if the EU has crossed it. Modern federal states that seem to be in precarious positions are only found among newly created states. Iraq is the most unstable of the modern federal countries. It was created to assuage the concerns of minority Shia and Kurdish regions, but it may result in a collapsed state. Again, only time will tell if the Iraqi federation survives.

The important thing to remember is that too loose of a federation will collapse. Some degree of centralization is required for a federation to survive. The mechanisms behind the necessity of centralization for a federation's survival will be discussed later. For now, I leave you with Riker:

In general the reason for the survival of centralized federalisms is the fact that they are centralized; that rulers of the federation can overawe and overrule, but not annihilate, the rulers of constituent units (50).

#### **1.2.4 Federalism and the British Empire**

Though there are competing versions of why this is the case, it happens to the the case that a substantial number of former British colonies developed federal governments. The US, Canada, Australia, India, Pakistan, Nigeria and Malaysia were each British colonies at one point and eventually established federalist governments. New Zealand tried federalism, but abolished it in 1876. There was also some discussion of creating a "West Indian Federation" among British islands in the Caribbean, however this never came about. Riker would say this is because there was no external military threat to these islands, so they had no need to join a federation for common interests. Former British colonies in Southern Africa, Rhodesia and Nyasaland also tried, but ultimately didn't succeed in building a federation. Among the former British colonies federalist governments, for whatever reason, are quite common.

Some say this was a result of a divide to rule strategy pursued by British leaders and bureaucrats. By dividing colonies up they could play them against each other to prevent

united parties from rebelling against the Crown. Indeed, British politicians and pamphleteers of the 18th Century cited the mistrust and competition among American colonies as a reason they wouldn't unite and revolt, particularly during debate over what demands to make from France during negotiations to end the Seven Years' War <sup>6</sup>(Draper, 1996).

Another school of thought believes British federalisms were a result of practicality. It suggests the British simply empowered royal governors over territories that were manageable enough for one man to control, and the size of these colonies wasn't big enough to establish a nation state any way. By having colonies as separate jurisdictions, they naturally developed individual colonial interests. This view is taken by Riker, who says the British sought to "centralize by means of federalism" (26). In any case, there is a curious draw to federal systems among former British colonies.

### 1.2.5 Features of federalism

Some features of federal states have already been discussed: Bicameralism, qualified majorities and the power of judicial review. This section examines why federalism still exists even after Riker's two conditions for creating a federation have disappeared and then considers some of the theories of federalism. Particularly why there is no overarching theory of federalism. It then further examines centralization and decentralization. Finally federal institutions receive an extended discussion.

The survival of a federal system is supposedly based on two primary factors. First, centralization permits a national government to take advantage of a larger population and territory for taxes and military purposes. This creates a more powerful entity in the national government, which is thus better able to protect itself, project power and invest in the coun-

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<sup>6</sup>British political thinkers debated whether the Empire should demand Canada or Caribbean sugar producing islands from the French during treaty negotiations. One side saw more wealth and opportunity in demanding the Caribbean, but were also concerned about the consequences of removing the French from Canada. They warned that if the British controlled Canada, then the 'French threat' would no longer be hanging over the heads of American colonists and they would no longer need the British for protection. Others felt the American colonies were too divided to unite even if there was no 'French threat.' This side argued the French should be kicked out of Canada to secure British interests on the North American continent.

try. Second, maintaining established guarantees (through a constitution and constitutional court with judicial review powers) to constituent units that they will not be subsumed by a central government. If these guarantees are not present, then there is little to prevent a central government from creating a unitary system. Though these factors seem to explain some of federalisms survival, it still leaves much to be answered.

Considering the break down of areas of responsibility for different levels of government is included in the “administrative theory of federalism,” which Riker shows doesn’t apply to the US; he does however find that “the structure of political parties is what encourages or discourages the maintenance of the federal bargain” (51). The administrative theory considers a number of domains (money, borrowing, foreign affairs, trade, security, ect.), but still falls short of an overarching theory of federalism. Another approach could be to simply examine divisions of power in a constitution, but this is an ever changing feature of federalism because it sits within the realm of lawyers and judges. There is also the transaction cost theory of federalism that views federalist structures in a hierarchical principal-agent dynamic (Epstein and O’Halloran, 1999). This problem is at the heart of federalist questions, but the transaction cost theory still does not provide an overarching theory of federalism.

Inman and Rubinfeld (1997) identify two essential dimensions to a federalist constitution, 1) local representation in a central government and 2) assignment of responsibilities, and two essential objectives of a federalist constitution, 1) protecting rights and civic virtue and 2) economic efficiency. However, this is incompatible. Achieving optimal representation in local government may provide rights and civic virtue, but impairs public sector economic efficiency. While poor local representation in central government and clear assignment of responsibility will encourage efficiency, it does not achieve protection of rights and civic virtue. “Federalist constitutions must make hard choices and be responsive to the potentially changing economic and political conditions that lay behind these choices” (Inman and Rubinfeld, 1997: 105). Unfortunately, the point of this study is to determine just how responsive and capable of making hard choices federalisms are and, as it turns out, these systems are the

opposite of responsive and seemingly incapable of making hard choices.

It is surprising that federalisms can last considering the great strains such systems experience. One of Riker's two conditions must be met for a federalism to form, and once formed they must last. Some have and many haven't. Yet, there is no generally accepted theory of federalism that explains why a federalism endures. So it seems that as Duchacek (1987) suggested, there is not any convincing theory of federalism. The political economy of federalism, considered in the next section, provides some more insights but also yields more questions.

### **1.2.6 Types of federalism**

There have been a number of different types of federalism posited by political scientists, economists and legal scholars. Such types could be considered dual federalism, cooperative federalism, judicial federalism, fiscal federalism, market preserving federalism, and some have even conflated centralization or decentralization with a type of federalism (an erroneous conflation that will be sorted out later). Many of these types of federalism overlap or could be subsumed within each other. Federalist literature, however, seems to focus primarily on two types of clearly distinct federalisms: Market preserving federalism and fiscal federalism. These are the two types discussed here.

Market preserving federalism (Weingast, 1995) is a weaker federalist union that features sub-national units controlling the primary regulatory role in the economy; sub-national units that do not inhibit trade with one another to ensure open commerce within a country; and sub-national units that have hard budget constraints. This type of federalism features a lot of sovereignty for sub-national governments and supposedly encourages good policies because of competition. In this sense, sub-national units act similar to participants in a market where competition will generate the best policies. This model of federalism works under Tiebout's (1956) conditions that show mobility can create an efficient market for public goods. Though significant powers are delegated to sub-national governments in a

market preserving federalism model, the national government should still control foreign policy and the printing of money, which would also make borrowing money more difficult for sub-national units. Thus, sub-national units have hard budget constraints. The relationship between competition and hard budget constraints is central to this approach to federalism. It is important under this type of federalism that government is strong enough to enforce laws and protect property rights, but also to honor such roles without exerting 'overreaching' governmental authority. A market preserving federalism was demonstrated by the early American federal structure. Madison writes in Federalist No. 45:

The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the State governments are numerous and indefinite....The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State...The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security.

Weingast (1995) says a number of countries have demonstrated market preserving federalism in practice though not necessarily in law. Weingast, Qian and Montinola (1995) suggest that federalism, "Chinese style," is at the root of China's economic success in recent decades. They argue that political decentralization in China, mostly through giving local and provincial governments the primary responsibility for economic matters within each jurisdiction, created political durability within the Chinese system that in turn helped its robust economy through the 1990's. They say political durability is essential and results from political decentralization. "Central to the success of market preserving federalism is the element of political durability built into arrangements, meaning that the decentralization of power is not merely at the discretion of the central political authorities" (53). In their article, Weingast, Qian and Montinola identify five conditions for an optimal market preserving federalism's

institutional structure:

1. A hierarchy of governments with a delineated scope of authority exists so that each government is autonomous within its own sphere of authority.
2. The sub-national governments have primary authority over the economy within their jurisdictions.
3. The national government has the authority to police the common market and to ensure the mobility of goods and factors across sub-government jurisdictions.
4. Revenue sharing among governments is limited and borrowing by governments is constrained so that all governments face hard budget constraints.
5. The allocation of authority and responsibility has an institutionalized degree of durability so that it cannot be altered by the national government either unilaterally or under the pressures from sub-national governments.

This is, more or less, a play off classical liberalism. So aspects of market preserving federalism could be identified in both the early American republic and, as some have argued, modern China (which is quite a comparison). To really examine this type of federalism, one must look deeper than just decentralization. For instance, Argentina is a decentralized government that gives spending authority to its provinces. Yet, the authority of taxation is controlled by the central government and funds are transferred to the provinces. So provinces are not necessarily subject to their own hard budget constraints. The Swiss have a somewhat similar structure. There are significant transfers to states in the US as well. Two other cases that feature significant inter-governmental transfers to sub-national constituencies, which are supposedly largely autonomous, are seen in Belgium and Australia. So while we might be able to point to examples of market preserving federalism, an ideal case is difficult to find.

Additionally there are significant problems with a market preserving federalist model. To mention just one of these problems: Negative externalities create conflict among sub-national units and social, economic or environmental ills. Just ask a Chinese person living



in Hebei Province: “Is pollution from other provinces negatively affecting you?” Problems like this could supposedly be solved by cooperation among sub-national units, but that just creates a prisoner’s dilemma. This dilemma seems to be best solved with regulations from a central government, which then means there is no longer market preserving federalism. So market preserving federalism, particularly in democracies, seems a bit unsustainable. That is, if citizens want minimal national standards within national markets. Another problem with market preserving federalism is that it would likely stymie innovation because innovation necessitates losses. This provides “strong incentives to be laggards, especially if those suffering losses can vote with their wheel” (Feigenbaum, Weaver and Samuels, 1993: 104). This problem has actually impeded more generous social policies in the US because there is a high degree of mobility for both capital and labor (Robertson, 1989; Peterson and Rom, 1990). Additionally, market preserving federalism does not seem applicable to any country in this study. So another type of federalism may better explain the federalisms of the modern era.

Fiscal federalism is another type of federalism that, rather than giving regions primary economic power, gives federal funds to the constituent units to implement national or even local programs. Funds would generally come through transfer payments or grants to regions from the national government. A fiscal federalism approach concerns the distribution of expenditure and revenue across different levels of government. This approach does not necessarily consider sub-national units as the optimal level of government in which to vest economic powers, but rather what powers should optimally belong to the different levels of government. While market preserving federalism tends to be constitutionally ingrained, fiscal federalism is significantly more subject to partisan winds. One government may support large grants for an important national program, while another may not pursue any national programs. So the ‘degree’ of the state (regional and national) is more flexible. In the US, education would fall under a fiscal federalism definition.

Findings suggest there may be different roles for different aspects of government. Follow-

ing in the steps of Richard Musgrave's (1959) *Theory of Public Finance*, different "branches"<sup>7</sup> of public fiscal realms perform best when run by different levels of government (Oates, 1968). The role of different levels of government should not be considered a static model, as times change decentralization becomes more complex, governmental actors evolve and relationships between levels of government evolve (Oates and Strassmann, 1978; Sharma, 1995). So evolution among vertical levels of government occurs over time, making a federalism more complex. Within federal states there is also evolution and learning horizontally between localities or regions/provinces (Bouché and Volden, 2011). These evolutions could change some people's definition of federalisms, but such evolutions should instead be considered as developments in decentralization that create a more complex federalism.

There is a distinct difference between the definitions of fiscal federalism, or any other federalism for that matter, and decentralization (Sharma, 2005). The former should be considered as ideas or conceptions, while the latter should be considered as the actual practice or process of governance. There would inevitably have to be some degree of decentralization in unitary as well as federal states. Because there is at least some decentralization in unitary to federal states, it seems appropriate approach to try capturing the 'degree' of federalism within a given country. This degree of federalism is generally measured through the practice of decentralization. We may not be able to precisely define federalisms, but we can broadly consider decentralization. Therefore, decentralization is used in this study to operationalize the "idea" of federalism.

### **1.2.7 (De)Centralization and capturing federalism**

The concept of decentralization has been an extremely important aspect of federalism studies. Some degree of centralization is required for a federal structure to survive, and some degree of decentralization required for a unitary structure to operate. Decentralization, particularly

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<sup>7</sup>Musgrave suggest three branches: stabilization, distribution and allocation. Oates suggests that the first two branches are best performed by the central government and the allocation branch is best for local/regional, though in conjunction with the central government.

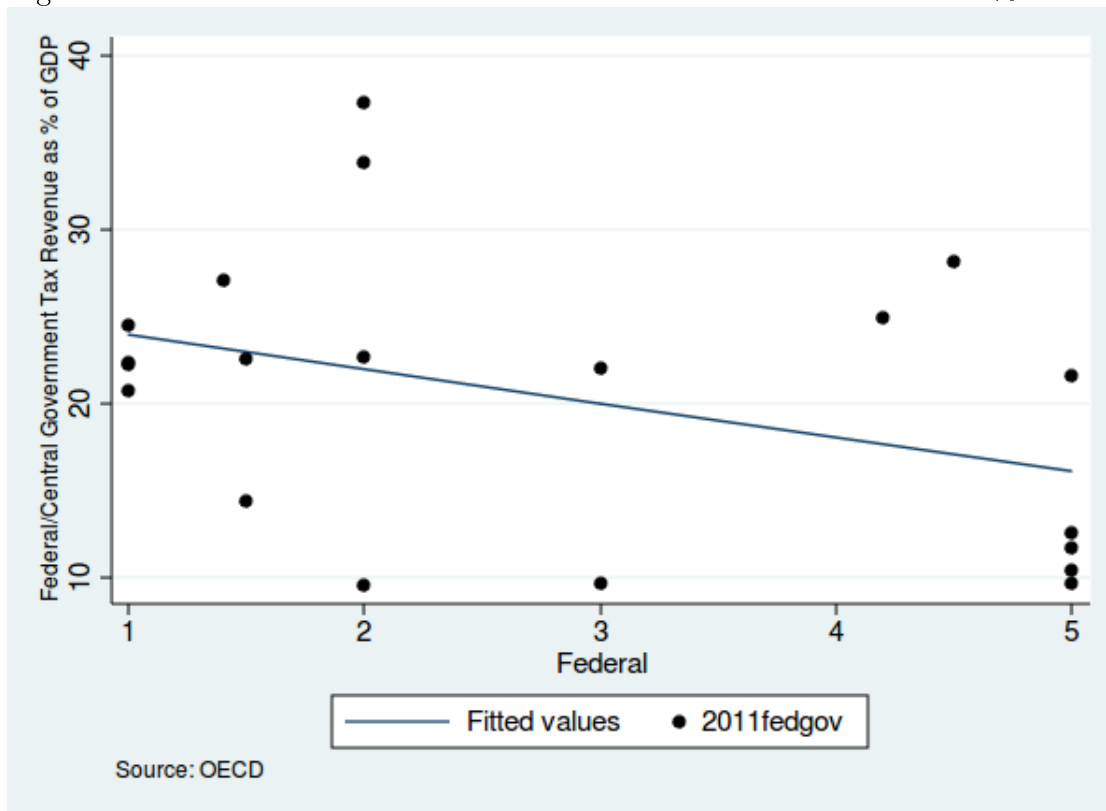
within fiscal federalism literature, is the most debated aspect of federalism because it has potential to both increase efficiency and decrease transaction costs, while also creating a host of problems. Whatever the findings may suggest, decentralization is important and ever changing because of the constellation of actors and forces driving the evolution of decentralization.

Individual or collective actors have the potential to push decentralization in new directions. Actors at different levels of government should not just be considered benevolent arbiters of government policy and resources. For instance, partisan actors (extremists vs. centrists) develop preferences for more or less centralized federalisms (Cremer and Palfrey, 1999). Policy entrepreneurs can also have substantial impacts across sub-national units (Mintrom, 1997). The point here is not to go into diffusion literature or further examine fiscal federalism, but to simply point out that decentralization is not static, is ever-evolving and shapes the nature of each federalism.

If the power to tax at two or more levels of government is enough to consider just some aspects of decentralization, then perhaps it should be considered on a scale of federalism. Since federalism is a concept and decentralization a process, then degree of decentralization seems the best measure of federalism. Figure II shows the 20 OECD countries considered in this study, comparing their rank on a federalism index (Lijphart, 1999) with central government tax revenues as a percentage of GDP in 2011. There is clearly a negative correlation (-0.0033) between federalism and central government tax revenues. This means that as the strength of federalism increases, central government tax revenues should be expected to decrease. So what? Sure there is a negative correlation between federalism and central government tax revenues, this could be because of economic conditions, varying preferences for size of government or any number of other factors. To delve further into understanding relationships between decentralization and federalism, it would be helpful to examine different levels of government.

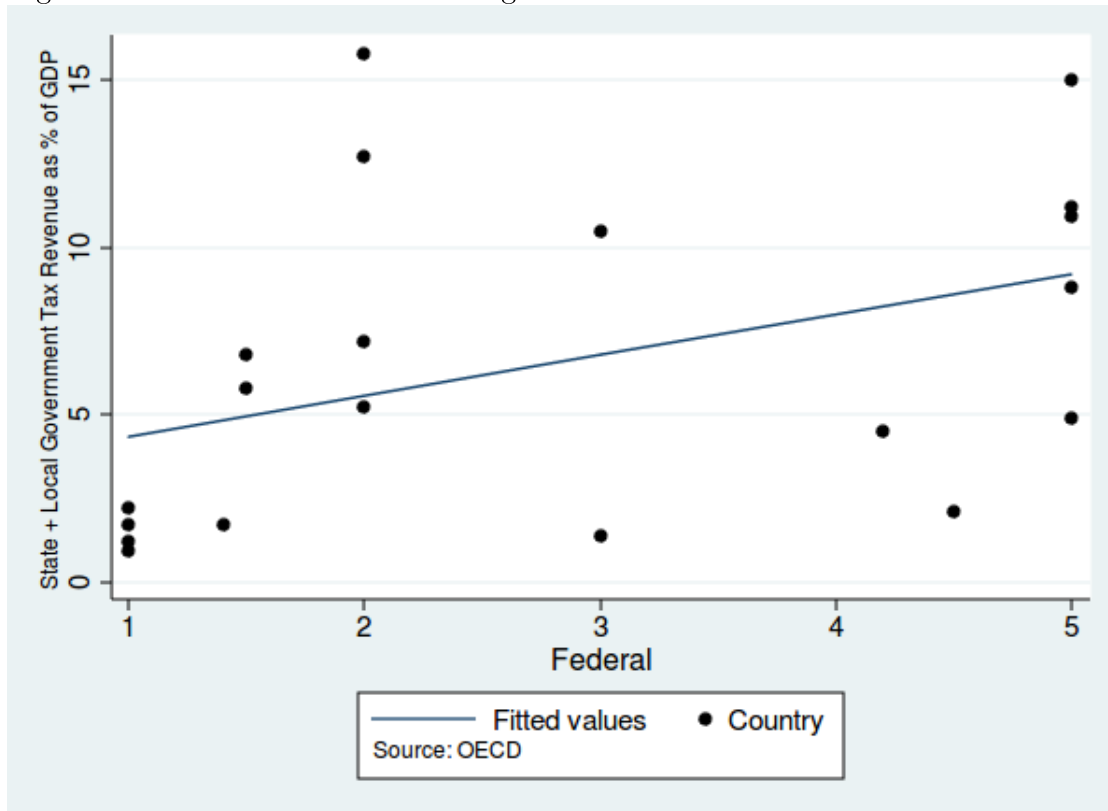
Figure III considers local plus regional tax revenues as a percentage of GDP against

Figure II: Federalism Index and Central Government Tax Revenue as a % of GDP in 2011



the federalism index in 2011 for 20 countries. Again, results seem to support the idea that greater decentralization means greater federalism; more to the point, that the federalism index is a valid measure of “federalism.” While strong federal countries (considered a 5 in the index) see much more regional and local tax revenues relative to GDP, weaker federal or unitary countries (a 1 in the index) see much less revenues for their respective sub-national units. The correlation (0.11) in Figure III is stronger than in Figure II, suggesting stronger federal countries would see much more authority and power in the hands of different levels of government. In both figures, there is one strong federal country that seems to be an outlier, taking in much more central government tax revenue and much less state and local revenue than the other strong federal countries. That outlier is Australia. This could be because of peculiarities in Australia’s fiscal federalism and welfare regime. Legal constraints and Australian history developed a “centralization of revenue functions and an ever-increasing financial dependence of the states on the central government...[that] emphasizes uniformity

Figure III: Federalism Index and Regional + Local Tax Revenues as a % of GDP in 2011



of public services across the nation and uses conditional grants to achieve that purpose” (Spahn and Shah, 1996). So there is clearly a very important role for Australian states, as they implement national programs. There are significant transfer payments between the central government and the states, but the states and localities take in less revenue and the central government takes in more as a result of centralized revenue functions. I don’t think this necessarily means that Australia is any less federal than, say Switzerland or the US, because its states still maintain significant responsibilities.

The other two outliers in Figure III are Sweden, a fairly weak federal state (a 2 on the federalism index), and Canada, which both allocate more than 15 percent of GDP to local and/or regional governments. Canada shouldn’t be surprising because it is considered strongly federal, so significant tax revenues would be expected to go towards local and provincial governments. Sweden, however, is quite a bit more surprising based on its score in the federalism index. Levin (2009) believes this is because of Sweden’s decentralization

that is, interestingly, derived from what is generally considered a unitary state:

Sweden is a unitary state and all power ultimately emanates from the national legislature. However, this legislature – the Riksdag – has delegated more extensive powers to the regional-level county councils and the local-level municipalities (both of which are technically so-called “communes”) than is common in other unitary states (Wetterberg 2004). The autonomy of the communes, which dates back to the early 1800s, is since 1975 guaranteed in the constitution and is further strengthened by the fact that regional and local level representatives are directly elected. Two additional sources of local/regional autonomy are the division of competences and their right to levy taxes (43).

The Rikstag is unicameral so it would not demonstrate any of the federalist aspects of bicameralism that will be discussed in the following pages. There is no federalist character to the Rikstag that is witnessed in other legislatures in federal countries. This case may reveal some weaknesses to the federalism index, but because of its political make-up Sweden simply cannot be considered a federal state. Therefore, the federalism index considers Sweden a weak federal state. Based solely on Sweden’s decentralization of taxation, some readers would likely argue it should be considered stronger than a two on the federalism index, but few would argue it to be a four or five. So Sweden shows the strengths (a more delicate measure of federal than a simple federal-unitary dicotomy) and weaknesses (it cannot consider all aspects of federalism) of this index<sup>8</sup>. In any case, these examples should show the complexities of federalism, but also demonstrate the general strengths of the federalism index in capturing the practice of decentralization (and thus the idea of federalism).

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<sup>8</sup>See Lijphart (1999, 193) for a different look at the federalism index and decentralized taxation. The same conclusions would be drawn from this figure as are drawn here.

### 1.3 Bicameralism

The early structure of upper chambers was rarely democratic. These chambers were often based on heredity, such as the UK's House of Lords, or social entitlements and meant to act as a "conservative break" on the more democratically elected lower chambers (Lijphart, 1999: 203). Aristocratic arrangements resulted in bicameral looking structures. These arrangements were generally created to represent different "estates" within a given territory. For instance, in France the Estates-General comprised three estates for clergy, nobles and commoners. Though hardly a serious political force<sup>9</sup> or even representative of the French people, this body represents a precursor to modern bicameralism. Other bodies of estates were seen in the UK, Sweden, the Netherlands and Russia (meaning its formerly autonomous territory of Finland). As aristocracy and feudalism faded, new bodies were created, sometimes reinventing the old estates. The UK's House of Lords is based on "Lords Spiritual and Temporal;" even today the UK's upper chamber is composed of archbishops, bishops, earls and various types of lords. The bodies precursing modern bicameralism were meant to distribute some powers to landed, noble or clerical elites and away from monarchies. In the 19th Century a number of more modern, though hardly democratic bodies, were established to continue providing political representation/power to elites. The French Chamber of Peers would be one such example. Another would be an early version of the Italian Senate that began in 1848; its members were appointed by the king. Following World War II, the modern Italian parliament was formed with a similar upper chamber, albeit a more democratic one. For many countries, vestiges of aristocratic upper chambers influenced the parliamentary structure and constitution of today's European democratic states (Lodici, 2002). The important take away is that upper chambers were meant to serve as not only conservative brakes, but to establish an arrangement that favored elites.

This arrangement slowly ended as universal enfranchisement took hold among democratic

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<sup>9</sup>The Estates-General didn't even meet between 1614 and 1789, and when it finally met the result was commoners creating a National Assembly. This event might be better known as precipitating the French Revolution.

states. The elites of the old guard, however, opted to influence the institutional structure of the new government to maximize their influence within the new status quo (Boix, 1999). Some upper houses became largely ceremonial over time, but many upper houses maintained constitutional relevance after universal suffrage. The basic functions of the US Senate remained even after the 17th Amendment established popular elections for Senators, while the Australian Senate was reformed in 1948 to establish proportional representation. These reforms no doubt changed the 'type' of politicians elected, but the constitutional powers of the bodies remained largely the same. And though aspects of upper houses have changed, its function as a "brake" on the will of the lower house has remained in many governments.

This brake promotes policy stability, often to the frustration of the lower or people's house. "If a second chamber dissents from the first, it is mischievous; if it agrees it is superfluous," says 18 century political philosopher Abbé de Sieyès. This statement remains insightful as the diffusion of powers between chambers effects the process of governance and therefore political behavior. Bicameralism effects the process of legislating, thus influencing the actors, institutions and processes surrounding the legislation of new policy.

Bicameralism should shape party behaviors since, under a "strong bicameralism" theory, one chamber will have veto power over another. Regardless of partisan congruence between chambers, members of each chamber still have unique institutional interests (Tsebelis & Money, 1997). This means legislators act to further their partisan interests, while also protecting their chambers' constitutional powers. So even though concurrent majorities would make it easier to pass laws, there are still institutional barriers to easy legislation. Such an arrangement should intuitively tell us that bicameral systems would feature greater policy stability than unicameral systems. Though bicameralism doesn't effect government formation, it does effect government duration, so "governments with upper-chamber majorities last substantially longer than those without" (Druckman & Thies, 2002: 760). Bicameralism (and federalism) may also effect the quality of policy outputs from governments (Lijphart, 1999). Thus arises the question of how exactly to conceptualize and measure bicameralism.



The closest we can come to answering, and the method which I will apply, is to compile some of the features of bicameralism discussed over the following pages into a two-dimensional measure of bicameralism. The first dimension is based on an asymmetrical-to-symmetrical space, which comprises the constitutional powers and democratic legitimacy of an upper chamber. The second dimension is on a congruent-to-incongruent space, which operationalizes malapportionment. Taken together, both dimensions can provide us with a useful means of considering multiple aspects of bicameralism, while also measuring the veto power of bicameral institutions. These dimensions can be seen in Figure 1.

This conceptualization allows us to understand the scope of bicameralism across governments. Particularly, it will allow a reasonable comparison of the significance of bicameralism between federal and unitary states. Since I join others who conflate federal states and bicameralism, this conceptualization allows us to see where each state falls on a federal-bicameral space (see Figure IV) and predict which would feature more veto points. To summarize, this seems the best way to capture the complexities of bicameralism and compare across countries.

### **1.3.1 Differences between chambers in a bicameral system**

There are several differences between lower and upper chambers. First, legislators in an upper chamber could often expect to have longer terms than their colleagues in the lower chamber. Some members of upper chambers can hold lifelong terms, such as the House of Lords or the Canadian Senate.<sup>10</sup> Though some systems feature upper chamber terms that are equal to the lower, most hold a longer term of office. Longer term lengths are supposed to make upper chamber members more thoughtful when debating legislation because re-election is not as temporally worrisome as to those in a lower chamber. Second, the upper chamber is nearly always smaller than the lower. The ratio between two chambers varies among bicameral systems. For instance, the new German Bundestag (lower chamber) has 631 seats,

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<sup>10</sup>Today Canadian Senators may serve until age 75, whereas before reforms in the 1960's they served for life.

while the Bundesrat (upper chamber) has 69 seats. Most bicameral legislatures feature a smaller disparity between chambers, but the upper is essentially always smaller.<sup>11</sup> The US features a smaller ratio between chambers than Germany; the US Senate has 100 members, while the US House of Representatives has 435. Third, unlike most lower chambers, most upper chamber members are not subject to re-election each election day, meaning there is less turnover following each election. For instance, while the entire US House of Representatives must stand for election in each cycle (every two years), only about one-third of the Senate is subject to re-election. Likewise, half of the the French Sénat is elected every three years with members holding six year terms. The Australian Senate could, in theory, also see turnover of half the body each election, its members serve six-year terms and half of the Senate faces election every three years. Members of the Swiss Council of States, however, must stand for election each cycle. Meaning, in theory, the membership of the entire chamber could turnover following an election. So upper chamber turnover each election may be up to one-third of members in the US and one-half in France and Australia, while all upper chamber members in Switzerland could turnover. Terms and turnover vary, but upper chamber members accross bicameral systems generally hold their seat longer than their counterparts in lower chambers, and upper chamber membership is more stable.

Finally, (mal)apportionment within an upper chamber can play a very important role in both the makeup of citizen representation and federalist characteristics. Malapportionment is the degree of unequitable representation of citizens in a legislature. For example, based on 2010 reports from the US Census, California had a population of more than 37.2 million and Wymoming less than 600,000, yet both states send two senators to represent them in the Senate. Put simply, this means each Wyoming voter has more than sixty-four times the influence over Senate business than do California voters. Germany also features malapportionment, but to a significantly smaller degree than the US. Also, like in the US,

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<sup>11</sup>I say “essentially” smaller because the one exception I’m aware of is the UK Parliament. The House of Lords currently has 785 members and the House of Commons had 650 after the 2010 election. In any case, virtually all power in the Westminster system is held by the lower chamber.

seats in the Bundesrat are meant to represent the interests of each state. Each German Länder (state) receives between three and six seats, with more seats going to those with greater populations. Take just one example, malapportionment in the Bundesrat ranges from one vote for every 182,000 citizens in Bremen to one vote for every 3 million citizens in North Rhine-Westphalia (Conradt & Langenbacher, 2013). Borrowed from the American system, the Australian system also features a fixed number of Senators from each state that results in significant malapportionment.<sup>12</sup> Canada would also be considered malapportioned because its Senators, which are recommended by political parties then nominated by the Prime Minister and appointed by the Governor General, come from the Provinces and are not equally apportioned. There are between one and six Canadian Senators from each Province or territory. Apportionment is important, and greater malapportionment results in a more federalist character within a national legislature. Indeed, all strong federal countries in this study feature fairly significant degrees of malapportionment.

It may be helpful to consider this concept on a general level. Systems are either perfectly apportioned or malapportioned; a perfectly-apportioned system would mean that no voters' ballot is weighted differently than another's (Samuel & Snyder, 2001). Malapportionment, in terms of Dahl's (2003) 'one person, one vote' definition of democracy, would create undemocratic outcomes. Though it may assuage the (often very real) concerns of a minority. Whatever democratic theorists think about this concept, it has very real implications for policy making (McCubbins & Schwartz, 1988).

For the purposes of this study, I am suggesting that malapportionment acts as a kind of veto point because it lends a minority disproportionate influence over outcomes. Snyder and Samuel's 2001 article laid out a method to measure malapportionment in both lower and upper chambers. They found upper chambers to be much more malapportioned than their counterparts. Based on their calculations of upper chamber malapportionment (662), the US

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<sup>12</sup>The fixed number rule has an exception for two Australian territories that send two senators each, instead of the six elected by each state.

**Table I: Upper Chamber Features in Strong Federal States**

<u>Country</u> Chamber Name	<u>Australia</u> Senate	<u>Canada</u> Senate	<u>Germany</u> Bundestrat	<u>Switzerland</u> Ständerat - Conseil des Etats - Consiglio degli Stati - Council of States	<u>U.S.</u> Senate
Term	6 Years*	Up till 75 years old	Depends on Länder they represent	4 Years	6 Years
Total Members (Members per sub-national unit)	76 (12 per State & 2 per Territory)	105 (1-6 per Province/ Territory)	69 (3-6 per Länder)	46 (2 per Canton & 1 per half-Canton)	100 (2 per state)
Malapportioned	Yes	Yes	Yes	Yes	Yes
Election Method (Directly Elected by Voters)	PR w/ STV (Yes)	Appointed by Governor General (No)	Appointed by Länder governments (No)	FPTP** (Yes)	FPTP (Yes)
Turnover per Election	$\frac{1}{2}$ every three years	N/A	N/A	Full Chamber	$\frac{1}{3}$ every 2 years
Veto point, i.e. symmetrical constitutional powers to lower chamber	Yes	Yes (in theory, but is less powerful in practice)	Yes	Yes	Yes

*Legend: PR=Proportional Representation; FPTP=First-past-the-post*

*Source: Inter-Parliamentary Union website and Obinger, Liebfried and Castles (2005).*

*\*The four senators from the two Australian territories serve only three year terms.*

*\*\*Election methods, like in the US, are left up to each Swiss Canton. All but one uses FPTP; the Canton of Jura uses PR.*

is the most malapportioned system among the countries considered in this study.<sup>13</sup> Switzerland is the next most malapportioned, followed by Australia, Germany, Japan, Austria and Italy. Each of these countries features moderate to strong bicameralism or federalism (see Figure V for bicameral-federal strength). Figure IV shows the relationship between eight countries with malapportionment measurements and new social security laws passed between 1980 and 2011. There is a slight correlation (-0.2485) between stronger malapportionment and passing fewer new laws. Though this hardly presents convincing enough evidence to say malapportionment will inhibit the passage of new laws, it does present some evidence suggesting malapportionment might matter. This particular question (does malapportionment inhibit the production of new laws?) is best left for another study. For present purposes, however, I felt it best to show the relationship between malapportionment and new laws. We do know that malapportionment matters in terms of legislative composition, so it is a reasonable aspect of bicameralism to include in measurements of bicameral strength. Particularly because malapportionment has the potential to make a minority population far more influential than its share of a total population would suggest.

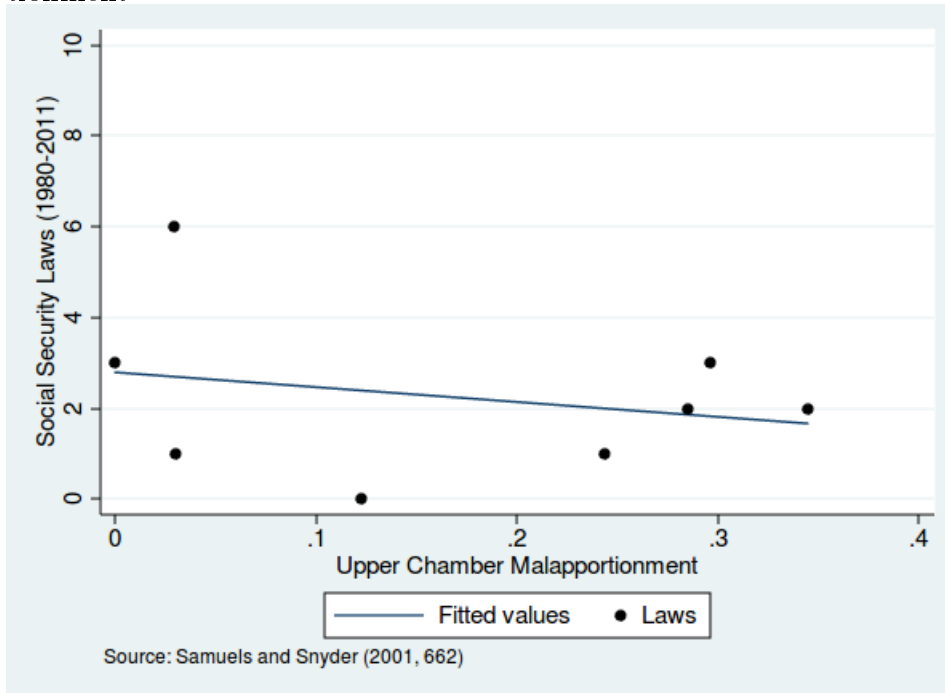
Malapportionment, at least within the scope of this study, is a consistent feature in strong bicameral and federal systems. Such a feature likely feeds conflict across cleavages (ideological, rural-urban, religious, ethnic, regional, re-distribution preferences, ect.) and, thus, encourages vetos. This is why Figure I claims that the top right of the two dimensions of bicameralism is where the most veto players lie: Where there is both incongruency and symmetry. If a minority is making a demand, which must be considered by the majority, it has the ability to inhibit or prohibit the preferred policy of the majority.<sup>14</sup> Otherwise a majority could simply enact its preference without the approval of the minority. So, I would

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<sup>13</sup>Among the countries considered in Samuel and Snyder's calculations the US ranked fifth. The more malapportioned upper chambers were in 4) the Dominican Republic, 3) Bolivia, 2) Brazil and 1) Argentina.

<sup>14</sup>The aspect of federalism not considered here, but is very important, is that of qualified majorities. Should a chamber have qualified majority rules, the minority role in the legislating process would likely be even greater. Though qualified majorities are not drawn into this study, its importance should not be left unconsidered. It would very likely add greater veto possibilities to an upper chamber and further promote policy stability.

Figure IV: New Social Security Laws Passed (1980-2011) and Upper Chamber Malapportionment



suggest, malapportionment has the potential to act as a type of veto player.

### 1.3.2 Differences across upper chambers in bicameral systems

To recap: Upper chambers differ over terms, size, post-election turnover and apportionment. Yet, the points I wish to make here concern how an individual is elected or appointed to a seat. Malapportionment may create undemocratic outcomes, but so does the method by which upper chamber members come to hold a seat. These methods will effect the democratic legitimacy of the upper chamber, which sometimes can impede its constitutional powers. Constitutionally, Canada has symmetry between its two chambers and, in theory, both chambers hold vetos over new laws. But its Senate is weaker in practice because it has little, if any, democratic legitimacy.

So democratic legitimacy is another key feature of bicameralism. The key features of bicameralism are presented in Table I for each of the five strong federal states in this study; Canada is a strong federal state but considered only a moderate bicameral state because of

its democratic illegitimacy.<sup>15</sup>

Many though not all upper houses rely on methods of appointing or electing members without direct democratic elections. Germany, France, Ireland, Canada and the UK each feature variations on non-direct elections or appointment to fill the upper chamber.<sup>16</sup> Each state government in Germany appoints, and may recall, its representatives to the Bundesrat.<sup>17</sup> France's Sénat is elected by grands électeurs, which are a collection of city or regional councilors, mayors, members of the National Assembly and other elites. Ireland has perhaps the most peculiar method. The Irish Oireachtas Éireann, or 'national parliament', is composed of a lower and more powerful chamber, Dáil Éireann, and a less powerful upper chamber, Seanad Éireann. The Seanad, or Senate, is composed of members appointed by a variety of elites: Some are appointed by the prime minister, others elected by graduates of certain Irish universities, and others by political elites<sup>18</sup> sitting on special committees. The Irish Seanad and British House of Lords (and the Canadian Senate to a certain extent) are vestiges of aristocracy, but hold significantly less powers than their respective lower chambers. Meanwhile, upper chambers like the US Senate, Australian Senate or Swiss Council of States are comprised of members directly elected to chambers with significant constitutional powers. These systems are a minority among the countries considered here, but quite important given the significant scope of constitutional powers they allocate to both chambers of a legislature. In all, relatively few countries fit neatly into the federal-unitary or unicameral-bicameral boxes, though most fall predictably in the middle. There are, however, several interesting cases in this middle ground.

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<sup>15</sup>The Canadian Senate used to hold more power than it does today.

<sup>16</sup>These methods were generally inherited from pre-democratic systems of the 17th and 18th century.

<sup>17</sup>These representatives are very constrained. Not only do they answer to state governments, but all members from each state must vote en bloc. The principle of this is that members are supposed to represent their state.

<sup>18</sup>Such as members of the lower house, senators and local officials.

### 1.3.3 Interesting cases: Austria, Belgium, Italy and Japan

Before moving on to the next section, it seems important to discuss a few interesting cases that do not fit squarely in the unicameral-bicameral and unitary-federal realms. Meaning a strong bicameral and federal state or a unitary and unicameral state. Austria and Belgium are each a bit peculiar. Austria is quite a strong federal state (4.5/5 on the federalism index), but a weak bicameral system. Belgium is similarly a relatively strong federal state (4.2/5), but also bicamerally weak. Meanwhile, Italy and Japan are peculiar in the opposite direction. Italy is a moderately strong bicameral system that is quite weak federally. And Japan is also a moderately strong bicameral system with a weak federal state.

Austria and Belgium are each comparatively strong federal states that do not provide significant national representation, in the form of bicameralism, to their respective regions. The Austrian constitution is set up as a federalist system that distributes powers between the various Länder and the central government. The Austrian Länder do have some significant powers over their own affairs, for example policing, implementing programs or even making treaties with one another, but significant powers also reside in the central government. The central government, somewhat like Australia, delegates a lot of duties to the Länder. Take, for instance, the distribution of tax revenue between levels of government. The localities and Länder have very little direct tax revenue (2.1 percent of GDP), while the central government has quite a bit (28.1 percent). It is through transfer payments that these sub-national constituencies get most of their resources to pursue various policies. This type of federalism, as has been shown, is not unheard of, but the lack of substantive representation for the Länder in the national government is. Unlike most other strong federal countries the Austrian upper chamber, the Federal Council or Bundesrat, has very little real power. Yes, you might say, but so does the Canadian Senate. The difference is that the Canadian Senate has real constitutional powers that do not always exist in practice. The Austrian Federal Council, however, has little real constitutional power. While technically the Canadian Senate and other upper chambers in strong federal countries have veto powers, those of the Federal



Council are irrelevant and in practice essentially non-existent. It has a suspensive veto and has to approve laws passed by the more powerful lower house, the National Council, though it can be overridden by a simple majority of the lower house. Thus the veto is rarely (if ever) exercised. The Federal Council represents the nine Länder as one might expect of upper chambers in federal states and is elected by Länder governments, much like in Germany.

“Belgium is a federal state, composed of communities and regions,” states the first article of Belgium’s constitution. It’s constitution began reforming towards a federal state in 1970, and on the federalism index is considered a 4.2 out of 5. So it is a pretty strong federal state. There are three communities in Belgium: The Flemish Community, the French Community and the German-speaking Community. These communities are divided along cultural and language lines. The three regions referred to in the constitution fall along similar lines as communities, but were made to increase regional economic autonomy. The regions are the Flemish Region, the Brussels-Capital Region and the Walloon Region. In practice, these regions would be analogous to states or Canadian provinces. In addition, Belgium is divided into 589 municipalities and 10 provinces. The central Belgian government has significant powers in foreign relations, welfare, justice, finance and some aspects of health care and domestic policy, while its three regions hold various economic powers relating to employment, agriculture, water use, housing, public works, the environment and energy, just to name a few. While communities hold competences in social services, health policy and immigration services. Many of the powers held by communities and regions are also held by provinces and communities (municipalities), such as public works, welfare, housing and education. The point of Belgium’s constitutional reforms in the late 20th Century were to bring the decision-making process closer to citizens. Tax revenue is primarily directed towards the central government; the various constituent units received about 4.5 percent of GDP in tax revenues, less than average among the 20 countries considered, but more than the stronger federal state of Austria. However, spending in Belgium’s constituent units is quite high relative to tax revenue. Leibfritz (2009) found the Belgian vertical fiscal gap (VFG), which is total

local/regional spending minus share of revenues, to be larger than that of Australia, Austria, Canada, Germany, Spain, Switzerland and the US in 2006. That year the local/regional governments share of spending was about 24 percent and its share of tax revenue about 9 percent, giving Belgium a VFG of 15. This is quite high, so though Belgium's regions, communities, provinces and communes have quite a bit of power, the ability to carry out their respective programs is largely dependent upon transfers from the central government. Still, this is a strongly federalist characteristic and Belgium's large VFG demonstrates the importance of federalism in Belgian society. Belgium's Federal Parliament is a moderately strong bicameral system. The Chamber of Representatives (the lower chamber) is much stronger than the Senate (upper chamber) following constitutional reforms. In some domains the Senate has equal power, such as in approving treaties, constitutional amendments and laws affecting lower levels of government, but for most other matters the lower chamber can do as it likes. This makes Belgium an asymmetrical bicameral system. Members of the Belgian Senate get to the chamber through a combination of PR elections, appointments from Community parliaments and other means. So though Belgium's upper chamber has federalist characteristics, in that some members represent the interests of their communities, it has few powers.

While Belgium and Austria are strong federal states with weak bicameral systems, Italy is a weak federal state with a comparatively strong bicameral system. Its Senate or Senato della Repubblica (upper chamber) consists of 315 members, most of whom are elected for five-year terms by regions in Italy.<sup>19</sup> Senators are elected through both PR and FPTP, depending on the seat they hold. What makes Italy peculiar is that it's a weak federal state, but its upper chamber (mostly made up of members representing regional interests) has powers symmetric with the lower chamber, the Chamber of Deputies. Both the Italian Senate and Chamber of Deputies may propose new legislation, amend legislation, create committees to investigate public malfeasance, declare war, and appoint some judges and public officials. So Italy has

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<sup>19</sup>There are a small number of senators for life, generally famous or accomplished Italians, and members representing Italian citizens living out-of-country.

a federal legislature, but not a federal state. This dynamic adds veto players in the sense of federalist representation in parliament, but not in the sense of a federal state. This is strange among the countries considered here. Japan features a similarly strange system.

The Japanese legislature, and for that matter the wider Japanese government, was largely influenced by the US following World War II. For instance, it has three branches of government like in the US. The National Diet, the national legislature, is composed of a House of Representatives (lower chamber) and a House of Councillors (upper chamber). The House of Councillors looks much like the US Senate in that it has members serving six-year terms. Half of members are subject to re-election at each election. Some members are elected by Japanese districts through single non-transferable vote and others through a national PR ballot. However, the Japanese upper chamber is not nearly as powerful as the US Senate. The Japanese upper house is also less powerful than its counterpart in most matters. Though it has power to veto certain legislation, the veto can be overridden with a two-thirds qualified majority in the lower house. Additionally, the House of Councillors has no powers over certain legislation, such as approval of treaties or some budget issues. So though the House of Councillors has much more power than the UK's House of Lords or Irish Seanad Éireann, it does not have powers symmetric with its counterpart, the House of Representatives. The Japanese upper chamber is more malapportioned than Italy, Austria or the Netherlands (Samuels and Snyder, 2001). So it meets two of the three qualifications for a strong bicameral system. It comes up a bit short of a strong bicameral system because the House of Councillors, despite having some substantial constitutional powers, is less powerful than the lower chamber. Still, along with Italy, the Japanese upper chamber is rare in that it has democratic legitimacy, a degree of constitutional powers and malapportionment, yet it does not act within the context of a federal state.

## 1.4 Other Veto Players

Federalism, and by extension bicameralism, is just one type of veto player that can affect the legislation process. There are individual and collective veto players; institutional and partisan; presidential and parliamentary; executive and legislative; bureaucracies and judiciaries; referendums and likely others as well. Several of the more important veto players will be discussed in this section, which is not to suggest that the others are irrelevant in any way.

Veto players can be institutional, if they are generated by the constitution. And they can be partisan, if they are created by political games. So if we were to take one of the strong federal-bicameral states considered, say Switzerland, then we could identify both institutional and partisan veto players. A new law must be approved by both chambers of the Federal Assembly of Switzerland, which Tsebeils would consider two institutional veto players. A new law, however, must also be approved by the coalition of parties controlling the chambers, which creates partisan veto players. These are the two general types of veto players, but numerous other actors could be considered to sit within the umbrellas of institutional or partisan veto points.

The perfect example of the individual veto player is the US President, whose approval must be granted to make a new law (except in the exceedingly rare instance of a congressional override of an executive veto). While the US President is an individual veto player, the US Congress is a collective veto player. Individual veto players are quite rarer than collective players in modern democracies. Other examples of collective veto players could be a committee, political party, a parliament/legislature or even a referendum. The consideration of collective veto players in a spatial approach is quite complicated,<sup>20</sup> but it can be simplified (very simplified!) to majority rule amongst a collection of individual actors. Though clearly this is not how all collective actors work. Qualified majorities, for instance, do not operate under majority rules of a collective actor. Agenda setters are important influencers of outcomes (Tsebelis, 2002; Shepsle and Bonchek, 1997; Riker, 1982), so the nature of a

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<sup>20</sup>See Tsebelis (2002) Chapter 2 for a discussion of this complex veto player (20-38).

particular political system also affects the influence of veto players and outcomes.

Agenda setting power may be the most important difference between presidential and parliamentary democracies. The agenda will belong to the governing party or coalition in parliamentary systems and to the legislatures in presidential systems. It is theoretically possible that both of these systems would have one veto player and one agenda setter (and it is relatively simple to identify the single agenda setter and veto player in an authoritarian system: The autocrat!). Within parliamentary systems, numerous complications arise when considering coalition governments, the complications are more severe in large coalitions than minimum-winning coalitions or minority governments. The primary difference between democratic systems is agenda setting powers, though there is often a difference in the number of veto players as well. There are other veto players, many of which were mentioned earlier in this section, but the most important ones for understanding variation in the production of new laws across and within systems have been discussed here.

## 1.5 Hypotheses

I posit several hypotheses concerning the salience of veto players theory to federalism. The chief question is if federal states do indeed produce fewer significant new laws than unitary ones? So,

H1: Federal states will produce fewer significant new laws than unitary states because federal institutions will affect the behavior of individual actors within a legislature or parliament.

This hypothesis might intuitively imply part of my second research question: Do states with stronger bicameralism produce fewer significant new laws than weaker bicameral or unicameral states? Since every strong federal state in the universe of this study features bicameral legislatures, one might expect bicameralism to demonstrate similar tendencies. So the second hypothesis is,

H2: Strong bicameral states will produce fewer significant new laws than weaker bicameral or unicameral states because chambers act as veto players on one another and, thus, affect the behavior of individual actors within a legislature or parliament.

If strong federal and bicameral states produce fewer significant new laws than unitary and unicameral states, then one could also believe that taken together strong federal-bicameral states will produce the fewest laws. If this is the case, then strong unitary-unicameral states should produce the most significant new laws. Which leads to the third hypothesis,

H3: Strong federal-bicameral states will produce fewer significant new laws than weak federal-bicameral (or unitary-unicameral) states because both federal states and bicameralism act as vetoes on new legislation.

I would suggest that federalism acts as a veto player because it positions sub-national entities against each other, making them compete against each other. And positions chambers in a national legislature or parliament against each other, as well as creates conflict within chambers (particularly the upper chamber) based on regionalism. Regionalism might affect legislators' behavior, making him or her less likely to compromise or acquiesce to another region's wants, beliefs or interests. Social institutions affect individual behavior, thus strategic decision making influences social outcomes (Knight, 1992). For instance, the American South often sends legislators to Washington that prevent the enactment of policies preferred by the vast majority of the country. This was seen during the New Deal, Civil Rights era and, perhaps, today as well.

Meanwhile, bicameralism positions two chambers to compete with each other. If one chamber is held by a different party than another, then stability (no policy changes to the status quo) is likely to continue. Though even if chambers are held by the same party, then the two chambers will still compete for power and defend their respective institutional turfs; meaning each chamber will have different preferences. Again, this means policy stability

is likely to continue. If the disparate beliefs and preferences of various sub-national units are represented, malapportionately, within a strong upper chamber, then I believe this will compound the problem of producing new laws. So taken together, strong bicameralism and federalism will produce the fewest significant new laws, because each will generate more veto points. Whether these points are rule (constitutionally) based, as with bicameralism, or based on the disparate beliefs and preferences of legislators (partisan) within a federal state.

## 1.6 Veto Points and Social Policy

The development of social policy is a circumstance in which a welfare state increasingly develops under “blurred” risk (Gauillier 1992: 23-45; Guillemard 1993a: 266; Mares, 2003). Policy makers involved in passing social welfare laws generally don’t know exactly how these programs will effect markets and fiscal sustainability in decades ahead. Additionally, it is perhaps the most difficult outlay of a government’s budget to amend given the immense social impact, economic consequences and political ramifications of fudgeting with citizen’s benefits.<sup>21</sup> More broadly, cuts to these types of programs (health care, old-age incomes, ect.) are quite unpopular and politically difficult. Former German Chancellor Gerhard Schröder made important, but politically difficult, reforms to the German labor market during his tenure from the late 1990’s to the mid 2000’s. These reforms brought Chancellor Angela Merkel to power and politically injured Schröder and his SDP party. Welfare reforms are possible and most likely electorally unpopular, but wile politicians, such as Reagan and Thatcher, will “obfuscate” such cuts to welfare programs (Pierson, 1994). Aside from the fortunes of politicians, we should generally expect that systems with a greater number of veto players - such as bicameralist systems, those with coalition government, or executive-level veto powers - will have a much more difficult time changing the structure of their budgets (Tsebelis, 1999; Tsebelis and Chang, 2004).

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<sup>21</sup>In the US, even among self-identified (and supposedly anti-government handout) Tea Party supporters there was 76 percent opposition to significant reforms to Medicare or Social Security, according to a 2011 poll by the McClatchy-Marist Institute for Public Opinion. 81 percent of all voters opposed such reforms.

Though before reforms can be made, laws must first be legislated and implemented. The benefits provided by social policies were often exceptionally difficult to legislate and implement, given the dynamics of business interests, union interests and state interests that might have to consent to an agreeable new policy (Mares, 2003; 2006). The range of actors effected by new social policies make the legislation process quite arduous and, thus, a great test of veto players theory. There should be consistent conflicts between legislator's beliefs and preferences about the role of the state and the market. Parties are generally considered to be divided on a single dimension of economic preferences: More state versus more market. Therefore, I use new social security laws as the "very significant" law that is tested against federal and bicameral institutions because it represents a perennially important ideological cleavage that is quite difficult to legislate.

Federalism matters for the development of the welfare state's social policy (Pierson, 1995). While institutional veto players, such as bicameral or federal structures, have significant effects on the ease or likelihood of changes to the status quo, there are a number of wider implications. Immergut's (1992) veto player analysis of health policy legislation in three European countries demonstrates how institutional veto points play a significant role in structuring political conflict and policy outcomes. Two opposing actors will find a compromise acceptable, agreeing on "second best" policy options because of a fear that "an uncompromising militancy or obstinate veto" could result in an even less desirable outcome (Mares, 2000). So social policies may be based on what could be legislated rather than what should be legislated. Which leads us back to Immergut's study and the importance of "institutions in explaining policy outcomes precisely because they facilitate or impede the entry of different groups into the policy-making process" (xii). So institutions can create vetos and distort policy outcomes, while the decentralized nature of federalism can also affect policies across a country's constituent units.

The nature of federalist systems can diminish the generosity of welfare by creating a "race to the bottom" amongst the competing constituencies within a country. "Under these



circumstances, competitive federalism is likely to mean competitive deregulation,” which encourages sub-national actors to widen the scope of the market (Pierson, 1995: 457). Much of this ties back into the discussion on market preserving federalism, though the problem is generalizable to strong federal systems. When there is horizontal competition, you are penalized for innovation and regulating negative externalities; meanwhile, you are encouraged to free ride. Essentially, this means social policy will be less generous: “No reform of local government political processes can overcome a fundamental weakness of a decentralized political system. A multiple government system is simply not well suited to carry out distributive goals,” Rose-Ackerman (1983) continues, “It permits the wealthy to cluster together and avoid paying taxes that provide benefits to low-income people” (37). These forces promote markets within federal countries far more than in unitary or weaker federal countries. This may be why three of the five very strong federal countries - Australia, Canada and the US - in this study belong to what Esping-Andersen (1990) described as Liberal welfare states. These are states that favor the market over redistributive policies, at least relative to other types of welfare capitalist states. However, the other two strong federal states examined here, Germany and Switzerland, are generally thought to have strong welfare states. These two cases may have built up larger welfare states for different reasons. Germany’s constitution more or less requires redistributive welfare policies. In 2010, the German constitutional court ruled reforms that reduced entitlements to be unconstitutional because the reforms failed to provide “a dignified minimum income” (Pommereau, 2010). So German federalism might avoid the pitfalls of competitive deregulation because of nationalized constitutional guarantees. Feld (2000) suggested Switzerland was able to avoid significant reductions in redistributive policies because of Swiss-style democracy, which prefers referenda and encourages direct democracy.

So we might expect that strong federalisms will have less generous social policies, either because of the vetoes making the passage of new laws difficult or because of horizontal fiscal competition. Of course, the way around such a “race to the bottom” is to nationalize preferred

redistributive policies. However, this is not always possible, and the nature of federalism means that even when nationalizing such policies in the national legislature, there will still be federally generated vetos that prevent majority preferences from becoming law. Such a federalist complexion in national legislatures, as the next section will show, distorts resulting policies.

### **1.6.1 Social Policy: US versus Canadian Federalism**

The multi-directional effects of the federalist state's social policy is demonstrated by the nature of American and Canadian federalism. The two cases differ, among other things, by the socio-economic interests of regions that advocate for welfare policies. In the US, few Americanists would be surprised that Southern states are poorer and receive disproportional benefits from the rest of the country, yet these very states have long fought against the nationalization of more generous social policies. Indeed, Lange (1993) suggests that social policy reforms to level the playing field were pushed for by European states with the highest social standards during the Maastricht Treaty negotiations, while poorer European states didn't want to give up a comparative competitive advantage. In the American context, poor Southern states don't want to yield their comparative advantage. That is, low-labor costs and inferior worker rights (un-friendly union policies) relative to the rest of the country. Due to the nature of the committee system in the US Congress, Southern politicians were able to take advantage of seniority rules to impede the nationalization of more generous social benefits, despite such benefits being the preference of the majority of the country.

Yet, the Canadian case demonstrates that poorer regions can also seek to maximize national social benefits. Poorer provinces on Canada's Atlantic region were able to extract generous social benefits paid for by the national government: A significant transfer of income from the wealthier regions of Canada. The seasonal nature of the Atlantic region's economy made unemployment benefits necessary to maintain living standards and local wage rates. Despite some retrenchment of Canadian social benefits in recent decades, the disposition

of Canadian federalism meant the Atlantic region's preferences led legislators from wealthier regions to acquiesce to more generous social policies than they would otherwise have preferred.

Another contrast between the US and Canada is viewed from minority preferences for particular policies, social or otherwise. The fact that poorer Canadians in the Atlantic were able to extract more generous benefits is partly derived from their voting power in the national parliament. In the US, the African-American population is dispersed over the states and don't claim a majority population in any set of states, meaning the African-American community has never had powerful voting blocs represented in the Congress, particularly in the Senate.<sup>22</sup> This lack of representation, compounded in the Senate, has made African-American interests virtually entirely unrepresented through the history of American government - and, thus, the history of American public policy.<sup>23</sup>

So the multi-directionality of policy outputs in federal systems seems to be quite clear. Federal systems don't necessarily lead to more or less generous social policies. What does seem to be the lesson of these cases is the importance of institutional veto points in federal systems. The US and Canada produced less generous welfare policies than the majority of the country would have preferred and more generous policies than the majority of the country would have preferred, respectively. In both cases, a minority disproportionately influenced policy outcomes. In other instances, such minorities vetoed, either directly or implicitly, the preferred policy of a majority of a federalist state. The importance of regional preferences on policies (and the legislation process) is clear: A minority can exert disproportional influence on policies preferred by the majority.

Thus, we might expect the challenges that social policy laws create for a government would make passage of new laws exceptionally difficult, particularly for governments featuring more veto points. If the US or Canada were unicameral-unitary states, then it is certainly

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<sup>22</sup>In 2013, New Jersey elected Cory Booker (D) to the US Senate, making him just the fourth African-American elected to the US Senate in all of American History.

<sup>23</sup>For a longer discussion of the differences between US and Canadian federalism and policy see Pierson's 1995 article in *Governance* (467-472).

possible the policy preferred by the majority would have been passed. The US would have more generous welfare policies and Canada less generous. However, the federal nature of these countries propelled minorities to disproportionately influence outcomes.

Should an important law have to go through two houses of a legislature with relatively equal powers, would that not make its passage significantly more difficult? Would malapportionment mean a minority could prevent a law desired by a substantial majority? Or for that matter, could the nature of federalism propel a minority to block majority preferences? Could officials in an upper chamber prevent the implementation of the “peoples” will? The answer to each of these questions seems to be yes. If this is the case, it would then seem that federal systems feature more veto points. So will more federally generated veto points reduce the number of new laws passed and increase policy stability? It is this important question that may, in part, be answered by this study.

## Part II

# Data and Methods

This study employs multiple analyses to answer its questions. Two dependent variables will be used to determine different levels of “significant” laws passed by each country in the universe of this study. OLS regressions are used to test the two levels of significant laws - “very significant” and “significant” - and a time-series approach is then used with Social Security laws, the “very significant” laws, to account for potential variation over time. Each analysis generally supports the hypotheses of policy stability in strong federal and bicameral countries.

In all, 20 countries are included. Each of these are OECD states that have been democratic for the entire time period considered: 1980 to 2011. Of these countries, two are North American,<sup>24</sup> two in the Pacific<sup>25</sup> and the rest are European<sup>26</sup>. No Eastern European countries are considered because they were non-democracies for the first decade of the study. Japan is the only country without Western culture, but it is included because of its comparatively unique federal-bicameral dynamics.

The time period examined was based on three criteria. First, there is a reasonable amount of data available for each country within the given time period. Moving back into the 1970s, 1960s or further, there is simply less good data available. In particular, moving further back would have further limited the conclusions that could be drawn from the pooled data analyses. Second, years that clearly fall within the neo-liberal era. This means retrenchment of welfare states in OECD countries would have been underway. (One question I’m interested in, completely aside from the research question, is what type of welfare states will be able to reform their social policies. Though this question is not explicitly related to the theory

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<sup>24</sup>US and Canada.

<sup>25</sup>Australia and Japan.

<sup>26</sup>Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the UK.

considered, it is important and interests me nonetheless.) Third, each country considered was a democracy for each year considered and had at least one election under its belt. Taken together, this is a reasonable standard for choosing a time period to study. Though the data would be different if all post-WWII years were considered, I do not expect the impact of institutions on production of new laws to be much different.

The countries considered range from unitary to federal and unicameral to bicameral. However, only four can be considered both strong federal and strong bicameral: Australia, Germany, Switzerland and the US. Three countries are considered both unitary and unicameral: Greece, Luxembourg and Portugal. The other 13 countries place somewhere in the middle along the unitary-federal and unicameral-bicameral scale. For instance, Canada is considered a very strong federal country, but demonstrates only moderate bicameralism. While Denmark is unicameral, but features some moderate federal features. Since the concentration is on democratic welfare states, a great many other countries are excluded, but the veto players theory is considered to apply generally to democratic political institutions. The generalizability of this study will have to be considered by the reader. I am only concerned with a universe of 20 advanced democratic welfare states.

## 2 Variables

The variables considered here aim to test the veto players theory as relates to the veto power of bicameral-federal institutions. So I employ variables that might predict the number of significant new laws passed by each country. The dependent variable is significant laws passed over the time period. The independent variables are strength of bicameralism, measured in the symmetry-congruency dimensions, and strength of the federal state. Additionally, a number of control variables are used to consider alternative explanations for passage of significant laws.

### 2.1 Laws

The dependent variable is the number laws passed over the time period considered. This variable is captured in two measures that differ in thresholds of significance and types of welfare state policy. The first is the number of social security laws made by governments over the 31 year period. The source for these laws is the US Social Security Administration's (SSA) reports on social security around the world.<sup>27</sup> This source has advantages and disadvantages as a measure of significant laws passed. The advantage is the extremely high threshold for "significant," which should give an added degree of confidence to the results predicting significant laws passed. These laws concern old-age income and disability and survivors benefits. Among the countries considered, there was a mean of 3.4 laws passed with a standard deviation of 2.76. The twenty countries passed between 0 and 9 laws. Clearly, these laws are relatively rare, which means they are useful measures of significant legislation. However, this high threshold is also a weakness. Because new social security laws are concerned here, this measure misses out on certain reforms that should be considered important. For instance, Reagan's 1983 reforms to US Social Security were quite important though not counted as a law because it was modifying an existing law passed in the 1930's.

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<sup>27</sup>The US SSA publishes these reports every six months for four regions around the world (Europe, Americas, Africa and Asia/Pacific) in collaboration with the International Social Security Administration.

Yet, the German “Riester reform” of the early 2000’s is included. This, in my opinion, lends additional advantages to this measure. This reform, like many others included in the measure, introduced the state’s promotion of private pensions that encourage “capital-funded second and third pillars of old-age provision”<sup>28</sup>(Wilke 2003: 2). So the advantage comes in identifying the introduction of “very significant” new laws that expand the welfare state, but also new laws that encourage sustainable welfare policies. A key “real-world” interest raised by this measure is capturing movement towards new pillars of old-age income, which is not central to the hypothesis, but is important and interests me nonetheless. Perhaps certain institutional structures will better allow future governments to respond to fiscal pressures wrought by, what the World Bank (1994) called, the “old age crisis.”

The second measure used to capture the dependent variable includes more laws with a lower threshold. While still “significant” legislation, this measure captures much more legislation than the other measure. This measures the number of International Labor Organization (ILO) conventions ratified during the time period. The data, which comes from the Comparative Political Data Set I (CPDSI), counts the total number of ILO conventions ratified (including conditional ratifications) minus the conventions denounced for each year. To utilize this data, I counted the changes of ratifications between years and found the total for the time period considered.<sup>29</sup> The ILO laws passed among the 20 countries range from 7 to 60. The mean ILO laws passed was 22.95 with a standard deviation of 12.58. Issues could be taken with this measure for its “significance” in relation to national symbolism, budgets, extent of regulation and more. Yet Tsebelis (1999) employs a similar measure of “significant” that is found in a legal encyclopedia, and “all the laws mentioned” in the encyclopedia are also in an ILO database<sup>30</sup> (597).

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<sup>28</sup>The pillars of pension income were laid out in a seminal 1994 World Bank paper. The first pillar is the pay-as-you-go state pension plan (US Social Security), the second a occupational-based pension (401(k)s), and the third is based on private savings.

<sup>29</sup>For instance, the ILO conventions in Italy between 1999 and 2002 were 89, 92, 91 and 93. I counted the total number of changes between each year, so for this four year time period the ILO laws would be counted as 6 because any changes to the status quo, regardless of direction, are considered laws. Laws were totaled for each country from 1980 to 2011.

<sup>30</sup>The 1999 Tsebelis article considers a much smaller time period, 1981-1991, than this study.



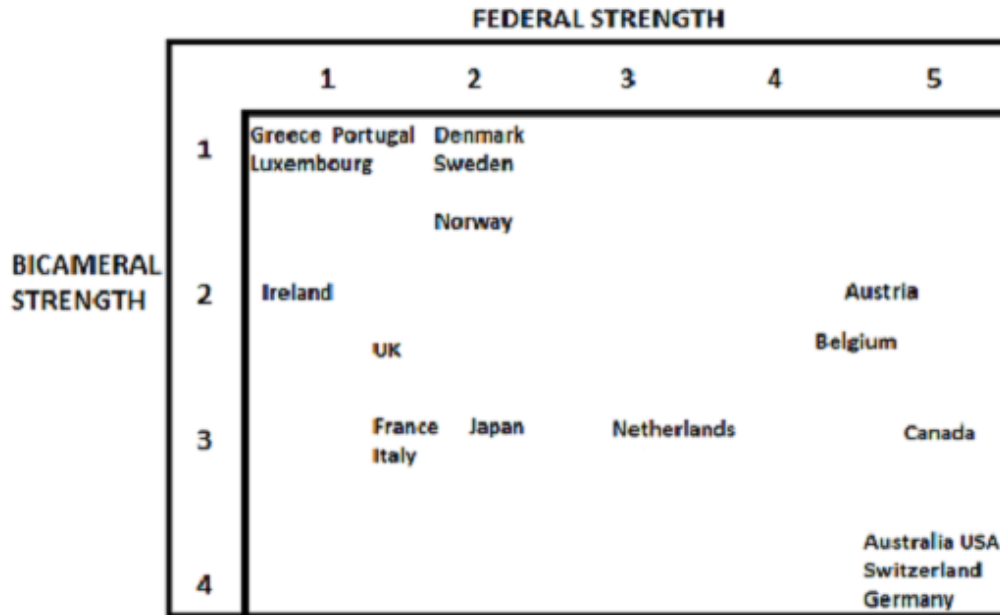
## 2.2 Bicameralism and Federalism

The independent variables, bicameralism and the federal state, were retrieved from CPDSI and based on measures of these concepts from Lijphart (2012). The data for these cover 1981-2010. I do not consider losing one year at the beginning and one at the end of the time period significant threats to the findings as these variables are very stable over time. In fact, among the countries considered between 1980 and 2011 only Belgium experienced minor modifications when it adopted a more federal system during 1993 constitutional reforms that took effect in 1995 elections. The position of each country along a federal-bicameral space is provided in Figure V.

The measure of bicameralism is captured in an index ranging from 1 to 4. On this scale, 1 is considered weak bicameralism or unicameralism and 4 is considered strong bicameralism. Strong bicameralism will feature an upper chamber with democratic legitimacy, constitutional powers symmetric between chambers and malapportionment. The most significant problem with this measure is its failure to capture differences among similar system's malapportionment. Overall, however, I feel this is a good measure that appropriately captures bicameralism, whatever its shortcomings may be.

Federalism is considered as ranging in the index from 1 to 5. The index considers 1 a unitary state and 5 a strong federal state. Five countries (Australia, Canada, Germany, Switzerland and the US) rate as strong federal states and four countries (Greece, Ireland, Luxembourg and Portugal) rate as unitary states. The other 11 countries fall somewhere in the middle. This measure was opted for over another measure, a dichotomous variable that simply considered states to be federal or unitary, because of its ability to capture a greater range of federal characteristics. These characteristics may act more strongly in certain countries than others, even though both may be considered federal. Such characteristics may affect behavior of legislators, allocation of resources and impact of legislation. Therefore, capturing some of the nuances among federal systems was considered important.

Figure V: Country Location on a Federal by Bicameral Space



Note: Hypothesis suggests that policy will remain most stable for countries in the bottom right corner of figure. Australia, the US, Switzerland and Germany are each considered as strong bicameral (4) and strong federal (5).

### 2.3 Controls

A number of control variables were included in the analyses. Among the OLS analyses using pooled data, controls include the percentage of increase in total social spending between 1980 and 2011, an executives-parties measure, percentage change in elderly population (age 65 and older), and inflation. Social spending and elderly population are somewhat obvious controls: By predicting laws that mostly deal with old age social spending, controls for old age and social spending must be considered to have greater confidence in the results. Increasing ratios of the elderly to the working age population creates difficult challenges for policy makers, and thus one might expect policy-makers in places where this problem is more severe to face more pressure to make new old-age income laws (Gruber and Wise, 2007). Inflation is used by governments to adjust benefits, it affects revenues, cost-of-living adjustments and is an important factor in political analyses (Sahr, 2004). Finally, Lijphart’s executives-parties dimension is included to explain the role of other important institutions.

The executives-parties variable consists of five criteria: 1) Concentration of executive

powers in single-party majority cabinets or power-sharing amongst a coalition of multiple parties; 2) an executive that dominates the legislature or a balance of power between an executive and a legislature; 3) a multi-party or two-party system; 4) electoral rules based on PR or FPTP; and 5) pluralist or corporatist interest groups.<sup>31</sup> By considering these governmental institutions, compiled within a single dimension, I can see the manner and degree to which these factors play into legislating significant new laws. This is likely the most important control as it should be considered the alternative institutional explanation. Meaning, perhaps, the executive-party dimension provides a better explanation than federal institutions for the likelihood there will be greater production of significant new laws or greater policy stability.

The event history analysis also includes controls for inflation and the executives-parties dimension, though both vary over time in the data. The executives-parties measure is a proxy taken from the CPDSI and is more sensitive to changes between governments/elections. This analysis also includes controls for unemployment and Rae's legislative fractionalization. The legislative fractionalization control considers the impact of partisanship on the production of new laws. Taken together, controls in the event history analysis should account for most alternative economic, institutional or partisan explanations. The controls in each of the analyses presented should also provide enough accounting for the generally accepted alternative explanations considered in comparative literature on the production of new laws.

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<sup>31</sup>The pluralist interest group system, according to Lijphart, is composed of "competitive and uncoordinated" independent groups, while a corporatist interest group system is "coordinated and compromise oriented" (1999: 171).

## 3 Analysis

The analyses in this section generally support the hypotheses and make strides toward answering the research question. The first section includes OLS regressions using pooled data. The second section utilizes an event history analysis. There are a few inconsistencies between the results, but generally the analyses provide consistent affirmation of the hypotheses. Essentially, strong federal institutions do seem to promote policy stability, while weaker federal institutions demonstrate a greater ability to pass significant new laws.

### 3.1 Pooled data approach

The first measure of significant laws, social security laws, demonstrates a clear and negative correlation with increasing strength of both federalism and bicameralism. Simple two-way comparisons show stronger federal and bicameral systems are less likely to pass more laws. However, federalism demonstrates a stronger correlation (-0.68) with social security laws than bicameralism (-0.48). The relationships between social security laws and both federalism and bicameralism are demonstrated graphically in figures VI and VII.

Federal and bicameral systems also appear to be less likely to pass new social security laws when considered with other variables. Federalism, bicameralism and the executives-parties dimension are negatively correlated with social security laws. So, as the strength of each variable increases, it becomes less likely that significant new social security laws will be passed. However, as is demonstrated in Table II, the executives-parties measure is not significant. In Table II Model III an interaction effect with the federal and bicameral variables is significant, while the executives-parties is not. The interaction effect is also significant in Model V, in which the controls for elderly population, social spending, inflation (logged)<sup>32</sup> and executives-parties are not. This suggests that federalism and bicameralism do indeed

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<sup>32</sup>The interaction effect was still significant when inflation is not logged, while each other variable wasn't significant either. Though results were not very different, it is the logged inflation variable that is given in the table. This is because there is a fairly large disparity of cumulative inflation among the countries considered, so it seemed most appropriate to log the variable to reduce this disparity while still capturing inflation's effect.

Figure VI: Strength of the Federal State and New Social Security Laws

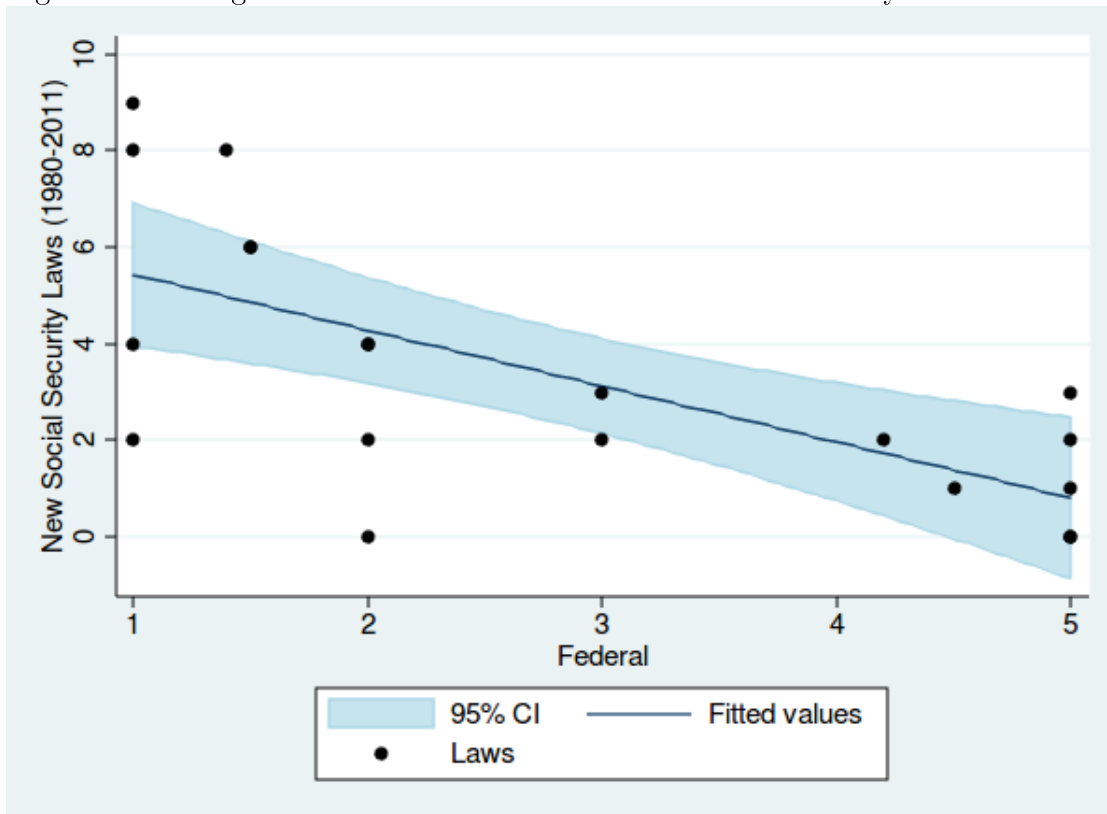
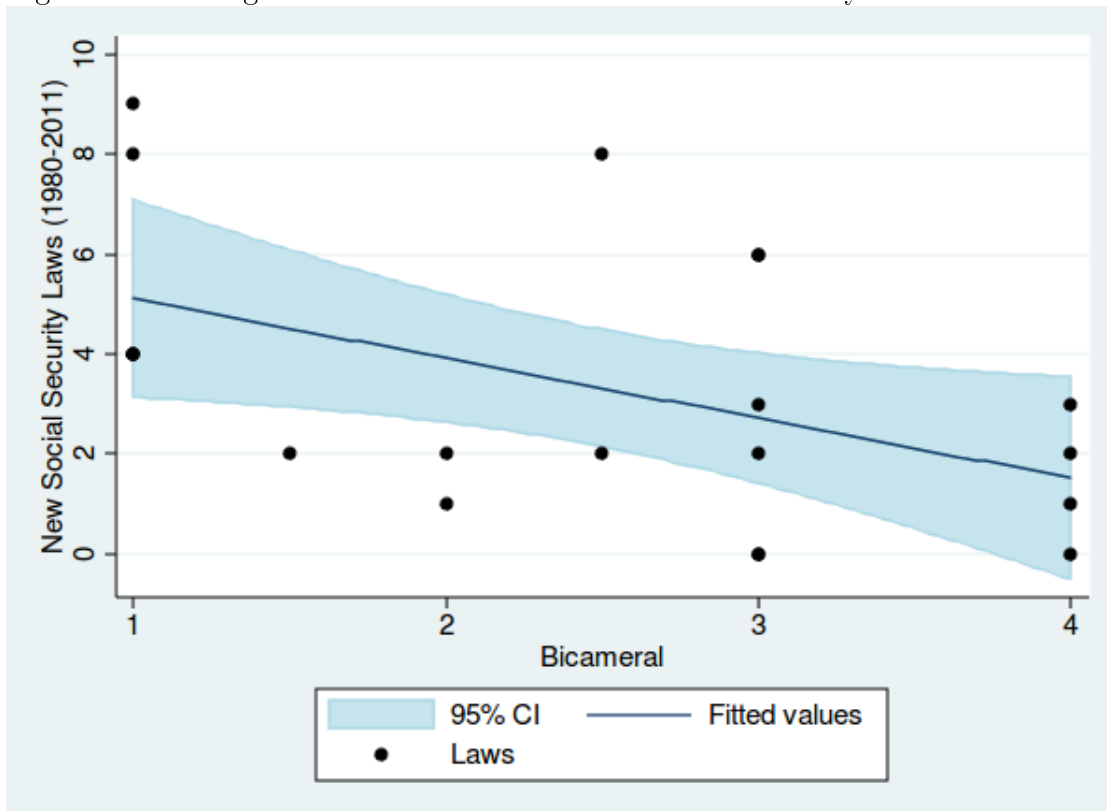


Figure VII: Strength of Bicameralism and New Social Security Laws



act as veto players by preventing the passage of new social security laws.

In Model IV, federalism is significant, while bicameralism isn't. This might suggest that federalism plays a larger role as a veto player. Indeed, federalism and bicameralism are considered independently in models I and II; federalism is significant at  $p < 0.01$ , while bicameralism is significant at  $p < 0.05$ . Therefore, one might walk away with the idea that federalism plays a stronger veto player role than bicameralism. This may be the case, but I would suggest that bicameralism may not demonstrate significance in Model IV because of some degree of collinearity. In any case, both federalism and bicameralism do seem to inhibit the production of new laws.

Table II, however, also demonstrates the limitations of this analysis. Model VI shows significance in no variables. The model is included because an interaction should change the interpretation of the main effect's coefficients, so the table will give a fuller picture by including interactions alone, the main effects alone and then together (Gelman and Hill, 2006). And indeed the coefficients of the main effects are changed. Bicameralism in Model VI, now has a positive coefficient, while federalism remains negative. This seemed to be a recurring theme throughout the study: The federal state seems to inhibit the production of new laws more than the strength of bicameralism. To analyze the table from another angle, the federal state may not depend on bicameral strength (and vice versa) to predict new laws. Since there is some degree of collinearity between the federal state and bicameral strength, the resulting coefficients in models with both independent variables would likely be affected.

So, there is some strong evidence that federalism and bicameralism play the role of veto players on significant new social security laws, along with enough results to cast some doubt upon that evidence. The case with ILO laws, however, is a bit more murky. There is again a convincing correlation between federalism and legislating ILO laws (repealed or ratified), as well as bicameralism and ILO laws. When analyzing ILO laws and the independent variables there is a slight reversal of the strength of relationships. Unlike social security laws, ILO laws are more strongly correlated with bicameralism (-0.507) than federalism (-0.468). Though,

**Table II: OLS Regression of Social Security Laws**

	MODEL I	MODEL II	MODEL III	MODEL IV	MODEL V	MODEL VI
<b>Federalism</b>	-1.157 (0.29)**	--	--	-0.99 (0.41)*	--	-1.08 (0.604)
<b>Bicameralism</b>	--	-1.197 (0.43)*	--	0.39 (0.45)	--	0.315 (0.727)
<b>Federalism X Bicameralism</b>	--	--	-0.238 (0.07)**	--	-0.163 (0.07)*	0.026 (0.19)
<b>Population 65+</b>	--	--	--	--	-2.12 (2.00)	-2.05 (2.05)
<b>Social Spending</b>	--	--	--	1.89 (1.44)	2.424 (1.92)	1.828 (1.41)
<b>Inflation (logged)</b>	--	--	--	1.78 (1.06)	1.53 (1.45)	1.78 (1.12)
<b>Executive-Party</b>	--	--	-0.874 (0.55)	0.14 (0.57)	-0.146 (0.7)	0.008 (0.58)
<b>R<sup>2</sup></b>	0.46	0.23	0.44	0.69	0.63	0.69
<b>RMSE</b>	2.08	0.23	2.18	1.85	1.94	1.93
<b>N</b>	20	20	20	20	20	20

Note: Robust Standard Errors in (). p<0.01\*\* p<0.05\*

as demonstrated in tables VIII and IX, both are negatively correlated with ILO laws - which again suggests the salience of federal and bicameral institutions to the veto players theory. This relationship, however, is not as convincing with ILO laws when adding certain controls.

Table III shows the relationships among the variables when regressed against ILO laws. Again, federalism and bicameralism are significant compared to the executives-parties dimension, as is demonstrated in models I and II. This, paired with findings using social security laws, gives greater confidence that federalism and bicameralism play a very important role in preventing the passage of new laws. Perhaps more so than strength of executives-parties institutions. The four simple two-way graphs presenting social security laws and ILO laws against both federalism and bicameralism implies that strong federal and bicameral systems will likely produce fewer new laws during a given time period. Clearly, however, such relationships could be spurious, and I dare not suggest causal relationship - at least, at this point.

Each of the variables in Table III has a negative relationship, except executives-parties

Figure VIII: Strength of the Federal State and ILO Laws

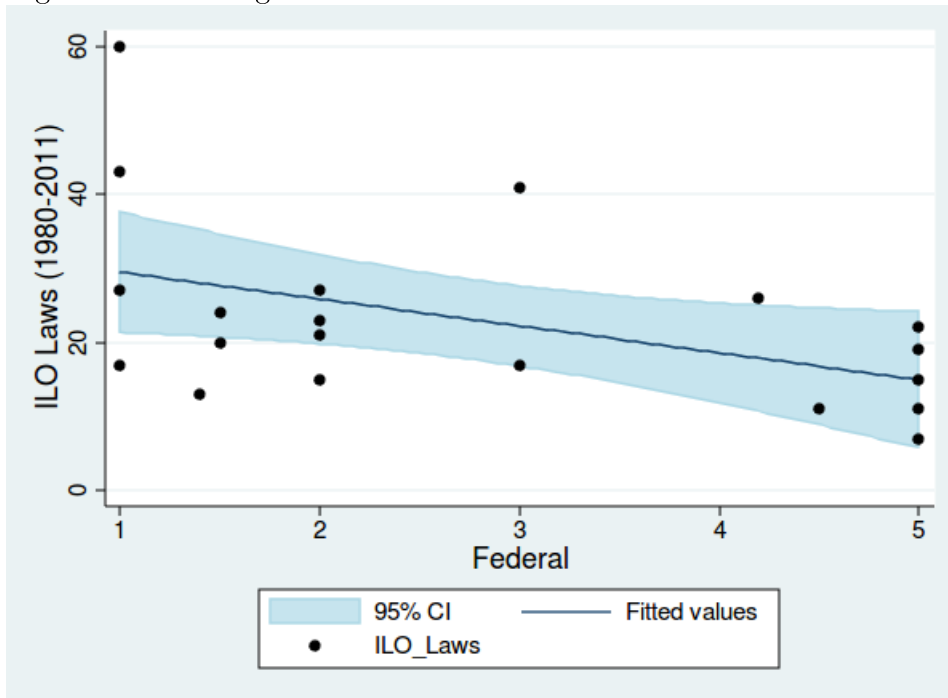


Figure IX: Strength of Bicameralism and ILO Laws

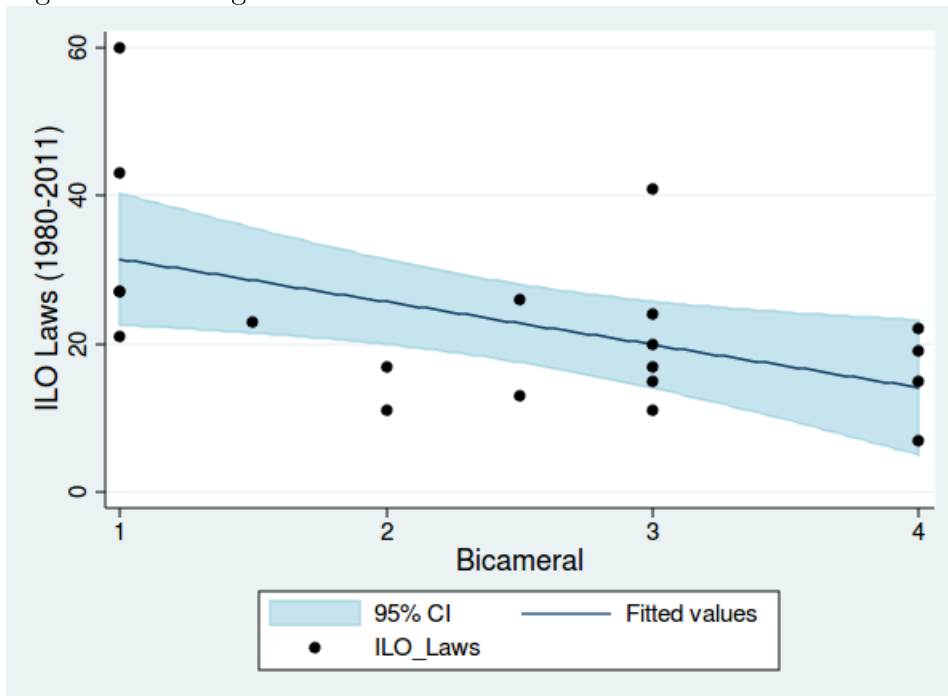




Table III: OLS Regression of ILO Laws

	MODEL I	MODEL II	MODEL III	MODEL IV
<b>Federalism</b>	-3.639 (1.63)*	–	--	-9.507 (5.62)
<b>Bicameralism</b>	–	-5.866 (2.49)*	--	-10.94 (6.2)
<b>Federalism X Bicameralism</b>	–	–	-0.790 (0.34)*	2.71 (1.82)
<b>Executive-Party</b>	0.399 (2.36)	-0.808 (2.21)	-0.147 (2.32)	0.03 (2.33)
<b>R<sup>2</sup></b>	0.22	0.26	0.20	0.37
<b>RMSE</b>	11.749	11.442	11.905	11.179
<b>N</b>	20	20	20	20

Note: Robust Standard Errors in ().  $p < 0.01^{**}$   $p < 0.05^{*}$

in Model I, with the production of new ILO laws. While bicameralism and federal states are significant, executives-parties is not. To further support the importance of federal states and bicameralism, Model III shows an interaction effect using the two variables that is also significant. Finally, Model IV puts everything together and, again, all significance is lost. The brief discussion in previous pages about collinearity and whether or not bicameralism depends upon federalism (and vice versa) to predict new laws should be kept in mind when considering these results. Whether or not it is significant, the federal state and strength of bicameralism clearly exert some effect on the passage of new ILO laws.

Yet, when including the other control variables (inflation, elderly population, social spending) in models, significance in all variables is lost. Though not shown in the table, these results might cast some doubt upon the importance of federal institutions as veto players. Still, I would submit that these variables (with the exception of inflation perhaps) aren't as relevant to ILO laws as social security laws because ILO laws more largely deal

with labor, business and markets than social expenditures - though the two are not completely different. In any case, the lack of significance should signify the limits of federal institutions as predictors of policy changes to the status quo. Still, as we see from figures VIII and IX, as well as results reported in Table III, there is clearly a negative relationship between strength of federal institutions and the production of new laws. The extent and importance of this relationship, I will leave to the reader's interpretation of results presented here. Though there is still further evidence of the importance that federal institutions play in the production of new laws.

### **3.2 A time sensitive approach**

The event history analysis is a time sensitive approach to examining of the production of new social security laws during the time period considered. Methods laid out by Beck, Katz and Tucker (1998) are used in this analysis. Time-dummies are added to the analysis to address the assumption of independence that is present in traditional event history analyses. An ordinary logit model without time-dummies is also presented in Model I of Table IV. Again, the results demonstrate the importance of federal institutions to the likelihood of passing new laws.

The results are consistent with findings from analyses using pooled data. Model I, an ordinary logit, shows the significance of federalism relative to the other predictors. The federalism coefficient is negative, which, again, means as the strength of federalism increases fewer new social security laws are produced. Bicameralism is not significant in Models I or II, but like in Model IV of Table II, this may be a result of collinearity. Indeed, such a problem is considered to be aggravated by the use of time dummies.

Models II-VI, which include the time-dummies, further support the hypotheses. Bicameralism, federalism and the interaction each demonstrate significance within at least one model and have negative coefficients. Taken alone, bicameralism (in Model II), federalism (in Model IV) and the interaction (in Model V) are significant at  $*p < 0.05$ . So we can see

Table IV: Event History Analysis of Social Security Laws (1980-2011)

	MODEL I (Ordinary Logit)	MODEL II	MODEL III	MODEL IV	MODEL V	MODEL VI
Federalism	-0.34 (-0.151)*	-0.336 (0.161)*		-0.431 (0.118)**		-0.988 (0.459)*
Bicameralism	-0.272 (0.21)	-0.186 (0.217)	-0.516 (0.155)**			-0.623 (0.356)
Federalism x Bicameralism					-0.0943 (0.028)**	0.217 (0.138)
Inflation	-0.086 (0.043)*	-0.831 (0.044)	-0.079 (0.045)	-0.084 (0.044)	-0.081 (0.044)	-0.082 (0.045)
Unemployment	0.049 (0.034)	0.568 (0.036)	0.065 (0.036)	0.051 (0.035)	0.054 (0.035)	0.066 (0.037)
Rae's Legislative Fractionalization	0.019 (0.027)	0.005 (0.028)	0.019 (0.027)	-0.001 (0.027)	0.001 (0.027)	0.021 (0.03)
Executive-Party (Proxy)	-0.483 (0.291)	-0.254 (0.302)	-0.527 (0.267)*	-0.133 (0.267)	-0.244 (0.259)	-0.361 (0.314)
Pseudo R <sup>2</sup>	0.0854	0.1297	0.1176	0.1278	0.1219	0.1363
Chi <sup>2</sup>	34.89	49.83	45.19	49.09	46.83	52.36
N	626	521	521	521	521	521

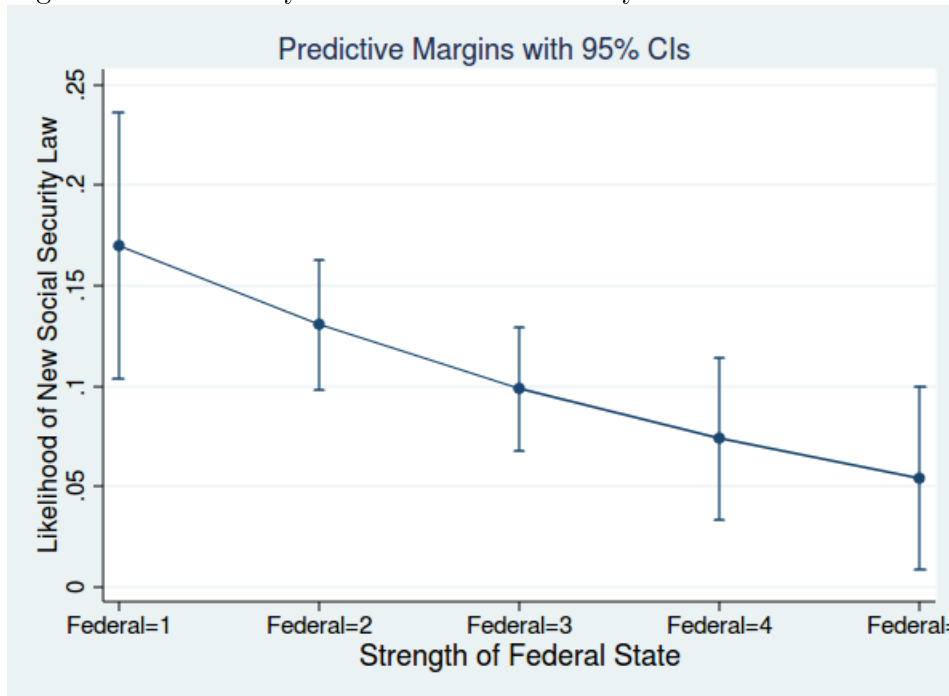
Note: Time dummies included in Models II-VI.  $p < 0.01$  \*\*  $p < 0.05$  \*

the very important role that federal institutions played, at least among 20 countries between 1980-2011, in hampering the production of new social security laws. Interestingly, the executive-party control is negative across all models in Table IV, whereas it had no consistent direction in the previous regressions using pooled data. This could perhaps be taken as demonstrating the importance of time, since the measure in this analysis changes over the years. The executive-party control is also significant at  $p < 0.05$  in Model III, which suggests its importance to certain a degree.<sup>33</sup>

In my opinion, the most interesting results are in Model VI of Table IV. Here we see an interaction together with main effects and the federal state is still demonstrating significance, unlike the previous analyses. This, again, suggest that the strength of the federal state is

<sup>33</sup>The executive-party dimension includes domination of the executive over the legislature, or vice versa, so its not surprising that most strong bicameral systems feature executives with powers more proportional to their respective legislatures. Whereas executives capable of dominating the legislature don't generally have to deal with strong upper chambers. The US President would probably like to dominate the Senate, but he can't!

Figure X: Probability of New Laws in Unitary to Federal States



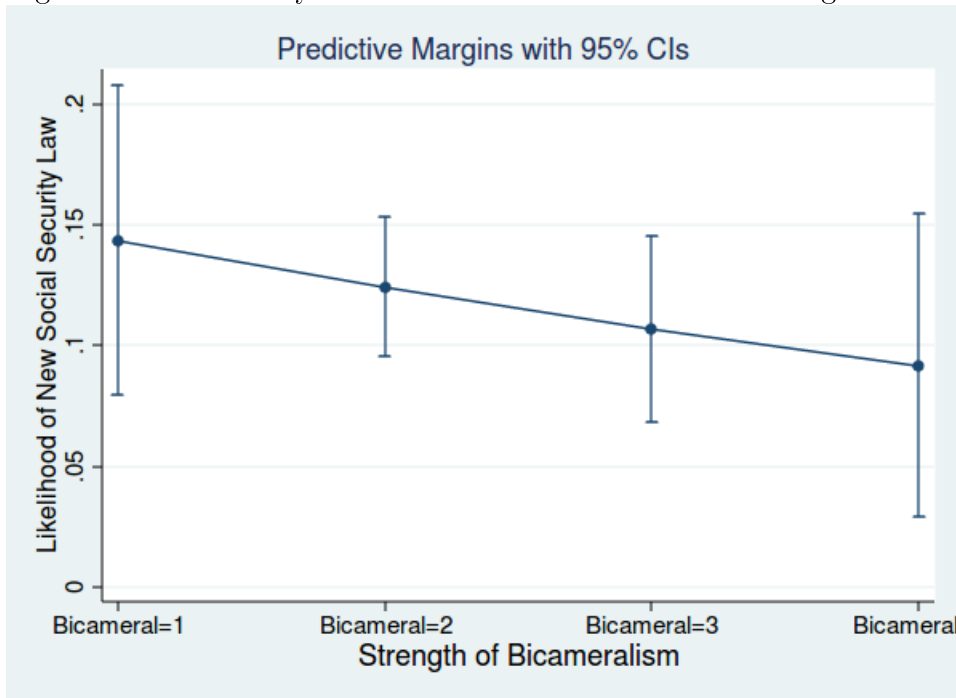
Note: Based on Model II in Table IV.

more important than the strength of bicameralism in forcing policy stability on some given system. Throughout all of the analyses, strength of the federal state has been a consistently significant predictor of new laws passed. This suggest to me that it is very important, perhaps more so than bicameralism.<sup>34</sup> Another important takeaway from this table (and the previous ones) is that federal institutions seem to consistently predict production of new laws better than the alternative institutional explanation: The executives-parties dimension. Institutions have to matter in regard to the legislation process and policy outputs. And it seems that federal institutions matter more than executive-party institutions.

To further examine the importance of federal institutions, Figures X and XI show the marginal effects of federalism and bicameralism. There is a very clear downward trajectory as the strength of federalism and bicameralism increases. A weak federal or unitary state (federalism=1) shows there is approximately a 17 percent probability of passing a new social security law, whereas strong federal states (federalism=5) could expect approximately a six

<sup>34</sup>Though, again, issues of collinearity need to be kept in mind.

Figure XI: Probability of New Laws in Unicameral to Strong Bicameral Systems

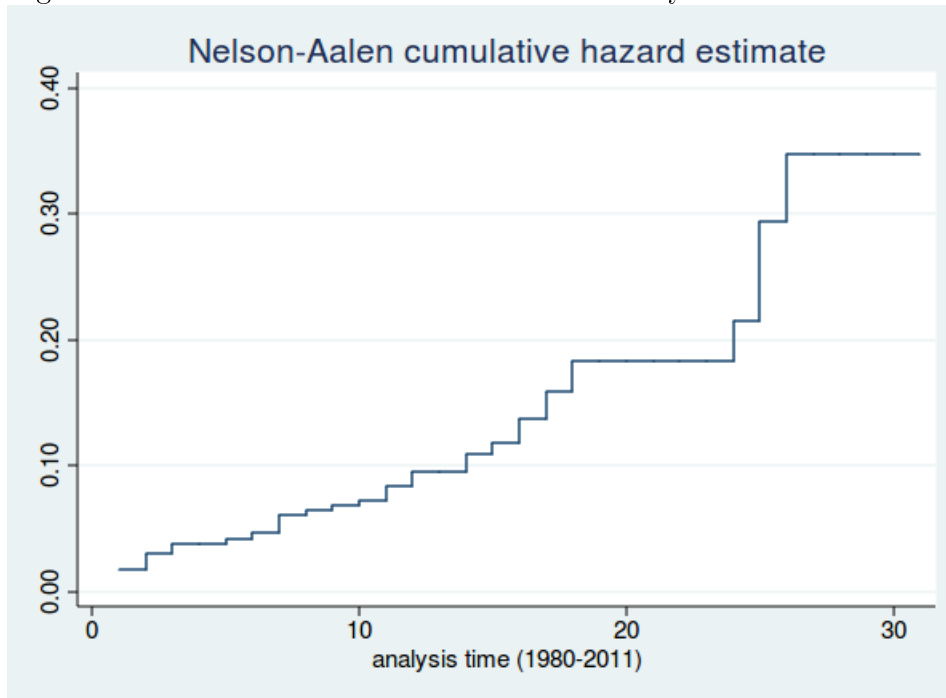


Note: Based on Model II in Table IV.

percent probability. Likewise for strength of bicameralism, though its effect isn't quite as pronounced. There is approximately a 14 percent chance of passing a new social security law in a unicameral system, while there's about a nine percent chance of it passing in a strong bicameral system.

These time sensitive results, along with pooled results, clearly show that federal institutions matter. These institutions affect the likelihood and difficulty of legislating new welfare laws. For a deeper insight, the cumulative hazard rate of the analysis in Model II is shown in Figure XII.

Figure XII: Cumulative Hazard of Social Security Laws



Note: Based on Model II in Table IV.

## 4 Issues and Limitations

Overall, I feel the results are fairly convincing. It seems likely that stronger federal states and bicameral systems will experience greater policy stability than unitary or unicameral systems. However, the methods, measures and assumptions necessary to make these conclusions bring up a number of issues that cast some doubts upon the findings.

The first issues would be with the methodological approaches taken. I used pooled data and an event history analysis. The former is rather elementary in that it simply pools the number of laws passed over a certain period of time and utilizes a stable index of institutional measurements. The problems here are obvious. Time matters, governments matter, leaders matter, ect. There are multiple issues that arise from pooling data and drawing conclusions. Though in defense of such a measure, I would point the the fact that two pooled analyses were conducted with different levels of “significant” laws passed. These two levels draw on different realms of law, so it might be reasonable to suggest that there is something behind the, relatively, consistent findings between both levels of significant laws and realms of laws.

Nonetheless, time is very important and these pooled regressions neglected it. So the event history analysis was conducted to consider time's importance.

This type of analysis is unique in the veto players literature - to my knowledge such an analysis has never before been conducted in testing this theory. Yet, this measure still introduces some issues. For instance, it does not take into account instances where multiple laws were passed in one year. Though this is exceedingly rare, it is still a limitation of such a method. Also, event history methods are mostly seen in American or International Relations literature and hasn't been widely used in comparative literature. So its implications and validity as a method haven't been fully assessed for drawing substantive conclusions in the comparative context. The traditional issues that arise from this method also limit what we can draw from these conclusions. Left censoring issues are obviously present, though the problem exists for most analyses of this nature. The time-period considered was based on the three criteria mentioned earlier, but welfare retrenchment is often considered to have begun in the 1970s. So the second criteria, years falling in the neo-liberal era, may not even be all that relevant this method. So left censoring had some impact on the results, though I leave it to the reader to decide the extent of the impact. Surely there are additional issues with these methods, and there is always room for improvement. Yet, I'm comfortable with drawing cautious conclusions from results that appear to be generally consistent throughout the study.

The second issue arises from the measurement used. Both of the variables of interest have issues. The measure of federal states is attempting to capture a vague, "unclear and controversial" term (Duchacek, 1987). So it is impossible to appropriately capture such a term. The federalism index generally correlates tax revenues with different levels of government in the manner one would expect. But the outliers leave room for reticence. The problem with this measure is not so much that we cannot be sure Portugal is unitary and Germany federal. They are. But rather if Denmark and Sweden or Belgium and Austria are more federalist than the other in some way. Arguments could be made in both directions

for each case.

Meanwhile, bicameralism is also a murky concept, but somewhat more clearly delineated than the federal state. Here issues would come with the measure capturing dimensions of bicameralism. Again, the issue is not that the US is bicameral and Greece is unicameral, but the systems in between. Both Canada and Italy are considered to have a bicameral strength of three-out-of-four. Canada's Senate has constitutional powers in theory, but not in practice. Italy's Senate has constitutional power in both theory and practice. Yet, Italy's Senate has more democratic legitimacy than Canada's. Still, both bicameral systems are considered a three on the bicameral index. There is a lot not being captured here. However, for both of these measures the perfect was not supposed to get in the way of the good. And, in general, these indices seem to appropriately capture the intended concepts. Dwelling on the assumptions made here is not terribly helpful, as assumptions are necessary in social sciences. In this study, the statistical and measurement assumptions were made because they seemed the best available. So despite a series of problems, I would argue, the results do appear generally convincing.



## Part III

# Discussion

The role played by federal institutions appears to be an important predictor of the likelihood that significant new laws will be passed by a government. These findings generally suggest that strong federalism, particularly strong federal-bicameral systems, will inhibit governments from passing new laws. If this result is accepted, then further questions are raised about the mechanisms that produce policy stability from federal institutions. Future work will want to examine the voter-legislator linkages in federal systems that encourage conflict. As well as the role of parties in federal systems. We have some strong evidence that parties in bicameral systems will behave differently because members want to protect their institutional turf, regardless of party affiliation (Tsebelis & Money, 1997; Roller, 2005). However, the affect of federalism on some given legislator's behavior in bicameral systems has not been fully explored. How might similar bicameral systems, such as Italy or Japan and the Netherlands, differ in legislative behavior because of the scope of the federal state. The Netherlands has a bicameral system roughly proportional in bicameral strength to that of Italy and Japan, but is much more federal than either. So what role does the federal state play in influencing legislators behavior?

More to the point of this particular study, scholarship on the importance of malapportionment should be pursued. Here, the bicameral measure simply subsumed whether or not a legislature featured malapportionately distributed seats, not the extent of malapportionment between countries or within a country over time. If this could be shown, it would lend further credence to the idea that malapportionment can act as a kind of veto point in and of itself. An eye ball analysis using the malapportionment coefficients from Samuels and Snyder (2001) would suggest that malapportionment does act as a barrier to legislating new laws. Though, obviously, such an analysis does not make for a convincing argument.

Besides bicameralism, Tsebelis' other characteristic of federalism was qualified majorities. This raises additional questions for its role as a veto point generator in federalist systems. We know the US Senate has a qualified majority rule, known as the filibuster. The results from this study's data show that the US passed very few laws, supposedly due in part to its strong federalist system. So if we also consider qualified majorities in a federal institutional analysis, then the extent of veto points in the US federal system would be even greater. And the problem of passing new laws compounded for American governments.

Since the primary realm of laws examined pertain to those in the universe of welfare laws, we could reasonably extrapolate from these results that it will be exceedingly difficult to reform welfare policy in strong federal-bicameral countries. Basically, any change to the status quo will be exceedingly difficult in countries with strong federal institutions. The US, Germany, Australia and Switzerland each face different challenges in regard to their respective welfare regimes (particularly for old-age income policies). Canada's actuaries suggest their pension program is sustainable for about 75 years,<sup>35</sup> which is quite good, but the aggravating aspects of federalist institutions will likely effect it as well. The US has recently debated minor reforms to its Social Security system, most recently a change to costs-of-living adjustments.<sup>36</sup> Proposals have also been floated about increasing the retirement age. However, not surprisingly, these proposals have gone nowhere. Germany has actually seen several welfare reforms over the last decade-and-a-half, but some have been stricken down as unconstitutional. As strong judiciaries are yet another veto player, the general theory that more veto players increases policy stability seems to be further demonstrated. Meanwhile, it is Switzerland's penchant for cantonal-level (as well as national and local) direct democracy that has staved off significant welfare reforms. Such referenda, again, are yet another type of veto player contributing to policy stability. So a good takeaway might be that Canada, the US, Germany, Switzerland and Australia, based on the results of this study, should

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<sup>35</sup>Canada Pension Plan Investment Board 2013 Report from the Chief Actuary of Canada.

<sup>36</sup>The change is known as a "chained" consumer price index, which is just a different measure of inflation from that being used now. The proposal, as of 2013, would address about 20 percent of the Social Security program's shortfall, according to the SSA.

also experience immense difficulties in reforming welfare policies. Furthermore, aside from federalist vetos, there are numerous other veto players in each of these countries. It seems a good bet to assume a stable status quo for each of these states. On the opposite end of the spectrum, Greece has experienced anything but policy stability (or just general stability) in both recent years<sup>37</sup> and over the course of this study.

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<sup>37</sup>Clearly, however, many of Greece's significant new laws in recent years were exogenously coerced.

## 5 Conclusion

Overall, we can draw from this study that federal institutions significantly hamper the ability of governments to make new laws. Each of the hypotheses seem to be validated given the results of the study. The research question seems to be answered: Yes, indeed, strong federal institutions do increase the number of veto points in the legislation process and promote policy stability. Federalism matters. Weak federal institutions (unicameral-unitary systems) may be subject to the, perhaps foolish, will of a majority, but they can pass significant laws. Strong federal institutions (strong federal-bicameral systems) will make it exceedingly difficult to legislate new laws, but this brings about some degree of stability. This leaves me to ask one final normative question: If you were writing a constitution, what system would you choose?

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