A key question underlying the debate about presidential regimes in Latin America is, simply put, what leads members of Assemblies to choose different agenda-setting powers and distribute them differently between the branches of government. In this paper I test a competing explanation to account for formal changes in the constitutional rules of agenda-setting powers of the Executive and the Assemblies from 1945 to 2008 using Latin American presidential regimes. Although conventional accounts in the literature suggest that changes in the electoral formula and the structure of the party organization are associated with the likelihood of the increasing in the legislative agenda powers of the Executive in Presidential Systems (Shugart, 1998; Negretto, 2008), my empirical evidence indicate otherwise. The hypothesis tested suggests that the size of the Executive coalition and the number of parties with cabinet positions have an effect on the choice and distribution of agenda powers between Executives and Assemblies. The empirical findings suggest that the distribution of agenda-setting rights in presidential regimes is conditional to the size of the incumbent government coalitional forces in moments of institutional choice and change. My explanation suggests that in allocating different agenda-setting powers, government partners are looking for strategic advantage in a future government coalition bargaining over the procedural advantages rather than simply future electoral returns.
Introduction

Institutional choices have important consequences for the effective functioning of a democratic government and for the policymaking process. At the most basic level of the institutional choices, the procedural rules are key elements of the decision-making process, and the distribution of agenda-setting rules are basically the act of deciding what will be decided by the polity (Cox 2005 p. 3; Kreppel 2009). Although the progress in the discussion of the comparative literature often focuses on the effects of the agenda-setting rules (Tsebelis and Aleman 2005), less is known about the distribution of agenda powers itself as an endogenous choice. How the legislative agenda-powers are chosen in moments of institutional choice? What is the logic that organizes the choice of the most important political procedures? A key question underlying the debate is, simply put, what leads members of Assemblies to choose different agenda-setting powers and distribute among different branches of government?

In this article, I shall articulate and test several competing explanations to account for formal changes in procedural rights, using the constitutional rules of the Latin American presidential regimes as a source of analysis of the variation among countries. On the one hand part of the conventional accounts have a normative bias based on the idea of an equilibrium of checks among government branches, and on the other hand the literature on institutional choice in presidential systems have suggested the effects of the electoral formula and the party organization to the distributions of agenda-setting rules. The literature emphasizes how electoral incentives are associated with the likelihood of powerful legislative agenda powers of the Executive in the Latin American presidential regimes (Shugart, 1998; Negretto, 2008). In this paper I test an alternative hypothesis and
my findings indicate otherwise. My claim is that interests organized within the government coalition can explain different forms of distribution of agenda powers between presidents and assemblies. When allocating different agenda-setting powers, government partners are looking for strategic advantage in a future government coalition bargaining rather than immediate electoral gains when the choices are specifically about procedural rules. The instruments of agenda-setting are not only instruments of individual presidents or legislative majorities, but also could be instruments of power for coalitional partners in the cabinet. For example, when the government sets the agenda, only members of the ruling coalition are recognized to make proposals. If the agenda is open, any legislator can be recognized. The strategic interests in the formation of the government organize the expectations of party leaders and can enforce voting discipline over procedural issues (Cox and McCubins 2005). My empirical results have shown that the size of the presidential coalition has an effect on the distribution of the agenda-setting rules to both presidents and assemblies. The empirical analysis suggests that the distribution of agenda-setting rights in the presidential regimes is conditional to the size of incumbent government coalitional forces in moments of institutional choice.

This article proceeds as follows: in the first part I review the literature on the distribution of agenda setting-powers in presidential regimes of Latin America. Then I describe the data and I detail the hypothesis and the statistical test performed. In the last section I conclude with a discussion of the possible extensions of this research.
Agenda Powers in Latin American Presidential Regimes. Reassessing the terms of the debate.

The history of Latin American countries in the post second war period has involved a variety of forms of political change. Political institutions across most of Latin America have been changed, including a broader range of transformation in the constitutional framework of the presidential systems. Formal amendments, broader reforms and the calling for a constituent assembly are often the predicted forms in which a written constitution can be modified by a legal way. In this case, the forms of organizing and distributing power among actors and institutions follow pre-established rules known by the actors. Whatever the forms of political change, the subsequent moments usually have been affected by institutional changes, not only by the suppressing or replacing of institutions, but also by the alteration of minor aspects of institutions by process of political reforms.

Some case studies about constitutional changes show the importance of distinct constitutions to understand the policy implications on the framework of the presidential systems in the region. Limongi and Figueiredo (2000) argue that the differences between 1988 and 1946 constitutions in Brazil explain differences on the legislative outcomes if we take into account the institutional agenda-setting powers of the executive. According to these authors, the concentration of budgetary powers in the executive branch and strong legislative powers wielded by the president facilitates the success on agenda control by the executive in the pos-88 republic; Negretto (2000) shows how different process of constitution-making differentiate the provisions in the Constitutions of 1853,
1949 and 1994 in Argentina, and how it has been decisive in the distribution of power among actors and institutions. The formal rules of the policy making in Argentina had very important impacts in the economic reforms of the 90’s; Schimidt (1992) shows how 1978-1979 Constituent Assembly strengthening the power of the executive after the return to democracy in Peru if we compare to the prior democratic period in the country. The changes had important consequences for the subsequent political stability of the country. In short, if there are differences in the performance of democratic institutions in Latin American countries throughout the post war period, it is important to know which characteristics of the distinct institutional designs are associated with changes in constitutions.

Despite the nearly thirty years of the analysis of the presidentialism by Shugart and Carey (1992), there is still no authoritative theoretical account of the origins of the powers peculiar to presidents and assemblies. The reason for this is that presidential powers have been treated widely as a single index of institutional prerogatives by the comparative literature. Shugart and Carey (1992) demonstrate that not all presidents are alike, in particular, they show that presidents with excessive legislative powers are often found in troubled democracies. As a consequence, Latin American legislatures are typically perceived as an inadequate check and insufficient balance to presidential power. In the more stylized versions, legislatures are portrayed either as merely subservient bodies that “rubber stamp” the president’s will, or as purely obstructionist bodies that force presidents to bypass them via the use of constitutional (and extraconstitutional) prerogatives. The main implication of such views is that presidents in the region enjoy ample discretion vis-à-vis their legislatures. Even the less extreme versions of executive
legislative relations hold that the influence of legislatures in Latin America is limited, and merely “reactive” to the president’s initiatives (Morgenstern and Nacif (2002); Cox and Morgenstern (2002)).

Three issues cast doubt on this conventional wisdom. First, the level of presidential discretion vis-à-vis the legislature varies both across polities and across time to a larger extent than what these assertions suggest. Second, the observed dominance of the president may actually be hiding legislative influence from simple observation. Even if not apparent, the influence of the legislature may be present in shaping the president’s unilateral actions, organizing forms of delegation, and by the bargaining for positions in the government coalition. Lastly, the notion of a group of politicians essentially motivated by their quest for power that willingly ceding their power is puzzling in itself.

The literature contains some case studies as well as some cross-country studies that sheds lights on some of the fundamental aspects of this relation. However, it has yet to produce a theoretical framework that can account for the wide empirical variation in president legislature relations. Most of the attempts at general explanations have successfully pinned down the main features of these relations, but have been unable to establish the mechanisms through which such outcomes are generated.

This paper is a step towards a comparative theory of institutional choice of procedural rights, studying the endogenous allocation of authority across branches of government in separation of powers systems. It develops a theoretical argument about the dynamics of executive-legislative relations, and tests its main empirical implications: the distribution of different agenda-setting powers is organized by the logics of the coalitional government efficiency. In so doing, it suggests a novel classification of the
presidential agenda powers vis-à-vis the agenda powers of the Assembly. Legislative powers of the president are better addressed as decision making powers of the government.

This paper addresses two questions. Concentration of power in the president is the result of at least one of two processes: active delegation of powers to the president by the government coalition, and a more passive delegation of power as a result of a collective action problem. The questions addressed are: Under what conditions do legislatures willingly cede their institutional power to the presidency? And under what conditions do they keep the power for the majority in the Assembly?

This paper approaches the distribution of agenda-setting prerogatives by focusing the incentives that legislators have to organize collective action within a government coalition, and how resilient these incentives are to the influence of the decisions of Assembly. The main focus is in the distribution of power inside the government coalition. There are three main arguments that organize the empirical approach and the hypothesis: First, presidents with strong influence in the Assembly can break down cooperation among legislators and obtain more delegated agenda-powers. Second, presidential discretionary powers are greater in condition of fragmentation of the government coalition. Third, under strong party control of the majority in the Assembly, the presidential agenda powers depend on the relative power of the president’s party and the capacity of control of party leaders.

The main theoretical insight is: in his quest for expanding his institutional prerogatives, the president seeks to influence the competition for power within the coalitional partners of the legislature. Indeed, the governability landscape in Latin
America is markedly heterogeneous, and the effects of the coalition formation in the legislatures, especially in the context of highly fragmented systems, have received much scholarly attention (Altman 2000; Amorim Neto and Santos 2001; Morgenstern and Nacif 2002; Morgenstern et al. 2008). In most part of the cases, the literature on cabinet formation in pure presidential systems has showed the role of the President as the most relevant decision-maker, underemphasizing the strategic potential of members of parliament (Amorim Neto 1998; Altman 2000).

What is less clear in the literature about separation of origin and survival of the presidential systems is the fact that legislative powers of the presidency are not only an instrument of the individual president, but also powers of the government coalition.

This tendency is reinforced by the conception of the executive office as completely disconnected from the assembly. Of course, by definition, presidential systems have separation of origin and survival, which gives electoral independence for the president in the political system. It does not mean that the government process is disconnected of a complex negotiation of the president and the partners in the assembly to implement an agenda of public policies. My point is that the literature already recognizes in case studies how some constitutional unilateral powers were historically not merely product of delegation decisions. They were strategies of coalitions to strength the capacity of the executive office in very specific cases. In Brazil, for example, the power of decree was a copy of the Italian Prime Minister urgent powers, and it is used as a form of give priority to bill of the interest of the government coalition (Figueiredo and Limongi 2000); in Argentina, the change of the Constitution of 1994 was result of the necessary use of the president Menem urgency to deal with a severe economic crisis and
to implement a very consensual political reform by the majority of the Peronist party (Rubio and Goretti 1995), the powers of the Colombian president were also very specific to consensual agreement of the political forces to deal with the long fight against the armed groups organized in a civil war (Upriminy 2003). More specialized powers of the executive office also have a very specific role for the capacity to implement the legislative agenda of the government with legislative approval. Often, these powers have a delegated characteristic, or needs the Assembly approval to be enforced. But, contrary to a parliamentary regime, they were delegated for an Executive independent electorally, but often dependent of the legislative support with representation in a multiparty cabinet.

**The determinants of constitutional choice in Latin America**

In order to explore the tendencies outlined above I created a dataset of all democratic constitutional revision that occurred in 18 Latin American countries between 1945 and 2003. The database includes only constitutions and amendments approved by popularly elected political parties and in force between 1945 and 2003, in years where the executive and the legislature were elected and more than one party competed in elections. The changes cover revisions made by both ordinary congresses and constituent assemblies operating under different decision rules.

It is important to emphasize that measures of the legislative power of presidents have competing views. Shugart and Carey proposed an index of presidential power based on an ordinal scale ranging from 0 to 4 (0 being the weakest and 4 the strongest power in each dimension). These authors evaluated the relative power of presidents by adding
scores across the different categories of legislative and non-legislative powers.

In fact, this kind of general index has several limitations. The most important is the assumption that each instrument included in the analysis contributes equally to the overall power of the president. This means, for instance, that having a veto is equal to the power of decree. The method disregards how a specific configuration of instruments, rather than their mere aggregation, contributes to the total power of the president. It also ignores the relative importance of each category of power within a particular dataset.

I reproduce Shugart and Carey (1992) system of scoring the legislative powers of presidents based on the dimension of the constitutions in my data. The classification includes agenda powers such as the exclusive introduction on certain bills, decree power, budget prerogatives, and referendum, and veto powers.

The table above shows the variation of all Constitutions and constitutional reforms after 1945 in each decade.

**Table 1 – Scores of Legislative Powers of Presidents per decades in Latin American Constitutions (1945-2003)**

<table>
<thead>
<tr>
<th>Decades</th>
<th>Democratic Countries (N) per decade</th>
<th>Average</th>
<th>Min</th>
<th>Max</th>
<th>Std Dev</th>
</tr>
</thead>
<tbody>
<tr>
<td>45-55</td>
<td>12</td>
<td>4,67</td>
<td>0</td>
<td>7</td>
<td>2,49</td>
</tr>
<tr>
<td>56-65</td>
<td>12</td>
<td>4,67</td>
<td>0</td>
<td>7</td>
<td>2,18</td>
</tr>
<tr>
<td>56-65</td>
<td>10</td>
<td>4,90</td>
<td>0</td>
<td>9</td>
<td>2,42</td>
</tr>
<tr>
<td>66-75</td>
<td>10</td>
<td>5,80</td>
<td>4</td>
<td>11</td>
<td>1,93</td>
</tr>
<tr>
<td>86-95</td>
<td>16</td>
<td>6,69</td>
<td>4</td>
<td>11</td>
<td>2,12</td>
</tr>
<tr>
<td>96-03</td>
<td>17</td>
<td>6,88</td>
<td>4</td>
<td>10</td>
<td>1,90</td>
</tr>
</tbody>
</table>
Source: Constitutional Dataset. The scores are based on Shugart and Carey (1992:150) classification of measures of institutional legislative powers. For each decade the score of each country is based on the entry constitution for the first year of democracy in the decade. If occurs a change, it appears only in the score of the next decade. Only the scores of democratic years are measured. The classification of the Political regimes, democratic or authoritarian, was the same of Cheibub and Gandhi (2005).

It is important to note how the measure captures an important variation over time. The evidence of executive strengthening in the region is one partial result from the analysis of Shugart and Carey (1992) using my dataset.

In the next table I show the distribution of each institutional power per decade. The constitutional variables are the same of Shugart and Carey (1992: p. 155): (dec) Constitutional Decree Power; (del) Delegated decree Power; (Excl) Exclusive initiation on certain bills; (Bdg) Budgetary power; (Urg) Urgency provision on certain bills; (ref) power to call a referendum; (tot) total veto; (parc) partial veto.

<table>
<thead>
<tr>
<th>Period</th>
<th>N</th>
<th>Dec</th>
<th>Del</th>
<th>Excl</th>
<th>Bdg</th>
<th>Urg</th>
<th>Ref</th>
<th>Veto</th>
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<tr>
<td>1945-55</td>
<td>12</td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>8</td>
<td>2</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td>1956-65</td>
<td>12</td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>8</td>
<td>2</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>1966-75</td>
<td>10</td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>7</td>
<td>4</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>1976-85</td>
<td>10</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>9</td>
<td>5</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>1986-95</td>
<td>16</td>
<td>5</td>
<td>7</td>
<td>6</td>
<td>11</td>
<td>7</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td>1996-03</td>
<td>17</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td>15</td>
<td>7</td>
<td>10</td>
<td>17</td>
</tr>
</tbody>
</table>
Again, despite the discussion about the forms of classification, it is clear the important variation of Constitutions of presidential regimes circa 1945 and the current Latin American constitutions (until 2003). In fact, the current constitutions of the region provide comparatively more legislative powers to Executive when we use Shugart and Carey (1992) classification.

In this graph I applied a different index of measurement of the constitutional powers. All powers are computed as 1 for every constitution that contains the legislative power, and 0 otherwise. Therefore, the observation of the graph pattern is not conclusive because the scale and the N vary over the period. However, the graph is important as an
initial step for the evidence about the continuous changes over constitutional prerogatives in the region.

Thus a crucial question for comparative analysis is to explore what factors might explain the variation. The answer requires consideration and testing of the different theories that attempt to explain the choices made by constitution makers.

**Constitutional Choice as an Electoral Interest: The Rival Explanation**

By definition, presidential systems are characterized by the “mutual independence” of the legislature and the executive. This means two things. First, the president is considered a unitary actor not accountable to the assembly. Second, the government is not accountable to a majority in congress and can govern until the next scheduled elections without majority legislative support, regardless of his legislative performance.

In this paper, the approach is looking for a more nuanced picture regarding the distribution of legislative powers between the presidency and the assembly. In fact, the increasing number of constitutions in Latin America tends to approximate the definition of the presidential systems to a tendency toward greater integration between executives and the legislatures. I argue that differences in agenda-setting powers are fundamentally consequences of differences in the structure of government formation and coalitional strategies, not only part of the politician’s electoral calculus – the main hypothesis of the literature. The challenge is to develop a theory where the agenda-setting
power varies with the coalitional dynamics of multiparty systems, while holding constant
the institutional environment and the electoral preferences.

For most part of the theories about institutional choice, the underlying assumption
is a form of 'state of nature' in which rank-and-file legislative politicians confront neither
the constraints of party leadership nor an executive with a political agenda and strong
administrative power. Given the assumption of no executive or party leadership, the
hypotheses are based on what these politicians would want in order to serve their own
interest in (by assumption) the furtherance of their careers. Usually the career of today’s
sitting legislators tends to mean a legislative career (i.e. seeking basically reelection).

The most common consequences of this basic assumption are the strong
incentives of the electoral arena at the moments of institutional choice (Shugart, 1998).
The argument claims that institutional choices and changes are organized by the
individual interests of the politicians in moments of institutional reorganization
(Przeworski, 1991; Geddes, 1995; Shugart, 1998), and the central implication of this
theoretical claim only electoral incentives are the source of prediction of politician’s
ambition (Shugart, 1998). I do not claim the opposite in this paper, that electoral
incentives did not have any influence. However, my claim predicts a more integrated
framework in the analysis of the complex dynamics of the regimes with separation of
power. Just as Laver and Shepsle (1990) argue about the mistreatment of coalition
politics in parliamentary regimes, it seems reasonable to do not treat procedural choices
only as a special type of policy choice of the legislators, and the study of agenda-setting
choices as a pure extension of the theory of voting in legislatures.

As a consequence, in its standard version, the literature hypothesis postulates that
political actors adopt a particular set of constitutional rules based on calculations of how those rules will affect their ability to win office. It follows from these arguments that constitution makers should support strengthening the legislative powers of the president when they belong to parties that control or expect to control the presidency but cannot count on having a disciplined majority in congress. Proposals to strengthen the legislative powers of the president will be opposed by parties with no chance of winning the presidency.

Given that considerable variation exists among presidential regimes concerning the powers constitutionally assigned to the executive office, ranging from unilateral prerogatives to change the legislation without legislative support, and delegated and other forms of limited powers where the legislature can negotiate the bill that will be approved, it is plausible to assume different strategies for the delegation of these agenda powers.

My argument is that the institutional analyses of executive-legislative relations should consider the implications of government formation for inter-branch bargaining over different forms of “special agenda-setting powers” (Cox and McCubbins, 2004). Although the progress in the discussion often focuses on the effects of specific constitutional provisions (e.g decree power and veto powers), less is known about the distribution of different agenda-powers integrated to government strategies. What is important to consider is that the in most part of the cases, the formal rules that determine the agenda-setting powers of the assembly and executive exist within a broader context of informal norms and practices. Although there are some general tendencies towards legislative control of the agenda within separation of powers systems, there is substantial variation within each category. The government process usually involves a complex
negotiation of the president, the cabinet ministers, the parties in the assembly, and sometimes even the opposition, in order to implement an agenda of public policies. My hypothesis is that the strategic preferences over different arrangements of the decision making process involves a strategy of the government coalition to strength the capacity of the executive office in very specific cases. For example, presidential unilateral powers, such as decree powers, cannot be merely delegation decisions of a fragmented assembly, but as described by some case studies, could be also a strategy of the parties of the government coalition to solve collective action problems within the government coalition (Figueiredo and Limongi 2000)

To this end, I consider important to compare different agenda-setting structures of the presidential regimes, and the political conditions where they emerge. I consider first the ‘Unilateral Power’ setting in which a single political agent, in my case the President, has exclusive authority over some policy decision. Secondly, there is a structure of ‘Mandatory Checks and Balances’ in which one agent (e.g. the President) has proposal rights, but cannot enact a new policy unless a second agent (e.g. Congress) agrees or delegate. Under the mandatory checks and balances structure, following Cox and Morgenstern (2001), I assume that the president makes actual concessions in proposed policies in order to gain legislative acquiescence, but also can influence the bargaining in the floor with prerogatives over legislative procedures. Lastly, I consider important to classify the ‘Assembly Agenda Power’ structure in which the assembly, or the majority, has exclusive rights over the agenda powers. These agenda-setting structures are not mutually exclusive for the prerogatives, which means that the classical idea of a balance of power between branches can have multiple forms. This is particularly notable in the
Latin American presidential systems, which range from a high level of unilateral agenda-setting powers of the President (e.g. Constitution of Colombia of 1999) to a high level of control of the agenda-setting tool by the Assembly (e.g. Constitutions of Costa Rica) with most countries falling somewhere in between. Understanding who controls which agenda-setting tools is not always easy. In most cases the formal rules that determine the agenda-setting powers of the assembly and executive exist within the broader context of informal norms and practices. However, the Constitutions provide explicitly several different legislative mechanisms some of which privilege exclusive rights, not just to the president, but to the ministers within the executive, while others allow the delegation of legislative powers to the executive branch through delegating laws.

These formal institutional differences of the legislative and executive branches within the policy-making process are evident within the organizational structure of the constitution itself. The literature about the choice of presidential powers, however, did not have the same clarity when analyzing the differences in the distribution of agenda powers for the Presidents and Assemblies. What is less clear is how the process of coalition formation in presidential regimes can explain variations over procedural choices, namely the choice to join the government coalition and support the presidential preferences.

Constitution makers who belong to the president’s coalition will consider the present or expected position of their party in congress. Due to the structure of the separation-of- powers system, they are likely to prefer a president with high checks and delegated powers if their party expect to count on the support of a majority of representatives in congress. In this situation, strengthening the bargaining powers of the
assembly is not the only the mean for political parties influence on national policy, but also a strategy to negotiate positions in the cabinet and in the state bureaucracy.

Together these evidences suggest that hypotheses connected only with party structure and legislative fragmentation seem incomplete to predict politician’s ambition. That is, the evidences suggest a very plausible interest of politicians to influence the administrative structure of the executive, and the political agenda of the presidency. Other important variation to be explored is that within countries over time the party structure and the electoral systems simply do not correlate well with either presidential agenda powers or the agenda powers of the assembly. Under same party structure and electoral rules, institutional agenda powers have varied over time. Where does this leave us? There are significant and substantial differences in agenda powers across systems and within countries over time. At the same time, presidential governments in Latin America have consistently making coalitions in the assembly based on the distribution of positions in the cabinet for allies from the president’s party, or for other small political parties in the assembly in order to obtain political support.

How else can we explain these differences? Two competing views can organize the hypothesis on this issue: legislative fragmentation and power of the government coalition. According to the legislative fragmentation view, the separation of power in branches of government in a context of legislative fragmentation does not guarantee that legislators will actually have an incentive to organize collective action to preserve its constitutional power vis-à-vis the president. Legislators with independent electoral interests have little incentive to cooperate with fellow legislators and therefore obstruct the organization of collective action to protect the power of the legislative branch of government.
Presidential governments feature more strong agenda powers in the executive, in some cases to the point of a formation of mere reactive assemblies. The executive strength on agenda power will then naturally result in a form of political trade with individual strategies of legislators in a fragmented legislature organized according to the electoral ambitions of the members of the assembly.

On the other hand, according to the *power of the government coalition view*, presidential candidates have interest not only in strong political support in the assembly, but also political and electoral support to win elections and implement unpopular policies, and they are usually open to compromise in advance cabinet coalitions able to obtain the support of a legislative majority. In addition, congressional parties are constitutionally able to check president policies by institutional means by changing the agenda tools of the presidency. A legislative majority can not only change the constitution, but also oppose by impeachment- or by a declaration of incapacity in congress, a president without majority support in congress or that cannot negotiate with legislators on a regular basis. In presidential systems, impeachment procedures took place in Brazil in 1992, Venezuela in 1993, Colombia in 1996, Paraguay in 1999, but also in Philippines in 2000 and in more stable regimes like United States in 1999 (Perez Linan 2007). The key to understanding the power of the government coalition view in the distribution of procedural rights is to focus on the incentives not only of the ordinary legislators as agenda setters. When the government sets the agenda, only members of the ruling coalition are recognized to make proposals. If the agenda is open, any legislator can be recognized. In any given policy, an ordinary legislator votes for the agenda setter’s proposal based on his short-term interests. A failed bill does not change the balance of
political power in the legislature—the same ruling coalition will make policy in all future periods. Thus, the ordinary legislator is not indifferent between being part of the ruling coalition and or to be an opposition member. Since his own future expected payoffs also depend on the fate of bills of his interest, his future will depend on the government capacity to implement the agenda. The lack of agenda tools of the ruling coalition, therefore, increases the uncertainty of the majority about implement a policy agenda. In a more proactive and constructive strategy, legislatures can be able to participate along with the executive in directing the policy agenda. Given their policy interests, such legislatures are also likely to be active and effective in overseeing policy implementation, or in some cases develop their own legislative proposals.

Therefore, the main purpose of this analysis is to propose a set of hypotheses regarding the relationship between agenda setting tools and the government policy-making strategies in comparison with more strict institutional analysis based on the electoral fragmentation and the party structure.

**Hypothesis 1:** If the number of significant parties increases and parties are decentralized, constitution makers are likely to strengthen the unilateral powers of the president.

This result tries to predict the literature results about the increasing of discretionary powers of the presidents in the region. Given their high fragmentation, such legislatures are marginal players as unified actors, serving as a rubber stamp on the executives legislative proposals and having little capacity or willingness to scrutinize the conduct of government (Morgenstern 2002).
Hypothesis 2. *In the government policy agenda game, the variation in the number of parties and the size of the ruling coalition have effect on the government’s bargaining agenda powers (or Mandatory Checks powers).*

At the more proactive and constructive view, coalitions in the government can develop legislative proposals and participate along with the executive in directing the policy agenda. Given their policy interests, such legislatures are also likely to be active and effective in overseeing policy implementation. This result would be consistent with the above-mentioned findings that within presidential countries, one cannot empirically reject the hypothesis that the ruling coalition at the moment of institutional choice is irrelevant for the government agenda-setting tools.

**Hypothesis 3:** *The Agenda powers of the Assembly are higher in minority coalitions or situations of divided government.*

There is a wide set of agenda tools where legislatures can exhibit different degrees of activity either in simply blocking much of what the executive proposes or in reformulating and/or amending executive initiatives. Among such legislatures, there can also be considerable variation in the intensity and effectiveness with which they act as a majority to implement a policy agenda independent of the executive government.

**Constitutional choice and Agenda-Setting Powers in Latin America**

In order to test the hypotheses I created a database of all democratic constitutional revision that occurred in 18 Latin American countries between 1945 and 2008.
The dependent variables in the analysis are forms of control of the Agenda Powers. Measurement of agenda powers is a subject of controversy about how the meaning of an overall score of presidential powers, or legislative checks. I begin with an analysis of the different forms of control of the agenda with a straightforward separation of the control of the agenda by the presidents and by the assemblies.

To this end, I compare three stylized agenda-setting structures. First, I consider the ‘Unilateral Authority’ setting in which a single political agent, in my case the President, has exclusive authority over some policy decision. As a result, they require no action on the part of the legislature.

I then examine a ‘Mandatory Checks and Balances’ structure, or the bargaining agenda powers of the Executive, in which one agent (e.g. the President) has proposal rights, but cannot enact a new policy unless a second agent (e.g. Congress) agrees or delegate. Under the mandatory checks and balances structure, following Cox and Morgenstern (2001), I assume that the president makes actual concessions in proposed policies in order to gain legislative acquiescence, but also can influence the bargaining in the floor with prerogatives over legislative procedures.

Finally, I analyze the ‘Assembly agenda power’ structure in which the assembly has exclusive rights over agenda powers. This is a completely new measure in the analysis of the presidential regimes, and the central issue is to consider the ability of the legislative majority to control agenda-setting tools that changes not only the voting process in the floor, but also the content of important policies for the government, in this case, the budget law.
I use a sum of scores to measure the decision to provide each chamber with the specific agenda powers under analysis. The sum is a very common strategy in the analysis of the presidential powers. Shugart and Carey (1992), for example, have scores that measure presidential powers varying from 0 (weak president) to 4 (strong president). The meaning of the scores of my classification of the agenda powers did not have a specific theoretical interpretation for an increase in a specific value. The interpretation is connected to the likelihood of different agenda setting structures that organize the decision making process. The main purpose of this article is thus, to propose a set of patterns regarding the relationship between legislative policy-making strategies and patterns of government control of agenda setting tools.

**Typology of Agenda-Setting Powers and Measures: (DEPENDEND VARIABLES)**

a) Unilateral Authority of the Government Structure – *Executive Unilateral Agenda Powers* (scores range from 0 [without unilateral power] to 3 [presence of all powers])

The unilateral prerogatives are the one where the legislature cannot influence the initiative capacity.

1) Executive decree authority

2) Exclusive initiation on legislation

3) Amendatory observation (comprehensive veto)
b) Mandatory Checks and Balances Structure – *Executive Bargaining Agenda Powers* (scores range from 0 - 3). The bargaining powers are the ones where the executive can influence the agenda, but it is necessary the approval or delegation of the legislature.

1) Delegated Decree
2) Urgency provision
3) Partial veto

c) Agenda of Assembly Structure – *Assembly Agenda Powers* (scores range from 0 to 3) intensity and effectiveness with which they act as a majority to implement a policy agenda independent of the executive government.

1) Exclusive Urgency provision on Bills
2) Majority override
3) Legislative Budget Control

The predictions try to find a relationship between the three structures of institutional agenda setting (Unilateral Powers of the Executive, Bargaining Powers of the Executive, and Assembly Agenda Powers), and the size of the government coalition, the party structure, and the electoral fragmentation. I pose the following questions: First, how do constitution maker’s choices differ under these alternative arrangements? Second, how does the ruling government coalition affects the expected distribution of agenda-setting tools? Third, which institutional arrangements are more likely to emerge under the same political environment?
Explanatory Variable Descriptions and Descriptive Statistics

The independent variables seek to capture the effect of the two competing views in the process:

(1) Number of effective parties (ENP), defined as \(1/(1-F)\), where \(F\) = party fractionalization index. Source: Cheibub (2006)

(2) Party Centralization (PARTYCENTR). Dummy variable that distinguishes whether the constitutional assembly was elected in closed lists. Source: Negretto (2008)

(3) Size of Government’s Legislative Contingent (GOVSH). Share of seats held by the parties represented in the president’s cabinet. Source: Cheibub, Przeworski, and Saiegh (2004)

(4) Head’s party share. (HSH) Share of seats held by the party of the effective head of the government

(5) Majority Government (MAJGOV) Dummy variable coded 1 if the president’s party/coalition has a majority of legislative seats 0 otherwise. Source: Cheibub, Przeworski, and Saiegh (2004)

In the case of the explanatory variables, ENP tries to capture the fragmentation of the assembly in moments of constitutional change. Fragmented assemblies would be likely to be more vulnerable than assemblies under the control of one or few large parties to pressures from incumbent presidents to increase their agenda powers. In a fragmented assembly collective action is more difficult, and these parties are likely to face severe
barriers to forming a stable coalition. The disadvantage is even more pronounced if they are also internally factionalized. The participation in the cabinet could not guarantee the strength of the government in conditions of high fractionalization. On the other hand, the ability to be distant publicly from the preferences of the Government is diminished by its being part of the Executive cabinet. Therefore, attracting some parties for the cabinets is a form to weaken the public space for the formation of a strong opposition in the floor.

As a proxy of the party structure, I used the ballot structure in force at the time of electing the politicians in moments of constitutional change. The ballot structure determines the degree of control exercised by party leaders over access to their party’s label and over ballot rank in electoral list systems. The party label matters most and parties tend to act as unitary actors when legislators are elected in single closed lists. Following this logic, I use a dummy variable, \textsc{PARTYCENTR}, that distinguishes whether members of the assembly were elected in single closed lists. The main predictor of the Government Coalition Power hypothesis is the share of sets of parties with positions in the cabinet of the incumbent president at the moment of the constitutional change.

**Empirical results: The choice of agenda power rules**

My main theoretical prediction is that the preference of constitution writers for agenda-setting structures is affected by the strategic participation in the government coalition. To test the determinants of the agenda power choice I used an Ordered Multinomial Logit Model - Proportional Odds Logistic Regression, with robust standard errors clustered by country to control for correlation among observations within each country. This statistical model can illustrate better the politician’s choice over the
different agenda-setting structures when they expected to increase or not a particular set of agenda powers as a package of institutional tools for the government or to the assembly.

I designed three different models to test the implications I derive in this paper. Model 3 uses size of legislative coalition, degree of party centralization, and effective number of legislative parties as predictors of the bargaining agenda powers of the government. Country and year fixed effects were also set to control for variations of each element in the data set. As expected, the increasing of the government coalition increments the bargaining powers of the Mandatory Check and Balances Structure of agenda-setting. Such result confirm the hypothesis that the increment of the size of the government coalition has a positive effect on the agenda powers that privileges the negotiation between the government and the coalition formed by the distribution of cabinet positions. I also show that the increasing in the fragmentation, as expected by the literature view, also increases the likelihood of agenda powers of the Unilateral Government Structure and the Bargaining Government Structure, as the results of the models (3) and (4) suggest. More interesting, in Model 4, where I use the size of legislative coalition, degree of party centralization, and effective number of legislative parties as predictors of the agenda powers of the unilateral government structure, we observe that the effective number of parties increases the probability that the legislature delegate unilateral power to the president. It is based on such dimension, I assume, that the literature on Latin American legislatures typically perceives fragmented assemblies as an inadequate check and insufficient balance to presidential power. The unilateral agenda power structure suggests the effect of the fragmentation to the emergence of more
subservient bodies that “rubber stamp” the president’s will.

Finally, in Model 5, I use the same independent variables to predict the likelihood of assembly agenda power. In this model, none of the variables can be distinguished from zero. Therefore, we cannot make a final conclusion about what is driving the distribution of power inside the Assembly using the research design pursued here.

In sum, after discussing the differences of agenda-setting structures of the executive-legislative relations in presidential systems, we shall see, that fractionalization of the electoral system and the party structure is merely a necessary, but not a sufficient, condition for the distribution of procedural powers. Different sets of powers have an important influence of the government power as an incentive of procedural choices in systems with division of power. Hypothesis 1 and 2 seems statistically plausible under such research design.
Table 1 – Ordered Logit Regression Table

<table>
<thead>
<tr>
<th></th>
<th>Mod 1 (Executive Bargaining Agenda Power)</th>
<th>mod2 (Executive Bargaining Agenda Power)</th>
<th>mod3 (Executive Bargaining Agenda Power)</th>
<th>mod4 (Executive Unilateral Agenda Power)</th>
<th>mod5 (Assembly Agenda Power)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Seat Share</td>
<td>9.157 (3.986)</td>
<td>2.929 (3.548)</td>
<td>8.493* (3.14)</td>
<td>3.02 (2.193)</td>
<td>-0.467 (1.405)</td>
</tr>
<tr>
<td>Effective Number of Parties</td>
<td>1.385* (0.532)</td>
<td>0.701 (0.443)</td>
<td>1.152* (0.43)</td>
<td>0.927** (0.333)</td>
<td>-0.182 (0.298)</td>
</tr>
<tr>
<td>PartyCentr: 1/0</td>
<td>0.041 (0.882)</td>
<td>0.085 (0.87)</td>
<td>-0.247 (0.734)</td>
<td>0.276 (0.71)</td>
<td>0.511 (0.671)</td>
</tr>
<tr>
<td>Partycentr: na/0</td>
<td>-0.379 (1.019)</td>
<td>-0.526 (1.053)</td>
<td>-0.179 (0.846)</td>
<td>-0.656 (0.837)</td>
<td>-0.806 (0.821)</td>
</tr>
<tr>
<td>0</td>
<td>1</td>
<td>4.082 (3.763)</td>
<td>-0.996 (3.175)</td>
<td>4.405 (2.876)</td>
<td>2.885 (2.126)</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>8.783 (3.713)</td>
<td>3.603 (2.927)</td>
<td>8.185** (2.97)</td>
<td>5.667* (2.252)</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>11.305* (3.963)</td>
<td>6.222 (3.09)</td>
<td>10.468** (3.222)</td>
<td>8.077** (2.518)</td>
</tr>
<tr>
<td>factor(time): 2/1</td>
<td>0.734 (0.738)</td>
<td>0.37 (0.722)</td>
<td>0.37 (0.7)</td>
<td>0.317 (0.7)</td>
<td>0.317 (0.7)</td>
</tr>
<tr>
<td>factor(time): 3/1</td>
<td>1.44 (0.875)</td>
<td>-0.162 (0.757)</td>
<td>-0.162 (0.762)</td>
<td>-0.157 (0.762)</td>
<td>-0.157 (0.762)</td>
</tr>
<tr>
<td>factor(time): 4/1</td>
<td>1.047 (0.966)</td>
<td>-0.458 (0.893)</td>
<td>-0.458 (0.942)</td>
<td>-0.411 (0.942)</td>
<td>-0.411 (0.942)</td>
</tr>
<tr>
<td>factor(time): 5/1</td>
<td>0.544 (1.18)</td>
<td>0.01 (1.158)</td>
<td>0.01 (1.086)</td>
<td>0.013 (1.086)</td>
<td>0.013 (1.086)</td>
</tr>
<tr>
<td>Deviance</td>
<td>141.983 (114.012)</td>
<td>97.096 (119.096)</td>
<td>104.021 (126.021)</td>
<td>107.433 (129.433)</td>
<td>107.433 (129.433)</td>
</tr>
<tr>
<td>AIC</td>
<td>211.983 (162.012)</td>
<td>119.096 (126.021)</td>
<td>126.021 (129.433)</td>
<td>129.433 (129.433)</td>
<td>129.433 (129.433)</td>
</tr>
<tr>
<td>BIC</td>
<td>271.958 (203.138)</td>
<td>137.945 (144.87)</td>
<td>144.87 (148.283)</td>
<td>148.283 (148.283)</td>
<td>148.283 (148.283)</td>
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<tr>
<td>N</td>
<td>41</td>
<td>41</td>
<td>41</td>
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<td>41</td>
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</tbody>
</table>

A more comprehensive way to visualize whether the numbers estimated in the models above have substantive power is to compare the predicted probabilities from a multinomial unordered model using the 3 categories used before in an unique model. The
results are presented in the appendix. The plots below have the graphical representation of what we should observe.

**Figure 1: Predicted Probability of the Agenda Powers by the Size of the Government Coalition**

Note 1: Dashed line refers to the Bargaining Agenda Powers of the Government; Solid line refers the Unilateral Agenda Powers of the Government; and the line of Points refers the Assembly Agenda Powers.

As Figure 1 suggests, the increment of the government coalition size does not affect the likelihood of observing unilateral agenda powers of the government. On the other hand, the increment of the legislative coalition of the government in the assembly tends to be associated with a structure of delegated powers and legislative checks, or as I named, bargaining agenda powers. The last interesting pattern of the graph is the increase of the agenda powers of the assembly in conditions of minority governments, which is
plausible with hypothesis 3.

Another interesting way to visualize the results is to compare the probabilities of observing each of the agenda power structures given the government size and effective number of parties. The next graph is looking for the visualization of the effect of the fragmentation over the distribution of agenda powers, also using multinomial unordered logit.

**Figure 2: Predicted Probabilities of the Agenda Powers by the Size of the Government Coalition in the Assembly and the Effective Number of Parties**

![Graph showing predicted probabilities](image)

Note: Black-solid line refers to Unilateral Agenda Powers; Red-Dashed Line refers to the Bargaining Agenda Powers; Blue pointed Line refers to the Assembly Agenda powers.

As the plots in figure 2 indicate, the increment of the effective number of parties (ENP) change the difference between the likelihoods of observing each of the powers.
structures holding constant the effect of the government size. Important to note how the government coalitional size has no effect over powers when the assembly is highly centralized ENP = 7. Such results suggest the higher the size of ruling coalition membership the lower the government’s uncertainty about their legislative support, and the higher the incentive for the assembly distribute bargaining agenda powers for the government. My findings suggest that under high fractionalization, the value of belonging to the ruling coalition does depend on the government’s power: more agenda power is delegated to the presidential office. A larger ruling coalition, however, decreases the internal incentive of the Assembly to centralize the agenda powers out of the executive government.

These effects elucidate partially the empirical puzzle by revealing how agenda powers are distributed differently within each system.

Conclusions

A major problem for the Social Sciences has been how institutions emerge from interactions of their choices and complex environmental situations (Ostrom, 2005). Actually, the comparative study of government has recognized that there is no single ideal form of democratic government, and that each choice involves tradeoffs.

My basic story holds that the participation on the government affects the distribution of agenda powers differently. This is the reason why the constitution writers choose differently in the first place. Moreover, different rules should have different effects on politician’s influence of public policies. Constitutional rules may allocate agenda setting power in different ways, influencing the circumstances under which
proponents can enact, or opponents can obstruct new policy initiatives. By quantitatively estimating the impact of government coalition size on the distribution of agenda-setting structures, I provide evidence that the hypothesis are verified by the data and that the estimated effects move in the direction my model presumes.

**References**


**Appendix**

Constitutional Agenda Powers of Presidents per decades in Latin American Constitutions (1945-2008)

<table>
<thead>
<tr>
<th>Democratic Countries (N) per decade</th>
<th>Mean</th>
<th>Median</th>
<th>Var</th>
<th>Std Dev</th>
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</thead>
<tbody>
<tr>
<td>45-55</td>
<td>12</td>
<td>5.2</td>
<td>6</td>
<td>2.5</td>
</tr>
<tr>
<td>56-65</td>
<td>12</td>
<td>5.4</td>
<td>6</td>
<td>3.14</td>
</tr>
<tr>
<td>56-65</td>
<td>10</td>
<td>6</td>
<td>6</td>
<td>5.6</td>
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<td>66-75</td>
<td>10</td>
<td>6.6</td>
<td>6</td>
<td>10.35</td>
</tr>
<tr>
<td>86-95</td>
<td>16</td>
<td>7.14</td>
<td>7</td>
<td>8.315</td>
</tr>
<tr>
<td>96-08</td>
<td>17</td>
<td>7.36</td>
<td>7.5</td>
<td>8.17</td>
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</tbody>
</table>

* Those are my scores. Note that they maintain the same pattern of Shugart and Carey (1992). The main difference is among the two classification is my option to do not attribute a weight for each power.

<table>
<thead>
<tr>
<th>Variables</th>
<th>N</th>
<th>Std. Dev</th>
<th>Min</th>
<th>Max</th>
<th>Mean</th>
</tr>
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<tbody>
<tr>
<td>Prespower</td>
<td>55</td>
<td>22,197</td>
<td>1</td>
<td>99,94</td>
<td>45,85</td>
</tr>
<tr>
<td>MNP</td>
<td>55</td>
<td>1,03</td>
<td>1</td>
<td>5</td>
<td>1,95</td>
</tr>
<tr>
<td>Diffusion</td>
<td>55</td>
<td>0,05</td>
<td>0,23</td>
<td>0,53</td>
<td>0,39</td>
</tr>
<tr>
<td>Govsh</td>
<td>39</td>
<td>0,12</td>
<td>0,28</td>
<td>0,77</td>
<td>0,55</td>
</tr>
<tr>
<td>HSH</td>
<td>39</td>
<td>0,15</td>
<td>0,10</td>
<td>0,75</td>
<td>0,47</td>
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