Conditions for Successful Negotiation: Lessons from Europe

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Introduction

The American legislative process today seems incapable of solving a variety of vexing collective problems, which often require the payment of short- and medium-term costs for long-term gains. We are burdening our children with a lifetime of public debt because we cannot meet our current collective financial obligations. We face a future of water in all the wrong places, with likely shortages of potable drinking water even while rising seas destroy our coastal communities. Our education system is largely failing the 25% of America’s children who live in poverty, yet a shortage of skilled workers continues to bedevil employers.

Our contemporary legislative failures to negotiate policy solutions present something of a mystery, however, when compared to past Congressional performance and the practices of other advanced democracies. The United States once was viewed as a land of broad consensus and pragmatic politics, in which sharp ideological differences were largely absent from our classless society. Although our separated powers doctrine may contribute to constraints against Congressional action, many countries have severe institutional hurdles to easy majoritarian rule, yet still produce political deals. Americans pride themselves on their community spirit, civic engagement and dynamic society, yet we are handicapped by our national political institutions, which often—but not always—stifle the popular desire for political reforms.

This chapter explores how political actors in other countries find the means to engage in deliberative negotiations that produce agreements on collectively beneficial policy solutions and, thereby, explains the enormous disconnects between foreign and domestic experiences, and past and present practices in the United States. We briefly review obstacles to deliberative negotiation and the production of collective goods, such as negotiation myopia and distributional conflicts. We then consider how rules and institutions for collective political engagement—that is, the practices governing how people come together to negotiate political deals—help to overcome these obstacles and to shape actors’ incentives for cooperation. We analyze particularly the positive effects on negotiation of a careful incorporation of technical expertise, repeated

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interactions, penalty defaults, and relative autonomy in private meetings. These distinctive rules of collective engagement not only help parties reach agreement but also, when combined with broadening the scope of representation, can have positive impacts on patterns of democratic struggle.

Some countries rely more extensively on cooperation, compromise, and negotiating to agreement in their daily practice of politics because their political institutions incorporate these rules of collective engagement as a matter of course. For example, proportional electoral systems with multiple parties produce greater incentives for cooperation than winner-take-all, majoritarian systems because coalitions of parties to form governments require negotiation and cooperation. The macro-corporatist organization of societal interests also fosters cooperative capacities more than pluralist systems of interest intermediation because macro-corporatism routinely brings together business and labor groups to deliberate policy problems (Martin and Swank 2008, 2012). Thus, these countries have greater needs for cooperation that make them organize and greater capacities for deliberative negotiations to meet these needs (Lijphart 2012).

Even countries that lack coordinating institutions may adopt rules of collective engagement that are conducive to negotiation; and this adoption may alter the logic of how interests come together to solve their political problems, to engage in deliberative negotiations and to produce compromises that previously seemed beyond their capacities. Although countries develop certain characteristic styles of collective decision making with varying potential for successful negotiation, these styles are far from immutable because institutional effects are neither completely deterministic nor constant. Deliberative negotiation may become more possible with the adoption of certain rules of engagement, just as stalemate periodically may develop even when countries normally rely on high levels of deliberative negotiation. This is why policy-making processes sometimes surprise us, and these rules of engagement may offer inspiration for expanding the political openings for negotiated reforms.

Negotiation is not the cure-all for all conflicts: distributive battles and conflicting interests may drive an immutable wedge between parties, destroying any zone of possible agreement. Significant redistribution to redress fundamental inequities is unlikely to appeal to elites who benefited from the unequal distribution of resources. The class injustices that fueled the French Revolution were unlikely to have been negotiated away. Another problem with negotiation as a decision-making mechanism is that negotiating partners may hold strongly opposing beliefs, competing conceptions of equality and justice, and different cognitive assessments of problems and viable solutions. Battles over the right to an abortion reflect fundamentally different worldviews about issues ranging from the origins of life to the appropriate role of women in the workforce. These deeply held ideological convictions may be more difficult to negotiate than less value-laden, economic claims.1

Politics is a two-level game, with representatives first negotiating with one another and then with their own multiple constituencies. In this process, the legislators might well endorse agreements that benefit their core constituents while leaving less powerful groups “out in the cold” (Page and Jacobs 2009). Certainly, any set of institutions that promotes deliberative negotiation must also build in safeguards against its abuses. Yet the negotiating practices of

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1 (Luker 1984. See also the discussion of abortion in Chapter 5 in this report).
representatives also may have a positive impact on collective social identities: citizens who discern their representatives as engaging in deliberative negotiations may become more trusting of government and better able to perceive their commonalities of interest. As Chapter 5 discusses, thoughtful action based on public support tends to produce legitimacy. Thus, our work is driven by a normative ambition: to use our knowledge about the impacts of institutions and procedural rules on negotiation to improve politics in the real world.

**Negotiation Myopia and Problems of Collective Action**

Deliberative negotiations within government are both necessary and difficult to achieve because of the nature of collective (or free-access) goods, which offer benefits to individuals that are not related to their contribution to the costs of the goods (Ostrom 1990). When collective goods impose concentrated costs on a subset of producer interests but offer only diffuse benefits to citizens, those issues are often subject to political capture by those producer interests (Lowi 1964). Policies with strong distributive consequences are thus more difficult to pass than policies in which the zero-sum character of the distribution is more muted. The problems of producing a collective good become magnified when the good in question will not materialize until sometime in the future. Whereas it is relatively easy to pass legislation when one realizes the benefits of a collective good in the short term but pays for those goods in the long term, other issues such as pension reform require short- or medium-term contributions for long-term gains and are more difficult to address (Jacobs 2011).

Deliberative negotiations also are constrained because the human brain falls prey to several forms of **negotiation myopia**, a constellation of nearsighted cognitive, psychological, and strategic mistakes that stand in the way of achieving agreement (see Chapter 3 for a detailed discussion of these forms of myopia). The forms of myopia that seduce us into suboptimal deals fall into several categories, related to our perspective of self in relation to other, the scope of our goals, and our capacities to grasp longer and more complex periods of time. One type of myopia, **self-serving bias**, distorts our perspective of self in relation to others and stems from our tendency to interpret events from a vantage that places us in a good light, relies on our own selective memories, and holds our beliefs to be objective truths. This impulse is exacerbated by **information asymmetry** and the difficulties of **perspective taking**. Yet, this myopic self-focus may blind us to the perspectives of others, some of which may point to action benefiting a larger group of interests, often at minor discomfort to ourselves.

A second type of myopia narrows the scope of our goals; for example, a **fixed-pie bias** makes us focus on claiming value rather than creating value and worry more about the **redistributive allocation of benefits** rather than the expansion of the desired outcome. In a classic sibling-rivalry problem, the zero-sum competition for benefits leads the parties to forget that together they may bring in new issues, “expand the pie,” maximize shared interests, and jointly achieve more of their desired ends. Scholars demonstrate in laboratory settings that most people express an irrational **loss aversion**: that is, even when the expected gain is greater than a possible loss, participants are unwilling to risk losing ground. The impulse for **reactive devaluation** also leads people to mistake their interests in negotiation and make faulty inferences about the motives of the other party. When offered a unilateral deal, they tend to discount it and try to bargain up, and a concession offered frequently is valued less than a concession withheld.
Third, we may suffer from a *time* myopia that diminishes our capacities for long-term thinking, our material incentives for “saving for a rainy day,” and our abilities to consider second and third-order effects. Public-policy costs and benefits often are structured to exacerbate the problem because few want to make short-term investments in exchange for risky, long-term rewards (Jacobs 2011, 52). Time myopia may reinforce the aversion of producer groups to bearing short-term costs (concentrated on them) for long-term collective gain, and producer groups often have disproportionate influence in legislative processes.

**Rules of Engagement and Deliberative Negotiation**

When the problems of reaching a political settlement are caused by negotiation myopia, the adoption of certain collective rules of engagement may influence the preferences of political actors and facilitate deliberative negotiation (see Chapter 5).² Particularly important are the use of nonpartisan third-party experts (often in the form of fact-finding bodies), repeated interactions among negotiators, penalty defaults, and private meetings for deliberations (balanced with some transparency to ensure democratic accountability).³

First, procedural rules and norms that include a strong role for *non-partisan third-party experts* may contribute to deliberative negotiation because the creation of an authoritative body of expertise and evidence can discipline political debate and push it in a deliberative direction. Countries’ “knowledge regimes” may include the use of fact-finding bodies, peer review, and performance benchmarking against agreed indicators, and these tools can define problems and solutions in more neutral, mutually acceptable terms (Campbell and Pedersen forthcoming; Schmidt 2009; Blyth 2002). These bodies may be particularly helpful in moving the negotiating partners beyond the ideological definition of issues along left–right cleavages.

The Italian pension reform in 1995 constitutes an instance in which the introduction of new rules of engagement—including the introduction of greater technical expertise and the threat of state action in response to nonaction by labor—altered the negotiation processes between the state and societal actors and made possible a value-adding policy reform. Italian politics is often marked by significant, distributive conflicts due to its corrupt and “particularistic” parties, which attract constituents with narrowly focused material payments, and its weak industrial relations organizations. The costly, unequal, and Byzantine Italian pensions were one of the most problem-ridden systems in Europe, yet the Italian pension reform implemented a set of painful changes and structural innovations that ameliorated many of the long-term problems of the pension system. Crucially, government reformers made these changes with the full support of and participation by the unions, which offered significant input to the design of the reforms (Baccaro 2002).

A new technocratic government was able to pass the expansive pension reform by setting up a dialogue with labor in which technical expertise was the object of exchange. In 1994, the

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² Deliberative negotiation is characterized by mutual justification, respect, and the search for fair terms of interaction and outcomes. Such negotiations, parts of which are grounded in a mutual search for the common good, often enable participants to solve creatively a problem with an integrative (or partially integrative) solution, in which both sides gain something of what they actually want, or create a fair compromise.

³ Chapter 5 expands on the uses of these institutions and also on their normative pros and cons. It argues, for example, that *transparency in rationale* (giving reasons for a policy) can often do the same positive work as *transparency in process* (allowing audiences into the negotiating room) without the negative effects on deliberative negotiation.
Berlusconi-led government attempted to impose unilateral pension cuts, but the prime minister did not appear to be a trustworthy negotiating partner and the reforms were met with a general strike by protesting workers. Berlusconi was forced to resign; however, the new government under the leadership of Lamberto Dini offered a more trustworthy negotiating partner and acted as a catalyst to organize institutional change. Dini began a dialogue with labor and, initially, business to launch the pension reform, and he consulted with unions to develop fast-track reform mechanisms. The reforms were not expected to be popular because they tightened the links between contributions and benefits in a way that mimicked a funded plan and made early retirement more difficult. But despite this resistance, government reformers made these changes with the full support of and participation by the unions, which offered significant input to the design of the reforms (Baccaro 2002). In the negotiations with labor, technical expertise played a major role. Union leaders took a tentative reform plan to assemblies of workers within plants and engaged in extensive explanation of the technical-rational needs for pension reform. When given an opportunity to take a more proactive role, the unions struggled to overcome internal divisions, adopted new processes of open deliberation, and set limits on amendments to the reform proposal. Great efforts were made to explain the pension issues to the rank and file, and workers were given the right to vote in a referendum on the pension reform, which augmented the democratic legitimacy of the reform (Baccaro 2002, 419-422).

A second rule for collective engagement that is conducive to deliberative negotiation is to bring together participants in repeated interactions. Repeated interactions among parties may be built into institutions for long-term processes of cooperation; these help to build collective understandings, make parties aware of one another’s perspectives, encourage a longer time perspective, and create trust sufficient to support risky but collectively beneficial choices. Such repeated interactions also promote honesty in communication and other trustworthy behaviors because the participants anticipate punishment for dishonesty at future meetings.

Policy making within the European Union (EU) offers a compelling example of the use of repeated interactions to improve negotiating capacities because governance and regulation have expanded through a recursive process of framework rule making and revision. Framework goals are set at the EU level and individual units are allowed considerable discretion in developing and implementing the programs to achieve these goals; however, lower-level decision makers also participate in reviewing, rethinking, and renegotiating practices. Thus, revision happens without central steering, and these governance processes allow for the extension of regulation into new issue areas and across the vastly different institutional terrains found among the national members. Participants develop commonly agreed-on metrics or indicators for measuring progress toward joint objectives; however, various permutations are possible, implementation is decentralized, participants routinely compare their governing experiences, and actors converge on those that best serve their purposes. The ongoing adjustment through a process of deliberation, monitoring, and peer review of alternative experiences fosters the emergence of a multiplicity of political best practices. Lacking the standard command-and-control, top-down regulatory processes, this process of “experimentalist governance” also offers the necessary flexibility to respond to the rapid changes and uncertainty characteristic of twenty-first-century life (Sabel and Zeitlin 2010). The “recursive processes” of decision making in experimentalist
governance led to a high level of consensus in European food-safety policies as repeated episodes of deliberation helped to build consensus about common interests among actors in the foodstuffs sector as well as mechanisms for meeting challenges to those interests (Joerges and Neyer 1997, 609).

Third, the provision by external agents of penalty defaults—which include deadlines, threats of exclusion from the table, and other action-forcing rules (i.e., external conditionalities)—also may facilitate positive negotiation processes and outcomes. These defaults may work against the use of deceptive strategies and may be structured to distribute costs over the medium term for long-run social benefits. Penalty defaults could simply produce a minimally utility-enhancing deal; for example, actors might impose long-term costs for short-term benefits, thereby benefiting all participants at the table but harming future generations and others not represented in the negotiations. Yet, these defaults also might be structured to motivate processes and decisions that are more other-regarding, pie-expanding, and long term. Penalty defaults are not always successful; for example, the January 2013 “fiscal cliff” represented a classic effort to force negotiating partners to come to a negotiated pact; yet, these efforts fell apart primarily because the negotiators’ allegiance to their partisan allies and the strategic benefits of their position trumped their desire to negotiate solutions. Pressing in the other direction, bodies such as the European Commission can use their invitational discretion to punish noncooperative behavior, although actors also can “forum-shop” to avoid the effects of that sanction (Woll 2008; Carpenter 2001).

The threat of the consequences of nonaction worked in favor of an integrative solution in the Canadian pension reform negotiated in the mid-1990s. Under the law, two thirds of the provinces representing two thirds of Canada’s population would have to agree to any reform, and the provinces had widely differing preferences over pension policy. Whereas Ontario was most interested in keeping payroll taxes as low as possible, Quebec and other provinces could be expected to fight to maintain benefits at current levels. Although stalemate appeared likely, the costs of inaction were exceedingly high: if nothing were done, Canada’s aging population would automatically force either a near-tripling of tax rates in the next few decades or deep cuts in benefits. Because all provinces viewed this default outcome as unacceptable, they were willing to accept a creative integrative solution: a reform that immediately doubled the payroll tax and modestly trimmed benefits to build up a fund that would be professionally invested on private markets. The earnings from the fund, in turn, would stabilize both tax and benefit rates over the long run. Although this costly reform was not any stakeholder’s first choice, the unacceptable costs of inaction helped create agreement on an inter-temporal solution that would expand the long-term pie (Jacobs 2008).

Fourth, deliberative negotiation may be aided by procedural rules and norms that use closed-door private meetings to offer protection from the media, give negotiators more leeway to communicate freely, and enable participants to respond more positively to the communications often excludes questions of redistribution and enjoys the near-unanimous approval of member countries’ heads of state. Moreover, the issues of the EU are selected because they are linked to the common interests of the member states and, above all, the internal market, whereas more contentious issues such as fiscal policy and redistributive policy are left largely to the member states (Moravcsik 2005). Sabel and Zeitlin, however, suggest that many policy areas are potentially quite contentious—for example, environment, energy, telecommunications, finance, and data privacy. Moreover, distributive agenda items within the EU almost always have redistributive elements—agricultural regulations and subsidies, for example—and many of the pressing concerns of the EU are rooted in cultural conflicts (e.g., immigration) that inspire strong emotional responses.
of others. Closed-door protection from media glare and lobbyist pressures allows legislators to trade public posturing for private deliberation, especially when the patterns of deliberation allow for social-learning feedback. Although transparency often is defended as guaranteeing political legitimacy, it is not always the case. For example, gridlock in the American Congress has been exacerbated by the “sunshine laws,” that opened up committee deliberation to the public, but also to lobbyists and other special interests. Adding openness in this instance has not increased legitimacy.

At the same time, transparency is also necessary to aspects of democratic decision making such as legitimacy, and there may be a tension among diverse goals for successful negotiation (see Chapter 5 in this report). Transparency is essential to “dynamic accountability” because it greatly enhances the capacities of expert participants to make superior judgment calls, to explain political decisions to the public, and to build support for these pacts over the long term (Sabel and Zeitlin 2010). Moreover, although elite decision making may produce greater efficiency, it also may contribute to a deficit of legitimacy when power shifts to undemocratic institutions, such as the European Commission (Medrano 2003). The EU provides an example of tradeoffs among procedures to enhance successful negotiations. Macro institutions make negotiations structurally somewhat easier because privacy is more readily assured on a number of levels. For example, informal “trialogues” rely heavily on privacy, when the Council, European Parliament, and Commission come together behind closed doors to engage in informal deliberations in advance of formal political decision making (Reh 2012).

Cross-National Differences in the Needs and Capacities for Negotiation

Advanced industrial democracies face broadly similar challenges; yet, countries diverge significantly in their capacities to negotiate major, sustainable social and economic reforms. Some countries have stronger political institutional needs, as well as capacities for cooperation and consensual negotiation, than other countries. We suggest that rules of engagement are embedded in countries’ political institutions and contribute to their characteristic governing styles. This section explores the impacts of political institutions on capacities for deliberative negotiation and identifies clusters of national models according to their institutional needs and capacities for negotiation. These insights locate the United States in comparative perspective and explain why countries periodically act against type when they adopt rules of engagement that deviate from their “politics as usual.”

Various political systems have different needs for consensual negotiation due to the size of the majorities that are necessary to pass legislation and due to choices about whose interests should rule. Governments in Europe have gravitated toward two models. Some countries adopt the Westminster model, in which democratic polity is driven by the will of the majority of the people through majoritarian rule. Other countries adopt the consensus model, in which efforts are made to incorporate as many people as possible into a governing coalition. The choice of majoritarian rule versus consensual rule reflects the constitutional design of government and the number of “veto points,” which constitute the points at which actors have formal authority to block legislative change. Consensus countries have a high number of veto points (due to the horizontal or vertical dispersion of power within government) and require the inclusion of a larger proportion of societal interests in the governing coalition. Majoritarian countries of the Westminster type have a lower number of veto points; concentrate governmental authority in a
strong, centralized executive controlled by a single body; and may pass legislation with simple
majorities (Lipjhart 2012).

For example, a presidential system with its separated powers has more veto points than a
parliamentary system because in the latter, the executive is chosen by and comes from the same
party as the parliament. Parliamentary systems constrain conflict between the executive and
legislative branches, and parliamentary leaders have recourse to “deadlock-breaking devices”
(i.e., votes of no confidence and new elections), which make it more difficult for special interests
to capture the policy-making process. In presidential systems, the legislature and the president
are elected independently (often bringing different parties to office) and they have separated
but overlapping powers, motivating actors in each branch to guard jealously their institutional
prerogatives (Stepan and Skach 1993, 18, 3; Shugart and Carey 1992; Linz 1990; Cox and
McCubbins 1997).

Federal systems of government also have more veto points than unitary systems
because formal authority is shared by actors at diverse levels. Compared to the majoritarian
governance model, federalism creates a “joint-decision trap” that may stop governmental action.
Government leaders at subnational levels have incentives to block policy reforms that have overall
advantageous but regionally uneven impacts, or to lobby for policies with sharply drawn winners
and losers. In contrast, majoritarian, unitary governance must reconcile the needs of a broader
spectrum of citizens and create more universalistic policy initiatives (Scharpf 1988).

Proponents of the majoritarian Westminster model believe that governments with a
higher number of veto points will be confronted with greater obstacles to policy reforms and
that negotiation is a second-best alternative to straightforward majority rule (Cutler 1980).
Proponents of the consensus model point to its positive impacts on democratic governance by
forcing parties to learn to negotiate, increasing the number of enduring policy compromises,
and ultimately enhancing the stability of governing systems. In this argument, placing many
veto points in the system privileges the public interest by reducing the chances that any special-
interest measure will make it through the battery of obstacles (Tsebelis 1995; Goodin 1996; Cox
and McCubbins 1997, 5-6).

We suggest that consensus-model countries not only have greater needs for negotiation,
they also have stronger capacities for negotiation because their governing institutions incorporate
rules of engagement that suppress negotiation myopia. Two institutions in particular endow
consensus-model countries with greater capacities for deliberative negotiation: proportional-
party systems and macro-corporatist institutions for interest intermediation.

First, multiparty systems with proportional-representation electoral rules foster greater
incentives and capacities for cooperation than two-party systems with majoritarian rule.
Multiparty systems with proportional electoral rules have a much higher coverage of specific
groups than two-party systems; therefore, significant class interests—for example, employers,
workers, and farmers—are likely to belong to a single party. Party identities are based on
ideological party platforms and reflect attention on common goals. They encourage repeated
interactions among their active members because they are dedicated to the interests of their
core constituents, do not poach voters from other parties, and do not constantly change their
positions to compete for the median voter. These parties also foster cooperation within their
membership because they can make credible commitments to follow through on long-term policy promises that serve as mandates for action.

Proportional systems also include greater incentives for cooperation among competing parties because coalition governments are the norm in multiparty systems. Countries with proportional representation utilize expert commissions of diverse interests to develop multipartisan policy solutions and incorporate repeated interactions among parties within successive coalition governments. The need to form a coalition to govern constitutes a mandate for action. Because parties frequently cooperate through successive electoral cycles, public-policy outcomes tend to be more stable and enduring than in majoritarian, two-party systems (Kitschelt 1999; Cusack et al. 2007; Boix 2003).5

In contrast, catch-all parties in two-party systems integrate varied constituency groups under the partisan umbrella, and the major parties vie for the median voter; consequently, their platforms frequently fluctuate and members feel less confidence in their political representation. In two-party systems, even parties that fulfill promises to their members may be voted out of office in the next election, and all gains may be lost in a system with little continuity across governments (Downs 1957). Moreover, in contrast to the “programmatic” parties found in multiparty systems, “particularistic” parties in majoritarian systems are more likely to distribute policy benefits for patronage reasons; this process fragments benefits and erodes the legitimacy of social policies (Lynch 2006).

Second, consensus-model countries have developed stronger societal organizations for industrial-relations and interest-group representation than majoritarian countries: “pluralist” interest-group and industrial-relations systems tend to be found in majoritarian countries, whereas “corporatist” systems are found in consensus-model countries. The rules of engagement found in consensus-model systems for industrial-relations and interest-group representation tend to diminish negotiation myopia and enhance the capacities for deliberative negotiation. These robust societal vehicles offer citizens input into policy making, help to overcome the many veto points in these systems, and provide the political will for reform. The ideal types of pluralist and corporatist systems differ in the nature of the groups representing the core economic actors, the role of these groups in policy making, and the capacities of these groups for coordination and deliberative negotiation.6

Corporatist industrial-relations systems organizing business and labor interests in consensus-model countries are functionally specific (i.e., each group represents one segment of the economy), are hierarchical (i.e., lower-level groups are members of a centralized peak

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5 We note, however, that in presidential (as opposed to parliamentary) proportional systems such as those found in many Latin American countries, parties can more easily engage in deadlock strategies (Cox and McCubbins 1997). Bellamy (2012, 447, 461) pointed out that a party’s core constituents may view cooperation with competing parties as disloyal. Yet, it is possible that negotiations grounded in a mutual search for value-creating outcomes might be viewed more favorably than shallow bargaining.

6 This bimodal view of nations—those with and without high levels of coordination—masks the fact that coordination can occur at various levels of society: Coordination can transpire through largely private relations between industry-level associations and unions or can entail a strong role for government in sustaining collective bargaining and interest intermediation through tripartite policy-making channels (Martin and Thelen 2007; Swank et al. 2008; see also Hicks and Kenworthy 1998). Thus, we have elsewhere identified a third type of industrial-relations system, “sectoral cooperation,” which entails coordination among firms and workers at a more intermediate level. This may include cooperation across enterprises that is less national in focus and that evolves without direct, ongoing state participation (Martin and Swank 2012). This form of coordination includes tightly coordinated connections among purchasers and suppliers, cooperation among competing firms within the same industrial sector for training or for research and development, long-term relations between firms and investors, teamwork-based production at the firm level, and intra-firm departments working in multidivisional project teams.
association), and are given the formal authority to represent their members in policy-making processes. The encompassing groups convene a broad range of interests, construct collective identities among their members, and aggregate interests at a more universal level. The groups have cognitive impacts on their members’ preferences because they educate their members about political problems and their solutions, and more encompassing organizations tend to draw their members’ attention to broader, longer-term collective benefits. Encompassing organizations also reinforce norms of trust and social partnership. Peak associations negotiate public policy in collective-bargaining forums and in tripartite commissions set up under the auspices of ministries; consequently, many more political decisions are made in nonlegislative channels than in the United States, where policies are typically made by Congress. In corporatist systems, strong stakeholders give coherence to policy making and add to the society’s capacities to overcome party fragmentation; moreover, firms and workers are bound to the decisions negotiated by their groups (Streeck 1992, 265-284; Rothstein 2000; Katzenstein 1985; Crouch 1993; Hicks and Kenworthy 1998; Wilensky 1976; Visser and Hemerijck 1997; Martin and Swank 2004.)

In pluralist systems (e.g., the United States), firms and workers belong to multiple groups, the groups are narrow in scope and overlap in function, and no single centralized peak association aggregates the broad interests of members. These pluralist interest groups tend to concentrate on the particularistic self-interests of their members, and both employers and workers are more divided than in countries with encompassing associations to aggregate interests. General Motors may belong to the Automobile Manufacturers’ Association, the National Association of Manufacturers, and the Chamber of Commerce, and although the auto association has a more limited focus than the other two, all three of these groups do more or less the same thing. Thus, pluralist groups tend to compete with one another for members, are highly risk-adverse, and have a limited capacity to foster cooperation (Martin 2000).

Repeated interactions in the ongoing policy discussions among labor, business, and government bureaucrats foster a shared understanding of policy problems and commonly agreed-upon perceptions of technical solutions. Because these forums are outside of the legislative process, they enjoy greater privacy; moreover, the threat of legislative action contingent on the breakdown of negotiations among the social partners constitutes a penalty default with an incentive for action. Repeated corporatist patterns of interaction create a positive-sum game for business and labor in tripartite or collective-bargaining settings: because the groups foster a long-term perspective and guarantee compliance, each side is more willing to take positions that will benefit the broader economy. Interests that are organized in a more encompassing manner are also more likely to demand long-term policy solutions because it is more difficult for any single group to redistribute resources from other segments of society, and encompassing organizations internalize long-run social problems. If the encompassing interest groups are concerned that the long-term costs of not resolving a problem are sufficiently high, they may generate the political will necessary for imposing short-term sacrifices to invest in long-term solutions for society. As a

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7 This is not to say that business interests are a priori less diverse in countries with a high level of corporate organization; indeed, significant material cleavages divide employers in all advanced, industrialized countries that are related to the firm’s size, labor intensity of the production process, exposure to foreign trade, skill level of the workers, and so forth (Gourevitch 1978; Kurth 1979). But the aggregation at a higher level allows participants to find common ground more easily, for example, in accepting wage or income restraints to achieve price stability or to create policies for skills-upgrading, human capital development, and solidarity (Streeck 1992; Visser and Hemerijck 1997; Martin 2000).
result of many of these mechanisms, countries with encompassing employers’ associations have higher levels of spending on the welfare state, more positive views toward government, and a greater willingness of citizens and interest groups to accept negotiated bargains favoring longer-term, pie-expanding solutions (Martin and Swank 2004, 2012; Jacobs 2008).

The two institutions of political parties and societal organization highlighted herein are related because different patterns of party competition influenced the emergence of corporatist and pluralist systems of industrial relations at the dawn of the twentieth century. Employers across industrialized countries sought similar national industrial-development policies, labor-market coordination, and the right to self-regulation to compete more successfully in international markets and to manage growing industrial unrest. However, politicians in two-party and multiparty systems had different views about allowing stakeholders in business and labor to negotiate public policies. Fearful of growing democratization, conservative party leaders in countries with multiple parties helped to create strong, encompassing industrial-relations institutions with expansive powers of self-regulation because the leaders feared that labor and farmer parties might form parliamentary coalitions against them. They reasoned that their business constituents could secure more favorable policy outcomes in direct negotiations with workers than through legislative processes. In time, the resulting high levels of labor-market coordination inspired stronger motives for successful negotiation between business and labor. The mandates for action coming from the social partners also strengthened the politicians’ incentives for successful negotiation. In contrast, politicians in two-party systems jealously held onto their prerogatives over policy making because they anticipated ongoing electoral contention. As a consequence, employers and workers in two-party systems such as the United States had much less access to policy-making negotiations than their European counterparts, and their willingness to support risky, longer-term, pie-expanding negotiations decreased accordingly (Martin and Swank 2008, 2012).

Institutional features of government create country clusters with somewhat distinctive approaches to reaching political agreements. For example, Lijphart (1999, 2012) identified 10 separate dimensions that differentiate consensus and majoritarian models. We deviate slightly from his rubric and suggest four clusters within the universe of democratic polities that vary on two axes: (1) whether countries have proportional, multiparty systems or majoritarian, two-party systems; and (2) whether countries have unitary or federal governments. Table 6.1 illustrates these four clusters.

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<td><strong>Winner-Take-All Electoral Rules</strong></td>
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In the following discussion, we suggest that each country cluster has a characteristic mode of democratic decision making and negotiation. Moreover, we demonstrate how the adoption of somewhat different rules of engagement allows these countries to deviate from their standard approaches to policy making and, in some cases, to engage in deliberative negotiation. These meso-institutional procedural rules influence the institutional impacts on processes of negotiation and alter the macro-institutional story of cross-national variation.

**Cluster 1: The Centralized Majoritarian Model**

The first cluster contains countries with majoritarian electoral institutions and unitary governance. It is best represented by the United Kingdom—at least, before Tony Blair took actions to decentralize policy-making authority. This cluster contains the fewest number of veto points, and many political scientists celebrate the Westminster system as the most capable of forming a government (Cutler 1980). We might expect to find the most limited use of deliberative negotiation in these countries because centralized, majoritarian parties may simply take unilateral action.

Yet, the capacities to arrive at policy decisions do not necessarily include the negotiation of enduring agreements, and critics of this model suggest that whereas centralized authority may produce rapid outcomes, the solutions must be not only rapid but also short-term and therefore may suffer in both political legitimacy and staying power. Concentrated authority allows for thinner societal coalitions, ironically, and the ease of passage may diminish the legitimacy of the outcome. Majoritarian catch-all parties also bring together varied constituencies, compete for the median voter, have fluctuating platforms, and inspire less confidence among their constituents (Kitschelt 1999; Cusack et al. 2007; Boix 2003). Moreover, in countries with few veto points, authority is concentrated in the hands of a few actors, such as the prime minister and his or her cabinet, and these actors may use their concentrated authority to benefit the social groups with whom they have the strongest linkages. Thus, reducing the number of veto points does not necessarily insulate politicians from social pressures; rather, centralization may reward a somewhat different set of pressures. Yet, centralized authority may be useful in policy arenas in which direct losses must be imposed on everyone to provide goods to future generations.

Despite the capacity for imposing top-down solutions in such systems, one still finds examples of (at least thin) negotiation in this quadrant, in that the implementation of reform may require the participation of a broad set of social actors, and negotiation may be a mechanism for building support for compliance. For example, with its centralized government and mixed use of both proportional and winner-take-all voting, France frequently engages in top-down majoritarian rule. Yet, in 1993, the French state was compelled to negotiate with labor to reform the pension system. French workers are weakly organized and do not have a history of corporatist negotiations; however, they were too strong electorally to be ignored during the pension debate. In this instance, the French state sought to create a more consensual policy-making process by repeatedly meeting with labor leaders in nonconfrontational settings and by building in labor demands in its draft proposal (Natali and Rhodes 2004).

Irish efforts to construct quasi-corporatist relations among the social partners provide an example of how a majoritarian country might adopt repeated interactions to alter the negotiating framework. In the 1980s, Ireland developed rather loose institutions for social partnership,
what Hardiman (2006) called “flexible network governance” to govern more effectively the welfare state, industrial relations, and demands on human-capital growth prompted by expanding international competition. These structures were voluntary, overlapping, and fluid; in these ways, they differed from the formal structures for interest intermediation found in the macro-corporatist countries. Yet, these arrangements, taking their inspiration from across the North Sea, set up repeated interactions among participants across time and policy areas to use “competitive corporatism” to enhance international economic advantage and expand human-capital investment (Hardiman 2006). For some time, these networks fostered a shared understanding of policy problems and priorities, and they built support for governmental legislative proposals. At their most influential, these networks helped people become aware of their joint interests and brought diverse agendas into alignment. However, even in their heyday, their ultimate impact on pay and related nonwage benefits outcomes remained disappointing, and the system essentially disintegrated after the 2008 global financial crisis (Hardiman 2010).

**Cluster 2: The Centralized Consensus Model**

A second cluster of countries combines proportional, multiparty systems with unitary governing institutions and is epitomized by the Nordic countries. Although the unitary distribution of power might accord political leaders the capacity to impose decisions, the proportional-representation electoral systems produce many parties, and (except in Sweden) one party rarely gains a sufficient majority to rule alone. These systems need coalitions, and coalition governments need extensive consensual negotiations. Fortunately, these countries also have strong capacities for producing national accords that extend across the economy. Their capacities derive to some extent from the incorporation of rules of engagement that nurture deliberative negotiation.

An expansive role for technical experts constitutes a staple of policy making in consensual regimes: these countries routinely set up special commissions to investigate social and economic problems, and these commissions often pave the way for pie-expanding, long-term, and other-regarding policy reforms. In the Netherlands, a 1989 expert report on women’s employment served to awaken the country to the desperate need for expanded child-care facilities. It did so by consolidating evidence that previously had not been presented so succinctly and thereby changing the popular perception of the issue (Morgan 2006).

The countries in this quadrant also make use of repeated interactions and private meetings in both their party and industrial-relations systems. The parties in the coalition governments broker deals through successive electoral cycles, and these repeated interactions build the trust needed to develop longer-term, value-creating solutions. Unitary governing structures prevent significant variations at the local level and enable rulers to broker deals that extend across the economic and political regions. The highly coordinated, corporatist industrial-relations systems

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8 Although countries with unitary, proportional government institutions have greater incentives to engage in consensual negotiations, this tendency breaks down when internal party rules and norms create particularistic rather than programmatic multiparty systems. Thus, the culture of the political parties reflects both the electoral rules and the institutional rules unifying the diverse parts of the party (Sorauf 1972). For example, Italian parties operate according to a clientelist rather than programmatic logic, which produces fragmented social and labor-market policies (Lynch 2006). There also is a danger in proportional systems that partners in coalition governments may have marginal political interests that swing the ideological content to the extremes; conservative religious parties have played this role in Israel.
in these countries contribute to their superior capacities for negotiation because the peak employers’ associations and unions develop collective policy preferences among their members. When organized into strong encompassing organizations, individual managers or workers from diverse sectors can identify with those in other sectors, set a priority on shared concerns, and possibly take action.

The case of Danish active labor market policy shows how repeated interactions in private forums foster consensual policy making, as the various parties and social partners all participated in negotiations leading to the far-reaching reforms. Denmark had high rates of unemployment before other core European countries. The government proposed labor-market and social reforms that would diverge radically from past policies by tightening and shortening the eligibility for receiving passive income supports and, at the same time, greatly expanding workforce training for the long-term unemployed. Although the reforms were motivated by ideas on the left and the right—particularly in their neoliberal restrictions on assistance and social-democratic investments in human capital—these happened with the full support of both unions and employers’ associations (Martin and Swank 2012).

The reform process incorporated rules of engagement that contribute to deliberative negotiation. Core ideas underlying the reforms were developed by two blue-ribbon committees (i.e., the Zeuthen Commission for labor policy and the Social Commission for public assistance), and representatives from the peak business and labor associations regularly participated in these private forums for policy making. The bulk of the committees’ recommendations were incorporated into subsequent law. Danish employers also recognized that negotiation-inspiring rules of engagement brought them to favorable impressions of the reforms. Employers credited their own regular participation in corporatist employers’ associations for helping them engage with the active social programs. These forums provided information on the ways that training of the unemployed could aid in workforce development, and the managers recognized that their representative employers’ associations worked extensively to produce a realistic program that would serve the pragmatic interests of firms in its implementation (Martin and Swank 2012).

**Cluster 3: The Decentralized Consensus Model**

A third cluster of countries combines proportional electoral systems with a federal distribution of governmental power. These countries should have the greatest number of veto points and the highest need for negotiation to overcome the many competing locations of policy authority. Countries in the decentralized-consensus model also have adopted rules of engagement that nurture capacities for cooperation and coordination. Their proportional parties and coordinated industrial-relations systems bring diverse actors together in repeated interactions, which build shared conceptions of policy problems and solutions.

The main difference between centralized and decentralized consensus-model countries is that nations with decentralized governmental power tend to produce fewer national-level economic and social pacts that extend across the economy. In Germany, for example,

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9 These insights into employers’ positions on the program came from a study of 107 randomly selected firms in Great Britain and Denmark. Membership in a Danish corporatist employers’ association was a significant determinant of a firm’s participation in the voluntary, state-directed active labor market programs for the long-term unemployed; however, membership in a pluralist employers’ association in Great Britain did nothing to enhance firms’ support for the welfare state (Martin 2004).
the principle of “subsidiarity” requires that policy decisions be made at the lowest level of government, creating regional disparities. Moreover, peak industrial-relations organizations are weaker in these federal countries. The extensive, corporatist labor-market cooperation between business and labor tends to happen at the sectoral level and often without significant engagement with government; consequently, workers’ economic fortunes are more varied in these countries than in Scandinavia (Busemeyer and Trampusch 2011; Höpner 2006; Martin and Thelen 2007; Palier 2010).

Yet, the decentralization found in federal systems may also enhance opportunities for negotiation, albeit at a lower level of government. Decentralizing governmental functions to lower-level units allows political decisions to fit better with people’s preferences, which may enhance the acceptance of longer-term, pie-expanding policy choices (Qian and Weingast 1997). Federalism also allows for lower units to act as laboratories of learning, and these experiments may be subsequently picked up at the national level (Maioni 1998; Sabel and Zeitlin 2010). In Germany, local experiments often have “trickled up” to national solutions because proportionality demands a high level of negotiation among diverse parties, and the Länder (i.e., local governments) have considerable influence in national politics. Finally, although the decentralization of authority may make it more difficult to obtain national-level agreements, the agreements that do develop tend to be more enduring because they reflect more faithfully the concerns of lower-level actors.

The German long-term-care reforms provide an excellent example of how federalism may drive innovative policy solutions, particularly when issues that are difficult to resolve at the central level can be resolved at the subnational level. The German Länder are directly represented in national deliberations and enjoy a de facto veto power over legislation; in the case of long-term care, this arrangement solved a burning social issue. When German people could not afford long-term care, they went on social assistance that was funded by the Länder in a cost-sharing scheme with the national government. The Länder began to feel the financial crisis of long-term care and provided a proxy group to press for a legislative solution and to represent the unorganized interests of future beneficiaries of the policy (Campbell and Morgan 2005). In a similar experience, the Spanish healthcare system passed because regional leaders were allowed to implement the reforms according to their own local preferences (Lynch 2006).

Cluster 4: The Decentralized Majoritarian Model

The final cluster of countries combines two-party, majoritarian rule (which reduces the need for negotiation) with federalism (which fragments political authority). In the United States, which figures in this cluster, the logic of majoritarian-party dominance is diminished by the separation of executive and legislative powers. Divided government under a presidential system with a bicameral legislature creates a greater need to negotiate; however, because the individual units may be controlled with majority rule, the structure encourages the emergence of individual and separate centers of power, institutional warfare, gridlock, dual government policies, and unilateral action. The many veto points decrease policy coherence by forcing politicians to accommodate a wider array of preferences, to use pork-barrel spending to attract diverse constituents, and to cater to minority interests, thereby undermining a coherent policy-making process (Cox and McCubbins 1997; Linz 1990). The recent US government shutdown illustrates perfectly the dynamics producing stalemate within this cluster of countries.
In the Westminster systems found in Cluster 1, party discipline is a virtue because it allows political leaders to “gather their troops” in a united campaign to deliver their promised policy agenda. Yet, in Cluster 4, party discipline can exacerbate the potential for stalemate because it strengthens the capacity of individual centers of power to engage in institutional warfare. The case of the United States illustrates the point. When political parties in the United States were more diverse and less disciplined, they also included a greater share of legislators in the center of the ideological spectrum. The overlaps between the parties expanded the space for both “horse-trading” and deliberative negotiation among legislators. The American Congress was then a more integrated, consensus-oriented institution, in which legislators developed “internal careers” in the House or Senate that were guided by seniority and reputation. But the high levels of negotiation that these patterns made possible broke down when the internal careers and institutional norms were challenged by the opening of committees and other parts of the institution to public scrutiny in the 1970s (Polsby 1980).

In this quadrant, federalism has had mixed impacts on the polities’ capacities for deliberative negotiation. Under Canadian federalism, the provinces are loosely held together by the national polity and have significant autonomy in experimenting with policy innovations in areas such as pensions and healthcare (Maioni 1998). Policymaking at the federal level has also provided a solution to national incapacities in the United States; however, this fragmentation of political authority has also, at times, prompted a competition among subunits for business and a “race to the bottom” to avoid overly taxing and regulating potential investors (Elazar 1972).

Countries in this quadrant also have weakly organized pluralist industrial-relations and interest organizations. The United States, for example, has a great need for societal capacities of consensual politics to overcome the many veto points associated with a presidential system and federalism, but it has a low capacity among social groups to aid in building support for reforms (Martin 2000).

Introducing different rules of engagement can make a difference in countries that are not otherwise institutionally equipped for consensual negotiations. Even in the United States, for example, legislators and private actors have been able to engage in higher levels of negotiation under some circumstances. American legislators have frequently turned to penalty defaults because the multiple veto points in the system construct such high barriers to successful negotiation (although as recent events demonstrate, these defaults are not always successful). After the “sunshine laws” opened up committees and other venues to public observance, US legislators sought to reintroduce into the legislative process private meetings with repeated interactions among party leaders, and these efforts produced some crucial deals. In 1983, when legislators sought to make the social security system solvent, they faced a choice of cutting payouts to future retirees or investing in the accumulation of a fund that would help to defray long-run pension costs. The Democrats and their labor allies wanted to solve the problem with an influx of cash from outside revenue sources, whereas the Republicans and their business allies sought to cut benefits and freeze payroll taxes. However, neither the left (in control of the House) nor the right (in control of the Senate and White House) had a sufficient concentration of institutional power to impose a solution on their fellow negotiators. Yet, neither party wanted to accept the blame for inaction. The desire to escape blame motivated both parties to adopt a “circle-the-wagons” strategy and produce a bipartisan deal. Negotiating in secret, both sides
accepted an immediate sharp increase in payroll taxes and cut in benefits in order to guarantee the longer-term solvency of the system (Jacobs 2008, 205; Weaver 1987).

**Conclusion**

This chapter explores the impacts of rules of engagement on negotiation processes. We suggest that countries have distinctive styles of governance that reflect their institutions for aggregating citizen preferences and that some governmental institutions are associated with a greater need and capacity for negotiation. Countries with concentrated political authority in two-party systems with unitary government may rely more easily on simple majoritarian political rules and have a more limited need for political negotiation because reforms may be imposed from the top down. In contrast, consensus-oriented countries with proportional electoral rules tend to form broader multiparty coalitions in support of policy reforms, include a stronger role for social partners in policy formation, and are more likely to use consensual negotiation to arrive at political resolutions.

Institutions in consensus-model countries incorporate several rules of collective political engagement that overcome negotiation myopia and inspire successful negotiation. The use of nonpartisan third-party experts to establish a common understanding of policy problems and solutions helps negotiating participants to overcome suspicions about the motives of other actors and to build a shared perception of the task at hand. Repeated interactions among negotiating partners help to diminish opportunities for deception and to build trust, shared perception, and commitment to the negotiating process. The use of penalty defaults strengthens the resolve of actors to find solutions because the consequential alternative is likely to be worse for all. Private meetings help to diminish the ability of other forces to “hijack” negotiations for illegitimate gains, although this privacy must be balanced by transparency in holding legislators accountable for their actions.

Negotiation is certainly not a ubiquitous palliative to political conflict. Deep material, ideological, ethnic, and cultural interests may lead actors to have strongly—perhaps intractably—divergent ambitions; in these instances, negotiation may become a waste of time at best or an opportunity for strategic subterfuge at worst. In other instances, negotiations that include many actors may prevent the enactment of important policies. For example, to achieve significant redistribution, one might wish to limit the scope of negotiating partners because redistribution is best served by coalitions of the middle and lower classes against the wealthy (Iversen 2005). Negotiations that included the wealthy would fail to meet this goal. Similarly, under conditions of extreme inequality, violent revolution or the interventions of benevolent dictators might be best suited to make adjustments to the social order, whereas negotiations might simply subvert the revolutionary ambitions.

Economic constraints have great effects on opportunities for successful negotiations; pie-expanding social reforms are more possible when the welfare state is not under siege. Thus, efforts to advance greater cooperation in industrial relations in Ireland seemed much less promising in the punishing aftermath of the global financial crisis (Hardiman 2010). Agents must have the support of their principals, and the congeniality of the negotiating table does not always translate to the world beyond.
The goals of negotiation are also multidimensional, and institutions and procedural rules may facilitate some aspects of negotiation but not others. Pie-expanding negotiation techniques may benefit current stakeholders but may damage long-term prosperity because the needs of current parties in the negotiation may differ enormously from those of the next generation. Measures with broad coalitional support often are highly visible; yet, quiet policies with lower stakes may slip more easily under the radar screen of political conflict. The impacts of manipulating meso-level rules may be limited by entrenched expectations and practices associated with political culture.

Americans, like citizens of all countries, want security, cooperation, and community; yet, we have marshaled evidence that the institutional design of our political system works against these goods. Thus, the overarching aim of this chapter is to identify some of the processes of negotiation that allow other countries and supranational entities to avoid the deadlock and stalemate that characterizes American politics today and to better understand the institutions and procedural arrangements that facilitate these processes for successful negotiation.
References


