Chapter 2. Capacity for What? Legislative Capacity Regimes in Congress and the Possibilities for Reform
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The U.S. Congress is widely derided as broken, dysfunctional, and failing to fulfill its constitutional role. Though never an exceptionally popular institution in the American political tradition, Congress’s current standing, both by popular and by expert judgment, is abysmal.

Observers tend to offer two explanations for the current crisis of Congress.

The first, and primary, explanation blames the divisiveness and polarization of Congress. In this era of record-high partisan polarization, the two parties’ voting records no longer overlap as they did before (Rhode 1991; Sinclair 1995, Poole and Rosenthal 2007; Theriault 2008, 2013; Lee 2009, 2016; Koger and Lebo 2017). A Congress organized into two disciplined partisan teams that refuse to compromise is a Congress that will produce very little meaningful legislation and very high rancor in a political system set up to make majority rule difficult.

The second, less widely-discussed explanation focuses on knowledge and competence. The claim is that Congress lacks the basic knowledge resources to perform its legislative and oversight duties well. Individual members and their staff simply don’t have the time and expertise to adequately understand the public problems they are attempting to resolve (Adler and Wilkerson 2012; Baumgartner and Jones 2015). As a result, Congress is left to rely on external sources of expertise, especially from executive branch staff who they are supposed to check and balance (Aberbach 1990, Kiewet and McCubbins 1991) and outside lobbyists who represent narrow, predominantly business, interests (Drutman 2015, LaPira and Thomas 2017). This dependence undermines the effective functioning and independent judgment of Congress and leads to policies that respond mostly to narrow and well-resourced interests, to the extent Congress responds at all.

While it seems clear that Congress has moved too far in the direction of overly divided parties and inadequate internal resources, we note that earlier critiques of Congress claimed the opposite problems.

In the 1950s and 1960s height of bipartisanship when the two parties were loose overlapping coalitions with little centralized direction, political scientists and reformers alike called for party leadership to exercise more centralized authority. They believed clear and coherent majorities would bring much-needed order, and much-needed democratic accountability would follow (APSA 1950, Bolling 1965, Zelizer 2006)

In the late 1970s, when Congress was at the height of its expert-driven policy development, scholars and reformers began to complain that Congress had too much staffing. Staffers were operating as “unelected representatives,” creating a deluge of proposals and
information that were overwhelming Congress (Malbin 1980), or they were leading to member “enterprises” that were fracturing the coherence of Congress by allowing members to enjoy perpetual reelection through casework and pork-barrel politics. (Shepsle and Salisbury 1981; Cain, Ferejohn, and Fiorina 1987)

In other words, there has never been a truly golden era of congressional government. In every era, political scientists and reformers have looked at Congress as an institution and found it deficient in some respect or another. Every Congress has been dysfunctional in its own way.

In this essay, our goal is to provide a new analytical framework to better assess normative claims about legislative politics across historical periods.

Our analytical framework argues that while organizational structure is fundamental, resource allocation adds an important, orthogonal dimension. Together, it is the interaction of these two factors that determines the nature of congressional capacity.

To construct this framework, we start with the more well-known dimension: the Organization dimension. Broadly, congressional scholars have focused on a single dimension of organizational structure, centralized vs. decentralized, most commonly operationalized as party-centered or committee-centered. Various theories explain why Congress has waxed and waned between a decentralized, committee-based structure and centralized, party-based structure (Polsby 1968, 2004; Cooper and Brady 1981, Brady and Volden 1998) — an understandable focus since different organizational structures lead to fundamentally different agendas, procedures, and outcomes.

Our contribution here is to add a second dimension: the resource allocation dimension. The basic intuition here is that people and their experiences matter, because it is people, not organizational structures, that ultimately make decisions. Decision-making depends not only on anticipated rewards and punishments, but on knowledge, experience, cognitive information processing constraints, and norms. The range of possible solutions will depend on what people writing the laws know, and what they have the resources to pursue. Accordingly, we classify resources as either simple or complex.

Rather than measure capacity in terms of more of “more” or “less,” our approach creates a framework for examining different types of capacities. Different interactions of structure and resource allocation will yield different legislative capacity regimes.

When we describe Congress as broken or dysfunctional, we often fail to provide a baseline standard. What is it that we expect Congress to do? To answer that question, we offer a normative framework.

We tend to measure things like legislative productivity and bipartisanship, as if these outputs were ends in themselves. In reality, they are means to broader ends. Analysts and pundits focus on them, because, by historic standards, both of these outputs seem low. But
what is the optimal amount of bipartisanship or legislative productivity for a legislature? Can there be too much? Too little? And what would we think of a bipartisan legislature that had record productivity removing every health, safety, and labor protection on the books? Would we be satisfied with a Congress that was highly productive in undoing every anti-corruption law?

Thus, as a way of evaluating Congress, we offer four criteria that we believe resonate broadly with both democratic theory in general and American republican tradition specifically: representativeness, responsiveness, deliberativeness, and oversight.

The remainder of this chapter will proceed as follows. First, we elaborate on these four evaluative criteria. Second, we describe our two analytical dimensions of Congress -- organizational structure and resource allocation -- and explain how their interaction defines what we call legislative capacity regimes. Third, we will describe these different regime types in more detail, using historical examples, and evaluate how they perform on our four evaluative criteria. Finally, we will examine the prospects for change. Given that each of these regimes create trade-offs and produce tensions, no regime is ever stable for the long-term. Each regime highlights some criteria over others, and they all benefit some members of Congress and some societal interests at the expense of others. Thus, we’ll conclude by examining the ways in which the current regime might fall apart, and based on our reading of the underlying historical cycles and trade-offs, what might follow (Cooper and Brady 1981b, Schickler 2001, Pierson 2011).

I. Criteria for Evaluation

What should a legislature do? In a classic essay on legislatures, Nelson Polsby described them as “official, accountable, deliberative assemblies” (262) and argued that a “melange of characteristics — officiality, a claim of legitimacy based on links with the people, multimemberedness, formal equality, collective decision making, deliberativeness — typifies and distinguishes legislatures in a wide variety of settings.” (260)

The U.S. Congress is one particular legislature among thousands of legislatures, operating at the local, national, and supranational levels. It sits within a very unusual political system, distinguished by the unique combination of separation-of-powers, federalism, and a two-party system. Compared to most political systems, American political parties have few formal powers, and individual members have more autonomy (Taylor et al., 2014).

Thus any normative framework of the American legislature must combine broader normative goals of legislatures in general alongside the idiosyncratic conditions of the U.S. Congress.

Here we judge the U.S. Congress on four criteria, drawing from various normative theories
of democracy

- Representativeness: how well does Congress represent the diversity of interests in society and ensure their equal opportunities to influence in the policy process?

- Responsiveness: How congruent are Congressional agenda priorities and the priorities of the public at large?

- Deliberativeness: Does Congress seek out and incorporate the best available information and reason through the causes and consequences of public problems?

- Oversight: How well does Congress monitor and evaluate the executive branch?

Our aim with these questions is not to reinvent the wheel, but rather catalog the many benchmarks political scientists and reformers use to evaluate how well or poorly a legislature is functioning. Let us now go through each of these, in turn.

Representativeness

Representation is an admittedly complicated concept, and there are many types of representation (e.g. Pitkin 1967, Mansbridge 2003, 2009; Urbinati 2006). We do not wish to get bogged down in a measure of perfect representation. America is a diverse country with a diverse economy, a diverse population, and a sprawling geography. As the country has grown, the diversity has only expanded.

How well do these diverse perspectives get represented in the legislative process (Mayhew 1974, Fenno 1978, Miller 2010)? Do individual members come from diverse backgrounds? Do they make space for diverse perspectives even if they themselves do not personally represent those perspectives? Are they open-minded enough to recognize competing or underrepresented perspectives? Members can either represent perspective diversity themselves as direct advocates for differing positions, or give voice to a diversity of perspectives through their actions.

When there is broader ideological and perspective diversity among individual members, when more diverse perspectives can participate through hearings and other mechanisms, we would describe Congress as more broadly representative. One challenge here is how much to weight descriptive representation. On its face, a Congress that looks more like America in terms of gender, race, class, or other social identities should result in a broader diversity of
perspectives in the policy process. But if the policy process is narrowly controlled by a small clique of leaders and influential well-resourced interests, descriptive representation may merely put a representative face on an unrepresentative policy process.

Responsiveness

A second feature of a legislature is its ability to prioritize and call attention to public problems. We call this responsiveness. A legislature should respond to public problems. In theory, a responsive legislature calls forth and attends to the most important public problems, prioritizing in a way that reflects the significance and urgency of the issues at hand (Kingdon 1984, Arnold 1990, Baumgartner and Jones 1993, Powell 2000).

Agenda-setting has both a positive and a negative dimension (Bachrach and Baratz 1962; Cox and McCubbins 1993, 2005). It involves not only putting issues on the agenda, but keeping issues off the agenda. Agenda control involves both formal and informal powers, formal and informal resources. Members and interests are always competing to have their issues atop the agenda, while keeping the issues they oppose off the agenda.

Again, there is no single measure of agenda-setting quality, and as with representation, there is no expectation of perfect correspondence with the public at large. And as with representation, we can ask a similar question: Does the agenda of Congress broadly respond to the most urgent and pressing public problems that Congress has the authority and potential to resolve? Or does the agenda broadly represent the narrow concerns of small and unrepresentative share of the population, who happen to control certain levers of power?

Deliberativeness

A third expectation for a legislature is deliberation. A legislature should provide a space for reasoned deliberation about the merits of public policies. High-quality deliberation is informed and realistic, driven by the best available expertise, and open to alternatives. Low-quality deliberation is purposely ignorant, with pre-determined positions that are immune to the force of the better argument and new information (Mansbridge 1980, Stone 1997, Guttmann and Thompson 1998, Mucciaroni and Quirk 2006)

High-quality deliberation involves claims that are persuasive and credible, and more importantly, legislators who are at least receptive to being persuaded by credible claims.. Genuine deliberation demands being willing to hear out the other side, to see the world from other perspectives, and to seek outcomes that will be as widely supported as possible.

Low-quality deliberation involves arguments where nobody is persuaded, because persuasion is not the intent. Information is presented not to convince the other side but to justify and bolster the motivated reasoning of your own side. Low-quality deliberation involves
erroneous and debatable claims, and high tolerance for specious analysis. In low-quality deliberation both sides not only have their own opinions, but also their own facts.

In the Polsby’s (1975) classic typology, a transformative legislature has the “independent capacity... to mold and transform proposals” (277), as opposed to being a mere arena in which the legislative outputs are perfectly predictable given the external policy inputs and some basic vote-counting.

Our evaluation of deliberation also needs to account for obstruction and other sources of friction that undermine it. Deliberation is important, but endless deliberation is crippling. Public problems demand a response, and if the legislature does not respond, other actors will, either in the private sector or in the executive branch.

However, Congress is the only institution in society that is set up to reconcile diverse perspectives, and achieve a legitimating compromise solution.

Thus, a key aspect of deliberation is building legitimacy for an outcome — if a wide range of groups are represented, and if there is a genuine deliberative process, we should expect a broad public to feel that the outcome is more legitimate. The outcome will also likely reflect a broader and thus more lasting agreement. Legislation that is enacted quickly without broad support is less stable, since its opponents may wish to undo it should they get into power again in the near future.

Oversight

Congress is not only a law-making institution. It also checks the power of the executive, central to America’s unusual separated-powers system. Moreover, even making laws is not a linear process. It requires reflection, careful monitoring, institutionalized feedback mechanisms, and the potential to recognize ineffective policy commitments as a matter of routine lawmaking. Because America is a separated powers system with an independent president, this typically means an oversight responsibility for policy implementation (Arnold 1979, McCubbins and Schwartz 1984, Aberbach 1990, Carpenter 2001)

Congress accomplishes both forms of oversight through episodic, sometimes inquisitorial oversight hearings, and through the more continuous budgetary and authorization process. The power of the purse over executive programs means Congress can shut down dysfunctional or corrupt programs and boost effective programs. Congress also institutes automatic mechanisms like sunset provisions to credibly commit future Congresses to evaluate program effectiveness.

We need to be careful here. Again, more doesn’t automatically mean better. Programs and executive agencies that are functioning well may face undue interference in the guise of oversight, and politically motivated oversight and budget-cutting may abuse the power of the purse more than it is constitutionally intended to check and balance the execution of law.
As with deliberation the right balance is challenging. We may recognize legendarilily good Congressional investigations, which involved detailed, careful efforts (Watergate, Church Committee, etc.), as well as the legendarilily bad investigations, which were sloppy and hyper-political (McCarthy’s anti-communism hearings, Benghazi). But much lies in between. Ultimately, objective judgments about oversight have to be qualitative as well.

An evaluative framework

All of these criteria can suffer from excess as well as absence. A legislature that was perfectly representative would have too much diversity to function. A legislature that deliberated too carefully would never get anything done, just as a legislature that was very efficient would almost certainly make mistakes in its haste. Too much oversight can be just as bad as too little oversight, since the executive branch needs some amount of bureaucratic autonomy to function well. Too much responsiveness to the whims of public problems runs the risk of excessive over-correction and policy whiplash. A certain degree of policy stability is valuable as well.

Still, though these criteria create trade-offs, some capacity regimes strike a better balance than others. Certainly, Congress will never be everything we want it to be. But it can be more or less of what we want it to be, depending on organization structure and internal resources. But understanding even the best that Congress can be is not perfect, we aim to calibrate expectations in a way that produces more realistic judgments of the institution.

II. The Two Dimensions of Congressional Organization: Structure and Resources

Let us now turn to the two dimensions of Congressional Capacity, organizational structure, and resource allocation in a little more detail. For simplicity, we break both concepts into binary conditions, though we recognize that they exist on a continuum.

Organizational Structure

We’ll start with Organizational Structure. The simple binary dimension here is centralized vs. decentralized. This dimension has been thoroughly explored by political scientists.

In the centralized condition, a small group party leaders control the agenda of Congress. They determine when, how, and which bills come to the floor (Sinclair 1983, 1998, Cox and McCubbins 1993). They determine the content of the bills, with minimal input from rank-and-file members (Lee 2015, Curry 2015, Lee 2016; see also chapter 14 of this volume). Voting tends to follow predictable patterns, primarily along a single (party) dimension (Poole and Rosenthal 2006, Theriault 2008). Coalitions are very stable, and tend to be quite rigid.
In decentralized condition, leadership is much more ad hoc, and varies on an issue by issue basis. Bargaining can happen along multiple dimensions, rendering party labels less useful in predicting votes. As a result, voting is less predictable, and coalitions are fluid and flexible. Party leaders have fewer formal and informal powers, while committee or even subcommittee chairs have more opportunities to develop leadership and power in narrow but frequently overlapping issue fiefdoms (Cooper and Brady 1981; Schickler 2000, 2001; Krehbiel 1992). Individual members play a much more important role as policy entrepreneurs who shape and drive their own voting coalitions for specific issues (Wawro 2001, Hall 1996, Adler and Wilkerson 2013, Bernhard and Sulkin 2017).

Organizational Resource Allocation

The second dimension is organizational resource allocation. The binary dimension here is simple or complex. This concept represents more than mere counts of personnel and the size of office budget line items for information technology. It reflects the level of specialized knowledge, and the ability of Congress to tackle complex problems. Certainly, we may expect complex staff cost more, so budgets and head counts may be our best quantifiable measure of how Congress reveals its collective preferences for simplicity or complexity.

The concept here builds on Baumgartner and Jones’ *The Politics of Information*, in which they describe “the tension between the desire for clarity and clear organizational rules and procedures and that of finding the proper fit with the environment and the problems the organization seeks to resolve.” (Baumgartner and Jones 2015, 20) Organizing for simplicity is organizing for clarity and predictability. Organizing for clarity narrows the range of considerations, but it does improve efficiency. Organizing for complexity means giving up some control to search for new solutions, wherever they may lead. It means being open to a wider range of alternatives, forsaking predictability, and trading off efficiency for adaptability.

To illustrate, consider two hypothetical congressional member offices.

In Office One, the primary objective of the member is predictability. The main task of staffers is to take party leadership talking points, and turn them into press releases and constituent response letters for the individual member. The secondary task of staffers is to take legislative suggestions from campaign donors and introduce them as bills, then let the donors’ lobbyists recruit co-sponsors. The tasks are simple, easily learned on the job. The roles require minimal legislative process knowledge, virtually no substantive policy knowledge, few long-term relationship-building or personal connections in established peer networks. The ideal staffer avoids risk and defers to the status quo. Just about any fresh-out-of-college staffer could accomplish these tasks with minimal training. Even supervisors like chiefs of staff and legislative directors' roles are straightforward — one does not need deep, institutional memory to achieve the member's goals.

In Office Two, the member of Congress is less concerned with following simple rules. The
role of staff is to seek out unresolved public problems and to discover innovative new solutions. This requires considerable work, both in identifying the problems and assembling the solutions, but also in building the unusual coalitions necessary to carry bills through the legislative sausage-making machine. Staffing roles in this office are complex and redundant. There is differentiation in primary responsibilities, but there are few clear and discrete tasks. The work demands experience, ingenuity, and a high tolerance for risk-seeking. Staffers in this office must have experience with the political process, know the jargon and historical minutiae of the specific policy, and have well-established, wide-ranging relationships in and out of the institution that are necessary to build supportive coalitions.

In Office One, the goal is to provide certainty and predictability. The tasks are clear, actionable, and categorical. There are few open questions, because everyone knows what to do ahead of time. In Office Two, members recognize that the world is complex, and relinquish expectations of predictability and certainty. They are comfortable delegating details, leaving much to broad, general goals. The tasks on any given day are more variable.

III. Legislative Capacity Regimes

Taken together, we can envision four ideal-type legislative capacity regimes under varying organization and resource allocation interactions.

[Insert Table 2.1 about here]

Table 2.1. The Legislative Capacity Regime Schema

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<th>Organizational Structure</th>
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<td>Simple</td>
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<td>Complex</td>
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<tr>
<td>Decentralization</td>
<td>Parochial Patronage</td>
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<td>Centralization</td>
<td>Adversarial Clientelism</td>
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<td>Pluralist Adhocracy</td>
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<td>Consensual Coalition</td>
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These are obviously ideal types. Both dimensions exist along a continuum, and most historical periods fall somewhere in between these ideal types, or combine the elements of more than one in varying proportions. These ideal types are thus not meant as pure descriptors, but rather as a way to help us consider the broader trade-offs of different institutional arrangements, and the impossibility of ever “solving” Congress.

We also expect that these regime types will be reflected more purely in the House than the Senate, because the simple majoritarian structure of the House allows for more wide-ranging rules changes over time. As a super-majoritarian institution, the Senate tends towards less dramatic changes, even though its internal organization also reflects the broader political
currents.

*Parochial Patronage*

In a decentralized legislature with little ambition for solving big problems, we expect individual members or small minorities – such as state delegations, common-interest caucuses, identity groups, factions – to be relatively autonomous, each looking out for their own sustainers (constituents, donors, etc.). In such an arrangement, parties are weak. Members delegate relatively little authority to party leaders, preferring to control their own fiefdoms, often proliferated through autonomous committees, temporary commissions, or one-off task forces. They are happy to cooperate across party lines to achieve the efficiencies of log-rolling, but only to the extent that doing so benefits local constituencies, particular industrial interests, or some other faction in society or the economy.

Under these conditions, members of Congress prioritize individualism, independence, and parochialism. To do so, they will employ personnel who are exclusively loyal to member’s individual legislative enterprise. Little expertise is required beyond knowing what the member’s parochial constituencies’ and political patrons’ needs are. The overarching objective of the legislative enterprise is analogous to retailers’ customer relationship management: the customer is always right, even when they’re wrong. One does not need to know much more than to follow the analog political maxim: The donor/constituent group is always right.

The result will be a legislative body that is disorderly, and unpredictable. But with high reelection rates, individual members have little reason to fix a system that isn’t broken to them. At the extreme, these conditions will also implicitly encourage outright corruption, where highly independent members have incentives to personally obtain private benefits for themselves and their allied benefactors, often through private bills, highly specific earmarks, and other non-legislative constituent favors. The legislator’s enterprise is geared toward securing largesse for rent-seeking special interests.

**Representativeness.** Well-organized parochial interests can do quite well, but benefits are distributed unequally, usually to those who have the connections, resources, and political know-how to get what they want. Larger scale public-minded interests or party-loyal — as opposed to member-loyal — groups fare poorly.

**Responsiveness.** Congress suffers from free-riders, and the institution has little ability to agenda-set. Congress does not act as a genuine national legislature.

**Deliberativeness.** There is no forum or reason for open discussion and debate, since individual members know their idiosyncratic patronage needs more than any of their colleagues, who themselves are their own best experts. There are few opportunities for
introducing impartial expertise on general consequences of the legislatures actions, especially if the expertise reveals the ills of the system.

Oversight. Oversight is sporadic, and done only to justify the extraction of rents for parochial interests. On issues where particular industries or constituents have a concern with a government agency, individual members can jump to respond, but lacking such demands, otherwise have no incentive to monitor and evaluate government programs.

In short, this is a Congress performs poorly fails on all objective evaluative metrics.

The ideal type is the disordered, corrupt Congress of the 1880s that Woodrow Wilson railed against in *Congressional Government* — and for good reason. Some elements of this Congress began re-appearing in the late New Deal period as well, creating conditions for the Legislative Reorganization Act of 1946.

Of the four regime types, only one — “parochial patronage” — reflects a non- or de-institutionalized arrangement, in which the institution is porous and unbounded by rigid, formal institutions and structures. The other three conditions all reflect different versions of “institutionalization,” each with their own set of bounded, complex organizational features. A full “de-institutionalization” would reflect a return to the “parochial patronage” condition.

**Adversarial Clientelism**

When party leaders prioritize resolving collective action problems by centralizing power, yet still allocate resources for simple predictable purposes, Congress winds up in what we call “Adversarial Clientelism.” The hallmarks of such an arrangement are highly polarized parties with intense partisan teamsmanship. Each party represents a distinct coalition of interests, with minimal ideological overlap and little expectation of winning over the other side's groups.

We describe it as “adversarial clientelism” because we believe that it captures the two primary elements of this arrangement. It is adversarial because it involves contested two-party competition. And it is clientelistic because both parties represent coalitions of groups that benefit exclusively from one or the other party in power. The parties collaborate with these groups to control both the agenda and policy outcomes, in exchange for electoral resources.

Under these conditions, Congress has limited need for its own independent expert staff. Party leaders delegate considerable authority to organized groups, which gladly subside lawmaker-allies (Hall and Deardorff 2006). Committees exist primarily to deliver the client groups’ and partisan priorities, and lack the genuine independence to produce compromises. Party leaders instead work out compromises among coalition groups and party donors. There is no need to develop new ideas. Under the sway of a clear and predictable ideological catechisms
that define the membership of the coalition, the world appears as a much simpler place with a clear “us” and a clear “them.” (Bawn, 1999)

Members outside of leadership have little ability to carve out their own individual brands, and instead depend on national party brands. While their personal ambitions may be to do something grander than being a rank-and-file member, the realities of day-to-day lawmakers and campaigning don’t allow for it. They staff their offices accordingly. Elections are referenda on the party in power, rather than individual members, leading to more wave elections, and higher turnover.

Representativeness. Given the majoritarian nature of the two-party system, such a regime is only capable of collectively representing the groups who ex ante belong to the governing coalition. Individual legislators restrict their dyadic representation only to those who neatly fit party-aligned voter coalitions. Parties are simply coalitions organized interests and ideological identities that commit to representing only the most active interest groups (Bawn et al 2012, Krimmel 2017), especially if they underwrite their primary objective of winning the next election. And there’s always a next election, so seeking out legislative solutions to social and economic problems is always secondary.

Responsiveness. Majority parties have a strong incentive to respond to broad public issues. However, because centralized leadership creates a bottleneck as it tries to limit the agenda to only issues that unify and benefit its side, many public problems never get a hearing.

Deliberativeness. When a few party leaders are making decisions based on pre-justified conclusions, there is little space for deliberation. Moreover, without significant investment in complex resources, they have little access to information that might change their mind.

Oversight. If government is unified, there is little oversight. If government is divided, oversight is primarily intended to expose or manufacture scandal in the opposing party. The purpose is not to reflectively inquire about policy implementation, but to reflexively undermine the opposing party’s brand. Oversight is not objective inquiry. It’s a performative spectacle.

While this regime often has strong appeal to individual members in its early stages, when individual members crave the order and predictability it promises, this regime quickly leads to a weakened Congress. When all policy most go through the bottleneck of leadership, Congress is limited in the range of public problems it can address that also gives the party a collective advantage in the next election contest.

The most notable episodes that approach the ideal type of the adversarial clientelism regime include the Gilded Age Congress of 1890-1910, and the current era.

*Pluralist Adhocracy*
When authority is widely diffused and individual members and committees have access to considerable expertise, we have “pluralist adhocracy.” In this legislative capacity regime, coalitions assemble issue by issue. Entrepreneurial members will be well-positioned to achieve ambitious legislative outcomes, so they and their staff are motivated to put in the grueling work to develop ideas into successful, enduring government programs.

In this regime, party leadership is weak. Instead, committees and subcommittees balkanize into substantive policy domains, which include interested legislators, bureaucrats, external stakeholders, and other interested committees (Lowi 1979, Heclo 1978, Laumann and Knoke 1987, Browne 1990, Hansen 1991, Heinz et al 1993, Heaney 2004). Because these areas are specialized, active participation will require some claim on expertise. Accordingly, members of Congress require expert staffs, who build relationships and develop, pass, and oversee policy over a long time frame.

Pluralist adhocracy creates an unpredictable environment, in which every individual member must carve out her own way. As a result, members create durable, flexible enterprises to support them. In such a Congress individual member turnover will be relatively low, because individual members can create unique personal brands that help with reelection. Electoral success depends less on party identity and more on the development of a personal vote. Low member turnover allows for more long-term policy thinking, through critics complain that consistently high incumbency reelection rates undermine accountability. In this more open policy environment, competing interests have opportunities to compete in a rough-and-tumble contest of ideas and interests, reflecting the group-based nature of American politics mid-century pluralist theorists favored. (Truman 1951, Dahl 1961, Polsby 1963)

Representativeness. Broadly, this is the most substantively representative that Congress gets. In Pluralist Adhocracy, there is space for a wide variety of groups and interests to gain access and participate in the policymaking process, and enough staffing capacity and time for hearings so that many groups can present their perspectives on an equal footing.

Responsiveness. Pluralist adhocracy gives Congress the most capacity to deal with many issues at the same time, since there is no hierarchical partisan bottleneck. And assuming overlapping jurisdictions and active subcommittees, it is harder for any one committee to bottle up legislation.

Deliberativeness. This regime produces high-quality deliberation. Highly specialized experts are able to debate and discuss issues with multiple stakeholders. And since many issue domains operate outside of partisan constraints, individual members are more open to a range of perspectives, and willing to consider alternative outcomes.

Oversight. Oversight under this regime is generally strong, for two reasons. First, members and staff who carefully craft laws are likely to have a strong interest in their implementation. Second, entrepreneurial members have space to pursue their ambitions in this regime, and oversight is one avenue for ambition.
From the outside, this regime often looks chaotic and disordered, and critics might complain that it often doesn’t do much, simply “muddling through” by maintaining a status quo series of compromises among competing interests (Lindblom 1965). Over an extended period, individual members may feel frustrated by the lack of leadership, and the ways in which partisan majorities can be thwarted by semi-invisible interest groups. (Bolling 1965, Zelizer 2006)

The closest Congress came to this ideal type was the 1970s, an era in which well-resourced committees and subcommittees dominated, and voting coalitions were at their most fluid. What may have appeared to be “all politics is local” was actually “all politics is ad hoc,” which marginally benefited local and parochial interests as it produced broader public goods like clean air and water, automobile safety regulations, and improved education resulting from free and reduced lunches for hungry kids.

Consensual Coalition

When authority is centralized and resource allocation is complex, Congress will make decisions in a top-down manner, utilizing internal human resources that are oriented toward complex problem solving.

This capacity regime is the most unlikely. The most fitting episodes are those that appear during major threats, like depression and war, in which unity emerges from the rally around the flag effect when disparate interests share a common enemy. Congress will marshal its internal assets toward experts seeking to find consensus to resolve the problem. It will temporarily put aside other unrelated policy conflicts that differentiate the parties and factions. This capacity regime will prioritize inter-party consensus, develop effective policies and programs, and justify their policies as responsive to common good principles. Concerns about party-affiliated interests or parochial constituent interests will matter much less. Because of the nature of these complex problems, Congress will prioritize investing specialized resources into understanding them. And the scale and importance of these problems will attract top talent.

Representativeness. In a strict sense, this regime represents the concerns of the American people well, since in moments of national crisis, the public orients around a single, shared concern: solving the crisis at hand. However, in a more literal sense, the centralized decision-making is unlikely to be broadly representative.

Responsiveness. This regime is highly responsive to public problems, almost by definition. It exists only when there is broad public agreement over the most important problems, which it then prioritizes.

Deliberativeness. This regime is not deliberative, since by the very nature of the problem, it is oriented to move with speed. Under this regime, the perfect is seen as the enemy of the good. Congress under these circumstances prioritizes a rapid, unified response — perhaps
simply rubber-stamping presidential demands — even if it is sure to unintended consequences and negative externalities.

Oversight. Oversight is mixed. On the one hand, the urgency and importance of the problems demands high oversight, and creates many opportunities for ambitious politicians for career-making oversight (see, e.g., the Truman Committee, aka The Senate Special Committee to Investigate the National Defense Program, to investigate military waste and mismanagement). However, because of the scope and speed of national problems, Congress may give considerable deference to the executive branch.

Since this regime depends on common-threat problems, it is highly unstable (once the threat is resolved, the regime dissolves). And while it is responsive to large-scale problems, it does this in a way that marginalizes other concerns, and limits dissent.

Congress during the Civil War was for all practical purposes a one-party state, with one goal: reconstituting the Union. The same can be said for Congress during World War II. In the immediate aftermath of Pearl Harbor, both parties were in lock-step — at least in public — about presidential wartime authority, and swiftly and dramatically increased defense spending and set into place strict economic regulations rationing the distribution of critical products. This consensus on nationalizing economic activities is inconceivable outside the context of war, where parties and ideologues will conflict the most on fundamental questions such as the government’s role in regulating markets. Of course, consensus policies are not necessarily good policies. The internment of citizens of Japanese descent was a wartime consensus that was ultimately rejected by a Supreme Court that was not party to the capacity regime.

And, though this regime may be temporary, many of the programs developed under this consensus may endure as legacy projects. For example, though the parties returned to their respective domestic policy corners after World War II, the perpetual Cold War priorities compelled Congress to create ambitious programs like putting a man on the moon or proliferating nuclear power plants across the country.

Overall scorecard
At different times or depending on ideological commitments, the public may assign different weights to these different criteria. Moreover, when in the midst of any regime, it is always easier to see the shortcomings instead of the advantages. The “focusing effect” cognitive bias suggests that members will always see the grass as greener in some other, bygone era of congressional capacity. As a result, reformers eye the deficiencies, without understanding the ways in which they represent tradeoffs. The most dangerous outcome would be if political
reform advocates were so blind to their own preferred regime’s deficiencies that they adopted institutions without fully anticipating the consequences of doing so. Our legislative capacity regime framework offers a guide to identifying potential pitfalls in shifting from one regime to the other, or to being so blind to existing faults that advocacy for reform are dismissed without merit.

[Insert Table 2.2 about here]

Table 2.2. The Legislative Capacity Regime Scorecard

<table>
<thead>
<tr>
<th></th>
<th>Parochial Patronage</th>
<th>Adversarial Clientelism</th>
<th>Pluralist Adhocracy</th>
<th>Consensual Coalition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Representativeness</td>
<td>Narrow</td>
<td>Narrow</td>
<td>Broad</td>
<td>Broad</td>
</tr>
<tr>
<td>Responsiveness</td>
<td>Incongruent</td>
<td>Mixed</td>
<td>Congruent</td>
<td>Congruent</td>
</tr>
<tr>
<td>Deliberativeness</td>
<td>Weak</td>
<td>Weak</td>
<td>Strong</td>
<td>Weak</td>
</tr>
<tr>
<td>Oversight</td>
<td>Sporadic</td>
<td>Weak</td>
<td>Strong</td>
<td>Weak</td>
</tr>
<tr>
<td>Historical Examples</td>
<td>Early republic, Reconstruction</td>
<td>Gilded Age, now</td>
<td>Progressive Era, 1960s-1970s</td>
<td>Civil War, WWII</td>
</tr>
</tbody>
</table>

To be sure, maximizing any one value at the extent of all others is ultimately destructive. To borrow from Bertrand Russell, “all movements go too far.” As a result there is always some compelling reason to “reform Congress,” to correct for some hypertrophy or other. Like navigating a car with an poorly responsive steering wheel, it’s almost impossible to stay in the middle of the lane for long.

IV. How Congressional Capacity Regimes Change

No magic wand will create a legislature capable of achieving the perfect mix of oversight and representativeness, deliberation and responsiveness. Congressional institutional arrangements often lumber along despite widespread criticism, because individual members cannot agree on a better alternative, or because upending “the way it is” feels too risky. Members interests are complex, and often themselves involve trade-offs among competing goals (Schickler 2001). But typically, when one goal is undermined over a long period of time, that becomes the most pressing problem to solve. And often, when member turnover is high (as it is, from time to time), new members less familiar with the existing order will be more attuned to its shortcomings and less likely to have mastered its ways to their own advantage. (Dodd 1986)
As a result, no regime is stable over the long-term. Each regime sows the seeds of its own destruction, because the longer each regime goes on, the more its excesses and shortfalls become apparent, provoking widespread criticism. Moreover, as with any organizational regime that goes on for too long, winners and losers eventually emerge, and eventually the losers come to outnumber the winners, and demand change. The process unfolds as an endogenous cycle of reform, with identifiable episodes in “political time” akin to business cycles in the economy, that share common elements despite being separated by generations (Truman 1951, Skowronek 1982, Pierson 2004).

This story is a familiar one in the study of legislative organization. Broadly, however, our analysis suggests there are two independent cycles, one for each of these dimensions.

The Cycle of Legislative Organization

Throughout history, Congress – and its respective chambers – has waxed and waned between periods predominantly structured by centralized party leaders (Polsby 1968, Dodd 1977, Dodd 1986, Aldrich 1995, Strahan 2007, Stewart and Jenkins 2012) or by relatively decentralized committees (Cooper 1970, Cooper and Brady 1981, Jenkins 1998, Adler 2002). After relatively long, stable periods under a centralized (decentralized) organization, election-minded and opportunist members seek individual autonomy (efficient collective action; Polsby 2004). Figure 1 summarizes the periodic centrifugal and centripetal pressures members use to gain autonomy under more flattened power structures or the efficiencies of more hierarchical organization.

Congress first centralized in the 1890s, during a period of strong party leadership, which responded to member frustrations with the incoherence and chaos of the existing arrangements. By 1910, members were chafing under the strong party leadership, and divisions within the majority Republican Party opened up to topple the centralized leadership, moving Congress back towards decentralized committee government. This period of committee
government lasted until a sufficient mass of Democratic members of Congress empowered the party caucus and leadership in the 1970s to depose or circumvent conservative Southern committee leaders out of step with the party. For four decades, Congress has moved towards a more partisan, leadership-driven, centralized institution, ushering a reinforcing cycle of increasing polarization.

At some point, it’s possible that individual member demands for more independent authority will override concerns for party power. Still, one complication is that unlike the 1910s, when the dissident “progressives” united Democrats and Republicans against their established leadership, the dissent factions of today are on the extreme ends of each party, sharing little in common with their cross-partisan rivals other than a shared dislike of centralized power. This suggests that for congressional reform to happen, extremists in one party would have to take control of the party in a way that allows a more moderate faction to unite with the other side.

*The Cycle of Resource Allocation*

So just as Congress experiences periodic organizational cycles, so too will it undergo endogenous cycles of resource simplicity and resource complexity. Sometimes members have certainty and seek predictability on behalf of identified issues and groups. Other times, they recognize complexity, and are willing to embrace it as part of the ambitious quest for transformative legislation. Figure 2 illustrates the cycle of competing pressures for ambition and certainty.

[Figure 2.2 about here]

The rise and decline of legislative resource allocation is captured well by what Baumgartner and Jones (2015) call the “Great Issue Expansion” from the early 1960s through the late 1970s. But the bubble burst, and since the 1980s, Congress has contracted its agenda,
decreased the amount of time and energy it collectively dedicates to legislative operations, reduced the number and the scope of its investigations, and has passed fewer bills (Lewallen, Theriault, and Jones 2016; Lewallen 2017). Scholars often point to the 1995 Gingrich era as the start of some new episode in American politics, but it is probably better understood as the codification and institutionalization of a decades-long trend towards prioritizing “message bills” over complex problem-solving (Lee 2016).

Taken to its extreme, complex resource allocation leads individual members of Congress to be captives of their staffs, overwhelmed by the complex details worked out by enterprising networks of ambitious wonks. For example, in a recent memoir, Michael Pertschuk recalls his time as a staff director for the Commerce Committee in the 1970s, at the height of pluralist advocacy. Committee Chairman Warren Magnuson was increasingly checked out, and drinking heavily, but if Pertschuk could get to him in the morning before the vodka took over, Magnuson would usually give him the thumbs-up on whatever consumer protection project he was pursuing (Pertschuk 2017).

When Newt Gingrich assumed the House speakership in 1995, he understood not only that long-standing expert committee staffers had their own long-standing agendas, but also they gave individual members of Congress independent power bases. Accordingly, he slashed committee staffing levels and weakened non-partisan legislative support agencies. Congress has not yet recovered from the institutional brain-drain.

Historically, Congress has increased its own internal resources to expand expertise at moments in which members collectively saw their prestige and power diminishing in comparison to the executive branch (1940s, 1970s), or felt overwhelmed by the crushing workload that they were ill-equipped to manage (1940s).

**Considering Linear as well as Circular Time**

Just as the criticisms of Congress have changed over time, the environment that Congress operates has changed over time considerably. Prior to the New Deal, the federal government had much less responsibility, and the president was therefore considerably less powerful. Since the New Deal, the presidency has taken on a more and more central role in American politics, both as a source of real and symbolic power. This has obviously altered the role of Congress in the larger political system. Prior to the New Deal, if Congress didn’t act, the states would. Now, if Congress doesn’t act, the president does. To some extent, votes for Congress have always been a referendum on the popularity of the president. But now, that calculation weighs much larger, which has significant implications for how individual members of Congress operate -- largely in the shadow of the presidency.

The increased centrality of presidential power has happened alongside the increased
nationalization of everything else about American politics, which has also contributed to the polarization of politics, as both parties have shifted from federated networks of state and local parties to national messaging machines (Hopkins 2018). This has happened alongside a unique period in American political history, in which both parties are almost equally balanced at the national level, creating a hyper-competitive partisanship in which the balance of power is always up in the air, a condition that creates strong political incentivizes for negative partisanship (Lee 2015).

Additionally, as public policy has become more complex, not just the presidency, but also the lobbying and interest group environment in Washington have become much thicker, representing the increased differentiation of interests in society, the increased stakes of public policy, and self-perpetuation of interests as the business of lobbying continues to supply its own demand (Drutman 2015).

All of these developments have fundamentally changed the environment in which Congress operates, leading some critics to wonder whether an institution like Congress is now but a “relic.” (Howell and Moe TK) But, again, criticisms of a dysfunctional Congress are as old as Congress itself. In every era, our national legislature struggles to muddle through. The world changes, and Congress adapts. In every era, the different legislative regimes manifest themselves differently.

By historical standards, party leadership has never been more centralized, and complaints from rank and file members are high.

Simultaneously, complaints about Congress’s failures and overwhelming office workload resemble (in volume and quality) those that the 1945 Joint Committee on the Organization of Congress unearthed during its investigations, which led to the 1946 Legislative Reorganization Act (Galloway 1946, Stid 2017). Members of Congress run for office at great personal expense, only to land in a role where there’s little meaningful work to do other than kow-tow to party leaders’ admonitions to go along and dial for dollars. This has the potential to create a groundswell for change.

But while individual members might naturally demand more autonomy, they also need to recognize that without added capacity, decentralization could turn Congress into a very parochial institution. Thus, the biggest danger is that if there is a revolt against party leadership and the organizational structure shifts from centralization to decentralization, Congress would wind up in the Parochial Patronage regime, given the current pattern of resource allocation. This would be the worst of all conditions, and may undermine Congress’s role in the constitutional system altogether.

V. Conclusion: Capacity for What?

When we ask questions about congressional capacity, we frequently speak of congress’s
capacity to solve public problems or fulfill its constitutional duties. In this essay, we’ve pushed beyond this broad definition, and attempted to be more specific about what it is, exactly, that we want Congress to accomplish as an institution. In short, we ask: “Capacity for What?”

We have argued that congressional capacity involves the interaction of congressional organization and resource allocation. Congressional authority can be either centralized or decentralized. Resource allocation can be either simple (task-oriented) or complex (goal-oriented). The combination of these collective choices yield different legislative capacity regimes. Our analysis does not prescribe the solution for designing the perfect institutions, but does offer a roadmap for thinking through the costs and benefits of adopting some arrangements over others. We can never have a Congress that “does it all” — no wonder the public is always dissatisfied with Congressional performance. There is always a legitimate critique out there.

Ultimately, the institutional arrangements of Congress are what members collectively want them to be, though institutional leadership obviously plays a role in recognizing deficiencies and offering solutions. In normal times, few members give much thought to the functioning of the institution as a whole. Mostly they complain about the problems that seem most salient to them, and then worry about pursuing their own immediate goals of getting reelected and advancing their policy and career ambitions. But in various moments, enough members’ personal goals line up with congressional regime change. In these moments, reforms happen.

Every regime is unstable in the long range. Congressional reform is inevitable, but which reforms are adopted and when is unpredictable. We hope that by recognizing trade-offs, future reformers both inside and outside the institution can be more intentional. As they make decisions that affect congressional capacity, we hope that they will also ask “Capacity for What?”


