

Conference 'Conflict of Interest' | 7-8 May 2010 | University of Basel, Switzerland

## Public Servants in Parliament: Determinants and Consequences of a Separation of Powers Problem

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In order to restrict the abuse of sovereign authority, government functions are assigned to different bodies in a democracy (precept of the separation of powers). Though broadly applied in principle, the concrete personal separation is set differently based on specific institutions in every democracy. A major constitutional decision concerns the degree of compatibility of an employment in the public service and a mandate in the legislature. In the United States and in the United Kingdom there holds ineligibility; i.e., public servants have to withdraw from office even before they accept a candidacy. In contrast, in countries like Austria and Germany there are weak and strong forms of incompatibility, but no ruling of ineligibility exists.<sup>1</sup>

In the first part of the paper, we develop a general political-economic framework in order to study how specific legal provisions offer public servants incentives to opt for a candidacy for a parliamentary mandate and thus affect their representation in the legislature (see Besley 2005 for some conceptual thoughts on political selection). This is a first step towards better understanding the phenomenon of parliaments becoming dominated by people with civil service status. A development observed in almost all advanced democracies (Best and Cotta 2004).

In the second part of the paper, we analyze theoretically and empirically the consequences of a strong representation of public servants in parliament, i.e., a specific conflict of interest undermining the major constitutional principle of the separation of powers (Persson et al. 1997). The existence of personal union and affiliations or the perk of guaranteed reemployment compromise the constitutionally proposed political neutrality of the public service and generate a conflict of interests. This is due to these parliamentarians' double role as agents in public service and as principals that supervise the public service in parliament. It is hypothesized that, as a consequence, the public service enjoys substantial discretion, which prejudices the efficient execution of public services. There is,

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<sup>1</sup> In fact, a large proportion of parliamentarians in these countries is from the public service. In 2007, 55.2% of the members of the first parliamentary chamber in Austria (Nationalrat) were public servants. The respective figure in Germany (Bundestag) was 40.2%.

however, also a contrary rationale emphasizing that public servants present a reservoir of highly skilled and motivated people who benefit the system in drawing on their specialist knowledge in legislation and monitoring. A strong representation of public servants might then be expected to increase government performance. The theoretical reasoning will be empirically tested as to the parliamentary control of the government. This is done based on a novel data set for the German Laender.

Based on the policy consequences of public servants' representation in parliament, meaningful advice for constitutional choices as to the institutions that affect the selection of politicians in general or the selection of public servants into parliament in particular might be derived.

## References

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