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Abstract

Collective choice bodies throughout the world use a diverse array of codified rules that determine who may exercise procedural rights, and in what order. This paper analyzes several two-stage decision-making models, focusing on one in which the first-moving actor has a unique, unilateral, procedural right to enforce the status quo, i.e., to exercise gatekeeping. Normative analysis using Pareto-dominance criteria reveals that the institution of gatekeeping is inferior to another institutional arrangement within this framework—namely, one in which the same actor is given a traditional veto instead of a gatekeeping right. The analytical results raise an empirical puzzle: When and why would self-organizing collective choice bodies adopt gatekeeping institutions? A qualitative survey of governmental institutions suggests that—contrary to an entrenched modeling norm within political science—empirical instances of codified gatekeeping rights are rare or nonexistent.

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A large portion of the procedural complexity in collective choice bodies throughout the world can be characterized in simple game-theoretic models. All that is required as a first-order approximation is to specify analytically features such as unique proposal or veto rights, rules governing amendments, and the order in which decision makers act. Empirical counterparts for these abstractions are plentiful. Examples of individuals or groups who possess unique procedural rights include standing committees in legislatures, the Commission in the European Union (EU), prime ministers in parliamentary governments, and the chief executive in presidential systems. Examples of their special rights include, respectively, bill referrals as stipulated by jurisdictional arrangements, proposal rights as designated by international treaties, rights to call elections as provided for by national constitutions, and the right to veto legislation after its passage as specified in the many state and national constitutions. Rules governing amendments may, likewise, give opportunities for some—but not all—decision-makers to propose modifications to the measure before the body. Finally, rules that determine the order in which players engage in collective choice have force within governments at both intra-branch and inter-branch levels. For example, many legislatures have rules or precedents that require that, upon its introduction, legislation is immediately referred to a standing committee, only to be considered later, if at all, by the full body. Similarly, some separation of powers systems require that the legislative branch initiates policy, but that the executive branch (e.g., the president) acts next and must sign or veto the proposed legislation. Parliamentary systems may also grant proposal rights to extra-legislative bodies or players, such as cabinet ministers.

This study presents comparative institutional analyses for a class of simple two-stage decision-making arrangements. Within this class, the focal institutional

arrangement is that of gatekeeping. A gatekeeping institution is a collective choice process in which the first-stage player has a procedural right to implement unilaterally an exogenous status quo policy, in which case the second-stage player is denied the opportunity to participate in collective choice. This basic model has been used to study a wide range of political behavior since Denzau and Mackay (1983) first formalized it.

The study has four parts. Part I is a discussion of the concept of gatekeeping and associated claims in the literature, focusing on the institutions of the U.S. and the EU. Part II is a formal analysis of gatekeeping alongside a closely-related model of a traditional veto. Part III is a descriptive survey of collective choice bodies that use multi-stage decision-making procedures. Part IV is a discussion of implications for future research.

Three main findings parallel Parts I-III. First, models of gatekeeping are among the most common in political science, particularly in studies that involve legislatures. Second, models of gatekeeping have remarkably undesirable consequences, compared with other, similar procedural arrangements. Third, actual instances of gatekeeping institutions are rare or nonexistent within a sizable and diverse set of legislative bodies.

I. Definitions and Perceptions

The modal view of gatekeeping in the U.S. congressional literature is clear and concise. Committees have it, use it, and benefit from it. Similarly, allegations of Commission gatekeeping in the EU are rampant. Less clear, less concise but equally important is the question: What is gatekeeping? Clarification rests on a distinction between rights and power.

In a multistage collective-choice process, an early-acting individual or group of individuals is said to possess a *gatekeeping right* if the governing procedures of the body allow the individual or group not to act on specific proposals, and if the

certain consequence of such inaction is that an exogenously determined status quo policy remains in effect. A gatekeeping right is therefore a feature of codified rules in the empirical domain and a feature of the game form in the theoretical domain. In contrast, a body or group is said to have *gatekeeping power* if it has a gatekeeping right and the right produces an outcome that the gatekeeper prefers to the outcome that would have resulted if it did not have a gatekeeping right. Gatekeeping power is therefore a characteristic of a political outcome in a specific empirical domain, and a characteristic of equilibrium play of a game in which a gatekeeping right is postulated to exist. Clearly, then, a gatekeeping right is a necessary condition for gatekeeping power.

The literature on gatekeeping typically does not make this distinction, preferring to use the term "gatekeeping power" as an umbrella concept for either or both of our definitions. As the following review illustrates, however, failure to differentiate between gatekeeping as an exogenous codified procedural right and gatekeeping as an action leading to desired outcomes not only confuses matters but also tends to result in overstated claims about ostensible gatekeeping rights and their outcome consequences.

The prevailing view on the gatekeeping by U.S. congressional committees can be traced at least as far back as 1885, when Woodrow Wilson penned his famous quote: "As a rule, a bill committed is a bill doomed. When it goes from the clerk's desk to a committee-room it crosses a parliamentary bridge of sighs to dim dungeons of silence whence it will never return" (1956 [1885], 63). A few decades later, Lindsay Rogers reinforced the interpretations and sentiments of Wilson with reference to a more specific example: "In the House of Representatives, even though a majority would wish, say, to change a tariff schedule, it could not do so without the consent of a majority of the Ways and Means Committee. That body has *absolute control*" (1926, 131). Rogers acknowledges a procedural change that occurred since Wilson—the House's discharge procedure. But, in the same sentence, he ridicules

it: "There have been, to be sure, rules for the 'discharge of committees' but it would have been more accurate to title them for the 'non-discharge of committees'" (1926, 131).

Once established, this interpretive bandwagon has proven to be irresistible to researchers in several fields. The following excerpts form a small but representative sample of descriptive research and formal theories about gatekeeping in the U.S. Congress.

- "The most important functions of standing committees are screening and drafting. The screening function, also known as *gatekeeping*, is the *power to say no*. A majority of a committee's members must support a bill before the committee will send it to the floor. This function is important because ten thousand bills are introduced every year...Because committees have life-or-death control over legislative proposals, members of Congress with special interests in certain policy areas fight for particular committee seats" (Johnson, Miller, Aldrich, Rohde, and Ostrom, 1994, 450, 451).
- "[C]ommittees, notably in the House, often exert *considerable gatekeeping and agenda-setting powers*. Thus, even small biases in committee representation and interest group information to committees can aggregate into large changes in the law when several key committee members threaten to delay or even kill legislation" (Kollman 1997).
- "From a policy perspective, the assignment process is important because congressional committees hold *important agenda-setting and gatekeeping powers*" (Stewart 1992).
- "Under the new order...A committee's members, operating without accountability to a majority within either the House or the Senate, could stop *any* legislation that fell within the committee's jurisdiction, *no matter how widespread the support for the legislation* in the Congress or the country" (Dodd and Schott 1979, 75).

- "But government by committee vests a *tremendous amount of power* in the committees and subcommittees of Congress-especially in their leaders... *Committee members can bury a bill* by not reporting it to the full House or Senate" (Janda, Berry, and Goldman, 1995, 380).
- "[T]he two functions committees serve are gatekeeping and control over proposal power." Grier and Munger (1993, 623)
- "*Undoubtedly, the most important tool* possessed by committees is their *gatekeeping power*. Since bills are routinely referred to standing committees, committee members can defeat legislation by refusing to report." (Maltzman 1997, 65)

These claims—and others like them—are strong. Only a few researchers provide qualifications to such claims, and, when they do, the qualifications are tepid by comparison. In a work addressing the multiple ways in which legislation can be killed en route to enactment, Herzberg acknowledges that gatekeeping "power" is not absolute. But then she writes, "Given the difficulty of the discharge process, it is not surprising that it is rarely used to prevent blocks. The threat of a discharge may be enough to spur a committee to action on a bill, but it is doubtful if a method successfully used only a handful of times each decade will pose much of a threat" (1986, 215). Kingdon, likewise, acknowledges that House's discharge procedure, but he downplays its significance on grounds that it is "difficult to obtain" (1989, 141), and he describes a bill that was kept bottled up in committee as one that would have been difficult to pass anyway.[1] Keefe and Ogul, similarly, downplay the significance of discharge mechanisms. "The parliamentary weapons that House members may call upon in attempting to bring obdurate committees to heel are not impres-

[1] Maltzman's view is qualified, too, so much so that it is hard to pin down. He discusses the discharge petition as "the capacity to circumvent a recalcitrant committee" and states, "While the infrequency of discharges is in part an indicator of the difficulty of invoking a discharge, it is also a reflection of the willingness of committees to respond to threats posed by discharge petitions" (Maltzman 1997, 66).

sive. In practical terms, this rule holds little hope for frustrated House members attempting to wrest a measure out of committee. It is a small-caliber 'gun behind the door' whose presence may spur the search for a compromise solution which can be brought to the floor" (Keefe and Ogul, 1993, 237-238).

On balance, the qualifications seem to be minor relative to the original claims. Furthermore, as attention shifts from descriptive to theoretical research, qualifications are all but abandoned.

Denzau and Mackay (1983) were the historical counterparts to Woodrow Wilson within the literature that uses formal models of gatekeeping to study collective choice settings. At approximately the same time and place, Weingast and Moran (1983) used a formal model with gatekeeping to study the FTC and regulatory processes. Weingast and Marshall (1987) then based one of the most forceful and influential studies of legislative organization on the crucial assumption that gatekeeping is a "property right."[2] Wooley (1993) continued the tradition in a reformulation of Weingast and Moran's paper, assuming that committees in both the House and the Senate possess a gatekeeping right. The following excerpts are typical of the defenses offered.

- "One extremely important but subtle rule underpinning committee influence is its *power to veto proposals within its jurisdiction: any proposal that fails to make a committee majority better off is simply kept from coming to the floor for a vote*. Thus, in the case of agriculture policy, for example, a wide variety of proposals might command a majority on the floor against the status quo policy. However, if the majority that favors these changes (e.g., representatives from urban districts) does not include a majority on the Agriculture Committee,

[2] In literature on law and economics, a property right is defined as an entitlement protected by a property rule, and a property rule, in turn, means that the possessor of the right cannot be coerced to give up his right, unless by consent and under conditions he freely agrees to accept (Calebressi and Melamud 1972). In other words, this definition comports well with definition of a gatekeeping right in the present study. We revisit the issue in Part III.

these proposals will not be brought up for a vote" (Shepsle and Weingast 1984, 217-218).

- "The *single most important feature of the legislative process in the House and Senate is that, to succeed, a bill must survive a gauntlet of veto gates in each chamber*, each of which is supervised by members chosen by their peers to exercise gatekeeping authority. In each chamber of Congress, at least one subcommittee and one full committee have gatekeeping rights in that a bill normally will not be considered by the entire legislative body until it has been approved in committee." (McCubbins, Noll, and Weingast 1994)[3]

Claims about Commission gatekeeping in the EU can also be found frequently in the literature. From the creation of the predecessors of the EU in the 1950s onward, the role of the Commission has been one of the major issues of contention in the EU institutional debate, closely related to the discussions about democratic accountability. At the basis of the discussion lies the observation that the Commission has considerable powers, but that it is not directly elected.[4] Most scholars seem to agree that the Commission plays a dominant role in the EU. Dinan (1999, 205), for example, introduces the Commission as follows: "Last but by no means least, the EU has another institution – the European Commission – with no analogue in national government systems. With its members appointed by national governments but pledged to act in the EU's interests, its multinational civil service, its *exclusive right to initiate legislation* in the [European Community], and its quasi-

[3] See also: Shipan (1998) on regulatory influence via gatekeeping, Ferejohn and Shipan (1990) on congressional-judicial relations, Huxtable (1994) and Dion and Huber (1995) on gatekeeping by the House Rules Committee, Segal (1997) on courts, Snyder (1992a, 1992b) on biases in roll call data due to gatekeeping-induced selection bias, and Aldrich (1994) and Cox and McCubbins (1993) on gatekeeping by the majority party.

[4] In particular, the Commission is appointed by the member-state governments, as represented in the Council. The directly elected Parliament has only limited control over the composition of the Commission. It can veto a Commission's appointment, and it can also censure (i.e. disband) the Commission by a two-thirds majority of votes cast. It cannot propose a new Commission, however.

executive authority, the Commission epitomizes supranationalism and lies at the center of the EU system. Not surprisingly, the Commission and the Berlaymont, its headquarters building in Brussels, are *synonymous with the EU itself*." Similarly, Nugent (2003, 111) summarizes his views on the role of the Commission as follows: "The Commission is centrally involved in EU decision-making at all levels and on all fronts. With an array of power resources and policy instruments at its disposal – and strengthened by the frequent unwillingness or inability of other EU institutions to provide clear leadership – the Commission is *at the very heart of the EU system*."

Specific assertions about the Commission and gatekeeping are also plentiful. While discussing the Single European Act, a reform treaty signed in 1986, Fitzmaurice (1988, 398), for example, states: "The Commission is given *a key 'gatekeeping' function*, which could become politically uncomfortable." Criticism of the Commission did indeed surge after the adoption of the Single European Act and the flurry of legislative activity that followed in its wake. It could be argued that the Commission's alleged gatekeeping rights were the cause of the increase in criticism. Lenaerts (1991, 22) discusses the separation of powers in the EU, and claims that "apparently no other Community institution nor a member state can force the Commission to take a legislative initiative when the Commission thinks such an initiative not to be in the interest of the Community." Franchino (1999, 9) summarizes the Commission's role as follows: "[The Commission] is a hybrid body in classical constitutional terms. It carries out traditional administrative functions, frequently shared with national administrations, but also has to provide executive leadership and *legislative gatekeeping*." Lenaerts and Van Nuffel (1999, 435 and 439) state "The right to propose legislation means, in the first place, that the Commission can decide whether or not the Community should act... Neither the Council nor a member state can compel the Commission to submit a proposal."

Some formal theorists also ascribe gatekeeping rights to the Commission. Steunenberg (1994, 647) writes: "A legislative process that follows the consultation

procedure starts with a proposal from the Commission, which has the *exclusive right of initiative*. This also entitles the Commission to decide whether or not it will initiate a legislative process." He makes similar claims about the other procedures. Moser (1996, 836) concludes his discussion of the Commission's role in the legislative process as follows: "[T]he Commission does have *broad agenda control* and is not bound by the suggestions of the [Parliament]." Steunenberg et al. (1999, 344 and 352) write: "[A] proposal has to be approved by the Commission and the Council whatever voting rule the Council has to use to reach a collective decision. If the Commission does not belong to a coalition, then this coalition is not a winning coalition... [T]he Commission *decides whether or not to initiate legislation*, and if it does the Commission submits a proposal to the Council." Analyses of the powers of institutions and member states that are based on power indices also implicitly assume that the Commission has gatekeeping rights, insofar as they include the Commission in their analyses rather than focus on the Council exclusively. See, for example, Nurmi and Meskanen (1999) for such an analysis that considers the Commission.

Some scholars' statements are more qualified. Westlake (1995, 336) recognizes that "many of the Commission proposals are made in response to external factors, from Council through member state requests through to international obligations." Nugent (2003, 127) points at the Council's right to request a proposal under Article 208 of the EC Treaty, but considers it of little importance: "When the Council indicates that it wishes to see certain sorts of proposals laid before it, the Commission is obliged to respond. However, important though the Council has become as a policy-initiating body, the extent to which this has produced a decline in the initiating responsibilities and powers of the Commission ought not to be exaggerated. For the Council often finds it difficult to be bold and imaginative, and tends to be better at responding than at originating and proposing."

Other scholars claim that the Commission's powers have been eroded. Edwards

and Spence (1994, 8) state: "[A]lthough the Commission retains the sole right to initiate legislation, in a number of respects it has become a more formal responsibility rather than the source of power and authority in setting the Community agenda as originally conceived. The Council, for example, has had frequent recourse to Article [208 EC]." Moravcsik (2002, 612) agrees that the Commission has lost power, but considers the Parliament as the main beneficiary: "For over a decade, the [Parliament] has been progressively usurping the role of the Commission as the primary agenda-setter vis-à-vis the Council in the EU legislative process."

Only a few formal theorists deny that the Commission has gatekeeping rights altogether. Tsebelis (1994, 131) concludes: "In any case, all three institutional actors can in fact place items on the legislative agenda." Crombez (1996, 204) writes: "Only the Commission can initiate the [consultation] procedure, but it is required to make a proposal if the Council or the Parliament requests one. Thus the Commission has monopoly proposal power, but it does not have gatekeeping power." He makes the same claim about the other procedures. Schulz and König (2000, 655) echo his remark: "While the Commission has the formal authority to propose legislation, the Council or the [Parliament] may request that the Commission submit a proposal (Art. [208] EC and Art. [192] EC). That is, the Commission has proposal power but no gatekeeping power." Tsebelis and Garrett (2000, 13) state: "The right to draft initial proposals always lies solely with the Commission, but it cannot keep issues off the agenda if requests for bills are made by the Council or (since Maastricht) the Parliament. More importantly from an analytic standpoint, the fact that the Commission makes the first proposal does not mean that it can always affect the content of legislation that is ultimately passed."

In light of the excerpts on the gatekeeping rights of U.S. congressional committees and the EU Commission—and the fact that they are neither atypical nor exhaustive—it seems potentially fruitful not only to revisit and inspect the fundamental properties of the gatekeeping model, but also to undertake a comparative

analysis that might provide some insights into conditions under which we might expect, or expect not, to observe various institutional arrangements.

II. Comparative Institutional Analysis

Assumptions

Two actors, L and C must choose a policy x within the convex policy space $X \in R^n$. One can interpret these actors as a (one-member) legislature and a (one-member) committee. However, there are several other interpretations for the two actors, including two branches of government in a law-making process. For instance, L could be interpreted as Congress and C could be interpreted as the president. Let $u_L(x)$ and $u_C(x)$ be the utility functions of L and C. We assume that these functions are strictly quasi- concave, that is, that indifference curves are strictly convex. Also, we assume that the functions are single-peaked. (This implies that there are no "flat spots" in the utility function, which means that for any indifference curve the actor strictly prefers any point in the interior of the curve to any point on the boundary of the curve.) We also assume that the functions are maximized in the interior of the policy space. Let l and c be the points at which the functions are maximized. Define these as the ideal points of L and C. So that the analysis is non-trivial, assume $l \neq c$. Finally, we assume that if either actor is indifferent between two policies, he or she chooses the policy that benefits the other actor more.

We consider two possible games. In the first, which we call the gatekeeping game, play begins with C. He chooses whether to propose a bill or not. If not, the game ends, and the resulting policy is the status quo, $q \in X$, which is given exogenously and known to both players. If he proposes a policy, then in the next period, L is allowed to amend this policy.[5] Her dominant strategy is to amend it so that the resulting policy is her ideal point l.

[5] In the gatekeeping game we define C's action space as a dichotomy, to propose or not. Other treatments of this game (e.g. Denzau and Mackay (1983), Gilligan and Krehbiel (1987)) treat the action space as a continuum. That is, C chooses a

In the second game, which we call the traditional veto game, play begins with L. She chooses a bill $b \in X$. In the second period C chooses to accept the bill or not. If he accepts, then the final policy is b. If he does not, the final policy is q. In both games our equilibrium concept is subgame-perfect Nash.[6] To compare these games it is useful to formalize criteria for evaluating institutions.

- A game *weakly-Pareto-dominates-at-q* another game if for a given status quo q, both players weakly prefer all equilibria of the first game over all equlibria of the second game. A game *Pareto-dominates-at-q* another game if for a given status quo q, both players weakly prefer all equilibria of the first game over all equlibria of the second game and at least one player strictly prefers all equilibria of the first game over all equilibria of the second game. Finally, A game *Pareto dominates* another game, if for all q, that game weakly-Pareto-dominates-at-q the other game, and for at least one q the game Pareto-dominates-at-q the other game.

  In at least two senses our definition of Pareto dominance is stronger than the

bill from a continuous policy space; play continues as long as C chooses something besides the status quo. The equilibrium of our game is unchanged if we allow the action space to be continuous, since any choice besides the status quo causes L to react in the same fashion, to propose her ideal point l.

[6] The gatekeeping model is susceptible to the criticism that it overstates the extent to which a committee has a gatekeeping right. Probably a more common belief among researchers is that committees have a *partial* or *weak* gatekeeping right wherein they can withhold legislation from the floor only up to the point at which the floor agrees to incur a positive, finite cost to discharge the committee. (The limiting case of infinite cost would then correspond to a strong gatekeeping right as formulated here and elsewhere.) Not only are we sympathetic to this view, but also we can show that, even with in its weak and more general form, the institution of gatekeeping is Pareto dominated in a manner that parallels the analysis presented below. Specifically, it is straightforward to characterize an alternative form of the veto game that weakens the veto right in exactly the same manner as one can weaken the gatekeeping right. Then, a comparison of the weak gatekeeping institution with the weak veto institution reveals that both players in the game prefer the veto institution to the gatekeeping institution. In other words, it is not the absoluteness of the rights in the formalization that drives the result. Rather, the result reflects a deeper and more pervasive limitation in institutions of gatekeeping as compared with more traditional veto institutions.

usual definition. First, ours compares a set of equilibria with another set, not just two particular equilibria. By our definition, if one game Pareto dominates another, then for at least one q the worst equilibrium of the first game must be better than the best equilibrium of the second.

Second, our definition compares outcomes over a set of different status quos rather than just one status quo. It is stronger, for instance, than an alternative definition which might require only that one game dominate another in an expected-value sense. That is, suppose that when the players choose institutions they do not know what the status quo will be; they only know the probability distribution of the status quo. The alternative definition might require only that the expected utility of one game dominate the expected utility of the other. If our definition holds, then so will the alternative definition, as long as there is at least some probability that nature will draw a q for which the game strong-Pareto-dominates-at-q. Further, this is true even if the players do not have common beliefs about the distribution of q. All we need is that each place positive probability that a q can be drawn for which the game Pareto-dominates-at-q.

Example 1: One-dimensional policy space, Euclidean preferences

Suppose the policy space is one-dimensional, i.e. $X \subseteq \Re$. Suppose L and C's preference for a policy depends upon the distance of the policy from their ideal point (or any positive monotonic transformation of this distance). Without loss of generality, assume $c < l$. We list the results for each game in Figure 1. First, note that for each possible status quo both games have a unique equilibrium policy. The figure considers four intervals for the status quo: (I) to the left of $2c-l$, (II) between $2c-l$ and c, (III) between c and l, and (IV) to the right of l. If the status quo is in interval I, III, or IV, then both games produce the same policy outcome.

The important difference between gatekeeping and veto institutions arises when status quo policies lie outside the Pareto interval, but not too far outside. These points are defined precisely by interval II. When the status quo is in this interval,

behavior in the two models is quite different. In the Gatekeeping model, C exercises gatekeeping because he prefers the status quo to L's ideal point, the policy that would result if he allows the game to proceed. The behavior of C can be summarized as self-interest trumping social optimality. Although the status quo is outside the set of Pareto policies and is, thus, not socially optimal, the status quo is nevertheless better for C than is L's ideal point.

In contrast, when the status quo is in interval II the traditional veto game does produce a Pareto-improving outcome. Here L acts as a Romer-Rosenthal (1978) agenda setter. She chooses the policy closest to her ideal point subject to the constraint that C will not veto it. The constraint is binding in equilibrium. That is, C ends up being indifferent between the status quo and the policy that L proposes. Meanwhile, L strictly prefers the policy to the status quo.

As Figure 1 shows, L is indifferent between the institutions if the status quo lies in intervals I, III, and IV, but she has a strong preference for the veto institution in interval II. To the extent that the organization in question is self-governing—that is, has the capacity to choose its own rules—this normative observation has potentially powerful predictive implications.

The difficulty for the two players to obtain a Pareto-improving outcomes under gatekeeping is due to a commitment problem. By definition, when outcomes are not Pareto optimal, alternative outcomes exist that make at least one player strictly better off and the other player not worse off. Such outcomes cannot be obtained, however, when the main body acts last. Any hypothetical bargaining agreement in the contract curve, (c, l), cannot be sustained as an equilibrium because, under the open rule, L has a second-stage incentive and the institutional capability to renege on the agreement. The gatekeeping institution is therefore deeply flawed from the perspective of social efficiency.

Our model assumes that if C is indifferent between two policies, then he chooses the alternative that benefits L more. However, it is possible that in actual games C

does not act this way, or more important, that L does not believe that C will act this way. In fact, some experimental evidence from the "ultimatum game" suggests that this is the case. For instance, Roth (1995) finds the following regularity. Suppose that two subjects are paired in a game, where, the first subject must propose a way to divide a sum of money between her and a second subject. After she states the proposal, the second subject decides to accept or reject the proposal. If he accepts, they divide the money as the first subject suggested. If he rejects, neither player receives any money. A pure rational-choice framework predicts that the first subject will propose no money for the second player, or maybe a minimal amount. However, the results of the experiments show that the first player usually proposes a significant amount for the second subject. If this regularity holds in our law-making setting, then the traditional veto game will dominate the gatekeeping game in an even stronger sense. Although the regularity does not affect the gatekeeping game, it makes C strictly prefer the traditional veto game, whereas before he only weakly preferred the traditional veto game. Thus, if the empirical regularity applies in our law-making context, then both C and L will *strictly* prefer the traditional veto game over the gatekeeping game.

Example 2: Two-dimensional policies, Euclidean Preferences

It is easy to show that the results of Example 1 also hold when the policy space is two-dimensional. Like the previous example, suppose that C and L have Euclidean preferences. Consider the indifference curve of C that contains l. We illustrate this in Figure 2. There are three relevant regions in which the status quo can lie. (1) If the status quo is on or outside this indifference curve, then both games produce the same policy outcome, l. (2) If the status quo is on the contract curve between l and c (the line segment with these points as endpoints), then both games result in the same policy outcome, the status quo. (3) If the status quo is inside the indifference curve but not on the contract curve, then the two games produce different policies. In the gatekeeping game the resulting policy is the status quo. In this game if C

proposes a bill, then L will amend it to l. Since C prefers the status quo to l when the status quo is in this region, C will exercise his gatekeeping right and not propose anything. In the traditional veto game, L wants to choose a bill that maximizes her utility subject to the constraint that C weakly prefers the bill over the status quo. When the status quo is in this region, the solution can be found by drawing the indifference curve of C that includes the status quo point. The solution to L's maximization problem is the point where this indifference curve intersects the contract curve. Define this point $h(q)$. See Figure 2 for an illustration. C weakly prefers this outcome to q, the outcome of the gatekeeping game. Meanwhile, L strictly prefers this outcome to q. Consequently, the traditional veto game Pareto dominates the gatekeeping game.

These examples demonstrate the inferiority of gatekeeping as an institution. Accordingly, they suggest that actual law-making bodies should be reluctant to choose this institution. One aspect of Example 2 suggests that law-making bodies should be even more reluctant to choose this institution when the policy space is many-dimensional. To see this, consider the indifference curve of C that passes through the ideal point of L. Call the points inside this curve the non-extreme points. It might be reasonable to believe that it is rare for a status quo to lie outside this region in an actual law-making body. Within the non-extreme region some status quos—namely, those that lie on the contract curve between C and L—cause the two games to produce identical outcomes. In the one-dimensional case these points compose half the measure of the non-extreme region. (The contract curve is the points between c and l. This curve is half the length of the set of non-extreme points—the points between $2c - l$ and l.) However, in the two-dimensional case these points are a zero-measure set. (Note that the contract curve is a one-dimensional set, while the non-extreme points are a two-dimensional set.) Further, the same relation will be true when the policy space has even more dimensions than two. Thus, while in the one-dimensional case there is a significant chance that the

two institutions produce the same outcomes, in the many-dimensional case, there almost zero chance that they produce the same outcome.

Main Result

Our main result is that Examples 1 and 2 extend to a more general setting. As the following theorem states, the results hold even when preferences are not Euclidean and the number of policy dimensions is arbitrarily large.

Theorem: The traditional veto game Pareto dominates the gatekeeping game. (See Appendix for proof.)

III. Gatekeeping in Legislative Bodies

One might argue that our main result is normative—not positive—and that, therefore, it should not be the basis for empirical expectations. Although the distinction between positive analysis and normative analysis is important, a research strategy that brings them together is defensible, even if uncommon. To clarify matters, the models that are compared in Part II are positive theories, and the empirical relevance of the claim about the Pareto inferiority of gatekeeping institutions is dependent upon having approximately the right predictive models of a menu of institutions. The evidence in this regard is not voluminous, but neither is this non-existent. For example, laboratory experiments corroborated the gatekeeping model quite well (Krehbiel, 1985), and a variety of studies have found support for closely related veto institutional arrangements (see, for example, Cameron 2000, Groseclose and McCarty 2001, Krehbiel 1998, and McCarty and Poole 1995).

What, then, are the central procedural tendencies of collective choice bodies with regard to gatekeeping and related institutions? Our answer has three parts: detailed parts that focus on the U.S. and the EU, and a sketchy part that focuses on legislative bodies throughout the world.

Gatekeeping in the U.S.

Claim 1. In U.S. legislative bodies, gatekeeping rights are not granted to standing committees.

The most straightforward case is the U.S. Senate. Due to its absence of a germaneness rule, the Senate has a de facto semi-automatic weapon with which to discharge its committees. Any measure may be brought up as a rider to another measure—the so-called vehicle—through the normal, open, amendment process. Therefore, U.S. Senate committees do not have gatekeeping rights.

In the U.S. House of Representatives, the situation is somewhat more intricate procedurally than in the Senate, but, when all is said and done, the conclusion is much the same. Any House member may file a petition to discharge a bill from a committee, as long as the bill had been referred to the committee for at least thirty days. If the discharge petition gathers at least 218 signatures, a motion to discharge is put on the House's Discharge Calendar. After seven legislative days, the motion becomes privileged business on the second and fourth Mondays of the month (excluding the last six days of a session). Any member who signed the petition may be recognized to offer the discharge motion, which is debated for 20 minutes and then subject to a vote. If a majority votes affirmatively on the discharge motion, it becomes permissible to make a motion for immediate consideration of the bill. Finally, if this motion prevails by a majority, the bill comes before the House under an open rule.

These conclusions are not unique to the U.S. national government. According to information provided by the National Council of State Legislatures, seventy state legislative bodies operate under *Mason's Manual of Parliamentary Procedure*, which provides for discharge. Additionally, 22 state assemblies have mandatory reporting requirements of standing committees (i.e., automatic discharge), while 41 have explicit rules for discharge similar to that of the U.S. House. Much more often than not, the threshold is simple majority or less.

Claim 2. Neither chamber of the U.S. Congress grants gatekeeping rights to the majority party.

Cox and McCubbins (2004) have recently formalized some of the arguments of their influential book Legislative Leviathan under the rubric, "procedural cartel theory." According to this theory, the majority party can prevent the floor from considering bills that it opposes (e.g., under the theory, in the U.S. House the majority party can disallow the legislature to pass a "rule" to consider a bill). That is, the majority party has gatekeeping rights.

Of course, by no stretch of the imagination does the majority party have gatekeeping rights in actual practice. For instance, neither house has a written rule saying anything resembling "The concurrence of a majority of the majority party is necessary before the chamber can consider any bill." Nor do Cox and McCubbins claim that such a right actually exists. Their claim is a weaker one. Namely, the majority party has considerable rights, which in the House include the ability to pressure members to vote against any "rule" that allows the whole chamber to consider a bill that a majority of the majority party opposes. Further, these rights are so significant that the law-making process is observationally equivalent (in terms of policies that it produces) to a process where the majority party has a gatekeeping right.

But if this is true, our results pose a challenge for such claims. As our Theorem shows, the cartel model is a Pareto-dominated institution. To see this, let C be the median of the majority party and let L be the majority of the entire chamber. The cartel model is now identical to our Gatekeeping model. But now consider an alternative institution where the majority party is instead given a traditional veto. As our Theorem shows, this structure Pareto-dominates the structure that Cox and McCubbins assume in their cartel model.

A puzzle that revolves around the cartel model is why a majoritarian legislative body would organize itself in such a way that would give such power to the majority

party. Our results pose a more subtle question. Suppose, heroically, that the puzzle were solved so that, for whatever reason, a legislative body did grant the majority party such power. Then why would such a procedural-deck-stacking organizer rely upon gatekeeping, when an alternative arrangement—the traditional veto—gives payoffs that are at least as good for the party's median voter and are much better for the majority-party moderates?

Claim 3. No constitutional body in the U.S. law-making (e.g. the House, Senate or the president) is given gatekeeping rights.

In the U.S.'s law-making process Congress writes the bills, and the president has a traditional veto. One could imagine an alternative structure, where instead the president is given only a gatekeeping right. That is, suppose the Constitution allowed only the president to write bills, but Congress could amend these bills however it wants, and the president would not have an opportunity to veto the amended bills.

This structure is identical to our gatekeeping game, where C is the president and L is the Congress. As the Theorem demonstrates, this structure is Pareto-dominated by the actual structure of the U.S. Constitution, where the president has a traditional veto.

Consistent with our theoretical results, the Founding Fathers did not choose this structure. Thus, this fact is supporting evidence for our theory that real world designers of law-making processes do not grant gatekeeping rights. Indeed, as far as we are aware, no constitution of any country or any U.S. state substitutes gatekeeping for a traditional veto. That is, if the executive has any form of a veto, he or she has a traditional version.[7]

[7] Some constitutions give its executive a gatekeeping right and a traditional veto. For instance, in Maryland only the governor can propose public works projects. Thus, he or she has a gatekeeping right over such projects. However, he or she also has a traditional veto. That is, if the legislature amends his or her bill, then he or she retains the right to veto it. It can be shown that the gatekeeping rights of such

Another possible constitutional structure is to allow the executive to write bills, but to give the legislature gatekeeping rights. That is, for instance, suppose the process begins with Congress, which writes a bill or chooses to exercise its gatekeeping right. If it writes a bill, then the president can amend it however he or she prefers. This structure is identical to our gatekeeping game, but now we must label Congress C, and the president L. Again, this structure is Pareto-dominated. Namely, the structure where the president first writes a bill, then Congress has a traditional veto, Pareto dominates it.

Interestingly, the latter structure actually occurs in practice. Namely, it occurs, whenever the president is granted Trade Promotion Authority. Under this authority, the president negotiates a trade agreement with a foreign country. The agreement is then sent to Congress, which approves or disapproves it. Importantly, Congress is given a traditional veto. If instead Trade Promotion Authority gave Congress only gatekeeping rights, then we would consider this a falsification of our theory.

Gatekeeping in the EU

Claim 4. In the EU gatekeeping rights are not granted to the Commission, nor to the European Parliament nor the Council.

The Commission has monopoly proposal rights in the EU legislative process. Only the Commission can initiate legislation. The legislature itself (the Council and the Parliament) cannot act on an issue unless the Commission submits a legislative proposal on that issue.[8] The EU's two principal legislative procedures are the

an executive give no additional right beyond that of a traditional veto. Indeed, this structure, where the executive has two forms of veto rights, is observationally equivalent to a structure where the executive only has a traditional veto. Consequently, the Maryland structure is not Pareto dominated by the traditional-veto structure. Hence, its existence is consistent with our theoretical results.

[8] The monopoly proposal right is not granted to the Commission in a specific article of the EC Treaty. Treaty articles tend to describe what legislative procedure applies to the matters discussed in it or refer to another article that describes the procedure.

consultation and co-decision procedures. Both procedures start with a Commission proposal, and both require the approval of the Council for the adoption of legislation. On most issues a qualified (i.e. super) majority is required. On some issues unanimity is needed. The Council can amend proposals by unanimity (Art. 250(1) EC). What differs between the two procedures is the Parliament's involvement in the legislative process. Under consultation the Parliament can merely issue a non-binding opinion on the proposed legislation. Under co-decision the Parliament's approval is required for the adoption of legislation, and the Parliament can amend a proposal together with a qualified majority in the Council (Art. 251 EC). If the Parliament and the Council approve different versions of a proposal, a Conciliation Committee is convened to agree on a compromise text.

Even though a proposal by the Commission is required to start the legislative process, the Parliament and the Council can play a significant role in determining the legislative agenda. The Parliament can request that the Commission make a proposal (Art. 192 EC), if it considers that a legislative initiative is required on a certain matter. Similarly, the Council can demand, by a simple majority of its members, that the Commission submit a proposal (Art. 208 EC). Neither the Parliament, nor the Council can force the Commission to make a particular proposal, however. That is, they cannot determine the contents of the proposal. Nonetheless, the Commission is obliged to act, if the Parliament or the Council request that it do so. If the Commission fails to respond, the Parliament and the member states could sue the Commission in the European Court of Justice (ECJ) for failing to fulfill its Treaty obligations (Art. 232 EC). *Thus the Commission has monopoly proposal rights, but it does not have formal gatekeeping rights.* It is the only body that can make a proposal. But it cannot refuse to make a proposal, and any proposal that it does make can be amended by the Council or Parliament.

Moreover, since the late 1980s the EU has informally been operating on the basis of annual legislative programs. These programs are put together by represen-

tatives of all three institutions, the Commission, the Council and the Parliament. Thus the Council and the Parliament can also influence the legislative agenda during the negotiations about the annual program. The Council Presidency, in particular, plays an increasingly important role in setting the agenda. As a result only a minority of EU legislation is initiated by the Commission on its own initiative.

Nonetheless the Commission needs to submit a proposal for the legislative process to commence. In theory it could fulfill its obligation to formulate legislative proposals by proposing the status quo. Whether the EU can then move policy away from the status quo, depends on the rules for the adoption of amendments. Under consultation amendments to Commission proposals require the support of all member states. The Commission can thus maintain the status quo, unless all member states can agree on an amendment. It is unlikely that the Commission would not receive the support of at least one member state. Therefore, moving policy away from the status quo without the Commission's consent is difficult under consultation, even though the Commission does not have formal gatekeeping rights. Amending Commission proposals under codecision is easier. Under this procedure amendments require the approval of the Parliament and a qualified majority in the Council.

Finally, it is worth noting that the Commission has the right to change its proposal during the legislative process (Art. 250(2) EC). Thus the Commission can alter its proposal, if it fears that its proposal may be amended or rejected. Moreover, the article has been interpreted as giving the Commission the right to withdraw its proposal, which can be regarded as an ex-post veto right.

Gatekeeping throughout the World

Our claim about gatekeeping throughout the world is somewhat weaker than in the previous subsections.

Claim 5. In legislative bodies throughout the world, no clear instances have yet

been identified in which gatekeeping rights are granted to standing committees, however, gatekeeping rights may exist in other forms.

To support a stronger version of this claim with a high degree of confidence, it would be necessary either to report on the universe of multi-stage collective choice organizations, or to report comprehensively on a randomly drawn sample of such organizations. Neither of these possibilities is practical given the scope of the current project. We settle, therefore, for a series of summaries about legislative bodies for which we were able to obtain information. David Primo provided exceptional research assistance on what follows. This has clear implications for gatekeeping.

France. Within the legislative branch, the French status of gatekeeping is the same as in the U.S. Huber explains: "French committees cannot exercise gatekeeping power and are never granted a closed rule, because the government controls the parliamentary agenda (Article 42 of the Constitution" (1992, 678). In other words, French committees do not possess a gatekeeping right, consistent with the prediction in Part II.[9]

Germany. Much like the situation in the United States, Germany has a discharge procedure. Johnson explains: "Paragraph 60(3) [of the rules of the Bundestag] contains a clause enabling the originator of a motion referred to a committee to demand a report to the Bundestag after six months. In principle this is intended to prevent committees from 'burying matters' referred to them. . ." (1979, 121). In other words, the procedure appears to be designed to address precisely those situations in which, otherwise, the Pareto-dominated equilibrium occurs. However,

[9] There is more, however as Huber continues, "But existing formal models of committee power are applicable to France if we assume that the government is the committee. Since the government controls the parliamentary agenda, it is endowed with both proposal and gatekeeping powers." Taking Huber's account literally, it appears that French ministers have a genuine gatekeeping right. What we do not know and plan to explore is whether this right is codified and inviolable, or whether Huber, like other researchers in other areas, is implicitly adopting a loose definition of gatekeeping phase of the behavioral-regularity sort rather than the codified-structural sort.

the continuation of the excerpt introduces some ambiguity about the consequences of Bundestag procedure generally: ". . . but in practice it has not been necessary to make use of this provision, and committees have found more refined ways of holding up progress than crude neglect." (ibid.)

Israel. Upon initial consideration, it seems that the Israeli parliament is a good candidate for a system in which gatekeeping exists. Specifically, Hazan writes, "Other than political sanctions. . . there is no formal mechanism by which a committee can be forced to deal with a particular bill." (1998, 171) However, in a personal communication (8/13/99), Hazan notes that an absolute veto right does not exist. The mechanism for discharge is extra-parliamentary. The government can withdraw a bill from committee at any time and reintroduce it in another committee.

Italy. Several sources claim that Italian committees wield extraordinary power, up to the point that they can legislate unilaterally. Doring, for example, confirms that Italian committees can still enact legislation without the approval of the plenary" (1995b, 657). If this strong claim were defensible it is *not* inconsistent with our main argument for a subtle reason: committees in this description have not only gatekeeping rights but also direct lawmaking rights.

Our theoretical section does not examine this institution. However, it is easy to show that, in fact, it is not Pareto-dominated. The reason involves the fact that the committee can move non-Pareto policies to its ideal point, which is necessarily in the Pareto set.

Nevertheless, a more transparent response to such claims about Italian committees is simply that such claims are overstated. DiPalma, for example, notes that controversial legislation is rarely passed through this procedure (1977, 194-200). Likewise, on the issue of whether committees in the Italian parliament can impose the status quo even over the wishes of the rest of the parliament or the government, D'Onofrio writes, "If, on the contrary, a majority is solidly behind the Government,

no committee would be able to hold the bill without acting on it" (1979, 740).

Japan. Similar to those in Great Britain, the committees in the Japanese Diet are weak. Baerwald, for example, calls Japanese committees' deliberations "a sham" (1979, 346). This is not to say, however, that obstruction is never a problem in the Diet. When opposition parties disagree with a bill and decide they want to fight it, they have a number of dilatory tactics available at their disposal, including an almost literal form of gatekeeping. Some committee members are known to "block the doors leading into a committee room and thereby preventing access to it, or surrounding a chairman's raised seat and thereby make it impossible for him to convene the meeting" (Baerwald 1979, 347). Although this sounds like a de facto gatekeeping, three points are noteworthy. First, this kind of obstruction is typically executed by committee minorities rather than by a committee majority. Second, voting is not the mechanism for obstruction. Third, and most important, though dilatory, these behavioral tactics are not effective because institutional features provide means for addressing them. If these and other dilatory tactics are successful, the majority has the option of using a Kuoko Saiketsu, or "forced vote." This is often done on acrimonious legislation.

Norway. Norwegian committees do not have gatekeeping authority over legislation. The Storting does not have to send bills to committee. Further, the Presidium—a six-member body that performs tasks similar to those performed in the U.S. by the Speaker, Rules Committee and parliamentarian—can unanimously vote to initiate the equivalent of a discharge and send a bill to another committee if no recommendations are made.

Poland. Committees do not have absolute veto rights, according to Olson et al (1998, 114.)

United Kingdom. Although there is some evidence that Great Britain's parliamentary committees are undergoing a process of institutionalization a la Polsby (1968) (Hibbing 1988), British committees are typically ad hoc and usually re-

garded by scholars as weak relative to those in Congress and in other parliamentary governments. We found no claims nor evidence that they have a gatekeeping right.

For a number of other countries, we consulted various sources but could not establish one way or another whether committees had gatekeeping rights. So, on balance, the international scene is somewhat confusing, in large part because authors have different definitions of what control of the agenda means, what gatekeeping is, what absolute authority over a bill means, etc. Nevertheless, overall the non-U.S. evidence seems quite consistent with the U.S. evidence. There are several instances in which committees *appear* to be gatekeepers as evidenced by the dead-legislation criterion, and there are some instances in which committees appear to be powerful. But there are no instances in which such power is closely related to a gatekeeping right in any sense that approximates the analysis in Part II.

The reason for this shortcoming is not of the form: gatekeeping rights do not confer power to committees after all. Rather, it is of the form: the hypothesis that gatekeeping is a source of committee power cannot be tested because its antecedent—that committees have gatekeeping rights—seems everywhere to be false.

IV. Discussion

When juxtaposed with the quoted excerpts in Part I, the information in Part III is conspicuously contradictory. How can so many scholars be so wrong, and so few be right? Fortunately, some reconciliation of positions is possible with reference to the conceptual distinctions drawn in Part I. First, recall that many authors cite as evidence of gatekeeping the fact that many bills die in committees. If their implicit definition of gatekeeping is not structural, as is ours, then this is simply an instance of defining gatekeeping as a behavioral regularity rather than as a codified, constraining institution. Then, rather than a contradiction, what exists is an unfortunate but substantively significant difference in usage of terms.

Similarly, other authors combine the evidence of dead bills with a belief—elsewhere prevalent in the literature—that committees are generally powerful—and come up with the intuitively additive claim that committees have "gatekeeping power." This, too, does not contradict the procedural facts—it merely ignores them in the process of making a broader but imprecise claim about the nature of committees in legislatures, and, likewise making a strong inference about gatekeeping. So, again, some of the apparently large discrepancies in the literature are semantic differences.

They are not, however, trivial differences. On the contrary, an improved understanding of the interplay between political institutions and political behavior seems, fundamentally, to rest upon a sharp distinction between institutions and behavior when developing models that effectively predict behavior (initially) and institutional design (eventually).[10]

An item that remains on the research agenda, therefore, is: why do we see so much behavior that *appears* as if minority subsets of collective choice bodies have a structural gatekeeping right? We do not claim to have a definitive answer to this question, but the present study offers some suggestions for future inquiry.

One suggestion of, if not conclusion from, our formal argument and empirical findings is that Pareto-dominated institutional arrangements seem not to exist at the level of committees. This suggestion is somewhat comforting while, admittedly, less than earth-shattering. A somewhat more subtle hypothesis that seems worth inspecting is that apparent gatekeeping is not—as commonly construed—an instance of specially procedurally-endowed minorities exploiting rules to thwart majority preferences, but rather is behavior that is better understood as strategic action in the presence of uncertainty. Minorities, such as committees within a larger body, may have minimal special procedural rights, (e.g., bill referral rights only) and refuse to take action on many bills (exercise ostensible gatekeeping) for

[10] See Diermeier and Krehbiel 2002 for a more elaborate argument on this point.

any of several more benign reasons than to thwart the will of a majority. For example, their workloads may be excessive; the status quo may lie within a gridlock interval as defined by procedures that, unlike gatekeeping, are more conspicuously grounded codified rules of the game; or, they may be uncertain about the consequences of opening the gates because the nature of the policy instruments at their disposal is largely unknown. Furthermore, ostensible gatekeepers are likely to be risk-averse. In this vein, Epstein (1996) provides an informational rationale for gatekeeping by standing committees in the presence of incomplete and—if the committee specializes—asymmetric information.

Although an incomplete information approach seems more realistic than the complete-information models analyzed here, two loose ends remain and reinforce a central theme in this study. First, non-Pareto outcomes exist in the incomplete-information model, too. So, second, the deep problem recurs: how could, and why would, a majoritarian body with self-governing authority commit to using an institutional feature such as gatekeeping? Our answer completes the circle. Self-governing bodies probably cannot make such a commitment, and, in the portions of the globe we have surveyed, they overwhelmingly shun genuine gatekeeping institutions. A theoretical justification for this empirical aversion to gatekeeping should now be clear, if not compelling: gatekeeping institutions are Pareto-dominated.

Appendix

This appendix states and proves a proposition about gatekeeping that is more general than the simple, Euclidean-preference cases in the main body of the paper. Before proving the main result, it is useful to define three terms that pertain to individual preferences. The first is the set of policies that i (= L or C) weakly prefers to a given policy x.

Definition: Weakly-preferred set. For $i \in \{C, L\}$, $R_i(x) \equiv \{y \in X : u_i(y) \geq u_i(x)\}$.

Definition: Strictly-preferred set. For $i \in \{L, C\}$, $P_i(x) \equiv \{y \in X : u_i(y) > u_i(x)\}$.

Definition: Pareto efficient points (contract curve). $p \equiv \{x \in X : \forall y \neq x,\ u_C(x) > u_C(y)$ OR $u_L(x) > u_L(y)$ OR $[\, u_C(x) = u_C(y)$ & $u_L(x) = u_L(y)]\}$.

When preferences are Euclidean, this contract curve is a line segment with endpoints c and l. See Figure 3 for an illustration of the case when preferences are Euclidean and the policy space is two-dimensional.

[Figure 3]

The following lemma shows that—since utility functions are quasi-concave and single-peaked—p is equivalent to a simpler term.

Lemma 1: Suppose $x \in p$ and y is some alternative such that $y \neq x$. Then it is not the case that $u_C(x) = u_C(y)$ & $u_L(x) = u_L(y)$. Therefore, $p = \{x \in X : \forall y \neq x,\ u_C(x) > u_C(y)$ OR $u_L(x) > u_L(y)\}$.

Proof: Suppose $x \in p$ and $y \neq x$. To prove the result, suppose not—that is, $u_C(x) = u_C(y)$ & $u_L(x) = u_L(y)$. The latter statement implies $R_C(x) = R_C(y)$ and $R_L(x) = R_L(y)$. It also implies that x and y are on the boundary of $R_C(x)$, and x and y are on the boundary of $R_L(x)$. Consider the point $w = (x + y)/2$. Since $u_L()$ and $u_C()$ are strictly quasi-concave, w is in the interior of $R_L(x)$ and

$R_C(x)$. Since $u_L()$ and $u_C()$ are single-peaked, this implies $u_C(w) > u_C(x)$ and $u_L(w) > u_L(x)$. But this implies that x is not in p, a contradiction.

■

Next we consider the maximization problem for L in the traditional veto game. When the status quo is q, L wants to choose a bill x that maximizes $u_L(x)$ subject to the constraint that C, the veto player, weakly prefers x to q. The following lemma shows that the solution to this problem exists and it is unique. We define this solution $h(q)$.

Lemma 2: For any $q \in X$, the maximum of $\{u_L(x) : x \in R_C(q)\}$ exists, and $\text{argmax}_{x \in R_C(q)} u_L(x)$ is unique.

Proof: Because $R_C(q)$ is closed, the maximum of any function over this set exists, including the maximum of the function $u_L(x)$. To show that this is maximized at only one point, suppose not. Then there exists x_1 and x_2 in $R_C(q)$ such that (i) $x_1 \neq x_2$, (ii) $u_L(x_1) = u_L(x_2)$, and (iii) for all $y \in R_C(q)$, $u_L(y) \leq u_L(x_1)$. Since $u_L(x_1) = u_L(x_2)$, it follows that $R_L(x_1) = R_L(x_2)$ and that x_1 and x_2 are on the boundary of $R_L(x_1)$. Let $w = (x_1 + x_2)/2$. Since $u_L()$ is strictly quasi-concave, w is in the interior of $R_L(x_1)$. And since $u_L()$ is single-peaked, $u_L(w) > u_L(x_1)$. Since x_1 and x_2 are in $R_C(q)$, so is w. But these two statements contradict (iii) above. It follows that $\text{argmax}_{x \in R_C(q)} u_L(x)$ is unique.

■

Given Lemma 2, the following function, $h(q)$, is well-defined. It is the solution to L's maximization problem in the veto game. The subsequent lemma shows that this solution is in the contract curve between l and c.

Definition: Agenda-setting optimum. Let $h(q) \equiv \text{argmax}_{x \in R_C(q)} u_L(x)$.

Lemma 3: For all $q \in X$, $h(q) \in p$.

Proof: Suppose not. Then there exists $q \in X$ such that $z \equiv h(q) \notin p$. By Lemma 1 this implies that there exists $y \neq z$ such that (i) $u_C(z) \leq u_C(y)$, and (ii)

$u_L(z) \leq u_L(y)$. The latter statement implies (iii) $u_L(z) < u_L(y)$, or (iv) $u_L(z) = u_L(y)$. If (iii) is true, then this and (i) imply that L strictly prefers y over z and y satisfies the constraint that C weakly prefer y to q. This implies $z \neq h(q)$, a contradiction. If (iv) is true, then consider the policy $w = (z+y)/2$. The definition of z and (i) imply that $y \in R_C(q)$ and $z \in R_C(q)$. Since $u_C()$ is quasi-concave, this implies $w \in R_C(q)$. Next, (iv) and the fact that $u_L()$ is single-peaked imply that $u_L(w) > u_L(z)$. These two statements imply that L strictly prefers w over z and w satisfies the constraint that C weakly prefer w to q. This implies $z \neq h(q)$, a contradiction.

■

To prove our main result, we consider three exhaustive and non-overlapping regions in which the status quo might lie: $I = X \setminus P_C(l)$, $II = p$, and $III = P_C(l) \setminus p$. For the case where the policy space is two-dimensional and preferences are Euclidean, these regions are illustrated in Figure 2. In region I, both the gatekeeping game and the veto game produce the same policy, l, the ideal point of L. In region II both games produce the same policy, q. In region III, the two games produce different outcomes: q in the gatekeeping game and $h(q)$ in the traditional veto game. Since L strictly prefers $h(q)$ to q, and C weakly prefers it, the veto game Pareto dominates the gatekeeping game.

Theorem. The veto game Pareto dominates the gatekeeping game.

Proof. First, consider case I, $q \in X \setminus P_C(l)$. When this holds, C weakly prefers l over q. Consequently, C's optimal strategy in the gatekeeping game is not to exercise his gatekeeping right. L will amend the proposal to l, and this is the final policy. In the traditional veto game, L proposes l and C accepts the proposal. Thus, both games produce the same outcome, l.

Second, consider case II, $q \in p$. In the traditional veto game suppose L proposes some x that L strictly prefers to q. Then Lemma 1 implies that C strictly

prefers q; hence he will veto the bill. As a consequence, L's optimal strategy is to propose q, and this is the equilibrium policy outcome. Now consider the gatekeeping game. If C makes a proposal, then L amends the bill to l. If $q = l$, then it is clear that the equilibrium policy outcome is q. If $q \neq l$, then L strictly prefers l to q. This and Lemma 1 imply that C strictly prefers q to l. Consequently, C's optimal strategy is to exercise his gatekeeping right. Hence, the equilibrium policy from both games is q.

Third, consider case III, $q \in P_C(l) \setminus p$. In the gatekeeping game, if C makes a proposal, then L amends it to l. Since $q \in P_C(l)$, C strictly prefers q to l. Thus, C's optimal strategy is to exercise his gatekeeping right. Therefore, the equilibrium policy outcome is q. Now consider the traditional veto game. Since $q \notin p$, by Lemma 3, $h(q) \neq q$. Therefore, by definition of $h(q)$, this is L's optimal proposal, and C will accept the bill. Thus, the equilibrium policy outcome is $h(q)$. By definition of $h(q)$, C weakly prefers $h(q)$ to q. All that remains is to show that L strictly prefers $h(q)$ to q. By the definition of $h()$, L must weakly prefer $h(q)$ to q. Suppose L is indifferent between the two alternatives, that is $u_L(h(q)) = u_L(q)$. Let $w = (q + h(q))/2$. Since q and $h(q)$ are in $R_C(q)$, and since $u_C()$ is quasi-concave, it follows that $w \in R_C(q)$. Since L is indifferent between q and $h(q)$, and since $u_L()$ is single-peaked, $u_L(w) > u_L(h(q))$. But this implies that $h(q)$ is not the solution to L's maximization problem, a contradiction of the definition of $h()$. It follows that L strictly prefers $h(q)$ to q. Thus, the traditional veto game Pareto dominates the gatekeeping game. ■

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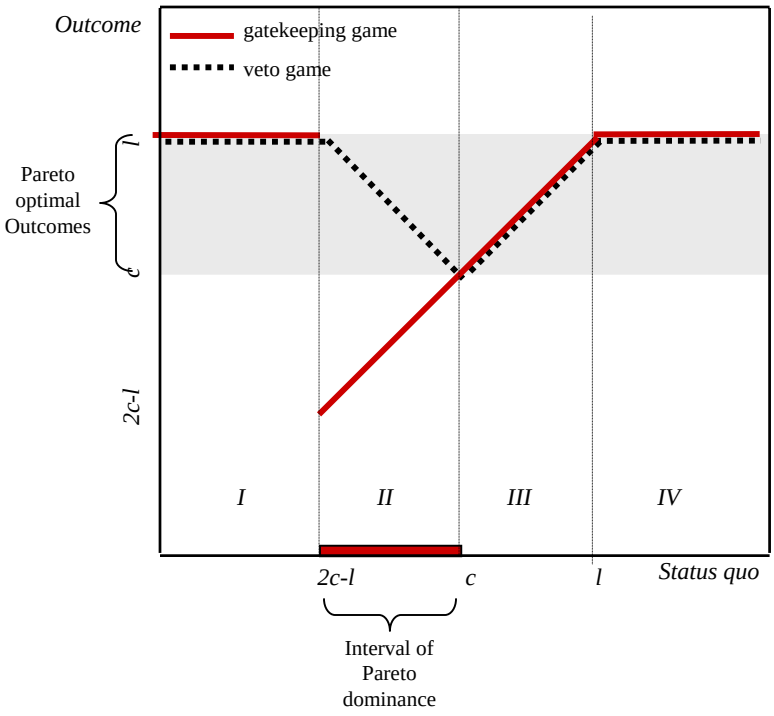

Figure 1. Outcomes and Pareto Dominance in the Gatekeeping and Veto Games

Region of status quo	Outcome of gatekeeping game	Outcome of veto game	*C* and *L*'s preferences for the gatekeeping (G) and veto (V) games
I	l	l	*C* and *L* are indifferent between G and V
II	q	q	*C* and *L* are indifferent between G and V
III	q	$h(q)$	*C* is indifferent and *L* strictly prefers V to G

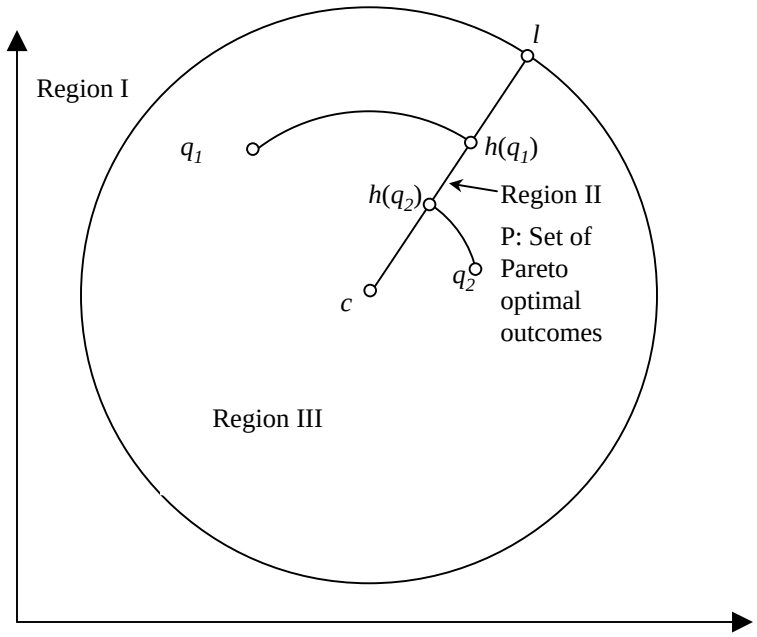

Figure 2. Extension to Two Dimensions