

ENGO POLICY INFLUENCE VIA
LEGISLATIVE COMMITTEES

ENGO POLICY INFLUENCE VIA
LEGISLATIVE COMMITTEES IN CANADA,
THE UNITED STATES, AND RUSSIA

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Abstract

Within the under-populated realm of scholarship on legislative committees, there have been numerous studies which have looked at the ability of legislative committees to achieve policy influence in the wider legislature. However, fewer have examined the ability for non-governmental organizations – particularly those with relative outsider status in the policymaking process – to influence the policy recommendations of committee members.

As environmental non-governmental organizations (ENGOS) have often worked through legislative committees to try to influence policy, this dissertation examines how the characteristics of different legislative institutions work to facilitate or limit influence by representatives of ENGOS. This is done by comparing the interactions of ENGOS with legislative committees in Canada, the United States, and Russia – countries which respectively have parliamentary, presidential, and semi-presidential systems, and hold in common the derivation of a large portion of the country's GDP from natural resource-based industries.

The central research question for this study asks how the institutional organization of legislative committees affects the ability of ENGOS to achieve influence through engaging the committees, and how other factors interact with this to increase or decrease the potential for ENGO influence. A key finding that emerges out of this line of inquiry is that there is evidence that some conditions for influence in committees cannot be seen as extensions of the wider legislature but can rightly be seen as unique to the committees themselves or as manifesting in unique ways within them.

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Introduction

In recent decades, environmental issues have assumed major prominence. Despite predictions of looming disaster, political and policy responses are often judged insufficient to address the scope of the challenge. As a result, environmental non-governmental organizations (ENGOS) have attempted to push political systems of various types to accord greater priority and resources to addressing what they see as the environmental crisis. Being largely outsider groups seeking to influence policy from without rather than within, they have often worked through legislative institutions and legislative committees to try to influence policy. The role of legislatures and their committees can be expected to vary by the type of legislative system in which they are found – presidential, parliamentary, and hybrid or semi-presidential – and by other contextual factors unique to each legislature. However, few if any comparisons have been conducted of how these systems may differ in their environmental stances and the role played by their legislative institutions in permitting or limiting ENGOS' influence over policy. This study aims to make such a contribution by comparing institutions and processes in countries with different types of legislatures, posing the question: “How does the institutional organization of legislative committees affect the ability of ENGOS to achieve influence through engaging the committees, and how do other factors interact with this to increase or decrease the potential for ENGO influence?”

Within the under-populated realm of scholarship on legislative committees, there have been numerous studies which have looked at the ability of legislative committees to achieve policy influence in the wider legislature. These studies are very relevant to the current one; however, this dissertation is unique in that it is concerned with both the degree to which a) ENGO representatives appearing before committees have been able to influence the policy recommendations of committee members and b) the ability of those recommendations to carry over into policy via government acceptance. The only side of policy realization that is not examined is the implementation of policy, as the transmission of ENGO policy inputs and committee outputs are both within this study's scope.

Conducting any evaluation of influence is of course not a straightforward exercise, since influence is a quality that can be extremely difficult to quantify. The factors leading to decisions

at the committee level and beyond can be multifarious, and the seeds of change can lay dormant for many years before taking root and forming new policy directions. However, some attempts at process tracing stories of influence have been made here by utilizing an approach that is similar to that described by Monk (2010) in his Framework for Evaluating the Performance of Committees in Westminster Parliaments. First comparing recommendations to outputs – in this study, comparing ENGO recommendations to committee decisions and then committee recommendations to evidence of their influence on government policy decisions – and then using interviews to gauge stakeholder opinions on whether policy influence was achieved through the committee hearings process. I also draw from previous studies (i.e. Cairney, 2007) which have used the extent of committee amendments to legislation as a measure of committee influence on policy.

An additional indicator that does not come up in Monk's or Cairney's approaches but which I also use in this study is an analysis of committee deliberations. As will be explained further in the methods section, the deliberative content of committee hearings is coded in order to derive any lessons that can be learned about the trajectory of influence there. For this exercise, approaches similar to those used by Fuji Johnson, Burns and Porth (2017) to gauge effectiveness of deliberations and by Dryzek and Niemeyer (2010) to identify meta-consensus are used.

The main difference between parliamentary, presidential, and semi-presidential legislative systems – which is expected to impact conditions for ENGO influence on policy through legislative committees in those systems – pertains to the relationship between the executive and the legislature. In presidential systems, there is a clear divide between the two branches; in parliamentary systems, the two are less distinct as the executive is determined through the election of the legislature; in semi-presidential systems, the president and the parliament are elected separately but there are additional points of interplay between the president and the parliament than in a purely presidential system.¹ These differences are expected to manifest in legislative committees in terms of different levels of executive control over committee members' behaviour – alternately facilitating or weakening attempts to influence policies by outsider groups who participate in committee hearings. For example, Bennedsen and Feldman

¹ For example, in a president-parliamentary system (a subtype of a semi-presidential system that is in place in Russia) the prime minister and cabinet are selected by the president – with the caveat that parliament must approve of the president's choices.

(2002) attribute the lack of a vote of confidence procedure in the presidential model to a relatively decentralized policymaking system in which committee chairs are particularly powerful and enduring policy coalitions are liable to form – which is alternately advantageous or frustrating for interest groups inside or outside of such coalitions. At the same time, the presidential model has been painted as somewhat disorderly by others (e.g., Bradshaw and Pring, 1972), who praised the "line of responsibility from the electorate to that executive machinery" as being more "clear and direct" in the British Parliament than its U.S. counterpart (p. 8-9). On the one hand, we might expect the more substantive policymaking role of committees associated with the presidential model to render ENGO representations before committees more likely to influence policy. On the other hand, greater independence of committee members could mean that where ENGOs have successfully influenced recommendations at the committee level, the committee recommendations have a more precarious path in terms of carry over into policy in the wider legislature.

By drawing from examples in Canada, the United States and Russia's respective parliamentary, presidential, and semi-presidential² systems, I hope to gain insights into the conditions in which such influence is possible in the context of different types of legislative institutions.

1.1 Outsider Influence on Policy

Parliamentary and congressional committees are undeniably important resources for non-governmental organizations – particularly in terms of gaining information, articulating one's message on the public record, and establishing oneself as a legitimate stakeholder in the eyes of politicians, government and the public. As Malloy (1996) noted in his study of the Canadian House of Commons Standing Committee on Finance's 1989 hearings on the GST, gaining policy influence may not be the main goal or even a secondary goal behind an individual or group's decision to participate in a committee hearing. However, the content of ENGO submissions to

² According to Duverger (as cited in Elgie, 2008: p. 50-51) "[A] political regime is considered as semi-presidential if the constitution which established it combines three elements: (1) the president of the republic is elected by universal suffrage; (2) he possesses quite considerable powers; (3) he has opposite him, however, a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them." As Elgie (2008) notes, the degree of power held by the president in a semi-presidential system varies between states.

committees often urges the committee to take action in some way to help bring their ideas and priorities into action. Indeed, interviews with these individuals as part of this study do reveal the hope (if not always the expectation) that some change will come about by committee members heeding their counsel.

The choice of legislatures as a venue for influence contributed to the selection of ENGOs as the subcategory of non-governmental actors looking to achieve this influence. Legislatures are not the only conduit through which non-governmental organizations can influence policy, but they can serve as a venue of last resort for those without insider resources or those who have otherwise failed to penetrate the policy process beforehand (Pross, 1985). Pedersen, Binderkrantz and Christiansen (2014) characterize public interest organizations such as environmental groups as those with “outsider resources” – in contrast to business and industry groups which possess “insider resources” by virtue of their cumulative control over the means of production (pp. 205-206). Those with insider resources may have a direct line to government through various means, but those without such resources rely more on official channels for non-governmental influence on policy – such as legislative committee hearings.

ENGOs were chosen as a group to focus on because they serve as an excellent exemplar of political outsiders trying to influence policy. As a group, they operate with a high degree of independence from government agencies and other types of institutions, employ professionals with high levels of expertise, and even in some cases are worldwide organizations – making the member groups in each country more equivalent to one another. However, even where the ENGOs in the three countries of study are not part of the same worldwide organizations, there is a consistency of certain themes in their situations, such as the policy obstacles facing their recommendations i.e. sector-specific development at odds with environmentalist priorities. This explains what I observed as a consistently oppositional nature of ENGOs to successive governments in all three countries.

Whether it be private actors or government that benefit from such development (or more likely both) ENGOs tend to square up against very powerful actors with a great wealth of resources. In this way, ENGOs serve as a “crucial case” or a hard test of policy influence (Levy 2002:442): if influence can be achieved where it is least likely (by ENGOs) then it is likely that influence would occur in other less restrictive contexts, for example when witnesses are more powerful or have more insider access.

The rationale for focusing on committees came from an understanding that legislative committees are the venues which host the lion's share of formal involvement of non-governmental representatives in the legislative policy-making process in Canada, the U.S., and Russia. These hearings can be convened for the purpose of consulting on draft legislation and or other forms of policy, for informing reports that are developed to inform future legislation, or for overseeing budgetary matters such as supplementary estimates.³ Thus, in a study which focuses on ENGO influence through legislatures, committees become the central unit of focus. It could be argued that meetings between those representing ENGOs and legislators or government bureaucrats are more potentially fruitful; however, we know much less about those meetings than we do about committee meetings, since the former are generally private and the latter mostly public. While there has been some debate about the intended purpose of legislative committees, they are all set up at least in part to act as conduits for their members to learn about policy and use their learned expertise to improve policy. Thus, it is important from a public interest perspective to continually assess whether this aspect of a committee's purpose is working as intended. At present, there is a dearth of such studies, particularly in the Canadian context – with such exceptions as Winfield (2010), Malloy (1996), Thomas (1978), and Lawlor and Crandall (2013) – and in the Russian context as well.

It is the process of influence through these committees that the dissertation seeks to understand. Specifically, the central research question asks: **“How does the institutional organization of legislative committees affect the ability of environmentalist non-governmental organizations (ENGOS) to achieve policy influence through that venue, and how do other factors interact with this to increase or decrease the potential for ENGO influence?”** Because committees are nested within legislatures, this thesis will also consider whether the conditions for influence are shaped by the legislatures within which they operate, or if these committees beget their own conditions for ENGO influence which operate on a different plane from the rest of their legislatures. While accounting for the numerous ways that committees do operate as a product of their legislatures, a key argument of the dissertation is that in Canada, the U.S. and Russia alike, some conditions and mechanisms for influence in committees operate

³ They are also at times convened for the purpose of discussing committee business such as internal matters of the House or Senate, but when these do not also concern matters of policy it is not considered particularly relevant to the present study.

quite independently from the wider legislature; they are unique to those venues or manifest in unique ways within them.

There are also several secondary research questions that must be addressed in this dissertation in order to provide the proper context to answer the central research question. To begin with, there are some descriptive questions:

1. What do legislative committees do, and how does their function vary across the 3 legislatures (countries) in this study? Across all countries, are they equally focused on legislative, oversight, and internal administrative tasks? What role do they have in the overall policy process? How many committees and subcommittees are there? Even though they are called the same thing across the 3 countries, are they really the same?
2. What kind of influence, if any, do witnesses who appear before legislative committees have? Under what conditions are we most likely to see such influence? How might party discipline constrain opportunities for influence?
3. What differences can be observed within countries regarding influence through committees – in different time periods, or between the upper and lower chambers?
4. What kinds of witnesses appear before committees?
5. Besides influence, what other purposes might there be to such appearances from the perspectives of both witnesses and legislatures?

In addition to these descriptive questions, I also seek to understand how a) institutional and procedural rules and conventions within legislative committees have been established, and b) how the results of legislative committees are transmitted into policy in the wider legislature.

Drawing from my findings, I also provide suggestions for changes or strategies that legislatures, legislative committees and/or non-governmental actors could adopt to make those venues more conducive to ENGO policy influence in the three countries.

1.2 Argument and Analytical Framework

Comparative Aims and Scope

What led me to analyze influence within different kinds of legislative systems was the observation of how much systemic factors are represented in existing studies of committee

influence on policy. There are certain expectations that accompany the differences in system: with a parliamentary system, we might expect more informal types of influence on policy – such as inspiring changes in policy direction that precede the drafting of legislation, rather than making regular transformative amendments to government bills. Where there is a minority government in a parliamentary system, we can expect more inter-party brokering and thus perhaps more substantive amendments than under majority governments. In the United States' presidential system, we might expect a more explicit role of committees on influencing policy through legislation i.e. by playing a gatekeeping role when it comes to legislation, with committee chairs playing a relatively independent leadership role. With Russia's semi-presidential system, we might expect committees to have a role that varies greatly depending on whether the president's party has a majority in each chamber; moreover, given the larger number of parties that are in each chamber due to the electoral system of proportional representation, another variable that can impact committee dynamics is the level of deal-making between the president and legislators (either as individuals or as parties) even where the president's party has a legislative minority.

This section will flesh out further how committees in each system are expected to behave, but the motivation for approaching the topic in this way is twofold: First, I am endeavouring to test and refine what is known about the nature of outsider influence through legislative committees in each system, and to fuel important discussions about what an optimal dynamic in this area might look like in each system. Second, if there are similarities found across the three systems in how ENGO representatives are failing to influence policy through committees, that might point to more universal problems preventing better state-society relationship and representative legislatures.

To expand on the differences between systems in the legislature: For the United States Congress, where committees are relatively powerful, studies on the influence of those committees often examine checks to that power by the parties, the executive or the wider legislature more broadly. For example, Duff and Rhode (2012) and Moffett (2012) concern themselves with the manipulation of the House Special Rules Committee activity with the aim of decreasing the legislative impact of committees where the policy preferences are relatively out of step with the median of the chamber. Similarly, Kim and Rothenburg's (2008) study of House committee influence looked at activity by parties to limit the "considerable negative power" of committees by limiting "closed rule" gatekeeping (p. 339). These studies refer to a debate in the literature in

the U.S. Congress on whether committees are outliers who do not represent the policy positions of the chamber as a whole in that area. The subtext of this debate is that committee members must generally act relatively independently if it is even a possibility that their policy orientation could habitually produce legislative results that displease the majority of party members. Miler (2017) also references this debate as a way of underpinning her work; in her case, she approached the task of assessing committee influence on the legislature in part by looking at whether the bills they sponsored passed (were made into law) or not.

Woon (2008) also examined connections between committee membership and bill sponsorship, and found that those in leadership positions (i.e. committee chair) were more likely to moderate their proposals in order to ensure their success. Berry and Fowler (2018) build on this finding by concluding that chairs are able to exert legislative leadership that consistently impacts policy independently from the majority party. Again, the fact that a key debate in the literature involves the policy orientations and bill sponsorship activity of specific members of committees is reflective of the fact that in the U.S. system, a committee member is generally assumed to have more opportunities to assert their individuality; moreover, their membership on the committee is connected to getting their own legislation passed – something that is not seen in analyses of other legislative committees such as in Canada and Russia.

In studies of committee influence on policy in the Westminster parliaments – including Canada – the focus tends to be on indirect rather than direct legislative influence. For example, we see multiple studies that use government responses to committee reports as metrics of policy influence (Stilborn, 2014; Monk, 2010; Hindmoor, Larkin and Kennan, 2009). In other studies, committee discussions of private members' business play a part in inspiring similar government legislation (Blidook, 2010). We also see attention to proposed amendments to legislation by committees (i.e. Ilical and Harrison, 2007; Cairney, 2006; Lawlor and Crandall, 2013; Malloy, 1996; and in a small section of Blidook, 2010) but there is never a generalized discussion of committees serving as veto players for legislation as is the case in the United States. In general, the manner in which committees in the Westminster tradition are thought to influence policy is viewed as much more informal and perhaps trivial, in comparison to the corresponding studies of committee influence in the U.S. Congress.

Questions of policy influence and role of the committee system in Russia have received far less scholarly attention. Nevertheless, there have been quite a few studies that look at voter

behaviour of Russian legislators in ways that are relevant to understanding committee work. For example, Smyth (2002) described the situation Yeltsin found himself in – where veto players in the Duma and its committees consistently blocked his reform agenda – as one that was successfully avoided by Putin *before* his party enjoyed a majority in the Duma. Per the authors, Putin was able to achieve this by centering his issue positioning relative to other actors and engaging in a 1999 political deal that involved granting some committee chairmanships to the Communist Party. When he was able to garner enough support for a United Russia-led coalition to comprise the majority of the Duma in 2001, the terms of the deal with the Communist party were revoked. Smyth envisioned this political landscape as being in part a product of the political system in Russia, and the relevance of this can be drawn from in the context of the current three-country comparison. Unlike Canada, the leader of the government does not require the confidence of Parliament to remain in power; thus, political deadlock between the executive and the parliament is a hazard. However, unlike the United States with its two-party system, parties can be effectively used as “coordinating mechanisms” to achieve the support of a previously oppositional group of legislators. Bashaga (2008) also discusses the fact that Russia’s political party system as it currently exists is relatively young. She links this with higher incidences of inter- and intra-party coalitions, highlighting the need for the president or legislative entrepreneurs to manipulate the coalition-making process effectively in order to get their policies through.

These differences in intra- and inter-party dynamics in the legislature are to some degree extensions of the legislative system in which they operate; thus, some elaboration on the key differences between the parliamentary (Canada), presidential (United States), and semi-presidential (Russia) systems helps to make those connections. The precise role of the legislature and its functions in the policymaking process vary beyond the characteristics that are common to all legislatures; namely, that each legislator has the same number of votes as the others, and that the main function of the legislators is to craft laws and policies – based on an authority that they derive from a “constitutional and representational base” (Peabody, 1984: p. 443). It is the source of this “constitutional and representational base” that accounts for key differences between the three types of systems. Most notably, the strong party cohesion in parliamentary systems is associated with the fact that the authority of the executive – the Prime Minister and his or her cabinet – arises from the “confidence” or support of the legislature (Collie, 1984) which can be withdrawn at any time by a majority of legislators in the lower chamber. In this institutional

context, coordination efforts such as enforcing stronger party discipline are aimed at maintaining a strong leadership role of an executive that is “hierarchically subordinated to the legislature” (Shugart, 2005: p. 323). By contrast, in presidential systems and in semi-presidential systems like Russia, the president is chosen through an election that is separate from the election of the legislature and operates on fixed terms.

In presidential systems, the separation of powers results in a relationship between the executive and the legislature that is transactional – facilitated through legislative leadership roles such as the House Speaker and the Senate Majority Leader in the U.S. In theory, this provides more room for a decentralized legislative process, meaning that individual legislators have more agency when it comes to decision-making at legislative committees as they are less constrained by things like party discipline. This in turn provides more capacity for ENGO representatives to influence policy through committee hearings.

Semi-presidential systems represent a specific form of hybrid of the hierarchical and transactional models. The president is elected directly, but leads the country alongside a prime minister and their cabinet – both of whom are beholden to the legislature in the same manner that the prime minister is in a parliamentary system. It is a system that traces its roots to the German Weimar Republic when a compromise was struck between Max Weber’s preference that political parties should “submit more or less unconditionally to leaders who held the confidence of the masses,” and the inclinations of his more pro-parliamentary model contemporaries Robert Redslob and Hugo Preuss (Shugart, 2005: p. 331). This historical example is especially important when examining the Russian case. Unlike other semi-presidential models such as France where only the legislature has the powers to dismiss members of cabinet, Russia is among those semi-presidential countries that retained from the original Weimar model the ability for the president to dismiss cabinet members. This model is classified by Shugart (2005) as a ‘president-parliamentary’ subtype of the semi-presidential system, as opposed to ‘premier-presidential’ systems such as France. In the context of my study of ENGO influence across different committee systems, this is expected to manifest as greater executive control over legislators’ behaviour in Russian committees than in the U.S. presidential system. In turn, the ability for legislators to have their policy decisions directly influenced by ENGOs at committees is expected to be generally lessened in the Russian semi-presidential style system. But there are other peculiarities of the Russian legislative system that play their part as well; for example, Thames’

(2002) aforementioned study of Duma legislators found that “while as a group the parliamentary parties may have been somewhat disciplined, those parties dominated by SMD deputies tended to be less disciplined in voting.” These and other aspects of the different legislative system will be factored into the analysis here.

Building on the literature referenced in the beginning of this section, the current study finds much general truth to the inferences into the effect of the type of legislative system on legislator agency through committees (and consequently the capacity for ENGO influence through committees). As with the prevailing literature in the field on the influence of committees on policy, this dissertation also takes account of important divergences from these generally valid assumptions. For example, Ljiphart (1984) has written about the ability of minority parliaments in European countries to create an ‘informal separation of powers’ – an effect that can also be seen in this study with respect to minority parliaments in Canada. Likewise, there can be the development of hierarchical dynamics between the executive and legislative branch in the U.S. that results in ‘informal fusion of powers’ (Shugart, 2005: p. 330). In addition, the hybrid nature of semi-presidential systems makes for an ambiguous set of prescriptive roles of the executive from the outset, which is only further complicated by the kinds of informal factors that impact the legislative functions in the other two models. While Shugart (2005) has noted that where there is a strong political party presence that is associated with the president, there have been legislative periods characterized by the relative dominance of the president in the French system. In this dissertation, we see these effects take shape in the context of the Russian system, where there is an additional level of presidential control over cabinet – not to mention a degree of veto power that is easier to maintain in cases where the president is outnumbered by different parties in the legislature (as was the case during Yeltsin’s presidency and the beginning of the Putin presidency). When these differences in the countries being studied in terms of legislative system model are combined with a consideration of factors related to political, historical, and cultural context, the resulting analysis is by necessity a complex one.

To address another aspect of the differences in legislative systems, the three countries also have three different ways of populating their upper chambers – known as the Senate in the U.S. and Canada, and the Federation Council in Russia. The members of the upper chamber are directly elected in the U.S., indirectly elected in Russia, and appointed in Canada (Russell, 2012: p. 120). These are the three broad categories for the membership of upper chambers in bicameral

systems, and representation of each type in this study provides another useful point of analysis – making it possible to analyze whether roles, behaviours, and outcomes pertaining to ENGO influence through upper chamber committees are impacted by these differing institutional conditions. The challenge of making causal inferences for these numerous variables given a limited number of cases is addressed later in the dissertation.

The choice of comparative case studies of these different kinds of legislative systems requires a brief explanation here. There are several reasons why I have chosen to examine ENGO influence through parliamentary committees in Canada, the US and Russia. My initial interest centered around the fact that these three countries span a vast amount of territory and have resource extraction industries – particularly in the environmentally sensitive far north – that play a large part in their economies and national revenues. Among the many choices of countries to focus on which have parliamentary systems, Canada was chosen not only on the basis of my great familiarity with the Parliament of Canada’s committees – by virtue of having summarized committee proceedings professionally since 2010 – but also because it is considered a prototypical example of the strong party discipline⁴ that is already associated with parliamentary systems. Malloy (2006) has asserted that Canada’s particularly strong party discipline even when compared with other Westminster systems is rooted in the desire to prevent regional loyalties from competing with party loyalties, and Galloway (2013) has written about expert perceptions of Canada’s parliamentary party discipline as being stricter than its counterparts in the UK, Australia, and New Zealand.

Practical considerations led me to choose the United States as the country with a presidential system to study. The United States Congress has been the subject of a greater amount of scholarly investigation than the others, and the transcripts of its proceedings are quite accessible and easy to navigate. Many other presidential systems are also small countries, and the size of a country is the kind of contextual condition I thought would be difficult to account for. Moreover, it was a factor that some of the larger countries with presidential systems i.e. Mexico and Indonesia conduct their legislative affairs in a language I do not speak.

⁴ Party discipline is treated in the dissertation as an important institutional factor affecting the ability of legislators to respond to committee witnesses in ways that alter policy outcomes.

In addition to my aforementioned preference for studying countries with a large span of territory, this adherence to the original semi-presidential model made the selection of Russia as a case study particularly attractive, as it adds a unique element to the equation of institutional comparison. The vast differences in historical and political contexts between Russia and the other two countries in the study also make for an interesting test case in the event that there are similarities found in all three cases. If commonalities in the dynamics of ENGO influence on policy through legislative committees are occurring across such different cases, it may alert us to subtle shared features in the nature of legislative committees that could have otherwise been overlooked.

Core Concepts Employed

Influence

Given that this study dissects ENGO influence on policy through specific venues, it is necessary to discuss how influence is conceptualized in the dissertation. This study considers influence in the context of legislative committees to manifest itself either by having a measurable impact on outcomes, or simply having one's contributions substantively included in deliberations that shape outcomes. Since input can be considered in various ways through legislative committees – sometimes leading to outcomes years after the perspective of a given actor is written into a committee report, for example – there is a need to look beyond outcomes for evidence and influence. In this way, influence in parliamentary committees is hypothesized to be connected to more ideal conditions for fair deliberation, such as openness to new ideas at the committee stage and a non-partisan approach by participants.

To elaborate upon the way in which influence is defined and understood in this study, the way in which I assess influence is three-pronged in order to account for the complexities in measuring influence. Firstly, I compare outcomes of the policy process being examined with the preferences of interest groups. Because of the elusiveness of decisionmakers' motivations for their policymaking actions, Dür and De Bièvre (2007) assert that interest groups' level of influence and power is best measured by their track record of how much policy follows their stated preferences. As the cases examined for this dissertation often involve very specific and sometimes technical recommendations – as opposed to merely normative statements such as

emphasizing the importance of environmental protection – I found that there was substantive value in comparing statements from ENGO witnesses at committee hearings with outputs such as committee amendments, votes in the legislature, and the enactment of government regulation.

Secondly, the concept of meta-consensus, as described in Dryzek and Niemeyer’s 2010 work on the subject, was employed as a way to measure the capacity for ENGO witness influence in committees. Meta-consensus is where the participants to a deliberation may not agree with the outcomes reached through the process, but do have some level of agreement with way the deliberative process was carried out i.e. the underlying normative principles or epistemic approaches that were espoused as part of the process. This definition also makes reference to Noel’s (2006, 433) description of instances where participants verbally reach understanding with one another about some of the parameters in the discussion, and those involved recognize that they have “contributed to and influenced the outcome, even when they disagree with it.” Per Dryzek and Niemeyer, meta-consensus is a *desired end result* from authentic deliberations, as opposed to simply a characteristic of legitimate deliberations. In their 2007 work on the same topic, they differentiate meta-consensus from the Habermasian ideal outcome from deliberations of unanimity of preferences by all participants in the deliberations (which has not been considered a realistic metric for this dissertation, as all cases would fall short of it). Instead, they articulate that meta-consensus is evidence that parties to the deliberation have engaged in it with open-mindedness and a collaborative approach, producing the following with regard to the topic of discussion:

agreement on the domain of relevant reasons or considerations (involving both beliefs and values)
that ought to be taken into account, and on the character of the choices to be made. But it does not
require agreement on the veracity of particular beliefs, or ranking of values, still less
unanimity
on what should be done (p. 500).

Similarly, I considered it to be a positive indicator of potential for policy influence when an ENGO witness stated in an interview that they felt their testimony was seriously considered and discussed in a meaningful way at committee. This aspect of “potential,” while less ideal than “actual,” is important when dealing with the probabilistic and complex causal processes such as those that exist in the legislative committee context – as at times successful influence may take longer to come to fruition, or be more difficult to discern.

Delving deeper into the substance of the committee deliberations for more evidence of influence, I drew from Genevieve Fuji Johnston's (2009) concept of democratic and deliberative empowerment, and Fuji Johnson, Mary Burns and Kerry Porth's (2017) method of evaluating whether legislative committee deliberations are meaningful. Per Fuji Johnson (2009), *democratic* empowerment refers to the potential for policymaking influence, while *deliberative* empowerment refers to the potential for policymaking influence through deliberation. Deliberative empowerment serves as a core concept for this dissertation, as it best applies to the way committee members are engaging with ENGO witnesses – either in ways that reflect hostility or contempt for the witnesses' priorities, or in ways that show openness to the perspectives expressed by them.

While these concepts from Fuji Johnson (2009) are useful for this study, it should be clarified that I have not drawn directly from the *method* that Fuji Johnson's uses to measure deliberative empowerment. This method deals largely with assessments of innovative types of institutional design. For example, she highlights as a positive example that a Toronto Community Housing Corporation (TCHC) consultation was set up for the input of participants to be meaningful and impactful on the resulting policies. Some of the indicators of openness to input – such as the timely circulation of information to participants in the TCHC consultation and the ability of participants to engage with the TCHC – speak to the potential for deliberative empowerment that is applicable to the study of legislative committees. This is because there is a “process” dimension to the capacity for influence in both the TCHC and legislative committees, and process is measured in this study as an aspect of deliberative empowerment. Others, such as the participatory budgeting approach used in the TCHC consultation as an indicator of elites delegating decision-making power to other participants in the process, are not considered applicable. This is mainly because in legislative committees, decision-making power is never transferred from legislators to witnesses, at least not officially.

Thus, in order to marry the concept of deliberative empowerment with a method that is more directly applicable to influence within legislative committees, I draw from Fuji Johnson et al.'s (2017) study of the Parliament of Canada's 2014 committee hearings on Bill C-36, *The Protection of Communities and Exploited Persons Act*. In this work, Fuji Johnson et al. introduce a method for evaluating whether deliberations with non-governmental witnesses have been meaningful – regardless of whether or not meaningful results have been produced. I argue that the

existence of meaningful consultations is an important component of both meta-consensus and deliberative empowerment, and thus draw from Fuji Johnson et al.'s method to further identify evidence of a) probabilistic influence or b) the potential for that influence to come about in the short, medium, or long-term. Fuji Johnson et al.'s method and my adaptation of it for the purposes of this study will be discussed further in the chapter on methodology.

The investigation and discovery that occurs in committee hearings means that outside witnesses and experts can theoretically play an especially important role in shaping policy at that stage i.e. through amendments to bills or in the crafting of reports. By looking at what influence ENGOs have on legislators in committees – and subsequently how much influence legislators have in shaping committee recommendations and ensuring that they are reflected in legislative decision-making – it is possible to pinpoint whether policy is benefiting from an openness to input from outside actors at the committee stage.

Heterogeneity/Causal Complexity

The comparative method applied in this dissertation is grounded in an assumption of heterogeneity/causal complexity. This necessitates exploring the full complexity of cases, and a focus on areas where general trends are reversed in specific instances. Heterogeneity/causal complexity holds that while the comparative method has often treated the subject of study across cases i.e. levels of democracy in individual states as homogeneous at the case level, there is value in assessing variables across cases while highlighting their complexity. It contends that the value in focusing on this complexity is not to unravel commonality, but to further explain and expand upon an identified relationship between variables (Ragin, 1989: 21).

Examining the idea of causal complexity further, a key finding of this dissertation is that factors like strong party discipline/executive control of the legislative process, money in politics, and a high degree of dysfunction⁶ all discourage ENGO influence on policy. However, while that statement may be constant across all cases, the extent to which those factors are at play in the

⁶ Dysfunction refers to any context where there is diminished operability of the legislature and especially of committees. If legislative committees do not meet regularly, or if they do not hear from outside witnesses because their members are too busy fighting with one another to establish the hearings process, then this is considered to be evidence of a high degree of dysfunction that is negatively impacting the potential for ENGO influence through committees.

different systems vary across both time and space: party discipline and executive control has constrained the capacity for outsider/expert influence in Canada's parliamentary system and especially in Putin's Duma/Federation Council; money in politics has played a particularly destructive part on legislative influence in the U.S. system; and legislative dysfunction caused too much inactivity in Yeltsin's Russia –hampering opportunities for ENGO influence on policy through the legislature there. Still, within each system, there are noted exceptions and qualifications that are important to explore.

Agents and Structures

While I hold it to be true that institutional rules and legislative structures are important determinants of the capacity for ENGO witnesses to influence legislation, I also recognize that individual agents are important factors for this influence in all three country contexts. However, the degree to which structures and agents play this role is not necessarily the same in each country; this balance of agents and structures as greater or lesser factors in determining the capacity for outsider influence is thus a topic of great interest in this study.

In the relevant literature, the “agent vs. structure” debate can be best characterized as an ontological point of divergence in how the relationship between agents and structures is seen. Structures can either be seen as causal factors in themselves, or chiefly as constraints to be navigated by change-driving agents (Wight, 2006: p. 127). Building on existing theoretical discussions in political science on this topic, I assert here that traditional institutionalist (as opposed to “new institutionalist”) and behaviouralist theory can be respectively mapped onto these two ontologies.

For institutionalist traditions, the relative autonomy of institutions and relative dependency of actors on those institutional conditions to shape preferences is emphasized, and the focus on decision-making outcomes as the ultimate purpose of analyzing institutions is challenged in favour of attributing equal significance to processes within institutions (March and Olson, 1984). Institutionalism has also been associated with structuralism because “it held that structures determine political behavior in the same way that the legalist see law as having a major role in governing” (Wogu, 2013). Despite the name, a few of the “new institutionalist” traditions

– rational choice, social choice and collective choice – are linked in this context to “agent”-focused explanations where they emphasize actor causal processes over institutional ones.⁷

In the context of legislative committees, I envision institutional conventions such as party discipline as structural factors along with the more formal rules of the legislature. An independent streak shown by a committee chair or committee members – as evidenced by differences in voting behaviour by those members when compared to their respective parties in the wider legislature, for example – would be an example of an agentic factor.

While many key authors of comparative literature on legislatures explicitly situate their works at one point or another along a continuum in the agent vs. structure debate,⁹ the objective here is to identify where structural and behavioural causal processes are more or less apparent among – and within – the countries studied, and to examine the impacts and interactions of different structural and agent-related factors there. The benefit of doing close studies of particular contexts is that even in legislatures that have inspired studies with largely agent- or structure-oriented ontologies, a more heterogeneous picture of causal processes can be extracted from each case.

1.3 Findings and Overview of the Thesis

Despite the embracing of complexity in this study’s design, some clear findings emerged in response to the research question. First, I found evidence of ENGO influence through committees in all three cases; this was more significant where there were more opportunities for ENGO representatives to influence policy through hearings. Specifically, in Canada and the United States there were more opportunities for influence because of a greater number of ENGO representatives appearing before committees, and it was also easier to trace the processes of influence through legislator discussion of the ENGO testimony at the meeting or government responses to committee recommendations (in the Russian case, I found that such documents were not always available). I expected that the type of influence would be considerably more direct in

⁷ Even when they also make clear that actors’ choices are determined by the bounds of institutions – as in Schwartz’s 1977 study on vote trading and collective choice in the U.S. Congress.

⁹ Mostly via theoretical approaches, and in some cases such as Strom (1998) also through the methodology for the study.

the United States case given that committees are more powerful there, but found that the balance of direct and indirect types of influence had much in common with the Canadian legislature.

Overall, this study points to the idea that factors impacting potential for ENGO influence at the legislative committee level cannot merely be seen as extensions of dynamics in the wider legislature. In the United States, money in politics was found to play a role that is unique in committees compared to the floor of the legislature. In Russia, committees suffered inordinately from a legislative deadlock between the Duma and the executive under President Yeltsin – with the committee of interest for this study given very little legislation to study. And in Canada and the United States, where individual committee members played an especially independent role in transferring learned policy positions from ENGO witnesses into policy i.e. via legislative amendments, committee chairs often served as dynamic leaders who facilitated the success of their enterprising activities.

With respect to conditions that facilitate or mitigate influence of ENGOs via committee testimony, I consider a range of factors including both institutional and actor/agency related. One of the key questions I ask is whether influence is lower under conditions of strong party discipline. Several interesting findings emerged, and while there was no consistent pattern across countries, in Canada and Russia where there are majority and minority governments in the legislature high party discipline correlated with majority governments. In Canada, where outcomes of this could be properly compared across minority and majority governments,¹⁰ high party discipline corresponded with less opportunity for ENGO influence through legislative committees. There were some parallels to this in the U.S. Congress, where outcomes with low ENGO influence on policy corresponded with higher levels of party discipline and/or ramped-up control over committees by party leaders. More inter-party bargaining was another factor found to favour minority governments in terms of potential for ENGO influence in Canada and Russia.

The intermediary factor in these cases is the power of legislators to act on what they have learned through committee deliberations; however, many of the findings highlighted the importance of looking deeper than the legislature as a whole when considering the dynamics that drive ENGO influence through committees. For example, the importance of the committee chair's

¹⁰ For Russia, there were no examples of ENGOs appearing as part of committee hearings that could be identified and studied during minority governments.

agency might be difficult to discern if trying to separate it as a variable on a generalizable level. A close look at committees in Canada reveals that the long chairmanship of Charles Caccia at the environment committee in the late 1990s-mid 2000s unquestionably had an impact on ENGO influence on policy through committees at that time. While the importance of strong chairs was emphasized as a recurring dynamic in the Canadian legislature as a whole by ENGO interviewees, it represents an important component of the answer to the research question even if not so generalizable – as the present study is confined to environmental policy from 1996-2015 and Charles Caccia’s chairmanship extends across a sizeable portion of that timeline. Still, what may be generalizable from that significant but isolated example is that it is *possible* for a strong chair to lead a committee in a manner relatively removed from the Prime Minister’s Office and cabinet – even if it is not a common occurrence.

Another example of this is that in the United States, institutional dynamics involving money in politics and established policy subsystems which privilege certain types of interest groups were found to have an impact on ENGO influence through committees – moreso than in the legislature as a whole. A clear difference can also be seen between committee-level outcomes and outcomes beyond the committee level (in the wider legislature or government) when it came to comparing the level of influence seen in cases before Senate and House committees and between committees under a Democrat vs. a Republican majority chamber.

A smaller proportion of ENGO representatives among witnesses included in committee hearings was also discussed as a factor inhibiting ENGO influence. This factor proved especially significant in Russia under Yeltsin, where there was less party discipline and a minority government but little to no inclusion of ENGO representatives in deliberations at relevant committees.

The analysis of deliberations found a correlation across cases between evidence of meta-consensus in the hearings and positive outcomes for ENGO witnesses at the committee level. It was also found that where questions posed to ENGO witnesses by legislators were coded as hostile, this correlated with negative committee-level outcomes.

In all cases, interviews with ENGO witnesses underscored the fact that their appearances before a legislative committee was only one step in a more comprehensive campaign for influence. Indications are given throughout the discussions of cases when interviewees posited

that the appearance before committee had been a particularly significant or insignificant part of the process.

Overview of Chapters

The theoretical framework for the dissertation in Chapter 2 expands on the core concepts and explains how theoretical approaches used over the years to understand legislatures – and the committees that function within them under different constitutional models – will be applied to the dissertation.

The methodology used for this study will then be the subject of Chapter 3. Obstacles relating to the participation of interviewees, access to information and the logistical challenges of field work have presented themselves and have all made their mark upon this dissertation. This account of the route to each area of data collection adds to an understanding of the context around the data – including a sense of what data is knowable in the practical sense.

Following Chapter 3 are two chapters on the Parliament of Canada, a chapter on the U.S. Congress, and a chapter on the Russian parliament (Duma and Federation Council). The more extensive content on Canada is due to three factors: Firstly, there is more content to cover for Canadian committee hearings on environmental issues in the period studied, since committee activity is more extensive¹¹ in the Parliament of Canada than in the U.S. Congress or the Russian legislature. Secondly, I had greater access to interviewees in Canada than in the U.S. or Russia (as well as more access to committee transcripts than in the Russian case). Besides the fact that there are fewer ENGO witnesses appearing at hearings in the U.S. and Russian legislatures in the committees studied, those witnesses outside of Canada are more difficult to reach. ENGO witnesses in the U.S. who make it to the federal legislature for a hearing are usually very high-profile individuals; therefore, they are harder to connect with and they tend to have less time for interviews with academics.

In Russia, there is a cultural and political obstacle at play as well: while requests for interviews to those witnesses were sent in Russian, witnesses may have been reluctant to engage

¹¹ holding a greater number of studies, and including more witnesses per study, and a greater proportion of ENGO witnesses per study.

with a Canadian study when relations between Canada and Russia were very poor. In addition, witnesses without a strong command of the English language may have been discouraged by a perceived language barrier in the conducting of the interview (I speak Russian, but I am by no means a native speaker and the communication was easier where it was possible for witnesses to switch to English when expedient).

In the chapters on legislative committees in Canada, the U.S. and Russia, I have provided data on structural attributes of the committees studied, analysis of committee transcripts, and interviews with ENGO witnesses. I have drawn from this to make observations about influence through these committees on environmental policy. I then look at interactions between systemic conditions – at the committee level and the wider legislative/constitutional level – and influence through committees, pointing to various solutions to some of the impediments to meaningful ENGO policy input through committees. The generalizable dynamics and possible implications for addressing them in the three legislatures are synthesized in the conclusion, where I highlight the most prominent lessons for policy influence that can be taken from the dissertation.

Chapter 2: Theoretical Framework

2.1 Introduction

This chapter aims to situate the contribution of the dissertation within a wider debate in comparative politics – particularly within the comparative study of legislatures. In what follows, I first lay out what I see as the principal gaps in that scholarship as concerns the role of external (non-governmental) influence through legislative committees. Next, I establish the theoretical framework, and identify core theoretical concepts that will guide my analysis of ENGO influence on policy through legislative committees.

To begin with the more general framework for the dissertation, the research favours a case study-based approach, involving the use of “the intensive (qualitative or quantitative) analysis of a single unit or a small number of units (the cases), where the researcher’s goal is to understand a larger class of similar units (a population of cases)” (Gerring and Seawright, 2008: p. 296). It does not employ the variable-oriented approach that would seek to establish “generalized relationships between variables” through large N studies (Della Porta, 2008: p. 198 and 208) in lieu of more in-depth study of a smaller number of cases. Through this in-depth research of a smaller number of cases, there is a more fulsome exploration of the causal complexities that can be derived from these cases (Aus, 2007). This study also applies a mixed-method approach, combining qualitative and quantitative methods to collect evidence that answers the central research question: How does the institutional organization of legislative committees affect the ability of environmentalist non-governmental organizations (ENGOS) to achieve influence through engaging the committees, and how do other factors interact with this to increase or decrease the potential for ENGO influence?

This chapter will explain the relevance of three key theoretical areas to the dissertation: ideas of influence and trajectory of influence, legislative systems theories, and deliberative democracy theories. Throughout, there is a focus on the role of party discipline and electorally-determined factors such as majority and minority governments in the approach used for the current study. Such a focus was deemed appropriate in order to address a) how the results of legislative committees are transmitted into policy in the wider legislature; b) how much agency these committees have in the policy process; and c) how institutional and procedural conditions

for these committees have been established, and what explains changes in these conditions over the length of the study. As an example of how such questions will be answered, it is hypothesized and tested in this study that an increase in party discipline leaves legislators less open to the ideas presented by expert witnesses. It is also hypothesized that minority governments not only provide more space for legislators to allow testimony by ENGOs or others to sway their decisions, but also provide more opportunities for actors like ENGO witnesses to insert themselves into intra- and inter-party brokering of policymaking and coalition-building at committees.

I also apply discussions concerning the “agent vs. structure” debate in comparative politics – or the ontological question of whether the behaviour of agents or the makeup of structures can be expected to provide more explanatory power for phenomena – to the study on legislatures. I consider that this debate is especially applicable to the literature on legislatures where causal factors driven by agents are discussed to a greater degree in studies of presidential system legislatures compared to parliaments (Vipond, 2008).

2.2 Overview of Committee Systems in Canada, the U.S. and Russia

It is in committees that policy – either in the form of a pre-legislative study or a review of legislation – gets a significant amount of scrutiny and attention. While legislators may get to debate a bill and propose substantive amendments to it elsewhere, committees play an important role in the legislative process by providing members the opportunity to make extensive amendments to legislation. They also provide the public and experts with the opportunity to make comments and give advice on the proposal. However, beyond those key functions there are divergences in how committees operate in the countries studied. The three different legislative systems in Canada the U.S. and Russia lead to differences in the composition and the process of legislative committees, and some of the resulting variation is a factor when considering how ENGOs influence policy via committees.

To begin with, there are differences in broad type of legislature: Canada is a constitutional monarchy with a parliamentary system, the U.S. is a constitutional republic with a presidential system, and Russia is constitutional republic with a semi-presidential system – which has both a president and a prime minister, the latter of whom is the leader in the legislature. All

three are also federations per their constitutions, and have bicameral legislatures that include an Upper and a Lower House.

Elections in each country are done differently: Canada has the first-past-the-post system where the elections for the executive and the legislature are done through the same vote. In the U.S. and Russia, the president is voted for separately from the members of the legislature, and on a separate schedule (although the two coincide in the U.S. half of the time).

One of the most important consequences of the electoral system is the frequency with which minority legislatures occur. Minority legislatures occur frequently in Canada, but less often in Russia and never in the United States; there, a more common and comparable occurrence is that the House, Senate and presidency are not all controlled by the same party. This happens as well in Canada and Russia, but less often – since the members of the Upper House have either been appointed or elected through a process that is more managed by the executive compared to the Lower House elections.¹⁵

Leaving out some of the finer details, the policymaking process for all three legislatures generally works in a similar fashion; as a result, the process is not a significant factor behind differences in influence in these legislatures. However, it is important to understand how this process broadly works in order to consider the context behind legislative committee hearings: Bills are introduced (sometimes informed by pre-study of a relevant issue at committee), are initially approved by one of the two chambers through one or two readings, then are sent to a committee of that chamber for study. At this time, the committee will often invite experts or stakeholders for issues relevant to the bill to come speak before the committee and answer questions from members. The committee may then propose amendments to the bill – which are sometimes based on the testimony heard – and then will report the bill back to the chamber. The bill will then be read again in that chamber, and if it is approved by all of its members with or without amendments it is then sent to the Upper House or the Lower House, wherever it has not yet been read and debated.

¹⁵ This process has fluctuated in Russia over the time period of study (as will be discussed further in the Russia chapter) and there has been some involvement of elections in the Canadian appointment process for a limited number of senators.

At this point, the bill will generally be referred to a committee of that chamber, where the committee hearing and amendment process will begin anew. When that bill is reported back to the main chamber that has not yet approved it, there will be debate and perhaps amendments to the bill and then it will either be approved by a majority or not. After this point, the executive must sign off on the bill. In Canada, this is called Royal Assent and is pro-forma; however, in the U.S. and Russia bills approved by the legislature have been vetoed many times throughout the time period of study.

The planning process of committees is also fairly consistent across legislatures. The agenda of committees is determined by steering committees or subcommittees made up of members of the committee under discussion. Steering committees meet in private (in camera) and the chair has considerable agenda-setting and discourse-managing power. Outside of steering committees, there is a general openness of committee proceedings to the public (although some meetings are held in camera in all three jurisdictions for myriad reasons). Records of committee hearings are available in various formats; for those who are unable to attend in person, there are alternately video, audio, or text records of open committee hearings that can be found on the websites of each legislature. While the compiling of reports is often an activity done in camera by the committee, lists of committee recommendations in the cases of committee reports are usually also available, although I had trouble finding a couple of these in the Russian case. In these situations, the inaccessibility of the comprehensive set of committee recommendations can result in a process of witnesses influence to committee members that is enigmatic.

Despite these similarities in the committee selection and planning process, legislative committee hearings are structured differently in each country and have different norms around meetings. The key differences can be summarized as follows:

Selection of chairs and members

In Canada, the chairs of the standing committees in the House and Senate are decided via a vote from committee members; in the U.S., they are chosen by the majority party – with seniority being a major determinant. In Russia, the process diverges from the others in that committee chairmanships have at times been decided via inter-party brokering in ways that are not necessarily reflective of party representation in the legislature. This process of inter-party brokering for committee chair positions in Russia is sufficiently complex that it is best evidenced

through examples shown in Chapter 7 where committee chairmanships were granted to minority parties in the legislature in the early 2000s as a part of a power-sharing bargain.

For the other members on a committee, Canada's House of Commons decides who will fill a designated number of seats per party on a committee through its Standing Committee on Procedure and House Affairs. The Senate equivalent of this committee is the Committee on Selection, and this committee may also appoint independent senators to serve on the committee after consulting with the parties in the Senate (Senate of Canada, 2015). In the United States, these selection committees are run by each of the parties, who each appoint a designated number of committee seats via their "committee on committees" (Miler, 2017: p. 818). In Russia, the process for appointing committee members is the same as for the chairs.

Resources available to committees e.g. staff

In all three of the countries studied, legislative committees of the upper and lower chambers all benefit from the assistance of committee staff. In Canada, the most important staff member on a House or Senate committee is the committee clerk, who acts as its non-partisan procedural advisor and administrative officer. Each committee always has a number of research staff from the Library of Parliament as well, and other experts may be brought in on contract if a motion to do so is approved by the committee (or in the case of Senate committees, by the Senate as a whole). However, if external researchers are approved by a House committee, they are paid through the committee's budget instead of through the Library of Parliament (O'Brien and Bosc, 2009). The Senate has additional categories of staff: a Statistics Coordinator – who handles all documents on committee activities – administrative assistants, and communications officers. All of these staff members also operate in a non-partisan capacity (Senate of Canada, 2015).

In the U.S. Congress, staff members work either for the minority or for the majority party on those committees – except for the House Committee on Ethics and the House Permanent Select Committee on Intelligence. The number of staff on each committee varies according to the Legislative Appropriations bill for a given year; however, in 2000 C-Span noted that committees had an average of 68 staff members while Senate committees had an average of 46 staff members. Congressional committee staff are also separated into professional and administrative staff; the former group assists with legislative and oversight agenda planning, drafting legislation and

contributing to committee reports, while the latter group handles the logistics of committee proceedings (C-Span, 2000).

In Russia, committee staff in the Duma and Federation Council comprise offices connected to each committee as units of the legislature. They serve in a non-partisan capacity to provide legal, organizational, documentary, analytical and informational support to the committees. The committee staff consists of a chief of staff, deputies, leading advisers, advisers, a chief consultant, and other consultants. The examples of the work that staff do is similar to that in Canada and the United States, with the exception of the following function which does not figure into the roles of their counterparts in the other countries: analyzing “the effectiveness of the implementation of legislation on matters within the competence of the committee” (State Duma Committee on Ecology and Environmental Protection, 2019).

Frequency of meetings

Committees in Canada meet the most frequently out of the three countries, followed by the United States and then Russia. For example, in 2017 – which was not an election year for any of the three countries – the Canadian Standing Committee on Environment and Sustainable Development met 47 times. The Environment and Public Works committee in the U.S. Congress met 43 times in 2017 – a higher number than usual for that committee – and the State Duma Committee on Ecology and Environmental Protection met 18 times in 2017.

Length of committee studies

While committee studies can take place over multiple years with committees holding over 50 meetings on the topic, committees more typically take about ten to 20 meetings for a study. By contrast, in the United States and Russia the number of meetings per study is much less extensive than those in Canada’s Parliament, usually taking place in one or two days.

Committee powers

The discussion of power vis-à-vis committees is best framed as power that is *exercised* rather than theoretical. In the United States, the power of committees is frequently exercised by significantly

amending legislation, and in Russia under Yeltsin the committees played a role in vetoing legislation. In Canada, recommendations for more sweeping changes made by committees are not always followed by the rest of the legislature – in fact, they can be easily rejected – so the amendments sought are usually limited to those that are less political in nature i.e. technical amendments or amendments that seek to prevent unintended consequences of legislation. A more formal power that the U.S. has to effectively veto legislation is where bills are referred to committees under a “closed rule” where the legislature cannot proceed further with legislation unless the committee recommends it (Kim and Rothenberg, 2008).

Selection of witness invitees for committee hearings

Canada: Having worked on Parliament Hill focusing on committees for the past six years, I have come to understand through discussions with staff and others privy to the in-camera planning meetings of the committees (and subcommittees on agenda and procedure) that witnesses are chosen in one of three ways:

- a) Some committees opt for a clean breakdown of witness choice by party representation in the legislature i.e. the Liberals choose 12 witnesses, the Conservatives choose 6 and the NDP choose 2.
- b) Some committees opt for a deliberative process where everyone submits lists, non-partisan analysts working for Parliament prepare them, and they look at them together and discuss. If they cannot agree, they will go back to the breakdown according to representation in the legislature.
- c) For some committees, the committee Chair might offer to pick all of the witnesses, promising to make the selection fair – and the other members of the committee might agree to this.

The United States: Committee staff play a key role in determining who to invite, as detailed by Gerrity, Hardt, and Lavelle (2008) and as corroborated by interviews with two ENGO witnesses later in this dissertation. However, this does not mean that the determinations are non-partisan, since committee staff support either the minority or majority on committees. For example, Peter Shelley described a partisan process for selecting witnesses, explaining that “the majority party controls the mechanics of the hearings, and typically gets to identify and call 90% of the witnesses. The minority party gets to propose one or two people to speak against the proposed legislation.” He noted that at his hearing, the Democrats had chosen himself alongside someone from the fishing industry.

Russia: Committee staff also play a key role in witness invitee lists, as learned through interviews with representatives with ENGO organizations in this dissertation. As with the other cases, prior engagement with the committee is a helpful factor in getting invited again.

Structure of meetings

Canada: The committee meetings with witnesses are largely structured so that Members can ask the witnesses questions in rounds of several minutes each (usually 3, 5 or 7 minutes). While the Members often may not address each witness, there is more opportunity to get a sense of the deliberative rapport between the witness and the Member.

The United States and Russia: Questions are posed to the witnesses in a less structured way, usually after their testimony but sometimes in the middle of witness testimony in order to provide clarification on specific details. There are also incidences where no questions are asked of the witness, and Chair may also provide some reaction to witness statements in concluding remarks.

Upper Chambers

Canada, the United States and Russia are each an example of one of the three key models for populating upper chambers: Canadian senators are all appointed, U.S. senators are all directly elected, and Russian Federation Council members are all indirectly elected. None of these systems serves as an outlier in the study of legislatures, as each model is nearly equally common across bicameral legislatures (Russell, 2012).

To provide a more comprehensive picture within which to situate the upper chambers in these three countries: There are 76 countries with bicameral legislatures, but among them only 21 of upper chambers are populated through direct elections. Another 19 upper chambers are populated through indirect election, which Russell (2012) classifies as “election by a group of people who were themselves chosen by the public” and gives examples of regional or municipal representatives as common groups of people who elect the upper chamber. Russia from 1996 onward fits in this category (p. 120) – particularly after the year 2000 when directly elected regional governors and heads of regional legislatures ceased to simultaneously serve on the Federation Council. Of the 76 countries with bicameral legislatures, 17 have no elected members at all, and two more have a mix of elected and appointed members. Canada fits squarely in the

category of countries with a wholly appointed upper chamber (p. 120) notwithstanding non-binding Senate nominee elections in Alberta – where the Province of Alberta provides the federal government with a requested list of Senate nominees from that province to choose from. The United States is a classic example of a bicameral legislature with an elected upper chamber.

That the legislatures of the three countries with respective parliamentary, presidential and semi presidential systems also possess the three main types of upper chambers within bicameral legislatures is not coincidental. Parliamentary systems are more associated with appointed upper chambers, and presidential systems with directly elected upper chambers (Russell, 2012: p. 119). Nevertheless, this does give additional pause for thought in terms of the grounds for comparison between the extent of and opportunity for ENGO influence in the upper chamber committees of these countries.

There is an inherent implication that appointed upper chambers are constrained from acting independently and effectively not only based on loyalty to governments that have appointed them, but also based on having a lower level of democratic legitimacy in the eyes of the public – which is more crucial in the case that there has been a change in government since the time of the appointment. Russell et al. (2002) suggest that this is the case, but at the same time these authors provide a counterpoint: That because the upper house in parliamentary settings such as the UK and Canada is not required to have confidence in the government, this gives its members more latitude to challenge the government on policy-related matters without jeopardizing the government's status – with the result that they are subjected to less strong party discipline. Russell et al. go on to state that in a parliamentary system,

The independence of the chamber is generally boosted by other factors, such as absence of ministers from the chamber, older membership, longer terms of office, as well as lesser formal powers and a lower media profile. Together these factors may result in a relationship closer to that between the legislature and executive in presidential systems (p. 82).

It is interesting to note that the idea that upper chambers behave inherently differently based on how they are populated has been argued against by proponents of upper chamber reform in the UK House of Commons. For example, former UK Deputy Prime Minister Nick Clegg has stated that “there are a number of bicameral systems in democracies around the world that

perfectly manage an asymmetry between one chamber and the next, even though both might, in many cases, be wholly elected” (Russell, 2012: p. 118).

The takeaway from this discussion is that if parliamentary systems sometimes behave like presidential systems as per Lijphart (1984) and Shugart (2005), this may also be true of upper chambers. This is an interesting point to keep in mind as we discuss upper chamber proceedings in the country case chapters. For example, this dissertation discusses instances in the Canadian chapters that have been the subject of disputes around the conventions and role of the Canadian Senate vis-à-vis legislative development. Whether or not the behaviour i.e. pertaining to ENGO influence on environmental policy in these upper chambers can be found to be better explained by the model for populating them – or other factors such as a political balance that contrasts with the lower house – will contribute to a key debate that will be explained next: the agent vs. structure debate.

2.3 Key Concepts Employed

Measuring Influence

Answering the research question about how and why influence can be achieved by ENGOs through legislative committees in the three countries studied requires much clarity on how the concept of influence is understood and employed. In order to measure influence in the context of legislative committees, it must be problematized instead of being treated as a normative concept. Dür and De Bièvre (2007) have cited the difficulty of defining influence as a factor in the decline of studies on interest group influence in the last several decades, and Monk (2010) has presented the following case against quantitatively measuring committee performance (citing Giddings, 1989): that the objective of influence is “imprecise” and “the interplay between various political actors is too complex to be able to extract the effect of other players and so determine where committees themselves had an effect” (p. 4).

There are two stages of influence that are studied here in order to determine ENGO policy influence through committees: first the occurrence of policy learning from ENGOs by legislators who are members of committees, and then the effective transference of committee-level decisions on policymaking at the level of the wider legislature and government. The second of these two stages has been the topic of other studies as an indicator of overall legislative

committee performance and effectiveness (i.e. Stilborn, 2014; Monk, 2010; Miler, 2017; Lawlor and Crandall, 2013; Cairney, 2006; Berry and Fowler, 2018; Smookler, 2006). Even those who express concerns that expectations for influence through legislative committees have been over-emphasized in Westminster parliaments note that is certainly one measure of committee success (Malloy, 1996).

For this dissertation, there are three key dimensions of influence that anchor my treatment of it as an analytical tool, and serve as metrics with which to assess the levels of influence that have been achieved in the cases studies included in the dissertation. First, I utilize Dür and De Bièvre's (2007) pragmatic approach of measuring influence by relying on the definition of influence as "control over outcomes." They note that the power of interest groups also rests on having "control over resources," and/or "control over actors" as per Hart (1976), but they consider "control over outcomes" to be the most important measure of influence (p. 3). The significance of their position on measuring influence for this dissertation is that they endorse the measuring of influence using outcomes such as amendments made at committees that may or may not be reasonably in line with the expressed priorities of ENGO witnesses. In their words, "conceptualisation of influence does not attempt to measure an abstract, unobservable object, 'power', but focuses on its empirically observable effects in actual public policy, *as if* actors were really powerful" (p. 3). The rationale for this approach in the context of this study is that causal processes for influence being as complex and probabilistic as they are, it should be seen as a positive sign if a change in legislation through an amendment, an addition to a report on a certain topic of study, or a new recommendation to government aligns with ENGO witness testimony in a legislative hearing.

Since the impact of the committee decisions on policy adopted by the legislature is posed as a secondary research question – as it is a key factor in understanding the *importance* of ENGO influence through committees – the follow-up actions on committee decisions in the wider legislature are also treated as important indicators of influence. However, ENGO influence on committees and committee influence on the legislature are measured distinctly in the analysis of the case studies. Actors' preferences for policy outcomes are assumed to be clear, and outcomes were seen as either policy positions by authoritative members of the public i.e. committee members – and policy implementation by the Government. In order to avoid false positives, I focused on ENGO witness testimony that was advocating for something different than what was

already contained in legislation at the time that it was being studied, or with the status quo. There are always instances where the government decides to change course of its own accord, but it is necessary to work with the best available indices – and hopefully identify such cases through the interviews with ENGO witnesses. In the same vein, the witness interviews were thought to be useful in terms of identifying false negatives (where the policy outcome went against the ENGO witness testimony, but was mitigated through that testimony’s influence on legislators).

A second dimension of influence utilized in this dissertation is meta-consensus, from Dryzek and Niemeyer’s (2010) discussion of cases where participants in deliberations report feeling heard and taken seriously in policy-making discussions, regardless of outcomes. According to Dryzek and Niemeyer,

Meta-consensus can refer to agreement on the legitimacy of contested values, on the validity of disputed judgments, on the acceptability and structure of competing preferences, and on the applicability of contested discourses. Meta-consensus can be applied as a standard for the evaluation of deliberative systems, as well as to particular forums. We need to pay careful attention to the deliberative qualities of the processes that produce meta-consensus (p. 1).

Given the wide tent of agreement on normative, epistemic and preference-based matters that Dryzek and Niemeyer characterize as forms of meta-consensus, the presence of meta-consensus was measured in interviews with ENGO witnesses in an exploratory manner. One example of this scenario would be if the witness indicated that they did not concur with the outcome that followed the committee study but did see some validity in terms of how the outcome was reached, based on recognition of legitimate values underlying sometimes competing preferences. Another example is if there is agreement on the issue framing at the committee or the “range of acceptable alternatives” (p. 17); in the context of environmental issues, this can sometimes hinge on whether climate change denying perspectives are included in deliberations. The gauging of this kind of influence through interviews with ENGO participants in the hearings is consistent with Monk’s (2010) framework for measuring the effectiveness of Westminster parliamentary committees. Noting the difficulty of measuring influence, he remarks that “If individuals and groups are competing to push their political views through committees, then their subjective perceptions of a committee’s inquiry or report are the indicators of its performance, much like how the performance of political parties is assessed through opinion polls” (p. 5-6).

Meta-consensus is considered an important thing to measure for the dissertation, because it is generally considered easier to achieve than consensus as it “makes fewer demands upon

partisans” (Dryzek and Niemeyer, 2010: p. 21). Therefore, it provides an important measuring stick of influence in contexts where it is rare for outcomes at committee or in the wider legislature reflect ENGO preferences. For endorsements of such procedural aspects of legislative committee deliberations to exist in the eyes of a non-governmental participant usually involves some endorsement of the legitimacy of the deliberative democratic *process*; in other words, in such cases the witness felt that there was opportunity in that venue to be heard and considered. In circumstances where this view is found to exist based on interviews with ENGO witnesses, some degree of meta-consensus will be considered to have been reached. An example of such a case would be if an ENGO witness shared through interviews that they believed their testimony had been seriously considered by legislators at the committee to the extent that it could figure into future policy – even if political, bureaucratic or other obstacles prevented a more immediate favourable outcome from their testimony.

The third definition used for evaluating influence comes from Genevieve Fuji Johnston (2009), who writes about two key concepts: the potential for individuals to influence policy – known as democratic empowerment – and the ability and opportunity for individuals to do this through deliberation – the concept of deliberative empowerment. To a certain extent, deliberative empowerment pertains to outcomes – similar to Dür and De Bièvre – but I am interested in the part of the definition that goes beyond outcomes. In this regard, it is worth noting that Fuji Johnson writes of deliberative empowerment that it “is characterized by inclusive, fair, and well-informed and well-reasoned public argumentation” (p. 680). Fuji Johnson also characterizes both democratic and deliberative empowerment as “procedures and institutions that yield policies that are reasonably acceptable to, and that uphold the fundamental interests of, all bound or affected by them” (p. 680). In this study, I identify instances where this aspect of deliberative empowerment is present; for example, where committee members are engaging with ENGO witnesses in ways that show openness to the perspectives expressed in the process as opposed to ways that reflect hostility or contempt for the witnesses’ priorities. I also note where legislators express a wish to move forward with decisions that are reasonably acceptable to the ENGO witness in deliberations.

In order to measure the presence of such deliberative empowerment in ways that are most conducive to legislative committees, I have drawn from Fuji Johnson et al.’s (2017) work on the

deliberative character of specific Parliament of Canada committee hearings that took place in 2014. They write of a category of witnesses during the hearings in question:

Members of these epistemic communities hoped specifically that parliamentarians in Canada would engage in a careful consideration of evidence and arguments in developing a new legal frame for prostitution. Beyond these specific hopes, there is a broader normative—if not empirical—expectation that democratic governments engage in deliberation with experts, stakeholders, and members of the public on important policy decisions and that their deliberations are respectful, fair, and non-partisan.

While this work does not mention deliberative empowerment as such, I argue that the presence of meaningful deliberation that is measured in this work is an important condition for it – in keeping with the aforementioned aspects of deliberative empowerment described in Fuji Johnson (2009). Looking for indices of this is important in terms of establishing potential for the kind of ENGO influence on policy that is less clearly seen from outcomes. Deliberations are evaluated in this regard through the content coding of transcripts, in ways that are explained more fully in the chapter on methodology.

Challenges in measuring influence

Measurement of influence becomes somewhat problematic when we consider that much expert influence on policy can be indirect, and/or nested. For example, experts who testify before parliamentary committees may influence MPs, who in turn influence parliamentary debates – and ultimately influence votes in the legislature. Influence on particular policy points is also often pursued by ENGO representatives through multiple venues besides committees. How, then, can one discern the presence of influence in such a setting? Similarly, how can one avoid conflating influence with power? Interviews with ENGO witnesses are important in this equation, but there are also insights into this conundrum that are offered in the theoretical literature.

Many earlier writers on influence in legislative settings saw the concept of influence as self-evident, or for other reasons did not explore its meaning in an in-depth manner (i.e. Thompson, 1979; Elau and McCluggage, 1984: p. 221). Others developed working definitions that were variations on the following linkage: policy priorities vs. outcomes. As could be deduced from this, the more a particular actor/agent's policy priorities are present in policy outcomes, the greater the degree of influence of that actor in a particular policy setting. The actors in these studies and the policy-making venues vary, as do the measurements of policy inputs and

outcomes; for example, Cell (1974) contends that the electorate need not explicitly indicate choice between policy alternatives in order to influence government policy – as Downs (1957) had earlier argued. This is an important perspective, as it acknowledges that governments may anticipate policy choices of the electorate based on a number of demographic, statistical and behavioural factors. However, this degree of complexity in the understanding of influence does present a methodological quandary when attempting to measure it – an issue that will be explored further in the chapter on methodology.

Dür and De Bièvre (2007) comment on the nested nature of influence and the challenges it poses for the measurement of influence. They write,

A political outcome can come in two guises: the official position taken by public authorities or the actual implementation of that policy [. . .] The approach assumes that actors have clear preferences. Of course, actors may not voice or have clear preferences at the onset of the policy process, or may change their preferences as a result of interaction with other actors. Despite these limitations, we consider the control over outcomes approach to be the epistemologically most sound and empirically most pragmatic route towards assessing interest group influence (p. 3).

This conceptualization provides a possible route to ascertain how much influence lies with the executive, Parliament, individual legislators or groups of legislators, or outsiders such as ENGOs. A simple question that I always asked in the research, therefore, is: how much do the stated preferences of witnesses match the outcomes? This calculation is featured in some examples of cases discussed in this dissertation – in the methodology section and the chapters themselves.

For assessing the influence of parliamentarians on government as a whole – a factor that greatly affects the potential for actors outside of the legislature to influence policy – I have also considered points of view expressed in the literature on this subject. Doring (1995) argues that influence of legislatures such as parliaments on lawmaking is substantial. Longley and Davidson (1998) also provide an optimistic account of trends in this area, asserting that parliamentary committees have been “increasingly serving as the main organization center of both legislation and parliamentary oversight of government” (p. 2). This view is in contrast to more recent research by Docherty (2005) in Canada and Tolstykh (2006) and Chaisty (2006) in Russia who describe an increasingly executive dominated policymaking process that is to the detriment of parliamentary committees. For interest groups, Pedersen, Binderkrantz and Christiansen (2014) note that such groups are motivated to participate in the legislative process for both short-term

and long-term potential effects; if not successful at influencing the legislation at hand, they try to carve out a role for themselves in setting the agenda for future legislation.

Deliberative democracy and legislative committees

One way of assessing influence is by considering the deliberative¹⁹ process. In this respect, we should look at the content of parliamentary deliberation, including what prior ideas and arguments from other actors they find it necessary to respond to in the course of their own deliberations.

NGO witnesses, to be heard at committee, employ some combination of logos and pathos. The evolution of what is considered theoretically acceptable for successful deliberations may explain the varied ways in which representatives can incorporate both approaches in a modern legislative setting. Rawls' (1993) seminal piece on political liberalism, where reason is predicated on impartiality, has been applied by the likes of Cohen (1997) to argue that in order for conditions of discussions to constitute proper deliberations, arguments must be based on "reason" and not conviction (p. 414). However, this is not the last word on the subject; in his work on cultural pluralism in public deliberation, Bohman (2000) acknowledges that the narrative of political liberalism and the dispassionate reason associated with it as a natural solution to solving competing religious or ideological perspectives is not a *fait accompli*. Instead, he refers to different "standards of rationality" (p. 73), acknowledges that the very concept of rationality may mean different things to different people, and provides that persuasive case that rationality in the sense that it is often defined – based on John Rawls' definition – is far from being a universal notion. Given that the cases of environmentally-focused deliberations deal with conflicts of principle and different ecological and economic visions, Bohman's work is a welcome check on an ambitious generalization that provides insight into how deliberations may be linked to influence.

Both of the sides of the debate on rationality and deliberation are insightful for examining the context of legislative committees, because they serve as a reminder that there are certain agreed-

¹⁹ Deliberative democracy is defined as "a mode of communication in which participants in a political process offer and respond to the substance of claims, reasons and perspectives in ways that generate persuasion-based influence" (Baogang and Warren, 2011 p. 270)

upon bounds of rationality within a given parliamentary setting. These are more formally proscribed for legislators; for example, questions asked to witnesses must be germane to the subject of study, and legislators are sometimes chastised by the committee chair if they are overly hostile to witnesses in their deliberations. This debate also prompted me to ask witnesses questions about what deliberative strategies were known to be effective, as this provides context on expected bounds of rationality that they may have been rewarded for working within in a committee setting.

As the dissertation involves looking at deliberation as a potential means for influence, it has been instructive to learn what theorists have said about the interaction of deliberative democracy and institutions. Dryzek and List (2003) present deliberative democracy and social choice as two theories apparently at odds with one another – because, as they note, deliberative democrats believe that deliberation impacts collective outcomes, while social choice theorists believe that “the democratic problem involves aggregation of views, interests, or preferences across individuals, not deliberation over their content” (p. 3). This led to my consideration of whether a higher level of deliberative influence could be counteracted by lower levels of legislator coordination, potentially contributing to unsuccessful influence in post-deliberation stages.

Of particular relevance to this dissertation is the fact that Payne (1982) suggests that deliberation in committees is connected to party discipline. Specifically, his study shows that high party discipline was correlated with a significantly lower level of interpositions²⁰ in the U.S. Congress from 1950-1970. Payne further asserts that this decline in interpositions is evidence of “a lower collective interest in the substance of policy” stemming from the limitations of high party discipline (p. 631). On the other hand, the structure and design of committees has been recognized as encouraging more meaningful deliberation than the floor of the legislature – and as such serves to counteract some of the effects of high party discipline. This is especially the case in the U.S. congress where even high party discipline is less iron-clad; Kirkland (2014: p. 174) writes that

Through common committee assignments, two legislators who might not otherwise engage with one another are given the opportunity to interact, bargain, and learn about one another. Committee deliberation provides each with an opportunity to learn about one

²⁰ Interpositions are when a congressman “allows another committee member to interpose before resuming his own questioning” (Elau and McCluggage, 1984: 237) after receiving an answer to his own initial question.

another for issue dimensions on which they both have expertise. This opportunity for interaction provides potential relational partners with otherwise difficult to gather information and makes cross-party co-sponsorships more likely.

This figures into Docherty's (1997) observations on how institutions shape the identities, outlook and perspectives of MPs, and Dryzek' and Neimeyer's (2010) assumption that deliberative outputs are often shaped by identities and perspectives. Therefore, it is not just the environment of interaction for deliberations that is necessarily determined by institutions, but the very content of deliberations.

Drawing primarily on the conceptualizations of influence by Fuji Johnston (2009) and Dryzek and Neimeyer (2010) one aim of this study is examine the effectiveness of deliberation at parliamentary committees. As these works suggest, we need to determine whether legislative committees are largely sites where executive-led partisan policy positions are articulated and only insubstantial changes are made to preconceived policy blueprints, or whether the type of deliberation that exists there can lead to substantive changes. As voting behaviour is the end result of deliberations, an increase in party discipline is here hypothesized to render legislators less susceptible to be influenced by expert witness testimony. In the case study chapters, evidence of legislator openness to these ideas will be assessed using a discourse analysis of legislators' responses to witness testimony in committee hearings – with attention to what kinds of questions they asked and what category their questions could be coded in (i.e. “information-seeking,” “opinion-seeking” or “hostile”).

Power Share of Political Parties

As any one non-executive actor within a legislature is often unable to work towards a policy priority alone, understanding coordination dynamics within legislatures is an important part of comprehending how influence is and can be achieved. A higher number of effective parties leaves a system more open to minority governments and minority legislatures in which parties can negotiate and form alliances to gain influence. In these contexts, parliamentary committees serve as venues for compromises to be reached and temporary coalitions to be formed – providing more opportunities for committee witnesses to sway political brokering in a direction that will further their own policy preferences.

Generally speaking, where there are fewer effective political parties, there is less of a chance that there will be a minority government situation. Majority governments (and by extension, legislatures) have less of an impetus to leverage the testimony of witnesses for their own policy negotiations – particularly as internal cabinet negotiations about draft legislation usually happen prior to committee hearings. Where party membership on committees does not require compromise between parties for the majority party to pass laws, the suppression of meaningful (i.e. impactful) debate is more attractive to the governing party.

This dynamic is one that is confirmed and fleshed out in much more detail in several of the interviews with Canadian environmental ENGO representatives. This dynamic applies very much to the Russian case as well; there, minority legislatures under Yeltsin consistently thwarted control by the government and president – Elgie (2008) called it an example of a “Divisive Minority Government” – leading to Putin’s coalition-building efforts to avoid the same before gaining a majority in the legislature for his party.

Naturally, there are exceptions to these dynamics; for example, Pedersen et. al. (2014) note that Denmark is a multiparty system with frequent minority and coalition governments, and yet “the government still dominates the legislative process” (p. 207). However, in the case of majority governments with fewer parties in the legislature, enforcing strong party discipline is enough for a government to retain confidence – and so it stands to reason that this is the strategy employed most often in such cases.

Witness Approach

An argument put forward here in terms of witness approach is that witnesses can make different contextual conditions work for them by selectively adopting evidence-based, ideational, or moralistic stances – and by temporarily allying with other groups who agree with their position on particular points of policy.

According to social change theory, the core role of an interest group is to accomplish a set of objectives: 1. Gaining respect and acknowledgement for the organization’s existence and its message 2. Making that message known 3. Challenging the legitimacy of opponents’ messages 4. Deflecting challenges to the organization’s own legitimacy, creating a dichotomy on the issues relevant to the interest group that will make it more difficult for policymakers to avoid taking a

position on these issues, and 5. Directing public opinion that is in line with the group's aims toward the creation of desired legislation and policy (Canadian Study of Parliament Group, 1989). This is also the task of MPs, whether in opposition or government. However, it has been said that interest groups play a special role in an imperfect democratic system where "political parties [. . .] are not adequately aggregating and representing interests" (5).

There are three main ways that witnesses can go about achieving those ends through committees. They can focus on evidence-based pleas, try to instill ideas and concepts for posterity, or take a principled or moralistic stand. In the third case, the aim may be not simply to challenge the legitimacy of the opponents' messages, but to challenge the legitimacy of the committee or the legislature itself (Hoberg and Phillips, 2011)

Outsiders and Legislative Committees

In the introduction, it was established that environmental non-governmental organizations, or ENGOs, are considered to wield "outsider resources" when seeking policy influence. It is true that interest group influence on policy through legislative committees is only one key channel for influence on governmental policy-making processes – besides the courts, the bureaucracy, and direct public appeal. However, Pedersen, Binderkrantz and Christiansen (2014) write that the legislative arena takes on a heightened importance, particularly for political outsiders and less well-resourced groups. They note that even where the key tenets of legislation are largely worked out before draft bills reach the legislature, "the parliamentary arena is also a venue for voicing discontent and defending gains achieved in the administrative arena" (Pedersen, Binderkrantz and Christiansen, 2014: p. 199-200).

This echoes what (Rokkan 1966) has said on the topic of actor insider vs. outsider status and interaction with institutions. He argues that those actors who represent elements of society's system of production – such as business, industry and union groups – have historically gravitated to more corporatist institutions such as those which exist within the public service. Lindblom (1977) emphasizes the advantageous position of business when seeking influence, due to the fact that business controls society's material production. These groups can control insider resources, which are especially relevant for the administrative arena where bureaucrats ask for expertise. By

contrast, citizen groups such as public interest organizations or groups of citizens with shared demographic characteristics do not possess these insider resources. It may be difficult for such groups to influence bureaucrats, but they may have more success approaching politicians who are looking for stories of news value. These arguments share a commonality with neo-pluralist literature that amends pluralist theory as expressed in seminal works such as Polsby (1963) to emphasize the privileged position of economically important actors (i.e. Smith, 1990; McFarland, 2004). Where there is a marked disparity between types of non-governmental actors, a reduction of conflict is sought by limiting access to those outside of the preferred group.

In the context of legislative committees, this is done through limiting participation, maintaining secrecy, privileging seniority (in the US case), and relying upon specialization for expertise (Elau and McCluggage, 1984: pp. 98-100). This has been called “playing defence” by Hoberg and Phillips (2011: 507), who describe the selective responsiveness of multi-stakeholder bodies towards those groups in favour of oil sands development. Savoie (2015) also contends that public consultations are particularly difficult for such outsiders to derive benefit from engaging in, because the government often enters into such consultations with a fully-developed idea of its intended policy; he further argues that well-coordinated special interest groups will be able to disproportionately influence policy through their participation in the consultation process.

In the United States, theories about the privileging of such well-resourced interest groups have specifically identified congressional committees as one point in an “iron triangle” comprising a policy subsystem – with said interest groups and federal agencies forming the other two points (Gerrity, Hardt, and Lavelle, p. 913). However, there has also been documentation in the literature of less privileged actors finding ways to adapt to and at times overcome such neo-pluralist methods of exclusion to achieve influence through legislative institutions. For example, Holyoke (2013) has related that many interest groups in the U.S. form short-term or even long-term coalitions, coming up with joint positions as a result of bargaining between groups. Heinmiller (2010) has expounded on the same dynamic in the Canadian context, which he refers to as advocacy coalitions. These arrangements give the legislator the opportunity to please a greater number of involved citizens and interests on any given issue, and thus heighten the impact of the coalition in the policy-making process.

Indeed, Heinmiller’s study of policy subsystems suggests that these kinds of established “triangles” are not impenetrable by other actors who wish to influence policy. He writes that

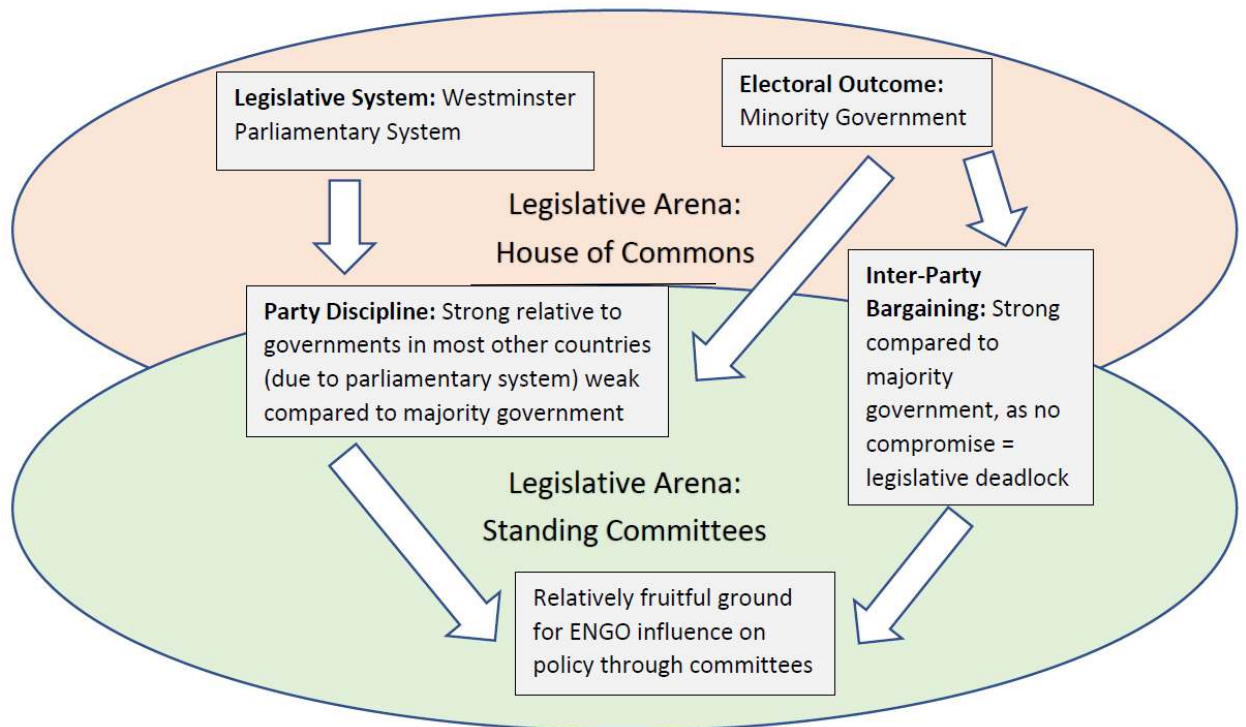
while policy subsystems do often contain a “dominant” advocacy coalition that has the greatest say in policymaking in a certain arena, minority advocacy coalitions can inspire major policy changes. He further stipulates that these changes need not come at the expense of the dominant advocacy coalition’s privileged position in the policy subsystem; instead, he posits that minority advocacy coalitions can be successful in their appeals to change when such policy change appeals are accompanied by internal or external shocks (he gives the examples of a change in government and natural disasters as respective examples of such shocks), policy-oriented learning, or negotiated agreements.²¹ Some of these complexities will be explored in the case studies of ENGO influence on policy through legislative committees, as there are many indications that ENGOs were able to affect policymaking due in part to a combination of these types of factors.

Nested dimensions of influence

The trajectory of influence explains why party discipline is such a focus of the dissertation; it is important in that it plays an intermediary role in terms of how the variables of political system and electoral outcome impact agency by legislators and opportunities for influence by outsiders. To explain: The political system (presidential, parliamentary or semi-presidential) and electoral outcome (more or less controlling executive and/or opposition party leaders) each contribute to different levels of party discipline. This variable in turn impacts opportunities for agency by legislators – relatively independent of the executive – which then provides corresponding levels of opportunity for outsiders to exert influence through committee hearings. Electoral outcome may also impact opportunities for agency by legislators directly where the outcome is a minority government, for policymaking becomes much more of a negotiation between parties than an executive-led project in this case. See Figure 1 for this trajectory:

²¹ Heinmiller adds that negotiated agreements tend to occur most when “warring advocacy coalitions [. . .] come to a realization that they are locked in a mutually detrimental hurting stalemate” (p. 40).

Figure 1: Institutional Sources of Opportunities for Agency and Influence (Example of Canadian House of Commons Committees under a Minority Government)



Effects of Committees via Legislatures

This brings us to the institutional role of committees within their corresponding legislatures. In general, committees as institutional venues encourage networking and collaboration across party lines. The size of the committee has an effect on that dynamic as larger committees have been found to correlate with less bipartisan cooperation (Kirkland, 2014: p. 171; Francis, 1989: p. 836). Another key factor for decision-making in legislative committees is partisanship. In contexts with high party discipline, the role of the legislator within committee changes by necessity. If the individual legislator is bound by party discipline and thus cannot act as an independent agent of policy in committees and elsewhere in the legislature, the construct of the “constituency” becomes less relevant as the primary citizen-side node of political representation.²² However, as will be evidenced through a number of examples given in this

²² In an attempt to fill this void, Longley (1998) has sought to define a party’s “constituency” through determining median voters across all constituencies where the party in question has been elected. However, this is a problematic approach when applied to various issues – including regionally sensitive environmental issues – as the political saliency

dissertation, where committee members have functioned as more than delegates of their party policy – and even in some cases where they have not during a minority government – committee members have been able to change the course of policy through substantive amendments to legislation, groundbreaking reports, and so on.

2.4 Legislative Systems Theories

One of the key arguments of this dissertation is that institutional differences between legislative models have traceable implications for the prospects of ENGO policy influence through legislative committees. As such, the comparison of three states with different constitutional models that are parliamentary (Canada), presidential (United States), and semi-presidential (Russia) is purposive. Among other factors affecting influence of non-state environmentalists on policy through parliamentary committees, the constitutional model impacts the level of party discipline on committees. In turn, party discipline on committees and on the floor of the legislature is not only a dependent variable in connection to constitutional model, but is also a significant independent variable impacting policy influence achievable by non-governmental environmentalists. Party discipline is thus a central theme of this study, as well a common denominator that is shown in the ensuing chapters to be collinear with other significant factors – such as minority vs. majority governments and the type of legislator engagement with non-governmental organizations outside of the legislature. In the Russian case, the level of dysfunction in the legislature in the early period of this study and the impact of this on committees i.e. committees meeting rarely is a factor that is found to have a greater impact on ENGO influence than party discipline; however, the level of party discipline is the most consistently important factor across the three cases.

In general, parliamentary models are found to coincide with consistently higher party discipline, presidential models with consistently lower party discipline, and semi-presidential models with level of party discipline subject to a high level of variation. This could potentially be partially explained by the fact that more hinges on legislators' approval of all types of policy in a parliamentary system – as no direct equivalent to a presidential executive order exists. Inside any

and impact of such issues varies greatly across geographic areas. In these cases, a median vote across ridings may not be reliable or meaningful.

given parliamentary system, the legislative environment changes when there is a minority government; inter-party bargaining becomes the key means by which legislative initiatives can be realized, and party discipline is relaxed in the process. However, in a presidential or semi-presidential system, the president must simply go to greater lengths to exert the power of the executive during divided minority governments. At the same time, this thesis explores other potential institutional impediments to ENGO influence on policy through legislative committees that could be more common in presidential and semi-presidential systems, such as the impact of money on politics.

Thus, the three cases of Canada, Russia and the United States are the objects of study based on the following coinciding characteristics: Canada's democracy is defined by a parliamentary system where legislative behaviour has consistently been motivated by a high level of party discipline. By contrast, the United States' presidential system has consistently produced a low level of party discipline – with very few and brief exceptions to this. Finally, Russia's semi-presidential system was in its nascent years (1992-2003) characterized by low party discipline – but shifted to a system with high party discipline after electoral changes in party representation at the legislature resulted in a majority government for United Russia (2003-present). There has been an overview in the introduction of how party discipline can mediate the influence that expert witnesses to parliamentary committees have on legislative decision-making and policy outcomes – although this last dynamic will be expounded upon in this chapter and subsequent chapters.

It is difficult to separate the potential for party system transformation in relatively new democracies such as Russia where party lines have had less time to become entrenched; however, it has been well-established²³ that semi-presidential systems are indeed more vulnerable to volatility – particularly in minority governments where “neither the president nor the prime minister, nor any party or coalition, enjoys a substantive majority in the legislature” (Elgie, 2008: 54). In these scenarios, the unstable position of government and cabinet combined with legislative deadlock can cause the president in a semi-presidential system to force policy movement by stepping over constitutional boundaries for an extended period (Ibid).

²³ See , Linz (1994), and Ljiphart (2004), for example.

The definition of party discipline is an uncontroversial one in the literature. A distinct form of party cohesion²⁴, party discipline is “cohesion achieved by the application of sanctions or inducements” (Jackson, 1968 in Kam, 2009: p. 5). It consists of party members consistently acquiescing to the instructions of party leaders for voting behaviour and other actions, in contexts where those party leaders have mechanisms to coerce their party’s members to do so (Ozbudun, 1970 in Bowler, Farrell and Katz, 2000: p. 5). From a functional standpoint, it is the level at which legislators are compelled by party whips to align their vote with the position of their political party. Where experts on the topic most differ is in terms of measuring the presence of party discipline in legislatures and separating it from party cohesion – deriving different methods of figuring out where and to what degree identical voting behaviour by party members is based on ideology and conviction vs. being compelled to fall in line with the party.²⁵

Against the two seeming extremes of parliamentarism vs. presidentialism and corresponding high and low levels of party discipline represented by Canada and the U.S., the Russian semi-presidential model is more varied. Scholars have varied in their approaches to the Russian legislature, but in a way that reveals a pattern of two eras. In the 1990s, agents/actor behaviour is more visible; however, beginning in the year 2000 – when Putin began to introduce institutional reforms to the Russian parliament – the actions of parliamentary representatives began to be more explainable by institutional conditions which included a higher level of party discipline.

2.5 Agents and Structures in Legislative Studies

While the formal structure of committee systems across the 3 legislative systems appear quite similar, there are several factors that may nevertheless produce quite distinctive dynamics across (and also within) these different systems. The previous subsection explained that parliamentary systems are considered more susceptible to high levels of party discipline due to executive’s reliance on the legislature to retain power in those systems (2002: p. 153). Longley (1998) discusses this in terms of a legislator’s fidelity to the constituent-legislator relationship – where

²⁴ Party cohesion can be conceived of as a spirit of cooperation along party lines, whether organic or induced (Ozbudun, 1970 in Bowler, Farrell and Katz, 2000: p. 5).

²⁵ The method of distinguishing between party discipline and organic party cohesion will be addressed in more detail in Ch.3.

lower levels of party discipline (i.e. in the United States Congress) render the individual legislators agents of policy for defined constituencies. In the parliamentary model where high levels of party discipline are ingrained in the political system, individual agents are not afforded as much freedom to shape policy outside the parameters of structural forces such as party positions and PMO imperatives. Perhaps this is the reason that in comparative politics literature, the conditions of the Canadian legislature are considered more conducive to structural approaches compared with its U.S. counterparts (Vipond, 2008). This difference impacts the level of influence that can be achieved by ENGOs through committees, because it is reasonable to suppose that there is not as much opportunity for this in a context where individual committee members are not given as much freedom to act on their own policy decisions. However, this must be considered in conjunction with other agentic and structural factors that play out in the committee systems of each three countries.

Examples of more agentic factors that may have import on the roles of committees are the personal qualities of the committee chair – their career ambitions, desired vision for the role of their committee, willingness to work in ways that garner the disapproval of the executive, and so on. The members of the committee similarly act as agentic factors; for example, the desire of committee members to work across party lines to achieve consensus on matters of policy. Examples of structural factors can include mechanisms of parliamentary committees such as proposal powers and rules surrounding amendments to legislation (Doring, 1995).

When comparing legislatures as a whole, I found that there were more instances of pivotal actor-centered interventions in the U.S. presidential system and in the first four years of the time period studied in Russia. Where there were fewer instances of legislators exhibiting individualistic behaviour in ways that could be impactful on policymaking (Canada and post-1999 Russia) there were very clear restraints on agent behaviour being able to have an impact. In the U.S. and Yeltsin-era Russia, there were fewer such restraints on all actors at once; moreover, the restraints on various actors were more of a result of power relations in flux – power relations that while limiting some actors, empowered other actors to make a greater impact due to a comparative lack of structural obstacles.

After defining the general homogeneous tendencies for each country case, they are best demonstrated with detailed support – with some attention given to multi-state, comparative studies as well. The fact that these descriptions may not provide a complete picture of dynamics is

the point, as it is by delving deeper into these contexts that more complex understandings of the roles that agents and structures play in these legislatures become evident.

United States

A propensity towards behaviouralist approaches in studies on the U.S. legislature has a storied history. From the time that the House Republicans vetoed a revenue provision being referred to Secretary of the Treasury Alexander Hamilton in 1794, Goodwin (1970) details a path of decentralized committee governance that set the U.S. committee system apart from committees in the Cabinet system of Great Britain and Canada. Goodwin also emphasizes moments in the history of Congress where individual representatives thwarted attempts at institutionalization of committee practices; for example, under Thomas Jefferson's government (1801-29) when the Manual of Parliamentary Practice dictum that committee decisions should follow cues from the committee of the whole was widely disregarded by committee members (p. 7).

From this early stage, two distinct actor-centered approaches to the study of U.S. committees sprouted: rational choice, and (as a reaction to social and collective choice analyses of the wider legislature) sequential choice. Those employing a rational choice approach, such as Loomis (1996), concur with the quote attributed to Richard Fenton that “we get the kind of Congress that the members give us” (p. 75). Loomis' account of the U.S. committee system over the years is one where a waxing and waning of heavy-handedness by party leaders and of interest group involvement in committee proceedings are key variables for change. Similarly, Gilligan and Krehbiel (1990) assert in their rational choice study of U.S. congressional committee organization that “the parliamentary instruments at the disposal of the U.S. Congress are, for all practical purposes, limited only by the creativity of its members.” (p. 533).²⁶

According to this narrative, committees in both the House and Senate are markedly decentralized, allowing members to “seek committee seats to serve their constituents' interests” and, by extension, their own self-interest of being re-elected (Loomis, 1996: p. 72). The pursuit of

²⁶ The focus on a collective choice-driven legislature with respect to limiting the free rein of self-interest on congressional committees in the Gilligan and Krehbiel (1990) article could also be seen as an articulation of sequential choice theory, which came out a year earlier. However, as neither Baron nor Ferejohn – the supposed originators of the theory – are not cited in this study, this is perhaps coincidental. Nevertheless, the substantive overlap leaves room for some debate over whether it largely employs a rational choice or sequential choice approach.

re-election is but one of the three general goals of representatives as defined by Elau and McCluggage (1984), along with influence in the legislature and the potential to draft public policy seen as satisfactory to that representative (p. 221).

To understand structure in U.S. legislative committees, some have compared different chambers of Congress; for example, Smith and Deering (1990) judiciously characterize the committee behaviour of House members as having been influenced to a much greater degree by formal institutional conditions than Senate committee members. By contrast, they remark that the Senate's committees have been more consistently driven by its rank-and-file members, at some cost to committee autonomy (pp. 54-55). Smith and Deering also attribute varying degrees of importance to individual personalities on House and Senate committees depending on the time period – as they note that some periods in the history of the legislature afforded greater opportunity for individuals to exert their will over the political process. For example, they note that in the late 1700s and early 1800s, committee chairs in both houses of the legislature were effectively one-person steering committees – a dynamic that was then mitigated by a Ninth Congress ruling that any two members of a committee could convene a meeting (p. 27).

Following social and collective choice studies of the wider U.S. legislature such as Schwartz (1977) and Mayton (1986), Baron and Ferejohn (1989) came up with sequential choice theory to account for the interaction of committees with wider legislatures that are motivated by social or collective choice principles. This theory essentially envisions a committee's behaviour as being primarily motivated by the individualistic interests of its members, but also accounts for the reactive behaviour of a legislature governed by collective choices to those interests. Essentially, this means that the theory combines considerations of individualistic incentives with collective group incentives – as per social choice and collective choice theories – at each sequential stage of the legislative process. Baron (1994) notes that this model can thus account for collective restraints on individual choice.

Contrary to what might be presupposed to constitute common motivations for collective choices, party discipline is excluded from the sequential choice model as one such restraint on individualistic behaviour of committee members. To illustrate, Baron (1994) outlines the following assumptions that underpin sequential choice theory:

- 1) choice is governed by majority rule, 2) legislators cannot commit to future actions, 3) preferences are over the consequences for a district and legislators may have time

preferences, 4) information is complete and perfect, 5) legislators act noncooperatively, **6) there are no parties that restrict the behavior of their members**, and 7) predictions correspond to subgame-perfect Nash equilibria.” (Baron, 1994: p. 272, emphasis added).²⁷

Specifically, it is the collective good of limiting pork-barrel politicking in committees that Baron (1994) focuses on the most. This dynamic is characterized by the following: individuals have preferences to be on certain committees for individualistic purposes, but their appointment to committee involves communal choices (and thus in part results from the weighing of communal preferences). Once in committee, the communal preference can be to limit the power of the committee members to pursue individualistic ends – and so they might place more restraints in committees that consider distributive policies more often. In addition, studies of the U.S. legislature and its committees that focus on the effects of the seniority system on congressional behaviour (Lees, 1967; Hinckley, 1971; Tobin, 1986) have a decidedly institutionalist focus.

Thus, while less party discipline in the U.S. Congress could create more opportunity for committee members to exercise their agency when persuaded by ENGOs through committee hearings to support their policy priorities, there are structural factors other than party discipline that can place constraints on that influence. Money in politics, treated in this study as a structural factor when conceived of in a systemic way, is a key example that will be shown in ensuing chapters to place restraints on ENGO influence through committees in the U.S. congressional system.

Canada

I argue in this dissertation that party discipline is an institutional factor that has been especially critical for committee decision-making and influence in Canada. This has an impact on ENGO influence on policy through committees in that country, because in systems with low party discipline, actors (legislators) are freer to make committee-level choices based on their exposure to ENGO deliberations.

²⁷ It bears noting that the “equilibrium” is defined in a number of curious ways in social choice and sequential choice theories; for example, committees arriving at the median position of the whole legislature or arriving at a pure compromise between collective incentives and individualistic incentives is considered to reach an equilibrium. This is the case even if individuals later renege upon their part of the agreement after the compromise is made (Baron, 1994: p. 287).

To be sure, the ramifications of high party discipline on outsider influence through committees are sometimes mitigated by agentic or structural factors that improve the prospects for that influence. Besides the aforementioned examples of activist committee chairs and members, there is some acknowledgement of the potential of other attempts at increasing committee influence. For example, Thomas (1978) looked at whether the 1968 Parliament of Canada reform to refer government bills to committees after second reading increased the influence of committees; he concluded that while party discipline prevented this reform from having a real impact, it could have otherwise improved influence. To cite another example, if the 1982 provision for governments to provide timely and comprehensive responses to committee reports did not improve the actual influence of committees on policy, it certainly made it easier to measure. There is also discussion in the literature on how committee members can use private member's business to influence policy in indirect ways (Blidook, 2010) which is another type of agentic policy entrepreneurship.

Russia

If scholarship on the U.S. Congress has tended to be actor-centric, and studies of parliamentary decision making in Canada have been relatively more focused on institutions, research on the Russian legislature since its post-Communist inception has been marked by the necessity to account for great institutional changes brought about by important actors. In-depth studies of the Russian legislature reveal a divide between the early post-Communist years and after the consolidation of the United Russia party in the legislature – one which theoretically should have made it more conducive to ENGO influence through committees in the early years. However, this was complicated by the fact that records show there was less significant committee activity under Yeltsin – certainly in the realm of environmental policy. If Russia pre-1999 had some characteristics of the U.S. Congress and it took on some characteristics of a parliamentary system (albeit one with a special role for the executive), then we should be able to draw some parallels with each respective system at the committee level.

Complicating this is a high level of inter-legislative conflict in the Yeltsin years that, combined with the low level of legislative activity on environmental issues, had the effect of significantly limiting opportunities for influence by outsiders through legislative committees. While the relevant Russian committees meet less than their Canadian and U.S. counterparts as a

rule, they only met a handful of times for a study on the *Forest Code* in the Yeltsin years – and then, were more preoccupied with discussing how to navigate disagreements between themselves, the Upper Chamber and the president to hear from ENGO representatives.

“Changing the rules of the game” is also manifested greatly in Russia by Yeltsin and Putin’s reforms. However, one could argue that the creation of new institutional rules is a natural product of post-Soviet adaptation; it is apparent in some cases more than others that the “rules” have been changed to benefit the agent bringing that change about. And some of the development was less top-down than one might expect under the circumstances. As an example, an article on the development of the party system in Russia entitled “Political Conflict and Institutional Design” by Thomas F. Remington (1998) indicates that the individual motivations of party leaders were significant factors in the early development of the political party system in Russia (p. 217) and asserts that the creation of the upper chamber of the Russian parliament – the Federation Council – was a presidential move aimed at stemming the potential for collective action to play a larger role in legislative affairs. He writes,

Yeltsin solved his own social choice problem (how to retain control over policy) by resolving a collective action problem for potential opponents. Here the target was the regional establishments. Had they allied with his communist-nationalist enemies in the great struggle over reform, he would have lost everything. Instead, he used bicameralism to give the regional leaderships an institutional voice in national policy making. (p. 219).

However, by the mid-1990s, such machinations by Yeltsin to dispel the potential for opposition to the president in the legislature had not fully achieved their objectives. For example, Olga Shvetsova (2002) writes that in 1995, the Russian Communist Party (CPRF) succeeded in effectively dominating the legislature by employing a cunning electoral strategy: Refraining from nominating candidates in every district, leaving 95 out of 225 electoral districts without a CPRF candidate so that other small leftist factions could gain seats – but not enough seats to constitute a recognized faction in the Duma. Once elected, the CPRF then delegated a few of its own members to the other leftist parties to allow them to form recognized factions, empowering them while at the same time making them indebted and beholden to the CPRF for recognition. This then allowed the CPRF members to thwart the institutional model of the Duma to effectively control the lower chamber, without holding even a third of the Duma seats themselves or forming a formal coalition of left parties (pp. 638-641).

During the same period, Smith and Remington (1995: p. 482) remarked that the level of party discipline in the Russian legislature remained relatively low, and that the multiparty system prevailed over majoritarianism there. That is not to say that the CPRF legislators were not heavily restrained by institutional factors within the Duma; by many accounts, there was a common practice of vote-buying to prop up the president's positions during the Yeltsin years. Specifically, Russian reporters asserted that many in the CPRF and other parties repeatedly allowed their votes to be swayed by bribes of what equated at the time to several thousand US dollars per vote (Kagarlitsky, 2002 p. 183).

Matthew Hyde (2001) documents a period of Putin-led federal reforms beginning in early 2000 – primarily to the Federation Council that limited the relatively free rein previously afforded to regional representatives,²⁸ although Hyde acknowledged that part of this wider berth under Yeltsin was due to the fact that institutional limitations were often disregarded by the regional representatives in the 1990s to the time he wrote. By the mid-2000s, the legislative scene in Russia was characterized by less agency for individual actors within the legislature. Chaisty (2006) and Tolstykh (2006) document high levels of party discipline in the Russian parliament after the United Russia merger and subsequent institutional reforms of the early 2000s in both upper and lower houses, for example. Ellen Hitchcock's (2010) study of Russia's 2006 *Forest Code* developments alters that view slightly; she writes that Duma deputies were active in seeking substantive amendments to the particularly objectionable and ill-developed piece of legislation that was the 2006 *Forest Code*, but the Federation Council approved it without substantive amendments. Hitchcock contrasts this with the Federation Council's reaction in 1997 to an earlier version of that legislation, positing that this “gives an interesting insight into the changing nature of the Federation Council in the Russian political system” (p. 26) and later concludes that “the primary cause of weak and ineffective environmental policy and legislation in Russia is the content of the law itself and the institutions responsible at each stage of the policy-making process” (p. 39).

These short summaries outline the broad characterizations of each case – Canada as an example of a parliamentary system with largely structural determinants, the United States as an example of a presidential system where agents within the legislature are at the helm of the system

²⁸ It is worth noting that Hyde argued such reforms were quite necessary at the time he wrote.

to a greater degree, and Russia as a mix of the two types of systems (with the Yeltsin period having agents as the key drivers of the system to a greater degree, and the Putin-Medvedev period characterized by more institutionalization). However, it is worth noting that my interest in the comparing the different systems and political contexts of these cases encourages the reader to appreciate the importance of the non-strategic dimensions that shape legislatures. The motivation to go in for a closer look at the subsystems of legislative committees was to explore the ways in which the dynamics at play in those subsystems add further complexity to these comparatively homogeneous depictions.

2.6 Conclusion

The theoretical framework of this dissertation is based on the concepts of influence, deliberation, and party discipline as they are applied to legislative models. The legislative models themselves – those occurring in a presidential system, a parliamentary system, and a semi-presidential system – have been conceptualized for centuries in ways that assist my application of concepts to their inner workings. There is nothing believed to be misplaced about the dynamic of presidential systems being viewed through more actor-centred paradigms in comparison to parliamentary or semi-presidential systems.

As previously outlined, this has implications for how concepts such as influence, party discipline and deliberation are understood. For example, since presidential systems tend to have lower levels of party discipline, the motivations of individuals are of greater interest when analyzing causal factors for outcomes. This is the case even when individuals are acting in concert towards certain mutual aims, as can be understood through collective choice and social choice theories. The reverse is true of parliamentary systems, whose governments sit at the pleasure of parliament – giving the executive and the opposition party leaders more of an imperative to keep party members in line through party discipline. This does not always extend to non-confidence matters as it does in Canada, however; Canada is found to be prototypical in that sense. In the case of Russia, a system with low party discipline prevailed in the early post-Soviet legislature before rapidly changing into a majoritarian legislature with high party discipline (at least for members of the governing party).

By describing these tendencies of executive control over the legislature generally associated with parliamentary, presidential, and semi-presidential systems, this chapter thus sets the context of homogeneity for the Canadian, American, and Russian legislatures (although it is determined that less homogeneity exists with the latter). The case study chapters will then go on to highlight the heterogeneous aspects of each case, showing how a more specific focus on the dynamics of influence through certain legislative committees belies a new world of complexity.

For example, even while party discipline is typically strong in parliamentary systems and especially Canada, I hypothesize and test that this becomes less of a factor in minority governments. Moreover, I posit that minority governments are not only associated with more inter-party coordination (an unambitious hypothesis to be sure, since logically minority parties must coordinate with others to pass policy) and that this inter-party coordination provides more opportunities for ENGOs to influence policy through committees. Beyond assessing the impact of party discipline on ENGO influence in each system, a key approach is to establish whether there are other institutional conditions acting as impediments to ENGO influence through committees in all systems.

The review of the literature on influence suggests various multifaceted elements that must be considered in assessing parliamentary influence. Ultimately, for the research question posed for this dissertation, a practical, normative conceptualization of influence such as that put forward by Dür and De Bièvre (2007) is required. This is necessary in order to underpin the more complex understandings of influence with a point of reference for what is being sought by non-governmental representatives who come before parliamentary committees. However, deliberative democrats both provide a process-oriented perspective on how influential outcomes are achieved, and compel us to think beyond outcomes to assess the subjective area of participant estimation of the process. In addition to a number of other deliberative democracy theorists, Fuji Johnston (2009) and Dryzek and Neimeyer (2010) do these things.

In later chapters, I will also expand upon the musings about party discipline to discuss the ramifications of a higher number of effective political parties in legislatures. The institutional condition of a higher number of political parties being present in the legislature makes it more likely for minority governments to occur – and with minority governments, committees gain additional policymaking function by serving as potential venues for negotiations between political parties about policy matters.

Chapter 3: Research Design

3.1 Overview

There are at least two ways to conduct the comparative analysis, both of which are employed in this dissertation. The first is diachronic (over time), which allows me to consider how institutional changes in the legislature such as fluctuations in party discipline within a single chamber affect the potential for influence by ENGO witnesses in committee hearings. This kind of analysis is useful, because it takes a sound theoretical principle i.e. that legislators will be less open to having their policy orientations change by witnesses at committees if they are bound by higher-ups in the party structure, and tests this in practical ways. If we compare fluctuations in party discipline to quantifiable committee-related factors such as the proportion of ENGO witnesses included in committee studies, or more complex factors such as qualitative indicators that influence has occurred, this provides greater certitude for the theoretical principle in question. In addition, doing so also provides more insight into *how* these scenarios play out at committees. For example, it allows us to see if institutional barriers to legislative influence at committees also changes the deliberative tone of the proceedings.

The second key way to conduct comparative analysis is spatial (across chambers and countries). This dissertation takes on an analysis of federal legislative committees in three countries with different political systems: parliamentary (Canada), presidential (the United States), and semi-presidential (Russia). The aim is to understand how institutional dynamics related to these different system types affect opportunities for actors to influence legislative deliberations and policy outcomes. Specifically, I examine the influence of expert witnesses from non-governmental environmentalist organizations on environmental policy, through legislative committees in those three countries. The cross-analysis of chambers in each country case was unique to the set of institutional conditions between the two chambers in each case, but in all country cases I have made the differences between the Upper and Lower Houses of the legislature and their impacts on ENGO influence a focus.

In Canada, for example, there was a key difference in the number of ENGO witnesses selected for inclusion in Senate hearings vs. House hearings – with the House featuring many more representatives of ENGOs as a portion of the witnesses. In comparing across countries, I

factored in that there would need to be differences in the methodology for collecting similar types of data in each of the three cases, so the comparison was more in terms of the *trends* identified by each subsequent methodological analysis in each case. I considered that different methodologies were required to adapt to the unique circumstances in each case, and then what could be derived from the application of those methodologies and subsequent case analysis could be compared. because at the quantitative data stage the analysis is aimed at highlighting dynamics *within* each legislature.

My analysis takes a case study-based approach instead of a variable-oriented approach, which is appropriate given that I am interested in the process and causal complexity of influence in each country's committee system. I apply a mixed-method approach of mainly qualitative methods and secondarily quantitative methods. On the quantitative side, I undertake analysis of votes in the three legislatures as part of my evaluation of policy and legislative outcomes. On the qualitative side, I undertake textual coding of transcripts, as well as interviews with expert witnesses who appeared at legislative hearings. I did not interview committee members, firstly because initial attempts to gain interviews with committee members were unsuccessful, and secondly because I had concerns about observations being overly partisan. It is also worth mentioning that in Canada, Samara Canada (2011 and 2018) did extensive work in this respect through its exit interviews with MPs that touched on the committee hearing process – work which I drew from for this study.

Lastly, the study is also undergirded by my eight years of professional experience providing executive summaries of committee meetings, Question Period and House and Senate debates in the Parliament of Canada. My firsthand exposure to these forums provided me with innumerable examples of how and when policy is made in legislatures. Moreover, my professional conversations with parliamentary insiders connected to my work has deepened my knowledge of how things work behind the scenes, where to look for evidence of policy influence, and how to recognize it.

3.2 Explaining Variation and Convergence: Legislative Committee Systems in Three Very Different Countries

Canada, the USA and Russia are not often juxtaposed in comparative studies – possibly due to their many systemic differences. Each has varied policy environment considerations, sets of actors and institutional conditions. Russia and the USA have a president while Canada has a constitutional monarch. Russia and Canada also have a prime minister at the helm of the national legislature while the USA does not. While the following is not a factor of focus for this dissertation – since it looks at the functioning of legislatures between elections – it is worth noting that Russia’s electoral system has had a proportional representation electoral system for the past seven years (with a mixed system from 1993-2007), USA is a technically indirect voting system through its Electoral College, and Canada’s electoral system is first-past-the-post. These are only a few examples of the differences between the systems, and yet there is enough of a basis for comparison when it comes to examining influence of ENGO actors on policy through legislative committees: each country has committees in the upper and lower chambers of the legislature that conduct hearings that at times include representations from ENGOs. The rationale for conducting such a comparison of ENGO influence through committees in these three systems is to test the limits of how much outcomes in this area occur as a result of systemic aspects of the legislature or regime – and how much other shared or unique factors shape those outcomes. If we find similarities between these different systems in terms of how ENGO influence on committees or committee influence on the legislature is frustrated, this might lead to new discoveries of how to make policymaking through committees more open to outsider input.

Before it is possible to analyze what dynamics in ENGO influence on policy through committees may be due to micro-level dynamics, it is necessary to discuss what the macro-level dynamics are between the three systems – in order to be able to identify where committee-level dynamics operate independently or in ways that diverge from larger systemic characteristics. In terms of party behaviour, this study draws on previous scholarly work to attest that Canada has historically had a high degree of party discipline, the U.S. a lower degree, and Russia a combination of both ends of the spectrum under Yeltsin and Putin’s presidencies. Russia is widely considered to be an outlier in terms of democratic practices within this group, and has a greatly different history than the other two cases. Later, in my chapter on Russia, I address the

challenges of comparing what are in most cases²⁹ considered democratic regimes without qualification (Canada and the US) to one that has been assessed as only a qualified democracy (i.e. “managed democracy”).

I have also noted similarities between the particular parliamentary, presidential and semi-presidential systems; for example, they are all classified as federal systems with bicameral legislatures. Without delving too deep into the well of cultural and structural comparison, all are large countries with Northern territory and significant natural resources exploitation industries – which bears significant policy considerations for environmental legislation. Despite considerable differences in political tradition, all three countries have a history of two-party, one-party, or more anomalous governing systems³⁰ as opposed to those systems defined by Lijphart (1994) as “consensus democracies” – which more often experience coalition governments.

However, it is not a task of this study to convince readers that the case study countries are on balance more similar or more different from one another – even at the legislative level. We can recall from the introduction that the idea of heterogeneity/causal complexity is to savour the ways in which homogeneous dynamics can be seen, upon closer inspection, to be heterogeneous. Specifically, the Canadian and American cases demonstrate how atypical trends occur within legislatures – not only within certain eras but also within specific committees. An attention to the complexity and heterogeneity within the Russian case also shows an area where there has been progress that is beneficial to democratic aims – during a time that overall has been generally associated with democratic backsliding (1996-2015).

The idea of heterogeneity and causal complexity also speaks to the justification for the selection of cases such as Russia, where the “extreme values” that define it as an outlier compared to the other cases – i.e. post-Communist political history and newness of the current political institutions – make the case even more important to explore, in order to show “that emergent cultural patterns that may seem bizarre or extreme in some way have important practical value and should therefore be understood in a larger context.” (Ragin, 1987: 23).

The need for a specific method to account for the heterogeneous and complex causal processes in the research has been previously discussed. For example, Lieberman (1991) wrote

²⁹ See my discussion of Gilen and Page, 2014 on p. 55 of this dissertation for an exception to this.

³⁰ While Lijphart (1994) characterizes Canada as a traditional two-party system, others (i.e. Johnston, 2017) consider it to be more unruly and anomalous, with smaller third parties that enter and exit periodically.

about the limitations of Mill's (1872) method of agreement and method of difference when studying a topic in which cases are heterogeneous and causal stories can be complex. He argued that Mill's methods require "(1) a deterministic approach rather than a probabilistic one, (2) no errors in measurement, (3) the existence of only one cause, and (4) the absence of interaction effects" (p. 307) – conditions that cannot be met in a study such as this. Similarly, Western (1998: p. 1235) has also argued homogeneous approach is less able to account for the different effects that will occur when any given phenomenon takes place in different institutional conditions.

However, in highlighting the proper fit of heterogeneity/causal complexity to the study, it is important not to oversimplify other approaches and specify what about more modern adaptations of Mill's (1872) methods make them less ideal for this study. Porter (1993) has discussed how studies only need focus on common characteristics between cases to be considered "universalizing comparisons" for works that have been classified as using a Most Similar Systems approach, which is based on Mill's method of agreement. An example of this is Skocpol's (1979) comparison of social revolutions in China, Russia, and France, which fits this description even if it also discusses differences between cases. The same can be said of the Most Different Systems methods for comparative studies that is based on Mill's method of difference. In other words, the Most Similar Systems Approach treats the cases as largely similar and tries to account for specific outlying differences between them, and the Most Different Systems Approach looks at the cases largely as different and tries to account for similarities (Ragin, 1987). Thus, both focus on similarities and differences between cases more than they analyze how phenomena interact with different institutional conditions *within* country cases. For example, key standard-bearers of the Most Different Systems method Przeworski and Teune (1970) explained in their seminal work on the method that "irrelevant system factors" are eliminated as part of the Most Different Systems Method by "formulating statements that are valid regardless of the systems within which observations are made" (p. 137).

Western (1998) envisions an approach to the study of causal processes that acknowledges causal complexity and accounts for local contexts. This serves as a middle ground between studies which identify common causes across cases, and studies in which causal processes vary significantly from case to case and within cases. This dissertation is situated in a similar place along such a continuum, because it seeks to identify common causal processes where possible

between cases, and at the same time clarifies where these causal processes diverge both between cases and within them based on context.

It was with the idea in mind of retaining a clear comparative structure while bringing a necessary understanding of contextual complexity that led me to strike a balance between acknowledging and including the country regime level of analysis and devoting too much discussion to it. For example, while many in the field would consider Canada and the United States to be full-fledged democracies, there have been compelling arguments (see Gilen and Page, 2014) that the results of multivariate analysis suggest that United States can no longer be considered a democracy without qualification. It is not a task of this study, however, to assess the validity of regime theory on its own terms; instead, my approach of studying the heterogeneous and complex variables was done with the goal of producing conclusions that expand upon the relationships between variables and further shine light on the dynamics involved.

These principles apply not only to the differences in overall legislative models (parliamentary, presidential, and semi-presidential) but also to the associated differences in the makeup of the upper chambers (appointed, directly elected, and indirectly elected). Looking within each upper chamber as it pertains to committee hearings with ENGO witnesses, I engage with data that suggests interaction effects between party composition of upper chambers and fluctuating understandings of roles by their members – which do as much to explain behaviour and outcomes in those settings as do the different institutional factors determining the composition of upper chambers.

3.3 Justification of Time Frame

My study covers the time span of 1996-2015. In all three countries, this is a period of key developments in the functioning of the legislatures broadly – particularly with respect to the role of party discipline – and legislative committee behaviour more specifically. Sabatier (1991) observed that studies of a decade or more are most desirable for studying the policy process, to allow for assessments of more fulsome policy adoption and response. However, the long-term impacts of policy are not studied here, just the development of policy through legislatures – with the understanding that governments should also be responsive in some way to policy development in the legislature for the process to function as intended.

The time span of the study also provides us with a frame for analyzing each case as a living legislature that either formally or informally can behave atypically to its traditional systemic traits. For example, we can recall from the introduction that Lijphart (1984) and Shugart (2005) described instances where parliaments can behave more like presidential systems in terms of separating legislative and executive power i.e. in minority parliaments, and instances where presidential systems can behave like parliamentary systems due to the strength of parties combined with leadership style. In both Canada and the US, these changes were apparent in the time period studied. In Russia, there were many changes in the legislative system during this period due to a number of factors, but chiefly because of a combination of the inherent ambiguity of semi-presidential systems and the strengthening of the party associated with the president in the legislature under the Putin/Medvedev era.

There are atypical trends that have been observed vis-à-vis expected dynamics in parliamentary and presidential systems in the Canadian House of Commons and U.S. House of Representatives, specifically as regards party discipline. The combination of these periods of time means that a range of both typical and atypical institutional conditions for each system are covered for the time frame. In Canada, the time frame covers periods of very high party discipline, but also periods such as the minority government under Paul Martin from 2003-2006 – which coincided with lower levels of party discipline. Moreover, there was an uncharacteristically high degree of committee independence at the Standing Committee on the Environment in the late 1990s and early 2000s. Conversely, the U.S. House of Representatives under Speaker Newt Gingrich (who served in this position from 1995-1999) imposed relatively stronger party discipline than is typically the case in the U.S. context (Loomis, 1996: p. 81). Furthermore, Moffett (2012) and Duff and Rhode (2012) have noted an increase in recent years of efforts by party leaders in the U.S. to increase party discipline – something that is reflected in the party unity voting score data presented in this dissertation’s chapter on the United States.

In Russia, 1996 marks the end of a period of constitutional crisis and the beginning of Boris Yeltsin’s second term as president. Only after this crisis was resolved was there the basis for forming the modern Russian legislature as it currently stands. However, the time frame of 1996-2015 is also useful here in order to capture an important split in terms of party discipline, party diversity and committee independence. My analysis will thus focus on the contrast in legislative and committee behaviour between the Yeltsin era (1991-1999) – which can be

categorized as low party discipline, high party diversity and committee independence (Chaisty, 2006) – and the Putin/Medvedev era (2000-Present), in which these institutional conditions are reversed (Remington, 2008).

Table 1 provides a visual chronological of the key changes described here:

Table 1: Changing Characteristics of the Legislative Systems Over Time

Country	1996-1999	2000-2006	2007-2015
Canada	Relatively low party discipline and more committee independence	Relatively low party discipline and more committee independence	Relatively high party discipline and less committee independence
United States	Relatively high party discipline and less committee independence	Relatively low (compared to 1996-1999) but increasing levels of party discipline, normal levels of committee independence	Increasing party discipline past 1996-1999 levels, but no reports of overt limitations on committee independence
Russia	Relatively low party discipline and more committee independence	Period of legislative consolidation (United Russia merger); increasing party discipline	Relatively high party discipline and less committee independence

3.4 Selection of ENGOs as Types of Organizations Seeking Influence

This study does not have many counterparts to compare with in terms of other studies of non-governmental influence through legislative committees. However, one factor that can be hypothesized to structure influence patterns and dynamics is the type of interest group that a witness represents. Interest groups have been roughly categorized as one of two types (Clodman, 1989): Theme oriented groups, are issue-based, and take clear positions on a finite number of

issues with strong and consistent messaging, but have weakly associated memberships. Segment-oriented groups, in contrast, are brought together by a common profession (i.e. trade unions and professional associations) or religious/ethnic characteristics. While segment-oriented groups often have the advantage of a reliable funding mechanism such as membership dues, they also have a wider array of issues under their mandate and a less assured perspective on the issues among their members.

Organizations can try to derive the benefits from each type by forming coalitions of groups, such as M.A.D.D. and the tenants' association federations (Clodman, 1989). As noted previously, Holyoke (2013) has related that many interest groups in the U.S. are pushed by legislators into short-term or even long-term coalitions, coming up with joint positions that come as a result of bargaining between groups. This gives the legislator the opportunity to please a greater number of involved citizens and interests on any given issue. Heinmiller (2010) has written about similar "advocacy coalitions" – groups of different organizations with similar policy goals – existing in Canada.

Broadly speaking, environmentalist groups are more likely to fall into the first category and be more theme-oriented. They also tend to face financing challenges typical of this type of group (Clodman, 1989). However, there are certainly exceptions. For example, the Clean Air Renewable Energies (CARE) Coalition, whose representative Mark Rudolph was interviewed for this study, was a coalition of corporate and environmentalist stakeholders working together to advance green energy objectives in Canada. This organization could be considered segment-oriented because its members are expressly coming from different perspectives on issues and are largely convened around the basis of being stakeholders in green energy. The main difference between the two types of groups in terms of influence is that segment-oriented groups have the ability to reach a consensus on contentious policy issues, which is appealing to legislators who wish to appeal to all those represented by that segment. On the other hand, if no clear consensus can be reached within that segment, a theme-oriented group holds the advantage of having the clearer policy position – despite its less diverse representation of perspectives.

The contrast between the types of groups is apparent in a comment from Bill Eggertson, an interviewee who had appeared before the committee as a representative of the Canadian Association of Renewable Energies. Mr. Eggertson had previously worked for the Canadian Chamber of Commerce, and recalled that the Chamber used to have to handle contradictions

between their different types of members (i.e. large and small businesses) internally. He opined that parliamentarians love associations for the reason that “if you’re a broad-based horizontal group [like the Chamber or Energy Canada], you’ve already gone through the machinations to come up with a consensus view. But if you’re a single-interest group like mine, you know that if I’m going in, I’m obviously supporting renewable energy.” While appealing for these reasons, the significant drawback to this approach is that disagreement within such coalitions can impede the effectiveness of the whole (Canadian Study of Parliament Group, 1989).

The structure of interest group networks is another characteristic that has an effect on the influence of non-governmental actors on policy. In the United States, a “core-periphery” structure for the environmental issue network constellation has been observed – with (pro-conservation) legislators considered the most influential players and ones who are active participants in the system. This seems less true in the Canadian case; while nearly all interviewees had built up some form of relationships with committee members and/or government officials (i.e. bureaucrats in the department of interest), there were indications from only one interviewee that parliamentarians or government representatives had contacted them after their committee appearances by way of follow-up. Perhaps this can be tied to the issue of party discipline, as there is less room for parliamentarians to pursue specific issues when they have to vote the same way as everyone else.³¹

In Russia, there is a particular significance to studying ENGOs in the post-Soviet era. Boris Kagarlitsky (2002) and Henderson (2010) provide a good account of the crisis of capacity for civil society that occurred in the Yeltsin era. They describe how both informal ecological movements and former state-affiliated associations that began to operate independently in the 1990s struggled to continue operations based on a critical lack of resources. How the environmental movement was transformed through this process is discussed further in the country-specific chapter on Russia.

3.5 Methodology

Step 1: Establishing Context Through Document Analysis

³¹ One could look to the Green Party in Canada for an exception to this, but according to parliamentary rules representatives of small parties cannot sit on committees.

A key element of my research design is to empirically establish the broader characteristics of the parliamentary climate in each country, as well as changes over time. To do this, it was necessary to first identify key indicators of party discipline, and it should be noted that my measure and operationalization of party discipline is different across all three cases. The different types of measurement are functional equivalents that are contextually sensitive, taking into account the different ways that the various idiosyncrasies of each legislature could impact the measuring party discipline in the three countries.

For Canada, I based my method on an earlier study by Joseph Wearing (1998) which measured the percentage of votes containing at least one instance of a legislator voting differently from the majority of his or her party, described as “Votes Containing Party Dissent.” I added more detailed descriptions of the context of these votes from the 38th to the 41st parliaments for which better data was available. This data was collected by turning to official legislative records and specifically voting records in the wider legislature or “floor” – as voting within committees is not always broken down by party in the records, and is not available for many studies leading to committee reports in all the case countries. I began by looking at votes in a legislative session for 2nd and 3rd reading bills, taking care to avoid collinearity by only counting those second reading votes where the bill was voted down instead of being voted on again at third reading. I then compared these records across different legislative terms to identify trends in party discipline, whereby a lower percentage of votes containing party dissent indicates higher party discipline in that legislative term, and vice versa.

In the United States Congress, measuring party discipline involves a more complicated analysis; since most votes do contain at least one legislator voting differently from the party majority vote. Thus, it was reasonable in this case to switch from measuring a percentage of votes containing party dissent (for which the fluctuations might be too minute to be ripe for analysis) to the percentage of legislators who vote with their party majorities. This data has already been collected by the Brookings Institution for the entire period covered by the study, so this was used to corroborate more qualitative, academic studies and analyses of party discipline in the U.S. Congress that were discussed in the section on congressional history.

In Russia, I used the same method as in Canada, but also built on a previous study by Chaisty (2006) that calculated party discipline in Russia using the Rice Index for some of the first

few years. My calculation in the Russian case also includes instances where a member of the legislature voted against the majority position of a coalition of parties, given that party coalitions during the period of study were highly coordinated.

I then compared the proportion of ENGO witnesses in committee studies in the House with those in the Senate, and those where a majority held the House or Senate chamber vs. minority legislatures. This allowed me to make further connections between party discipline and the impact that would have on a key factor in the study of ENGO influence through committee hearings: ENGO representation at those committee hearings. Identifying the number of ENGO witnesses was more difficult for the U.S. case than for the Canadian case, and was not possible for the Russian case. To explain, there are a smaller number of ENGO players in Canada – making them more identifiable in committee witness lists. However, in the U.S. case it was not always possible to find out if a group met the criteria for an ENGO, especially if the organization ceased to exist at the time the study was conducted. As ascertaining the mandate of each organization listed in each transcript in the U.S. congressional committees of interest would have been too daunting a task, I opted to save on time by tailoring the criteria of the qualitative data collection to create a binary between committee hearings with one or more ENGO witnesses included, and those without. Thus, where one witness in a study was already identified as an ENGO witness, I was able to label that study for the purposes of quantitative data analysis. For the Russian case, there were questions of incompleteness of the data made public – not for the voting records, but for the committee hearing transcripts that were the source of data on ENGO witnesses included in committee studies in the other cases.

Another indicator related to party discipline that I studied in the Canadian case is the level of variation in party votes. If the combination of party majorities voting the same way and differently from one another was relatively unchanging, I considered that to be reflective of more coordination between the parties. As was considered for the case of Russia, very repetitive patterns of party alliances for votes was equated with a coalition party model. Where there was more variation in the voting patterns between the parties, this was considered to render the degree of party diversity in the legislature more meaningful. In the cases where there was a minority government, for example, a higher level of variation in voting alliances between parties represents the kind of “informal separation of powers” between the executive and the legislature (Lijphart, 1984) which approximates a key element of presidential systems in practical terms.

Step 2: Selection of relevant committees and transcripts

Because my interest is in environmentally-focused policy, it was necessary to identify the relevant committees within each country in order to begin to systematically collect data on the degree of inclusion of ENGO witnesses in each committee. Committees from both chambers were selected for each country by identifying where environmental issues tended to be most commonly studied. This also helped to identify the corpus of texts (i.e., committee transcripts) from which to then examine in a more qualitative fashion the particular dynamics in legislative committees, and assess their relationship to party discipline within the wider legislative context. In particular, I asked how and to what extent these institutional conditions impacted the potential for ENGO influence.

The first component of the qualitative methodology involved the procurement of transcripts from legislative committees in Canada, Russia and the US which feature representations by non-state actors on environmental issues. With the exception of the Standing Committee on Finance in Canada and something called the Public Chamber in the Russian legislature,³² official activities of parliamentary committee hearings involving ENGOs in Canada and Russia take two main forms: 1) review of legislation, and 2) committee reports, which in Russia sometimes also take the form of roundtables. These two functions provide different inputs that have significance for the dynamics of potential influence. For this project, all committee hearing topics were considered – whether they were studies of legislation or consultation for committee reports.

The rationale for including agenda items that do not all relate directly to particular bills can be connected to Blondel's (1973) emphasis on the non-linear process that policy influence often takes – where the discussions on bills which initially fail to pass may bear fruit at later stages. In order to account for this non-linear process, Blondel recommends a time period for study that is similar to the one undertaken here: a matter of years, as opposed to a small number of months for the passage of bills considered individually.

To find out whether the content of witness testimony became part of legislator deliberations, I turned to transcripts and reports. To find out whether the testimony translated into direct outputs

³² The significance of these two institutions is developed in more detail on p. 21.

such as amendments, recommendations, and reports, I relied on committee recommendations, legislative bills and testimony from interviewees who had made representations before these committees. The transcripts of legislative committees under study are from the following committees (or their predecessors with the same mandate under a slightly different name; indications are given when the name has changed substantively over time). Table 2 provides an overview of the sources of these transcripts:

Table 2: Committees Covered in Study, and Corresponding Number of Meetings and Transcripts

Country	Chamber	Committee	Total # of studies	Total # of committee meetings/transcripts *
Canada	House of Commons	Environment and Sustainable Development	177	806
		Aboriginal and Northern Affairs (created in 2001)	147	526
	Senate	Energy, the Environment and Natural Resources	573	103
US	House of Representatives	Resources/Natural Resources** (created in 1999)	745	745
		Energy and Commerce*** (created in 1999)	311	311
		Select Committee on Energy Independence and Global Warming (created in 2007 and dissolved in 2010)	21	21
	Senate	Environment and Public Works	552	552
		Energy and Natural Resources	713	713
Russia	Duma	Ecology and the Environment	Unknown	Unknown
		Regional Policy and the North and Far East (formerly the Committee for Northern Problems)	Unknown	Unknown
	Federation Council	Federal Structure, Regional Policy, Local Government and Northern Affairs	Unknown	Unknown

* Most U.S. Congressional committees have one meeting only; where there are multiple meetings on a topic, they are in the same transcript.

** Created in the 106th Congress, 1999 as “Natural Resources” this committee was called simply “Resources” in the 107th Congress, 108th and 109th Congresses, then reverted to its original name thereafter.

*** The numbers of meetings and studies omitted those that I coded as having only to do with “commerce” with no discernable link to energy. An example of an omitted study is “The Do Not Call List Authorization” study in Jan. 2003.

The decision to limit the committees was a difficult one, since committees can shift over time as venues to discuss different issue areas. For example, as Loomis (1996: p. 84) notes, environmental interests became very engaged in the proceedings of the U.S. Interior Committee in the 1990s – a committee not normally under the radar of environmentalists. This was a practical choice based on time/funding restrictions and the method of analysis applied; while not all discourse is captured, I have included all of the key committees for environmental issues.

I looked at all of the hearings available for these committees from the year 1996 to the present on the Canadian committee sites on Parl.ca, the U.S. Government Publishing Office (GPO) Federal Digital System site, and the Russian committee sites for the Duma and Federation Council (duma.ru and council.ru, respectively). The proportion of hearings which had ENGO witnesses, the rough estimate of how many of those I was able to find contact information for and how many of these replied is discussed in the section on interviewee selection. However, I took a comprehensive approach to this exercise – seeking to interview as many ENGO witnesses who appeared at these meetings and who were willing to speak with me.

The number of cases³³ considered was 29: 19 cases in Canada, seven cases in the U.S., and three cases in Russia. The number of witnesses included for each country were 11 in Canada, seven in the U.S., and three in Russia. Accounting for the difference in number of witnesses and number of cases considered in Canada is the fact that some of the ENGO witnesses interviewed were included in several different Canadian committee studies that were discussed during the interviews.

Step 3: Analyzing Committee Transcripts

From the jumping off point of the quantitative data analysis, my initial reading of committee transcripts needed to be narrowed down to specific studies that I would have interviewees for in order to transition to a more in-depth approach. Thus, before confirming an interview, my first reading of a hearing would be cursory. However, between the time that I had an interview confirmed and I conducted that interview, I would do a more substantive reading of the

³³ Each “case” is the testimony of one witness to one committee.

committee transcripts and associated documentation – i.e. legislative reports and votes – that I had access to and that pertained to the witness testimony of the interviewee. Below is an example of the process used for this initial analysis:

1. **Locate the transcript** for the hearing: Example used: Hearing of the Standing Committee on the Environment and Sustainable Development. Topic: “Bill C-32, An Act respecting pollution and the protection of the environment and human health in order to contribute to sustainable development.” October 20, 1998.
2. **Read through the full transcript, then make a list of priorities expressed by the ENGO witness that will be interviewed.** Mark Winfield, then- Director of Environmental Governance at the Pembina Institute, was identified as having expressed the following recommendations:
 - a. To delete or modify the general clause in the administrative duties section – making its application discretionary;
 - b. To restore the “biotechnology” and “chemical new substances” sections to the language of the existing Act;
 - c. To delete references to cost-effectiveness in the bill;
 - d. To make pollution prevention planning and emergency planning mandatory for a number of substances listed in the Act; and
 - e. To expand the pollution prevention requirements to include all substances on the national pollutant release inventory.
3. **Analyze the content of deliberations between the committee members and the witness.** This stage is described in more detail on pages 62-64 of this dissertation. In Dr. Winfield’s case, I determined that questions asked of him were largely information-based. Both Liberal and PC MPs posed questions to him that clearly reflected trust in his expertise, as they requested explanations of the legal ramifications of the bill and particularly of his recommendations. At times, MPs on the committee openly concurred with his expressed perspectives behind these recommendations.
4. **Conduct context-specific, complementary research to determine whether or not expressed preferences were acted upon by committee members, the whole legislature, and ultimately the government.** Positive outcomes in the committee alone was considered probabilistic evidence of influence, but ideally this was accompanied by subsequent policy follow-through in order to also show committee effectiveness. In this

example, I was able to determine by comparing the text of the bill before and after committee clause-by-clause that some – but not all – of Winfield's recommendations were adopted as amendments. While the administrative duties section was not made discretionary as per one of his recommendations, there were a number of amendments that reflected Winfield's priorities about toxic substances. One such amendment read as follows:

That Bill C-32, in Clause 90, be amended by adding after line 20 on page 59 the following: "(1.1) In developing proposed regulations or instruments respecting preventive or control actions in relation to substances specified on the List of Toxic Substances in Schedule 1, the Ministers shall give priority to pollution prevention actions."

This amendment at committee then remained in the wording of the final bill at Royal Assent. Similarly, for committee studies culminating in a report, an analysis of the government's response to the report is used to measure influence.

All of this provides a background of information about the outcomes for influence as per Dür and De Bièvre's (2007) definition of influence, committee deliberations as per Dryzek and Niemeyer's (2010) concept of meta-consensus and Fuji Johnson's (2009) idea of deliberative empowerment. Moreover, the analysis of certain outcomes – such as amendments to legislation and the government's responses to committee recommendation – as a way to measure influence is consistent with methods used in other studies of committee influence on policy, such as Cairney (2006) and Monk (2010). Blidook (2010), in his comparison of private members' business with related government legislation, draws from the substantive content and wording to draw causal connections in a way that is similar to the approach used for comparisons of ENGO recommendations and committee amendments in this study.

This then needed to be cross-checked against interviews with the ENGO witnesses to gain more context from their perspective. Through the interviews, I found out what kinds of factors were working for or against their expressed recommendations being followed by the committee, the legislature and then the government. Where outcomes for influence seemed to exist, I learned through interviews how the support of the committee was gained – and whether

they attributed this more to the hearing process itself or to outside factors such as simultaneous media pressure.

For the analysis of deliberations, the dissertation features some discourse analysis in combination with the interview component. Delving into the theoretical foundations of this approach, Strom (1998) offers a detailed classification of types of parliaments based on a series of structural and functional concepts, and outlines two ways to analyze agency loss³⁴ in different types of regimes: To compare dynamics of representation in both/all parliaments to an ideal theoretical standard, or compare the dynamics of the regimes in question with one other. My own thesis uses the first of these approaches, as I compare the dynamics of deliberations – encompassing informal change as recommended by Blondel (1973) – to the conditions for such deliberations that reflect meta-consensus as described by Dryzek and Niemeyer (2010) and deliberative empowerment as described by Fuji Johnson (2009). These last two concepts were described in the introduction and discussed further in the literature review.

The content analysis for this dissertation was done before the release of Fuji Johnson, Burns and Porth's (2017) recent work on the quality of deliberations on The Protection of Communities and Exploited Persons Act in Canadian parliamentary committee hearings, but the approach used in this dissertation can be situated to a certain degree within the coding scheme these authors developed. While these authors express the quality of deliberations in numerical terms (which is not done in this dissertation) they took the same exploratory approach to this topic to create a coding scheme that was “developed inductively from data rather than tested by data” and was also “continuously refined and checked by data” (p. 928). They explained that such an exploratory approach was necessary because they had not seen any similar examples of analyzing Canadian parliamentary deliberations. I outline my coding scheme and compare it to Fuji Johnson et al.'s in the next section.

Methodology for Identifying the Nature of Deliberations

In their exploratory 2017 work on deliberation at Parliament of Canada committees on issues related to sex work, Fuji Johnson et al. focused as I did in this study on the questions asked by

³⁴ Broadly defined as the failure to represent constituent or public interests.

legislators to witnesses as the most significant determinant of the quality of deliberations. More specifically, they evaluated these questions using three categories and eight codes: 1. Content (with the codes of respectful or disrespectful) 2. Tone (with codes of positive, negative, and neutral) and 3. Nature (with the codes of sympathetic, combative, or fair). I only had one category – probably most comparable to the category of “Content” but with elements of all three of Fuji Johnson et al.’s categories. However, I developed five codes for my approach to the questions: 1. Information-based 2. Perspective-based, 3. Problem-solving, 4. Exploratory, and 5. Hostile. This last “hostile” category was characterized in ways that were similar to Fuji Johnson et al.’s codes across all three categories of “disrespectful”, “negative” and “combative.” For example, they note that questions coded as disrespectful “include gratuitous or inflammatory language that dismisses, diminishes, or trivializes the experience and experiences of witnesses as they pertain to the hearings” (p. 930) and that questions coded as combative appeared designed “to highlight disagreement between a committee member and witness, to bring out contradictions in the witness’s position, to put him or her in a difficult position, to confuse him or her, or to shut him or her down” (p. 933).

My four other codes largely would fall into Fuji Johnson et al.’s categories of respectful questions, with either positive or neutral tone, and either sympathetic or fair in nature. The difference between my remaining four codes and Fuji Johnson et al.’s coding scheme is what type of information is being sought through the question. I focused on the likelihood that committee members might be asking for specific information i.e. facts and figures or historical information about the topic discussed, in which case their questions were coded as information-based. If they expressly sought the opinion of a witness on a key issue or question discussed based on their experience on the topic, these were coded as perspective-based questions. Where committee members asked witnesses how to reconcile their recommendations with an opposing viewpoint (in a way that did not implicitly suggest that either viewpoint is invalid), these were coded as problem-solving questions. Finally, where witnesses were asked extremely open-ended questions, these were coded as exploratory.

I mentioned in the outline of transcript analysis that the deliberation in Dr. Winfield’s hearing was coded as information-based. An example of this kind of question is when Liberal MP Gar Knutson asked him, “is it realistically possible that if regulation is passed under the new CEPA, a corporation could challenge that regulation on the basis that it could have been passed

under another act and therefore it's ultra vires the act?" (ENVI, 1998). With this question, Knutson is seeking clarification on the legal implications of regulations – not a value-based perspective or a way to reach a compromise between different expressed preferences. It is also not an open-ended question, and certainly contains no signs of hostility.

Perspective-based questions were identified when legislators asked about the witnesses' thoughts, feelings, and opinions on a subject. In most cases that were identified as such, the three words "think, feel, and opinion" were explicitly used. One example of this is when Democrat Representative Jim Costa, sitting on the House Natural Resources committee's Subcommittee on Energy and Mineral Resources in 2009, asked CEO of the Sierra Fund Elizabeth Martin and other witnesses at the committee: "Do you think all four of you, based upon what you think has been cleaned up, that there are economic benefits to cleaning these up besides the health and safety issues?" (House Natural Resources Committee, 2009).

A Problem-Solving type of question was identified where legislators asked witnesses to reconcile their recommendations with those of other interests or other competing priorities – such as those of the government – or to confirm where they were in agreement with others. For example, at the Senate ENEV committee in 2006, Conservative Senator David Angus asked Kenneth Ogilvie of Pollution Probe,

Senator Angus: Mr. Ogilvie, I feel that the document from Ms. Tilman and Ms. Broten is excellent. You have heard their candid comments. I am assuming that you agree with everything they said. Is that fair?

Mr. Ogilvie: I did not write their document, but yes.

Senator Angus: We are not at odds here.

Mr. Ogilvie: I may have a different perspective on some aspects, but the answer is yes. I am in fundamental agreement.

Open-ended questions tended to take the form of asking for further recommendations, to prioritize given recommendations, or simply inviting the witness to say anything they would like to say.

Hostile questions were the easiest to identify, because they were often accompanied by a different kind of language. As Fuji Johnson et al. (2017) also stated of "disrespectful", "negative", and "combative" questions, these questions often are designed to underscore disagreement between the legislator and the witness and discredit the witness in the eyes of

observers. They often seek to limit their response time through questions that demand a simple yes or no answer, and sometimes involve interruptions. The result is a deliberative exchange that sounds more like cross-examination than consultation. For example, Dan Chu of the Wyoming Wildlife Federation was subjected to this kind of questioning in 1998 by Republican Representative Richard Pombo at the House Resources Committee:

Mr. Pombo: Mr. Chu, just briefly, what everybody states and everybody that testifies before the Committee, without exception, always says that they are interested in protecting the environment, whether it's the Cattlemen that's sitting next to you or whoever it is. [. . .] Do you believe that that's possible for us to do that without going through a 7-year process to renew a grazing permit?

Mr. Chu: I think so. And I don't know the particulars of why it took 7 years, but I don't know---

Mr. Pombo: They're in Mr. Byrne's testimony. You can read that after the hearing.

Mr. Chu: Yes, I think I will. But if part of that 7-year process was involved in collecting data or bringing together various laws or statutes, I don't know, but I guess the bottom line for us is that those are public lands, that there are other public resource users out there. [. . .] I would suggest that if he had a very good record of management and had a good record of riparian protections and that sort of thing, then that 7 years could have been excessive.

Mr. Pombo: Do you understand that the more people like Mr. Byrne that come in with testimony like he has or Mr. Allen with testimony like he has, that the more people that do that, the more pressure there is on Congress to change these laws?

Another example of this kind of exchange is between John Bennett of the Sierra Club of Canada and Conservative Senator Hector Daniel Lang at the ENEV committee in 2011:

Sen. Lang: Mr. Bennett, in view of the fact we do have that nuclear waste, does your organization support the underground storage of that waste? Would you support the government in its endeavours to find a place that could be designated and utilized for that purpose so that we meet the real problems we are facing instead of having organizations that always just say, "Not in my backyard"?

Mr. Bennett: Since we are a national organization, we do not have a backyard.

Senator Lang: Everybody has a backyard.

Mr. Bennett: The first thing that must be addressed is the continued production of the waste. Let us start by talking about stopping the production of waste, and then we can solve the problem of getting rid of it. We do not solve the problem as long as we continue to create more.

Senator Lang: I will step in, because I think you are side-stepping the issue.

Mr. Bennett: I am not side-stepping the issue at all.

Senator Lang: Yes, you are.

When I analyze the case studies, I compare the instances where hostile exchanges such as these prevailed in the committee deliberations with outcomes – looking for correlations between different kinds of questioning and deliberative empowerment.

Methodology for Identifying Meta-Consensus

While Dryzek and Niemeyer's (2007) "Bloomfield Track" method of identifying meta-consensus assesses whether such consensus has been achieved by all parties – a slightly different aim than the one for this study – I borrowed from this method to evaluate instances where legislators on the committee made their own preferences known during the hearings. Thus, when the expressed preferences of legislators reflect agreement with ENGO witnesses on the legitimacy of their values, the credibility of their beliefs, and what the policy choices pertaining to the topic discussed at the hearings are, this is considered to be indicative of meta-consensus. The Bloomfield Track registers the occurrence of three kinds of meta-consensus: 1. Normative ("recognition of legitimacy of disputed values") 2. Epistemic ("acceptance of credibility of disputed beliefs") and 3. Expressed Preference ("agreement on the nature of disputed choices") (p. 503). Where any of these three dynamics can be identified from the transcripts, committee reports, interviews or other data studied, it is noted in the discussion for the case studies. Proper consensus is defined as agreement on values, beliefs and preferences, and is extremely rare in the committee context, but it is noted where consensus could be discerned from the transcript between one or more committee members and the witnesses. To illustrate this using the example of detailed above of Mark Winfield before the ENVI committee in 1998, the following exchange is considered evidence of meta-consensus between at least one member of the committee and the witness:

Ms. Karen Kraft Sloan (Liberal): The other question I had was that you said none of the current PSL-1 has been put on the toxic substances list. How long has that process been from start to finish?

Dr. Mark Winfield: It's coming up on ten years.

Ms. Karen Kraft Sloan: Ten years.

Dr. Mark Winfield: I think the original PSL was in 1989. The determinations of the toxicity or non-toxicity of the substances came out mostly in 1993, 1994, and 1995.

We're still waiting for the next step of putting the ones that were found to be toxic actually on the list of toxic substances.

Ms. Karen Kraft Sloan: So even though it has taken ten years to identify substances as toxic, they're not on the toxic substances list. There is no requirement to even act in a discretionary way for pollution prevention plans. **It's rather intolerable. You wonder why the process was undertaken in the first place.**

My emphasis in bold indicates where there is agreement on the beliefs on the issue of toxic substances by the witness and a committee member – even if there was no explicit agreement on solutions.

By contrast, the following exchange at the Senate ENEV committee in 2011 between John Bennett of the Sierra Club of Canada and Conservative Senator Richard Neufeld shows a lack of meta-consensus around the terms of discussion on resource issues:

Senator Neufeld: You [Bennett] said fracturing is a new technology, but it has been around for 60 years or more that I am aware of. I have worked in the industry. When I was a kid, I hauled frac sand. It is not new technology; fracturing has been around for a long time. It is a way of getting around your organization saying we should maybe not have natural gas. I want to put on the record that you said fracturing was a new technology, and I totally disagree with you.

As with the analysis for the nature of questions asked in deliberations, evidence of meta-consensus is a factor in the case study component of the dissertation and will be compared with outcomes at the committee level and beyond in terms of ENGO influence on policy.

Step 4: Interviewing ENGO Witnesses

In the interviews, the measurement of influence began from a point of establishing the witnesses' policy recommendations on the topic of study, in order to compare them with outcomes. As a popular objective at committees is to be very clear about this, I generally was able to correctly discern their policy recommendations from the committee hearing transcripts; however, this was one of the questions asked in the interview process and this step added some important nuances to my understanding in more than a few cases. The analysis of deliberations involving committee members and witnesses at committee used the transcripts for data also, again supplemented by some context provided by the ENGO interviewees. Thus, outcomes were measured in this study by identifying how many cases included a match of ENGO testimony recommendations to

committee outputs such as legislative amendments and preferences expressed in committee reports that did not exist prior to the legislative hearing. This is less a quantitative than a qualitative exercise, since within each case (every single ENGO witness appearance before a committee) there will be a number of recommendations and degrees to which outcomes reflect those expressed preferences by ENGO witnesses.

To sum up this section, in order to assess whether the ENGO witness statements and the deliberations at the parliamentary committees produce meaningful changes, change was measured in the following ways at this stage: 1) Evidence of substantive amendments made that can be linked to witness testimony using content analysis to locate similarities. The policy content of amendments was considered in terms of meaning i.e. logic, intent to capture instances where amendments reflected ENGO policy priorities but were worded differently than originally articulated by ENGO witnesses. 2) Evidence in deliberations concurrent with witness testimony that shows identification with the witness and/or recognition of a need to revise the legislation due to factors that the witness has brought to light. Again, where witnesses were not explicitly mentioned in deliberations, use of similar language and use of similar policy frames were coded as positive. 3) Language in reports subsequent to committee meetings, which reflect perspectives and issue-framing of witnesses. All of the relevant information that I was aware existed either because of known institutional mechanisms (i.e. that the legislature votes on bills approved by the committee or the fact that the government must respond to a report) was publicly available in all three countries. 4. The cross-checking of all of the data collected and analysis conducted through interviews with ENGO witnesses, as well as the collection of additional data about ENGO witness perspectives on these proceedings.

3.6 In-depth Analysis of Influence: Elite Interviews

Undertaking elite interviews in the three countries

The use of in-depth interviews is meant to contribute to the research question not as a method to generate ideas and spawn new theories but as a tool used to (further) understand a central object of inquiry: the experiences of non-governmental representatives at these committees. It should also be noted that the interview portion of the study is not the main source of information for the study, but complements the written source material there. This method is particularly important to

use given that Sabatier (1991) has emphasized the slow pace that policy influence can have. Per Sabatier, it is rare for one person or research work to tip the balance in favour of policy change. Instead, he asserts that “the more normal pattern is for a process of ‘enlightenment’ whereby the findings accumulated over time gradually alter decision-makers’ perceptions of the seriousness of the problems, the relative importance of different causes, and/or the effects of major policy programs (Caplan et al. 1975; Weiss 1977a,b; Derthick and Quirk 1985)” (p. 149). In this context, it is important to highlight instances where witnesses felt that they were effectively listened to by legislators and that their words and arguments were carefully considered – perhaps leading to the less immediate policy changes to which Sabatier alludes.

Moreover, it has been argued by Crouch and Mackenzie (2006) the combination of methods in the type of manner described above has ramifications on the research not only from a methodological perspective, but also a theoretical one. They cite Silverman’s (1993: 91) assertion that the aim of in-depth interviews is to obtain “an authentic insight into people’s experiences” as a potential example of a constructivist approach to interviewing, and argue that such authenticity provides a culturally-sanctioned form of reality, in a way seemingly synonymous with the theory of intersubjectivity. However, they depart from the idea of intersubjectivity with their addition that the authentic perspectives do not alone provide a picture of reality, stating that “the interview material is ultimately comprehended within a frame of a situation assumed to exist independently from experience” (p. 485). Aiming to meet this dual standard used to illustrate a type of “reality” on the cusp of positivism and subjectivism seems entirely fitting for the context of legislative studies, where outcomes are sometimes plainly made evident by factors that are can be verified outside of interviews.

Moving closer to the specific aims of this study, interviews have also been used as an important resource for other studies on legislative committee influence on policy (i.e. Malloy, 1996; Hindmoor, Larkin and Kennan, 2009) and Monk (2010) provides an explicit rationale for this, stating that

If individuals and groups are competing to push their political views through committees, then their subjective perceptions of a committee’s inquiry or report are the indicators of its performance, much like how the performance of political parties is assessed through opinion polls. In other words, the objective measure of committee performance is the subjective views of participants and stakeholders” (p. 5-6).

In this study there are incidences where it is difficult to evaluate the necessary context around a potential incidence of ENGO influence on policy without discussing the matter with the original ENGO witness. For example, it is difficult to follow up upon a recommendation to do more to support renewable energy or enforce oil spill fines on companies more stringently. Even if a full comprehensive analysis is done of government spending on renewables or fines levied per oil spill, the representative might feel that any gains were woefully insufficient or that their representation to the committee had been a non-factor in the change of dynamic. There might be very good reasons for these experiential perspectives as well; for example, the representative could have experienced a dismissal of the recommendation at the committee level and at the executive level, only to have the executive reluctantly adopt the same idea by virtue of an international accord that would otherwise be too costly for the government to reject. This is why the questions asked of the witnesses focus on policy influence as opposed to policy implementation.

Those whom I approached to interview enjoyed varying degrees of stature in their communities; however, as a group I would characterize them as elite interview subjects. They are all members of ENGOs who appeared before a legislative committee hearing in one of the three countries studied, and are commenting on their own representations before these committees – representations which largely correspond with the committee proceedings analyzed in the qualitative textual coding component. This certainly seems to correspond with at least one definition of who elite interviewees are considered to be: “a group of individuals, who hold, or have held, a privileged position in society and, as such, as far as a political scientist is concerned, are likely to have had more influence on political outcomes than general members of the public” (Richards, 1996). Interviewing these subjects is useful in order to get a sense of the overall experience of non-governmental participants in these hearings, and also in terms of gaining information relevant to the hearings that may not have been verbalized at the hearing itself – and thus would not be represented in hearing transcripts.

The interviews also facilitate a consideration how the policy actor conceived of, prioritized and responded to policy constraints before them, which is important in a policy context (Flynn, 2009: p. 45). To supplement textual analysis with interviews in this way is considered an advisable approach by Maxwell (2004), who notes that qualitative research studies “must take

account of the theories and perspectives of those studied, rather than relying entirely on established views or the researcher's own perspective.” (p. 46).

Challenges with elite interviews and small n justification

The broad challenges and practicalities of elite interviews involve issues of ethics, travel/cost, rapport, elite access and protocol in different cultures. Richards (1996) has also raised issues of reliability in politically-related elite interviews, whereby ex-politicians may be concerned with preserving their legacy and settling old scores with their descriptions of events. However, methods literature also provides for an understanding of what kinds of challenges apply to what kinds of elite interviews, and not all challenges are equally applicable to all elite interviewing scenarios. For example, Smith (2009) has challenged the notion that there is a power imbalance at work between the interviewer and the interviewee in an elite interview, pointing out that “[p]oststructural conceptions of power disrupt the idea that the power associated with particular individuals in one context is easily transferred into other spaces” (p. 650). I would posit that this study is one where the power of the elite interviewees was not transferable to the interviewer-interviewee dynamic. This means that some general assumptions about the rapport of elite interviews (i.e. that they might be more formal, requiring the adherence to special protocol or structure set out by the interviewee)³⁵ and ethics (i.e. that the elite interviewees might be less vulnerable)³⁶ are less applicable here.

Problems with elite access similar to that described by Richardson, 1996 – who states that “elites are less accessible and are more conscious of their own importance” (p. 200) constituted the most challenging issue I encountered. I found it to be particularly challenging that many of the ostensible interview subjects were also difficult to find in terms of up-to-date contact information, and many others preferred not to be interviewed for reasons that sometimes explicitly included the fear of damaging existing relations with government networks. However, in most cases, refusals to be interviewed were not qualified with any reason. In total, I contacted 42 potential U.S. interviewees, 31 potential Canadian interviewees, and 32 potential Russian interviewees. It

³⁵ As per Rice, 2010 (for example).

³⁶ An idea that is refuted more than it is claimed, but nevertheless with references to perhaps less extensive discussion about vulnerabilities than with other types of interviewees. See: Smith, 2006 and Neal and McLaughlin, 2009.

should be noted that for the Russian case study, I contacted some individuals and organizations from ENGOs without knowing if they had ever participated in a committee hearing – as I wanted to explore the possibility that they had appeared at hearings for which transcripts were not made public at the time.

I did not get the sense that different protocols were necessary in terms of setting up interviews, and this is without a doubt connected to the fact that these were non-governmental elites whom I was trying to interview. Only one ENGO witness from the U.S. asked for a more formal proposal to review before agreeing to the interview (I had provided two separate documents that I had cleared with the ethics board before sending) and his assistant would not elaborate on what this witness considered to be missing from these documents. Thus, there may have been a gap in protocols responsible for that single instance.

There is an added political component for leaders of national environmental organizations agreeing to an interview with a researcher from outside of the country as opposed to a foreign researcher – as contributing to criticism about one’s political system from abroad may be seen as unpatriotic. This dynamic decidedly applies to the United States, but most especially to potential Russian witnesses given the fraught state of relations between Russia and Canada at the time of writing. At the same time, Herod (1999) has written about instances where outsider status can be used by researchers to build rapport, as foreign researchers may be seen as somewhat of a “novelty” and perhaps laden with less baggage or subject to fewer preconceived notions about their ontologies. In addition, he notes that foreign interviewers can be seen as less suspect when posing politically sensitive questions, as doing so may be perceived to come from a place of ignorance rather than antipathy. While the questions I posed were not adversarial in nature, I can think of instances where I may have benefited from such a dynamic.

One strategy that has been noted by Rice, 2010 in obtaining interviews from foreign elites is that travelling a long way can heighten the possibility that interviewees take the researcher seriously. As such, I felt it important that I travel to Russia to obtain interviews there, as such interviews were particularly difficult to schedule there. However, the tense relations between Russia and Canada impacted this part of the research on my end to a degree, and some of the difficulties in that regard were implicit rather than explicit. For example, I applied for a research visa with an invitation from a Russian university – the International University in Moscow – and as part of the application process bought a plane ticket to Russia before sending in my

application. There was a delay in approving my application, meaning that it would only be ready after I was scheduled to board my plane to Russia. I solved this issue by obtaining a tourist visa, then picking up my research visa application and going to Vilnius, Lithuania to get it processed (this is not a routine service provided by the Russian embassy in Lithuania, but I worked through an agency that specializes in assisting foreigners to Russia with such matters). This level of difficulty encountered in order to conduct research in Russia is to some extent endemic to the system that is in place to facilitate Canadian research in Russia, and there is no clear indication that the delay in my application was impacted by the political situation. However, one can contrast this with more favourable visa arrangements between Brazil and Russia as a result of improved relations between the two countries in recent years.

While the inability to get all the potential interviewees to agree to a study was not ideal from my perspective, some of the literature on elite interviews and study methodology in general suggests that this should not be an obstacle for the purposes of the study. For example, Crouch and Mackenzie (2006) have aimed to disabuse researchers of the notion that they should be aiming for a sample of interviewees to properly represent the full population of those who meet the interviewee criteria by virtue of their experiences. They explain,

Rather than being systematically selected instances of specific categories of attitudes and responses, here respondents embody and represent meaningful experience–structure links. Put differently, our respondents are “cases”, or instances of states, rather than (just) individuals who are bearers of certain designated properties (or “variables”). (p. 495).

In this situation, Crouch and Mackenzie (2006) assert that taking on a smaller number of interviews and applying a richness of analysis to the unique aspects of each interview is much more important from a qualitative research perspective than is drawing many generalizable truths from a larger sample of interviewees (p. 494). This has been important advice to heed for the research process I took, because while there were some generalizable factors across the interviews, there were many other insights that related to the unique conditions of that interviewee’s experience. The data collection very much reinforced the notion that each committee study and/or legislative bill had its own political context that surrounded it, and each participant in the process had a unique vantage point from which to assess the committee dynamic. Therefore, the use of qualitative methods based on a smaller sample size had been

conceived of as wholly appropriate for the kind of elite interviews I was conducting by experts in the field of research methods.

In accordance with this approach, I conducted eleven interviews in Canada, seven in the U.S. and three in Russia (initially four, but one was omitted because it was from an academic rather than an ENGO representative). The reasoning for this breakdown was largely due to the greater degree of focus on the Canadian case for the dissertation, but also had to do with accessibility of interviewees. Since Canada is a smaller country than either the U.S. or the Russian Federation, leaders in national environmental organizations (even NGOs) are generally not as difficult to access as in the other countries – both in terms of finding their contact information and getting them to agree to an interview.

There are also a larger number of witnesses brought in for every committee study in the Parliament of Canada compared to the general trend of committee studies under presidential and semi-presidential systems. As noted in the introduction, the U.S. Congressional and Russian committee hearings span fewer meetings and hear from fewer witnesses than in the Parliament of Canada. By contrast to the range between one meeting and a handful of meetings for hearings in the U.S. and Russian legislatures, it is the norm for committee studies in the Parliament of Canada to stretch out over several months – and in some cases, years – including input from scores of witnesses in the process. Where comprehensive witness lists were available across all committee studies (in Canada and in the U.S. legislatures) there is an analysis of the *proportion* of witnesses included in a study who are from ENGOs compared to other types of stakeholders such as industry witnesses.

Interview Questions

The structure of the interviews was to some extent discursive and free-flowing; however, the core interview questions were as follows:

1. Describe your experience as a committee witness, beginning from the lead-up to the meeting(s). Did you have communications with legislators going before the meeting, and were you given any advice before appearing as a witness?
2. How would you describe the reactions of the legislators to your witness testimony? Do any particular comments or questions from legislators stand out to you?

3. At the committee(s) you spoke as a witness for, did you feel that there was room for your testimony to make a substantial impact on the legislation? Why/why not?
4. (Supplementary question) if no, did you feel that there was room for your testimony to make a minimal impact on the legislation? Why/why not?
5. What subsequent changes did you observe – taking place in parliament or elsewhere – that you thought could be linked to your representations as a committee witness?
6. Did you hear from anyone in the legislature after your appearance there as a witness? If so, what did they say?
7. How satisfied were you with the committee process as a form of consultation?
8. (For those who have attended multiple committees over time) What changes did you observe in the parliamentary committee process between the different times that you acted as a witness?
9. What do you think could be done to improve legislative responsiveness to witnesses in the committee hearing process?

Identification and Selection of Interviewees

Interviewees were sought out and selected in a sequential process that differed from country to country. In Canada and the U.S., a full list of witnesses can be seen either at the beginning of legislative committee hearings and/or on separate meeting notices for each parliamentary hearing date. For Russia, it was mostly necessary to scroll through the transcripts to find the names of witnesses and their titles being announced; this was not terribly difficult to do. Having found a witness of interest in a legislative committee hearing transcript, I would first thoroughly review each representative of interest's testimony and deliberations with the committee on that day.

Later in the process, I realized that if I was unable to interview the representative in question, I would no longer be able to incorporate a full analysis of that person's exchanges at committee into the dissertation. After coming to this realization, I switched my process around, beginning with a more cursory overview of the representatives' witness statements and then revisiting this in more detail when it became clear that I would be able to interview at least one individual from that committee study. I contacted or attempted to contact all representatives listed in all relevant committee studies from 1996 to 2015 who fit the description of environmentalists representing a non-governmental organization. I contacted potential interviewees by email, phone, and snail mail, and in one example, showing up at an office in a Moscow suburb uninvited

after failing to reach them by phone or email; in this latter case, when I arrived I was treated to tea and cookies and a pleasant conversation, but my hosts ultimately declined to be interviewed.

There are several reasons why the list of those who met the criteria as interviewees is larger than the list of actual interviewees: 1. The individual was no longer living; 2. Their contact information could not be found, despite my following up with the organizations which they represented; 3. Contact information for the individual was attainable, but the individual did not respond despite numerous attempts at communication through as many contact methods as possible; 4. The individual was successfully contacted and provided a response, but did not consent to participate in the study; 5. In two cases, consent to participate in the study was given; however, after consenting to participate the individuals ceased to respond to emails (telephone contact information was not provided for these individuals).

There were some distinctions I kept in mind while determining the eligibility of potential interviewees in terms of meeting the environmentalist criterion. Representatives of particular renewable energy companies were not included under this umbrella, but representatives of renewable energy associations were. This distinction was made in order to avoid conflating more particularistic, profit-driven motivations with those of the renewable energy movement and environmental movement in general. Environmental defence lawyers were also included in the study, particularly if they held a leadership role in their field i.e. acted as a representative of an environmental defence law association.

My step-by-step process for identifying potential interviewees

When designing my list of desired interviewees to contact, I began by visiting the relevant committee website pages and reviewing all legislative hearings in the relevant committees from 1996-present. In the case of Russia, only committee transcripts from 2012-2016 were available through the web portal. As a result, I supplemented the readily available information by reading up on significant draft laws and reports that went through environmental committees before 2011 and requesting these transcripts from the National Archives of the Russian Federation. Even having done this, only some of the requested transcripts were available at the National Archives, and a thorough search of other avenues in Russia (such as inquiries to professors who specialize in Russian legislative processes) did not unearth these missing transcripts.

The full complement of publicly-accessible transcripts from all legislative committee meetings in the time period of study in Canada and the United States provides as close to a systematic representation of the study population as possible. In the Russian case, the additional hurdle of all transcripts of meetings before 2012 needing to be specifically identified made it difficult to claim systematic representation of all relevant committee meetings. In an attempt to remedy this in August 2015, I visited the parliamentary library in Moscow hoping to access the hard copies of relevant documents there. However, I was told at the entrance that I would need to be accompanied by a Duma or Federation Council representative to enter – something which I was unable to arrange with representatives of either body during my relatively short study period in Russia of two months (which coincided with a break in the legislative session).

I then used an online database for Russian legislative documents where floor debates from the Duma were kept. From this, I narrowed down what I needed in terms of committee transcripts to submit requests for documents to the State Archives of the Russian Federation. After being told that I would have to request documents for specific studies (as opposed to a comprehensive set of documents from any particular committee within a requested time frame) I requested all documents from the Duma Committee for Natural Resources and the Environment related to discussions on the *Forest Code* before the year 2000. The State Archives complied with my request, and produced a number of transcripts for me.

In total, I received 130 pages of transcripts for the *Forest Code* discussions by the Duma Committee for Natural Resources and the Environment from the Russian State Archives. The portion of committee transcripts that was provided is unknown; however, it did appear that there were some gaps in what was provided based on page numbers missing from documents. It was unclear at what stage those pages would have been redacted (either at the time the transcripts were initially made public or later on); however, the State Archives of the Russian Federation, the body that provided me with the documents, assured that they had provided me with what was in their possession that fell under the category of items I requested.

Types of Witnesses Included in the Study

I focused on gathering data from representatives of environmental non-governmental organizations (ENGOS), who had appeared before a legislative committee between the years of 1996-2015. To avoid complicating the analysis, the criteria used to determine which

organizations would be classified as ENGOs excluded all entities that were primarily academic or commercial organizations. Falling inside the bounds of the study were national organizations advocating for renewable energy industries; the reasoning behind this is that the primary mandate for such organizations is not to make money for the organizations themselves. While their members may have financial interest in the promotion of certain clean technologies, energy sources or other environmentally friendly goods and services, the focus of the industry associations themselves tends to be more in the vein of general advocacy. There was some consideration about whether or not to include such organizations in the scope of the study, but I concluded that to have the criteria eliminate groups with even secondary financial interest would be overly exclusionary. Given that the economic context in capitalist societies necessitates sources of income for groups to operate, it would narrow the scope of the study down to only a handful of organizations to exclude clean energy industry associations. However, nuclear industry associations were not included because of their complicated status vis-à-vis the environment: they are considered to provide “clean energy” by many, but they are considered a threat to the environment by others. Lastly, the Roundtable for the Environment and the Economy included some non-environmental industry associations as members, but as the objectives of the group itself were environmentally-focused, it fell inside the bounds of inclusion for the study.³⁷

3.7 Summary

This is a cross-national comparison of how specific institutions – legislative committees – function in Canada, the U.S. and Russia, and the opportunities for outsider (ENGO) influence that they provide. The case selection and approach has been informed by the methodological approach

³⁷ It should be noted that the project did not begin with a general focus on ENGO witnesses – as the dissertation first had an Arctic-focused research question. However, during the course of pursuing interviews with those who represented Indigenous organizations, a far greater proportion of Indigenous community representatives declined to be interviewed than non-Indigenous representatives (11 out of 11 of those potential interviewees contacted). Potential reasons for this discrepancy abound; as ethics boards often remind us, research is never benign, and research that engages with and derives data from Indigenous participants by non-Indigenous scholars has often been inattentive to its unintended negative effects (Mawhinney, 1983; Chrisjohn, 1989: iii; Van Den Scott, 2012: 31; Coburn, Moreton-Robinson, Sefa Day and Stewart-Harawira, 2013: 10-24). As a result, the original focus of the dissertation – on Arctic issues and hearing from Arctic-based representatives who had appeared before legislative committees from 1996-2015 – was abandoned, as a failure to include Indigenous perspectives for a study focused on the Arctic would be too stark an omission. Therefore, I switched my focus away from an exclusive look at Arctic-based NGOs, to look at environmentalist groups from the three countries studied.

of heterogeneity/causal complexity, which highlights the value of delving in deeper past homogeneous truths about large cases (in this case country regimes) and finding instructive nuances below. Of particular interest is how the functions of these legislative committees in these three countries operate, and if they serve or have the capacity to serve as fruitful venues for policy influence by non-governmental environmentalists who appear before them.

The research is undertaken through an in-depth case study approach that uses mixed methods: quantitative analysis of voting information and committee hearing participant lists, and qualitative textual analysis of committee hearing transcripts, substantive policy outcomes, and responses from ENGO participants through interviews. Interview questions were aimed at getting a sense of the participants' impression of the utility of the committee hearings; for example, the extent to which they experienced openness to their perspectives and recommendations at committee, regardless of outcome. As noted in the introduction, this is done in order to gauge non-outcome-oriented metrics of influence i.e. Dryzek and Niemeyer's (2010) idea of meta-consensus and Fuji Johnson's (2009) concept of deliberative empowerment.

The time frame of 1996-2015 is designed to account for mitigating institutional factors such as shifts in party behaviour, as notable departures from the norm in relation to party discipline in Canada and the U.S. are included alongside the more typical legislative eras for this factor (Russia's political system is considered too young to have a typical set of dynamics in this regard). Quantitative methods are used to a lesser degree to complement the qualitative methods that are chiefly employed i.e. textual analysis and elite interviews. Interviews are viewed and treated as small case studies in themselves, following social science methodological literature that encourages this approach for elite interviews.

Chapter 4: Institutional Conditions on ENGO Influence through Parliamentary Committees in Canada

4.1 Introduction

Having established the road map for answering the research question, we will now begin to take on our first case study in this chapter. We have already noted the “homogeneous” qualities of the Parliament of Canada i.e. that institutional features – specifically the high degree of party discipline – give uniformly less independence to committee members when compared to the U.S. legislature. Comparative studies of legislative committees have already suggested that this extends to the committee system by mandating a relatively constrained model for Canadian committees. As an example, Longley and Davidson (2005, p. 10) have stated that

Assertive committees in parliamentary systems potentially threaten the primacy of governments, executives and, not least, legislative and partisan leaders in the chamber itself – all antithetical to the principle of unified political leadership and responsibility central to classical parliamentary government. In short, active parliamentary committees fit well into separation-of-powers systems and are inherently at tension with the classical model of parliamentary government.

However, this chapter will highlight the multitude of interactions between different institutional factors that must come together to produce outcomes in the Canadian parliamentary system. Even if we consider party discipline to be consistently high in Canada (a supposition that has its limits tested in this chapter) we must also consider different types of voting alliances between parties – particularly in minority governments – and the kinds of inputs that inter-chamber disagreement can have on policies. As individual policy actors can at any point disrupt the ostensibly smooth government policymaking machine, we must understand the important role it has to play in parliamentary regimes like Canada. The varied policy interactions in the legislature also bring us back to the importance of causal complexity, tempering institutionalist claims about particular kinds of legislatures producing particular kinds of behavior.

To give a specific example of a contextual condition for the Canadian committee system, committee hearings in the Canadian context are much more extensive in terms of time than their U.S. or Russian counterparts – extending over months and even years for a single study, compared to the norm³⁸ of one-day hearings for studies in the U.S. and Russia. This means that for each hearing, the committee can commit more time to engaging with each witness. This provides opportunities for even relative outsiders such as ENGO witnesses to impact policy through committee hearings by a) contributing to long-term issue framing and awareness-raising; b) directly advocating for a position in the short-to-medium-term – whether that be an amendment to a bill or another specific course of action to be recommended by the committee via a report.

The key objective of looking at Canada’s parliamentary data, specifically parliamentary committee system data, is to identify where overarching characterizations of the Canadian parliamentary system and its committees as constrained and merely in service to the executive are problematized. In order to do this, I will first provide an overview of the institutional conditions impacting the capacity for non-governmental influence through the Canadian parliamentary system, and then parliamentary committees specifically.

To begin, I test the hypothesis that party discipline is higher in majority governments (or chambers, where there is a different party majority in the Senate) – and find support for that hypothesis. I also look at the relationship between minority governments and inter-party brokering, a factor which can create opportunities for ENGO influence through compromises made between parties at the committee stage. The finding is that there is more inter-party brokering in minority governments.

Moving to the committee-level data, I then calculate the proportion of environmentalist witnesses appearing before committee, and I conduct a quantitative analysis to identify which factors lead to a higher or lower proportion. Here, majority/minority government was not found to be a significant factor; however, the data did show that the Senate committee had a lower proportion of ENGO witnesses than the House. Perhaps the most important finding at this stage

³⁸ Committee norms are developed through a number of different processes, some of which are responsive to institutional factors; however, for length of hearings (and number of meetings per hearing) I have been able to find no further explanation than the simple historical development of committees in each country context. If institutionally-based, the UK Parliament should have a similar format for committee hearings – but the typical length of a study is somewhere in between the U.S. and Canadian cases, and its number of committees is very high compared to any of the countries studied in this dissertation.

was the following: where committee chairs were noted to have exercised independence from the legislature (as evidenced from interviews and/or separate reports) the proportion of ENGO witnesses included as part of a study was noticeably higher. This suggests not only that nested factors manifest themselves in unique ways at the committee stage, but that these unique dynamics alter our understanding of how agents and structures impact outcomes in the Parliament of Canada.

4.2 Contextual Conditions

Institutional History of Parliamentary Committees in Canada

As in most democracies, there has been a gradual evolution in the functions and activities of parliamentary committees in Canada over time.³⁹ While the role of parliamentary committees in the legislative process has expanded from the early 1960s, executive control remains strong. The expansion from the 1960s onward of the committee system follows a pattern of attempts to make these committees more of a counterweight to the executive; attempts which served more increase the administrative capacity of committees than it did to make them accountable and independent. Moreover, there was a backsliding in the 1990s, when legislative reforms were introduced that would effectively limit their powers.

Before the Diefenbaker era in Canada, parliamentary committees were regarded in much the same way as Royal Commissions – ways to work through challenges of difficult policy, but not serving a direct legislative function. At that time, there were only about a dozen standing committees of the House and, by all accounts, these were used very infrequently. In the 1960s, the tradition of the chair of the Public Accounts committee being a member of the Opposition began, and this committee began to meet annually.⁴⁰ Under the Liberals in 1963-65, the Special Committee on Procedure and Organization submitted twenty reports, the fifteenth of which resulted in many of the 1968 changes to committees. These changes included increasing the

³⁹ Regimes in this instance are conceptualized much in the same way as in Krasner's (1982: p. 185) work on international regimes, as "principles, norms, rules, and decisionmaking procedures around which actor expectations converge in a given issue-area" and which can be seen as "as intervening variables, standing between basic causal factors and related outcomes and behavior."

⁴⁰ This is significant because the norm is that the Chair of each committee is a member of the government party.

number of standing committees to 18, limiting membership to a maximum of 30, referring all bills to a standing or special committee unless the House explicitly ordered them not to be examined there, and allowing committees to send for witnesses and papers and refer matters to subcommittees. This is where the procedure of bringing in non-governmental actors to provide testimony for hearings began (Rush, 1979). As Garner (1998) notes, these reforms were done to make Parliament more efficient, but did not do much for those concerned that opposition parties had a limited voice in the legislature.

Subsequent rounds of parliamentary reforms in Canada include those initiated by Thomas Lefebvre in 1982 (chair of the Special Committee on Standing Orders and Procedure) by which committees were granted the ability to initiate investigative studies without a reference from the House, and authorized them to call on the government to table comprehensive responses to their studies within 120 days (Stilborn, 2014: p. 345). James McGrath's reforms as chair of the Special Committee on the Reform of the House of Commons took place in 1985-1986; these included the establishment of secret-ballot elections for the House speaker and the creation of legislative committees for the examination of public bills. In addition, new processes were established for the consideration of private members' bills, with the objective of these being taken more seriously. The Special Committee on the Reform of the House of Commons under the chairmanship of McGrath also urged party leaders to ease up on party discipline in this round of reforms, but this went unheeded.

Not all committee reforms in Canada have been characterized by the strengthening of committee capacity. For example, in 1994 the government downloaded the role of examining government bills from what were specifically called legislative committees onto the standing committees – with the effect that a smaller number of committees were tasked with a greater scope of responsibilities. It also became commonplace at this juncture to refer bills to committee after second reading instead of first reading, entrenching the legislation further in the process before being discussed in committee. An exception to this is that the Standing Committee on Finance's pre-budget hearings were authorized by the government at this time (Smith, 2003). The significance of this for interest group influence on policy will be addressed below in the section on reports and reviews of draft legislation.

Current legislative processes

In Canada, the initial creation of legislation is largely executive-driven, with the parliamentary Standing Committees largely reviewing legislation already drafted by the government between first and second reading. Any MP can initiate a private members' bill, but budgetary bills must come from Cabinet. The Legislation Committee – a Cabinet committee, not a standing committee – reviews legislative proposals, lends legal analysis to them under the chairmanship of the Minister of Justice, and then sends the proposals to the Cabinet to approve. This is not the case for private members' bills, for which MPs must make alternate arrangements for their preparation. Bills can also arise out of Standing Committees, but they seldom do for policy matters. At the committee stage, the government must articulate coherent arguments for the legislation, representatives from the public appeal to Members with their concerns and opinions of the bill, and opposition members are given the chance to critique the various aspects of the legislation. Thus, MPs and witnesses discuss possible amendments, make these amendments with the assent of the Justice Minister, and in a very few cases the government will withdraw the bill as a result of committee deliberations (Driedger, 1955). In terms of citizen influence, the committee review stage is considered to be the most important stage in the legislative process (Smith, 2009).

According to Savoie (2003), parliamentary committees in Canada are of high hypothetical importance but are not used to their full potential, and are limited in the sense that "members may scrutinize but not initiate policy changes" (p.18). To be sure, committees in Canada do often make amendments based on either the convictions of the committee members or on new information brought forward by witnesses; this is the reason why the clause-by-clause consideration of bills (the process for making amendments) is often scheduled over one or two full committee meetings. However, the ability to make meaningful changes is dependent upon factors such as whether the party representation on committees is weighted for or against the executive (in the case of a minority government), and the relative independence of government members from the constraints of party discipline.

Because of these limitations, a distinct strategic preference for informal meetings with Cabinet ministers or other influential politicians over committee meeting presentations has long been observed among interest groups in Canada (Canadian Study of Parliament Group, 1989: 3). Well-coordinated special interest groups are able to disproportionately influence policy through their participation in the consultation process – before ever appearing before a committee.

Similarly, knowing who holds court and who influences the people who do is the chief role of lobbyists in the context of a more powerful executive (PMO). Political scientist Fred Thompson notes that Cabinet behavior cannot be predicted “without knowing a great deal about the preferences of its members, the degree of leadership exercised by the Prime Minister, the distribution of power within Cabinet, their skill at bargaining, and the bargaining strategies they employ.” (1978, viii). Those interest groups with substantial resources can be very effective at fulfilling this role. Inversely, interest groups without sufficient resources to pour into the burgeoning economy of consultant lobbyists and other costly networking strategies are put at a disadvantage in the realm of policy influence (Savoie, 2015).

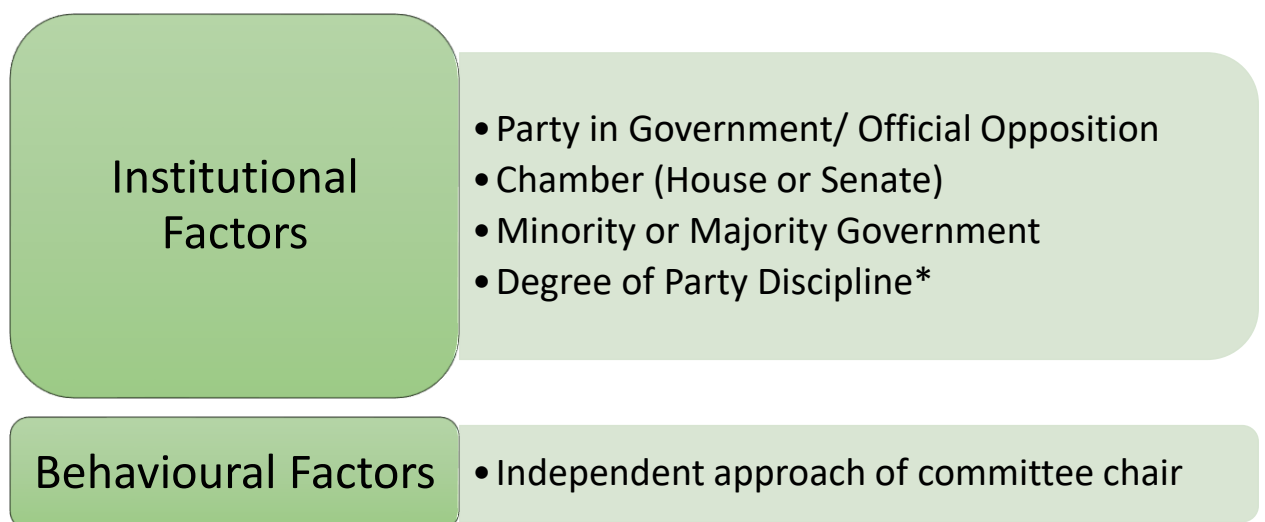
Even dealing directly with government bureaucrats may be less effective than it used to be, as some government departments hire consultant firms to work on submissions to Cabinet and the Treasury Board. Since these consultants have precarious positions, they need to please their client (the government) and are discouraged from standing up for the public interest if their client stands to be displeased by it (Savoie, 2015). Moreover, Smith (2009) describes the detrimental effect that a number of new phenomena – such as a shift to new public management in the civil service, and the rise of the Prime Minister’s Office at the expense of the policymaking role of ministerial portfolios – has had on the ability for social movements and interest groups to influence policy through traditional venues.

Thus, even hoping to achieve some form of influence through parliamentary committees directly can be the last vestige of an interest group that has fallen very much out of the government’s favour, as interest groups, lobbyists and research institutes only attempt to influence the House of Commons as a “last resort, when it is clear that their attempts to influence the government have failed” (Savoie, 2015: 89). In this context, it is not only corporate interests who eschew committees as a prime venue for influence; according to its executive director in 1989, even organizations like the National Anti-Poverty Organization in Canada have increasingly focused on building relationships with ministers and critics from other parties, as well as caucus and Cabinet committees and bureaucrats (Canadian Study of Parliament Group, 1989: 3) over parliamentary committees.

4.3 Institutional and Behavioural Conditions Affecting Influence

Variability in witness influence through committees depends on a set of narrow institutional factors related to the committee structure and role. However, these are nested within several broader factors. The following discussion addresses these factors and explains the dynamics of how they mediate the role of expert witnesses. Breaking down the key institutional and behavioural factors that affect the potential for policy influence to occur involves the acknowledgment and explanation of a number of relationships between factors. To begin such an analysis we can turn to Figure 2 to outline the factors of interest in the Canadian context:

Figure 2. Institutional and Behavioural Factors in Legislature and Committees



*Although individual votes are not recorded for parliamentary committees, this can be assessed through the level of party discipline throughout the legislature, since in Canada it is generally so strong as to limit the activity of nearly all legislators including those on committees. Changing factors such as the role of the parliamentary secretary to the minister on the committee, the length of time of parliamentarians on the committee and/or through interview responses are also signs that can help in order to determine this factor.

The concepts described as institutional factors above have been discussed in greater detail in the theoretical framework chapter's section on Canada. However, to summarize briefly, the institutional conditions shaping the policymaking context of the wider legislature are the political parties in power and opposition, whether legislators are operating in the House or the Senate, whether there is a majority or minority government in power, and the degree of party discipline.

At the committee level, all those institutional factors apply, with the addition of the independence and approach of the committee chair.

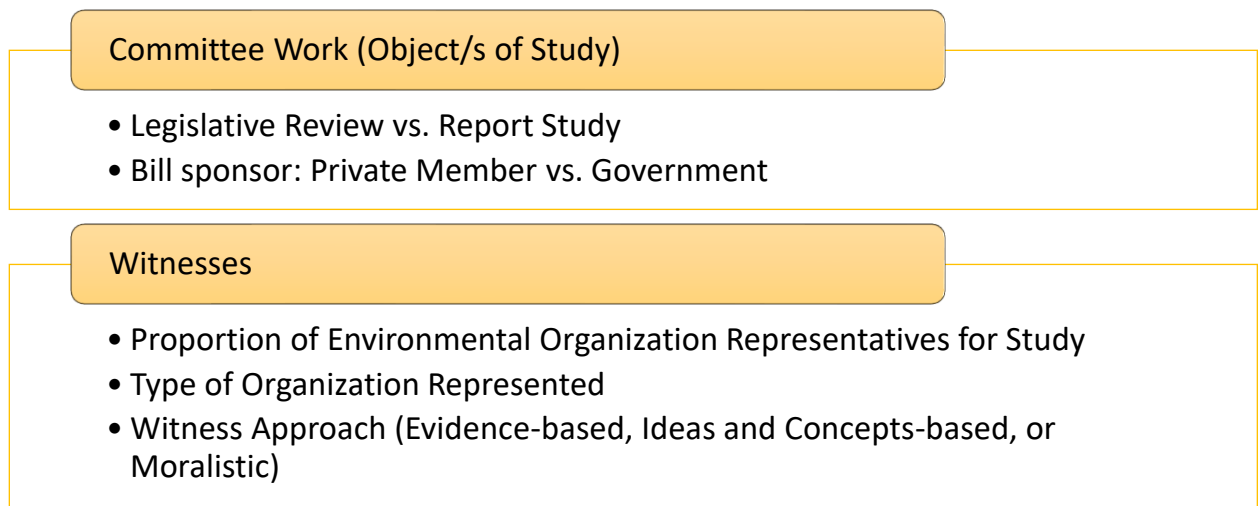
The first institutional factor – political parties – is important because parties are institutions in themselves, with policy mandates that have been determined through party conventions. The different chambers of Parliament (upper and lower) also have different roles in terms of reviewing legislation, and this impacts the scope of actions they may take to respond to ENGO witnesses at committees to urge government to follow their recommendations. Different parties and different chambers of Parliament may also have different approaches to party discipline. As a case in point, Senators are considered to be less bound by party discipline than are MPs (Franks, 1999; Ray Du Plessis from The Canadian Study of Parliament Group, 1989). We will examine this later in this chapter with the requisite data to make supported observations. Moreover, the context of a minority government vs. a majority government provides a certain urgency for compromise that is not there under a majority government – raising the importance of interactions between parties in Parliament, including in committees.

It should also be noted that there is one other factor that impacts committees specifically: the will of the committee chair to run his or her committee relatively independent of the executive. However, this is not an *institutional* factor, and here will be treated as evidence that individual committee members – especially the Chair – have some agency in how they choose to interact and vote in committee. However, the independence of committee chairs is also related to the party in power, and to whether there is a minority or a majority government in office. In the first instance, some parties and governments may be more willing to let their Members choose a chair known to be independent-minded. In the second instance, a chair's ability to independently broker agreements is more of a strategic advantage in a minority government – where an agreement must be made between parties in order to get bills through.

Beyond this variation in broad institutional factors (committee characteristics, nested within the features of a given legislature), a number of other more immediate contextual factors shape what kind of influence expert witnesses wield in particular policy issues. For example, in the area of committee work, political parties need only follow through on their election platforms in order to impact what subjects are studied by the committee. The independence of the committee chair and committee members also has an effect on the types of subjects studied, as committees can now initiate their own studies. The types of witnesses chosen are also an offshoot

of such conditions to an extent, because the committee members – who are often counseled by their party caucuses in such matters – are the arbiters of which witnesses appear before their committee.

Figure 3. Secondary Contextual Conditions



Legislative Review vs. Report Study

The type of work that committees do in the Parliament of Canada has implications for the nature of how witness input into policy is structured, received, and processed – and therefore has implications to how influence can occur. In general, parliamentary committees that invite input from non-governmental representatives as expert witnesses are engaged in two types of activities: 1) review (or pre-study) of legislation, and 2) committee reports. The dynamics and potential for influence are different in each case. Legislative reviews allow for more focused, specific input toward a clearly delimited policy, and expert witnesses who are brought in to present at this stage face a more entrenched commitment by government to the details of the policy that has already been drafted. On the other hand, Committee reports have a broader focus, with a less specific trajectory for policy follow-up compared to the legislative process. In that case, the committee is given more license to introduce new ideas and is unfettered by the investment of the executive of recent political capital into particular policy matters.

By the stage of legislative review, the policy has in most circumstances been reviewed and approved by the executive committees and at least one legislative chamber (upper, lower, or both). This creates a path-dependency that is difficult to re-route and poses frustrating challenges for non-governmental witnesses. For example, Christine Wenman recollected in an interview that for her appearance at committee on behalf of her organization for a bill on devolution of the Northwest Territories, her organization “didn’t expect any changes to be made at that point” and that “it was clear that the government of Canada had an agenda that they were going to pursue in spite of strong protests against that direction from different stakeholders.” Rush (1979) has also observed that parliamentary committees are more partisan when amending legislation as opposed to conducting investigations/ hearing evidence for reports because the stakes are higher for legislative reviews.

By contrast, hearings undertaken in the context of committee reports pre-empt the policymaking process – and thus theoretically allow for more timely contribution of outsider input into its development. However, reports come with their own set of problems – the first of which is the lack of clear direction in their design and conduct. A number of interviewees commented pointedly on this. For example, Martin Von Mirbach of WWF Canada recalled that when he had received the invitation to appear before committee, he did not have a sense of what the report would feed into or produce.

An additional aspect of committee reports that is less than encouraging for would-be influencers of policy is that while there is a necessary response from the legislature and usually the government in response to amendments made in committee in the process of legislative review – the implementation side of Dür and De Bièvre’s (2007) determinants of influence – neither Parliament nor the government are compelled to respond to recommendations in committee reports, or any other part of reports. In Canada, this has been a source of tension for some time. In survey of MPs undertaken in 1979, Rush found that legislators were generally dissatisfied with the frequent lack of responses from government with regard to their report recommendations. In total, 70% of MP respondents to the survey agreed that the Government should have to reply to all committee reports containing “substantive” recommendations, and a substantial minority (41%) thought that these should have to be debated as well (Rush, 1979). In a more recent study, one MP opined that the committees should go one step further and “take the government’s response, critique it and then publicize those views” (Samara Canada, 2011 p. 12).

The view of a majority of MPs on the necessity of government responses to reports is reflected in my interviews as well; for example, Martin Von Mirbach stated that parliamentary reports such as the one he appeared before tend to simply “float around in the system” without addressing “who is asking for this report and how it will go into policy, legislation or regulation.”

Bill Sponsor: Private Member vs. Government

Private members’ bills should theoretically be much less subject to party discipline than government bills. However, this has not always been the case. They also stand much less of a chance of success than government bills; however, if there is a government that is less partisan and/or there is a minority government, there is more opportunity for them to pass. Blidook (2010) has also shown how private members’ bills often play an indirect but important role in the policy process by garnering awareness and support for an issue, and subsequently inspiring content for future government legislation. The data further on in this chapter reflects the fact that a less partisan government will allow committee members and the wider legislature to vote their conscience on private members’ bills more than government bills.

Proportion of Environmental Witnesses

The overall composition of witnesses for a committee study – whether studying legislation or leading up to a report – is important for the following reasons: Environmentalist witnesses are likely to have an easier time getting their message across if legislators are hearing from a higher proportion of those whose chief concern is on the environmental side. Committees, parliaments and governments can be accused of not taking the consultations seriously if they act in contravention of a large proportion of witnesses’ recommendations. In addition, parliamentarians often try to explicitly link recommendations and statements in reports to testimony by witnesses – so the inclusion of greater proportion of witnesses representing environmental interests has an implicit effect on report recommendations and statements.

Even at the House and Senate environment committees, ENGOs do not comprise a majority of the witnesses chosen to testify before those committees – as illustrated later in this chapter. Mark Rudolph of the CARE Coalition commented on this in an interview, suggesting

that parliamentarians view the perspectives of environmentalists as somewhat monolithic, with similar priorities and recommendations:

Lots of environmental groups don't get to testify because they say 'well we have already had the WWF or the David Suzuki Foundation, we aren't going to have a bunch of these other wackos.' . . . From a sustainability perspective you maybe have five economic and five environmental and five social representatives to give a representative overview of what is really going on out there in the world – as compared to a skewed perspective by the interests of a few.

4.4 Empirical Testing of Nested Factors

The discussion that follows will illustrate by way of two examples how witness influence is mediated by particular institutional and contextual factors. The first shows how minority vs. majority government impacts the degree of party discipline in the committee through the legislature. The point of this example is to illustrate how different institutional conditions (minority government, party discipline) interact with one another creating complex effects. The second example shows how institutional conditions can impact contextual conditions. In this instance, I look at what factors affect the proportion of environmental witnesses in committees – a contextual condition that has a clear logical link to influence. The important point of this second example is to identify whether the chamber (upper vs. lower), governing party, committee chair independence and type of policy being studied have impacts on the number of ENGO witnesses who are selected to appear as part of a committee hearing when compared with non-ENGO witnesses. The proportion of ENGO witnesses as part of a hearing is relevant to the study of influence because it a higher proportion of ENGO witnesses means more opportunities for influence, and increased potential for their perspectives to emerge as dominant themes of the consultations; this will be discussed and explored further.

Example 1: Minority vs. Majority Governments and Party Discipline

We have thus far discussed how majority and minority governments provide different motivations for compromise between parties, which in turn creates different opportunities for witnesses to influence policy through committee hearings. We will now show the nested effects of this institutional factor, by showing its relationship with another institutional factor: party discipline.

Beginning from the point of 1996 in the observation of parliamentary dynamics in

Canada, the 35th parliament represented an era of high party diversity. In the leadup to the 1993 election, Docherty (1997) recalls that both the Reform Party and the Liberal Party ran on a platform of reforming parliament to be more accountable and making MPs more independent from party leadership in their voting behaviour. He notes that the result was one of the public giving these parties a clear mandate for their proposals of reform, since two thirds of MPs after the 1993 election were new to Parliament.

This opportunity might have been seen by a historical institutionalist as a potential critical juncture for changing the course of party discipline in the Canadian political system, with Docherty surmising that "if backbench MPs hoped to challenge customary notions of party discipline and block voting, the 35th Parliament provided them with their best opportunity" (p. xv). However, Docherty goes on to state that this opportunity was ultimately a pyrrhic one – that after the 1993 election, those Members who had come in wanting to change the system instead ended up focusing on their constituencies and leaving Parliament unchanged.

However, there is evidence that efforts toward parliamentary reform in this period were not wholly futile. A study on party discipline in Canada's parliament by Joseph Wearing (1998) found that the percentage of votes which contained any individual votes of party dissent in the 35th Parliament was 21.8% -- compared to 17.4% for 1988–93, 7.7% for 1984–88, and 6.3% for 1980–84. This shows that there was a not insignificant change in terms of loosening of party discipline in the 35th parliament. Godbout (2011) has also provided statistics on party discipline from the 35th to the 39th parliaments (Appendix 1) but these are calculated based on votes of individual members, and thus the differences from year to year seem very minimal.

The reduction in the number of official parties in the years afterward stemmed primarily from two important developments. The first occurred in 2003, when two right-leaning parties in the Canadian parliament – the Progressive Conservative Party and the Reform Party – voted to merge under the name of the Conservative Party of Canada. The second development arose from the 2011 election, when there was a marked shift among the Quebec electorate to vote for NDP instead Bloc Quebecois candidates; as a result, the BQ lost official party status and no longer sits on parliamentary committees as it once did.

To test the assertion that party discipline in the years following these developments has grown stronger, I have replicated Wearing's earlier analysis. To estimate levels of dissent, I use recorded legislative votes, and count as undisciplined any vote where at least one member

dissents from his/her party. I then calculate for a given legislative session the percentage of votes that were undisciplined. The analysis here is no simple task. As Malloy (2003) notes, because members are identified in records by name but not party, the collection and analysis of these data is “an exceedingly tedious and resource-intensive task” (Malloy, 2003 p. 116).

Table 3 presents party dissent frequencies for votes on legislation in the 38th parliament (2004-2005) the second session of the 39th Parliament (2006-2007) and the first session of the 41st parliament (2011-2012). All non-motion votes in the first two parliaments are included. Because members vote multiple times on the same bill, counting all votes would produce collinearity problems with the data. My decision rule was thus to include only those votes at 2nd reading where the bill did not go on to 3rd reading (in other words, did not pass). By contrast, all 3rd Reading votes on bills were included – whether they passed or not. In this way, tabulating votes on the same bill twice was avoided. In rare instances where there appeared to be a free vote in a given party, the lower number between the yes and no votes for the party in question were incorporated into the statistics as votes against a party position – as the implications are the same in terms of measuring levels of party discipline.

The results show that party discipline between 1994 and 2012 decreased at first between the Liberal majority government of the 35th Parliament and the Liberal minority government of the 38th Parliament (from 21.8% of votes containing some form of party dissent in the 35th Parliament to 50% in the 38th Parliament) but then increased again – first to a lesser degree with the Conservative minority government 36% of votes containing party dissent in the 39th Parliament, and then drastically under the Conservative majority government from 2011-2012 when levels of party dissent drastically dropped to just 17%.

	35th Parliament (Jan. 17, 1994 to April 27, 1997) – Liberal majority government	38th Parliament (Oct. 4, 2004 to November 29, 2005) – Liberal minority gov't	39th Parliament, 1st and 2nd Sessions (April 3, 2006 to Sept. 9, 2007) – Conservative minority gov't	41st Parliament, 1st Session (June 2, 2011 to June 18, 2013) – Conservative majority government
Government Bills	N/A (not calculated by Wearing)	36% (5 votes of 14 – LPC, CPC and Bloc)	15% (2 votes of 13 – Liberal)	0% (0 vote of 85 – NDP)
Private Members' Bills	N/A (not calculated by Wearing)	87% (13 votes of 15 – LPC, CPC and NDP)	45% (14 votes of 31 – CPC, LIB, NDP and BQ)	32% (13 votes of 41 – CPC, NDP, and Liberal)
Senate Bills	N/A (not calculated by Wearing)	None	100% (1 of 1)	17% (1 of 6 – CPC)
Total	21.8%	62% (18 votes of 29)	38% (17 votes of 45)	17% (14 votes of 84)

The findings suggest that party discipline in Canada did not increase gradually over time but in fact loosened considerably with the election of minority governments before dipping back down to the 1980s levels. Thus, the majoritarian turn in parliamentary politics between the 38th and the 41st Parliament has coincided with a reversal of what had been an era of reform for party discipline. These results are fairly consistent with those of Godbout (2011), but provide more context in terms of how many votes saw no dissent at all. Beyond showing that the introduction of new reform-oriented MPs from a variety of parties did make a difference for party discipline for a time, the results break with prevailing wisdom among some scholars of Canadian parliamentary tradition, who claim that “Canada's parliamentary democracy is not a work of construction but an inheritance” (Smith, 2007 p. 29).

More to the point of the study at hand, these results also show that if the consolidation of the new Conservative Party in 2003 had an effect on party discipline, this was not immediate. As the Conservative Party was not in government in 2004, this seems to follow the logic that party discipline could not immediately be effectively ramped up in order to enact or block policy at this point, as the numbers of MPs in the coalition were not sufficient to dominate the legislature. Moreover, as the Conservative coalition was new in the 38th Parliament and consisted of many MPs who had initially been elected as part of the reformist wave of the 35th Parliament, there may have been some initial trepidation about compelling new members of the merged party to toe the party line. However, by 2011 it is clear that party discipline was being strengthened by the ruling

party, with the other parties also placing strict limitations on rogue voting.

Drawing from the same data on party voting and dissent, Table 4 presents a complementary analysis that considers the extent of variation in parties voting with or against one another. In the timeframe of interest, a range in policy brokering between parties can also be observed in Table 4, which I created using data on the party voting patterns for the bills included for Table 1 (the Green Party was excluded from the 41st parliament analysis for comparative purposes). This shows the variety between different patterns of voting, indicating the degree to which the different parties operate like coordinated coalitions or independent brokers. Where there is greater variation, there is deemed to be more opportunity for ENGO influence through the legislature because this serves as evidence that parties are less locked in to established voting alliances – providing more opportunity for parties to be persuaded into voting differently for more substantive reasons.

What is suggested by Table 4 are a number of differences in the legislative dynamics between minority and majority governments. There is more party alliance variation and/or policy brokering between political parties – what Godbout and Hoyland (2011) call “ad-hoc coalition building” (p. 455) – under the minority 38th parliament than the minority 39th Parliament, and more in the 39th parliament than we see for the majority 41st parliament. The greatest proportion of the votes in the 39th parliament involved all parties voting against the minority Conservative government; where 36% of votes saw the NDP, Bloc and LPC vote in favour of legislation with one another against the CPC. Still, this pales in comparison to the lack of variation in the voting patterns under a majority government, with 42% of votes in the 41st Parliament, 1st Session featuring the CPC – the majority party – voting for legislation where the other recognized parties voted against it.

Table 4: Voting Patterns of Political Parties (Canada)			
	38th Parliament	39th Parliament	41st Parliament, 1st Session
Most common party voting combination	17% (NDP and Bloc for; CPC and LPC against)	36% (NDP, Bloc and LPC for; CPC against)	42% (CPC for; LPC, NDP and Bloc against)
Second most common party voting combination	14% (CPC and LPC for; Bloc and NDP against)	16% (CPC, NDP and LPC for; Bloc against)	17% (CPC, LPC, NDP and Bloc for)
Third most common party voting combination	10% (CPC for; LPC, NDP and Bloc against)	9% (CPC, LPC and Bloc for; NDP against)	15% (CPC, LPC, NDP and Bloc for)
Fourth most common party voting combination	10% (CPC and NDP for; LPC and Bloc against)	7% (Tied between two combinations)	7% (CPC and LPC for; Bloc and NDP against)
All other variations of party voting combinations	49%	32%	19%

Even when we account for the four most common variations of voting – in order to ensure that the greater variances in party voting alliances are not simply due to a greater proportion of legislation proposed by different parties – we can see that the trend of declining variation holds true by that measure as well. After tallying the four most common party voting combinations for each period studied, the 38th Parliament had the largest percentage of other voting combinations besides the top four, followed by the 39th Parliament and then the 41st Parliament, 1st session. This openness by the parties to position themselves differently and with different parties on legislation is considered to provide more flexibility for the parties, resulting in more opportunity for their members to sway those positions, and in turn, more opportunity for outside actors such as ENGOs to persuade MPs to do so in ways that align with environmentalist policy priorities.

For Russell (2008), the minority parliament stands to offer the best policy for all Canadians, since compromises must be reached that serve policy preferences across ideological and regional demographics. Table 4 appears to provide some support for this, as voting patterns of parties in the 38th Parliament and to a lesser extent the 39th Parliament are suggestive of a legislature with parties very open to siding with any, all, or none of the other parties on policies.

Example 2: Institutional Factors Influencing Proportion of Environmentalist Witnesses for Committee Studies

A potentially important factor when considering the scope for ENGO influence is the composition of expert witnesses, particularly the number of environmental witnesses who are called to appear before committee. Table 5 provides a quantitative summary of the composition of expert testimony for the House Standing Committee on the Environment and Sustainable Development (and its precursors, abbreviated as ENVI) and the Senate Standing Committee on the Environment and Natural Resources (abbreviated as ENEV) from the 36th Parliament to the 41st Parliament. We see from this table that the Senate committee has a much lower proportion of environmentalist witnesses across all time periods than the House environment committee. The percentage of environmentalist witnesses in the House committee ranges from 19% to 42% with an average of 35%, while in the Senate committee it ranges from 14% to 35% with an average of 23%.

The House committee also shows a general trend of an increasing proportion of ENGO witnesses over time – with the exception of the 40th Parliament – but this growth is much less pronounced when we compare the ratio of ENGO witnesses to industry witnesses, and overall there is no one factor that stands out in terms of explaining the variances between the committees between the different periods studied.

Table 5: Breakdown of Non-Governmental Witnesses at ENVI and ENEV from the 36th to the 41st Parliament in the Parliament of Canada

House ENVI Committee				
Period	Political Context	Number of non-governmental witnesses	Percentage of Environmental witnesses	Number of environmental witnesses per number of industry witnesses
36 th Parliament (Sept. 22, 1997-Oct. 22, 2000)	Liberal Majority (Under PM Jean Chrétien) ENVI Committee Chair: Hon. Charles L. Caccia (LIB)	179	34%	1.0
37 th Parliament	Liberal Majority (Under PM Jean Chrétien and PM Paul Martin)	181	38%	1.6

(Jan. 29, 2001- May 23, 2004)	Committee Chair: Hon. Charles L. Caccia (LIB)			
38 th Parliament (Oct. 4, 2004- September 14, 2005)	Liberal Minority (Under PM Paul Martin) Committee Chair: Alan Tonks (LIB)	80	39%	1
39 th Parliament (April 3, 2006- Sept. 7, 2008)	Conservative Minority (Under PM Stephen Harper) Committee Chair: Bob Mills (CPC)	141	40%	1.2
40 th Parliament (Nov. 18, 2008- March 26, 2011)	Conservative Minority (Under PM Stephen Harper) Committee Chair: James Bezan (CPC)	124	19%	0.5
41 st Parliament (June 2, 2011- Aug. 2, 2015)	Conservative Majority (Under PM Stephen Harper) Committee Chair: Harold Albrecht (CPC)	279	42%	1.4
Senate ENEV Committee				
Period	Political Context	Number of non-governmental witnesses	Percentage of Environmental witnesses	Number of environmental witnesses per number of industry witnesses
36 th Parliament (Sept. 22, 1997- Oct. 22, 2000)	Equal Liberal-PC Senate breakdown for brief period in June 1997; afterward, Liberal Majority Chair: 1 st Session – Ronald D. Ghitler 2 nd Session – Sen. Mira Spivak (LIB)	200	19%	0.7
37 th Parliament (Jan. 29, 2001- May 23, 2004)	Liberal Majority Chair: 1 st Session – Sen. Nicholas W. Taylor (LIB) 2 nd and 3 rd Sessions – Sen. Tommy Banks (LIB)	208	14%	0.5
38 th Parliament (Oct. 4, 2004- September 14, 2005)	Liberal Majority Chair: Senator Tommy Banks (LIB)	73	23%	0.6

39 th Parliament (April 3, 2006- Sept. 7, 2008)	Liberal Majority Chair: Senator Tommy Banks (LIB)	92	35%	1
40 th Parliament (Nov. 18, 2008- March 26, 2011)	Liberal majority until January 2010, then Conservative majority Chair: Senator David Angus (PC)	153	28%	0.6
41 st Parliament (June 2, 2011- Aug. 2, 2015)	Conservative majority in Senate Committee Chairs: 1 st Session – Senator David Angus (PC) 2 nd Session – Senator Richard Neufeld (CPC)	249	19%	0.5

When considering the reasons behind the considerably higher proportion of environmentalist witnesses in the House compared to the Senate, one would be tempted to conclude that the greater scope of the ENEV committee – to consider energy and environmental issues – could be the key factor behind this. However, this was controlled for in the sampling as I included only those hearings at ENEV where issues of environmental significance were studied (for example, this meant excluding studies of provincial energy authorities' finances). A perspective of relevance here on the Senate is that in the past, it has been characterized by some as disproportionately representing the interests of business and industry; however, Lawlor and Crandall (2013) note that this is changing. Recalling the list of institutional conditions in Figure 2, one possible inference for the cause of the difference in proportion of ENGO witnesses in the House and Senate committees was that the lack of input from a third party – namely the NDP – in the Senate. Corroborating this interpretation are a number of responses from ENGO witnesses in the interviews I conducted, which indicated that some of the closest relationships they had to MPs were with the NDP members of the committee they appeared before as part of a hearing – particularly in the 2006-2015 period. For the 1996-2005 period, a number of ENGO witnesses indicated that the closest relationship they had was with a Liberal on the committee; however, none of the witnesses interviewed named a Conservative or PC MP as having the most correspondence with them in and outside of committee.

Unlike the earlier tables in this study, the minority vs. majority government condition does not appear to have a consistent impact on this particular variable. As previously mentioned, the fairly steady increase in the proportion of environmental witnesses over time is not borne out

in the data comparing the proportion of ENGO witnesses to industry witnesses. Moreover, there is an extreme outlier that needs to be explained in the 40th Parliament with regard to the growth in the proportion of ENGO witnesses.

Keeping the selection process for witnesses in mind, I would posit that the dynamics of change over time within the House and Senate committees are best explained by a combination of the type of committee chair, the opposition party in power, and the type of policy being studied (which itself is an indirect extension of the party in power). This assertion requires some degree of explanation. To begin, we can contemplate the effect that the House environment committee chair of the 36th and 37th Parliaments may have had on these results. By a number of accounts, including Winfield (2010) and Illical Harrison (2007), the erstwhile committee chair Liberal MP Charles Caccia (who chaired the committee from 1997-2004) was an active environmentalist who acted independently from the PMO – at many times in open defiance of it. He also had two colleagues on the committee who decisively supported his approach.⁴² Caccia’s approach to his position may have gone beyond the proportion of witnesses in his own committee, as the Liberal government may have influenced the majority-Liberal Senate to counter the environmental activism on that committee by hearing from more industry representatives at ENEV.

In my interview, Winfield referred to a compensatory approach that industry and the government had at this time in order to address their concerns about the Caccia-led committee going against government policy. He noted that at the time in question, “the industry lobby was very, very intense; part of the dynamic that was going on was that their argument was that the environmentalists have taken control of the House committee – and therefore they were perfectly entitled to go through the back door in the Cabinet process to be trying to undo whatever the committee was doing.”

This defensive approach of the industry and government could partially explain the low proportion of environmentalist witnesses called to testify before the Senate committee in the 36th and 37th Parliaments. Supporting this interpretation is the fact that the same Senate committee chair as in the last 2/3 of the 37th Parliament presided over ENEV in the 38th Parliament, when the proportion of environmental witnesses doubled. At this time, the chairmanship of the House committee was handed over from Charles Caccia to Alan Tonks, and the Liberal majority

⁴² See interviews with Mark Rudolph, Mark Winfield, and the anonymous environmentalist witness.

government gave way to a minority government under Paul Martin. One or both of these factors may have induced the Senate committee to ease off of its previous compensatory focus on industry representatives.

When the Harper minority government assumed power in 2010, the Liberal chair of the Senate committee then oversaw the invitation of a record proportion of environmentalist witnesses. The Liberal-controlled Senate committee's further increase in the proportion of environmental witnesses at this time supports the compensatory or reactive hypothesis of Senate committee. This may have been done to counter what was perceived as a more industry-friendly government due to its election platform and western Canadian party base – and to provide a counterbalance to the rival party in Parliament. However, the results of the House committee in the 39th Parliament may reflect the fact that Conservative House committee chair Bob Mills appears more of an environmentalist than some of his colleagues. The environment opposition critic during Harper's time as leader of the opposition, Mills stepped down in 2008 and criticized Harper's approach to the environment only a few years afterward, stating that "Stephen Harper puts other priorities, I think, ahead of the environment and I think that's a mistake." (Galloway, 2012).

The contrast between the Conservative minority chairmanship of the House committee under Bob Mills in the 39th Parliament, and under James Bezan in the 40th Parliament, is stark. The proportion of environmental witnesses dropped by more than half from 40% to 19%, and the ratio of environmentalist witnesses to industry witnesses fell even more precipitously from 1: 0.82 to 1: 2. The potential for the new chair to have had an impact on this is, I would argue, high. The trajectory of these two chairs in the years since – one resigning, another rising in the ranks to become a parliamentary secretary in the 41st Parliament – is telling in that regard. As environmentalist representative Mark Winfield noted, in order to have a constructive committee system,

You need a chair who is not viewing the whole thing as a stepping stone to Cabinet – and therefore very, very sensitive to what the government would like to see from the committee. You need someone who may not respond immediately to the whisperings of the PMO or the House Leader's office.

MPs also highlighted the importance of a strong Chair in response to the Samara Canada's 2018 report which published the results of exit interviews with 56 MPs who served

during the 41st Parliament (which ran from 2011-2015). The report found that it was the perspective of “many MPs” that a Chair who exercises agency and asserts the committee’s right to do independent work “could create the conditions for better committee work, and limit the extent of party interference” (p. 25).

There are additional explanatory factors beyond the committee Chair. For example, the 41st Parliament House committee saw a rise in the proportion of environmentalist committee witnesses that cannot be explained by a potentially environmentally-inclined Chair; there is nothing about Harold Albrecht that would suggest he was more inclined in this direction than any of his colleagues in the Conservative Party. However, the same factor that accounts for the significant difference in the proportion of witnesses between the House and the Senate may explain this dynamic: The NDP. In 2011, the NDP became the Official Opposition, accounting for a greater proportion of the legislature – which would have had an effect on the extent to which they could select witnesses. In conjunction with the gap between the Senate and House results, this suggests that the NDP opts to choose more environmentalist witnesses than the other parties.

There are also some more subtle dynamics that one can point to as potential sources contributing to the high proportion of environmentalist witnesses in the 41st Parliament’s House committee on the environment. One of these relates to policy type. Out of 24 studies that were not related to the main estimates, supplementary estimates, appointments or other committee business in the 41st Parliament, at least six studies directly pertained to national parks and habitat conservation – an area which the government was more amenable to environmentalist progress than for the resource sector.⁴³ In these studies, the breakdown of witnesses was friendlier to the environmentalist side. However, for studies on policy of a more regulatory nature, such as the Statutory Review of the Environmental Assessment Act (CEAA) in 2011, the breakdown was more weighted to the industry side.⁴⁴ In this way, we can see how the type of policy being reviewed can have a substantive impact on the composition of witnesses.

⁴³ This was made evident in the campaign promises of the Conservatives’ 2011 election platform (Conservative Party of Canada, 2011).

⁴⁴ Here, the examination of influence at the committee level will be most important, as there are differences in the roles of the House and Senate in terms of influencing policy (See Chapter 4).

4.5 Conclusion

This chapter has outlined and explained the key institutional and secondary contextual conditions mediating ENGO influence in Canadian parliamentary committees. Thus far we have found that 1) Minority governments are associated with lower levels of party discipline and higher levels of inter-party bargaining, supporting the idea that legislative outcomes in the legislature as a whole are shaped to a considerable degree by institutional conditions. The University of Toronto's Peter H. Russell succinctly explained the dynamics behind this in a 2016 submission to the House of Commons Special Committee on Electoral reform, writing that minority governments "can reduce confidence crises by having more free votes and carefully rationing the issues on which the government's position must prevail" (p. 5). 2) Senate committees tend to have a lower proportion of ENGO witnesses included in committee hearings; and 3) the tendency to see a higher proportion of ENGO witnesses among non-governmental participants in committee hearings was not related to any institutional factors. Instead, a higher proportion of ENGO witnesses correlated with relatively independent committee chairs.

Overall, the tables in this chapter serve to highlight the high number of possible interacting dynamics i.e. minority government resulting in a greater variety of party alliances on policy positions, interacting with party discipline and inter-chamber dynamics. This underscores the necessity of paying a good deal of attention to agency, and to consider a great number of contextual factors – leading us to nuance any deductive institutionalist claims about legislative systems.

Chapter 5: Results for ENGO Inputs, Deliberations and Outputs in Canadian Committees

5.1 Introduction

The analysis thus far has discussed legislative dynamics (specifically party discipline) and the share of ENGO witnesses on environmental policy committees in the Parliament of Canada. The objective of this chapter is to get beyond those initial sketches, by examining both legislative outcomes and interviewee responses by ENGO witnesses who appeared before a parliamentary committee.

To recap, we found in the first chapter on Canada that there is a correlation between majority parliaments and high party discipline, and a correlation between minority parliaments and lower party discipline as well as a higher degree of inter-party brokering. Furthermore, we found that the Senate Environment and Natural Resources committee had a considerably lower proportion of ENGO witnesses included in studies across all time periods than did the House Environment committee. The data presented also supported the assertion expressed in the literature and in interviews that the independence of the committee chair plays an important role in a chain of factors/events that facilitate outsider influence. determining factors impacting influence.

More independent chairs appear to be more likely to engage with their committees with the result of calling more ENGO witnesses to participate in hearings. In turn, a higher proportion of ENGO witnesses provides more opportunity for them to constitute a majority opinion for legislators to note and perhaps be persuaded by. This chapter will compare the data relating to committee chairs and the proportion of ENGO witnesses with outcomes and interviews, and will test the following hypotheses about the implications of the findings of chapter 4 for ENGO influence at committees: 1. that higher party discipline leads to lower levels of ENGO influence at committees and 2. that a lower proportion of ENGO witnesses included in a given study will be

found to correlate with weaker influence of those witnesses on outcomes.⁴⁵

In testing the degree of influence, we will turn once more to our three concepts of influence – outcomes, deliberative empowerment and “meta-consensus.” The outcomes at committee and their impacts in the wider legislature and beyond align most closely the first definition of influence by Dür and De Bièvre (outcome-oriented). The inclusion of the deliberative character as a consideration allows us to contemplate the results of each case through a lens of Fuji Johnson’s (2009) “deliberative empowerment” and Dryzek and Niemeyer’s (2010) “meta-consensus” – which both theorize connections between influence and the process and content of deliberations.

As deliberations are an important aspect of the second and third metrics, a component of this chapter is devoted to coding and analyzing the deliberative qualities of the committee discussions following ENGO witness testimony at the committee meetings. Three kinds of primary data are drawn for the more in-depth analysis, based on 18 specific ENGO representations before Canadian parliamentary committees by 11 individuals: 1) Transcripts of parliamentary committee proceedings – both for committee hearings and related discussions between MPs in committee business; 2) Other parliamentary records, such as committee reports and draft legislation; and 3) Interviews with the 11 ENGO witnesses who appeared before parliamentary committees in the House and Senate from 1996-2015.

Every parliament from the 36th to the 41st is covered by at least one case; in every parliament but the 38th Parliament, these cases cover both House and Senate committees (the 38th parliament has two cases for the House, but none for the Senate committee as there were only 17 ENGO witnesses to choose from in the entire parliamentary session, and I could not get an interview with any one of these 17). Since the cases themselves are all demonstrably relevant for environmental issues, there was no need to stick with only the House committee on the environment (ENVI) and the Senate committee on the environment and natural resources (ENEV). While most of the cases took place at these two committees, two of the 18 cases involved environmental policy that was put before the House Aboriginal and Northern Affairs

⁴⁵ Here, the examination of influence at the committee level will be most important, as there are differences in the roles of the House and Senate in terms of influencing policy (See Chapter 4).

committee (AANO) and one involved a case before the House Natural Resources committee (RNNR).

The analysis of the primary data outlined above takes a structured form in this chapter. The study focuses on ENGO witnesses' experiences in committees under different governments, in different parliamentary chambers, under different institutional and behavioural conditions as per Figure 1 of the previous chapter, and different secondary contextual conditions as per Figure 2 of the previous chapter.

To undertake the empirical analysis, I began by process tracing each ENGO representative appearance before a parliamentary committee in Canada. That is, I did a sequential analysis from the key expressed priorities of the representative, to the deliberative tone of questions measured through textual analysis, to the committee response to the witness, and the overall outcome (the last category mainly pertaining to actions in the wider legislature, but also implementation of policies outside of the legislature). In tracing this process, I naturally looked for any causal dynamics between the data in one category and the next. In order to find the appropriate data for each of these categories in each case, I analyzed the transcripts from the committees and other parliamentary records to illustrate the interplay of deliberative, institutional and secondary contextual conditions in these cases. The most straightforward causal dynamics to look for were the relationship between expressed ENGO priorities and committee outcomes and overall outcomes; however, I also analyzed the relationship between the deliberations at committee and the two types/stages of outcomes.

To facilitate the deliberative analysis, I used a combination of qualitative coding and textual analysis to determine whether questions were of an information-based, perspective-based, problem-solving or hostile nature. Questions which sought to receive factual information or evidence about certain underlying dynamics to the topics being studied were considered to be "information-based." To a certain extent, qualitative coding concepts could be used to associate words like "how much..." "when..." "is it true that..." with information-based questions; however, textual analysis was required in order to differentiate between sincere questions and rhetorical ones. Where the question was deemed obvious or insulting, this could move the question into the category of being "hostile." Perspective-based questions were the easiest to determine based on qualitative coding alone, as the words "what is your view on...", "what do you think/feel about . . ." and "what would you recommend..." almost always identified a

perspective-based question in a way that was reinforced by the textual analysis. These questions were often exploratory in nature, although occasionally they sought the witness' perspective on a very specific matter. Problem-solving questions challenged the witness to find a solution to a dilemma that the MP or Senator described as standing in the way of their recommendation(s); this was most often a question of reconciling their views with those of industry or another opposing interest group.

This type of coding was important, because the type of deliberation at the committee in response to witness testimony impacts measurement of the third type of influence that is considered in this dissertation: the idea that the witness has felt properly heard and their point of view genuinely considered in the committee hearing process, regardless of the outcome. Intuitively, questions coded as hostile should correspond with outcomes that did not reflect the priorities of the witness; if true, this would provide additional support for the notion that no meaningful influence has taken place. All the other categories of questioning not coded as hostile could be seen as positive in terms of that third type of influence described earlier in this paragraph, but this assumption will be tested later in the chapter. Where ENGO witnesses were passed over for questioning by legislators in favour of other witnesses, this is noted but interpreted on a case-by-case basis – as the context could suggest different reasons for this, not all of them necessarily negative. In addition, the coding of these deliberations may be useful to readers in terms of reading into the nuances of the dynamics of influence there i.e. problem-solving questions followed by mixed outcomes may together paint a picture of a committee trying to strike a compromise between different interests.

In order to gain insight into witness perspectives in these cases, I asked former ENGO witnesses to discuss their cases – looking for instances where they felt their testimony was or was not listened to by the committee, and where they felt it did or did not have an impact on the final outcome. Where there was some agreement about what the policy choices were and what these meant, this was seen as evidence of meta-consensus.

5.2 Committee Deliberations

This analysis is designed in such a way that the first approach – the process tracing – speaks to the outcome-oriented definitions of influence. Following that, coding deliberation around the

ENGO witness testimony and the analysis of ENGO interview responses is together used to assess Fuji Johnson’s (2009) concept of influence through deliberative empowerment and Dryzek and Niemeyer’s (2010) concept of meta-consensus.

In order to utilize and apply the results of this process-tracing more easily, a summary of the results from the interviews is presented in Table 6 below. Besides the column on deliberative character of questions asked at committee, there are two other columns: Committee Outcome and Overall Outcome. For the first category, what is measured is that the committee outcome i.e. through a report or through amendments to a bill reflects one or more of the expressed priorities of each witness. In the overall outcome column, what is measured is the outcome in the wider legislature or government (in short, beyond the scope of the committee). It concerns whether what was legislated or regulated following a committee hearing on the topic reflected one or more of the expressed priorities of each witness. Outcomes for those two categories are “positive” where the expressed priority/ies of witnesses were reflected, “negative” where they were not, and “somewhat positive” where there was a degree of ambiguity there. Each appearance by an ENGO witness before a committee as part of a hearing constitutes a case.

Table 6: Summary of Results for Case Process-Tracing of ENGO Representative Appearances before Parliamentary Committees in Canada

Chamber and Period	Character of Committee Deliberations	Evidence of Meta-Consensus?	Committee Outcome Positive?	Positive Outcome Beyond Committee?
House 1993-2003: Liberal Majority Government (36th and 37th Parliaments)	Case 1: Information-Based	Yes	Yes	Yes
	Case 2: Information-Based	Yes	Yes	Yes
Senate 1993-2003: Mostly Liberal Majority, save for a brief period of equal Liberal/PC Representation (36th and 37th Parliaments)	Case 3: Information-Based	Yes	Somewhat	No
	Case 4: Problem-Solving	Yes	No	No
House 2003-2006: Liberal Minority Government (38th Parliament)	Case 5: Information-Based	No	Yes	Somewhat
	Case 6: (Mostly) Hostile	No	Yes	Yes
House 2006-2011: Conservative Minority Period (39th and 40th Parliament) 3 Cases	Case 7: Problem-Solving	Yes	Yes	Yes
	Case 8: Information-Based	Yes	Yes	No
	Case 9: Perspective-Based	Yes	Yes	Somewhat*

Senate 2006-2011: Liberal Majority Until 2010, then Conservative Majority (39th and 40th Parliament)	Case 10: Perspective-Based/ Problem-Solving	Yes	Yes	Somewhat
	Case 11: Hostile	No	No	No
House 2011-2015: Conservative Majority (41st Parliament)	Case 12: Information-Based	Yes	No	No
	Case 13: Problem-Solving	Yes	Somewhat	No
	Case 14: Information-Based	Yes	Yes	No
	Case 15: Perspective-Based	Yes	Somewhat	No
	Case 16: Hostile	No	No	No
Senate 2011-2015: Conservative Majority (41st Parliament)	Case 17: Hostile	No	No	No
	Case 18: Perspective-Based	Yes	No	No
	Case 19: Information-Based	Yes	No***	No

*Passed House, but not Senate

**No committee report issued

One trend that is immediately apparent from this table that the outcomes for House-level committees were better overall than for Senate committees: At the House level, 50% of outcomes were positive and 17% of outcomes were somewhat positive; for the Senate committees, 7% of outcomes were positive and 14% were somewhat positive. This is interesting when we consider that the Senate heard from fewer ENGO witnesses as a total proportion of hearing participants, as detailed in Chapter 4.

In the previous chapter, my analysis suggested that there were higher levels of party discipline under majority parliaments, and the hypothesis was that this would lead to lower levels of ENGO witness influence through parliamentary committees. The results of this table seem to provide support for that hypothesis – at least showing a pattern of correspondence between minority parliaments, lower party discipline and higher levels of influence – and the inverse of this: a pattern of correspondence between majority governments, higher party discipline, and lower levels of ENGO witness influence on policy through committees.

For the House and Senate committees under a majority House or Senate, only 29% of outcomes at the committee level were considered “positive” and another 21% considered “somewhat positive.” By contrast, 100% of committee-level outcomes during a minority parliament (in the House, as there were no minority Senates) were considered “positive.”

In terms of the policy outcome beyond the committee – overall outcomes – the percentage of cases considered “positive” or “somewhat positive” for ENGO witness influence in the House and Senate under majority governments was 14% “positive” and 7% “somewhat positive.” For minority governments (House only) this result was 40% “positive” and 40% “somewhat positive.”

If we want to omit the Senate results – since the Senate has almost always had a majority, and has a different role than the House in terms of policymaking – there is still a considerable discrepancy between the 43% “positive” and 29% “somewhat positive” committee-level outcome for House committees under a majority government compared with 100% “positive” committee-level outcomes under a minority government. For the overall outcome omitting Senates, there was only a 29% “positive” overall outcome and no “somewhat positive” results, compared to 40% “positive” and 40% “somewhat positive” outcomes under minority governments.

Note that the difference between outcomes at the committee level under majority and minority parliaments is less stark than the difference in overall outcome beyond the committee i.e. votes in the wider legislature or responses by government to the issue discussed. This provides support for the idea that even under majority governments, committees are not as fettered by party discipline.

Looking a little deeper into the details, the data in Table 6 suggests that political parties also play a role in the committee and overall outcomes in the House; this is reflected by high levels of influence in the Liberal majority government under Chrétien, compared to the majority government under Harper. Again, this is less of a stark difference at the committee level: 100% of cases that took place under the Chrétien majority government in the House had “positive” outcomes at both the committee and overall level, while none of cases under the Harper majority had positive *overall* outcomes (although it is worth noting that 20% had “positive” *committee-level* outcomes and 40% had “somewhat positive” *committee-level* outcomes). However, the political party did not seem to matter greatly at the Senate level.

We can also recall that the analysis in the previous chapter found that the Senate had fewer ENGO witnesses as a proportion of the total witnesses included in each study. The hypothesis here is that influence of witnesses may also be lower in the Senate than in the House. The Table 6 data provides some support for that thesis: an average of 14% “positive” outcomes in the Senate and 14% “somewhat positive” outcomes at the committee-level outcomes. For overall

outcomes, 0% of the cases had a “positive” outcome, and only 14% of cases had a “somewhat positive” overall outcome.

However, we can also see that the high proportion of environmentalist witnesses at the House environment committee under the Conservative majority government does not seem to have translated into more influential outcomes in this data set. In fact, even the committee response seems to be much less positive for that period in relation to all the others. One possible reading of this is that while a high proportion of witnesses often correlates with more influence, this may not be true where the high proportion can be explained by the priorities of a non-governing party like the NDP (which was the Official Opposition under the Conservative majority government in the 41st Parliament).

Turning now to the nature of deliberations – specifically the relationship between deliberative character, meta-consensus and influence – a few things stand out in Table 6. First, we see some support for the notion that information-based questions correspond with greater influence at the committee level: 63% of hearings where the ENGO witness was posed these kinds of questions showed a “positive” outcome at committee. When we include “somewhat positive” outcomes at committee and the data from overall outcomes, these kinds of questions were not associated with much different outcomes than problem-solving and perspective-based questions. However, when we compare these to hearings in which questions posed to ENGO witnesses were coded as “hostile” there is a big difference: only 25% of outcomes at either the committee level or overall were “positive” or “somewhat positive.”

Most cases showed evidence of meta-consensus, and the five cases that were not coded as showing any clear sign of meta-consensus had comparatively less influential outcomes at committee compared to the other cases in the study (on average, 40% of these cases had positive or somewhat positive committee outcomes, compared to 72% for the cases with meta-consensus. However, there is little difference when we look at overall outcomes, as the range of difference between cases with and without evidence of meta-consensus having “positive” or “somewhat positive” overall outcomes was less than 5%.

Delving into a few examples of committee dynamics based on the witnesses interviewed will help to illustrate some of these types of interplay between potential causal factors.

5.3 ENGO Influence in House and Senate Committees: Witness Perspectives

Observations on Senate Committees

There were indications that Senate committees from 1997-2015 were less fruitful venues for ENGO influence than their counterparts in the House in a number of interviewee responses. These responses provide context for these conclusions being drawn that are different from the quantitative indications shown earlier in Table 4 and in earlier chapters, and take the form of a number of stories.

For example, Mark Winfield's first committee appearance in the timeline of interest was in 1998. This witness was consistently asked information-based questions, mainly by Liberal MPs on the committee. Following this meeting, the clause-by-clause consideration of the bill resulted in pages upon pages of amendments – some substantive and others less consequential. These included some items that closely mirrored Dr. Winfield's recommendations, even if they did not address all of them. Following the report, the government passed the bill as amended by the committee (ENVI Committee, 1998) Some of his recommendations followed in the amendments (ENVI Committee, 1998a), and these carried forward to the final text of the bill (ENVI Committee, 1998b).

During Dr. Winfield's ENVI appearance during the 39th parliament in 2006, Nathan Cullen (NDP) John Godfrey (Liberal) and Mark Warawa (CPC) asked witnesses with opposing views similar questions in order to get a balance of perspectives and identify areas of consensus. (ENVI Committee, 2006). In the report, the committee made a recommendation around the definition of "toxic" in CEPA that was consistent with Mark Winfield's testimony but which also took into account the concerns of the parties. Specifically, the committee noted that getting rid of the word toxic "could lead to much less concern on the part of society to control these substances" in addition to citing certain legal concerns. The committee also declined to define toxic substances differently, instead opting to recommend in Recommendation 31 of the report that more context be provided in order to differentiate between levels of risk that are encompassed by the term (ENVI Committee, 2006a). The government agreed with this recommendation in its response to the report; it is also worth noting that this government response to the committee was substantially lengthier than the norm (ENVI Committee, 2006b)

Winfield's appearance before a Senate committee in 1999 was much less eventful.

Questions posed to him were information-based but unambitious in their scope and intent. For example, Senator Hays (PC), Senator Taylor (Liberal), and Senator Cochrane (PC) asked about the regulative implications of different aspects of the bill, and about the constitutionality of changes to it (ENEV Committee, 1999). Dr. Winfield was only mentioned in the minority opinion section of the report, and there were no clear recommendations for the report in question. The bill was also not amended by the Senate committee (ENEV Committee, 1999a).

In my interview with Dr. Winfield, he commented that the first case of these three was particularly special due to the chairmanship of the committee at the time. He observed that:

What went on in the Commons committee while Mr. [Charles] Caccia was the chair was quite unusual; the quality of the questions and the discussion in the committee on the level of knowledge of committee members on all sides was very, very high. Either in a House or Senate committee I have not countered anything like that since then.

Commenting on his Senate committee appearance,⁴⁶ he noted that

The expectations at the Senate stage were very, very low. The war was lost at that stage. The crucial thing happened at report stage, when the committee tabled its amended version of the bill and the government amended it before going to third reading. That was the big drama. The Senate was not going to overrule the House at that stage.

A trend of lower impact at the Senate level is also discussed by Susanna Fuller when describing her two appearances before committee – one before the House and one before the Senate. To be sure, Ms. Fuller's experience before the House committee was not entirely without its challenges. Stephen Woodworth (CPC) began the exchanges in this hearing by negating the value of Ms. Fuller's recommendations – declaring that the government and Canadians are already doing these things as part of an informal national conservation plan. However, he did ask a perspective-based question on what could be done differently (ENVI Committee, 2012).

The associated committee report referenced Susanna Fuller and her recommendations several times, but on more general points such as using the proper mechanisms for the national conservation plan. The dissenting NDP report also accounted for the part of her testimony which

⁴⁶ One could argue that the meeting's lack of consequence for immediate policy reflects the institutional condition that the Senate is meant to overturn legislation only when it is deemed unconstitutional, a special circumstance, or prohibitively unpopular (Parliament of Canada Rules and Regulations).

called for a strong regulatory framework with legally binding commitments and proper accountability mechanisms (ENVI Committee, 2012a: p. 7-8, 36). However, neither of these points was represented substantively in the government response to the committee's report (ENVI Committee, 2012b).

Worse yet, there was no follow-up report at the end of a Senate inquiry attended by Ms. Fuller that substantively addressed the hearings undertaken on Canada's energy sources (ENEV Committee, 2002). Because of this, the Senate committee can be viewed as having been relatively ineffectual. Susanna Fuller observed in her interview that senators tend to be less engaged than MPs on committees. She acknowledged the considerable research often conducted by the Senate, but characterized senators' knowledge as not as current or timely. She added that MPs having more responsibility to constituents than senators also makes a difference in this regard. Similarly, Devon Page remarked that senators do not seem as well-informed on the committees, "with the exception of one or two people."

It should be noted that the relative lack of power in the Senate has not always been considered a negative attribute for influence where the goal is less linear. For example, Christine Wenman from Ecology North suggested that the low stakes in the Senate may have led to a greater sense of openness to her perspective that she felt from Senators as compared to MPs when she appeared before a Senate committee in 2014. However, like Winfield, she had appeared before a House committee on the same topic beforehand – where the actions that had taken place were not entertained as reversible by the Senate ENEV committee (one Senator expressed some willingness support her key recommendation through an amendment, but she was discouraged against acting upon this by the chair (ENEV, 2014)).

Continuing along the same lines of description for the Senate, Mark Rudolph characterized senators as reluctant to "rock the boat" except for occasional stands based on principles or values. He did remark that senators do not seem to be as partisan, a factor which he did not underline as a potential positive attribute for influence. Martin Von Mirbach also described his appearance before a Senate committee as having been "less formal" than his House committee appearance, and Ed Whittingham's comments had the effect of damn the institution with faint praise when he stated that "Senate committees are fairly toothless, but the reports are sometimes good."

Interestingly, the one case among the 19 included here in which the Senate decisively

“overruled” legislation by the House was one in which the outcome was not to the benefit of the ENGO witness. Bill C-377, a NDP bill entitled “An Act to ensure Canada assumes its responsibilities in preventing dangerous climate change” got through the House committee stage and was passed with amendments at Third Reading. After Parliament was dissolved for the 2008 election, it was reintroduced in the House in the 40th Parliament as Bill C-311 was reintroduced. However, it was later voted down by the Senate at second reading (LegisINFO, Bill C-377). According to Heard (2015), while other private members’ bills have died on the order paper in the Senate, this was the only bill that was passed in the House but defeated in the Senate in the 2000-2015 period. Senate convention dictates that bills be vetoed only in special circumstances, such as concerns about a bill’s constitutionality that cannot be addressed through amendments, or as protection against the “tyranny or oppression of the majority” such as “a bill that would warrant the detention of a specific ethnic group” (Senate of Canada, 2018: p. 37). As the voting down of this bill was not done in the context of such an exceptional situation, the late NDP Leader Jack Layton protested that the Senate in this instance took “power that doesn't rightfully belong to them” and used it to “kill a bill that has been adopted by a majority of the House of Commons representing a majority of Canadians” (Galloway, 2010).

Overall, a certain degree of consensus seemed to be reached among the ENGO representatives that the Senate committees were not the most dynamic sites for influence compared to the House committees.

5.4 Government Power: Expert Witness Influence under Minority and Majority Governments

Continuing the analysis of ENGO influence through committees under majorities vs. minorities in the House and Senate, we now turn to the finding that House and Senate majorities are also correlated with lower levels of ENGO influence through committees. However, when we remove the initial Liberal majority period of the 36th and 37th parliaments, there is a change in deliberative tone of questioning between committees under the Liberal minority parliament – the 38th Parliament, the Conservative minority parliaments in 2006-2011, and the Conservative majority parliament of 2011-2015.

These changing dynamics are perhaps the most identifiable when we look at ENGO

witnesses who have had several appearances before the committee. John Bennett had the greatest number of appearances before committees of all those interviewed; he had one appearance before the House ENVI committee in the Martin minority period, one appearance before the Senate ENEV committee in the Harper minority period, and one appearance each before both of those committees under the Harper majority government. According to the transcripts and to Bennett, the difference in deliberative character between the first two and the second two appearances was stark.

At the ENVI hearings on the Kyoto Protocol in 2005, questions were mainly asked in the vein of clarification and searching for evidence. Conservative MP Lee Richardson, Liberal MP David McGuinty, and Bloc MP Christian Simard asked Mr. Bennett to elaborate on specific aspects of his recommendations with evidence or explanation. There was some tension when Conservative MP Brian Jean asked questions on subsidies to the oil and gas industry, but this was relatively minor (ENVI Committee, 2005).

Bennett was cited in the subsequent report to support a regulatory argument for cap and trade, and two recommendations coincided with his arguments against subsidies for fossil fuel industries – Recommendation 9 calling for “ecological fiscal reform” to “be applied to the energy sector,” and Recommendation 10 urging the government to “reduce unnecessary fiscal support for well-established industries associated with large GHG emissions” (ENVI Committee, 2005a: p. 32). The government response to the report was typical to the extent that it emphasized actions already being taken by government to further the goals of the recommendations, and provided justifications for its previous and current actions being criticized in the recommendations. However, it also specified actions that the government had taken more recently to reduce subsidies to fossil fuel industries, perhaps since the committee study was conducted. The government pledged to review the matter – stating that “opportunities to use the tax system to advance environmental goals will continue to be actively considered.” Because the government was dissolved before the next budget, the potential for this to have resulted in serious changes in a 2006 Liberal government budget is unknown (ENVI Committee, 2005b).

Mr. Bennett’s appearance before the Senate ENEV committee on May 31st, 2012 had a much different dynamic to it. The Senate at this time was proposing to insert changes into the budget bill that impacted the environment; for example, limiting who can be involved in an environmental assessment to those with a material interest in the proposal. In his opening

statement, Mr. Bennett protested this approach and posited that the Senate was not proposing this through a separate bill because senators wanted to force through unpopular anti-environmentalist provisions without consultation. The questions he received in response were of a distinctly hostile nature; for example, Conservative Senator Brown asked “what right” Mr. Bennett thought he had to make those statements, and asked him to apologize for his testimony. Other questions were pointedly seeking to justify the Senate’s legislative approach to the issue i.e. Senator Martin asking him to confirm that certain aspects of the approach used were normal (ENEV Committee, 2012).

For Bennett, the dynamic was not much better at the House level in the Harper majority period in 2011. At the ENVI appearance on the statutory review of CEAA, he was cut off on a point of order almost immediately by Michelle Rempel – the erstwhile parliamentary secretary to the environment minister. Mr. Bennett began to speak about government policies targeting Canadian environmentalists and was interrupted on the grounds that this point was “rhetoric-driven” and did not pertain to CEAA, according to Rempel (ENVI Committee 2011). The subsequent committee report recommended measures that were responding to what industry representatives called for, but were generally negative from an environmental perspective and certainly did not address Mr. Bennett’s concerns (ENVI Committee, 2012c). Accordingly, the government response did not respond to Mr. Bennett’s concerns either and had particular emphasis on CEAA changes through budget bills – which Mr. Bennett had strongly advocated against (ENVI 2012d).

An interview with Mr. Bennett further revealed ways that the legislative consultation process was undermined in the Harper period. Instead of the consultations leading to draft legislation and subsequent refining of legislation in accordance with committee deliberations, he recalls that “we had large-scale consultations for almost seven years prior to 2007, but when plans came out they were always different because of secret negotiations between provinces and oil industry representatives.” Certainly, there would be a precedent for such an approach within Canadian policymaking on environmental issues, as Hoberg and Phillips (2011) have described this dynamic of pro-resource industry Canadian governments discrediting the process by taking a pro forma approach to environmental consultation before. However, it is difficult to say definitively if Bennett’s exchanges with the committee at this hearing contributed to an eventual discrediting of the environmental assessment process that led to changes to it under the Liberal

government that was elected in 2015. Bennett noted that despite the poor reception he received in the 2012 committee, “most of what I advocated for at that session came to be 6-11 years later.” However, Bennett may have simply been ahead of his time in this regard.

Bennett’s case is a bit of an ambiguous one as concerns hypotheses about majority and minority governments. On the one hand, he stated in an interview that

In a minority government, the committee system becomes far more important and there are real opportunities for the committees to do things. In majority government they are pro-forma. If they are reviewing a government bill there is very little chance that it will be changed in committees. If we have minority governments based on PR the committee system becomes much more important. There is more opportunity for people like me to influence the outcome with ideas.

On the other hand, comments from Bennett that “the committee system after 2006 was just an extension of the bickering we saw in the House; they would use you to make their points” indicates that he thought the potential of the minority parliament he cites elsewhere was not reached in the Harper minority period.

A less ambiguous case as pertains to differences between committees under minority and majority governments was Ken Ogilvie. His appearances before ENVI and ENEV in the Harper minority period exemplify the theory that minority periods produce outcomes more responsive to ENGO witnesses – even in governments seen as more connected to interests hostile to the environmental cause. During Ken Ogilvie’s 2007 ENVI appearance pertaining to Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol, MPs from all parties asked largely perspective-based questions on the Kyoto Protocol and strategies to meet Kyoto targets. While there were unheeded protests from CPC MPs like Mark Warawa that the bill should not proceed, there was a very pluralistic acceptance of amendments to the bill by a number of parties (ENVI Committee, 2006d). Nathan Cullen (NDP) moved an amendment allowing for an industry transition period that was adopted by the committee after Mr. Rodriguez suggested that “industry” be replaced by the word “workers.” Bloc MP Bernard Bigras then passed an amendment on greenhouse gas limitations in each province providing for more provincial discretion. After a friendly amendment to that amendment, it passed.

The Liberals also proposed an amendment to respond to concerns by the Auditor General about the bill’s implementation, and an amendment for the environmental commissioner to examine the progress on Kyoto every two years. Both of these amendments passed. All of these

amendments were then reflected in the committee's report (ENVI Committee, 2006e) and the Bill was adopted by the House on February 14, 2007. The Senate then adopted the bill without amendment on May 17 of the same year (ENEV Committee, 2006).

The chair's judicious and non-partisan approach to the committee is also clear in several instances; for example, at one point Conservative MP Mark Warawa noticed that someone from a ENGO was talking to a Liberal MP, and wanted the chair to rule on whether this "coaching" is appropriate. The chair ruled that it was (ENVI Committee, 2006d). This lends a bit of context to the assertion made in the previous chapter that the approach of the chair in the 39th Parliament may have had a positive effect on environmental outcomes.

Ogilvie also appeared before the Senate ENEV committee on CEPA in the Harper minority period, calling for the structuring of better and more regular data collection on pollutants. Questions from senators were problem-solving and perspective-based in nature, with Senator Spivak (PC) wondering if there should be a separate clean air act apart from CEPA. Senator Angus (PC) also asked an open-ended question, wondering "what is the real problem" with CEPA and how to fix it (ENEV Committee, 2006a). The committee responded eventually with a report that reflected Mr. Ogilvie's recommendations for improved data collection (Recommendation 7, Recommendation 8 and Recommendation 9 of the report from ENEV Committee, 2008). Changes to CEPA enacted a few months after the ENEV report somewhat reflected these recommendations, although the changes were limited in scope to reporting requirements specifically for fuels (The Canadian Environmental Protection Act, 1999. S.C. 2008)

Mark Rudolph of the CARE Coalition expressed observations about the potential for progressive environmental policy between minority and majority governments more party-specific terms, positing that "you will get more activity in Liberal minorities than Liberal majorities; more activity in Liberal majorities than Conservative majorities." Again, the outcomes in Ogilvie's cases during the Harper minority period showed better reception and immediate impact than Bennett's, so there are nuances to the findings.

Certainly, a key theme of the interviews that cannot be ignored is the great degree of dissatisfaction with the direction committees had gone in under the Harper Conservative government. In this regard, some witnesses did differentiate between at least part of the early minority government period of 2006-2008 and the 2008-2015 period. For example, Devon Page

remarked of the Harper Conservative government that “it took a while for them to politicize the committee process and stack the [committee] membership.” Similarly, Mark Rudolph commented that a dynamic of having “committee members that will shut down testimony if it gets into areas they do not want to hear about” was something “that happened under Tory majority governments.”

However, Mark Winfield’s assessment of this dynamic was more comprehensive of the government’s time in power. He protested that “what happened in the last ten years is that if you had someone who is a witness who knew something, the first thing the Conservatives would want to do is shut them down.” John Bennett also commented on the impact on media coverage that a consistent shutout of environmentalist perspectives on committee had in this era. He related that at the time, “one journalist put it that if you are telling me the government is not doing anything about climate change and the next month you tell me the same thing, there is no story.”

Despite the convergence of all periods under the Harper Conservative government by some interviewees, a cumulative review of responses suggests overall that these cases do show a difference in the committee system between minority and majority parliaments – in terms of influence as well as deliberative content.

5.5 Limitations of Minority vs. Majority Government as a Factor Impacting Influence in Parliamentary Committees

Bill Eggertson’s experiences with the committee system in the second Harper minority period are emblematic of ENGO influence that was substantive at the committee level but not beyond. Questions asked of Eggertson were largely information-based; for example, Dennis Bevington (NDP) asked if there was a federal program that could help people to move to wood pellets and Greg Rickford (CPC) wanted to know about non-geothermal renewables most suited to isolated areas. The committee’s December 2010 report *Northerners’ Perspectives for Prosperity* did contain some of Eggertson’s recommendations. For example, the report quotes Eggertson in section 5.2 as stating “The overwhelming evidence from numerous studies that job creation in renewables is higher per dollar of public investment than any other energy option, ... among many other advantages.” The report later cites Eggerson as highlighting the benefits of diversifying use of power production technologies and refuting claims about the unsuitability of renewables in the

Arctic. However, these references to Eggertson's testimony were "balanced" with the testimony of those who highlighted challenges of Independent Power Producing (IPP) energy – renewable or carbon-neutral (AANO Committee, 2010a: 5.2.2).

Overall, the committee did provide a recommendation corresponding with Eggertson's advocacy for continuing federal government initiatives aimed at encouraging northerners to produce IPP energy. The report endorsed "efforts to develop various forms of renewable energy" in the North, calling for a "northern strategy for the increased production and use of renewable energy sources to be developed" (Recommendation 5, AANO Committee, 2010a: 5.2.2).

However, even though the committee did request a government response to the report – it says on the website summary that none was requested, but the last page of the report shows an explicit request was made in this regard (AANO Committee 2010a: Request for Government Response) – none came.⁴⁷ Therefore, there could be no government action or legislation clearly corresponding to the results of the report. Speculation on government responses to the recommendations are thus based on evidence of the type of northern strategy that was developed after the committee report was released, and secondly on an increase of government support for renewable energy initiatives beyond the ecoENERGY program (which Eggertson criticized as being ineffectual in his testimony). Government investments in subsequent years corresponding with the 2009 Northern Strategy show little shift in focus to the promotion of renewables (Government of Canada, 2013a). An exception to this overall dynamic is the over \$124,000 invested by CanNor in 2013 to develop geothermal energy production in the Kaska Nation, Yukon (CanNor, 2013). In keeping with this relative lack of action on the part of the federal government, outside reviews and analysis of the renewable energy inventories in the North have attributed progress in NWT and Yukon to territorial and not federal actions (A Northern Vision, 2011; CIEEDAC, 2014).

The lack of government follow-up on committee recommendations is indicative of a problem

⁴⁷ When asked to explain the discrepancy, the Library of Parliament replied in an email on July 5, 2018 that "While a request for a Government Response was included within the *Northern Perspectives on Prosperity* report, it would appear that the government response was never presented in the House of Commons since there was a dissolution on March 26, 2011. Upon dissolution, all committee business is terminated and the government is no longer required to issue a response to committee reports. Since the *Northern Perspectives on Prosperity* report was tabled on December 9th 2010, the 120 day deadline for the government to submit their response would have been April 9th 2011, thus after the dissolution."

that was described by some of the committee witnesses. For example, Devon Page remarked that “aside from the barrier of politics, when committees are not designed to inform parliamentary processes (or if they are, it is just to further a political position) that is the biggest barrier [to influencing policy through committees].” In an interview, John Bennett also observed another instance where another Senate committee had come up with a report that had not been acted upon by government. He noted that the committee was doing a report on an independently initiated issue, not prompted by government. Bennett declared that the committee “wrote a report that was pretty good. The Senate could do more of this, without the pressure of government policy.” However, he shared that as was the case with Eggertson’s experience, “the government did not reply” to the report.

Mark Winfield spoke about the seriousness of not replying to requested reports in an interview. He shared that in previous years,

Failure to have responded to a requested report was regarded as a fairly serious matter and it was an issue over which members could raise as privilege and it would delay proceedings. The Speaker was supposed to enforce that. There is not much else you can really do. There were other things – there was at one point a standing joint committee for the scrutiny of regulations that did have some power to overturn and send orders in council back. [However] it does not mean anything if parliamentary members will not exercise it.

In terms of the potential to enforce responses from government, not all witnesses were enthusiastic. For example, John Bennett observed that “a response is just a tool to get the government on the record, and the government has been able to use that tool.” However, there were other recommendations that ENGO witnesses had to maximize the impact of committee reports on wider policy. Susanna Fuller argued that members of civil society must keep track of evidence that their deliberations have contributed to policy changes, such as attributions to their testimony in committee reports. She surmised that if this tracking was done, evidence of committee-level influence would serve as important benchmarks to reach – even if committee decisions are ignored by the government. She explained:

We need to say what the results of the parliamentary committee were. I don’t think that civil society uses that enough because quite frankly they are a pain in the ass to read through and by the time you are done you might have forgotten about the issue. But I think we can use them much more. It’s a little bit of a Catch-22, because if you don’t use them they are not useful. And if you don’t say “in this report, you said this. We found this; this is a result of your report, we know you have already studied it and you need to act on it.” There is way more that can be done on that that we don’t do enough of here.

The lack of ENGO attention to committee-level results is further explained by Devon Page’s description of why he had not previously read a report after one of his appearances in-depth. Essentially, this was because of low expectations (which were met with low outcomes even at the committee level in this particular case). Page described the whole committee process in his case “as only slightly better than a waste of time” because “the political context was not friendly; they were doing the consultation because they thought they had to, not because they wanted to yield a substantive outcome.”

5.6 Committee Role: Expert Witness Influence via Reports vs. Legislative Reviews

In interviews, witnesses touched on the subject of reports vs. legislative reviews in a number of ways. One recurring point heard in the interviews is that the scope of reports is often overly broad or unclear, which makes it difficult to feed the results of the reports into policy. For example, Bill Eggertson spoke about the fact that he “was never sure if [the committee members] were looking at renewables as a money-maker or renewables as an enabling adaptation technology in the North” and that while he had hoped to find clear goals for the committee study – perhaps using the questions of committee members as a guide to what specifics they most wanted to explore – he found that the committee had used the study as an opportunity to brainstorm ideas for the North. This was unhelpful from his perspective. Instead, he declared, he would have preferred a scenario where a committee might be discussing renewable standard portfolio of 15%, and as a committee witness he would give an alternate percentage based on his expertise. Or, for example, a more focused committee study might have him weigh in on the type or placement of renewable energy systems to use in specific contexts in the pursuit of specific goals.

The drawback of amendments being harder to achieve at committee was assessed differently by the ENGO representatives. John Bennett had a more pessimistic view, noting that “the government puts its political capital into legislation so by the time it comes forward there is little chance that it will be changed.” However, Mark Rudolph mused that this likelihood “depends on the bill, how well the bill has been written, whether it has been rushed, and how strong the committee chair is.”

Susanna Fuller emphasized the importance of both kinds of committee activity in her interview responses, stating,

I think you have to have open-ended consultation in order to understand the full range. If you just have a policy consultation, it gets focused on the policy and you end up talking to a different suite of people. Consulting on policy actually takes a kind of policy wonk kind of brain or it takes industry to want a certain outcome. Whereas if you have a more general study, I think you can get a broad range of inputs – which could be a precursor to legislation. You do not want to limit it. There is some value to open-ended when there is a problem or issue of public interest.

Another point that was brought up in the discussion of reports and legislative reviews is the fact that not all policy must be brought about through legislation. Specifically, Mark Rudolph emphasized the degree to which administrative procedures and policies take up a large percentage of the space in public policy-making, stating that “Everyone assumes that you need legislation to do something. You don’t. More often than not, legislation is merely a skeletal structure; the regulations that governments authorize under the legislation are in essence the meat that goes on the bones. In the broader structure, very little time is ever spent in regulations.” Mr. Rudolph recalled that he had been the architect of a program to tackle acid rain in Ontario called Countdown Acid Rain in the 1980s. He pointed out that this program was effective without ever introducing legislation,

We looked for regulations – one for INCO, one for Falconbridge, one for Algoma Ore and one for Ontario Hydro. We designated what emission level they had to go down to by what year so that they can figure out how to do it. This was enacted overnight by a piece of regulation by order-in-council. That’s what stopped acid rain, not a piece of legislation with a fancy name.

Reports can also be beneficial to witnesses by way of increasing their recognition among stakeholders and politicians. Martin Von Mirbach referred to a MP who got in touch with him due to a committee report that the MP had followed which contained statements from Mr. Mirbach. He recalled that in this instance, the report served as a catalyst to build relationships with MPs. In addition, he pointed out that the same thing has been true for him in other instances with industry stakeholders. After making contact with through mutual committee appearances, he later engaged with those stakeholders on environmental issues. The anonymous witness also spoke about the importance of having committee transcripts of the appearances, as a way to have a public record of one’s views devoid of spin.

5.7 Enhancing Impact Through Pre- and Post-Committee Lobbying

The extent to which the witness has worked through other channels besides the committee to get

their preferred policy recommendations on the table is another factor relevant to the approach of the witness, and is important to explore in order to avoid false positives.

As an example, Mark Rudolph appeared before the House ENVI committee in the Martin minority government as a representative for the CARE Coalition. The CARE Coalition brought together a number of stakeholders from environmental and corporate world, but had a clear environmental mandate of growing the percentage of low-impact renewable electricity.⁴⁸

Bradley Trost (CPC) began by questioning Mr. Rudolph and the other witness' credentials to speak about the environment. Mr. Rudolph referred to a range of experts in the CARE Coalition. However, Mr. Trost continued to sow doubt about the underlying assumptions behind climate change that underpinned Mr. Rudolph's presentation with his comments, arguing that a plurality of climatologists do not think there is an identifiable man-made cause of climate change. To be sure, there were some constructive aspects of the discussion; an example of this was Liberal MP Byron Wilfert's exchange with Mark Rudolph on the need for government collaboration on climate change through a secretariat or some other means, and requests for more detail on items brought up in Mr. Rudolph's opening statement.

However, Mr. Trost's questions made an impression on a number of observers. He recounts,

I had a fight with MP Brad Trost from Saskatchewan who was basically a climate change denier. He basically said who are you to talk about this stuff, you are not a meteorologist; "get me resumes of every member of your coalition." But it was a heated discussion between he and I – and as you know, controversy is news. So, whenever they didn't have live stuff to run [on CPAC], they used to re-run this fight sequence between Brad Trost and I on a blank spot for years.

In this instance, the particularly hostile exchange resulted in enhanced public exposure for Rudolph's committee appearance. The Chair at one point stepped in, citing the desire to avoid discussion in committee that is "unnecessarily partisan" (ENVI Committee, 2005c). The committee report also incorporated Mr. Rudolph's testimony in its report in several ways; interestingly, however, it was not these same points of his testimony contained in the report that ultimately resulted in policy outcomes. For example, the committee report did not mention Mr.

⁴⁸ Unlike an in-house corporate environmental initiative, the active participation of environmental NGOs acts as an accountable mechanism – so that the corporations do not single-handedly get to decide what is environmentally friendly and steer the focus toward things that may produce profit but not environmental outcomes.

Rudolph's recommendation to expand the wind power production incentive to 4000 megawatts or develop a similar incentive for other renewable forms of energy, but the government response to Recommendation 9 in the report⁴⁹ specifically noted that the government had expanded the incentive to this amount (ENVI Committee, 2005d). The government response also confirmed that NRCan is currently developing a renewable power production incentive, a recommendation by Rudolph that had not been in the committee report (ENVI Committee, 2005e).

The discrepancy between the lower representation of Mr. Rudolph's testimony in the committee report and higher representation of his recommendations in the government response reflects the dynamic of complex causal processes at work in the legislature. Specifically, it may also suggest that effective lobbying was done outside that committee i.e. in ministers' offices, the bureaucracy or through other committees such as the finance committee. Mr. Rudolph confirmed as much in an interview, when he explained his approach thusly:

[Committee members] go through a whole process and they listen to people talking in Ottawa and Toronto, Calgary and Vancouver and Montreal. Their clerks and research staff then aggregate that information, piece together a report and put together recommendations that are based on a hundred different people who went to see them. My message can get lost in the sauce completely in that report. Whereas if I am pounding down the door from Labour Day until just before budget day with the four or five key portfolios in the system, they will hear me; they will know exactly who I am and what my message is and who my members are and why this is good for the government and why this is good for Canada etc. So it's much more laser-focused to go to individual offices, and much more grapeshot-like to go to the committees.

Mr. Rudolph is not the only Canadian ENGO witness who shared one of his strategies for achieving maximum influence in and outside the parliamentary committees. Susanna Fuller highlighted the importance for an ENGO representative to have regular correspondence with a MP – ideally having used that correspondence to initiate the study or bill in the first place. She also related that good strategy is context dependent; that for any issue, “you need to find out who the decision-maker is, find out who has influence and where the issue is in the process – and how you can influence at any level.” Finding that out, she stressed, involves a lot of research done in advance.

⁴⁹ Recommendation 9 more generally called for “ecological fiscal reform” to “be applied to the energy sector in order to give all emerging low impact renewable sources of energy greater support and to decrease GHG emissions.” There was no mention of the 4,000 megawatts for the wind power production incentive, for example.

Devon Page also suggested that ENGO representatives who are called to be witnesses should try to speak with committee members “to try to get a sense of what they’re trying to get at and how much effort they are going to spend and if the outcomes would be legitimate.” This was seconded by Mark Rudolph in interviews, who advocated for setting up meetings with committee members before and/or after the committee meetings. To this, Ed Whittingham added that corresponding with the clerk is a very good idea.

In terms of pre-committee preparation, Bill Eggertson, Mark Rudolph and the anonymous witness all spoke about tailoring testimony to specific members of the committee – whether for a specific province or a specific committee member’s riding. Mr. Rudolph recommended sending a different one-pager to each political party in relation to one’s committee appearance, making arguments “from a politician’s vested interest.” Similarly, Mr. Eggertson stressed the importance of finding out as much as possible about the real players in every committee; for example, he explained that if one finds out that “Joe” is a key player one can “throw in anecdotes about ‘oh, well in Tillsonburg 7,300 people including Joe’s wife work at the tobacco company and those are the type of jobs that are really important and valuable, and we want to preserve those jobs.’”

The anonymous witness added this strategy to a list of “common sense” preparations such as reading the background material for the committee and other terms of reference. She shared that she reads members’ biographies before heading into a committee, so that she can use examples i.e. of climate change issues from each of the members’ ridings. In addition, she also recommended prompting a committee member beforehand to begin asking questions (a.k.a. planting questions).

5.8 Reflections and Analysis

Process-tracing the committee experiences of ENGO representatives in this chapter provided the opportunity to analyse a number of multifaceted factors as part of a chain of events. The chapter first set out to test two key hypotheses: 1) that: 1. that higher party discipline leads to lower levels of ENGO influence at committees and 2) that a lower proportion of ENGO witnesses included in a given study will be found to correlate with weaker influence of those witnesses on outcomes. Analysis was based on transcripts, committee outcomes, policy outcomes, and interviewee responses – multiple data points that provided the basis for a sequential analysis of events in each

of the 18 specific cases examined. The findings in this chapter support this first hypothesis. Both the process tracing and interview data also support the finding that committee chairs exercise their agency on committee-level outcomes.

The findings also support the second hypothesis. I showed evidence in Chapter 4 that the Senate committee on Environment and Natural Resources tended to include a lower proportion of ENGO witnesses in their studies than did the House committee on the Environment. From this, I expected that Senate committees would see a lower degree of ENGO influence. This was also theorized to be the case at the committee level – which is an important distinction if we consider that the Senate has less of an influential policymaking role than does the House by definition of its powers in parliamentary procedure. This was indeed the case. This chapter shows, for example, that the percentage of positive and somewhat positive outcomes at both levels of influence were significantly lower for Senate committees than House committees. The results of interviews with ENGO witnesses who previously appeared before House and Senate committees provides further support for this thesis, as these interviewees related that they had seen less of an impact from Senate hearings than those at the House level.

In addition, my analysis in this chapter also looks at deliberative exchanges within committees following ENGO witness testimony, and interviews with ENGO witnesses. This part of the research was important in order to evaluate the extent to which there was meaningful deliberation, deliberative empowerment, and meta-consensus. Comparing the content of deliberations with outcomes and witness interviews, I found that where former witnesses recounted an unproductive process, the exchanges were likely to be more hostile. Conversely, information-based questions in particular were correlated with the most positive outcomes at the committee level, more than perspective-based or problem-solving questions. However, the differential between types of questions asked and outcomes beyond the committee level was only evident between hostile questions and all other types of questions.

Where meta-consensus was reached in deliberations, it was more likely that there would be a positive outcome for ENGO influence on policy at the committee level. However, this advantage was no longer apparent when looking at overall outcomes.

Beyond considering all these factors for the purpose of applying the three concepts of influence that are privileged in this dissertation, there is a more general value that consideration of the deliberations in committee has. As the anonymous witness reflected in their interview, “we

talk about policy outcomes or change outcomes [. . .] but we don't talk about building a stronger foundation for our democratic discourse." With the inclusion of deliberative democratic discourse in the mapping of influence, the implications of the analysis can run deep into the heart of what is needed to build a healthier democracy – beginning at the legislative committee level.

Chapter 6: Congressional Committee Hearings and ENGO Witnesses

6.1 Introduction

In presidential systems such as the U.S., there is a clear delineation of powers between the executive and the legislature and the president does not generally serve at the pleasure of the legislature – with the exception that the president may be removed from office if impeached by the House of Representatives and subsequently convicted by the Senate of a criminal or improper act committed while in office. In the realm of policy creation, the more meaningful separation of powers between president and legislature and between House and Senate holds that gaining political ground can only come as a result of compromise (Moe and Caldwell, 1994: 174). This is in contrast to a parliamentary system, where governments can be unseated by the legislature in regular circumstances and the impetus for governments to have a majoritarian voting bloc is regarded as being of singular importance to a government’s survival in the legislature – a dynamic Cheibub and Limongi call the “majoritarian imperative” (2002: 153).

Thus, parliamentary systems are associated with stronger party discipline, presidential systems with weaker party discipline, and semi-presidential systems with more highly variable levels of party discipline depending on other contextual factors in a legislature i.e. the president’s party comprising either a minority or a majority in the legislature. As has been discussed earlier in this study, legislators who are relatively unencumbered by constraints such as party discipline provide a more fruitful base for ENGO witness influence on policy through legislative committees, since there is less of an obstacle in the way of legislators allowing compelling testimony – or at the next stage in the policy process in the wider legislature, committee recommendations – to influence their voting behavior.

However, party discipline is surely not the only constraint on legislators’ openness to adopt ENGO policy priorities and recommendations at this stage in the policy process. Indeed, some other potential constraints have already been identified in the literature. Berry and Fowler (2018) have written about how committee chairs in the U.S. “receive a large bump in campaign contributions” even if they occupy safe seats, suggesting that those who make these contributions are hoping that “their donation will buy some kind of policy favor” (p. 2). Similarly, Zhanga and Tanger (2017) found that forestry interest groups provided members of the House Ways and Means Committee with donations in advance of bill signatures for legislation favoured by those groups.

Another potential constraint is the dominance of one advocacy coalition group in the “iron triangle” of the bureaucracy, Congressional committees, and interest groups – also referred to as the policy subsystem model (Gerrity, Hardt, and Lavelle, 2008). Accordingly, this chapter looks at the extent to which these two factors – money in politics and policy subsystems – are at play in Congressional committees, and how they might impact the ability of ENGO witnesses to impact policy through these committees.

In keeping with the three approaches to analyzing the legislature and its committees in the chapter on Canada's Parliament, this chapter first provides an overview on the functions and processes of the U.S. Congress, its history, and the key debates relevant to its legislative committees. In other words, it sets up the “homogeneous” overall context. This is followed by a quantitative analysis of non-governmental environmental witness representation at committee hearings over the time period studied, and subsequently a qualitative analysis of first-person interviews with former ENGO congressional committee witnesses. Policy outcomes associated with the hearings are assessed in order to enrich the qualitative analysis, and are used as a metric of influence as per Dür and De Bièvre’s outcome-oriented method of gauging influence. The content of deliberations is analyzed in order to look for signs of deliberative empowerment per Fuji Johnson (2009), and a meta-consensus – per Dryzek and Niemeyer (2010).

There are also three debates discussed that contribute to the analysis of how the new and original data contribute to the agent vs. structure debate. The first of these debates is Majority Party Theory vs. Bipartisanship Theory (or alternatively, what I will argue should include Nonpartisanship Theory). For this, the finding is that there are clear ebbs and flows in the degree of executive or party-led control of behaviour by legislators – in other words, that the level of independence that legislators wield in the U.S. system is far from static. For the second debate, the Effect of Money in Politics in U.S. Congressional Committees, the findings problematize the characterization of relative agency in legislative studies, as actors are seen as acting independently when they may be beholden to other structural powers in the political realm. Lastly, for the debate on theories on Lobbyist-Legislator Relations in Different Issue Areas, the findings suggest that the dynamics of ENGO influence on policy through legislative committees changes depends on the issue area – as there are different sets of actors and structures in each issue-based ecosystem. The findings for the latter two debates are examples of how systemic

factors can play a large role than perhaps might be expected for a legislature that is as relatively actor-driven as the U.S. Congress.

6.2 US Congressional Committees: A Comparative Institutional Framework

As is the case of Canada's parliamentary committees, congressional committees in the US perform a number of essential functions, with committee hearings providing the most opportunity for ENGO input into policy. However, committees in the US presidential system tend to feature actors that behave more independently of their party, although this varies from administration to administration and also does not mean that they do not act in very coordinated and strategic ways. In order to describe these dynamics in all their inherent complexity, we will begin with an overview of how the committee system operates in the U.S. congressional context.

Functions of Committees within Congress

Committees roughly reflect administrative departments of governments in the U.S. system (Goodwin, 1970: p. 3). Beyond the permanent standing committees, select or special committees are created – most often on a temporary basis – to investigate specific issues. Joint committees are established for the same purpose as select or special committees, but either have members from both the House and Senate or rotate between having members of either chamber. The legislature also strikes ad-hoc conference committees to come to a resolution over disagreements on legislation between the two chambers of Congress; appointments to these conference committees are done by committee chairs and party leaders, and are often made up of senior members from the committees in the House and Senate that previously considered the legislation (Tobin, 1986: p. 54; Loomis, 1996.). Conference committees are not necessarily seen as pure amalgamations of House and Senate counterpart committees, however. According to Vander Wielen (2010) members of conference committees sometimes pursue and achieve their own policy outcomes in these committees. For example, he has noted that members of these committees often include appointees who are policy preference outliers; he has noted as well that these committees do not place barriers around members pursuing their own interests.

Both the Senate and House establish committee membership the same way – the former since 1846 and the latter since 1911. The party leaders submit a list of names, subject to Chamber approval. However, the lists are devised differently by party; the Republican conference chairman

appoints Republicans to the Republican committee on committees – who in turn appoint committee members. This is not subject to caucus approval, but the Republican committee on committees must include one Republican from each state. In the Democratic Party, the list is chosen by the Democratic steering and policy committee, and then is voted on in caucus. In the House, the Republican committee selections must be approved by the House Republican policy committee. Party loyalty is a factor in terms of which representatives get chosen to sit on desirable committees. However, seniority plays an even larger role in this, as does personal interest (Tobin, 1986: pp. 56-58). With only one notable exception – under House speaker Cannon in the 61st Congress in 1909-1911 – the minority party in the House chooses committee assignments from that party, and can negotiate the breakdown of committee assignments by party for each committee as Democratic House leader Nancy Pelosi did in 2003 (Krehbiel and Wiseman, 2005: pp. 484-484). The number of candidates to choose from for committee assignments is higher in the House than the Senate, as the House has 435 representatives compared to the 100 senators in Congress.

Committee chairs have even more power within the legislative system in Congress than committee chairs do in Canada, which is important for ensuring that what happens at committee – i.e. its members' response to hearings involving ENGO witnesses – is not predetermined by the executive or party leaders. Not only do chairs in the U.S. Congress control the agenda and schedule of committees and designate subcommittees,⁵⁰ subcommittee chairmen and subcommittee members, they also make staffing decisions for the committees and help determine who is nominated to the conference committees (Hinkley, 1971). Entin (1973: p. 433) has noted that sometimes committee chairs establish subcommittees for the purposes of strategically redirecting dissent among committee members. Moreover, while the executive branch and bureaucracy control the budget, the heads of agencies and bureaus are known to acquiesce to the wishes of powerful committee members on budgetary matters where it is strategically advantageous to do so (Hamm, 1983: p. 396).

At the same time, committee powers are still limited in the United States by the fact that chairs cannot compel or conduct implementation beyond the committee, and may also have to often broker compromises in order to enable draft legislation to pass through the committee. After

⁵⁰ Subcommittees are most suited to issues of low salience, and its members must gain the support of their caucus members in the more general committee in order to serve in their roles (Loomis, 1996: p. 80).

that point, legislation could be slated to be further amended on the floor, the other chamber of Congress, and conference committee – and ultimately it could be vetoed by the President (Loomis, 1996: p. 88). Notably, there is a de facto necessity in the Senate of gaining 60% of the vote to pass legislation in that chamber (it is formally a majority as in the House, but it takes 60% of the votes to end a filibuster of the legislation); this raises the bar for how much support must be gained for bills in Congress in order to ensure its passage through the legislature.

History of the U.S. Congress and its committees

A review of how the U.S. congressional committee system developed shows a number of critical junctures in its path of increasing independence from the executive – an independence that is considerable in the present day when compared to other countries' legislatures. At the same time, the significance of such aspects as the seniority system – which privileges more long-serving representatives in leadership positions on the committee i.e. committee chair – has led to a dynamic with unique institutional qualities not seen in either the Canadian or Russian legislatures. As will be explained in the discussion of committee history, the seniority system results in committees reflecting the social movements of yesteryear – as the social movements that led to a cadre of new representatives getting elected are manifested many years later as a crop of contemporaries take on leadership positions across the committee spectrum within a similar timeframe. For example, the legislators who came up in the 1960s and 1970s on a wave of social change protested that committee leadership was largely being given to a conservative section of the Democratic party during their early years of service as legislators. However, by the mid-2000s, those same individuals were benefiting from the seniority system themselves, and serving as committee chairs (Becker and Moscardelli, 2008: p. 77). This is a dynamic that does not exist to any significant extent in the Canadian and Russian committees, as seniority is not a de facto prerequisite to becoming a committee chair – nor do committee chairs wield the same mastery over their domains based on the higher level of party discipline.

In the first U.S. Congress of 1789, there were no permanent committees – only temporary committees for each bill. As legislative activity increased, permanent committees were created on a gradual basis to deal with different categories of bills (Tobin, 1986: p. 54). New rules were also introduced in 1790 which dictated that the Speaker appoint House committee members. The chair of the committee was usually the sponsor of the bill being studied at this time, but the House

could also intervene in this process by majority vote if it so chose. Conversely, the Senate chose committee members by a ballot system according to the new rules, with the chair being the one with the most votes. Some consideration was also given to diversity of geographic location and areas of expertise; however, during this period partisanship was the most significant factor affecting a committee assignment for a Representative or Senator (Smith and Deering, 1990).

Despite the role of partisanship in committee appointments under the 1790 rules, the establishment of permanent members on committees was a key step in enabling opposition to bills on committees (Goodwin, 1970: p. 8); previously, the Congressional majority would explicitly assign members to select committee postings whom they knew would support the majority position.⁵¹ Lobbying enterprises have existed at least since the 1880s, when some interests even had their own desks set up in committee rooms (Ainsworth, 1997).

The U.S. system was set down a path of decentralized committee governance and away from the British (and Canadian) Cabinet system in 1794, when the House Republicans vetoed a revenue provision being referred to Alexander Hamilton – who was then Secretary of the Treasury. Under Thomas Jefferson’s government (1801-1829) the U.S. President’s Manual of Parliamentary Practice was disregarded when it came to the dictum that committees should make decisions following cues from the Committee of the Whole. For example, issues were referred to committees “before the Committee of the Whole had made broad determinations as to the principles” of the referral (Goodwin, 1970: p. 7).

Most of the growth in standing committees happened between 1810 and 1825. 1816 was a particularly momentous year for the Senate, with the establishment of 12 standing committees. Before the Civil War, however, committees in both houses were small at 3-6 members each. A relatively high level of party discipline prevailed in the Standing committees in this period (Smith and Deering, p. 27). By the late 1820s, legislation no longer had to pass the House as a whole before being referred to standing committees, and House committees gained the ability to report new legislation a decade afterwards. It was at this time that “[t]he House came to recognize that the minority should receive representation on standing committees. By degrees, then the standing

⁵¹ Thomas Jefferson once sought to justify the practice by analogizing that “the child is not to be put to a nurse that cares not for it” (Smith and Deering, 1990: p. 26).

committees became much more than mere agents of the House. They gained great independence and assumed the legislative initiative in most policy arenas” (Smith and Deering, 1990: p. 30).

Meanwhile, the Senate largely reacted to the legislative activity of the House throughout these years. Inter and intra-party tensions meant that appointment mechanisms for committees changed a dozen times, as senators angled to strategically benefit from such changes. Party discipline was extremely low, to the extent that committee members and chairs breaking with party policy was a common occurrence. Therefore, party leaders resisted referring legislation to committee wherever possible. When the Senate committees did report legislation in the period leading up to the Civil War, it was rarely debated on the Senate Floor. As another result of this ongoing tension in the Senate, the power of committees to elect their own chairs was revoked; first the Speaker’s power, then the political parties and lastly the president pro tempore filled that vacuum (Smith and Deering, 1990: p.30).

The period from 1862-1919 was characterized by strong party leader control and an increasingly high number of House and Senate committees in the U.S. Congressional system. The number of committees peaked in this period, only to be consolidated in 1919 onward – with another precipitous drop in the number of committees in 1947 (Loomis, 1996). Goodwin (1970) cites several periods of relatively strong party discipline in Congressional history, with party leadership having more legislative control: The House under Speakers Henry Clay in the 1870s, Thomas B. Reed in the 1890s, and Joseph B. Cannon in the 1900s; and the Senate under Speakers Nelson W. Aldrich in the 1900s, Joseph W. Kern in 1911-1917 and Henry T. Rainey in the mid-1930s. In some cases, the rise in party discipline is said to have been caused by the Speakers’ own motivations i.e. a wish to control their caucuses. Cannon is considered to be one such example of a Speaker who was personally motivated towards party discipline (although there is some debate about this). At other times, the literature suggests that it was the party caucuses that sought to control voting behaviour. For example, there was a brief period in the early 1910s where the Democratic caucus used its cohesion to institute strong party discipline. However, this tapered off in 1916, and in 1917 the Democrats established the Committee on Committees to deal with such matters in a more systematic way (Smith and Deering, 1990: p. 36).

Seniority was an increasingly important factor from 1862-1919, and played a more formalized role in appointments to committees from the 1920s onward (Loomis, 1996; Smith and Deering, 1990). This meant that those with the most years of service on a committee would be the

chairmen of the committee. Joseph Cannon's challenge to the seniority system of appointment in that period was temporary – and ultimately unsuccessful (Loomis, 1996).

Standing committees began to shrink in number from 1919-1946, as they were being consolidated. In the 1920s, the bond between party leaders and committee behaviour began to erode. Smith and Deering (1990) note that in this period “the majority leader no longer chaired a major committee, chairs of major committees could not serve on the party's steering committee, and no committee chair could sit on the Rules Committee” (p. 37). The Rules Committee, a sort of steering committee for the consideration of legislation in the House, evolved into a more significant body in the 1920s and into the 1930s; for example, in 1937 it was notoriously used to block FDR's social programs.

In the 1940s, efforts were made to reform the committee system which culminated in the Legislature Reorganization Act (1946). Committees were reduced in number, and the number of committee appointments for one representative was limited to a single appointment for House representatives and two appointments for most senators. Staff for each committee increased, and the reforms had the effect of increasing the power of committee chairs. Smith and Deering (1990: p. 40) categorize 1947-1964 as a largely stable period, but with the development of some powerful normative behaviours: The tendency to focus one's efforts on committees into certain specialized issue areas within the committee's scope, and new members deferring to more senior ones even in deliberations.

Loomis (1996) recalls that from 1959-1975 there were efforts by representatives to undermine the powers of chairs by delegating issues to subcommittees and by fostering party centralization. He points to congressional reforms from 1965-1985 that arose out of these efforts: Four such initiatives in the House, three in the Senate, and two joint Congressional initiatives. These had the effect of giving regular committee members more power. Subcommittees were also guaranteed referrals of legislation in their jurisdiction, and the Speaker was granted authority to appoint and remove Democratic members on the Rules committee (Loomis, 1996: p. 76).

Smith and Deering (1990) account for a similar time range for significant Congressional reforms, from 1965-1980. They recall that representatives and senators sympathetic to the environmental, civil rights, and anti-war movement wished to gain policy ground on these issue areas through committees. In particular, they note that the 1970s' Legislative Reorganization Act came from a recommendation of the Joint Committee on the Organization of Congress. While not

all of the Joint Committee's recommendations were adopted in this legislation, the adoption of some of its recommendations resulted in the requirement of recorded committee votes to be made public; the placing of limitations on proxy voting; the urging of committees to hold more open meetings; and most committee members being given the power to call meetings. These changes also had the effect of giving committee chairs less exclusive control over committee agendas.

The Democratic caucus was also instrumental in reforming the committee process in this period. For example, the Democratic caucus' Committee on Organization, Study and Review passed reforms in 1971 and 1973, and influenced the bipartisan House Select Committee on Committees' reform proposals on the ability of committee members to hold chairs to account and replace them. The Democratic caucus also replaced many committee chairs in this period, and introduced a "subcommittee bill of rights" (Smith and Deering, 1990: p. 48). In order to understand the significance of such measures to replace committee chairs or check their power, it bears noting that there were (and are) numerous instances where chairs used their scheduling power to delay legislation, effectively obstructing it. Hinckley observed in 1971 that cases of this happening up to that point had occurred only when committee members were divided on the issue – even within political parties. In the 85th Congress (1957-1959) she describes an exception named Graham Barden who abused his power in this way and was removed as chairman by his committee members (Hinckley, 1971: p. 91).

The Senate's bipartisan reform committee (a temporary select committee) began its work in 1976, although some of the House's reforms already applied to the Senate at that point i.e. the secret ballot for committee chair elections. It proposed a twelve-committee system that did away with most of the Senate's special and select committees. Caps were also placed on the number of committee assignments and chair assignments for a senator. During the reform period, some power was handed back to the Speaker and House Leader by bringing back the Steering and Policy Committee as part of Democrat caucus reforms. More committee reforms were proposed in 1977 and 1979, but these were rejected (Smith and Deering: 1990: p. 49-52). Stevens et al. noted in 1981 that the House rules had changed in the preceding years and had the effect of making legislation coming out of committees more liable to be amended on the floor.

The 1990s saw an exception to the rule of weaker party discipline in Congress, with a particularly strong flexing of control by Republican Party leadership in the 104th Congress. In 1994 the Republican House Committee members in leadership roles were "put on effective notice

that they [were] expected to be servants of the party” (Loomis, 1996: p. 81). Subsequently, a series of bills were rushed through the Republican-controlled House following this directive from Speaker Newt Gingrich and Majority Leader Dick Armey. However, even in this period, Loomis contends that committee control by chairs remained palpable. The Republicans in this period also reduced committee staff by one-third, placed a three-term limitation on chairs of committees and subcommittees, reduced the number of subcommittees from 118 to 77, banned proxy voting,⁵² made all votes and nearly all committee meetings public, and ended the practice of referring bills to more than one committee.

This brings us to the period of study; if we look at the numbers from 1996-2015 for popular ways to measure party cohesion in the United States, it will help us to understand the trends in party discipline. A useful metric of this in the U.S. case is the percentage of votes where a majority of Republicans vote in opposition to the position of a majority of Democrats. To provide the benefit comparison to the noted high party discipline era of the mid-1990s, we will include a couple of years before 1996.

Table 7: Party Unity* Voting in Congress

Year	House	Senate
1994	61.8	51.7

⁵² Which chairs used to control.

1995	73.2	68.8
1996	56.4	62.4
1997	50.4	50.3
1998	55.5	55.7
1999	47.3	62.8
2000	43.2	48.7
2001	40.2	55.3
2002	43.3	45.5
2003	51.7	66.7
2004	47.0	52.3
2005	49.0	62.6
2006	54.5	57.3
2007	62.0	60
2008	53.3	51.6
2009	50.8	72.0
2010	40	78.6
2011	75.8	51.1
2012	72.8	59.8
2013	68.6	69.8
2014	72.6	66.7
2015	75.1	69.3

Excerpted from Brookings Institution, 2016

* the percentage of votes where a majority of Republicans vote in opposition to the position of a majority of Democrats.

The Brookings Institution table corroborates what Zittle (2009) has observed in a more analytic account: that the level of party cohesion and party discipline has been steadily on the rise in recent years. Indeed, if we look at the previously notorious number for the House in 1995 – 73.2 per cent – we can see that the party unity scores began to frequently exceed that number beginning in 2010. For comparison, it is worth noting that from 1953-1992, the party unity score never exceeded 65 per cent in either the House or the Senate.

If we break this down into the different periods for House and Senate majorities, we can see this trend more clearly, and it is apparent that the increase in party discipline was more extreme in the House than the Senate:

Table 8: Average Party Unity Scores by Chamber Majority Periods

Chamber	Period	Average “Party Unity” Voting Score
House	1995-2007 (Republican Majority)	51.8%
	2008-2011 (Democrat Majority)	63.3%
	2012-2015* (Republican Majority)	72.2%
Senate	1995-2000 (Republican Majority)	58.1%
	2001 and 2002 (Control of the Senate changed hands four separate times in this period)	50.4%
	2003-2006 (Republican Majority)	59.7%
	2007-2015 (Democrat Majority)	64.3%

*The Republican majority continued past 2015, but the cutoff of 2015 is based on the scope of this study.

Despite the historical variation and recent ramping up of party discipline and variations in the independence of committees from other branches of the legislature, there is a near-consensus among scholars of American Congressional history that the U.S. Congress is not amenable to a party-centric legislative system. Goodwin (1970) argues that for such a system to be effective, a number of factors must coincide to create circumstances that he declares are “not encouraged by [the U.S.] constitutional separation of powers or by the individualist, anti-majoritarian folkways of the American people” (p. 9). Some of the factors he refers to that must coincide are the fact that the same party must control both Houses (which is rare in U.S. politics), the leaders must be able to both control their caucuses and work with one another and the president, and the president must be able and willing to play a very dynamic leadership role.

The Seniority System

For many years, the seniority system has played a big part in determining who becomes chairman of the committee in combination with other factors such as the will of the Representative or

Senator in question (Tobin, 1986, p. 58). The length of time a legislator has been in office continues to be an important factor in deciding who becomes a committee chair and of which committee, even if some (i.e Pearson, 2015) have noted that this has been on the wane in recent years. Hinckley (1971) believes that the seniority system for selecting committee chairmen does not have a significant impact on the type of representatives that end up in this role, because most representatives end up having a long record of congressional service, and also because it cannot be the only factor influencing their selections – as there are many candidates who meet the seniority requirement for any chairmanship posting. Tobin (1986) also points out that seniority can have an adverse effect since more senior legislators can be seen as greater threats to the power of those making appointments. However, in the House, the seniority system does have the effect of an overrepresentation of rural representatives among chairs in the Democratic Party (p. 108). Loomis (1996) also acknowledges that the seniority system results in swing areas not getting as much control over the legislative process through these positions, but defends the system by reminding that it bolsters the independence of chairmen – who may feel that they do not have anyone to thank for their appointments besides the seniority system itself.

Perhaps in relation to the fact that Congressional committee deliberations in the period of 1947-1964 showed a dynamic of more junior members deferring to more senior members, there was some attempt to temper the effect of seniority in this period – by emphasizing other considerations for major committee appointments more inclusive of junior members within the culture of Congress (Smith and Deere, 1990: p. 45). Even a proponent of the seniority system such as Loomis (1996) has noted that committee chairmen were very conservative in terms of changing legislation at their most independent – the 1950s – and that this was not encouraging for activists at the time. Writing in 1967, Lees was more critical of the seniority system in committees, and emphasized the need to curtail the unbridled power of committees through the limitation of seniority. He notes that since the seniority system was a factor in the selection of committee chairs, the chairmanship system was slow to reflect “changes of membership of the legislature which reflect demands for changes in legislative attitudes” (p. 98). He warned that the balance of powers that the seniority system provides can become unbalanced if chairmanships are used to block waves of change that are represented by new members of the legislature. By 1965-1980, members sympathetic to the environmental, civil rights and anti-war movements began to rise to positions through seniority that would help them gain policy ground on these issue areas through committees (Smith and Deere, 1990: p. 45). Still, on an institutional level seniority was

left largely untouched by institutional reforms in Congress, despite some disruption of it in the 104th Congress by the Republicans (Becker and Moscardelli, 2008: p. 77)

In the mid-1990s, seniority was disregarded by Gingrich for the appropriations, commerce and judiciary committee appointments (Loomis, 1996: p. 81). This fits with the overarching effort to control committee chairs that the Republicans launched during the 104th Congress – as described in the section on history. This seems to support Loomis’ thesis that selecting chairs based on loyalty maximizes the independence of the committee chairs.

By 2001, Arnold observed that while seniority in the Senate still correlated with a disproportionate amount of influence in the chamber, junior senators were not as heavily disadvantaged for the process of committee assignments – and that this disadvantage was largely a non-factor by a senator’s third term (p. 242). A study by Becker and Moscardelli (2008) nonetheless provides evidence that the seniority system continues to produce chairs with policy orientations that diverge substantively from the party median in the House and Senate.

6.3 Ongoing Academic Debates Relevant to U.S. Congressional Committees

Majoritarian Theory vs. Bipartisanship or Nonpartisanship Theory

This ongoing debate in U.S. legislative studies is often framed as a dichotomy between majoritarian theory and bipartisan theory,⁵³ but I add the element of “nonpartisan” theory in order to best represent views that see legislators as independent agents who are acting of their own accord instead of compromising between opposing parties. As indicated in other contexts within this study, less party control over legislators’ choices – whether through individualistic nonpartisan dynamics in legislators or through bipartisan dynamics where there is a less structured divide of voting patterns – provides more opportunity for interlocutors such as ENGO witnesses to influence legislators’ decisions.

⁵³ To be sure, I consider the different schools of thought to be less theories than they are epistemologies – because they largely refer to assumptions about what observers are more likely to find when they examine data and cases from Congressional proceedings. Krehbiel and Wiseman (2005) seem to acknowledge this when they muse that majority party and bipartisanship theory are in fact “pretheoretical conjectures” (p. 500).

The underlying principle of majoritarian theory – or majority party theory – is that majority parties will use all mechanisms at their disposal to exert their influence over all corners of the legislature, with no regard for the minority party. Included in the suite of majoritarian behaviour by party leadership is the use of party discipline, which can be observed through heavy-handed wielding of scheduling powers (Woon, 2009) or various acts of “punishment” of members of the party who will not be compelled to act as the party wishes i.e. “stripping them of desired committee positions, refusing to schedule their favored legislation, and declining to recognize them for the offering of amendments or private bills” (Krehbel and Wiseman, 2001: p. 357-358). By contrast, bipartisan theory considers both majority and minority parties to be “active participants in all stages of the policy process” with a less dominant role being played by the party leaders (Krehbel and Wiseman, 2005: p. 481). Bipartisan theory also suggests that majority and minority parties are inclined to reach compromises in order to minimize the risk of each individual legislator being voted out of office, and in the context of legislative committees contends that committee positions are given proportionately to the number of seats held in the legislature (Krehbel and Wiseman, 2005: p. 482).

One comprehensive study of party discipline in the U.S. Congress looks at roll-call voting from 1871-1998 in both the House and the Senate, and notes that the environment is one of the issue areas with the lowest levels of party discipline⁵⁴ and that party discipline variable was a “highly significant” variable in close to 54% of close roll call votes (Snyder and Groseclose, 2000).⁵⁵ Similarly, Hedlund et al. (2009) focus on the extent of ‘overproportional’ representation of the majority party in standing committees, and conclude that there is clear evidence for such ‘party stacking’ by House or Senate majorities occurring. However, there are other experts in the field, such as Groseclose (1994), Richman (2008), Londregan et al. (1994), and Gilligan and Krehbiel (1990), who argue that committee members are not consistently found to be either preference outliers⁵⁶ or reflective of median views within the party or legislature on the issues

⁵⁴ At 14th out of 18 issue areas.

⁵⁵ In this study, party discipline was not found to be as significant a motivator for votes on amendments – which has bearing on the legislative work of committees, since amendments to bills often arise out of committee deliberations.

⁵⁶ Being a preference outlier means that one is inclined more towards a certain policy approach relevant to the type of committee than the rest of the legislature i.e. more inclined to support the fisheries industry on the fisheries committee than other party members would be.

pertaining to their committees – and that this is evidence of a considerable degree of independence from party leadership. A study by Richman (2008) supports an information-based hypothesis⁵⁷ when it comes to committee outliers, finding that “legislatures in which the floor is less informed than the committees are more likely to have committee outliers” (p. 323) and that legislators are more likely to listen to outlier committee members when there is more uncertainty and a lack of information about the committee’s issue area(s).

These accounts speak strongly in favour of the nonpartisanship theory in Congress, and further support the idea that congressional committees exemplify the characterization of member independence in the U.S. legislature. However, a discussion of two other distinct phenomena – the effect of money in politics in U.S. congressional committees and lobbyist legislator networks – adds more complexity to this picture.

The Effect of Money in Politics in U.S. Congressional Committees

While it is well established that money and lobbying play an outsize role in the U.S. Congress (for example in Stern, 1992) it is less understood how this relates to committee influence and power. Furthermore, no research has considered how the role of money and lobbying might mediate the general argument that US congressional committees wield more power and influence than parliamentary committees in other countries, due to the separation of powers that characterizes the presidential system. Jacobson (1980: 77) indicates that interest groups particularly target incumbents – both Republican and Democrat – who are members of committees that are relevant to their interests. The key debate is whether these financial contributions play a very significant or influential role in the Congressional policy-making process, that cannot be explained by influence through other means such as non-financial advocacy and provision of expertise by these same interest groups.

For example, one study by Malbin (1979) found that even interest groups known to make substantial contributions "were not a major source of funds for any of the committee's members, except for the chairman" (p. 36). On the other hand, studies have also shown that legislators use money to convince other legislators to support their policy priorities through campaign

⁵⁷ An information-based hypothesis, advanced at least as far back as 1990 by Gillian and Khrebiel, contends that committee members develop different preferences than the floor based on their increased depth of knowledge on the subject compared to the rest of the party members.

contributions – particularly where they are in leadership positions (Ainsworth, 1997: p. 522). Others have observed that committee chairmen are particularly in a good position to influence less powerful congressional members, as they can provide a variety of resources beyond campaign contributions i.e. staffing to allocate toward bill sponsorship activities (Woon, 2009: p. 33).

Adopting a nuanced position, Wright (1990) argues that the most effective lobbying occurs in tandem with financial contributions; however, having extensive lobbying contacts trumps these contributions in terms of influencing the votes of legislators – making legislative committee hearings extremely important. Similarly, Ainsworth (1997) has found that financial contributions from interest groups often go to the pockets of existing allies, such as interest group industry workers in the legislator’s district. Hamm (1983, pp. 258- 389) has also discussed the importance of lobbyists as sources of information for legislators – the top source after their own staff – noting that more senior legislators on committees rely less on interest groups for their expertise. Hamm’s observations taken on their own do not necessarily suggest a direct role of financial contributions influencing the policy process, but Wright contends that it is the financial contributions that make it possible for many lobbyists to have their expertise taken seriously by legislators.

The influence of money in congressional politics does not always occur through donations; legislators themselves hold financial interests in different policy sectors, and this begs the question of how influential these are on members’ actions. For a comprehensive illustration of this, Welch and Peters (1982) drew on financial disclosure statements released by House members in 1979, and found that 42% of Congressional members held over \$100,000 worth of holdings (equivalent to \$346,542.70 USD in 2018). Welch and Peters further made the case that these financial holdings have an impact on their policy priorities, deducing from their figures that “almost every member of each committee has a financial interest in the business or industry most relevant to that committee” (p. 552) and that every single member on a committee related to oil and gas, mining, agriculture and power and utilities had financial holdings in those issue areas. Perhaps most alarming is that the number of members with “substantial financial holdings” classified as over \$10,000 (\$36,414.18 USD in 2018) in holdings, was “two-and-a-half to 50 times higher for members of relevant committees than for the Congress as a whole” (p. 553). Speaking to the debate directly, they cite the Congressional Quarterly’s observation that 104

House members and 54 senators had “possible conflicts between their own holdings and committee assignments” (p. 555) at the time.

Lobbyists can and do also fund informal groups in Congress such as caucuses – an act made possible because of the allowance of PACs in the campaign financing regime. This can impact committee business because legislators receive information from these informal groups about issues being discussed at committees – information which at times is funded directly by interest groups through research dollars or affiliated research institutes (Stevens et al., 1981). These informal groups – more prevalent in the House than in the Senate – also meet on a regular basis with Congressional committee and subcommittee members, and play a competitive role with these committees in terms of providing leadership in policy issue areas. They can play a useful role where committees are reluctant to make reasonable changes to adapt to contemporary policy climates; however, the fact that they are funded by interest groups is problematic.

Overall, the scholarly participants of this debate point to the fact that money in politics has made many specific inroads into the committee system: not only through political donations, but also through the members’ own significant holdings – which are disproportionately invested in areas their committee oversees – and the funding of information channels. While this view will be corroborated in the interview portion of the chapter, the evidence presented by previous experts on the topic strongly suggests that money has a real and direct influence on committee members’ behaviour.

The role of money in what expertise is listened to by legislators and what personal interests legislators have connects back to the central research question, as ENGO witnesses can be expected to be less influential in a system where money is an effective resource to be used to garner influence (as ENGOs often have less money than the sectors they are up against). Similarly, if committee members tend to have conflicts of interest through their holdings in resource extractive industries, this adds further complexity to the picture of relative independence of legislative committee members in the U.S. system.

Lobbyist-Legislator Networks

The crux of the debate around issue areas is whether or not lobbying activity is “self-regulating” due to the competitive lobbying between conflicting groups (Wright 1996, 191) or whether the disparity of money and other power resources between groups results in an uncompetitive

lobbying atmosphere (Olson, 1965). This has import for the consideration of outsider influence on committee members' behaviour, as the latter situation would see some interests at a comparative disadvantage when it comes to being influential.

Ainsworth (1997) notes that where committees have set areas of jurisdiction, less media scrutiny, and more distributive policy issues under consideration, there are likely to be "lobbying enterprises" – a term which he defines as "groups of like-minded lobbyists and their legislative allies, all of whom seek to coordinate their efforts" (p. 517). For committees whose issue jurisdiction is not as neatly structured (he indicates that energy policy is one example of this), Ainsworth observes that there may be broad involvement of interest groups – leading to conflict and more media attention, the latter of which infringes on the ability of legislators to trade votes without scrutiny.

Hamm (1983) refers to a similar phenomenon: "subgovernments" or policy subsystems comprised of legislator-interest group-bureaucracy alliances, organized for the purpose of creating certain policy outcomes in an issue area. In some cases, he observes that these largely committee-centric subgovernments have "functional autonomy" (p. 381) in that they can create policy with little to no interference from other actors in and outside of the legislature. He points out that interest groups have even been involved in the recruitment process for committee positions, and that this is most prevalent where there is an "obvious linkage between committee jurisdiction and constituency-clientele interests" (p. 384).

In McCool's (1990) study of policy subsystems, he noted that these "iron triangles" between congressional committees, interest groups and governments require the interest group in question to have three types of political assets: 1. Resources (i.e. money), 2. Representative Legitimacy, especially if those the group credibly purports to represent are electorally influential, and 3. Information – specifically the ability to collect and produce new information to support policy preferences of the group. The first and third of these assets are generally associated with very well-resourced groups, as opposed to smaller, more grassroots organizations. Per McCool, congressional committees were only becoming more reliant on the interest groups for policy making initiative in the years prior to his writing.

The key finding that emerged from Delsesto's study of committee hearings in 1973-1974 was that legislators displayed antagonistic roles⁵⁸ in less than 4 percent of exchanges with witnesses from the nuclear power sector, while they exercised these roles in 64 percent of committee hearing exchanges with environmental witnesses and concerned citizens. He concludes that this is evidence of a clear subsystem existing on energy-related issues – particularly with respect to nuclear power (p. 240). However, such dynamics do shift, sometimes dramatically, over time – and there is evidence to suggest that this may be the case with the particular issue area of nuclear power. Pointing to this dynamic in their study of party discipline in Congress, Snyder et al. (2005) note that in the 80th-92nd Congresses, 85% of votes on nuclear energy were impacted by party discipline – but this number shrank considerably to 9% of all votes on nuclear energy in the 93rd-101st Congress. Therefore, Delsesto may have observed members of Congress performing their loyalty to their party in the 1970s by touting the party line and being antagonistic to those hostile to it.

Sinclair (1986) devised a different way of analyzing the legislator-lobbyist relationship in committees. She separated committees into three types: Re-election-oriented,⁵⁹ policy-oriented,⁶⁰ and power-oriented⁶¹ committees, and observed that on re-election-oriented committees, key lobbyists may have sway on what issues are considered by the committee – particularly for issue areas where relevant interest groups have a strong constituency link (p. 38-39). For policy-oriented committees, she argues that established policy coalition leaders have the best hope of influencing the agenda. She adds that the agenda is also generally more tightly controlled by the party in policy-oriented committees, due to the ideological attachments between party brand and policies of interest. Lastly, she notes that members of power-oriented committees seek above all to influence the chamber through those committees – and interest groups are among those that the committee members are liable to be responsive to in these committees, in order to “dominate decision making on issues within their jurisdictions” and to “win on the floor” (p. 41). Sinclair

⁵⁸ This type of finding comes from the same type of inquiry associated with deliberative empowerment as a metric of influence for this study: whether deliberative content can be classified as constructive or not.

⁵⁹ Committees where a majority of members see committee membership as a way to bolster their re-election prospects.

⁶⁰ Committees where members largely are drawn to serve on the committee to pursue the best policy outcomes.

⁶¹ Committees where membership “is thought to confer influence within the chamber” (p. 41). Sinclair notes that those committees thought to be most influential is not static, but can change according to the agenda of those committees and the most salient issues of the day.

acknowledges that this typology of committees is not as applicable to the Senate, as the goals of committees are more nuanced and varied there and “the more flexible Senate floor rules mean that senators who are not members of the relevant committee can use the floor for agenda setting.”

Certainly, on issues where such subgovernments or lobbying enterprises are established, the self-regulating lobbying thesis is debunked. Fluctuations in the political ecosystem for the issue area of energy and the environment make the relative self-regulation of lobbyists’ influence in that issue area a ripe topic for an in-depth study. However, consideration of the more in-depth literature on relationships between committee members and lobbyists as described above with attribution to Ainsworth (1997), Hamm (1983), and McCool (1990) tends to skew more on the side of debunking the self-regulating lobbyist thesis – indicating that there are certain interest groups that have established privileges when it comes to influencing committee members’ behaviour in the U.S. system.

Before moving into the empirical section for this chapter, it is useful to note that we have established that there is already to a certain extent an acknowledgement of heterogeneity that has been established in the secondary literature. Compared to other legislatures, representatives in the U.S. Congress do have the ability to act relatively independently in ways that can significantly impact outcomes. However, there are various configurations of factors that work together to lead to different outcomes with regard to influence. For example, a committee member whose career ambitions do not discourage him or her from acting in independent ways, who does not have significant holdings in extractive industries or has been supported monetarily or politically by these interests, might be a conduit for responding to particularly persuasive arguments by ENGO witnesses such that their testimony is able to ultimately influence policy. However, other agentic and structural factors can work to limit influence in such cases; for example, permissive institutional conditions for money in politics can mean that those seeking to capitalize on financial interests gravitate to committees in certain domains; moreover, committees can often serve as venues for well-resourced interest groups to establish an enduring place of privilege in the policymaking process – through “lobbying enterprises” or “subgovernments.” The examination of new data will look at the interplay of such factors impacting influence at the committee level, and will add to what we know about the workings of Congress from 1996-2015.

6.4 Quantitative Analysis: ENGO Witness Representation at Committee Hearings

My first step in assessing influence is to examine the extent to which ENGO witnesses are represented at committee hearings. Drawing from the discussion above, and prior to calculating of the number of non-governmental environmental witnesses at select House and Senate legislative committees, I pose the following questions:

- 1) First, to what extent does inclusiveness of ENGO expert witnesses in House and Senate legislative committee hearings on environmental and energy-related issues vary as a function of which party (Democratic or Republican) controls the chamber? On the one hand, majority party theory suggests that the makeup of witnesses will look very different based on the different party in power; however, bipartisanship theory suggests that there would be a relatively consistent proportion of ENGO witnesses in committee hearings regardless of who controls the chamber. Since we will see from discussions with interviewees for this study that non-partisan committee staff play a large part in the witness selection process, there is ample grounds to consider both sides of the spectrum as within the realm of possibility.
- 2) If inclusiveness of ENGO witnesses is impacted by the party that controls the Senate, would more inclusiveness necessarily be associated with Democrat control of the chamber? Certainly, the recorded financial holdings of Republicans in industries with interests that conflict with environmentalist objectives has in the past been shown to be higher.⁶² However, I considered a dynamic in which might cause some of the Democrat-controlled chambers in this study to have a lower proportion of ENGO witnesses: Even if one assumes that a Democratic minority might be more inclined to bring in witnesses critical of the government's policies or approaches from the environmentalist side, a Democratic Party in control of a legislative chamber *and* the government might request more government witnesses – with the minority Republican Party seeking to include witnesses that oppose the government's agenda from non-environmentalist angles. This would result in less ENGO witnesses overall, and is relevant to the context of the study because the Democrats were more often in control of the White House when in control of either chamber

⁶² See Welch and Peters (1982), a source discussed in this chapter's section on money in Congressional politics.

(50% of the time from 1996-2015, compared to 38% for Republican-controlled chambers during the same period).

3) Will there be there would be less of a fluctuation in the percentage of hearings with at least one ENGO witness across the years in the Senate, supporting the perception of that chamber as less partisan than the House? And if so, will this pattern to be punctuated by some exceptional or ‘outlier’ terms, when partisanship and party control over committees was especially rigid?

In order to answer these questions, I took one year from each time the House or Senate changed its majority (1997, 2004, 2009 and 2014 for the House and 1999, 2002, 2005, 2008 and 2012 for the Senate) and included in the data set every transcript from those years from three House committees and two Senate committees:

- The House Committee on Resources (also periodically called Natural Resources)
- The House Committee on Energy and Commerce
- The House Special Committee on Climate Change.
- The Senate Committee on Environment and Public Works
- The Senate Committee on Energy and Natural Resources

For the selection of the years from each party majority tenure to sample, I looked at the content of the hearings in those years – prioritizing years in which the subjects of study at the hearings consisted of important legislation or policy matters. This was not always consistent across committees; for example, in 1999, the Senate Committee on Energy and Natural Resources only met three times, but the Senate Environment and Public Works committee met 29 times and reviewed such important files such as the Water Resources Development Act of 1999, the implementation of the Clean Air Act and the Clean Water Act, and matters related to habitat conservation, protection of endangered species, and air quality. If there was even one representative from an ENGO who testified before the committee during the hearing, I tabulated this and compared this with all those hearings which did not have one ENGO witness. In this way, the data for environmentalist NGO witness representation was assessed somewhat differently than the Canadian approach. Because there were fewer witnesses presenting before each hearing in total – usually a handful of witnesses for each topic compared to dozens or even hundreds in some cases in Parliament of Canada committee studies – I simply looked at how many hearings included at least one environmental witness in the proceedings.

With respect to the first question, the results in Table 9 and Table 10 revealed that there was no great difference in the proportion of hearings inclusive of non-governmental environmentalist witnesses across years and control of the legislative chamber. Only where there was an additional committee for environmental issues struck in the House for 2-3 years – the House Special Committee on Climate Change – did the proportion of hearings with ENGO witnesses recede in the other committees dramatically. However, if we combine the proportion of witnesses for the Special committee with the natural resources committee at the same time, the result looks similar to previous committees: 14% of the hearings for those combined committees included at least one ENGO witness.

In both the House and the Senate, the proportion is consistently different between each of the two core environmental committees, suggesting a more institutionalized process for the design and planning of committee hearings. Given that interviewees for this study have provided accounts of a relatively staff-driven witness selection process on committees (see section 6.5, for example) this is not wholly surprising. The description of bipartisan or nonpartisan arrangements made at the committee level described in section 6.5 of the dissertation also suggests another possible factor contributing to more consistency in ENGO witness selection.

We now turn to the third question on whether the Senate will show less fluctuation over time in the proportion of committees with at least one ENGO witness. If we compare overall averages of committee hearings including at least one such witness between Republican and Democrat-controlled committees in the House, there is a difference of 6% (with the committees in Democrat-controlled chambers having the slightly higher proportion). The Senate did in fact have a measurably smaller difference between the corresponding averages for committees under Republican- and Democrat-controlled chambers: a difference of 2.5%, with committees under Republican-controlled chambers having the slightly higher proportion.

If one were to read very heavily into these small discrepancies, one might find support for the notion that the Senate's reputation as the less partisan chamber is borne out in its witness selection for committee hearings. What I would argue is the more plausible reading of the data is that it suggests that the level of ENGO witnesses inclusion in House and Senate congressional committee hearings is determined through a fairly bipartisan process overall.

Table 9: Representation of ENGO Witnesses in Relevant Congressional House Committees

	1997 (Republican majority)	2004 (Republican majority)	2009 (Democrat majority)	2014 (Republican majority)
Resources/Natural Resources	48%	58%	38%	44%
Energy and Commerce*	N/A	10%	14%	12%
Special Committee on Climate Change*	N/A	N/A	67%	N/A

*The Energy and Commerce Committee was the Commerce Committee before 1999, meaning that it did not have explicit jurisdiction over environmental issues. Similarly, the Special Committee on Climate Change only existed for 2009 out of all the years sampled.

Table 10: Representation of ENGO Witnesses in Relevant Senate Committees

	1999 (Republican majority)	2002 (Democrat majority)	2005 (Republican majority)	2008 (Democrat majority)	2012 (Democrat majority)
Environment and Public Works	50%	47%	40%	41%	46%
Energy and Natural Resources	50%	31%	26%	37%	30%

The trends evident in both of these data sets show a remarkable consistency in the degree of ENGO representation at committee hearings. Not only does this indicate that the bipartisanship theory may better explain the dynamics around committee hearings in the U.S. Congress, but it also suggests something systemic at play. The alliances between interests, or committee-centric “subgovernments” discussed in the Lobbyist-Legislator Networks section of this chapter provides one possible explanation for this precision. While more study on this is required to give a definitive answer of whether such an explanation applies, these data sets bring us one step closer to arriving at examples of institutional dynamics at play in the U.S. legislative

committee system – complicating some of the underlying assumptions about the U.S. regime that has most often considered it to be exemplary of the “agent” side in the “agent vs. structure” debate.

6.5 Qualitative Analysis: Testimony, Witness Interviews and Policy Outcomes

My second step in assessing influence looks at the way in which the ENGO participants in the committee hearings process evaluated the process – either in terms of influence that was achieved or the potential for influence that was there. For this component of the research, I interviewed seven ENGO representatives who appeared before Congressional committees between 1997 and 2015, and asked them about their experiences appearing before committees and their opinions of the committee hearing process. Comments relating to the constraints identified earlier in this chapter were not identified in the interview questions but did nevertheless figure into the commentary of interviewees. The testimony of the interviewees is representative across the House and Senate committees shown in Figure 1 and Figure 2 in this chapter, and includes at least one witness for every era in the House or the Senate in which the Republicans or the Democrats enjoyed new majority party status.⁶³ (See Appendix D for more information on the interviewees and how their testimony corresponds to each era of the House and Senate).

As with all three country cases, the analysis of the data associated with the committee hearings in the U.S. Congress looks for evidence of three key concepts of influence: 1. Dür and De Bièvre’s (2007: 4) plain definition of influence as “control over outcomes” 2. The concept of “meta consensus” per Dryzek and Niemeyer (2007 and 2010), meaning an agreement on values, beliefs, and the nature of what the options are contributing to a given decision. 3. Elements of Fuji Johnston’s (2009) concept of “deliberative empowerment” whereby the conditions are present for the content from deliberations to lead to policy.

To begin with outcomes: I considered it to be a positive indicator of potential for policy influence when an ENGO witness stated in an interview that they felt their testimony was seriously considered and discussed in a meaningful way at committee. Out of the seven ENGO

⁶³ Save for the Senate in 2001-2002 when it changed hands four times within a short period.

witnesses interviewed for this study, four interviewees saw clear positive outcomes from their testimony at the committee level (with one other seeing a somewhat positive outcome at this stage), and three saw clear positive outcomes beyond the committee level (with two others reporting a somewhat positive outcome). The two right-side columns of Table 11 provide an organized representation of this:

Table 11: Summary of Results for Case Process-Tracing of ENGO Representative Appearances before U.S. Congressional Committees

Chamber and Period	Character of Questions in Committee Deliberations	Evidence of Meta-Consensus?	Committee Outcome	Outcome Beyond Committee
House of Representatives – Republican Majority (1995-2007, 2 cases)	Case 1: Hostile. Case 2: Perspective-based.	Case 1: No. Case 2: Yes.	Case 1: Negative Case 2: Somewhat Positive	Case 1: Somewhat Positive Case 2: Positive
House of Representatives – Democratic Majority (2008-2011, 2 cases)	Case 3: Problem-solving, Case 4: Perspective-Based	Case 3: Yes Case 4: Yes	Case 3: Positive Case 4: Positive	Case 3: Positive Case 4: Somewhat Positive
House of Representatives – Republican Majority (2012-2015 and beyond, 1 case)	Case 5: Open-Ended (With implication of lack of interest; ENGO witness described the questions as “pro forma”)	Case 5: No	Case 5: Negative	Case 5: Negative
Senate – Republican Majority (1995-2000, 1 case)	Case 6: Information-based	Case 6: Yes	Case 6: Positive	Case 6: Positive
Senate – Republican Majority (2003-2006, 1 case)	Case 7: Perspective-Based	Case 7: Yes	Case 7: Positive	Case 7: Positive
Senate – Democratic Majority (2007-2015, 1 case)	Case 8: Information-Based	Case 8: Yes	Case 8: Positive	Case 8: Negative

To begin with, there are two trends that are apparent at the committee level when looking at this data: The cases in the Senate were identified as having seen a “positive” committee outcome in 100% of the cases, compared with 40% “positive” and 20% “somewhat positive” committee outcome for the hearings in the House. However, there was an opposite observable set of results at the overall level: 80% of overall outcomes following the House committee hearings were coded as either “positive” or “somewhat positive” while this described only 66.6% of Senate cases. While the data set is not large enough to make decisive generalizations, this does suggest that the Senate committees may be more willing to incorporate ENGO witness testimony into

their recommendations but are less effective at ensuring follow-through on this in the rest of the legislature.

Interestingly, the data for Republican vs. Democrat majority chambers shows a similar type of split from the other, despite the fact that each chamber had two Republican majorities and one Democrat majority in the period of study. At the committee level, 100% of cases under a Democrat majority chamber showed a “positive” outcome; conversely, 40% of cases and 20% of cases were respectively coded as having seen a “positive” or “somewhat positive” committee-level outcome under Republican majority chambers. However, only 66.6% of cases under a majority Democrat chamber saw an overall positive result, compared with 80% under a majority Republican chamber – which is very similar to the differences in overall outcomes between the Senate and the House.

If we compare this table to the party discipline table (Table 8 on p. 135) combined with aforementioned accounts of specific measures to control committees during Newt Gingrich’s term as House Speaker, we do see periods of high party discipline and/or ramped-up controls over committees correlated with negative committee-level results in the House. Notably, the only case that saw negative outcomes at committee and overall was the most recent case, in the 2012-2015 House Republican Majority period where party unity voting scores averaged 72.2%, which is very high relative to the historical norm in the U.S. Congress. In the Senate, the only negative outcome at either the committee or overall level was also in the period with the highest party unity scores (the 2007-2015 Democrat Majority Senate, with an average of 64.3%).

Moving on to the content of committee deliberations: While only 2 out of 8 cases (25%) had neither a positive nor a somewhat positive outcome at committee, 100% of those cases with no meta-consensus expressed during the meeting had neither a positive nor a somewhat positive committee outcome. Cases where the content character of questions was perspective-based, problem-solving, or information-based were all followed by a positive committee outcome. Conversely, where questions were of a hostile or open-ended nature during hearings, there were no instances of a positive or somewhat positive committee outcome.

The contrast between cases with different kinds of deliberation was less stark for overall outcomes: One of the two information-based cases with a positive committee outcome was followed by a negative overall outcome, and the case with hostile questioning and a negative committee-level outcome was followed by a somewhat positive overall outcome. Likewise, one

of the two cases without evidence of meta-consensus and where questions were coded as being hostile had a somewhat positive overall outcome, and one of the six cases with evidence of a meta-consensus and information-based questions had a negative overall outcome. This could perhaps reflect the fact there are a variety of causal variables at play, and this only increases when going beyond the committee level.

The deliberations were not as extensive as in the Canadian parliamentary hearings (due to a systematic difference in committee hearing structure, as noted in the methodology section); however, these more protracted exchanges were drawn from and classified using the same coding scheme as in the Canadian case. In addition to this, the responses from interviewees provided ample fodder for a more in-depth look into these proceedings.

Despite the differences in outcomes between the cases, all seven ENGO witnesses interviewed responded that they would appear before a committee hearing again – even if in some cases this was circumstantial on factors such as the type of issue being discussed. The comparatively nebulous outcomes at the committee level compared to the executive or implementation level also provide context for a repeated sentiment by witness interviewees: For example, John Robinson of the Wildlife Conservation Society opined that

frequently the correlation between the testimony and the outcome are not totally clear. There is a good correlation there, but for the most part what you are doing is trying to get a certain set of ideas in front of [committee and subcommittee] members. It's a good opportunity to press an institutional agenda, press a conservation agenda, etc.

Elizabeth Martin, CEO of the Sierra Fund, expressed a similar view of what makes a successful committee hearing, noting that in her case,

An open-ended hearing gave a chance for people to be in a problem-solving place with clear suggestions or solutions. They did open a door that had not been opened before and allowed us to identify obstacles and solutions; it seemed like the beginning of the conversation. It is part of what created this momentum that has carried forward for many years.

In another example, a NY-based ENGO representative related that where legislative efforts failed to produce the outcomes he advocated for at the committee hearing, they succeeded at the executive level. The witness related that early into his presidency, George W. Bush publicly committed to solving the acid rain problem – following up on this promise in a State of the Union address and listing the passage of the Clear Skies Act as one of his environmental priorities. However, this witness noted that the bill put together for the Clear Skies Act diverged on some

points from the president's promises, which is part of what he had been trying to highlight in his witness testimony. In this way, he suggested that the actions of the executive branch were seen as something significant to leverage in the policy process by the witness. This appears to have been a sound strategy, as the executive took the initiative on the file when it had met a deadlock at committee. As the witness explained,

What happened is that they had a working session and it became clear that they were falling short of Republican votes and were not going to get it out of committee. Within a week or ten days of that failure to move it out of committee, EPA announced it was going to do a regulation with the same targets and the same deadline [. . .] The upshot of it was that the White House acted to put forward a regulation that took a long time to wind its way through the court system but ultimately the Supreme Court endorsed the EPA fashions in anticipation of this act or the regulations being adopted. Some of the companies started transitioning their systems and buying pollution credits and mothballing older generation systems. And so we saw a marked decline in emissions beginning within six months of that time. After a year or two, it was showing up in the lake studies – which was phenomenal.

Dan Silver, Executive Director of the Endangered Habitats League in Los Angeles, California, also reported that a key policy priority he had advanced at his committee hearing – federal funding for habitat planning – had been realized. He was unsure of the extent to which his testimony had been instrumental in achieving that policy outcome, but considered it conceivable that it had “provided a reason for some of the Republicans to allow those monies [in the budget] to go forward.” He also related that the ESA had been “under attack” at the time, and yet had survived, musing that he would be happy if he had played a small role in that but would not have been in a position to know whether or not that was the case.

Sometimes the hearing was seen as a success by the witnesses even if at face value everything they asked for as part of their testimony did not get realized. For example, John Robinson remarked that while the amount he asked to be appropriated for multinational species conservation funds was not appropriated in subsequent years, he considered the continued existence of that species fund as a “significant accomplishment in its own right.” Overall, Mr. Robinson shared that his aim in the testimony was to encourage the continued support of Congress for the multinational species programs.

Interviewee Responses: Majority Party vs. Bipartisanship Theory, Money in Politics, and Issue Areas

Many of the interviewee responses had bearing on the three U.S. Congress debates highlighted earlier in this chapter: Majority party vs. bipartisanship theory, money in U.S. Congressional politics, and issue area theories on lobbying. With respect to these debates, the key questions of interest here are 1) Are participants in congressional hearings likely to report that they experienced committees operating a bipartisan manner, and if so how does this impact the prospects for ENGO influence on policy through those committees? 2) How much are committee dynamics affected by more permissive standards for money in politics in the U.S. system? 3) Do the lobbyist-legislator networks described earlier in this chapter figure into the descriptions of ENGO experiences with committees when trying to influence environmental policy – and if so, what roles have these networks played in the process? These questions must be answered in the specific contexts of the various cases, and thus cannot be too generalizable – as we recall from Monk’s (2010) presentation of the case for why quantitatively measuring committee performance is exceedingly difficult.

With regard to the first question on majority party vs. bipartisan theory, it is clear that there were a range of experiences reported by the interviewees. Dan Chu, Executive Director of the Wyoming Wildlife Federation, noted that he had been invited by the Democrats to appear before the natural resources committee and related that not many Republicans (4 or 5) showed up for his testimony. (This is here considered to be a characteristic with negative implications for meta-consensus and deliberative empowerment). He explained that “Republicans in the West are very pro fossil fuel development and they are anti-regulation.” Peter Shelley, Vice President of the Conservation Law Foundation, also commented at one point in the interview that the writing of legislative history in the U.S. “is primarily in the hands of the majority party” without many constraints or rules around that.

On the other end of the spectrum, Elizabeth Martin was emphatic that much of the positive response she got before, during, and after her committee appearance was bipartisan; for example, she cited the joint efforts of House representatives Jim Costa (D) and Tom McClintock (R) in the issue area she testified about. Steven Nadel, Executive Director, American Council for and Energy Efficient Economy (ACEEE), related that he had also been invited to participate in committee hearings by Republicans, and was often brought into the legislative process that the hearings were a part of through communications initiated by congressional staff. Further on the

nonpartisan front, Dan Silver related that it was likely a person in one of the federal agencies who had scouted him out as a witness based on their ongoing work with him.

Mr. Nadel also emphasized the divergence between the two chambers and between committees when it comes to the majoritarian vs. bipartisan nature of proceedings, noting that:

The Senate energy committee is currently a good place for NGOs to have input. The House committee less so; only occasionally are they interested in bipartisan things. I would say in general, the House is more like the parliamentary system: whoever is in charge can basically do what they want, and doesn't care that much about the opposition. Whereas in the Senate you need 60 votes which means you need to get people from the other side, and people tend to be more senior and more likely to work together. However, even in the House there are some things that are more bipartisan; certainly when we did energy legislation in 2005 and 2007 that was done in a bipartisan fashion. In one the Republicans controlled the House, in the other the Democrats controlled the House – but it worked pretty well then. Unfortunately, the House has become much more partisan in recent years; it's much tougher to get stuff done. Although, occasionally we have had bills that everybody supports and it moves through there.

Speaking to the bipartisan nature of committees in the Senate – a dynamic which he actively encouraged as a witness – he recalled,

I think they were legitimately trying to figure out which bills they wanted to incorporate and which ones not. So, my testimony was “here are things that I think will clearly be bipartisan, and here are things that will be more challenging.” I was trying to help sort things for them and got good feedback from the staff saying that this was helpful.

At the same time, a few of Nadel's comments seemed to acknowledge that his particular issue of energy efficiency was more conducive than perhaps other issues were to bipartisan support. He recalled that under President Bush, the desire to accomplish energy legislation – which would require a democratic vote at some stage – led to openness by some Republicans to energy efficiency as a “sweetener” to help achieve their desired legislative package on energy. This suggests that there is a coded approach to environmental policy in the U.S. Congress – with some issues serving as a flashpoint for inter-party conflict, and other issues serving as sites for policy compromise to offset that conflict. The testimony and results of interviews reflected a situation where participants in the hearings could get good results if they were speaking to an issue where underlying conditions (conditions which were sometimes created with the help of the ENGO groups themselves, for example through long campaigns that engaged with different policy actors at the state level) were more fruitful for a bipartisan effort.

On the topic of money in politics, ENGO witnesses stated in interviews that financial contributions from lobbyists have a significant impact on the behaviour of legislators. For example, Dan Chu opined that the hearings he was involved in were not aimed at developing a bill as such, but were arranged for the purpose of “grandstanding” in order to “show the oil and gas folks that they are looking after their interests” in advance of the 2000 election. He also described the erstwhile chair, Don Young, as “very pro-oil and gas.” Mr. Chu recalled that Republican Rep. Mr. Pombo had previously introduced a bill to sell off federal lands, and related that his tone “was to reinforce their story that the NEPA process is onerous and broken, and there is really no need to do due diligence. My premise was saying sometimes it does take time.”

Elizabeth Martin drew a comparison between the state and federal legislatures in terms of the impact money in politics has in each. She noted that it is necessary to contend with “a bunch of professional paid lobbyists” at the federal level even more so than at the state level, and that the two “processes are similar but the scale is very different” in this regard.

Dan Silver argued that interest group dollars driving the campaign system is the single biggest problem in the Congressional system as a whole. He lamented that “we have a system that is institutionally corrupt and we will never have an honest government until money gets out of the campaign system and stops driving it. Otherwise, it’s – you know: we have the best government money can buy.”

We now turn to the question of lobbyist-legislator networks, and whether these exist to the detriment of ENGO witnesses who seek to influence policy through committees. One recurring theme of the case studies and associated interviews is that by the time a witness participates in a committee hearing, they often have already been involved in the legislative process around the topic of that hearing for some time. At face value, this seems to support the competitive, “self-regulating” theory of lobbyists for environmental issues, as it paints ENGO representatives not as outsiders but as important players alongside the industry representatives.

For example, the beginning of his 2003 hearing testimony, the NY-based ENGO representative acknowledged that he had been before the same committee on the same topic three years ago before the legislation in question had been drafted; he expressed appreciation for the fact that two important criteria he had listed in the hearing three years ago included in the draft bill being considered at the 2003 hearing (The Clear Skies Act). Senator Voinovich (R) also commented during the hearing that the Senate or senators had contacted the witness a year ago,

and that since then the witness had shifted from supporting a “more aggressive” program for acid rain prevention to supporting the Clear Skies Act after changes had been introduced to it through committee proposals.

The NY-based ENGO witness provided further context with respect to his organization’s continued involvement in the issue, which he related began “well before 1990” with “a lot of rollercoaster ups and downs.” He was more equivocal of his support for the Clear Skies Act in an interview, noting that while the 2003 bill met his organization’s core objective of protecting the largest state park in NY, his comments supporting the attorney general to enforce the law were aimed at language in the Clear Skies Act that his organization disagreed with, as it served to “excuse non-compliance by a number of coal companies and power companies with other provisions of the Clean Air Act.” Before that committee hearing, he also noted that his organization had been invited to discuss the issue separately with the committee chair – a development that he credited to his organization’s success lobbying the New York state governor to implement regulations on the same issue.

Similarly, Peter Shelley shared that his organization had been involved in the legislative process for the Magnuson-Stevens Act, the specific issue area that the hearings centered around since the 1990s (his hearing took place in 2014). However, he also spoke about challenges that suggested an uneven playing field for types of interest groups. Peter Shelley explained that at the hearing, his organization opposed attempts to add more ‘flexibility’ to the act, noting that “For us, this was really a euphemism for allowing councils to authorize over-fishing on these weak stocks on the basis of some economic argument over stocks.” He stressed that framing the issue of over-fishing in the correct way was important in this hearing, because he related that there is a “confirmation bias” towards explanations for declining fishing stocks put forward by fishers – even if the science does not support such explanations. He remarked that politicians want to support fishers as workers in an iconic New England industry, and shared that in support of his organization’s framing of the situation (that over-fishing is the key cause of declining fish stocks) he had endeavoured to get some of the “more sympathetic representatives who knew the history of the situation to sit in on the hearings and try to counter the perspectives that were being reinforced by the majority witnesses.”

Even where there was no specific piece of legislation dominating the hearing discussions, some witnesses described a good deal of involvement in the process leading up to the hearing.

Elizabeth Martin recalled working with “a number of legislators in developing that hearing” and providing suggestions of experts to call. She related that “We helped them come up with their list, recruited people to come and speak, and that hearing took place after being called for by two Congressmen.”

Given the higher threshold for attention of the legislature in the U.S. as compared to Canada, this may reflect the fact that to participate in legislative committee hearings there necessitates a much higher status within the ENGO sector. However, it still provides some support for “self-regulating” lobbyist theories if one ignores the comparative frequency that environmental issues get seen to in the legislature vs. other high-profile issues.

Suggestions for Institutional Improvement

Most of the interviewees had suggestions for how the committee process could be improved upon in the U.S. House of Representatives and/or Senate, and both agent-centric and structure-centric solutions were brought forward by interviewees. In the former category, Stephen Nadel highlighted the need for changed behaviour among representatives themselves, remarking that “if there is a will to work things out, they make the process work. If there is not the will to work things out, I don’t care if you have a perfect process, you’re just trying to ram something through.” Sometimes a potential fix was seen in the planning and scheduling process, which is determined by committee members. For example, Elizabeth Martin emphasized that the value of committees is greater when the Chair gives a lot of time for questions and answers, as opposed to only giving the proponent of the bill time to speak. Dan Chu suggested that there be protocol against using committees simply to generate debate or attention around an issue, arguing that “there should be a higher bar or more due diligence about what committee work should focus on.”

Elizabeth Martin also brought up the fear that committee witnesses might have about repercussions from participating in hearings, which legislators or staff may be unaware of. Martin suggested that committee hearings should be made safer for witnesses “by not asking them to testify on things that will get them sued or fired,” and by making hearings geared toward open-ended problem-solving.

Other suggested reforms were of a more institutionalist nature. For example, Dan Silver was unequivocal about what reforms need to occur in order to improve the legislative process,

including the committee process, in the United States: Getting money out of the campaign system. When asked to specify some measures that could achieve this i.e. campaign contribution limitations, limiting certain actors such as corporations from contributing, he agreed with these examples and lamented that the Supreme Court will not allow such measures to go forward due to claims that they infringe on the rights of corporations as people. In a similar vein – on the topic of formalized legislative procedure – Peter Shelley provided some instructive context on what is holding the learning process back in committees on fisheries policy, and what could improve this. The following exchange illustrates his point most accurately:

- Shelley: One of the mechanisms that I think has value in the agency process that does not apply to the legislative process is the requirement [. . .] to respond to comments. To sort of identify ‘we put this regulatory proposal out and we got a whole bunch of comments – and some people made these arguments, other people made these arguments, we found these arguments to be persuasive because or we did not find these arguments to be persuasive because [x or y].’ That mechanism does not force them to go your way, but it forces them to come up with a reasoned basis for which they did not go your way. I do not see the legislature ever binding its ability to make political soup by doing that. Certainly in the administrative agency process that admits more sunlight to the conversation than not having that does to the conversation.
- Marlin: So if they are forced to list why they are not responding to something then they have to make that clear. If they come up with radio silence, then even someone who knows little to nothing about the actual details will notice.
- Shelley: To some degree, it makes legislative history more meaningful. The hierarchy in the U.S. is to implement the law as it was passed if what was intended is clear; some judges say that legislative history helps when things are not clear [. . .] Rarely is an analysis given for why a vote went this way as opposed to that way even when there was public support expressed for going that other way.

It is telling that one of the areas where an institutional solution was outlined is one of the same areas where structural determinants have been found in this dissertation’s analysis of the U.S. system: The influence of money in the U.S. political and legislative system. The other suggestion, by Shelley, seems to indicate that deliberation should have to be the evident motivator behind amendments to legislation – as opposed to quid pro quo motivations or alliances with certain lobbyists (in a “subgovernment” type dynamic) that his reference to making “political soup” suggests.

6.6 Conclusion

Using history and functions to understand key debates about U.S. Congressional politics and comparing new data to the literary substance of those ongoing debates, several conclusions emerge from the analysis pertaining to majority party theory vs. bipartisan theory, money in politics, and lobbyist-regulator relations in the context of congressional committees.

In the first instance, there were different views expressed pertaining to the debate about bipartisanship vs. majoritarianism in Congress. The quantitative data on committee witness representation supports bipartisanship theory about the U.S. Congress as a whole – providing support for the notion that the US has a relatively bipartisan committee process compared to Canada. However, findings speak to the level of causal complexity for legislative influence by ENGO witnesses; for example, there were persuasive comments from ENGO witnesses about the Senate committees operating in a more bipartisan fashion than the House. Relevant to this debate was that the later analysis of the proportion of ENGO witnesses at hearings unearthed no particularly notable correlations. For example, there were no clear differences in the proportion at times of high party discipline and/or party control over committees. In fact, what was apparent from this data was a more or less constant percentage of ENGO witnesses represented in the hearings. Some of the responses of interviewees pointed at one possible explanation for this: the high involvement of committee staff and government bureaucrats in suggesting witnesses to invite to testify.

Where money in politics is concerned, nearly all witnesses gave strong indications that this was a big impediment to ENGO influence on policy – as more well-resourced interests are in a better position to use money to gain influence. The ways in which interviewees described this issue provided a picture of a problem that is structural nature – and, given more permissive rules on corporate political financing than in countries like Canada, an institutional nature. The confirmation of the significant role that money in politics and dynamics like subgovernments were found to play in the committee system provides evidence of structural factors impacting committee dynamics and outcomes.

On the issue of legislator-interest group networks, many of the interviewees gave indications that they were engaged with on an ongoing basis for legislative matters (and thus were not shut out of an exclusionary lobbying enterprise or subgovernmental system); however, a few also gave the distinct impression that they were at a clear disadvantage in comparison to industry

interest groups that were the more established allies of a majority of committee members. While the idea that lobbyists are inherently “self-regulating” through their competition is rejected in my analysis, more research on this issue is perhaps necessary in order to make any determination of whether or not ENGOs are *consistently* at a disadvantage when it comes to influencing both Republican and Democrat majority Congressional committees.

Turning to the analysis of individual witness case studies within the U.S. Congress, there were a number of instances in which outcomes reflecting the expressed preferences of ENGO witnesses arose from the hearings. Within this set, hearings at the Senate committees were more likely than House committees to have outcomes that matched ENGO preferences at the committee stage, but were less likely to have outcomes that reflected those preferences past the committee stage. Likewise, while committees taking place under a chamber i.e. House or Senate held by a Democrat majority were more likely than those under a Republican majority to have committee-level outcomes that match ENGO preferences, the opposite was true of outcomes past the committee level. To be sure, the differential in committee-level outcomes between the Senate and House and between Democrat majority and Republican majority committees was a good deal greater than the differential at the overall outcome level: There was a 40% difference in the former category, compared to a 13.4% difference in the latter category.

A legislature-wide indicator of increasing institutionalism in the U.S. Congress was the rising levels of party discipline seen in Table 8, particularly in the House. As with the Canadian case, outcomes fared worse for ENGO witnesses in periods where party discipline was higher.

The correlations between deliberative factors also suggested different causal stories at the committee level and overall outcomes. As with the Canadian case, hearings in which questions posed to ENGO witnesses were coded as information-based, problem-solving and perspective-based fared the best in terms of committee-level outcomes that matched expressed ENGO witness preferences. Also similar to the Canadian case, those hearings in which questions were coded as hostile (or in one case, open-ended) had the most negative committee-level outcomes in that respect. However, this dynamic was less palpable when looking at overall outcomes, as one of the positive committee-level outcomes was followed by a negative overall outcome – and the reverse was true of the case where questioning was coded as hostile.

Similarly, the results for meta-consensus showed a decisive correlation between evidence of meta-consensus and committee-level outcomes reflecting ENGO preferences; the only two

cases that did were not identified as having an expression of meta-consensus in their deliberations were also the only two cases with negative committee-level outcomes. However, this effect was diluted at the overall outcome level: one of those cases with no meta-consensus had a somewhat positive overall outcome, and one of the cases which had evidence of meta-consensus saw a positive committee-level outcome turn into a negative overall outcome.

As the differences abound between the Canadian and US legislatures when it comes to the dynamics of influence, so too do the suggestions of ENGO witnesses for improving the system. Notably, they do seem to dovetail with the central debates discussed in this chapter i.e. solutions to limit the influence of money in politics, checks on the subgovernment system in the form of comments justifying the policy merit for amendments, and emphasizing the importance of a constructive, non-partisan or bipartisan approach by committee members.

Chapter 7: Environmental Committees in the Russian Legislature under the Yeltsin and Putin/Medvedev eras

7.1 Introduction

Thus far, this dissertation has focused on the legislative workings of two relatively uncontested democracies; the status of the U.S. and Canada as democracies are called into question by few observers – although there are some new studies contesting that the U.S. has devolved into a qualified democracy.⁶⁴ By contrast, any descriptions of Russia as a democracy are almost always preceded by qualifiers such as “managed” (i.e. Roberts, 2013; Krastev, 2006; Wegren and Konitzer, 2007; Yavlinsky, 2006; Pavlovsky, 2012; Richard Sakwa, 2011⁶⁵). This chapter does not dispute that such qualifiers are representative of Russia’s regime. However, from the outset it does seek to dispel notions that there is no utility in examining Russia’s legislative system.

The comparison of Russia’s system to the other two is considered a potentially fruitful one for several reasons, chief of which is that the inclusion of Russia in the three-country comparison extends the scope of the analysis to cover a range of systems that is not limited to unqualified democracies (more starkly put, it covers both more democratic and less democratic regimes). Also keeping in mind the fact that Russia is a semi-presidential system unlike the other parliamentary and presidential systems, the intent of this comparison is to shed new light on the features of committee behaviour and influence in the context of environmental hearings and policy making – across quite distinctive political systems. The level of ENGO influence is not taken to be an automatic extension of the level of democracy in a regime, and if such levels are

⁶⁴ Martin Gilens and Benjamin I. Page. 2014. “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens.” *Perspectives on Politics*. Volume 12, Issue 3 September 2014 , pp. 564-581.

⁶⁵One explanation of the regime type “managed democracy” as applied to Russia is provided by Sakwa (2011) is that the Russian regime is characterized not so much by authoritarianism (as is often asserted) but by a sort of technocratic managerialism that evades mass influence but abides by the constitution and other important institutional parameters.

found to be similarly low across all three systems then it raises troubling questions about the dynamics within these legislatures.

In short, the identification of any shared dynamics within these three very different legislatures that lead to more or less ENGO influence through committees could lead us to unearth new truths about ways to open up policy-making to outsider influence – in ways that are perhaps not captured by more macro-level discussions of regimes. For example, we might consider that the three countries studied have extraction-intense economies, and explore how that manifests itself within the respective legislative systems to limit the extent of outsider influence by ENGOs through legislative committees.

However, as with the other country cases, I will begin with a series of within-case comparisons that will comprise this chapter before moving on to compare the three countries together. Here, I will critically examine an apparent decline over time in the level of democracy in Russia (higher under Yeltsin, lower under Putin and Medvedev), building on the work of others to present the view that the “managed” model of democracy in Russia in fact precedes the Putin presidency in the post-Soviet era. Applying this to the specific study of ENGO influence through committees, I will examine to what extent observable dynamics in Russia’s regime under the two presidents became manifested in the legislative committee process to help or hinder the transfer of policy priorities from the ENGO community to the legislature.

I will also argue that the notable differences between the power bases enjoyed by the Yeltsin presidential era and Putin/Medvedev presidential era each brought with them their own set of potential inhibitors to ENGO influence through legislative committees.

Overall, I will posit that fluctuations in ENGO influence through the Russian legislative committees – based on changes in committee composition, capacity, independence, and functions – reflect some of the strengths and weaknesses of the Yeltsin and Putin/Medvedev regimes, but do not consistently follow any dominant chronological narrative of democracy’s development or decline in post-Soviet Russia. This is the starting point for this chapter’s answer to the central research question.

Placing this last case study in context with the previous chapters on Canada and the U.S., I will highlight that the democratic deficiencies of the Yeltsin-era legislature bore similarities to the U.S. Congress with a relative lack of party discipline, influence of money in politics, and independent role of the president. Putin’s building of alliances within the Duma was more

effective at overwhelming the opposition parties than any minority government coalition in a parliamentary system, but a connection will be drawn to the parliamentary dynamics of that as well. Once a majority alliance had been accrued by the ruling party in the legislature in the mid-2000s, party discipline was exercised to a greater extent – a dynamic that I will note has played out in a similar fashion in parliamentary system contexts like Canada, albeit in a more consistently politically competitive environment i.e. with stronger political parties.

There is further complexity that is found in the Russian context, beyond these comparisons. Where the Yeltsin-era legislature's similarities with the U.S. Congress end is that there was a lack of capacity for certain legislative functions in committees. This meant that while legislators may have been afforded a high degree of independence, there were few opportunities for ENGOs to use this independence to their advantage by appearing at committee hearings. Moreover, while legislators could act with more independence under Yeltsin, deputies, legislative staff and the Russian media have attested that votes from legislators could be bought for the equivalent of tens of thousands of dollars – reportedly going as high as \$20,000 to \$30,000 (\$30,202.88 to \$45,123.37 in 2018 USD) for swing votes in the Yeltsin impeachment hearings of 1999 (Merritt, 2000: p. 170).

There was also a very high level of presidential vetoes exercised in this period (Yeltsin vetoed more legislation from the Russian Duma during his presidency than any U.S. President in history), adding to the degree of inter-parliamentary conflict that I will argue captivated the attentions and efforts of legislators at this time to the detriment of more constructive pursuits such as policy consultation through committees. Where the Putin/Medvedev regime has had such similarities with other parliamentary systems as high party discipline, it sets itself apart from those other systems chiefly through the low level of party competition in the Duma. This is an important factor, particularly if we build on findings in the two Canada chapters that minority legislatures are associated with greater degrees of ENGO influence through committees.

This chapter, consistent with the other chapters on Canada and the U.S., consists of three parts. I begin with a description of the Russian legislative process and an overview of historical developments in that legislative process. This is followed by analysis of party discipline, and its relationship to ENGO influence. The third part focuses on analysis of case studies and interviews with ENGO representatives who participated in Duma or Federation Council committee hearings. The time period for this analysis (1996-2015) spans two distinct eras in Russian political and

legislative history. The presidency of Boris Yeltsin (1991-1999) can be characterized as one of “Wild East” privatization and federalization, while the Putin-Medvedev presidency (1999-present) is one that is associated with re-centralization and re-nationalization (Djankov, 2015). The evidence collected from these two eras reflects that while the Duma and Federation Council ceased to be de facto veto players post-2003 and this did have negative ramifications for ENGO influence in the post-2003 era, the extremely low levels of engagement with ENGOs on environmental policy through legislative committees in the Yeltsin era meant that there was actually some institutional improvement at the committee level in the Putin/Medvedev era.

In addition, the evidence from interviews with ENGO witnesses provides insight into what has been a consistent factor of consideration across the three country case studies: Issue framing. Several interviewees in the Canadian and US studies spoke about their efforts to get legislators to connect with their priorities by appealing to the constituency-level concerns of particular committee members. The finding with respect to issue areas in Russia suggests that in the Putin/Medvedev era, framing arguments in certain ways i.e. describing environmental priorities as they pertain to economic indicators, is an important factor in terms of having arguments raised in the legislature resonate with those in power.

7.2 Russia from 1996-2015: A Comparative Analysis of the Yeltsin and Putin/Medvedev Eras

To begin to discuss Russia as a country case, it is useful to establish the extent of differences within the country case throughout the period of study in order to set it against the background of two less tumultuous political contexts (Canada and the U.S. from 1996-2015).

The conventional view of Russia’s democratic trajectory in the West is represented in a simple fashion by the policy institute Freedom House. With its Freedom In the World Index, Freedom House first began to look at Russia in 1991, designating it as “partially free,” then downgrading it to “not free” for the first time in 2005 – citing “further concentration of executive power” among the reasons for the status change. It has been designated as “not free” in the Index ever since.

Academics and political dissidents in Russia have not taken issue with the implications of Western critics on the state of Russian democracy per se, but have indicated that the timeline of

the conventional Western narrative is at odds with their understanding of events. For example, Grigory Yavlinsky – a mainstay of liberal democratic Russian political opposition since the early 1990s and the head of the Russian political party Yabloko – has stated that after Yeltsin’s 1996 election victory, Russia gradually transitioned into a “corporatist and criminal” system – becoming the “managed democracy, or quasi democracy” (Yavlinsky, 2006) that Western observers have more recently declared the regime to be. Similarly, Russian sociologist and political dissident Kagarlitsky (2002) recalls that 1999 was the year in which Western newspapers such as *The New York Times* and *Corriere dell Serra* began focusing on issues such as state corruption in Russia. However, Kagarlitsky writes that these same reports had circulated in the Russian press and in Russian politics for years (1995-1996 was one example given), to the extent that “such information had been readily available to Western journalists and diplomats for years, who steadfastly ignored it” (p. 226). To be sure, Foreign Affairs magazine had been slightly ahead of the curve in this regard, publishing a piece by Yavlinsky alleging widespread corruption in Russia in June 1998.

Ivan Krastev of Bulgaria’s Centre for Liberal Strategies drives this same point home when he states that “Managed democracy as a political project and as a political practice did not start with Putin. It was already in place during Boris Yeltsin’s second term (1996–2000). Putin was not the inventor of managed democracy in Russia, though he has been its principal beneficiary” (Krastev, 2006: p. 54).

At the same time, it is necessary to make the distinction that this dissertation does not treat the issues experienced in the Russian political system as simply inherited from the country’s Soviet predecessor. Indeed, it is important to note that according to some Russian political scientists, such as Sergey Rostov, the most promising era for things like freedom of the press in Russia was actually in the late Soviet period (the 1980s, during Glasnost) to the early post-Soviet period in 1994. He argues that a poor 1993 constitution which overly privileged the executive is largely responsible for weaknesses in the legislature (Desai, 2006: p. 299).

Yavlinsky has also discussed this issue, noting that in contrast to the “totalitarian” Soviet system that “destroyed democratic and civic institutions as they appeared,”

The prevailing managed democracy is not destroying these institutions, but the major institutions are being controlled to serve the needs of the executive authority. Thus, the private TV networks have been abolished; the elections are being manipulated; and the judiciary is subservient to the Kremlin’s political authority. The lack of freedom of these

three cornerstones of a liberal political system is the chief attribute of the current managed democracy.” (Desai, 2006: p. 277)

One notable aspect of this quote is that the illiberal nature of Russia’s democratic system is characterized as stemming chiefly from the subservience of three institutions to the executive branch: The media, the judiciary and the (lack of) independence in the electoral system. As an entity in and of itself, the *legislature* is not indicted in this list, which is significant given that a legislature is a central institution – some would argue *the* central institution – in any democracy. To be sure, this omission by Yavlinsky of the legislature should not be seen as an endorsement of that system, and those who contend that legislatures are only as strong as their members would see these systems as being automatically compromised by any shortcomings of the system that elects the legislators. Moreover, Merritt (2000) has provided arguments both for and against a cynical view of the Russian legislature’s ability to operate independently, and Ostrow (2000) has indicated that the legislature could be a potential site of democratic development in the post-Soviet era.

The takeaway from these accounts is that the Russian legislature is an intriguing area for investigation; keeping in mind that the period of study came after the late Soviet period where vibrant ecological movements rose to prominence, I was particularly interested to examine whether some of the successors of those movements were able to work through the venues of legislative committees in Russia to contribute to environmental policies.

Experts and practitioners with considerable insight into the Russian political system such as Krastev (2006) and Pavlovsky (2012) have also suggested that the objectives of what is driving managed democracy in Russia are not primarily ideological in nature – but are the product of calculations of “political technologists” on how to serve a clientele of powerful interests that make up the support base of the government. If that is the case, then it would be reasonable to suppose there is a distinct possibility that legislators even from the majority party could be open to policy input from ENGOs through committee hearings on certain issues. These possibilities will be explored in this chapter by combining new analyses of voting records with existing studies, and by contemplating how new input from interviewees can be conceived of in the context of existing accounts.

7.3 Understanding the Russian Legislature

The Legislative Process in Russia

Russia has a semi-presidential system, with separate presidential and legislative elections. The legislative process in the Russian parliament is largely executive-driven. The executive can draft legislation and veto it – although this is subject to being overridden by the legislature in the case that there is a two-thirds majority to support it. The president may also issue decrees, which are much like the use of executive orders in the U.S. or Crown prerogatives in Canada for decisions on matters related to foreign affairs and Orders In Council (Lagasse, 2012).

Legislative bills, whether they are drafted by the executive or by the committees themselves, are then developed and reported on in the Duma committees – except for those that are the purview of the Upper House (the Federation Council). The consideration process for the first reading of a bill is similar to the Canadian system; that is, it is done without much discussion or debate. If a bill passes first reading, it is sent back to the committees, which then consider possible amendments that could be made to the bill. Where it differs from the Canadian system is that the amendments made in committee then are subjected to a clause-by-clause consideration by the House at large, as opposed to within the committee as is the case in Canada. After this stage, there is a vote on the bill as amended in the House to pass the bill through the second reading stage, after which it is sent to the committee for final editing and then is subjected to a third reading vote and a subsequent fourth reading vote for budget bills (Remington, 2007).

Once a bill passes through the House, it is up to the Federation Council to approve it or send it back to the House in the same way that the Canadian Senate would – with the exception that the Duma can overturn the Federation Council veto if two thirds of the House vote in favour of this. The Council of the Duma is similar to the Canadian Cabinet in that it functions as a steering committee that determines the parliamentary agenda. However, it is comprised of more than the governing party; besides the Chairman of the Duma (similar to the role of House Speaker in the United States) there are secondary positions called deputy chairmen who make up the Council, and these individuals hail from the different parties in the Duma. Committee chairs also get votes on the Council of the Duma. The Duma can also create new parliamentary committees at will, and created six additional committees for the purpose of providing parties with a new corner of policy influence from 1994-2002 (Remington, 2008).

A study of the legislative process in Russia from 2000-2003 by Thames (2010) stated that “while amendments that committees do not support can be approved on the floor of the Duma, this was relatively rare. Thus, Duma committees played a significant role in determining the contents of bills.” (p. 137). However, draft legislation has somewhat recently been subjected to an additional stage before formal consideration. As Remington (2008) explains,

a practice has evolved whereby much of the bargaining over legislation occurs in the so-called ‘zero reading’ stage. This refers to the consultation between the government and its supporting factions in the Duma before a bill is ever formally submitted to the Duma [. . .] by the time the legislation is voted on in first reading, all the major decisions regarding its provisions have already been agreed upon between the government and those factions that can ensure the bill’s passage on the floor (p. 136)

From a more process-oriented perspective, Members of the Russian committees do not engage as much with witnesses at the committees compared to the Canadian and even the U.S. committees.

History of the Duma and Federation Council

The history of the Duma and Federation Council is a short one, as the constitution of the Russian Federation has only existed since 1993. To briefly touch on the lack of democratic capacity in the Soviet legislature that preceded that constitution, a 1957 resolution by the Central Committee of the CPSU (part of a series of resolutions considered a watershed in terms of local government reforms in the USSR) which laid bare the fact that the Soviets were unaccountable and inactive, with the Standing Committees having existed “only on paper” (Friedgut 1978, p. 464). However, it is also worth noting that even at this time, Friedgut observed that standing committees in the USSR were “organizationally not dissimilar to parliamentary or Congressional committees in the British or American systems” (476) and faced similar problems in terms of their disuse.

In 1993, a new constitution was introduced which set in place the institutional makeup of the legislature (among other things) of the Russian Federation. Russian political science professor Sergey Rogov has expressed concern that this 1993 Russian constitution “gave enormous authority to the executive without appropriate checks and balances”; for example, he noted that it contained a loophole allowing policy measures to be adopted through presidential decrees and resolutions from the bureaucracy that bypassed the legislature. He recalled that this loophole was frequently taken advantage of under Yeltsin, especially with respect to sweeping asset privatization policy changes (Desai, 2006: p. 81).

Relations between Yeltsin's inner circle and the Russian Duma were distinctly acrimonious: his advisor Anatoly Chubais remembers that one of Yeltsin's prime ministers, Sergei Kiryienko, was "battling the left wing of the Duma" in 1998 at the same time as he faced political pressure from the oligarchs. The Duma even had a "failed impeachment" of Yeltsin in that period (Desai: 2006: 134-136). Moreover, there are suggestions that Yeltsin's close relationship with erstwhile U.S. President Bill Clinton contributed to a circumvention of the Duma in that period. Strobe Talbott, who served in the Clinton administration as an Ambassador-At-Large, reminisced in 2000 that "Bill Clinton bonded with Yeltsin. Big time. And he used that bond to get Yeltsin to do things that were hard for Yeltsin but important for us." Talbott confirms that much was "solved" at the presidential level at that time in this manner. (Desai, 2006: p. 242-247).

Electoral Reforms and their Implications on the Legislature

Electoral reform has been considered one of the most important mechanisms of the Post-Soviet Russian political system, and has especially been associated with Putin's power consolidation by Freedom House and others. However, it is interesting to note that as of 2014, Putin's changes to the Duma electoral process came full circle – so that the system for Duma elections is now as it was in 1993: a mixed-member majoritarian (MMM) electoral system with a threshold of 5% of the vote for recognized political parties. In 2002, the threshold for recognized political parties was raised to 7%⁶⁶ before being reduced again to 5% in 2014, and from 2005-2014, a fully proportional representation (PR) system was introduced for Duma elections. What is interesting is that both the 2002/2005 and 2014 electoral reforms, which did opposite things, were decried as mechanisms for the consolidation of executive power. We can recall that in 2004, Boris Nemtsov warned that "the abolition of single-member constituencies will destroy genuine opposition in the Duma. Independent opposition deputies, elected in single-member contests, are generally more critical than party-affiliated members." (Desai, 2006: p. 223). Moreover, these reforms were highlighted by Freedom House as a key reason why Russia's status changed from "partially free" to "not free" in 2005.

⁶⁶ The 7% threshold in 2002 was not applied to the Duma elections in 2003, which according to Tuchenko and Shevchuk (2015) was based on the executive's compromise with the Duma.

However, after the Duma electoral system was changed back to its original iteration in 2014, not only was this not celebrated but it was decried in the same manner as the 2005 reforms. A writer for the *Washington Post* stated that United Russia's domination of the Duma following the 2016 elections "was ensured by a new system of head-to-head contests in voting districts" (Roth, 2016) despite the fact that the 'new system' was in fact a return to the pre-2005 status quo. Roth was rightly struck by the fact that while United Russia only eked out a small Duma majority under the PR system in 2011 – getting 52% of the seats with 49% of the vote – the party in 2016 was able to gain a 79% majority in the Duma with only 54% of the vote. However, Turchenko and Shevchuk (2015) point out that the MMM system was originally enacted by Yeltsin alone by presidential decree, in order to "maximize the representation of the pro-presidential political forces among the Duma deputies" (p. 7). When the 1993 election showed that this would not in fact work in the president's favour, he attempted to pass another reform that would reduce the number of PR seats in favour of more single-member plurality (SMP) seats in the MMM system. However, the reform was significantly amended in the legislature, so that the MMM system was largely preserved.

The saga of electoral reform for Duma elections seems confusing, except if we consider that each reform has its own advantages and disadvantages for political control. More SMP positions in a MMM system could be considered more favourable to the success of pro-government parties, as evidenced by Yeltsin's preference for them, which eventually played out in the difference between the 2011 and 2016 Duma election ratio of seats to vote percentage. The advantage of the PR system is that it affords more executive control over the party members, which Turchenko and Shevchuk (2015) assert was the goal of the 2014 reforms. If we flip that on its head, we can begin to see positive connotations for each situation: While in 2011 the PR system nearly lost United Russia its majority in the legislature, the 2016 Duma election brought with it "a large number of newcomers" from whose ranks a political analyst quoted in the same *Washington Post* article stated are less so "representatives of business, more are representatives of what you would call grass roots" (Yevgeny Minchenko, quoted in Roth, 2016).

The Putin administration made another important change in 2005 that was reversed in 2012 by Medvedev: ending the Federation Council governor elections and introducing an appointment process whereby Moscow chooses from elected representatives of a region. While the governors were often decried for corrupt behaviour by a number of political insiders in the

Yeltsin period, some of those same actors described Putin's way of addressing this common concern as rash and harmful (Desai, 2006). The appointment model for the Upper Chamber is not one that is unknown in other contexts – Canada, for example, has this model. However, in other notable semi-presidential systems such as France, regional governments elect the members of their Upper House without being appointed by the president. Ukraine is a semi-presidential system where the regional governors are appointed directly from Kiev, but this has been a contentious point that has caused calls for reform in the Minsk II treaty and elsewhere.

Perhaps it was this type of controversy that caused Medvedev to return to the gubernatorial election system in 2012 – something that was welcomed in the West and by Russian opposition activists, who initially saw them as providing a better chance for them to beat United Russia candidates in regional elections (Semenov, 2017). Black (2015) has also suggested that Medvedev reforms cumulatively had the effect of increasing the Russian public's trust in the legislature from 2007-2011, with those stating that they “fully trust” the two chambers nearly doubling (from 12% to 21% in the Duma, and from and 13% to 21% in the Federation Council). By contrast, there was a reduction in the levels of trust for the president in that period that was followed by even more marked decline in presidential trust in 2013 – from 64% in 2007 to 63% in 2009 and then 55% in 2013 (p. 73).

However, as Goode (2013) and Semenov (2017) have described, the Kremlin and regional incumbents maintained something close to the post-2005 status quo in the Upper Chamber through more subtle means, bringing to mind Krasnev's emphasis on the role of political strategists in Russia's managed democracy. For example, Semenov describes a “containment strategy” with tactics such as “framing the opposition as unviable and weak, mass mobilization of support for the regime, restrictive amendments to multiple laws regulating political and civic life, selective law enforcement, and coercion” (p. 48). Goode expounds on certain “filters” that were mandated by the law that brought back gubernatorial elections in 2012, including consultations between the Russian president and the heads of political parties in Moscow. Goode suggests that these serve to both to downplay the role of the parties' regional leaders and to enable the president to influence their decisions. Another mechanism included in the law is that candidates must gain the signatures of 5–10% of local council deputies and elected municipal leaders in the region – including 75% of municipal bodies in that region. Where opposition candidates have received signatures from the same people as the ruling party

candidate, Goode notes that signatures have been subtracted from the former of the two candidates. Another limitation is that the president can remove governors for a number of reasons i.e. corruption or failing to resolve ethnic clashes; on those grounds, the president can appoint an acting governor until the following election cycle. As a result, he noted in 2013 that

When Boris Yeltsin's appointed governors were put to the test in the first large round of gubernatorial elections in 1995–7, nearly two-thirds of his incumbents lost office. By contrast, it is particularly telling that none of Putin's or Medvedev's appointed governors have lost office in the 13 gubernatorial elections since October 2012 (p. 11).

We can deduce from this that there is not a great degree of independence that exists in reality between the members of the Upper Chamber and the executive. As a counterpoint to this, Andrei Semenov's study of 84 regional elections from 2012-2016 found that the number of effective parties in each regional election increased by 2013. He explained this difference as a result of political learning, noting that while incumbents "actively manipulate the legal and political framework, the opposition tries to exploit elite fractures and use organizational power to attract voters and entrench its position in the electoral arena" (p. 481). As a result, he points out that opposition groups had some success in beating incumbents in the 2016 regional elections.

What is more clear cut in terms of the positive or negative connotations of electoral developments in Russia is that when it comes to the number of political parties in the Duma, there has been a steady reduction over time. The 1993 election resulted in a minority government with representatives from 11 parties, but in 1996, the number of political parties had been reduced to 7; in 2000, the number of recognized parties in 2000 stayed at 7, and then were reduced to 4 in 2004. The most notable of these changes was due to the merger of the Unity, Fatherland-All-Russia, the People's Deputy and Russia's Regions parties to constitute the Putin-led United Russia party in 2001 (Remington, 2008). This shows a steady trend of political consolidation right from the beginning of the Russian Federation's political system, setting the stage for a long sought-after majority in the Duma that was achieved by United Russia in 2003.

The Development of Committees

After the dissolution of the USSR, there was the same steady development of parliamentary committees that occurred in Canada some decades earlier. The Duma (the lower house of the Russian Parliament) created six additional committees for the purpose of providing parties with a

new corner of policy influence from 1994-2002 (Remington, 2008). The powers of the chairmen were reduced in 1993; however, there are other signs that there was a qualitative improvement in the use and significance of committees at this time. Ostrow (2000) in particular credits Russia post-1993 for establishing an effective committee system that met the same standards of effectiveness and impartiality that is expected of the U.S. legislative committee system. He notes that the new Russian Federation set up a legislative regime that provided committees with “wide authority over their issue areas while at the same time constraining them to coordinate activities and cooperate to produce consensual outputs” (47).

As will be discussed in the section on an empirical analysis of the legislature (7.4 in this chapter) legislative committees in Russia have indeed been found to have been places where legislators acted more independently from their parties than in the wider legislature in the First, Second, and Third Dumas. We will also see that non-government parties have had control over a number of committees via chairmanships throughout the history of the Russian Federation.

The Public Chamber

In line with the Russian tradition of having citizens adopt some aspects of state institutional processes to participate in the system, Putin established a Public Chamber (also known as the Civic Chamber) at the federal level in 2005. The role of the Public Chamber was ostensibly to provide a venue for publicly-sourced counsel to the Lower Chamber of Russia’s parliament on social issues; per others, it is another way for the executive to control NGOs (Krastev, 2006: p. 57). The Public Chamber’s reading of draft legislation is sometimes referred to as “Zero Reading” as it is seen as an unofficial stage that a bill passes through before First Reading of bills. This is not to be confused with the aforementioned pre-determination of bills at the executive level, which has the same term but is used in a separate context (Henderson, 2010). The membership of the Public Chamber broadly represents a cross-section of professions. Currently, it is comprised of 22 academics, 16 political or economic analysts, 14 lawyers, 12 journalists or authors, 15 artists, 8 religious figures, 7 entrepreneurs, 5 doctors, 4 educators and 23 with occupations in other fields (Civic Chamber of the Russian Federation, 2015).

The most substantial amendments that have been enacted directly through the federal Public Chamber since its creation have been in the realm of laws directly pertaining to NGOs. For example, the federal Public Chamber revised a 2006 law setting forth new regulations for the

nonprofit sector to purportedly make the law less draconian.⁶⁷ The negative impact of this 2006 legislation is an oft-cited subject of frustration for NGOs in Russia; however, as a counterpoint to this, Henderson frames these changes as the application of a sort of civil society “import substitution” model (p. 254) wherein the state uses both the values of internal funding and restriction of external inputs to create a more nation-centric third sector. She asserts that the effects of this model for NGOs has in fact increased the role that NGOs play in policymaking – pointing out that while Russian hostility to outside donors for NGOs is often portrayed in the West as simply anti-democratic, and causes the recipient organizations to seek renewal and growth of funds in ways that alienate them from their areas of representation. Experts in international civil society such as Marina Ottoway (2000) have given credence to Russian concerns that Western donors shape the organizations they fund through their funding criteria.

7.4 Empirical Analysis of the Legislature

Measuring party discipline

In terms of measuring party discipline in the Russian Duma, Chaisty (2006) has provided the most comprehensive up-to-date account. Using a method called the Rice Index (which looks at the absolute difference between yes and no votes in a party and indicates the level of party discipline with a score between 0 and 100, with higher scores indicating higher levels of party discipline) Chaisty (2005) found that there had been a steady rise in party discipline in the Russian Duma from 1993-2003. While the years before 1996 are not included in the study, it is interesting that the sharpest jump in party discipline took place from 1993-1995. Nevertheless, a steady upward trend in party discipline can be observed in the dates of interest for this study (Table 12).

⁶⁷ Among the 2006 law on NGOs in Russia’s more controversial elements are that foreign funding transfers to Russian NGOs would be contingent on the purposes for the funding being considered to be in the country’s public interest; the provision of more room for government supervision of NGOs in the form of requesting documentation and directly surveilling group, and the ability for a group whose mandate threatens “the national interests of the Russian Federation” to be denied status.

Period	Voting Cohesion Rate Percentage
1996-1997	83
1998-1999	86
2000-2002	89
2002-2003	92

Table 12 uses the same methodology as for the Canadian parliament: Bills from 2nd and 3rd reading are used. Here, the first 24 votes from the beginning of 1996 are used as data. Then, a similar sample from after the 2003 election and the 2008 elections are taken. The results show a great increase in party discipline, then some relaxation.

	Jan. 16, 1996 to May 22, 1996	Oct. 13, 2004 to Nov. 26, 2004	June 3, 2011 to June 28, 2011
Government Bills	79% (Yabloko, Communist, Russian Regions, Our home - Russia, Agrarian and People's Deputy)	16.6% (Homeland, Communist and United Russia)	29% (Just Russia, Communist and United Russia)
Private Members' Bills	N/A	N/A	N/A
Total	79% (19 votes of 24)	16.6% (4 votes of 24)	29.1% (7 votes of 24)

These tables present a picture of party discipline that was most marked in the first years of the United Russia party merger, but remained well above 1996 levels in more recent years. This shows the immediacy of the effect that the merger had, possibly due to the fact that the governing party at the time initiated this merger and thus immediately had significant powers over legislation as a voting bloc as soon as the merger was complete. The findings also appear to more or less support assertions that under Yeltsin, parliament had de facto veto powers that

counterbalanced the presidency, but under Putin and the parliamentary domination of the United Russia party, the Duma had been reduced to an “instrument which smoothly passes Putin’s legislative initiatives into law” (Remington, 2007 p. 121). Yet, if we compare the numbers to the party discipline tables in the first Canada chapter, we can see that the numbers are very similar to the percentage of votes against one’s own party under majority parliaments – where numbers were as low as 16%. Moreover, the number of votes against one’s party under Yeltsin’s minority Duma is comparable to the data in the first Canada chapter on minority parliaments, where numbers are as high as 89%.

Duma Committees: Sites of Divergence from Party Discipline?

Despite the upward trend of party discipline from the beginning of the time period for the study and 2015, there are indications that a different dynamic was playing out at the committee level. In the First, Second and Third Dumas (1993-1995, 1995-1999, and 1999-2003, respectively), Chaisty’s (2005) study of voting behaviours and party dynamic at seven legislative committees – the “Agriculture, Budget, Economic, Industry, Natural Resources and Property committees in all three Dumas, plus the Energy and Finance committees in the Third Duma” (p. 306) showed a divergence between the parties and the members on the committee. This finding is particularly interesting given that Chaisty also noted a rise in party discipline in the wider legislature during the same period – something for which he himself finds no conclusive explanation. He specifies in a statistical study on the topic that

Both the median and means tests used to compare the difference between the vote ratings of committee and non committee party members show some evidence of significant divergence in voting behaviour. In around half of the cases observed, more than 10 percent of party members lie in the gap between the medians of committee and non-committee party deputies (p. 310).

To be sure, the results varied from committee to committee in this study, and Chaisty also noted that the Natural Resources committee was one which did exhibit “a relatively high level of divergence” but did not have a high number of votes to contribute to the data. However, it would be unheard of in the Canadian context for votes at committee to diverge from party preferences in any consistent measure, let alone 50 per cent of the time.

Between the 1999 and 2003 elections, an alliance was formed between United Russia and the Communist Party when Gennady Seleznev of the Communist Party was elected to be Speaker of the Duma. Communist representatives were also given a number of committee chairmanships as part of the power-brokering arrangement that existed at the time. Former acting prime minister of Russia and advisor to Yeltsin Yegor Gaidar surmised that this was done in order to prevent an alliance forming between the Communists and the Fatherland – All Russia Party. He also related that Seleznev was a weak, easily-manipulated politician, and remarked that the Kremlin through this arrangement was “delivering cars and dachas to the Communists in the Duma committees, but key Duma committees are still controlled by people who are easy for the Kremlin to deal with” (Desai, 2006: p. 146-147). Gaidar’s low opinion of the policy strength of the Communist party might easily have been based in his experiences managing dissent from the party during the Yeltsin years; as noted previously, there had long been reports in Russian newspapers that vote-buying was rampant in order to secure approval for pro-government legislation by opposition parties (Merritt, 2000 and Kagarlitsky, 2002). Moreover, the policy footprint of political parties in the First, Second and Third Dumas Chaisty (2005) was less than might have been expected. For example, during the autumn 1998 session, Chaisty noted that “the numerical dominance of leftist oppositional parties in the Second Duma left no imprint on the breakdown of bills” (p. 308) as there were only three bills each from the Communist alliance and the Our Home is Russia party, and only one bill from the liberal party Yabloko. What is more, Chaisty noted a similar trend for pro-government parties, even extending to the end of the Third Duma.

It may be considered that these are indications of legislature-party-executive relations in which partisanship is certainly present but is less strictly about ideology and policy content than about some other end i.e. power. Observations of developments in the Third Duma seem to support that notion. For example, in 2000, the late Russian politician (and political insider in the Yeltsin administration) Boris Nemtsov observed Putin’s “Unity Bloc” has “little scope for discussion or internal debate.” It comprised at the time one-third of the Duma, with the Communists taking up another third and liberal groups comprising another third (Nemtsov was part of the liberal third). It also brought the trade unions on side (p. 208). However, this did not discount the party’s flexibility on ideological issues, as according to Nemtsov, “Everything depends on the group with which Unity chooses to join forces. If Unity votes with Communists on an issue, it will be adopted.” He continued that the same could be said of the liberal parties, and the Unity Bloc showed openness to doing both on different issues. Nemtsov added that Putin

used his enigmatic policy stances – seen at once as a possible ally by the left and the right – to his advantage (Desai, 2006: p. 178-179).

The data on party discipline in the Duma committees from Chaisty (2006) did not extend past 2003, but expert accounts such as those by Remington (2008) and Tolstykh (2006) and newer insider accounts from Pavlovsky (2012) strongly indicate that dissent by legislators at any part of the parliamentary process has been rendered increasingly rare and/or ineffectual. This supports the view that a more majoritarian/executive-led system results in less representation of actors and interest groups at the House committee level. In such a system, interest groups must rely more on influencing cabinet outside of the parliamentary system, which requires a high degree of continuous access to cabinet for the actors involved and a low degree of transparency in terms of whose preferences are being heard and considered by legislators.

There are different accounts of how the transformation to a system with stricter party discipline took place. Tolstykh (2006) recounts the transformation as a relatively rapid process that began in 1999 with the strengthening of the administrative regions and the rise of the pro-president group and its control of the lower chamber. Tolstykh considers as a significant factor the fact that non-United Russia political parties and trade unions were excluded from private capital due to deepening federal relations with mass media companies headed by oligarchs such as Gusinskii (NTV), Berezhovskii (ORT, TV-6) and Chubais (TVS). This had implications for the landslide victory of United Russia in the 2003 election, after which point these tendencies in the political situation in Russia further intensified (Tolstykh, 2006).

However, Chaisty's (2006) account is less immediate. By his account, Putin's 1999 Tax Code reforms and other initiatives aimed at strengthening rule of law and institutional oversight over relations between business and the state created more of a need for lobbyists to work through the Duma (as opposed to the executive/government ministries). As a result of these changes, observers noted that the Duma representatives increasingly acted as mouthpieces for the oil, metals, tobacco and brewing sectors, and that the pro-privatization Russian Union of Industrialists and Entrepreneurs (RUIE) - associated with the Russian oligarchs – gained influence in the lower house.

Moreover, results of interviews with members and staffers in seven committees in the second Duma showed that members were considered to have spearheaded party positions on

legislation relating to the committee's jurisdiction. Sometimes, the party did not subscribe to the position and voted against bills that the committee members in their own party supported.

Chaisty (2006) also found that from 1996-2002, the voting behaviour of the parliamentary chairmen in the Russian Duma changed notably. One chair (Seleznev) opted to vote against his party about half as much from 1996-97 to 2000-2002 – 12% of the time to 5% of the time, with the number of times he did not vote tripling. The percentage of non-votes from the other chairman – Zyuganov – also increased from 1996-2002, but Zyuganov's votes against his party actually increased from one percent to two percent in this time period. On the other hand, Chaisty also described an increasing degree of power transfers over the committee process in the Second Duma from the parliamentary chairs to the parties; for example, in terms of setting agendas and determining committee assignments.

This dynamic was altered after the United Russia merger and the 2003 election. The late American expert on Russia Richard Pipes observed that the oligarchs funded all parties – even the Communist Party – in the 2003 election. (Desai, 2006: p. 507). However, Mikhail Kasyanov, Russian PM from 2000-2004 under Putin, observed that by 2004 the businessmen were no longer supporting opposition parties as they once did (Desai, 2006: p. 237). A clear explanatory example of an event contributing to this shift was the procurator-general's investigation of the Yukos oil company and the subsequent arrest of its CEO, Mikhail Khordorkhovskii. Yukos had previously been noted for its efficiency in getting representatives to block tax legislation for oil companies, and this was seen as a key reason behind the actions of the procurator-general that led to Khordorkovskii's arrest. As a result, the lobbying of parliamentarians was subsequently not as overt, but was increasingly done through members of the government-friendly United Russia. However, this coalition of parties favourable to the presidency was not fully reliable until 2003, when the landslide election of United Russia resulted in a majoritarian system with limited minority party veto powers and a loss of independence for the parliamentary chairman.

As with all else in the legislature, this extended to the appointment of representatives to the legislative committees. The committees tended to be less influential venues for settling disagreements about policy, as the executive was the chief source for legislation and would increasingly fine-tune bills behind the scenes before these were even brought to the legislature (Chaisty, 2006). Tolstykh (2006) asserts that due to this transformation, any item that does not

suit the President's administration cannot now even be entertained in the Duma. In an interview with the newspaper *Vedomosti*, the coordinator for the Rodina party stated that “not even one of our bills even made it to First Reading” (Tolstykh, 2006 p. 198, translation my own).

Tolstykh also finds a correlation between a majoritarian system and the frequency of omnibus and priority legislation. He states that “in the third State Duma [the Duma where the pro-Putin coalition was established] the executive brought in thick packages of legislation, which in sum were groundbreaking; laws on the environment, labour relations, pension reforms, tariff reforms, judicial reforms, deregulation and so on.” (Tolstykh, 2006 p. 208, translation my own).

The correlation of parliamentary majorities with higher levels of party discipline corroborates theories of a “majoritarian imperative” (Cheibub and Limongi, 2002 p. 153) in systems that are either parliaments – or, in this case, take on some attributes of parliamentary systems in particular contexts. With respect to the case studies at hand, it seems evident that where there are minority governments and/or chambers with a diverse array of parties across the ideological spectrum, this imperative manifests itself as a high degree of political brokering across parties. In the case of majority governments with fewer parties in the legislature, enforcing strong party discipline is enough for a government to retain confidence – so it stands to reason that this is the strategy employed most often employed in such cases. We have also seen in this section evidence that committees were also by extension impacted by these dynamics in the wider legislature, but at the same time had some counteracting dynamics. This supports the argument that while the committees are very much connected to the legislature, they are organisms in their own right whose institutional development is deserving of attention in themselves.

7.5 Committee Case Studies

1996-1999: A Dark Age of Environmentalist Legislative Change in Russia

We will now turn to the committee study of one of the main laws under the Yeltsin presidency related to the environment: The Russian Federation’s *Forest Code*. The evidence drawn from the study supports the argument that prospects for ENGO influence through committees suffered from conditions particular to the legislature under Yeltsin, namely: a lack of legislative capacity – particularly on environmental issues, a lack of committee hearings, a lack of coordinated relations

between ENGOs and political parties, and high bureaucratic costs for ENGOs combined with low levels of funding.

In the years immediately following the dissolution of the USSR, the main laws governing environmental matters in Russia that were developed were Federal Law No. 174-FZ, “On Environmental Expert Review,” dated 23 November 1995, and Federal Act No. 22-FZ, The Russian Federation *Forest Code*, Adopted By The State Duma On January 22, 1997. In fact, this is the only one of note that was adopted both under a Yeltsin presidency and within the scope of the dissertation (1996-2015), reflecting a general lack of attention to environmental issues in the Yeltsin period. This lack of attention to environmental issues in this period is fleshed out by Martus (2017: pp. 118-119), who notes that

a retrospective view of changing government policy during the 1990s suggests a decline in the ability of environmental issues to influence policy developments within the country. Indeed, some commentators have referred to the mid- to late 1990s as a period of ‘de-ecologization’ marked by a considerable weakening of environmental concern within the government (see e.g. Danilov-Danil’yan and Yablokov, 1999; Golubchikov, 2000; Trumbull and ZumBrunnen, 2001). In 1996, a further government reshuffle resulted in the abolition of Minpriroda [the environment ministry] and the subsequent administrative downgrading of environmental protection functions [which] reduced the influence of environmental arguments in the government decision-making process.

Focusing more specifically on state funding, a 1998 OECD publication on Environmental Financing in the Russian Federation noted “a severe lack of financing for environmental projects in recent years” in Russia, in which “new sources of financing still do not have sufficient potential, while traditional sources (in particular, the budgets of federal, regional and local governments) lack resources in this time of crisis.” (p. 9). In the legislature, more comprehensive legislative projects – such as land reform, pension reform, and a complete restructuring of the economy – took precedence, and even these were fraught with conflicts.

Before delving into the specifics of legislative activity on the *Forest Code*, we may provide some context on the environmental movement in Russia. Post-1991, state-affiliated groups for social advocacy continued on in Russia as independent organizations. The largest challenge in the face of Russia’s massive economic collapse of the 1990s was securing funding. International donors stepped up to fill this void, but in exchange instituted their own mandates. The formerly Soviet groups suffered from a lack of foreign funding due to the association with their USSR counterparts (Henderson, p. 259-263). Kagarlitsky (2002) also describes how groups that developed as informal organizations such as “ecological unions” (p. 159) began to be more

formalized in the *Glasnost/Perestroika* period under Gorbachev while remaining relatively grassroots-based – something I also argued was the case for the peace movement and environmentalists in my MA thesis. He laments their fate in the Yeltsin period, noting that

the activists of the 1980s were stunned and appalled to find that, in the changed circumstances of the 1990s, without money, office space or paid staff, and denied access to television or the press, they were transformed in the space of a few months from a real political force into isolated and ineffective grouplets (p. 160).

Yeltsin's government – beyond failing to provide funding mechanisms which would have been near-impossible at the time – neglected to even establish a state registry for NGOs, driving up their costs as they had to register through multiple jurisdictions with unpredictable fees. There was a lack of substantive legislative initiatives for tax-deductible charitable donations, and a lack of mobilization among the populace. A few positive initiatives (i.e. establishing an Ombudsman's office) began under Yeltsin's leadership, even if these were not approved until afterward. Yeltsin's initiative of encouraging regional governors to involve NGOs in legislative review through regional public chambers was also a positive step, even if it met with limited success. However, NGO involvement at the federal level remained very subdued, and this was exacerbated by the fact that MPs were largely unbound by political parties (making NGO relation-building with the parties inefficient). Moreover, the political parties rarely had an enduring presence in the legislature, rendering it difficult for NGOs to gauge if and when they were gaining any traction with them through liaising with representatives outside of the Duma (Henderson, 2010: p. 260-261).

The illustrative example of the *Forest Code* discussions shows how the chaotic legislative relations of the time served to overshadow possibilities for policy learning from environmentalists through committee hearings. It was the Duma Committee on Natural Resources which took on a study of the *Forest Code* at second reading. What is immediately striking is that there is quite simply a lack of evidence that there were any committee hearings featuring non-governmental actors on environmental issues.⁶⁸ Of the meetings that took place, the committee members mostly discussed fundamental property transfer issues, rights of the pulp and paper mill industry, rights

⁶⁸ The evidence that was provided to me upon request by the Russian State Archives on Forest Code-related committee meetings was touted by the Archives as being comprehensive. There were some excerpts that were clearly redacted, but there was nothing to suggest that a redacted excerpt might have contained a full testimony from a non-governmental representative at the committee.

of the state, protests from miners, and so on. In committee deliberations, the members of the committee confirmed having met up with Rosles (the state forestry department) to draft the *Forest Code Law*.

In the committee study of the *Forest Code*, members did not discuss any conservation elements in detail – beyond mentioning public objections to lawless clearcutting near the Finnish border – nor did they refer to any meetings with environmentalists in the drafting of the *Forest Code*. There was, however, a great level of attention given to coordinating the policy response of the committee to the making of the *Forest Code* with the executive branch and the Upper Chamber of the legislature (the Federation Council of the Russian Federation). One of the key debates in the Duma Natural Resources Committee hearings on the *Forest Code* was about whether the Duma should attempt to overturn an initial veto of the *Code* by the Federation Council and work out differences with the President Federation Council about the new law in a conciliation commission. Some of the discussions on this topic reveal the extent of disagreements and fractures not only within the legislature (the Duma being mainly at odds with the Federation Council on this draft Law) but within the executive branch. To illustrate, the following excerpt is from a Duma Natural Resources committee meeting on October 7, 1996. All speakers listed are members of the committee:

Stepanov V.G.: I am a supporter of overturning the veto, if (I repeat) the presidential side will support this.

Mikhailov A.U.: According to my information, there is a rather desperate struggle in the presidential administration between Orekhov and [Presidential Administration head] Chubais [. . .] The hostage of this struggle (naturally) is our laws. This explains Chubais's position on the *Forest Code* [Chubais is referred to later on as opposing the *Code* under pressure from Federation Council governors]. If Orekhov supports it, then Chubais will be against it. If Chubais supports, Orekhov will be against it. I think the right thing to do now is to try to come to terms with the presidential side in order to be protected later.

Reasons for the Duma committee's frustration with the Federation Council came to be more explicitly described in a January 16, 1997 meeting on the *Forest Code*:

Zelenin V.M.: The positive conclusion on the new version of the *Forest Code* was adopted by the Legal Department of the Council of Federation Staff and the Committee on Constitutional Legislation and Judicial and Legal Issues. There is practically no objection to that from the lawyers, the Legal Department of their apparatus, or their advisers. However, the governors [in the Federation Council] do not want to give away their property. I inform you that today I was at Orekhov's, this is the President's Legal Department. There was a conversation with him. It is suggested that the Duma once again overturn the rejection of the Federation Council, as the President will sign this. If we overturn it and recruit 3000 or more votes, then

the presidential side will sign it. I will not deny it, I said that maybe I exceed my authority, but I would suggest holding a meeting.

During the same meeting, committee members also pointed to a root cause for Federation Council rejection of the *Forest Code*: the voting system within that legislative chamber.

Mihailov A. Yu. (Chair of the committee): Any complex, principled law affecting important social relations through the Federation Council practically does not pass, because decisions are made there, according to our Constitution, by a minority. It is necessary to collect 90 votes for the decision, and usually there are 110 people. Not more than 20 should be against and abstain. It is clear that the Federation Council today is ruled by a minority on all matters of principle.

These discussions suggest a chaotic twist on interest group associations; they imply that the governors were acting as de facto interest group representatives over the forest resources in their territories as if they were owners of companies. The transcripts certainly do not suggest that the concerns of the governors were with regard to environmental protection. For example, one can look at the Duma committee statements about public protests against lawless clearcutting in Karelia on Jan. 16th and compare it to objections by the same committee member (Zelinin) during the same meeting that the *Forest Code* had failed to pass the Federation Council due to the Governor of Karelia. According to Zelinin, that governor had refused to support the *Forest Code* because he did not want to lose property rights over Karelia's forests to the central government. Considering the complex transformation of centrally-planned economy to market economy that was taking place still in mid-1990s Russia, it appears that proprietary interests between different federal actors trumped discussions of environmental protection.

Yeltsin-era Kremlin political advisors Gaidar and Nemstov acknowledge that there was much corruption by governors in the 1990s. For example, Gaidar remarked that "as one who was active in the Russian government, I fully understand the reaction of Russian leaders who look at the mayhem committed by elected governors and dream of reinstating the practice of appointing them from Moscow." (Desai, 2006: p. 161-162). Similarly, Nemstov called the governors "occasionally criminal and sometimes stupid" (Desai, 2006: p. 178-179). However, Gaidar and Nemstov both opined that banning gubernatorial elections in favour of government appointments – as Putin did – would not address this issue.

Transcripts from these committee meetings were difficult to obtain, and there is a chance that there are discussions that were not captured in what was retrieved through the Russian state library in response to my requests. However, in conjunction with the fact that hardly any

environmental legislation was passed in the Yeltsin era, and the fact that other scholars support the argument that the Yeltsin era involved considerable retrenchment for the influence of ENGOs on policy, the evidence presented in this case strongly suggests that where issues related to the environment were discussed, power struggles between veto players in the legislature became the focus of committee discourse – to the detriment of engagement with ENGOs. One does not have to have a high opinion of the Russian legislative committee system in the ensuing years to posit that there could have been improvement in this area post-1999 – as any involvement of ENGOs in committee studies would constitute an improvement over the legislative context evidenced in this case.

This comes back to the ideas of opportunity for influence as articulated by Fuji Johnston (2009) and Dryzek and Niemeyer (2010) whereby more legislative activity on environmental issues and more hearings that include ENGO witnesses are positive steps toward influence – even if outcomes could be unsatisfactory for ENGO influence on policy for all committee hearings in the Russian legislature during the period of study. This is a particularly pertinent point if we think about influence in the long-term as well as the short-term, as inclusion of individuals representing ENGOs in committee hearings provides these individuals with a captive audience that has the potential to lay the foundation down for future shifts in policy. Thus, we can say that a dearth of committee hearings including ENGOs during the Yeltsin era cannot reflect a process of “deliberative empowerment” per Fuji Johnson, or “meta-consensus” per Dryzek and Niemeyer. As was also suggested in the analysis of committee hearing participant selection in the other two country cases, the first favourable condition for ENGO influence on policy through legislative committee hearings is to be included as participants in such hearings. Without that, there can be little to build upon for influence through these venues.

1999-2015: The Putin-Medvedev Era

This section focuses on evidence from three case studies in which ENGO “witnesses”⁶⁹ were included in Russian legislative committee studies on environmental policy under the Putin or Medvedev presidency. I will argue that these cases show mixed results for committees in this era:

⁶⁹ As noted earlier, this term is not preferred by Russian ENGO interviewees; however, it is employed because the use of the alternate term “representatives” could cause confusion between members of the legislature and stakeholders.

Namely, that while significant obstacles exist to ENGO influence on policy that are consistent with the aforementioned limitations in the wider legislature in this era – high executive dominance/majoritarianism in the legislature, particularly in the Federation Council – there is some room for influence that registers as an improvement over the Yelsin-era committee processes. Thus, with this part of the study we are getting to the crux of the “heterogenous” aspect of the Russia case: that the potential for ENGO influence in the Russian legislature is driven by different causal factors and processes at the committee level.

Before delving into the specific cases of ENGO testimony before committees in the Russian legislature in the Putin/Medvedev era, it should be noted that the most significant piece of environmental legislation under the Putin administration was likely the Federal Law No. 7-FZ, “On Environmental Protection,” dated 10 January 2001. This comprehensive law provided a foundation for state policy on environmental protection in a number of aspects, such as environmental assessments and powers of government bodies in environmental protection. However, none of the non-governmental representatives I spoke to during my field research in Russia referred to having been personally involved in committee hearings leading up to this legislation. Instead, I interviewed three environmental organization representatives about their experiences appearing before committee on other studies and legislative bills related to environmental policy. Full transcripts were available for one of these cases; the other two representatives confirmed a direct link between their testimony and resulting policy, and substantiated that with details. This detailed testimony by the two witnesses filled in many of the gaps that would otherwise have prevented a thorough analysis of the context.

Despite the small number of cases considered here, an attempt to systematically evaluate influence in the same way as was done in the Canada and U.S. chapters is shown in Table 12. The context for all three cases is provided below after a short summary of results.

Table 14: Summary of Results for Case Process-Tracing of ENGO Representative Appearances before Legislative Committees in Russia

Chamber and Period	Character of Committee Deliberations	Evidence of Meta-Consensus?	Committee Outcome Positive?	Positive Outcome Beyond Committee?
Federation Council, 2012-2015. Putin Presidency. United Russia Majority	Case 1: No questions	Case 1: Yes	Case 1: Somewhat/ Some details missing	Case 1: Somewhat
State Duma, 2012-2015. Putin Presidency. United Russia Majority	Case 2: No data	Case 2: No data	Case 2: Yes*	Yes*
State Duma, 2012-2015. Putin Presidency. United Russia Majority	Case 3: No data	Case 3: No data	Case 2: Yes*	Yes*

*However, in both cases the witnesses credited working with the bureaucracy outside of committee on the development of legislation with the positive outcomes.

The lack of comprehensive details even for this small sample of cases appears to fit awkwardly into a systematic analysis, but it does serve to highlight why a more in-depth discussion of these cases is necessary to get a better understanding of the context. All three cases in the table showed at least somewhat positive outcomes in committee and overall when compared to the priorities expressed by those representing ENGOs at committee; however, since no questions were asked in one committee and the transcripts were unavailable in the others, outcomes cannot be compared with questions asked. Evidence of meta-consensus was seen in one case, and this corresponded with somewhat positive or positive outcomes. However, all three interviewees highlighted in their comments that while the legislature was not quite a hopeless site for policy influence, in most cases the real work of influencing policy was or could be best achieved outside of it. While this was a theme that frequently arose in interviews with ENGO witnesses in Canada and the U.S., nowhere else was it underscored more heavily and consistently than in the Russian interviews.

A fuller sense of the complex causal stories involved in each case is fleshed out in the following discussion of cases.

Case 1: Vladimir Chuprov of Greenpeace Russia

For a study on Arctic development, the Federation Council Committee on Federal Structure, Regional Policy, Local Self-Government and Northern Affairs conducted hearings over one day (29 November, 2013) and had only 14 witnesses make representations. Of these, 2 were non-governmental; the first of these witnesses was Vladimir A. Chuprov, head of the energy program at Greenpeace Russia. Chuprov remarked in a 2015 interview with me that “I would not call these hearings an outstanding event, because every quarter there is such an event where they discuss Arctic issues, oil spill issues, Indigenous issues, so I would not say that it was something extraordinary.” The main points of his 2013 committee testimony highlighted the following:

- That there has not been an adequate response from the legislature on environmental protection and conservation.
- That there are no laws or state regulations governing issues related to the operation of pipeline transportation.
- That more regulations are needed in the Federal Law "On Environmental Protection" with respect to the restoration of contaminated sites, as companies can self-regulate or leave this to court decisions.
- That there is a need to introduce to the federal legislation a corresponding legal act on the necessity of generating statistical information and providing for openness to the public.
- That the OSRPs (The oil spill response plan; this concerns primarily marine OSRP) should be opened up to public scrutiny, as recommended by the Arctic Council.
- That there must be the creation of economic incentives and public pressure to maintain oil pipeline transport in adequate condition, including more economic compensation in specific cases.

During the committee hearings following Chuprov’s testimony, the committee Chair declared that Chuprov had “touched on one of the most critical and complex issues in the development of the Arctic and the North” but emphasized that Russia had been one of the first to sign panarctic joint documents (the first for the Prevention of accidents and risks in the Arctic and second for the prevention of oil spills). This defence of the government’s current record in response to ENGO recommendations is a common rhetorical theme across legislatures, and is seen as an attempt to contradict the premise for making such recommendations. However, given the ubiquity of such statements by government party members across cases, it is not considered to be hostile and is not

treated as evidence of a lack of meta-consensus⁷⁰ – just as an indication that proposals may have a worse chance of being heeded. Nevertheless, after the Chair acknowledged Chuprov’s recommendations for correcting domestic law and mitigating finance risks through prevention, he confirmed that the committee would forward his recommendations to the specialized committees and would try to enforce them. Further evidence of meta-consensus exists with the Chair’s commenting to Chuprov “So what you are saying that it is necessary to correct domestic law and finance risks ... And Vyacheslav [likely referring to Russian politician/former Presidential Chief of Staff Vyacheslav Volodin] also said that sometimes the settlement for accidents and their consequences is very expensive, it is better to prevent them and work also in this direction.”

There was a news item following the hearings in which the Chair did confirm that the committee’s recommendations included making changes to environmental legislation to strengthen accountability on pollution in the Russian Arctic (Federation Council, 2013). When compared to Chuprov’s key recommendations, it is clear that this does correspond with at least a portion of his testimony and policy proposals. However, given the dearth of details on the remaining recommendations of the committee, the committee’s recommendation to adopt the program “Socio-economic development of the Arctic zone of the Russian Federation up to 2020 and amend existing environmental legislation in order to strengthen accountability for pollution in the Russian Arctic,” – a recommendation that was followed by the Federation Council as a whole on Dec. 2, 2013 and by the Russian government on April 21, 2014 – renders that law ripe for analysis.

There are several sections of this new program, "On The Arctic Zone of the Russian Federation," which pertain to the environment. Firstly, it stipulates that the sub-program "Environmental protection" will carry out organization of complex research in high-latitude regions of the Arctic from 2012-2020 (i.e. research on climate change and its consequences and environmental monitoring), and will provide for the maintenance of a continuous assessment system for the effects of pollutants on Arctic sources. Specifically, it states that the government is to build and equip a modern fleet of 7 new large ships to monitor the pollution of waters in the Far East and the Arctic regions of Russia and 8 new medium-research vessels. The Act also provides for the implementation of measures to eliminate the consequences of past economic

⁷⁰ For example, as seen in Conservative MP Stephen Woodworth’s exchanges with Susanna Fuller of the Ecology Action Centre at the Parliament of Canada’s ENVI committee in 2012.

activities of oil and gas production in the delta of the Pechora River in the territory of the state natural reserve "Nenets" (Government of the Russian Federation, 2013: pp. 9-10).

Another subprogram had the promising title "Building, modernization, reconstruction and operation of piping systems with optimum parameters and oil transportation and sustainability to the effects of natural factors and technology loads." In fact, this subprogram involves increasing the capacity of the pipeline system to transport oil from the Vankor deposits, from new deposits of the Yamalo-Nenets Autonomous District, and from the north of the Krasnoyarsk Territory to Russian oil refineries and for export (Government of the Russian Federation, 2013: p. 17).

Progress in terms of funding can be assessed by looking at the Russian Federation's Ministry of Natural Resources funding for "Organization and carrying out comprehensive studies in high Arctic regions, including the use of drifting research station 'North Pole'." From 2015-2020, the budget grew from 206,643,200 rubles to 232,445,500 rubles ("On The Arctic Zone of the Russian Federation": 84) which in Canadian terms is \$5,110,286.34 to \$5,774,586.07 CAD as of May 18, 2015.

However, these responses by government did not match with Chuprov's full list of recommendations. For example, much of Chuprov's testimony on the openness of OSRPs, the creation of financial incentives for adequate maintenance of pipeline transport, and more regulation for contaminated sites was not followed up upon either by the committee or government. Speaking to Chuprov about this, the sense is that there was not much link between his testimony and policy outcomes. He related that "the MPs were not listening to my ideas because parliament is not the main decision-maker in the Russian Federation and perhaps the meeting was PR. There was no follow-up to this meeting or resolution that could be utilized by government decisions."

Chuprov described both the Duma (Lower Chamber) and Federation Council (Upper Chamber) in Russia as having low prospects in terms of acting as channels of influence – as decisions are all made in the Russian government from his point of view. However, he shared that he saw the Federation Council as slightly more effective for two reasons: Firstly, he believed that around a dozen people is the optimal number for making an impact, but the Duma sometimes included up to one hundred people for a study. Secondly, he specified that the scope of studies is narrower in the Federation Council than in the Duma – the latter of which he described as an "anthill" with a lack of clear purpose to its proceedings. These assertions resonate to varying

degrees with responses from ENGO interviewees in the other countries: While the number of people included in a study did not come up as a key factor in the other countries, we can recall that many U.S. and Canadian ENGO witnesses commented that an overly broad scope for a study offers poor prospects for ENGO influence on policy.

Chuprov also indicated that policymakers are less open to the opinions of outside actors on some issues than they are others, and suggested that non-governmental organizations should try to frame issues in a certain way in order to increase their salience. He posited that,

The only language the government and Russian elite listens to is economic language; ranking and political ratings are also [important], but economy is the first. Russia is in economic crisis right now and the government and Parliament is more sensitive to economic arguments. I would assume that if you speak about the economic reasons of Arctic offshore drilling it is better than speaking about human rights. How much it could cost for the federal budget, etc. We're getting more and more into economic debates at the moment.

Chuprov also related that non-governmental organizations can only really influence decisions “in the fields that are not important or outside of real corruption schemes or out of interests of particular oligarchs [. . .] as soon as we speak about oil: forget it. Only sanctions and things like oil price drops can influence [the Russian government].” He declared that at one of the committee hearings he attended for the purpose of a committee study and report, “the scope of the meeting and list of topics was so broad: from rare species to technical measurement of oil from wells.” Instead, he argued that “if you want to get results you have to take an issue where you see a potential result if you know what kind of milestone you have to pass and what experts you have to bring.”

Touching on what would be a recurring theme for interviews in all three jurisdictions, Chuprov spoke about the need for patience in achieving policy influence from the outside. He remarked that “one meeting is not enough to change the situation. It takes 2-3 years to push for any amendments.” In the case of Greenpeace Russia, he related that it took 2-3 years to get to the point where the media and the government recognized the oil spill issue as a problem. He recalls that “in 3 years, we managed to force the Minister of Natural Resources Mr. Donskoi to recognize that the volume of oil spills happening every year is more than one million [. . .] much more than the 17,000 tonnes that his ministry fixes every year,” adding that “in the next 2-3 years, we might manage one amendment.” Chuprov also recommended for ENGO representatives to participate in hearings in order to keep important contacts and gain insider information – such as “hidden

statistics” that are not available publicly but are distributed at committee. He added that committee appearances are also important in terms of putting across an image of being a constructive organization to the government, as a general PR exercise, and in terms of understanding the perspectives of government and of opposing interests. For example, he noted that at committee meetings “you can pose a question directly to your opponents” in order to “understand the background on their side and feel what are the next steps to build up the campaign on our side.” He added that this is also the case when governmental people testify, musing that “we speak different languages, and sometimes you have to have face-to-face meetings to feel why. Then they can understand why you think a different way.”

In terms of avenues for improvement, Chuprov argued that in Russia “the only thing is to change the constitution, to make it a parliamentary republic.” His view on this issue is supported by Russian political scientist Sergey Rogov, who believes that institutionally Russia’s democracy would be better served by adopting features of a parliamentary system, including the ability for the executive to be unseated by a no-confidence vote in Parliament (Desai, 2006: p. 198).⁷¹ Chuprov also emphasized that the practice of appointments to committees matters, since having enthusiasts about the subject of committees ready to do proper research work would reap more benefits for representative policy. This is presumably in contrast to giving out sought-after committee membership positions as favours for ambitious parliamentarians.

Case 2: Alexey Knizhnikov of WWF Russia

Along with Greenpeace Russia, WWF Russia was one of the two most prominent environmental organizations to appear before legislative committees in Russia in the period of study. I spoke with the program manager for Environmental and Energy Policy Energy, Alexey Knizhnikov, in the summer of 2015 to discuss his involvement in Russia’s legislative committee hearings. Knizhnikov spoke of successful appeals to government for legislative reviews at the committee stage; however, he emphasized that this was a final stage that followed earlier substantive inputs

⁷¹ He believed that Russia took the worst of both the French and U.S. systems, having an executive-focused system without the extensive Senate vetting process of presidential appointees (Desai, 2006: p. 198). Later, in 2005, he remarked that the U.S. Senate approvals process may not be as significant a check as he once believed, noting that the Senate had confirmed as Attorney General “the man who provided the legal basis for the torture techniques in Abu Ghraib and Guantanamo, so I have serious reservations about the standards of democracy Bush proclaimed” (p. 310).

to government and the public. Knizhnikov described how this occurred at WWF Russia for an anti-oil pollution law in 2013, Federal Law No. 287. He related that this was “a huge step forward [. . .] we helped to develop the concept of this law at the first stage, and then supported it in different ways – including a huge public campaign three years ago where we collected more than 120,000 signatures.” Evidence post-interview suggests that WWF continued to advocate successfully for environmental protection from oil pollution, including “a temporary moratorium on new offshore oil and gas licenses for drilling on the country's Arctic shelf” that was declared on Sept. 8, 2016 by the Russian government on WWF Russia’s behest (WWF Russia, 2016).

Knizhnikov’s account brings to mind the experiences from other jurisdictions such as Canada, where legislative review hearings at the committee level are seen as valuable, but only as an afterthought to policy breakthroughs to government that have been achieved through other access points. Knizhnikov also spoke about the lack of capacity in many NGOs and their need for financial resources even just to engage in ways such as travelling to Moscow. His comments with respect to this issue supports Savoie’s point (2015, pp. 89-91) about the challenges that less well-funded and connected NGOs face in attempting to gain direct access to government. While Knizhnikov spoke positively about the opportunities of WWF Russia to engage with the government, he argued,

In my opinion we should not talk about some improvement in parliamentary processes, but about ways to support NGOs to be more active in this area. In our organization, our special program dealing only with legislation was opened only a few years ago [. . .] We are a big NGO with a big network. Other NGOs don’t have enough capacity, so some support is needed not to improve parliament but to add additional capacity such as government grants for training for NGOs.

These statements suggest that WWF Russia is particularly well-placed to affect environmental policy change in Russia when compared to other Russian ENGOs. However, Knizhnikov also spoke about occasions where his organization was not successful in gaining policy influence. He related that where it was clear that the Duma or Federation Council committee or chamber members would not be including WWF Russia’s input, the organization would “use this as an opportunity for a public campaign showing that this is really important from a society point of view, and this is a tool that we can add for public pressure and public opinions.” In other words, Knizhnikov explained that the strategy of WWF Russia is two-pronged, that “if the Duma is not accepting, then we have another strategy to conduct public campaigns. But in the beginning we are quite positive; we just give our strong and well-developed proposals.”

Case 3: Anonymous Russian Interviewee

A short interview with a Russian ENGO representative who wished to remain anonymous yielded a small amount of usable material, since much of the discussion would identify the context of interactions and consequently give clues about the individual. In a 2015 interview, she spoke largely about her organization's interactions with the Russian legislature and with other NGOs. On the former topic, she informed that her organization is invited to participate in parliamentary hearings, roundtables and working groups on a regular basis, and that "when we would like to participate in this discussion, we send to the Duma our criticisms about the law and we let them know that we would like to discuss such-and-such a law or draft." She continued that those in her organization "are acquainted mostly with those at the Committee of Natural Resources and Environment. So, I have good relations with people on the committee and know some of the deputies."

She described her organization's process for contributing to legislation as developing "the concept of the law, then we speak with the government on that level for the first draft as much as possible." She explained that her organization has "a strategy for the development of the law drafting from the very beginning (not just for the committees)" and reaches out first to the government because "the practice shows that the laws are more initiated by the government, not the deputies"

In terms of her organization's interactions with other NGOs, she referred to coordinating activity that takes place. She explained that "We divide our topics between participants. We have a common strategy; we call colleagues from other NGOs who are interested in the same topics, in order to not repeat the same things." In order to reap more rewards from this kind of strategy, she argued that NGOs should connect to send messages and raise problems for parliamentary hearing working groups for certain law drafts. She even specified that forming an environmental council of sorts could be useful in improving legislation.

7.6 Conclusion

With reference to the historical and political details outlined in the first half of this chapter, developments in the Russian state in the period of 1996-2015 cannot be summed up simplistically. Prospects for democracy on some issues and for some institutions have improved, while others have regressed – weighed against the benchmarks of democratic and deliberative ideals outlined in the introductory chapter. An area of improvement that is central to this dissertation pertains to the legislative committees in the Duma and Federation Council, using the example of environmentally-related committee studies as an illustrative one.

The mixed results experienced by ENGO representatives in the committee hearing process post-1999 still provide a picture of increased committee engagement with ENGOs than the *Forest Code* committee meetings of the 1996-1999 period – where there is no record of ENGO representatives being heard from in committees at all. Moreover, there are no other committee studies of note that pertained to environmental issues in the late Yeltsin era.

Based on my experiences collecting information from the Russian legislature's records for the period of study, it would appear that the availability of information has improved from a very low base. This is not surprising, since the post-2000 digital environment can be expected to have increased the ability and therefore the tendency of people outside of Moscow to access this information. In my estimation – and in the estimation of at least one other interviewee – there is still much progress in the availability of information that is desired. In particular, a potential immediate remedy for the shortcomings of committees that arose both before and during the interview process is that Russian legislative committees should consistently provide freely accessible and comprehensive sets of committee recommendations (and their links to witness testimony) to government following public consultations.

Another impediment to analyzing the content of deliberations in a systematic way as in the other country cases was that questions are not always asked of participants in the deliberations – including in the transcript that was available in one of the cases. This renders it difficult to assess the potential for deliberative empowerment from the content of committee proceedings.

Nevertheless, what was measurable was that the outcomes in the three cases examined under the Putin/Medvedev presidencies reflected at least somewhat the preferences expressed by representatives of ENGOs in committee hearings – both at the committee level and extending to

the general legislature/government. In one case, there was a clear correspondence of a somewhat positive outcome with evidence of meta-consensus between an ENGO witness and legislator at committee.

However, the Russian case is one in which the interviewee responses are ultimately more important than this systematic approach in order to avoid false positives. In two of the cases, interviewees reported that the committee hearing stage was less important than other work they had done outside of the legislature to contribute to the same policy development being discussed in the committee hearings. In the other case, the interviewee was similarly emphatic that influence can only be achieved through a legislative committee hearing if it is part of a larger process of 2-3 years of advocacy on a topic. At the same time, it is worth noting that the value of committee hearings was not wholly discounted by the interviewees – as many responses expressed their usefulness in terms of gaining information, networking, and providing material for public campaigns.

When placed against the preceding backdrop of both general and specific political context for ENGO representation at Russian legislative committees, the more institutional recommendations of the interviewees provide rich food for thought. Vladimir Chuprov recommended changing the Russian constitution to make it a parliamentary republic, and appointing committee members on the basis of enthusiasts in a given subject who are ready to do proper research work. Alexey Knizhnikov recommended that the government engage in capacity-building activities for ENGOs such as providing grants for training and other funding – as stronger ENGOs can be more effective at navigating the institutional environment, as his case showed. The anonymous interviewee recommended the establishment of an environmental council for ENGOs to exchange views on a topic and build on one another's expertise in bringing forward policy solutions.

These suggestions are also important in terms of establishing what progress may look like in the development of a system that could in the future be characterized by consistent deliberative empowerment. The gaps remaining in the development of such a system – an unfulfilled task in every country studied – are certainly the most pronounced in the Russian case. At the same time, there are signs of improvement when looking at the committee system, and attention must be paid to the precise ways the country can stay the course on this and accelerate it where possible. The

interviewees' recommendations summarized in this section provide a good basis for such an important project.

Conclusion

The central research question of “How does the institutional organization of legislative committees affect the ability of ENGOs to achieve influence through engaging the committees, and how do other factors interact with this to increase or decrease the potential for ENGO influence?” served as a comprehensive point of inquiry that yielded many different answers. However, as indicated in the introduction, a key question arising out of it was whether the conditions for ENGO influence through legislative committees are largely shaped by dynamics of the legislatures within which they operate, or if there are unique conditions for such influence – such as causal processes based in deliberations – that operate relatively independently from the legislature.

Throughout the dissertation, influence has been measured using three criteria: 1. Dür and De Bièvre’s (2007: 4) plain definition of influence as “control over outcomes” 2. The concept of “meta consensus” per Dryzek and Niemeyer (2007 and 2010), meaning an agreement on values, beliefs, and the nature of what the options are contributing to a given decision. 3. Elements of Fuji Johnston’s (2009) concept of “deliberative empowerment” whereby the conditions are present for the content from deliberations to lead to policy.

The sum of the dissertation’s findings resoundingly point to the conclusion that there are indeed many unique and relatively independent dynamics that impact the potential for ENGO influence at the legislative committee level. For example, independence of the committee chair was determined to be an important factor impacting the proportion of ENGO representatives at committees in the Parliament of Canada – a behavioural dynamic which contrasts with the largely institutional causal processes in the larger legislature. Similarly, less party discipline in the Yeltsin era might have resulted in more legislator openness to ENGO perspectives in committee hearings, if not for the fact that ENGOs did not experience inclusion in committee hearings in the few cases where environmental legislation was discussed in committees.

Questions in deliberations coded as something other than hostile and evidence of meta-consensus were found to have decisively positive correlations with committee outcomes reflecting ENGO influence in the Canadian and U.S. cases. However, this dynamic is not found to be at play to the same degree in terms of outcomes beyond the committee level (overall outcomes

in either case). There were nascent signs of a positive correlation between evidence of meta-consensus and outcomes at committee and beyond; however, more data is needed in order to discuss these results as being in any way suggestive of a larger theme, and the results of interviews suggested that more work needs to be done in order to make committee hearings a more significant stage in the policy development process.

These findings underscore that the rationale for the comparative method of heterogeneity/causal complexity is very well applicable to this case. Legislative committees studied were found to have their own institutional or behavioural conditions in each country. These conditions differed in slight but important ways from the macro-level dynamics that characterize the greater legislatures they belong to in the literature on legislatures. Because of this, each case contributes to the agent vs. structure debate in its own way.

The study has also in a number of respects shown how agents and structures work within legislatures in complex ways. The chapter on Canada illustrates the ways in which agents can play a significant role in ENGO influence within the Canadian parliamentary context – where structural factors generally play a larger role in the process of change relative to the U.S. Specifically, both the types of MPs and Senators populating a committee and the type of discussion that takes place were found to have bearing on committee-level outcomes.

Similarly, the chapter on the U.S. shows three key ways in which structural factors can play a significant role in the U.S. congressional system, where individual actors can generally play a larger role in driving changes relative to parliamentary systems. Results of interviews with ENGO witnesses in the U.S. provided support for theories that committees are more subject to institutional constraints i.e. through the seniority system, the high impact of money in politics on the work of committees, and policy subsystems that are organized around the committee structure.

The Russian case serves as an interesting demonstration of a system where the interplay between agents and systems is particularly dynamic; in this respect, Russia appeared at times to be almost a purely presidential system under Yeltsin in his early years, but with the a steady increase in legislative control by the executive in Russia since 1996, it began to reflect some of the more limiting structural aspects characteristic of parliamentary systems under the Putin/Medvedev presidencies. Nevertheless, the development of the committee system itself – particularly when it comes to holding hearings on environmental issues with participants from

ENGO – was seen to develop in ways unique from the rest of the legislature and government. With low capacity and/or will for these types hearings in the Yeltsin and high levels of conflict in the legislature playing a part in derailing what committee studies existed to the detriment of ENGO representation, the story at the committee level is one of growth – very modest progress, to be sure – in terms of the capacity for ENGO policy influence through legislative committees.

I will now go through each case, summarizing the various answers to the central research question. In particular, I highlight how the findings from each country show where dynamics impacting the potential for ENGO influence – institutional or otherwise – were identified at legislative committees that were unique to the committee context or otherwise operated relatively independently from the wider legislature. I will also indicate how these dynamics particular to legislative committees in each context show the importance of studying heterogeneous or complex aspects of legislative systems, and contribute to the agent-structure debate in different ways i.e. by showing that there may be more explanatory power for agent-driven or structural factors at the committee level than in the wider legislature of the three countries studied.

Canada

The first case study is on Canada in Chapters 4 and 5; in these chapters, minority governments were associated with lower party discipline and more inter-party brokering. At the committee level, higher proportions of ENGO witnesses participating in hearings corresponded with committee chairs that exercised more independence from the executive, and more agency. It was also found that there was less of a tendency to include ENGO witnesses in Senate hearings in environment-related committees than in their House committee counterparts.

Looking into the individual committee cases further, higher party discipline was found to create barriers to non-governmental environmentalist influence through parliamentary committees and the wider legislature – especially under majority governments/chambers. In minority governments, the findings supported the hypothesis that the necessity of compromise between parties creates more opportunity for environmentalists to garner influence at the committee stage.

The process-tracing from committee deliberations with ENGO witnesses also showed correlations between different types of questions and outcomes. Specifically, hearings with questions coded as largely information-based, perspective-based or problem-solving were

followed by committee-level outcomes that were decisively more reflective of preferences expressed in ENGO witness testimony than hearings with questions coded as hostile. Of the three types of questions that were not hostile, information-based questions had the most consistent correlation with committee-level outcomes that matched ENGO preferences. Beyond the committee level, outcomes for hearings with information-based questions were not higher than those with perspective-based or problem-solving questions, but hearings where hostile questions were posed to witnesses continued to result in weaker overall outcomes for potential ENGO influence on policy.

Evidence of meta-consensus was also a factor that was assessed for each case, and this was found in 14 out of the 19 cases. The cases that had no evidence of meta-consensus were found to have had committee-level outcomes that reflected the expressed ENGO witness preferences 32% less of the time when compared to the cases with evidence of meta-consensus. However, there was no significant differential in outcomes beyond the committee level between those cases with and without meta-consensus.

Interviews with ENGO witnesses provided further support for the idea that the committee chair's use of his or her agency to assert the committee's independence from their party, the chamber and the government was important for influence. The example of the Standing House Committee on the Environment under chairman Charles Caccia was frequently cited by ENGO witnesses as an example of a chair and a committee acting in support of ENGO witness recommendations to the point of frequently defying the government's wishes. Thus, the proportion of ENGO witnesses included in studies, outcomes, and the coding of committee deliberations all supported the notion that this was a key factor under both majority and minority governments.

That an agent-centered factor can play such a significant role in the potential for ENGO influence through a parliamentary system committee contributes to the agent vs. structure debate as applied to legislatures. It also contradicts the notion that actors are too constrained by party discipline in the Parliament of Canada to have much agency – underscoring the utility of the comparative method of heterogeneity/causal complexity when examining the country case. We can recall that the purpose of looking beyond a homogeneous surface is to find heterogenous and complex pieces that refine and further clarify our understanding of the whole. This study showed how even in very institutionally-driven legislatures, there are key mechanisms i.e. committees

that actors can leverage by exercising agency and encouraging their committee members to do the same.

The United States

The focus on the U.S. Congress in Chapter 6 shows how legislative processes work within a system where party discipline is a weaker and more infrequent impediment to policy influence. In this case, the most significant challenge for environmentalists is a high degree of competition with other interests trying to influence policy through the same venue. These competing interests can be better-funded and/or more entwined into the local economies of the individual legislators, and as such pose challenges that are less institutional and more related to the behavioural dynamics of self-interest and collective interest among legislators.

However, there were also some institutional factors that were found to have a large hand in shaping the environment for influence at the committee level in the U.S. case. For example, the U.S. chapter highlighted the fact that the seniority system of chairmanships in the United States is an institutional dynamic that privileges certain legislators i.e. in safer ridings, older, and/or more risk averse to committee leadership positions. Moreover, the findings about particular ways in which money in politics and established policy subsystems manifest themselves in Congressional committees is a significant testament to the particularity of influence-shaping dynamics at the committee level. As with seniority, the institutional factors of money in politics and policy subsystems that characterize legislator-interest group relations in some issue areas operate in unique ways in the committee context (at least on environmental issues) compared to the rest of the legislature.

Comparing party discipline numbers to the proportion of ENGO witnesses, there was no clear correlation between ebbs and flows of party discipline and/or party control over committees through other mechanisms with the proportion of environmentalists in a committee hearing. However, there were signs that higher party discipline/control over committees did correlate with more negative outcomes in the analysis of the individual cases.

The process tracing from committee deliberations with an ENGO witness to committee-level outcomes and then outcomes in the wider legislature/government also suggested unique causal stories taking place within committees. Senate committees and committees under a

Democrat-majority chamber had committee-level outcomes that matched the ENGO witnesses' expressed preferences much more frequently; however, House committees and committees under a Republican-majority chamber fared slightly better in this respect for outcomes in the wider legislature/government.

In the comparison of deliberative content with outcomes, cases where questions posed to ENGO witnesses were coded as perspective-based, problem-solving, or information-based were all (100%) followed by a committee outcome that reflected the witnesses' expressed preferences. Where such questions were coded as hostile or open-ended, outcomes were all negative in this respect at the committee level. However, this effect was muted somewhat in terms of outcomes in the wider legislature/government, as one case with a positive committee outcome was followed by a negative overall outcome – and vice-versa for one of the cases with hostile committee questions.

The two cases that had no positive or somewhat positive committee-level outcome were the only cases in which no evidence of meta-consensus had been identified. Thus, there was a precise correlation between meta-consensus in deliberations and committee level outcomes that matched to some degree ENGO witness preferences expressed at committee. However, as with the nature of questions asked, this effect was diluted when considering outcomes in the wider legislature/government: One of the cases in which meta-consensus had been identified was followed up by a negative outcome in the wider legislature/government, and one of the cases in which no meta-consensus was found saw a somewhat positive result despite a negative committee-level outcome.

These findings show how heterogeneity/causal complexity characterizes an analysis of influence through legislative committees, as they support the supposition that causal processes which are already complex at one stage of the legislative system take on added causal complexity at each subsequent stage. They also contribute to the agent vs. structure debate, because they provide evidence that the conditions shaping the potential for ENGO influence through congressional committees are more institutionally-based than those in the wider legislature. Lastly, they provide support for the notion that deliberative theories of society-state influence such as the idea of deliberative empowerment (Fuji Johnson, 2009) and meta-consensus (Dryzek and Niemeyer, 2010) have some explanatory and perhaps even predictive power for the kinds of outcomes that Dür and De Bièvre (2007) associate with influence – at least at the committee

level. Thus, a part of the legislature where structural factors explain outcomes and dynamics more than in the wider legislature is identified, posing a challenge to the predominantly agent-centered explanations of Congress and highlighting the importance of studying heterogeneous aspects of legislatures.

Russia

In Chapter 7, the theorized impacts of semi-presidentialism are shown to have manifested in Russia from 1996-2015. Yeltsin's presidency was marked by the kind of conflict associated with minority government semi-presidential systems, and resulted in the exercise of heavy-handed presidential behavior such as very frequent vetoing of legislation passed by the legislature. This may have served as a motivating factor for both elites and the public to support what came after it under Putin and Medvedev: a consolidated party system where the executive could exert more control over legislative behaviour through (post-2001) its majority in the Russian Duma and (post-2005) its dominance over the composition of the Federation Council. The United Russia majority in the Russian Duma was achieved in somewhat conventional manner in legislatures, particularly parliaments: by consolidating different factions together, making necessary compromises in concessions in the process to make a majority. The changing of the legislative electoral system to a Proportional Representation (PR) system from a MMM (Mixed Member Majoritarian) system in 2005 was geared toward greater executive control of party members, and the reversal back to the MMM system from the PR system in 2014 was aimed at achieving more seats for the party – which logically would come at the expense of the executive control over the party. In the Federation Council, executive dominance was first achieved by appointment process and then after 2012 by a reintroduction of the election system, one which included new mechanisms for enabling the continuance of a considerable degree of executive control.

Data analysis on factors such as party discipline in the wider Russian legislature reflect the dynamics described above – showing evidence of less party discipline in the minority legislature under Yeltsin, and more in the majority legislature under Putin and Medvedev. However, the impact of all of this on ENGO influence through committees does not coincide neatly with this trajectory, despite the fact that more party discipline was found in the Canadian case to be an inhibiting factor for ENGO influence through committees. There is another factor

that eclipses the effect that executive dominance over the legislature might have in this case: the capacity of committees to engage with ENGOs in committee hearings.

As the Russian State Library was able to produce upon request evidence of only one notable piece of legislation related to the environment being studied at the committee level in a government session as under the Yeltsin government from 1996-1999, it is fair to surmise that the environmental movement was not being provided a good degree of opportunity to influence government policy at this time. In addition, this one piece of environmental legislation that was associated with committee study in the 1996-1999 period – the study on the *Forest Code* – did not include any official committee engagement at all with ENGO witnesses according to all transcripts and records provided by the Russian State Library. This provides a very dismal picture indeed of the prospects for ENGO influence through committees in the Russian legislature from 1996-1999.

In this context, it is a very low bar that needed to be reached for there to be improvement in ENGO influence through Russian legislative committees. As there were Duma and Federation Council committees under the Putin and Medvedev presidencies which studied multiple significant legislative initiatives and included ENGOs in the process, this could easily be considered an improvement over time. It was nevertheless considered necessary as well as interesting to probe further into the data of transcripts, outcomes, and interviewee responses, and evidence was indeed found that the executive dominance and majoritarianism/executive dominance in the legislature had detrimental effects on all three conceptualizations of influence utilized for the study.

To be precise, the responses from Russian ENGO interviewees expressed that parliamentary committees and the legislature in general were not the key sites for policy influence from an environmentalist point of view. The committee-level outcomes and outcomes in the wider legislature/government were at least somewhat positive in all three cases, but the interviews served one of the important purposes that they were designed to serve: they prevented the presumption of false positives by indicating that work done outside the legislature to influence policy on the topics discussed at committee had likely been much more critical in terms of influence being achieved. In two of the cases, the interviewees stated that their organizations had helped develop and draft the legislation that was eventually discussed at committee. In the other case, the ENGO witness stated that appearances before parliamentary committees must form a

part of a 2-3 year campaign – including a media strategy and other types of advocacy outside of the legislature – in order to be effective. While this was to some extent a theme that was expressed across all three country cases, it was emphasized the most strongly and unanimously by the interviewees there.

While the gaps in documentation in some cases and lack of legislators' questioning at committees posed challenges to an analysis of deliberative empowerment and meta-consensus, there were some nascent signs that meta-consensus expressed in a Russian parliamentary committee in one case could have contributed in a small and cumulative way to somewhat positive outcomes – at the committee level and beyond. In addition, interviewee responses indicated that there was not only the potential for incremental influence to be built on in small ways during committees, but that these were also worth attending from the standpoint of gaining valuable information and networking. However, more in-depth study – ideally accompanied by better availability of documentation – would be required in order to have the grounds for more conclusive statements in this regard.

The fact that increased capacity of committees to formally engage with ENGO witnesses in the Putin/Medvedev government more than compensated for the detrimental effects of the executive dominance and majoritarianism in the legislature when compared to the Yeltsin era from 1996-1999 is a further manifestation of the heterogeneity/causal complexity in the study. Here, we have an institutional condition – the capacity for committees to formally engage with ENGO witnesses on environmental policy formation – that greatly impacts the potential for ENGO witness influence through committees and operates on a different trajectory than the conventional trajectory for the democratization/erosion of democracy in Russia.

As with the other two cases, these findings contribute in a significant way to the agent vs. structure debate. In Russia under Yeltsin, it is generally the case that agency better explains the dynamics in the legislature; however, this study identified a dynamic where the institutional factor of capacity for formal committee engagement with ENGO witnesses greatly impacted the ability of ENGOs to influence government policy through those venues.

Overall, what emerges from the study is an exemplification of why it is important to examine legislatures deeper than at a macro level – in their actual working. It shows that while making deductions from the formal institutional structure can for some purposes be adequate, this fails to capture some dimensions of influence. The complex dynamics uncovered from the study

on the historical, institutional, and procedural conditions behind the state of ENGO policy influence through legislative committees can provide useful insight into legislative politics in Canada, the United States and Russia – as committees form an important and pivotal part of these legislatures.

Looking forward

In addition to identifying existing dynamics and challenges associated with ENGO influence through legislative committees in the three countries studied, a number of astute suggestions arose from the interview component of the study in terms of how to improve the state of affairs. For example, Canadian ENGO witnesses stressed the importance of governments consistently responding to committee reports in a timely fashion – calling for more active enforcement of this in Parliament. They also spoke about the importance of having strong and independent committee chairs. The desire was expressed by some Canadian ENGO witnesses to have the subjects of committee reports be more focused. Others had suggestions not only for Parliament, but for civil society i.e. recommending that NGOs keep track of evidence that their deliberations have contributed to policy changes, such as attributions to their testimony in committee reports.

In the U.S. chapter, interviews with ENGO witnesses before Congressional committee hearings yielded another set of recommendations for improvement. For example, some expressed the need to reduce the impact that money in politics has on committees and the legislature as a whole – such as instituting campaign contribution limitations or limiting certain actors such as corporations from contributing. One interviewee advised that committee chairs give more time for questions and answers during hearings, so that witnesses have more of a chance to clarify ideas or respond to concerns. Another argued that there should be a higher standard in terms of what issues are put before a committee study, as a way to prevent gratuitous use of such hearings by legislators in order to generate debate or attention for that issue. Yet another posited that committee hearings should be geared more toward problem-solving in an open-ended fashion, and raised concerns that sometimes witnesses are asked to testify on things that could result in them being sued or fired from their jobs. Finally, one suggested that those in the legislature be required to provide a response after each committee hearing explaining why one decision among disputed options was taken – comparing this to “the requirement in formal commentariats to respond to comments.”

ENGO interviewee responses in the Russian case pointed to very specific recommendations for both state and civil society: one interviewee suggested changing the constitution of the Russian Federation to make it a parliamentary system, while another argued that the key area of reform should be increasing the capacity of NGOs themselves – enabling them to engage in more advocacy work.

In all three countries, the strategy of forming policy coalitions with other environmentalist or other groups – not only in terms of advocacy but also in terms of pooling resources in some cases – was highlighted by the interviewees from ENGOs in all three countries.

Future researchers in this area may be intrigued by the fact that this study, by virtue of its time frame, did not have the opportunity to measure the impact of fascinating developments in the legislatures that occurred post-2015, such as the formation of the Independent Senators Group in the Canadian Senate in 2016, and the Trump presidency beginning in early 2017. Even the impacts of further Russian changes to the electoral system in 2013 were not tested until the 2016 legislative election there, leaving an interesting piece that is ripe for analysis in that area as well.

Legislatures are as much living creatures as they are institutions, and they may evolve, devolve or unravel in unpredictable ways. From the perspective of wanting to encourage further democratization and effective governance through legislatures, we should strive to have an ever-greater and more complex understanding of how change occurs in and through legislatures, and how non-governmental actors can access the mechanisms of change.

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Russian Duma: www.duma.ru

Russian Federation Council: www.council.gov.ru

Appendix A: Interview Details (Canada)

Harper Majority period (2011-2015):

- House: Christine Wenman (AANO), Devon Page (ENVI), Martin von Mirbach (RNNR), Susanna Fuller (ENVI) John Bennett (ENVI)
- Senate: John Bennett (ENEV), Christine Wenman (ENEV), Ed Whittingham (ENEV)

Harper Minority period (2006-2011):

- House: Mark Winfield (ENVI) Bill Eggertson (AANO) Kenneth Ogilvie (ENVI)
- Senate: Kenneth Ogilvie (Environment and Natural Resources), John Bennett (ENEV)

Paul Martin period (2003-2006):

- House: John Bennett (ENVI) Mark Rudolph (ENVI)

Chrétien Period (1993-2003):

- House: Mark Winfield (ENVI), Anonymous Canadian Interview (ENVI)
- Senate: Mark Winfield (Environment and Natural Resources), Susanna Fuller (ENEV)

1. Bill Eggertson, Executive Director of the Canadian Association for Renewable Energies

- Date of Interview: July 28, 2015.
- In-person interview.
- Committee meeting attended: AANO (Canada's Standing Committee on Aboriginal Affairs and Northern Development). 2010. Evidence of meeting #16 (May 11, 2010), 40th Parliament, 3rd Session.
 - Topic: "Northern Territories Economic Development: Barriers and Solutions."

2. Christine Wenman, Representative of Ecology North

- Date of interview: Oct. 13, 2015.
- Telephone interview.
- Committee meeting attended:
- AANO (Canada's Standing Committee on Aboriginal Affairs and Northern Development). January 27, 2014. 41st Parliament, 2nd Session.
 - Topic: "Bill C-15, An Act to replace the Northwest Territories Act to implement certain provisions"

- ENEV (Senate Committee on Energy and the Environment). February 6, 2014. 41st Parliament, 2nd Session.
 - Topic: “Bill C-15, An Act to replace the Northwest Territories Act to implement certain provisions”

3. Martin Von Mirbach, Director of the Canadian Arctic Program, WWF Canada

- Date of interview: Nov. 19, 2015.
- Telephone interview.
- Committee meeting(s) attended: RNNR (Canada’s Standing Committee on Natural Resources). 2012. Evidence of meeting #40 (May 15, 2012), 41st Parliament, 1st Session.
 - Topic: “Resource Development in Northern Canada.”

4. Devon Page, Executive Director, EcoJustice

- Date of Interview: Wednesday, April 6, 2016.
- Telephone interview
- Committee meeting(s) attended: ENVI (Environment Committee), 2012. Evidence of meeting #36 (May 15, 2012) 41st Parliament, 1st Session
 - Topic: Study to Provide Recommendations Regarding the Development of a National Conservation Plan

5. Susanna Fuller, Former Marine Conservation Coordinator, Ecology Action Centre

- Date of Interview: April 22, 2016.
- Telephone interview
- Committee meeting(s) attended:
- ENEV. December 5, 2001. 37th Parliament, 1st Session.
 - Topic: Examination of Canada’s energy resources, present and future.
- ENVI. May 29, 2012. 41st Parliament, 1st Session.
 - Topic: Study to Provide Recommendations Regarding the Development of a National Conservation Plan

6. John Bennett, Director, Energy and Atmosphere Campaign, Sierra Club of Canada.

- Date of Interview: April 5, 2016.
- Telephone Interview
- Committee meeting(s) attended:
- ENVI. February 17, 2005. 38th Parliament, 1st Session.

- Topic: Canada's Implementation of the Kyoto Protocol, for a report entitled “Finding the Energy to Act: Reducing Canada's Greenhouse Gas Emissions” (Report 7 of the Committee).
- ENEV. March 24, 2011. 40th Parliament, 3rd Session.
 - Topic: The current state and future of Canada's energy sector (including alternative energy)
- ENVI. November 1, 2011. 41st Parliament, 1st Session.
 - Topic: “[Statutory Review of the Canadian Environmental Assessment Act.](#)”

7. Mark Rudolph, Coordinator, Clean Air Renewable Energy Coalition

- Date of Interview: July 26, 2016.
- Telephone Interview
- Committee meeting(s) attended: ENVI (Environment Committee) 2005. Evidence of meeting on February 3, 2005. 38th Parliament, 1st Session.
- Topic: Canada's Implementation of the Kyoto Protocol, for a report entitled “Finding the Energy to Act: Reducing Canada's Greenhouse Gas Emissions” (Report 7 of the Committee).

8. Mark Winfield, Director of Research, the Canadian Institute for Environmental Law and Policy in 1999 and Director of Environmental Governance for the Pembina Institute in 2006

- Date of Interview: September 15, 2016.
- Telephone Interview
- Committee meeting(s) attended:
- ENVI. October 20, 1998. 36th Parliament, 1st Session.
 - Topic: Bill C-32, An Act respecting pollution and the protection of the environment and human health in order to contribute to sustainable development
- ENEV. August 30, 1999. 36th Parliament, 1st Session.
 - Topic: Bill C-32, An Act respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development
- ENVI. September 26, 2006. 39th Parliament, 1st Session.
 - Topic: the Statutory Review of the Canadian Environmental Protection Act, 1999.

9. Kenneth Ogilvie, then-Executive Director of Pollution Probe

- Date of Interview: January 10, 2016.
- Telephone Interview
- Committee meeting(s) attended:

- ENEV. June 15, 2006. 39th Parliament, 1st Session.
 - Topic: Review of the Canadian Environmental Protection Act (1999, c. 33) pursuant to section 343(1) of the said act.
- ENVI. February 4, 2008. 39th Parliament, 2nd Session.
 - Topic: Bill C-377, “An Act to ensure Canada assumes its responsibilities in preventing dangerous climate change” 2008. Evidence of Meeting on February 4, 2008.

10. Anonymous Canadian Environmental NGO Representative

- Date of Interview: January 19, 2017
- Telephone Interview
- Committee Meetings Attended: House Environment Committee during the Chretien Period (further specification not provided due to potential compromising of identity)

11. Ed Whittingham, Executive Director of the Polaris Institute

- Date of Interview: January 25, 2017
- Telephone Interview
- Committee Meetings Attended:
- ENEV Calgary (travelling committee). December 1, 2011. 41st Parliament, 1st Session.
 - Topic: “The current state and future of Canada's energy sector (including alternative energy).”

Appendix B: Interview Details (U.S. Case Study)

House of Representatives

1st Republican majority period (1995-2007): Dan Chu (March 1998), Dan Silver (Sept. 2004)

Democratic majority period (2007-2011): John Robinson (June 2008), Elizabeth Martin (Nov. 2009)

2nd Republican majority period (2011-present): Peter Shelley (February 2014)

Senate

1st Republican majority period (1995-2001): Anonymous representative of NY-based environmental organization (Oct. 1998)

[There are no witness interviewees for the 107th Congress from Jan. 3, 2001 to Jan. 3, 2003; the majority in the Senate changed four times in that period, and this and other events – such as the anthrax attacks on senators in October 2001 – caused delays and a decrease in Senate activity].

2nd Republican majority period (2003-2007): Anonymous representative of NY-based environmental organization (April 2003)

Democratic majority period (2009-2015): Steven Nadel, June 2013

Interview 1: Representative of a NY-based environmental organization

- Date of Interview: Nov. 29, 2016
- Phone Interview
- Committee meeting attended: Senate Environment and Public Works committee hearing, Oct. 6, 1998.
 - Topic: The Acid Deposition Control Act.And Senate Environment and Public Works committee hearing, April 8, 2003.
 - Topic: The Clear Skies Act of 2003

Interview 2: Dan Chu, Executive Director, Wyoming Wildlife Federation.

- Date of Interview: Jan. 12, 2017
- Phone Interview
- Committee meeting attended: House Natural Resources Committee. March 18, 1998
 - Topic: Problems and Issues with the National Environmental Policy Act (NEPA) of 1969

**Interview 3: Peter Shelley, Senior Counsel at Conservation Law Foundation
Massachusetts**

- Date of Interview: Wednesday, May 10, 2017
- Phone Interview
- Committee meeting attended: House Natural Resources committee, Feb. 4, 2014.
 - Topic: To Amend the Magnuson-Stevens Fishery Conservation and Management Act

Interview 4: Dan Silver, Executive Director, Endangered Habitats League

- Date of Interview: May 19, 2017
- Phone Interview
- Committee meeting attended: House Natural Resources committee, Sept. 10, 2004
 - Topic: Examining Impacts of the Endangered Species Act on Southern California's Inland Empire

**Interview 5: Steven Nadel, Executive Director, American Council for and Energy
Efficient Economy (ACEEE)**

- Date of Interview: June 20, 2017
- Phone Interview
- Committee meeting attended: Senate Energy and Natural Resources committee, subcommittee on energy. June 25, 2013.
 - Topic: Energy Efficiency Bills

**Interview 6: John Robinson, Executive Vice President, Conservation and Science,
Wildlife Conservation Society**

- Date of Interview: July 10, 2017
- Phone Interview
- Committee meeting attended: House Natural Resources committee, Tuesday, June 24, 2008.
 - Topic: Planning for a Changing Climate and its Impacts on Wildlife and Oceans: State and Federal

Interview 7: Elizabeth Martin, Chief Executive Officer of The Sierra Fund

- Date of Interview: Wednesday, October 4, 2017
- Phone Interview
- Committee meeting attended: Field Hearing, House Natural Resources Committee's Subcommittee on Energy and Mineral Resources, November 23, 2009.
 - Topic: Energy and Mineral Resources on Abandoned Mines and Mercury in California

Appendix C: Interview Details (Russian Case Study)

Yeltsin Era (1991-1999)

Duma

Committee hearings pertaining to committee and chamber relations with the Federation Council. Committee of the Duma on Natural Resources, meetings on the Forest Code on October 7, 1996 and January 16, 1997.

Putin/Medvedev Era (1999-Present)

Federation Council

Interview 1: Vladimir Chuprov, head of the energy program at Greenpeace Russia

- Date of interview: August 31, 2015
- In-person interview, Moscow
- Committee meeting attended: Committee of the Federation Council (of the Russian Federation) on Federal Structure, Regional Policy, Local Self-Government and Northern Affairs. 2013. Transcript for committee hearings on the topic “Legal support for social-economic development of the Arctic zone of the Russian Federation.” (Стенограмма парламентских слушаний на тему «Правовое обеспечение социально-экономического развития Арктической зоны Российской Федерации»). 29 November, 2013.

Duma

Alexey Knizhnikov, program manager for Environmental and Energy Policy Energy at WWF Russia

- Date of interview: August 7, 2015
- In-person interview, Moscow
- Committee meetings attended: Committees of the Duma and Federation Council of the Russian Federation. 2012 (Concluded December 30, 2012). Meetings pertaining to Federal Law No. 287-FZ “On the amendments to the Federal Law on the continental shelf of the Russian Federation and the Federal Law on the internal sea waters, territorial sea and the adjacent zone of the Russian Federation – prevention and elimination of oil spills in the sea.” (О внесении изменений в Федеральный закон «О континентальном шельфе Российской Федерации» и Федеральный закон «О внутренних морских водах, территориальном море и прилегающей зоне Российской Федерации»)

Anonymous interviewee

- Date of interview: August 7, 2015
- In-person interview, Moscow
- Details confidential

Larissa Alekseevna Popova, Professor and Deputy Director of Science at the Institute of Social, Economic and Energy Problems of the North, Komi Science Center of the Ural Branch of the Russian Academy of Sciences in Syktyvkar, Russia

- Date of interview: Sept. 29, 2015.
- Email interview
- Committee meeting attended: Committee of the State Duma of the Russian Federation on Regional Policy and Problems of the North and the Far East, Nov. 30, 2011.
 - Topic: “Problems of Legislative Support for the Implementation of the State's Demographic Policy in the Far North and Equivalent Territories.”