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PARLIAMENTS & GOVERNMENT FORMATION

Unpacking Investiture Rules

EDITED BY

Bjørn Erik Rasch,
Shane Martin, &
José Antonio Cheibub



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Part I

Introduction

Investiture Rules and Government Formation

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1.1 INTRODUCTION

Under parliamentarism, the executive, typically termed ‘the government’, comes from, and remains responsible to, the national parliament. Although government formation has long been recognized as a core function of national parliaments (Kreppel 2014), and despite the prevalence of research on the politics of government formation (see, for example, Müller and Strøm 2003; Strøm, Müller, and Bergman 2008), surprisingly little research has explored the precise role of parliament in the process of government formation. For instance, exactly what does ‘come from’ parliament mean in the context of government formation under parliamentarism?

The focus of this book is on the parliamentary investiture vote.¹ Investiture consists of a vote in parliament to demonstrate that an already formed or about to be formed government has legislative support. This definition is inspired by Laver and Schofield (1998, 62) who note that ‘it is often necessary for a prospective government to be able to demonstrate its legislative support before it can take office’. Of course, in a number of parliamentary regimes the government is already in office, legally and practically, before it is subjected to an investiture vote. That a government has already taken office, however, as we will argue below, does not detract from the possibility that governments must

¹ While parliaments are involved in many informal ways in government formation, our focus is on the *formal* rules guiding their involvement. As such, we do not specifically examine the involvement of party leaders or other legislators in coalition bargaining or the use of the chamber as a recruiting ground for cabinet ministers. Throughout the book, the term ‘parliament’, ‘legislature’, and ‘assembly’ are used interchangeably. Similarly, the terms ‘cabinet’, ‘executive’, and ‘government’ are employed interchangeably.

face a compulsory vote in some parliaments, designed to ensure that the new government has parliamentary support. Regardless of the timing of any investiture vote, the critical fact is that the process of government formation in a number of countries includes a parliamentary investiture. Further, in our definition of parliamentary investiture, the exact meaning of *parliament* varies: in the case of bicameral systems, the investiture vote most frequently occurs only in the lower chamber (Druckman and Thies 2002).

While parliamentary investiture votes are a common feature of parliamentary regimes, not all parliaments require them, as the case of Norway demonstrates. In the 1997 general election in Norway, the incumbent prime minister of the Labour minority government, Torbjørn Jagland, did not reach his stated goal of at least as many votes as in the previous election (his so-called 36.9 per cent ultimatum to the voters), and tendered his resignation a few hours after the votes were counted. The opposition parties were sharply divided with no broad-based alternative government in sight. One of the leaders of the opposition, Kjell Magne Bondevik from the Christian People's Party, had campaigned intensely for a centrist coalition government with the Centre Party and the Liberals. Altogether the three parties received only 26 per cent of the votes, and few observers (and voters) really regarded the centre by itself as a viable government coalition (Aardal et al. 1999). In Norway, it is the privilege of the outgoing prime minister to make recommendations to the monarch with regard to the next government. The prime minister either can suggest a *formateur* (a prime minister designate) or ask the monarch to involve the president of the parliament as a kind of *informateur* (a person who examines possible coalitions and comes up with a name to be proposed as the prime minister). The Head of State has always followed the advice of the prime minister. The same happened this time. Jagland suggested that the king should ask Bondevik to form the next government, and Bondevik shortly thereafter presented his minuscule centrist coalition. The new government clearly had no majority support, and it could be formed only on the basis of a vague and implicit backing from the outgoing prime minister's Labour Party. Or more correctly: Labour, with nearly 40 per cent of the seats after the 1997 election, in reality blocked any possibility for other opposition parties to launch a successful no-confidence attack on the incoming prime minister. Labour never gave active support to the Bondevik government, which lasted until March 2000.

Now let us move to the Irish general election in early June the very same year, which resulted in almost 40 per cent of the votes going to the centre-left Fianna Fáil and almost 30 per cent to the centre-right Fine Gael—the two largest parties. Both parties gained seats, primarily at the expense of the socialist Labour Party, which saw its vote share collapse. In Ireland, parliament's lower chamber (the Dáil) elects the prime minister (the *Taoiseach*) who is then formally appointed by the President. When the Dáil convened three weeks after the election, the question of who would be the next *Taoiseach* was

less than certain. By precedent, if the outgoing *Taoiseach* is seeking to remain in office, the chamber first votes on that nomination. On this day, the incumbent *Taoiseach* was indeed proposed. A second proposal emerged from the opposition Fianna Fáil, who had reached a coalition agreement with the much smaller centre-right Progressive Democrats. Neither bloc had the necessary number of parliamentary seats to ensure victory: to be elected *Taoiseach*, a candidate must receive more ‘yes’ votes than ‘no’ votes. Assuming all legislators vote, the hurdle to be elected *Taoiseach* is eighty-three votes. John Bruton (as the incumbent prime minister) was the first to be voted on, but failed to be re-elected by a margin of seventy-five votes to eighty-seven.

In Ireland, if the first nominated candidate fails to receive more votes for than against, the second nominated candidate, if any, is then voted on. The chamber proceeded to vote on the candidacy of the leader of Fianna Fáil, Bertie Ahern. He was elected *Taoiseach* by a margin of eighty-five votes to seventy-eight. The minority Fianna Fáil/Progressive Democrats government was able to come to office only through the support in the investiture vote of four non-party legislators. In return for supporting the government, these non-party legislators between them allegedly received significant ‘pork-barrel’ projects for their respective constituents and secured the chair of some high-profile parliamentary committees.

The election of the *Taoiseach* is not the end of the investiture game: the *Dáil* subsequently votes to confirm or reject the overall composition of the cabinet, meaning that supporters are required to pledge support not once, but twice, to the incoming administration. The minority administration governed for the next five years, relying on the support of non-party legislators.

A quick comparison of the cases of Ireland and Norway highlight the institutional complexity and obvious political significance of investiture rules. In contrast, existing comparative research tends to bifurcate the role of parliament in government formation into a dummy variable: parliamentarism is either *negative* or *positive*, depending merely on whether parliament votes in the process of government formation. The Norwegian example, in this sense, would illustrate the essential feature of *negative parliamentarism*: parties can enter executive office even without visible and explicit support from a majority of the parliament. The Irish case, in turn, because the government is formed or invested only if a majority explicitly expresses its support for the government through voting, would illustrate the essential feature of *positive parliamentarism* (Bergman 1993; De Winter 1995; Seyd 2002; Siaroff 2003; Golder 2010). Yet, as we argue, simply differentiating between positive and negative parliamentarism only scratches the surface of how parliaments around the world involve themselves formally in the process of making governments. The variation in rules is so great that studying the role of parliament in government formation solely through the lenses of negative versus positive parliamentarism is neither sufficiently detailed nor particularly rewarding—either theoretically or empirically.

In this volume, we seek to ‘unpack’ the investiture procedure by identifying the great variation in investiture rules from one parliament to the next, as hinted at by the Norwegian and Irish cases. Our goal is to look inside cases of investiture, to examine how investiture procedures vary, and to explore at least some of the consequences of this variation. For example, on institutional variation, where more than one chamber exists, the number of chambers involved in government formation varies. So too does the substantive focus of any investiture vote: the formal vote could focus on one or more of the prime minister, the cabinet, or the government’s policy programme. As already hinted at, formation votes can occur *ex ante*, with the chamber selecting, for example, a prime minister (*formateur*) from among various candidates presented to it. Alternatively, the formation vote may be *ex post*, with parliament merely asked to confirm the already appointed government. A parliament that must act to confirm an already appointed government, we suggest, is nevertheless a key player in the government formation process. The decision rule may require an absolute or simple majority or, in rare cases, not more than a plurality for a successful investiture. The investiture process may be a short one, or it may allow for successive investiture attempts. Investiture rules may be different depending on whether it is the first or subsequent attempt to form a government. Failure may mean the ultimate dissolution of parliament or a choice by different actors. The real world of investiture procedures thus involves largely overlooked but possibly consequential variation in design and detail.

We want to know if variation in the rules of parliamentary investiture matters. In this volume, the focus is on investiture rules’ impact on the propensity for minority governments. Typically, general elections in most parliamentary democracies tend not to reward one single party with a majority of legislative seats. This, of course, is what makes government formation such an interesting and intriguing phenomenon. Minority governments—where the parties represented in the cabinet do not hold a majority of seats in the legislature—are a feature of many parliamentary systems (Strøm 1990). Yet minority governments are bewildering in the sense that they, as any government under parliamentarism, come from, and must remain responsible to, parliaments in which *majorities* decide.

Can unpacking the investiture procedure better explain the rate of minority governments? The Norwegian and Irish cases cited at the beginning of this chapter illustrate the possibility that the exact form of parliamentarism potentially facilitates or renders more difficult the emergence of minority administrations. In Norway, incoming governments do not face a vote of selection or confirmation, but are free to govern unless a majority votes the government out of office. In contrast, an Irish government needs the active support of a simple majority of the lower chamber. As we discuss later, many of the cases covered in this volume present something of a puzzle: even where

parliaments appear to be relatively powerful in terms of voting governments into office, minority governments are still formed. In other cases, although the legislature is multiparty in nature, and no investiture mechanism exists, majority governments are almost always formed. Explaining why these patterns occur, we argue, requires the investiture procedures to be unpacked.

In addition, the formation vote can be important for other reasons. In the Irish case, for example, the investiture vote is used by parties and individual legislators as a cover to allow parties to be seen to attempt to implement pre-electoral coalition agreements before subsequently defecting and supporting a different, post-electoral, coalition. The investiture requirement may also lead to greater levels of legitimacy—a government invested by a directly elected parliament signals at least some basis of popular support (Blais et al. 2007).

Yet any attempt to explain the consequences of investiture procedures must be prefaced by an investigation of how these rules vary. The selection of the government is well recognized as a key function of national parliaments under parliamentarism, but we know very little about the real role of parliaments in choosing who governs. The complexity of rules is not well understood, despite the ample recognition in legislative studies and comparative politics scholarship that decision rules and institutional details matter. Uncovering and systematically measuring parliamentary procedures concerning government formation is thus the first core task of this volume. More specifically, we aim to uncover the institutions of parliamentarism with regard to government formation and show how these vary cross-nationally. Without such basic information, it is impossible to understand not just the role and function of parliament in government formation, but the purpose and power of parliaments more generally.

1.2. IDENTIFYING THE INVESTITURE PROCEDURE

Descriptive ‘soaking and poking’ can be rewarding; we will suggest that existing comparative work has often misunderstood even the most basic parliamentary investiture rules. For example, the British constitution arguably provides for an *ex post* investiture vote (commonly referred to as the Queen’s Speech). In the United Kingdom (UK), the monarch makes a ‘speech from the throne’ at the opening of each session of parliament, which is then debated and voted on in parliament. The constitutional convention is that the government resigns if a majority of the House of Commons rejects the Queen’s Speech, as happened for example in 1924. Figure 1.1, taken directly from the UK Cabinet Manual (Cabinet Office 2011), identifies the vote on the Queen’s Speech as the last stage of ‘the election and government formation process in the United Kingdom’. As such, we believe the British House of Commons plays a formal active role in the

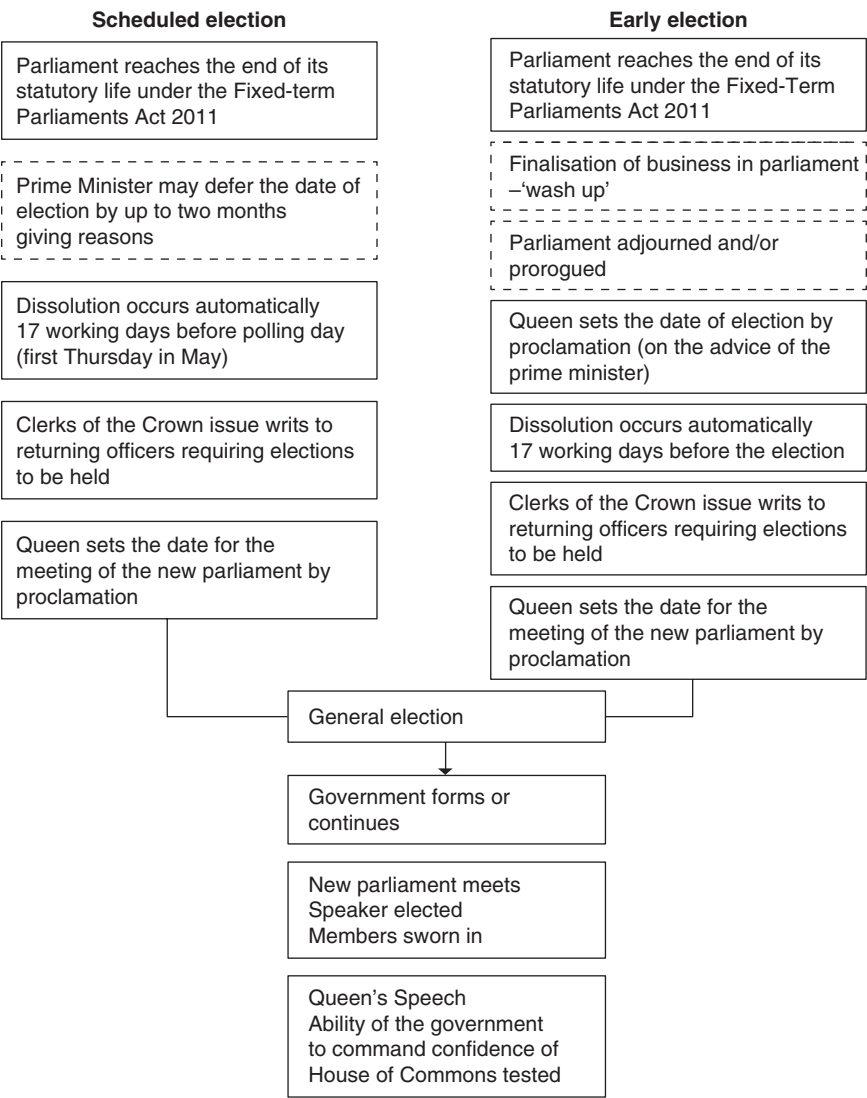


Figure 1.1 Election and Government Formation Process in the United Kingdom

Source: Cabinet Office, 2011: 96. Note: Dotted line denotes that step may be skipped.

government formation process. In contrast, most comparative scholars typically identify the British Parliament as having no formal role in the process of government formation.² Because the Queen appoints the prime minister, the

² Actually, we have come across no analyses in which the UK is coded as having an investiture (see, for example, Bergman 1993; De Winter 1995; and leading textbooks such as Gallagher, Laver, and Mair 2011, and Clark, Golder, and Golder 2012).

conventional wisdom in political studies is that the British Parliament plays no formal role in the government formation process.

The British case, although complex (see Kelso, Chapter 2, this volume), illustrates the need to distinguish between different types of parliamentary votes in order to understand what exactly constitutes an investiture vote. We believe that investiture votes can occur at two stages in the government formation process: either before or after the government assumes power, either as a vote to select a (prospective) prime minister and/or as a compulsory vote to confirm a government. This investiture vote (or votes) can be contrasted to a *confidence vote* (which is requested by the government) and a *no-confidence vote* (which is initiated by the opposition). Existing scholarship has not paid attention to this distinction. Therefore, some of the cases in which the government is *appointed* by the Head of State before it must face a (compulsory) vote of confidence have gone under the radar and are incorrectly classified.

It is certainly true in the British and other similar cases that the transfer of power between the outgoing and new governments has already occurred at the time of the parliamentary vote. We believe that the transfer of power does not mean that the vote to reaffirm the incoming government should not be conceptualized as an investiture vote. Investiture is not the same as selection—just as in the case of a royal coronation.

Figure 1.2 clarifies our view of the government formation process and the role of investiture procedures in it. As can be seen, in our view a vote of investiture can happen at two stages in the process of government formation. First, it may happen at some point between the beginning of a new government formation process (immediately after a new election or a government resignation) and just before a new government is appointed by the head of

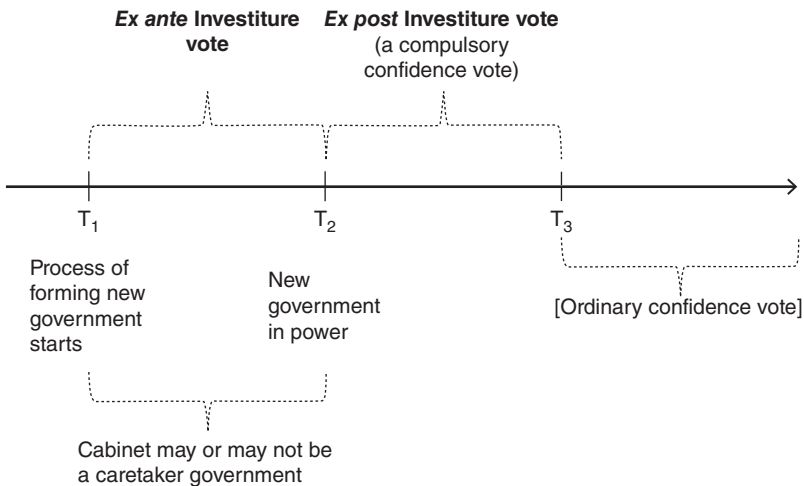


Figure 1.2 The Investiture Game

state. These we call cases of *ex ante* investiture, meaning that parliament elects a prospective prime minister. Second, the investiture vote may take place after the Head of State has appointed a new government. That government is formally empowered to act—it has control of the state—but it is required to face a parliamentary vote: if it succeeds in that vote, it continues in its existence; if it fails, it *is required* to resign and the process of forming a new government starts anew, or parliament is dissolved. We call it an *ex post* investiture when the parliament votes on an already appointed government (or, as we discuss later, the prime minister, the policy platform of the cabinet, or individual ministers).

It seems unproblematic to us that there is a meaningful distinction between a compulsory ‘vote of confidence’ a government must face as part of the investiture process (i.e., an *ex post* investiture) and the ordinary vote of confidence a government is allowed to request from parliament at any point during its existence. Although both can be (and should be, as we argue in the book) thought of as votes of confidence, they differ in one crucial aspect: the one associated with investiture is not open for strategic timing as the one initiated by the government is.³ A government is *required* to face that vote of confidence, like it or not. If that government loses, it must resign, even if it is in the midst of overseeing major public initiatives or of negotiating the budget. That is, when the process is such that an *ex post* investiture vote is required, even if the government is in full control of the state, the investiture process only ends when that vote takes place. It stands to reason that no government that is uncertain that it will succeed in that vote will initiate major policy initiatives, even if it is in full control of the state. If an investiture vote can be a confidence vote, what is the difference between the two? The difference, to put it shortly, is that while one is mandatory, the other is not, and is thus open to choice and strategic manoeuvring by the government.

Admittedly, the UK is indeed an atypical case of investiture. Like many parts of the UK’s constitution, it is a convention not written in any document. Unlike most cases of *ex post* investiture, there is no required time framework for the vote on the Queen’s Speech to take place, although certain parliamentary business may not be undertaken before the Speech is accepted (Jack 2011, 160–1). And unlike most other cases, the Speech takes place at the beginning of each parliamentary session (typically, but not necessarily, every year). Moreover, a change in prime minister without a general election does not warrant a new Queen’s Speech. Although these features make the UK case rare among other parliamentary democracies, it does not make it a case of no investiture. In practical terms, the key point is this: a political party or coalition of parties wanting to form Her Majesty’s Government knows that it faces an

³ On the ordinary confidence vote, see Huber (1996).

immediate test of its parliamentary support in the form of the vote on the Queen's Speech. This, we believe, shapes the post-election government formation process in the United Kingdom. At the same time, we understand that not all scholars will agree. After all, political scientists have long incorrectly worked on the assumption that parliament in the UK has no formal role in government formation.

A few other examples of difficulty in detecting the presence or absence of an investiture vote can also be mentioned. Bergman (1993, 58–9) identifies the Netherlands as a case of positive parliamentarism, even if he (correctly) notes that a vote of investiture strictly speaking is not required. Diermeier et al. (2002; 2003) seem to define investiture in such a way that Germany is not among the countries having such a procedure. They also suggest that Belgium abolished its investiture in a constitutional reform effective from 1995 (Mattila and Raunio (2004) do the same). All other empirical analyses we know of code Belgium as having an investiture procedure. The case is ambiguous, however. The constitution is silent on the matter, but since 1919 a confidence vote has typically taken place immediately after new prime ministers have read their government declarations. This practice is regarded as a constitutional convention, although it has not been consistently applied.⁴ Another example is Luxembourg. Contrary to most other authors (for example, Bergman et al. 2003; Mattila and Raunio 2004) Warwick (1994, 129) codes this country as not having an investiture requirement.⁵ In practice, however, all post-war governments have received an investiture vote (see Dumont and De Winter 2000). Before describing the specific features of the investiture procedure we wish to study, in Section 1.3 we review the extant literature on parliaments and government formation.

1.3. EXISTING APPROACHES TO GOVERNMENT FORMATION

As noted above, where one party controls a majority of seats, the *partisan* composition of the cabinet is relatively straightforward. However, where no

⁴ Perhaps ironically, government formation in Belgium in 1977 is the opening example in the seminal article on institutional constraints on government formation—investiture requirements being one of them—by Strøm et al. (1994). There was an investiture vote after Leo Tindemans formed his fifth government (in early June), but not after the coalition change leading to Tindemans IV in March the same year. The latter government no longer commanded a majority, and Tindemans decided to dissolve the parliament.

⁵ Warwick (1996, 493, fn. 45) exclude some types of investiture rules from consideration: 'Systems where the Prime Minister is chosen by the legislature are not considered to have an investiture requirement, since the vote is for an individual, not a coalition.'

single party secures a majority of seats in the chamber, two or more political parties may potentially agree to govern together. Which parties enter government in such circumstances has been the subject of significant scholarly attention. Despite this, our understanding of the relationship between the investiture mechanism and government type has been scarce; Golder, Golder, and Siegel (2012, 428) emphasize that ‘neither the assumptions nor the predictions of the current theoretical approach [informing studies of government formation] correspond closely to the empirical findings’. Investiture requirements, and for that matter any other institutional aspect of government formation, have received at best limited attention. Early office-oriented approaches to who gets to govern under parliamentarism, originating from rational choice accounts of party behaviour, emphasized government formation as a game involving the distribution of a fixed prize (generally conceived of as seats at the cabinet table). Work on political coalitions emphasized the *minimal winning* character of optimal bargaining—coalitions should contain only as many parties as was necessary to achieve a legislative majority. Riker (1962) proposed a modified version of this theory, suggesting that coalitions would likely have *minimum seats*—in other words, composed of parties who together hold as small a majority of seats in parliament as possible. In contrast to these office-oriented perspectives, later accounts focused on policy-based motivation in coalition formation. Axelrod (1970) suggested that multiparty governments are likely to be ideologically ‘connected’. For example, political parties at different ends of the salient political spectrum are assumed unlikely to coalesce. De Swaan (1973) focused on the ideological range, and suggested that coalitions of parties should be ideologically congruent.

Departing from the institution-free nature of both the office- and policy-based approaches just described, and in tandem with the new institutionalism of the 1980s, coalition scholars began investigating the role of rules and institutions in shaping government formation. In a number of political systems, for example, provisions are made for *informateurs* and/or *formateurs*. Clearly, such details potentially matter in determining which real-world coalitions emerge. Austen-Smith and Banks (1988) and Baron (1991) focus on the role of *formateurs* and the importance of the order in which different players get to attempt to form a government. These rules, the literature suggests, impact which parties will govern (see, for example, Bäck and Dumont 2008). At the same time, a ‘portfolio allocation paradox’ has been noted (Warwick and Druckman 2006); coalition theory predicts a *formateur* advantage, while at least cabinet portfolios are distributed proportionally according to legislative seat shares (cf. Gamson 1961; and, e.g. Carroll and Cox 2007 and Laver et al. 2011 for ways to understand better the paradox). Laver and Shepsle’s (1996) portfolio allocation model similarly elevates the importance of institutions, suggesting that how cabinets work, and more

specifically the degree to which individual cabinet ministers enjoy policy autonomy, shapes the preferences of parties with regard to coalition government. Tsebelis and Ha (2014) introduce institutional agenda-setting advantages and veto players to take non-cooperative game-theoretic coalition theory a step further. As policy is significant in coalition formation, institutions that regulate policymaking processes, such as rules of legislative agenda setting, also play a central role.

In the context of models such as these, other work focused on some of the specific parliamentary rules regulating government formation. After all, government formation is said to be a core function of parliaments in parliamentary systems (Laver and Shepsle 1996). Strøm (1990) suggests that the presence or absence of an investiture vote matters for whether or not governments are likely to be majority or minority. Minority cabinets tend to be common in some countries, such as Denmark, Sweden, and Norway (Bergman and Strøm 2011; Rasch 2011). Minority governments could be more likely to occur where the government can survive by building ad hoc policy-based majorities for specific proposed legislation. In contrast, a formal investiture vote may represent a significant hurdle, because parties outside the minority government may be less disposed to explicitly support the coming into office of a government of which they are not part. As Strøm, Budge, and Laver (1994, 311) note, 'some parties may find it acceptable tacitly to lend their weight to a government that they could not openly support in an investiture vote'. This logic, they suggest, differentiates investiture rules from confidence rules.

In a significant empirical contribution, Bergman (1993) distinguishes between *positive* parliamentarism (a situation where an incoming government needs to be supported by the parliament) and *negative* parliamentarism (a situation where the government must only be 'tolerated by' the parliament). Looking at patterns of government formation in fifteen West European parliamentary democracies between 1945 and 1987 and focusing only on countries with electoral systems likely to return 'hung' parliaments, he finds that 48 per cent of governments are minority governments in systems with negative parliamentarism as compared to 25 per cent in systems with positive parliamentarism. This he takes as evidence that 'a negatively formulated government formation rule facilitates minority governments' (Bergman 1993, 61). It is worth noting that although Bergman discusses the significant levels of variation in investiture procedures in Western Europe, the empirical analysis focuses on just one aspect of the investiture process: whether the rules are positively formulated or negatively formulated.

Subsequent empirical research appears to confirm the relationship between investiture rules and patterns of minority government. In what was arguably the most complete empirical investigation of competing theories of government formation, Martin and Stevenson (2001) test seventeen hypotheses with 220 coalition bargaining situations in fourteen countries, including the

suggestion that ‘potential governments controlling a minority of seats in the legislature are less likely to form in the presence of an investiture vote’ (37). Their evidence confirmed that minority governments are less likely to form in countries with an investiture vote, providing a further multivariate confirmation of Strøm (1990) and Bergman (1993).

Yet the impact of investiture rules remains ambiguous. The primary argument as to why investiture rules should not matter relates to what some see as the complementary impact of confidence procedures. As Strøm, Budge, and Laver (1994, 311) note, it could be argued that ‘obviously, all governments implicitly face an investiture vote whenever they first expose themselves to the possibility of a parliamentary no-confidence vote’. Thus, the defining feature of parliamentarism—the need for government to maintain the support of the legislature—trumps in significance whether or not the legislature must formally offer its support through an investiture process. As Golder, Golder, and Siegel (2012, 430) argue, ‘any incoming government must be able to survive a vote of no confidence and, hence, enjoy the support of a legislative majority even if it never has to explicitly demonstrate this through an actual vote’.

Evidence as to whether investiture rules are insignificant has included several questions beside type of government and the occurrence of minority cabinets. Table 1.1 highlights some of the questions and findings. Scholarship exploring the length of time it takes governments to form has been extensive. In the real world, government formation has lasted from a matter of hours to, in the case of some countries, months after the general election. If investiture rules matter, they should add to the bargaining complexity and thus the

Table 1.1 The Consequences of Investiture Requirements

Dependent Variable	Effect of Investiture		
	Positive	Negative	Not Significant
Minority governments		Strøm (1990); Bergman (1993); Martin & Stevenson (2001)	Strøm (1984)
Number of parties in government	Strøm (1990)		
Duration of government		King et al. (1990); Diermeier et al. (2003); Saalfeld (2008); Warwick (1994); Van Roozendaal (1997); Diermeier & Stevenson (1999)	
Duration of formation process	De Winter (1995); Diermeier et al. (2003); Bergman (1993)		Golder (2010); Diermeier & Van Roozendaal (7)

amount of time it takes a coalition to form. All else being equal, a lack of investiture rules should result in relatively faster government formation.

Looking at Western Europe, De Winter (1995) finds that governments take on average thirty-three days to form in systems with negative parliamentarism as compared to an average of forty-one days in systems with positive parliamentarism. Subsequent multivariate analysis reaches different conclusions: Diermeier and Van Roozendaal (1998) find that investiture fails to influence the duration of cabinet formation (although investiture requirements do influence the duration of cabinets). Diermeier and Van Roozendaal follow convention by treating investiture rules as a dichotomous variable. Yet they acknowledge that ‘in a bargaining model the details of investiture requirement specifies whether a majority or a mere plurality of legislators is decisive in installing a new cabinet. But since any such requirement is common knowledge among the negotiators, we expect no difference with respect to formation times’ (621–2). Golder (2010) returns to the logic of bargaining complexity and bargaining delay, noting that ‘the task of forming a government should be less complex if the potential cabinet simply needs to avoid provoking a majority of legislators from voting against it rather than getting a majority to vote for it’ (Golder 2010, 15–16). She finds no evidence to corroborate the hypothesis, but suggests that future work needs to limit the study of investiture rules and the time it takes to form a government to cases of minority governments: ‘positive parliamentary rules should only add to bargaining complexity when a minority cabinet is trying to take office—proposed government cabinets that control a legislative majority should have no problem passing an investiture vote’ (16). In the case of an incumbent coalition or a pre-electoral coalition achieving a majority of seats, for instance, an investiture obviously does not represent a delaying hurdle. Still, the investiture may be an element deterring undersized governments and the bargaining complexities associated with forming them.

Findings regarding the lifespan of governments are less ambiguous than the case of duration of formation processes. King et al. (1990, 857) hypothesized that investiture requirements ‘should diminish average duration by causing some governments to fail very quickly’. Despite the authors finding that majority governments tend to last longer (see also Laver and Schofield 1998), their hypothesis on the negative relationship between investiture rules and duration is confirmed (investiture reduces the durability of a government by about a third). Only six investiture countries are included in the analysis, and an important factor behind the result seems to be that in at least two of the cases—Italy and the French Fourth Republic—several governments did not even survive the investiture. According to Strøm (1985, 741), the common practice has been to include in empirical analysis these extremely short-lived cabinets. Saalfeld (2008) finds that positive parliamentarism depresses cabinet stability.

Largely missing from existing research is an assessment of how variation in the details of investiture rules matter. As we have argued above, the rules of investiture vary much more significantly than existing accounts provide for. As such, existing research on parliaments' role in government formation leaves a number of questions unanswered. The inconclusive evidence linking the presence or absence of an investiture vote to the length of formation and the rate of minority governments is puzzling. The mixed evidence may be a consequence of the failure of existing research to specify more fully the rules of government formation at the parliamentary stage. We describe these rules in Section 1.4.

1.4. UNPACKING PARLIAMENTARISM

As already indicated, actual investiture procedures vary considerably. To get a better understanding of the complexity of the procedures, we here discuss six dimensions of the investiture vote: (1) the number of chambers involved, (2) what is voted on, (3) the timing of the vote, (4) the decision rule, (5) the number of rounds, and (6) what happens in the event of a failure to invest a government.

Some political systems are bicameral, and some bicameral systems have governments that are responsible to both houses, for example, Italy and Japan. An investiture vote may be required in both houses (Druckman and Thies 2002; Druckman, Martin and Thies 2005). Especially if the partisan composition (perhaps as a result of variation in the territorial basis of representation) is different in the lower and upper houses, a double investiture typically is more demanding than a single investiture in a lower house (cf. Tsebelis 2002).

Exactly who or what parliament votes on varies. It may include one or a combination of the prime minister, the (remaining) members of the cabinet, individual portfolio distribution, or the policy programme of the government. In Ireland, parliament first nominates the prime minister and subsequently votes to accept or reject the prime minister's nominees to cabinet. In contrast to an earlier constitution, Ireland's current constitution focuses the second investiture vote on the set of individuals who are going to be part of the cabinet, but not on which ministers get which portfolio. Within the European Union, the European Parliament conducts confirmation hearings with each prospective European Commissioner but must ultimately either approve or reject the Commission as a whole. In the United Kingdom, it is the government's legislative programme for the forthcoming parliamentary term that is voted on.

A third dimension of variation is the timing of the investiture vote: at what point in the bargaining process for the formation of the government does the

investiture vote take place? As already noted, it may be possible to distinguish between an *ex ante* and an *ex post* type of investiture. In the latter case, the (presumed) incoming government is compared to the formal status quo (or to no government), and it is in reality a confidence vote: the issue is whether the legislators have confidence in the already selected government. In Italy, for example, the President appoints the prime minister and, on the prime minister's advice, other members of the cabinet. After being sworn in by the President, the government has ten days to obtain the confidence of parliament. *Ex ante* cases can be quite different. Here, parliament may be called upon to choose between multiple candidates for the post of prime minister. In Ireland, for example, it was typical in the 1990s for the leaders of each of the three largest parties to seek to be nominated by parliament to be prime minister. From one perspective, *ex ante* rules constitute parliament selecting (or electing) a *formateur* of the new government; a significant part of the bargaining process to establish a policy platform and allocate portfolios may take place after the investiture vote.

Another variable and potentially significant dimension of government investiture is the decision rule. An absolute majority decision rule means that at least 50 per cent of the members of an assembly need to vote for the proposition to be adopted. In Germany, an absolute majority of all members of the Bundestag is needed to invest the Chancellor in the first round. Simple majority means that at least 50 per cent of those voting must support the proposition. Those not present or those abstaining are disregarded; what counts is the vote of only those casting a 'yes' or 'no' ballot. A plurality rule is even less demanding than a simple majority: the alternative with more votes than any other alternative wins, even if it is less than a majority. Note that if candidates are voted on one by one, a plurality rule is equivalent to a simple majority requirement. What we call *negative majority* is another weak decision rule: An alternative wins unless an absolute majority votes against it. The Swedish and Portuguese investitures, and Belgium after 1995, are examples representing ways to formalize negative parliamentarism.

Investiture rules may also regulate the number of formation attempts that are allowed. In some countries, the decision rule changes from one formation attempt to the next, often in the direction of making it less demanding to form a government. Spain, for example, requires an absolute majority in a first confidence-type investiture vote. If the government loses, support from a simple majority is sufficient to ensure success in the second vote. Given this fact, simple majority is the effective hurdle any incoming Spanish prime minister has to pass. Another example is Finland. Simple majority is the primary decision rule when the parliament elects a prime minister. If a candidate for prime minister does not get a majority, a new candidate has to be found. If this candidate also loses, a third open ballot is arranged. On this occasion the MPs write names on paper ballots, and the name with more votes

than any other wins (per the plurality rule). In practice, countries vary in the extent to which any prescribed later stages of the procedure is reached. Even if stages with weaker decision rules are never reached, the institution could matter because actors look to the potential last stage of the game and reason backwards. Thus, a final stage plurality rule could increase the bargaining strength of the largest party in the government formation game, or, alternatively, it could define a different reversion point of bargaining than the incumbent—possibly caretaker—government.

This latter remark partly addresses our final question as well: what happens when parliament is charged with selecting or confirming a government, but fails to do so? Most immediately, it may be the case that the outgoing government continues to govern in a caretaker capacity, as in the Belgian case. Ultimately, the outcome of successive failures to select or confirm a new government is parliamentary dissolution. In the Czech case, for example, the President has a right to dissolve the Chamber of Deputies if the chamber fails to accept his choice of government on the third attempt.

1.5. SELECTION OF CASES

The first aim of this volume is to demonstrate the wide variety of investiture rules that exist in parliamentary democracies. Although space only allows us to study in depth a limited number of legislatures, we have been careful to select cases which illustrate the spectrum of investiture mechanisms. Our study includes examples of negative rules and various types of positive ones; *ex ante* rules where a prospective Head of Government is elected by the parliament as well as a number of *ex post*, confidence-type investitures; bicameral and unicameral rules; and so on. In almost all cases, the investiture is entrenched in the constitution of the country in question. But again there is some variation. The details of investiture rules are often found in parliamentary rules of procedure rather than in the constitution. Or a confidence-type of vote could be based on, more or less strict, (constitutional) convention, allowing new prime ministers to ignore it on a discretionary basis in certain situations.

The second aim of the volume is to focus on the relationship between formation rules and minority governments. Type of government is only one of the outcome variables making investiture interesting, but it is one that has received some attention in the government formation literature. The standard view confirmed in a number of analyses (but not all) is that positive investiture rules make formation of minority governments less likely (Bergman 1993; Martin and Stevenson 2001). Still we find several cases that do not conform to the expected pattern; they are, so to speak, ‘off the line’. These ‘deviant cases’

Table 1.2 The Investiture Rule and Type of Government

	Minority Governments	
	Common	Not Common
Investiture Vote in Legislature	<i>Deviant cases:</i> Poland 20% Portugal 34% Italy 39% Ireland 56% Czech Rep. 65% Romania 66% Spain 69% Sweden 78%	<i>Predictable cases:</i> Hungary 9% Germany 11% Belgium 16% United Kingdom 18%
No Investiture Vote	<i>Predictable cases:</i> India 43%	<i>Deviant cases:</i> Netherlands 8% France V 13%

Note: The European Union has an investiture requirement, but is not included in the table. The table includes countries covered in the book only. Share of minority governments (after 1946 or since democratization) follows the name of the country, defined as the percentage of time not under majority cabinets (excluding caretaker administrations).

Source: Cheibub, Martin, and Rasch (2014, Table 1). We define ‘common’ as at least 20 per cent minority governments.

are of two types, as indicated in Table 1.2. On the one hand, some non-investiture countries are seldom or never governed by minority cabinets. In the light of the huge variation of investiture rules, is it because these countries have some other rules or norms that are functionally equivalent to the investiture, or perhaps because of certain features of their party system or culture of coalition formation? On the other hand, in some countries minority governments are quite common despite the existence of investiture rules. Naturally, we may ask if this is because the kind of investiture they practise is weak or inconsequential. A first step in trying to address these deviant or contradictory cases is to examine them in depth. This is why, in addition to selecting cases with a wide variety of investiture rules, we have also selected to study deviant and puzzling cases that may help us learn of the causal mechanisms leading to the formation of minority governments (cf. Grofman 2001; George and Bennett 2005; Andeweg et al. 2011). This case-based causal understanding makes us better equipped when we later return to large-*n* government formation studies (Bäck and Dumont 2007; Field 2014).

1.6. VOLUME OUTLINE

In this volume, we present sixteen case studies and two comparative chapters, one of which also summarizes the cases. In general, each country chapter

follows a standard format: (1) a brief introduction and overview of the political system, (2) a detailed description of the government formation rules, with an emphasis on the formal role of parliament, (3) an account, where possible, of the origin and evolution of the investiture rules, and (4) a focus on one or more investiture attempts to illustrate the formal rules and procedures in practice, with an overall assessment of formation patterns between 1945 and 2015. Where relevant (essentially the deviant cases), we have asked authors to analyse variation between theoretical expectations and actual outcomes. We conclude this introduction with a brief overview of each chapter.

The first group of chapters (Part II) are illuminating in terms of investiture procedure and design and are selected to show some of the variation in positive investiture procedures. In all of these cases, majority governments almost always govern (upper right cell of Table 1.2). We also include the European Union (EU) in this section, as the only non-parliamentary entity in the volume.

The United Kingdom, famously, lacks a codified constitution, which is perhaps why comparative scholars have long understood that the monarch's role in appointing the prime minister leaves no formal role for parliament in the government formation game. Yet the actual constitutional position at Westminster looks remarkably similar to many *ex post* investiture procedures. As Kelso notes in Chapter 2, the (vote on the) Queen's Speech tests, in the words of the UK Cabinet Manual the 'ability of the Government to command [the] confidence of House of Commons'.

Belgium is a country where government formation takes considerable time, and where rules governing the linguistic divide constrain the game of government formation. In Chapter 3, André, Depauw, and Deschouwer note that the constitution makes no statement on the role of parliament in government formation. Constitutional convention, not constitutional law, 'requires' the prime minister to read a government declaration in the chamber, to be followed by a vote of confidence. The decision rule is not only negative majority, but also includes a unique constructive element.

Germany has arguably one of the most stringent investiture requirements, which together with the constructive vote of no confidence, makes it difficult to appoint, but also difficult to dismiss, governments. In Chapter 4, Ganghof and Stecker note the significant changes in procedures when government formation fails: absolute majorities are needed at the first two of potentially three rounds, with the right to nominate candidates moving from the Federal President to parliament in the last two stages. In all investiture votes, voting is secret.

In Hungary, the Head of State nominates a candidate for the office of prime minister and parliament votes to accept or reject the nominee, and before 2012 the government's programme. Importantly, to be elected, the prime minister requires the support of an absolute majority of Hungarian legislators. In

Chapter 5, Horváth traces the origin and important evolution of these rules and links the changing constitutional rules governing investiture to the pattern of government formation.

The European Union is not a country, but its parliament, the European Parliament, has dramatically increased its role in investing the European Commission—the EU’s executive and bureaucracy. In Chapter 6, Sozzi demonstrates the complex institutional and bargaining structure and how political opportunities create norms for a strengthened parliament in the investiture process, which were subsequently constitutionally codified. National governments must now consider the preferences of the parliament, lest the parliament refuse to confirm the Commission.

In Part III of the volume, minority governments enter the discussion. Here we find investiture regimes with a significant portion of minority governments, which is an important and puzzling class of deviant cases (upper left cell of Table 1.2). Two countries in Part III have negative investiture rules, while the others have different types of positive procedures—mainly of the simple majority kind.

As Martin shows in his Chapter 7, the investiture procedures in the lower chamber of the Irish parliament is a two-stage process requiring separate votes on the nomination of the prime minister (*Taoiseach*) and subsequently on the nomination of remaining members of the cabinet. Despite this, minority governments do occur, pointing to the significance of the difference between cabinet coalitions and legislative coalitions. Moreover, the move from single party majority government to coalition government required Irish political parties to update how they engage with each other in the post-electoral government formation game, resulting initially in many failed investiture votes.

Italy is a country associated with political volatility and significant government turnover. Russo’s Chapter 8 explores the role of both the lower and upper chamber in government formation, as well as the impact of different voting rules in each. Explanations for the presence of minority governments despite a double investiture vote are also provided. Regarding institutional origin, Russo draws upon parliamentary debates to help explain the design of the investiture process.

Spain has a two-stage investiture procedure, as Ajenjo emphasizes in Chapter 9. For a government to win confidence in the initial stage, it needs support from an absolute majority of MPs in the lower chamber. If it fails, a second vote with only a simple majority requirement is called within days. Spain has two large parties and several minor, regional parties. Single-party minority governments are quite common. Often, one of the large parties has ‘bought’ the support of regional parties in order to be able to enter the governmental offices as a minority administration (Field 2014).

As Zubek notes in Chapter 10 on Poland, the positive nature of the investiture procedure has been a constant feature of Polish parliamentarism since

the collapse of communism, but the precise script for investing and dismissing cabinets has been modified on a number of occasions. Zubek also points to the importance of mid-term changes of government: by allowing coalition reshuffles to take place without a need for a new investiture, the Polish constitution makes it possible for cabinets to acquire a minority status after one or more parties leave the government in the middle of a parliamentary term.

The Czech Republic has enjoyed, at least the perception of, political stability despite the inability to form majority cabinets. In Chapter 11, Zbiral describes how parliament is required to vote confidence in a newly appointed government—in other words, an *ex post* investiture rule. Minority governments exist, he argues, because the cabinet has the ability to build legislative coalitions by persuading individual legislators to cross party lines on the investiture vote.

In Chapter 12 on the case of Romania, Chiva explains that the current investiture rules are best understood as the outcome of political elites' ability to impose their own preference concerning the political system in the beginning of the transition from communism. Clear evidence exists of institutional diffusion, bounded by the preferences of powerful actors. The somewhat uneasy coexistence of strong investiture requirements and the frequent incidence of minority cabinets are particularly difficult to explain in the Romanian case, not least because the investiture vote is a secret ballot, with only the overall outcome known.

Leston-Bandeira and Fernandes present and analyse the consequences of Portugal's relatively unusual investiture procedure in Chapter 13: the President holds the power to nominate both the prime minister and cabinet ministers. After the nomination by the President, the government has to submit its official programme to the legislative branch within a ten-day period. As long as it is not rejected by the legislature, the government can take office and start working immediately. Minority governments are a common phenomenon in Portugal, as strategic abstention on the investiture vote allows the government to take office.

In Sweden, as Wockelberg explains in Chapter 14, the negative rule allows minority governments to form relatively quickly and smoothly. The full effect of the negative rule is exacerbated by the fact that an abstention is effectively a vote in favour of the proposed prime minister. It is possible therefore for Swedish legislators to tolerate minority governments that they are otherwise reluctant to actively support.

The next section (Part V) consists of three cases, including puzzling deviant cases of mostly majority governments despite the absence of a formal investiture vote (lower right cell in Table 1.2). All three chapters discuss norms of government formation at a more fragile and ambiguous level than constitutional rules.

The Netherlands is occasionally cited in the comparative literature as being a case of positive parliamentarism. Yet Krouwel and Koedan begin their

Chapter 15 by noting that there is no formal parliamentary vote of investiture for new governments. Despite this, and the multiparty system, minority governments have been extremely rare. The authors suggest that this is because of the preferences of the Dutch monarchy that the new government should be able to count on a 'stable majority in parliament'. Directives to this effect explain why minority governments are hardly ever considered a feasible option, despite the absence of constitutional obstacles for minority rule.

India is one of the largest parliamentary democracies in the world and, as Nikolenyi notes in Chapter 16, the President enjoys discretionary authority to appoint the prime minister. Parliament has no formal role, and the absence of a positive investiture requirement does encourage the formation of minority governments in India: more than half of India's cabinets between 1952 and 2009 have been undersized. Nikolenyi suggests that parliament still plays an important role, with the lack of clarity about the rules of the game of government formation complicating and adding 'volatility in an already tumultuous and unstable situation'.

France has experimented with constitutional re-engineering perhaps more dramatically than most other established democracies. Current practice requires no formal investiture vote to confirm the President's choice of prime minister. Yet, as noted by Nguyễn-Duy in Chapter 17, this practice is in conflict with Article 49 § 1 of the Constitution of the Fifth Republic, which could arguably be read to be an actual rule of investiture. As such, the practice under the Fifth Republic could be classified as a distortion and misuse of a parliamentary mechanism. Moreover, exploring the French case provides an opportunity to study the origin of institutional structures and the rationale for, and impact of, varying the design of parliamentary investiture rules.

Ahead of our concluding chapter, in Chapter 18 Sieberer investigates in a comparative analysis whether investiture rules correlate with the power of parliament to remove the government. Obviously, this question is of great theoretical, empirical, and normative significance. He presents evidence that institutional rules of cabinet selection and removal are negatively related, as predicted by principal-agent theory.

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