

# The Functioning of Parliamentary Libraries and the Principle of the Separation of Powers

Magnus Tomas Kėvišas

Department of Information and Communication Sciences  
at the Martynas Mažvydas National Library of Lithuania  
Lietuvos nacionalinės Martyno Mažvydo bibliotekos  
Informacijos ir komunikacijos mokslų departamentas  
[magnus.kevisas@lnb.lt](mailto:magnus.kevisas@lnb.lt)

**Abstract.** Even though analytic philosophy does suggest a certain legitimate point of departure that a formal social / political science could be built upon, the mechanism of the ‘separation of powers’ has never yet been explored in that particular conceptual framework. Here we provide an argument that a divergent stratification which is unavoidable in a field of freely inter(acting) rational agents translates into a division of monolithic power, providing a formalist reinterpretation of this traditional ‘idealistic protections’ commitment. We further explore the consequences in terms of information provision and information tailoring that this stratification brings in its aftermath and use this formal argument to deliver the definition of a ‘parliamentary information service’ that is placed in a pragmatic context and has suggested consequences for it. A parliamentary library in its services and products is to include as consistent as possible monitoring of the public discourse in order to allow for the expression of ‘parliamentarianism’ in its analytic interpretation.

**Keywords:** analytic philosophy, attempts at formalizing the political science, division of power, separation of powers, information tailoring, parliamentary library, Lithuania.

## Parlamentinių bibliotekų funkcijos ir valdžių padalijimo principas

**Santrauka.** Nors analitinė filosofija yra pasiūlusi legitimią atspirties platformą, ant kurios galima sukonstruoti tam tikrą savitų socialinių / politinių mokslų visumą, „valdžių padalijimo“ mechanizmas šioje konkrečioje metodologinėje paradigmoje dar nėra buvęs tyrinėtas. Straipsnyje teikiamas argumentas, kad diverguojanti stratifikacija, kuri yra neišvengiama laisvai sąveikančių racionalių veikėjų lauke, taip pat reiškia dėsningą monolitinės galios / jėgos skilimą. Toliau nagrinėjama, kokios pasekmės lydi šią stratifikaciją informacijos rūpybos ir informacijos adaptavimo / (pri) taikymo / tikslingumo atžvilgiais. Galiausiai šios analizės pagrindu pateikiamas *parlamentinio informacinio aprūpinimo* apibrėžimas, kuris aptariamas pragmatiniame kontekste. Parlamentinė biblioteka, teikdama savo paslaugas, rengdama kūrinius, turi kiek įmanoma nuosekliau stebėti viešąjį diskursą, idant laiduotų parlamentarizmo (šios sąvokos analitine reikšme) raišką.

**Reikšminiai žodžiai:** analitinė filosofija, politologijos formalizavimo pastangos, valdžių atskyrimas, informacijos adaptavimas, parlamentinė biblioteka, Lietuva.

**Received:** 18/2/2021. **Accepted:** 20/5/2021

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## Introduction

The purpose of this article is to develop an analytic (game theoretic) framework in social and political sciences in regard to the functions of parliamentary libraries, to compare it with the results of a small context study of the factually existing parliamentary libraries in various jurisdictions, and then to attempt to deliver a set of recommendations for the Lithuanian legislators, highlighting the strengths and weaknesses of the proposed solution. The definition of a parliamentary library that we deliver, as will become clear, is somewhat restrictive and tendentious; we will outline the reasons.

This is a programmatic article in the sense that it has consequences for a pragmatic solution or an applied science solution. In 2020, the National Library of Lithuania launched an initiative to renew the infrastructure and methodological underpinnings of its services and products intended for the members of the Seimas, the Parliament of the Republic of Lithuania. Several research projects, this one among them, contribute to this conceptual renewal of the scope, approaches, aims, and purposes that delineate a 'parliamentary library' in the Lithuanian interpretation of the notion. In addition to a survey-based study that addressed the actual needs of parliamentarians and in addition to informal conversations with other ordinary contracting parties (other end-users of the meta-information products of the National Library of Lithuania), this research paper deals with more theoretical considerations.

Thus, methodologically, for the most part this is an article on analytic philosophy, with several short uncharacteristically pragmatically grounded sections. Here we subscribe to the austere Frege-Witgenstein-Russell tradition and interpret 'analysis' as a clarifying attempt (1) to explain/define something in terms of (measurable) dimensions, or (2) to explain/define something away as a 'terrible confusion of language'.<sup>1</sup> Our pursuit here will, therefore, be presented as a conceptual one. Further on, thematically, in this paper, we focus on a host of concepts that usually are assumed to fall under the aegis of 'political science', or, more broadly, 'social studies', or – with the normative component and something of a commitment typical of applied sciences – 'political economy' or 'politics' or 'ethics'.

Given the method and theme just indicated, we agree that there is something of a profound unease. Analytic philosophy, and we concur here, would appear to be somewhat hostile to the whole enterprise of social studies, for (1) its own historical beginnings are impossible to dissociate from the rejection and denial of the Hegelian idealistic holism of 'bare abstractions', among other ones, 'man', 'society', 'nation' or 'spirit'.<sup>2</sup> Indeed, even though 'There is no such thing as society!' was later used by Thatcher in defence/advertisement of her politics, it originated as a methodologically sober assumption first proposed by Benn and Peters, two analytic philosophers, in their 'Social Principles and the Democratic State'.<sup>3</sup> More than that, (2) the whole attitude of analytic philosophy, its austere technicism and lack of humanist flexibility is antithetical to the genuinely interested and attentive social science; it would appear that early political analytic philosophy did not really care about humans, societies or their politics in the conventional sense of these notions; we will exemplify this later. Additionally, (3) analytic philosophy, especially so in its

<sup>1</sup> (1) 'speed' in terms of 'distance' and 'time', or 'relative humidity' in terms of 'water vapour pressure' under various conditions; as a kind of 'lexical structuralism'; (2) much like 'to be' was explained away in early positivism as not really a predicate, or like 'is true'/'truth' was explained away as 'logically superfluous' and meaningless, as was proposed by Ayer in his 'Language, Truth, and Logic'; as a kind of 'lexical deflationism'. We are aware of Quine's 'Two Dogmas' and the impact it purported to have on the stability of the whole enterprise of analysis. See Quine, W. Two Dogmas of Empiricism. *Philosophical Review*, Vol. 60, No. 1, 1951, p. 20–43. We take, however, the counter-argument that 'some truths hold in virtue of the meaning of the words' is itself not a synthetic claim, necessarily so, for it is definitely not the case that everything – could – be made subject to revision without this revisionism applying to the imperative 'make everything subject to revision' itself thereby rendering it vacuous (George, A. On Washing the Fur without Wetting It: Quine, Carnap, and Analyticity. *Mind*, 2000, Vol. 109, No. 433, p. 6.) as sufficient to justify our own pursuit.

<sup>2</sup> Wolff, J. Analytic Political Philosophy. In: *The Oxford Handbook of the History of Analytic Philosophy* / Eds. M. Beaney. Oxford: Oxford University Press, 2013, p. 797–798, 805.

<sup>3</sup> Benn, S.; Peters, R. S. *Social Principles and the Democratic State*. London: Routledge, [1959] 2010.

positivist guise or according to Chomsky,<sup>4</sup> is openly for mathematical modelling of data at the stage of science, which, again, is categorically – not – what contemporary mainstream social or political science does. Mainstream social science is impossible to detach from statistical surveys and statistical modelling of factually recorded pools of data points and from an attempt to see correlating interest groups, social groups, and strata; the focus here is on the observed social stratification. Statistical modelling is, however, hardly expected to deliver a mechanics of this stratification, for at its core, it can only see tendencies where there might actually be a mathematically precise casual and contingent link. However, at the same time, analytic philosophy, at least initially, was itself somewhat unproductive. Indeed, there are literally but minute marginal notes on social matters in either Frege or Wittgenstein or Russell, and prior to Quine, who liberalized the field by reducing analytic philosophy to ‘rigorous argument’, there were but few authors who produced something methodologically ‘correct’, of notable length and of consequence in the field. Popper’s contribution, which is to be counted as the only exception, stands apart from the attempts at formalizing the political science in that Popper accepts the vocabulary of political parlance, largely, as is. The post-Quinean field is dominated by Rawls, but the very first works in the Rawlsian tradition are marked by Quine’s ‘error’: the recouring to the ‘synthetic’ – social statistics information, legal arguments, econometrics data, welfare considerations<sup>5</sup> and so on – renders Rawls methodologically somewhat divorced from the tradition of strict and unemotional analytic philosophy (though, as we shall see, the very replacement of ‘justice’ by ‘fairness’, and Rawls did participate in the movement<sup>6</sup> and is very orthodox in terms of the whole analytic tendency). The ethos of the Frege-Wittgenstein-Russell-Chomsky oriented analytic philosophy, a formal social science, survives today in the studies of social phenomena that grow out of the game theory. As we shall see, the modelling here is mathematical throughout, the theoretical construction itself is constantly aware as to what level of abstraction it operates at; in the philosophical pre-discussion the fuzzy and unruly real-life data play no major role, yet thusly hermetic theorizing maintains something of a prospect of an explanatory, even predictive, power.

The argument we seek to develop here is that concerning the notions of ‘information tailoring’ and ‘information provision’ vis-à-vis a ‘parliament’ as an institution typical of democratic governance; in other words, we seek to analytically define ‘parliamentary information services’, which is our object. Since it is impossible to do without first delineating a ‘parliament’ (and its specificity, especially when contrasted with that of a ‘crown’ or a ‘court’) or its ‘information behaviour’, we turn to exploring these notions within the analytic framework and investigate a ‘separated’ ‘parliament’ as such. Even though the rough conceptual framework that underlies analytically oriented social/political sciences was developed in the 1960s, the ‘separation of powers’/‘division of power’ idea, to the best of our knowledge, has never been explicitly studied before, we devote some effort to preparatory theoretical work. Indeed, many a ‘parliamentary library’ exist as a practical, down-to-earth solution, but very little work has been done at a level of greater or lesser abstraction concerning what it – ought to (or cannot not) – be. Having arrived at an analytic definition of the information needs of a separated parliament (meaning here in the context of the ‘division of power’), we will then place it in a pragmatic context, comparing our result with some factually observed solutions in a few jurisdictions, including the Lithuanian one.

The argument of this paper will be outlined in the following 8 short sections. First, we will survey the general philosophical infrastructure of the formal social science, and replace ‘society’ by ‘agents in a field’ and ‘politics’, by the implications of ‘consent’. This constitutes Sections 1 and 2; the second section starts developing an argument that is alluded to in works by others, who never stated it explicitly. The rest of the

<sup>4</sup> Our M. Sc. thesis focused on this particular issue, following the mathematical modelling of data vs. statistical modelling of data debate as exhibited, primarily, by the Chomsky-Norvig controversy, though the disagreement is of long standing. See Kevisas, M. T. *The Deliberate Child-Theoretician Parallelism in Linguistic Theory Construction is not a Solution to the Disagreement Pertaining to the Norming of Modelling*. An M.Sc. Thesis at the Institute of Cognitive Science at Universitas Osnabrugensis, 2019.

<sup>5</sup> See, e. g., Rawls, J. Justice as Fairness. *Philosophical Review*, Vol. 67, No. 2, 1958, p. 174–194.

<sup>6</sup> *Ibidem*.

work is our own. In Section 3 we will attempt to show how this particular theoretical framework relates to the classical notion of ‘separation of powers’; indeed, here, to the somewhat unintuitive (perhaps even counter-intuitive) necessity and unavoidability of the separation of powers. Section 4 focuses on the configuration of the separated powers as observed in contemporary jurisdictions. In Section 5 we finally introduce the notions of the powers’ information needs, information behaviour, and information provision, highlighting the differences in profiles. Sections 6 and 7 make up an excursus to a more pragmatically grounded survey of the parliamentary libraries that operate in various countries today, paying a special attention to the Lithuanian case. Finally, Section 8 elaborates on an analytic definition of parliamentary libraries and closes the argument. We conclude with a few remarks on the limitations and merits of our work.

### **1. ‘Illusions’, ‘Taste’, ‘Information circulation’, ‘Contingent generalization’, ‘Consent’, ‘Collective agreement’, ‘Collective action’, ‘Social action’**

The specifically – formal – social, political science is an established part of the entirety of social sciences and shares the same common commitment to ‘grasp invariant regularities of social action as such,’<sup>7</sup> but, as it was developed in conjunction with advances in analytic philosophy, its point of departure is somewhat unorthodox.

The initial analytic impetus – the aforementioned anti-Hegelian, anti-holistic, positivist attitude – found its clearest expression as relates to the field of morally and socially oriented questions in Ayer’s ‘Language, Truth, and Logic’<sup>8</sup>: since there are no ‘moral facts’ to be taken for a subject in a rational discussion, language about them cannot be judged as to whether a particular moral statement is ‘true’ or ‘false’, and then it just downright makes no sense to talk about this. In a meta-ethical spirit, the entire conceptual infrastructure underlying this parlance is to be dismissed as sheer sentimentality: if there is something to disagree about, then the disagreement is about non-moral facts, or else there is no authentic disagreement.

Political sciences, specifically, are addressed in Rees’s ‘The Theory of Sovereignty Restated’ from 1950.<sup>9</sup> In an elegant and predictable article, the notions of ‘sovereignty’, ‘moral sovereign’, ‘state’, ‘influence’, ‘supreme enforcement institute’/‘supreme coercive power’/‘power’, ‘supreme legal authority’, and the like are provided considered definitions that in the end showcase the vacuousness of the underlying conceptual architecture. First, the semantic, logical and grammatical properties of these concepts justify them being reduced to four individuated notions: ‘law’, ‘social pressure’, ‘force’, and ‘influence’. More than that, all of these ‘concepts’ themselves – even the ‘good ones’ – are mere ways of speaking: in the end they are all illusions. What is called ‘a cabinet’ in fact is a tendency to act in a certain way that is characteristic, given certain temporal conditions and locality, of a specific set of individuals: it means ‘if a new law were to be enacted, and if no revolution occurred in the meantime, etc., then “x” would enact it’.

So there is certainly nothing theological or metaphysical about the notoriously fuzzy society related or community directed, moral, ethical parlance. ‘Moral’, ‘ethical’, ‘free’, ‘liberty’, ‘right’, ‘rights’, ‘duty’, ‘heritage’, ‘society’, ‘community’, ‘institution’, – at the end of the day even ‘good’ and ‘bad’, ‘beautiful’ and ‘hideous’ – may be investigated in terms of being a ‘taste’, a prevalent reaction, as mere ideas, instances of shared understanding, as more or less widespread, shared information, as different ‘language practices’ and associated identities – and that is the end of the story. In other words, even if there is no ‘ethics’/‘social studies’ in the classical sense to produce, there is certainly something of an ‘information science’, ‘information circulation science’ that may be created, the Ayerian ‘psychology and sociology’: this is what ‘taste’ is due.

To summarize: the early analytic philosophy, in its daring, was a ‘young man’s work’ indeed, nor could it be said that it did not suggest anything to take the place of the discredited status quo ante. There is a legitimate niche for a specific science of social ‘circulation’ or ‘interaction’, it just itself has to be reasoned.

<sup>7</sup> Habermas, J. *Knowledge and Human Interests*. Boston: Beacon Press, 1972, p. 310.

<sup>8</sup> Ayer, A. J. *Language, Truth, and Logic*. Harmondsworth: Penguin Books, 1972, p. 114.

<sup>9</sup> Rees, W. J. *The Theory of Sovereignty Restated*. *Mind*, Vol. 59, No. 236, 1950, p. 495–521.

The science has to be scientific in the sense that it has to be capable of grasping something of a natural determinism and enable prediction. Rees's 1950 article ends in suggesting an 'if/whenever ..., then ...'<sup>10</sup> generalization: one must always strive to detect regularities. 'If a new law were to be enacted, and if no revolution occurred in the meantime, etc., then "x" would enact it' can further be reworded as 'if a new widely known piece of en-linguing would gain currency, and if there was no opposition to it, etc., then "x" would bring to realization its own en-lingued identity and would act to make its environment stand in line with that former en-linguing'. Any talk of 'free will' or the complexity of the processing of information in the human brain should not deter one from striving for 'laws'. Indeed, Ayer personally is known for the reduction (weakening) of "x" causes "y" to 'if "x", then "y"<sup>11</sup>; all there is, are contingent generalizations. Crucially, natural laws are mere 'contingent generalizations', too, and to the same degree. There is but one kind of determinism to be described. In this extent, then, a science of/about human behaviour is as possible, and may be constructed as robust, as physics or chemistry.

It is important to 'analyse' the information circulation phenomena themselves – robustly defined – the right way, meaning here, by resorting to a convenient matrix of notions/dimensions, where there actually – is – a prospect of contingent generalizations to be eventually detected; a matrix of notions/dimensions that captures the natural parametrization; to some particular conceptual division of labour, where the concepts do, indeed, relate in a mathematically functional way; to a set of dimensions that are possible to measure in experimental settings or test in an artificial computer model that imitates some real life dependencies.

It is always worth remembering: the terms, units and concepts that we – currently – use in political discussion are unfit (are, possibly, 'in total conflict') with what could be imagined as the developing, science and technology based, understanding of communication.<sup>12</sup>

The determinism does have profound consequences: if the social phenomena are deterministic in the sense of being inextricably linked to non-stochastic, mechanistic information processes, to the processuality of language, to communication and information exchange, then 'democracy' is hugely overvalued and profoundly misunderstood. The process of the 'spreading of knowledge', the sharing of language<sup>13</sup> amounts to becoming 'involved in taking common decisions'. There is no room for discussing things that have been demonstrated, once and already, – then the 'demonstration' and any possible 're-demonstration', its en-linguing, and the subsequent process of that language, themselves, making up the whole wiggle-room or freedom that is available. All there is – is consent; the whole notion of 'society' thus gets replaced by the mechanism of 'collective agreement', 'collective action' or 'social action'; 'agreed-upon' or rationally 'negotiated' behaviour.

A reasoned set of conceptual nodes for this 'consent' or 'collective action' was started being debated in the 1950's, in Luce and Raiffa's 'Theory of Games and Decisions', then refined in the manifest-like Braithwaite's 'Theory of Games as a Tool for Moral Philosopher', and further expanded in Buchanan and Tullock's 'Calculus of consent' (Nobel prize in Economics, 1986).<sup>14</sup> This was a very late development within the whole trajectory of analytic philosophy, but a productive one: formal, mathematical, game theoretic reasoning in social sciences is today pursued at many American universities.

The object under consideration is perceived as a field populated by individuated agents with attributed properties that are defined with mathematical precision. All things that are holistic ('illusory') qualities that the field (agents) as such appear to exhibit are explained as the result of the interactions among

<sup>10</sup> *Ibidem*, p. 514.

<sup>11</sup> Ayer, A. J. *Language, Truth, and Logic*, p. 55.

<sup>12</sup> See more Neumann, J. Can We Survive Technology? *Fortune*, 1955, Vol. 6, No. 36, p. 32–47.

<sup>13</sup> See Neurath, Otto. Visual Education: Humanisation versus Popularisation. In: *Otto Neurath: Empiricism and Sociology* / Edited by Marie Neurath, Robert S. Cohen. Dordrecht-Holland/Boston-USA: D. Reidel Publishing, 1973, p. 230.

<sup>14</sup> See Luce, D. R.; Raiffa, H. *Games and Decisions: Introduction and Critical Survey*. New York: Wiley, 1957; Braithwaite, R. B. *Theory of Games as a Tool for Moral Philosopher*. Cambridge: Cambridge University Press, 1955; Buchanan, J. M.; Tullock, G. *Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor: University of Michigan Press, 1962.

the agents and the outcomes of the interplay of their properties. Agents perceive the environment (collect information about it), more or less perfectly memorize past occurrences (store information), more or less perfectly abstract/reason over them, and act upon them in their given environment, producing outcomes. Among other things, agents may evaluate the actually observed outcomes for other agents and compare these outcomes with their own calculated expected outcomes based on the more or less perfect averaging of their past experience. The very specific ‘perception of fairness’, that is (so it is argued) possible to mathematically quantify and predict, gives rise to the whole mainstay of social sciences, i.e., ‘norms’, ‘morals’, ‘value-behaviour’, ‘conscience standards’ or even ‘ideologies’. What is more to the point for the purposes of the present paper is whether the processes of political decision making can be reinterpreted as a mechanism of ‘agreeing’/‘consenting’, that, in turn, can be argued to be a function of the interaction of total expected costs and a particular chosen ruling principle. In the next section we will turn to the details of this particular conceptual analysis.

## 2. ‘Equilibrium’, ‘Involvement’, ‘External costs’, ‘Transaction costs’, ‘Expected costs’, ‘Ruling principle’, ‘Participatory width’

To value something as ‘ethical’ or ‘morally right’, ‘for me’, or ‘society’, which then translates into certain behaviours, thereunder also in part political attitudes and more or less pronounced inclinations to join political movements or organizations, is, at the most basic, a phenomenon due to a – decision – being made as to whether some particular configuration or outcome is ‘fair’ or not.<sup>15</sup> Fairness decisions, as discussed previously, are made routinely and, averaging over large quantities, result in an evaluation as to at what exact point the field (‘world’) itself is fair. Whether something is ‘fair’ thus depends on how well it matches something of a distribution at equilibrium: rational, unemotional agents (people; and we will get back at the ‘rationality’ later) tend to think that in certain situations where they, personally, are very badly off, it is still fair that the outcomes for them are that way. The ‘perception of fairness’ is thus due to an effect the field populated with operating agents has to ‘distribute efficiently’.

In the political consent process the equilibrium – fundamentally the same – at the point of the greatest efficiency does not try to capture ‘fairness’, but, specifically, ‘involvement’, the degree of it: the tension is one between what is being wanted (‘someone’s/my will to prevail’), and what is one to pay to get it.<sup>16</sup> Two types of evaluation can be measured/observed (and are enough to explain consent): ‘external costs’ and ‘transaction costs’, each in terms of their price (‘expected costs’) and the involvement measure – the number of participants involved (‘ruling principle’).

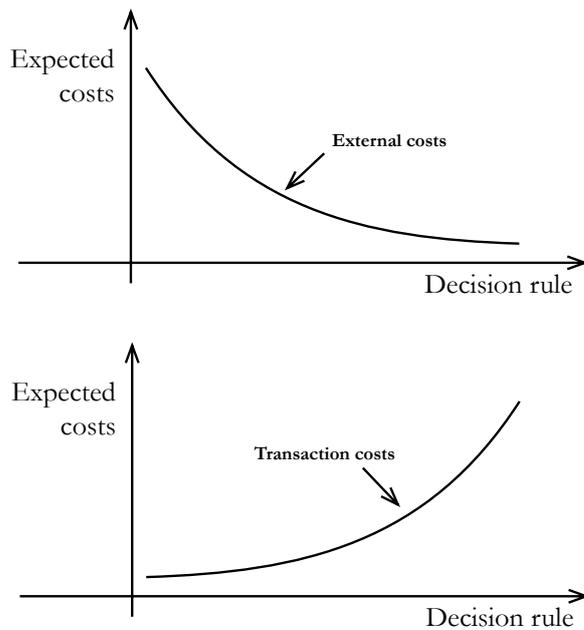
The external costs are the lowest when the decision is unanimous: both *A* gets what *A* wants, and *B* gets what *B* wants, and *C* gets what *C* wants, etc. However, since this is – one – unanimous decision, both *A* and *B* and *C* must want the same thing, which is never the case. If it is *A*’s will that prevails and *B* and *C* diverge (absolutism), the system will experience high aggregate external costs: neither *B* nor *C* get what they want, only *A* does.

The transaction costs (internal costs) are, on the contrary, the highest at unanimity: in terms of time and energy that the agents have to spend to reach a unanimous solution, to find allies and convince enemies, negotiate alliances, prove, argue, debate things, find the common ground among the *A*’s and the *B*’s and the *C*’s, unanimity is extremely resource-intensive – all of this will require time and energy.

You win a little, you lose a little: the equilibrium, the optimality, some interests will be denied, but those expectations that are met will be met at a reasonable price; in fact, it will amount to the lowest possible combined cost (See Fig. 1, Fig. 2, Fig. 3).

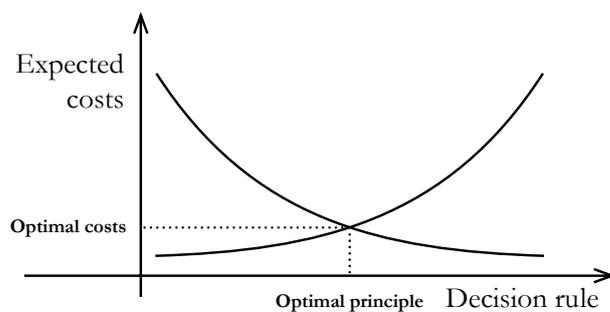
<sup>15</sup> See Braithwaite, R. B. *Theory of Games as a Tool for Moral Philosopher*, p. 31.

<sup>16</sup> See Buchanan, J. M.; Tullock, G. *Calculus of Consent: Logical Foundations of Constitutional Democracy*, p. 64–70.



**Fig. 1. Fig. 2.** The external costs and the transaction costs (internal costs)

The visualization of the equilibrium at the point of the greatest efficiency (Fig. 3) does remind one of the standard 'supply and demand curves' in economics, where the intersection denotes the equilibrium price at the equilibrium quantity; here, respectively, the 'optimal costs' at 'optimal decision' (and, regarding the whole field, Pareto efficiency or Pareto optimality). In other words, the equilibrium at the point of the greatest efficiency is depicted by the intersecting curves for 'external costs' and 'transaction costs'.



**Fig. 3.** The optimal costs and the optimal principle

To summarize. What do we accomplish? – The Buchanan & Tullock model manages to explain 'consent' (the phase of 'agreement' in the cycle of information) as a by-product arising from someone (everybody at the same time) making the decision: 'given the price of getting involved, do I want to be involved, or can I leave it to others?' It may seem – and we will come to this crucial point of criticism shortly – that the attempt to found a large part of social studies on such analysis is, again, a 'young man's work', but it is not completely counter-intuitive. Is something 'good' or 'ugly' or is someone free or 'immoral', depends, profoundly, on an agreement of participants in some particular language community; this agreement itself depends on everyone deciding 'given the price of getting involved, do I want to be involved, or can I leave it to the others?' more than anything else. Theoretically, what this accomplishes is the definition of 'consent', of 'political action', in terms of measurable dimensions, as a mathematical function.

The two intersecting curves are placed in a two-dimensional plane. One of the measurable dimensions is the expected/experienced aggregate cost (the usual  $y$ -axis). Intuitively, this is an easy-to-grasp notion: expected costs merely reflect the difficulty of decision making, the price to pay in terms of time and energy. The other dimension (what is it that is being priced, what is it that costs that particular amount; the standard  $x$ -axis) is less obvious; though, to put it simply, here one merely quantifies the number of votes required for passage, the type of majority required, the 'ruling principle'. Between the unanimity rule (in the direction of infinity; an infinite number of participants) and the non-unanimity rule (in the direction of zero), there are a great range of alternatives, other quorums: minority rule, majority rule, qualified majority rules, super-majority rules, near-unanimity rules, etc.

This theoretical framework has features to recommend it because:

- it is formal, i.e., it allows for mathematical precision in modelling and for quantitative treatment; it delivers testable hypotheses that can be tested in virtually free computer simulations;
- in being clearly economics-inspired (e. g., von Neumann and Morgenstern's 'Theory of Games and Economic Behaviour' from 1944 just pre-dates it; the idea and the visualization does remind one of the standard price theory), it has a counterpart in the assumed-confirmed, mainstream economical theorizing; in copying the hypothesis testing paradigm from economics, the predictions here are possible to check against real-life data;
- in its general focus on 'equilibrium' it tends to posit and intuitively, 'elegantly' explain the phenomenon of objectively observed stability of decisions (if some government  $A$  made decision  $X$ , the governments  $B$ ,  $C$  and  $D$  that follow  $A$  and take over from  $A$ , no matter their political convictions, overall, tend not to overrule  $X$ ; the governments change, the rule doesn't<sup>17</sup>);
- further on, it tends to intuitively explain the formation of an entrenched bureaucratic ruling class.<sup>18</sup>

The model has many highlighted drawbacks. The lecture that Braithwaite, a scientist, delivered upon being appointed to head a department in moral philosophy at Cambridge,<sup>19</sup> with its suggested 'logical reinterpretation', when published, received scathing reviews from the established field. Notoriously, the idea of analysing, 'rationally reconstructing', the whole of ethos, almost the whole of human social behaviour, the features of a community or even of a nation, the character and sentimentality, the 'spirit' of habits/traditions, pragmatic and idealistic, in terms of 'obtain[ing] maximum satisfaction compatible with fair distribution' was dismissed as facing 'formidable obstacles', if not simply being beyond credulity.<sup>20</sup> In addition to its counter-intuitiveness, the framework assumptions constrict the researcher in terms of a field and agents. More than that, the framework is profoundly conservative: to turn back to Habermas, this framework, even if it does 'grasp invariant regularities of social action as such', has no tools to distinguish them from 'ideologically frozen relations of dependence that can in principle be transformed'<sup>21</sup>: there is no critical part to it; this is akin to claiming that it is right that the rich are rich and the poor are poor. The diagnosis of the state of affairs here, even if being completely descriptive in intention, carries along with it the suspicious suggestion that 'since this is how it naturally is, since this is the organic bal-

<sup>17</sup> See Shepsle, K. A. Institutional Arrangements and Equilibrium in Multidimensional Voting Models. *American Journal of Political Science*, 1979, Vol. 23, No. 1, p. 27–59; Tullock, G. Why so Much Stability. *Public Choice*, 1981, Vol. 37, No. 2, p. 189–204; Miller, G. J.; Hammond, T. H. Committees and the Core of the Constitution. *Public Choice*, 1990, Vol. 66, No. 3, p. 201–227.

<sup>18</sup> See Ackerman, B. The New Separation of Powers. *Harvard Law Review* 2000, Vol. 113, No. 3.p. 633–729; Tsebelis, G. *Veto Players: How Political Institutions Work*. Princeton: Princeton University Press, 2002.

<sup>19</sup> See Braithwaite, R. B. *Theory of Games as a Tool for Moral Philosopher*.

<sup>20</sup> For the reviews, see Cooper, N. Reviewed Work(s): Theory of Games as a Tool for the Moral Philosopher by R. B. Braithwaite. *The Philosophical Quarterly*, 1957, Vol. 7, No. 29, p. 383–384; Scriven, M. Review of Theory of Games as a Tool for the Moral Philosopher by R. B. Braithwaite. *Ethics*, 1957, Vol. 68, No. 1, p. 61–62; Cranefield, P. Reviewed Work(s): Theory of Games as a Tool for the Moral Philosopher. by R. B. Braithwaite. *The Quarterly Review of Biology*, 1956, Vol. 31, No. 4, p. 347. Empirical and theoretical doubts about the model continue to be voiced. For a more recent negative (re-)evaluation of the enterprise, see Allott, N. Game Theory and Communication. In: Benz A., Jäger G., Rooij R. V. (Eds.) *Game Theory and Pragmatics: Palgrave Studies in Pragmatics, Language and Cognition*. London: Palgrave Macmillan, 2006, p. 123–152.

<sup>21</sup> See Habermas, J. *Knowledge and Human Interests*. Boston: Beacon Press, 1972.

ance, this is how it – ought – to be.’ Whereas in natural sciences, the descriptive stands separate from the prescriptive, with a few exceptions (environmentalism, natural conservation, and the like – and even then the motivation is profoundly humanist: we preserve the ‘naturally given’ because it is in our interest to do so), – in the analytically reasoned formal social sciences the descriptive can be (tends to be) abused as an unavoidable, inalienable social programme. Any sort of recommendations that stem from such research, where ‘normativity’ is ‘optimized’, are bound to be highly contentious.

Before we end the discussion of the classical Buchanan & Tullock model, we will highlight the flexibility implied: there are many different decision rules, many different levels of involvement, and the agents in the field, by estimating the associated costs that accompany certain involvement strategies, may choose different strategies for different issues/questions. It is possible that different debates will have different participatory widths and political transparency levels. It is this variance that we will now turn to.

### 3. ‘Division of power’, ‘Separation of powers’, ‘Constitution’, ‘Veto play’, ‘Veto game’, ‘Communities of participants’

Buchanan & Tullock, who introduced the conceptual infrastructure of the game theoretic formal political science in terms of ‘external costs’ and ‘transaction costs’ as was delineated in Section 2, in the opening chapter of their 1962 book specifically claim that they ‘do not directly discuss such things as division of powers ...’,<sup>22</sup> but it is generally agreed that they did contribute to the debate concerning the principle. Many authors have alluded that Buchanan & Tullock foreshadowing or downright explaining the necessity of the separation of powers.<sup>23</sup> In this section we will outline the mechanism.

The principle of the division of power, of checking and balancing, is however much older: it was formulated as an idea in Ancient Greece.<sup>24</sup> In Ancient Rome, as an actually implemented solution, various offices were doubled: at any given time, there were, e. g., two consuls or two praetors serving jointly.<sup>25</sup> If one of the ‘empowered’ made a decision that was of benefit to only one of some two interested parties, the other ‘empowered’ could overrule and undo it.

The idea of the separation of powers in a more elaborate academic form is due to Montesquieu,<sup>26</sup> whose ‘De l’esprit des lois,’ a massive text about the nature, structure, constitution, and chronological process of a state, especially in regard to the character and mores of the citizenry, peculiarities of some given economic model, climatic, environmental realities, resources, and geopolitical positioning, formulated this particular stated ‘dogma.’<sup>27</sup> The power of state – should – not be left in the hands of any one individual or institution, but – should – be divided among those producing the laws (legislating), implementing the laws (administration), and deciding as to whether the laws are consistent and as to whether they have been implemented as intended. This ‘dogma’ is justified by the notion of a well-functioning state where the freedoms and liberties of the citizenry are guaranteed in principle and cannot be taken away. In other words: it is the separation of powers that protects freedoms and liberties.

<sup>22</sup> Buchanan, J. M.; Tullock, G. *Calculus of Consent: Logical Foundations of Constitutional Democracy*, p. xvi.

<sup>23</sup> For example: Ratnapala claims that Calculus shows the separation of powers failing to limit legislative activity to the pursuit of the general welfare, see Ratnapala, S. Economics of Collective Choice—the Missing Dimension of Constitutional Theory. *Public Choice*, 2012, Vol. 152, No. 3/4, p. 464. Berggren and Karlson devote an entire article to expand the framework of Buchanan and Tullock into constitutionalist considerations. See Berggren, N.; Karlson, N. Constitutionalism, Division of Power and Transaction Costs. *Public Choice*, 2003, Vol. 117, No. 1/2, p. 99–124.

<sup>24</sup> Polybius, when discussing the Roman state, stating that the best constitution is a combination of three varieties – kingship, aristocracy, and democracy – at the same time. See Polybius. *The Histories*, Vol. 3 (6 Vols.) / with an English translation by W. R. Paton. London: William Heinemann, 1923, p. 273.

<sup>25</sup> See Adkins, L.; Adkins, R. A. *Handbook to Life in Ancient Rome*. New York: Facts on File, 2004, p. 41.

<sup>26</sup> Montesquieu, C. D. *Montesquieu: The Spirit of the Laws* / Editors: Anne M. Cohler, Basia Carolyn Miller, Harold Samuel Stone. Cambridge: Cambridge University Press, [1748] 1989.

<sup>27</sup> Indeed, many authors refer to the division of power as a mere dogma, see, for example, Green, T. F. To What Extent May Courts under the Rule-Making Power Prescribe Rules of Evidence? *American Bar Association Journal*, 1940, Vol. 26, No. 6, p. 48.

A similar argument has been repeated ever since<sup>28</sup>: serving the interests of the many, not of the few. Sometimes there is a distinction being made between the horizontal (the Montesquieuesque 'threefold division') and the vertical (local vs. regional vs. national/federal vs. international) division.

The mechanism of reaching a 'rule', of 'ruling', as outlined in Section 2, falls somewhere on the line ranging from all agents in unanimity making the rule for themselves (given an infinitely large number of agents operating in the field, the transaction costs here may be prohibitively, infinitely high) to a number of agents in some sort of a particular 'quorum' attempting to make the rule for the whole field (if there is no action to be taken, there is no thing with its associated price, the transaction costs amount to zero; but since there is no decision made, no one gets her/his will realized, the aggregate external cost is virtually infinite).

In other words (and we will come back to this important conclusion of analytic philosophy later), what stands in opposition to 'unanimity', it would appear, is then not 'anarchy' or 'absolutism', but 'inaction' or 'indecision', 'wavering'. At unanimity, it is the transaction costs that are the highest; at 'wavering', the aggregate external costs for the whole system. This is one of the interesting findings of analytic political philosophy. To paraphrase John Hancock, 'either unanimous we stand or else unanimous we will hang'.

It is of great theoretical and practical interest to know (to discover) which mode is 'optimal' in terms of 'long-term equilibrium' (in other words, what should democracy really look like?; what are the values on the y and the x axis that mean the 'equilibrium?'). In decision theory, 'normativity' gets replaced by 'optimality', and much speculation has gone into trying to deliver the actual value of this measure.

It is important to note that in Buchanan & Tullock's analysis, the estimation of external costs and transaction costs is not done once and for everything; indeed, it would seem – irrational – to expect that one particular decision rule or ruling principle, or one particular optimal price at optimal decision, applies irrespective of the situation, the issue or the concerned parties at hand. The analysis actually implies a calculation that is repeated over and over again, depending on some particular configuration that an agent, a 'political actor', is faced with.

Several examples ('thought experiments', of sorts) are mentioned by Buchanan & Tullock. Suppose someone A owns a (residential) house in a particular part of town, and there is something of zoning expectations regulating the permitted uses of the property in that area. A decision has to be made as to whether one of the neighbours of A may be allowed to build a factory on his land. Here A will tend to think that this is a sort of decision where A – must – have a say, in other words, this must be a unanimous decision, irrespective of its transaction costs. Any other decision rule carries along with it massive external costs for A. The situation corresponds to a certain shape of the curves in the visualization (Fig. 4).

Then again, suppose someone A owns a house in a particular part of town, and there are some specific sanitary regulations as to how the spread of a specific type of mosquito is to be controlled. In this case A may be willing to deny herself/himself some sort of say if that means that the rest of the neighbourhood will be made to comply to the regulation against their say, too. In other words, A would actively want this to be, perhaps, not even a majority decision, a concerted/unopposed minority would suffice, not to mention unanimity (Fig. 5). One always has to bear in mind that the opposite of 'unanimity' is 'indecision'.

<sup>28</sup> See Madison, J. Federalist No. 51, (6 February 1788). In: Hamilton, A.; Madison, J.; Jay, J. *The Federalist Papers*. New York: Random House, 2003; Madison, J. The New Separation of Powers. *Harvard Law Review*, 2000, Vol. 113, No. 3, p. 633–729; Bellamy, R. The Political Form of the Constitution: The Separation of Powers, Rights and Representative Democracy. *Political Studies*, 1996, Vol. 44, No. 3, p. 436–456; Barber, N. W. Prelude to the Separation of Powers. *Cambridge Law Journal*, 2001, Vol. 60, No. 1, p. 59–88; Hayek, F. A. *The Political Ideal of the Rule of Law*. Cairo: National Bank of Egypt Printing Press, 1955.

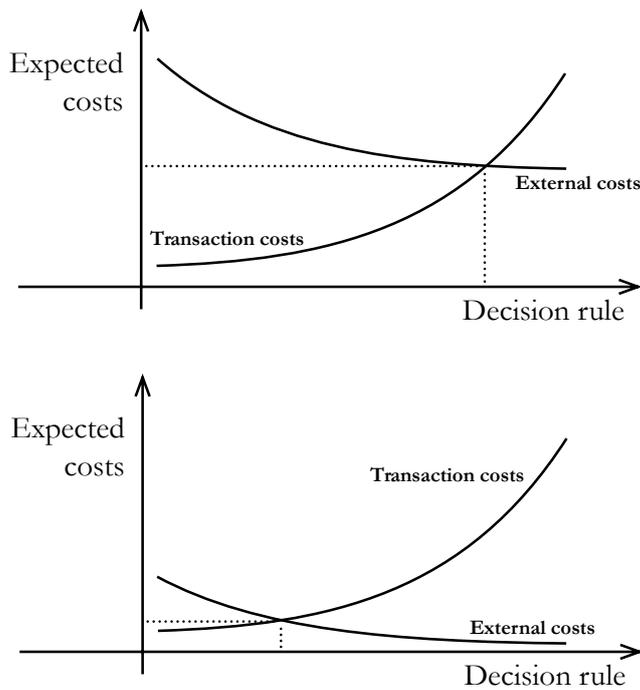


Fig. 4. Fig. 5. The transaction costs and the external costs for different issues

In the light of these contrasting examples, highlighting the dynamism in the very need for different participatory widths, the question as to the ‘best’, ‘optimal’, participatory width seems out of place: the agree-upon principle depends on the circumstances. A more recent computer simulation based study<sup>29</sup> claims that ‘the simple majority rule’ can be experimentally shown to be a convergent standard for, specifically, constitutional decisions, providing an explanation as to why it is so common in practice. However, clearly, few political decisions are ‘constitutional decisions’, leaving enough space for alternative rules.

### Majority Rule

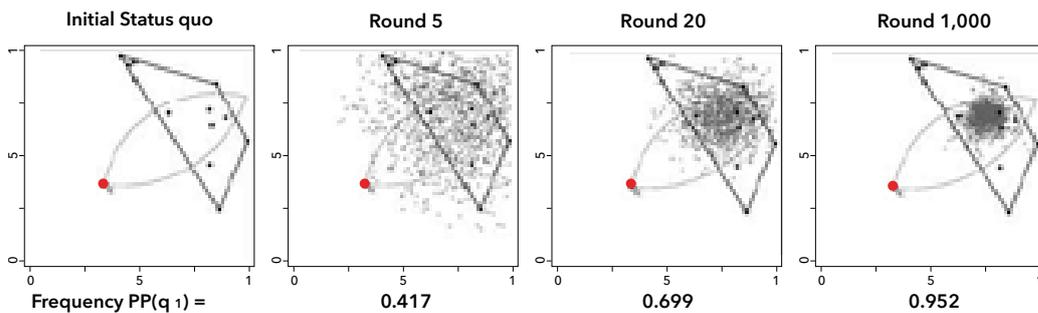


Fig. 6. Simple majority rule matches the Pareto optimality for constitutional decisions. The area delineated by the trapezium delineates the Pareto set, the intersection (red dot) denotes the initial status quo. The area delineated by the curves depicts the expanse of alternatives Pareto-preferred to the status quo. The voting at the US Constitutional convention was used as an example in computer simulation. The graph illustrates that the ‘majority rule’ as a principle produces a broad spectrum of alternatives after five rounds, but tends to produce more clearly focused outcomes near the ‘centre’ of the Pareto set after 1000 rounds.<sup>30</sup>

<sup>29</sup> See Dougherty, K. L.; Edward, J. *The Calculus of Consent and Constitutional Design*. New York: Springer, 2011, p. 41.

<sup>30</sup> *Ibidem*.

Given the theoretical premises that political analytic philosophy starts with, it seems to be reasonable to claim that as there is not one optimal solution for everything, but several alternative tracks, a – dissolved – system of a number of dynamically related pathways to decisions of power, several limited powers – will tend to (will inevitably) – be produced. At any given time, always, there will be various separate alternative paths to political decision making, each of them answering and addressing the specificity of the decision that is required. They may, or may not, be realized in terms of individuated institutions. The ancient idea of a division of power, or separated powers here appears to be recast as an expectation – the downright unavoidability – of a ‘constitution’, namely, the simultaneous existence of several different ‘decision making rules’, available and resotable to at the same time, that could be used to implement ‘collective choice making’.

This is slightly comparable to Putnam’s contention<sup>31</sup> that – some – language words are equally ‘outsourced’ (linguistic ‘division of labor’): most of the people would be comfortable using the word ‘carburettor’; they feel, roughly, that they know what it means. Asked to define it precisely, to explain, what a ‘carburettor’ does, most would have to admit that they do not know. It is enough for most people to trust that there is someone ‘involved’, ‘experts’ in the field, who stand in control of the meaning of some particular words; then they themselves do not have to. It is surprising to what extent people use words in daily language that they do not know what they in fact mean. Apparently, the same goes for political decisions: some are made independently of the population, for the population rationally chooses not to be involved.

What agents, ‘political actors’, in a field actually engage in is the so-called ‘veto play’<sup>32</sup>: how to ensure that I will – always – have the right of veto all those times when I absolutely want to have the right of veto, and at the same time make sure that something at some point will actually get done (no ‘indecision’) in which case we – cannot – all of us all the time have the power of veto. It is this exact many-tracked-ness in political decision making that implements this notion: allowing for ‘consent communities’ with each its own specific number of participants, as we will see, on a strict ‘need to know’ basis.

The formal model accounts for two phenomena at once: for one, it does explain (and predict) the organic appearance of institutionally divided power; secondly, in those historically attested instances where there has been but one undivided supreme power, an autocrat, an absolute monarch and the like, such dis-balance (the model explains and predicts) has always been temporary; in other words, monopolistic power-holders either rapidly succeed one another or get rapidly replaced by a more or less balanced multifold division of power. Whether this hypothesis can actually stand the data is up for testing.

This ‘veto play’, a type of game, actually, – the – game that is played politically, even though the conceptual construction is widely agreed to capture the realities of established democracies with their typical elaborate, intricate and time-demanding decision making mechanisms, hopelessness of bureaucracy, and persistent gridlock (overall, it is profoundly predictive), from the point of view of Habermasian – critical – social theory is constantly accused of inadequacies. Such systems<sup>33</sup>

- actively hamper political action and initiative;
- lead to entrenchment of vested interests;
- create and perpetuate the illusion that those in power are where they are for objective reasons;
- hamper deliberate governmental decision making, for everything has to be negotiated among the veto players;
- make the states less efficient because of delays, negotiations, concensus building and various peace processes;
- make the states ‘bland’: in case of a disagreement as to what new direction should be taken, status quo is continued with.

<sup>31</sup> Putnam, H. *Mind, Language and Reality: Philosophical Papers. Volume II.* Cambridge: Cambridge University Press, 1975, p. 228.

<sup>32</sup> See Tsebelis, G. *Veto Players: How Political Institutions Work.*

<sup>33</sup> For a detailed critique, see Ackerman, B. *The New Separation of Powers*, p. 633–729; Berggren, N.; Karlson, N. *Constitutionalism, Division of Power and Transaction Costs*, p. 99–124.

Is the ‘veto play’ due to ‘invariant regularities of social action as such’, or are these mere ‘ideologically frozen relations of dependence that can in principle be transformed’ as of now remains an open challenge. However, at times, even those highly critical of the outcomes that the analytic philosophy related social science produces note not only the predictiveness of the argument but also admit to the stated benefits of the equilibrium. Bruce Ackerman, in his 2000 Harvard Law Review article, otherwise critical of the ‘dogma’ and bent on proposing an alternative, highlighted the oft-quoted rationale: the veto play does mean protection of fundamental rights of the population (it is this very context that conditions the appearance of this very concept as such), in addition to gained professionalism in state governance and overall preservation of democracy.

The general direction of the analytically reasoned formal social sciences leads to something of a tendentious overemphasis being placed on the notion of an immovable long-term balance, some apparently optimal equilibrium, the Fukuyamaesque unavoidability, inevitability, necessity of division of power. Having discussed the mechanics that underlies the doctrine of constitutionalism, we will now turn to a more pragmatic survey of its institutional manifestation as is the case for a typical Western democracy.

#### **4. ‘Checks and balances’, ‘Legislative branch’, ‘Executive branch’, ‘Judicial branch’, ‘Functional integrity’**

We have already highlighted that, in terms of words, the political analytic philosophy has delivered the surprising, unintuitive definition: the opposite of ‘unanimity’ for this or that political action is not ‘anarchy’ or ‘absolutism’ but political ‘indecision’, ‘inaction’ or ‘wavering’. In this, analytic philosophy contributes quite a lot by suggesting a revision of the definition of ‘politics’: if there were no transaction costs, the ‘ideal’ solution for ‘collective action’ would, indeed, be the principle of unanimous consent; it would be the cheapest modus operandi. There is another unexpected, counter-intuitive consequence. At unanimity, the power is maximally consolidated, ‘monolithic’ vis-à-vis the agents (population); everyone participates and contributes. As it appears, in spite of some ideological preferences or tendencies to characterize such an outcome as ‘ideal’ or ‘desired’ or ‘perfect’/‘good’ (we just made this mistake), in fact, it is not only impossible – it is unnatural. To demand that ‘everyone should always be in power’ (the spirit of ‘democracy’), in terms of the equilibrium of relevant given pressures, is an unsustainable, impossible to maintain extreme: it is too costly.

What is classically referred to as the idea of the ‘separation of powers’ is thus here suggested unmasked as an artificial, ideological conviction, a ‘dogma’; what actually gives rise to some particular distributive configurations and conjectures for collective agreement and collective action are consent/information processes (various mechanisms: by default, quiet participation, by active campaigning, etc.), each exhibitiv of some specific naturally limited set of genuinely interested participants. Philosophically and scientifically speaking, it is not the case that some particular ministry gets ‘counteracted’ by the parliament, but that the two ‘institutions’ are backed by two different lists of participants where each wants the right to participate (to veto or to be maximally informed about) the relevant collective decisions.

The notion of ‘checking and balancing’ (in terms of providing some idealistic protections) as the actions that some illusory institutes themselves are obligated to carry out is thus (not exactly disposed of, but) radically reviewed. All of the checking is always against the ‘popular will’, but the popular will is not the same for all domains; parliament is the most inclusive and is backed by the broadest list of veto right holding participants; the unanimity here is the unanimity among the longest list of parties involved. All branches are thus backed by and oriented towards the same demos. The historical trajectory of the ‘divided power’ itself may serve as an illustration.

The possible number of possible or available ‘power branches’ is thus not set and can vary, indeed, at the level that underlies the established institutions, does dynamically vary in time.

Following Montesquieu and the proponents of the ideology of the American Revolution, there are at least three historically conditioned branches of government with historically stable functional competencies that are to express their commitment to ‘check’ (the bipartite/tripartite system<sup>34</sup>): the crown is the oldest (the executive branch), the courts are of more recent ascent (the judicial branch), with the representative parliaments/assemblies being the most modern innovation (the legislative branch).

Crowns	Check the rule against long-term, historical consistency and integrity.
Courts	Check the rule against semantic and syntactic, logical consistency and integrity.
Parliaments	Check the rule against popular will.

In this arrangement, even the popular will, presumably if usurped by a demagogue, may be checked by the other branches of government. Constitutionalism, at its core, is anti-democratic.

The requirement of ‘long-term, historical consistency’ is conservative, and the parliaments’ (which are dynamic by definition) ability to, effectively, check the crown has had an effect on the latter’s form; the ‘checking for long-term, historical consistency’ may be placed with a different branch, but not necessarily. Some contemporary constitutions provide for either relatively long terms for the president (in presidential systems, the ‘crown’), or members in one of the houses of parliament (for example, US senators sit for six-year terms as opposed to member of the House who sit for two-year terms). Another routine solution is to populate an institution with professional experts, ‘career public servants’, the bureaucracy, who serve without terms or term limits and thus ensure the long-term continuity of a tradition.

An analysis of the constitutionally granted abilities to act that characterize the separated branches in the Lithuanian constitution/tradition reveals that the ‘crown’ (as is the case in many other jurisdictions) is once again divided, adding a further dimension to the separation of powers in addition to the established principle.

Parliament	vs. Cabinet (confirmation).
Crown	President vs. Parliament (veto), vs. Court (appointment).
	Cabinet vs. Parliament (with President, under certain conditions – calling of snap election).
(Constitutional) court	vs. Parliament (constitutionality), vs. President (constitutionality), vs. Cabinet (constitutionality).

An analysis of the ultimate ‘sovereign’ – what legitimizes the separated branches themselves – suggests that as of now the classical checking criteria have been ultimately replaced by one criterion: the will of the majority. This is even more pronounced in the US constitution: as all branches of government derive their power, ultimately, from the trust of the majority, they ‘check’ the majority against the same majority.

Parliament:	Check the rule against majority will.
Crown	President: Check the rule against majority will.
	Cabinet: Check the rule against majority will.
Court:	Check the rule against majority will (in the sense that the judges are appointed by elected politicians).

Should one make the argument that there is a difference between a certain ‘majority will at time A’ and then a certain ‘majority will at time B’, and that it is those that check each other, the constitutional arrangement itself would immediately gain in conservative bias: what is being ‘balanced against’ is

<sup>34</sup> In addition to the works cited in 26, for a two-partite division, see Locke, J. *Two Treatises of Government*. London: Whitmore & Fen, 1821, p. 263. Retrieved from <https://www.yorku.ca/comminel/courses/3025pdf/Locke.pdf> [accessed 27.04.2021].

not some hypothetical ‘usurper’ or ‘tyrant’ but any radical motion in the Marxist meaning of the term, something ‘unreformist’, ‘ungradualist’, a quick movement of passion. Theoretically, then, the will of the majority is thus checked against the will of the majority by contrasting the will of the majority at different times, and thereby ensuring the long-term stability. In order to radically change something, the majority’s will for change must exist with a pronounced stability for a long period of time and get expressed at several elections; otherwise no new collective action could get undertaken nor collective action carried out.

To some extent, in addition to the horizontal division of power, the current Lithuanian constitutional configuration encompasses a vertical division of power, too. The local government is separate from the central administration, though they both derive their legitimacy from the same source, the will of the (active) majority, distributed in time, and, also, exhibiting various limitations in terms of space (rural communities vs. the urban electorate vs. the national average).

These few remarks as to the historical trajectory of the separated powers in their interrelationship and as to the current implementation of the principle in the Republic of Lithuania reveal, that the actual data is in keeping with the theoretical prediction: the reason behind the division is not so much an artificial desire for some idealistic protections but a way of realizing the natural tendency towards dynamically varied participatory widths. We will now turn to the information behaviour that these dynamic communities of participants may be exhibitiv of.

##### **5. ‘Information costs’, ‘Information behaviour’, ‘Information tailoring’, ‘Information provision’**

Thus far in this article we have been focusing on the conceptual work that went into arguing for the infrastructure of analytic-philosophy related formal social science. We have seen how the formalist tradition reinterprets ‘society’ as a kind of interaction of rational agents striving for collective, collaborative, concerted action based on social agreement, everything else being illusions that arise out of this dynamic. We further pushed and elaborated on this infrastructure, pursuing a novel theoretical reinterpretation of the process of the division of power and resorted to a few pragmatic examples. Now we will enhance the discussion by adding to the dramatization a crucial additional layer: the nature of the relationship to information, to the contents/data being collected, gathered, debated, discussed and agreed-upon.

The greatest difference between the classical doctrine of the separation of powers and the reinterpretation of the principle arising from the argument based on the notion ‘veto as a game’ is one of attitude: there is no reason to pursue some separateness artificially, deliberately, purposefully and forcefully and then to maintain it per force, counteracting some natural tendency; indeed, the stratification/divergence/separation itself is a natural tendency in a field that is free from interference (the field must be a field of pronouncedly – rational – agents, and we will turn back to this limitation later). The divergence between the branches of divided power or, more precisely, between separate, functionally integrative, focused communities of interested participants is to be observed as an organic, inevitable outcome.

Transaction costs as defined by Buchanan & Tullock, we argue, include information costs. Indeed, information costs constitute the bulk of the ‘dealing’:

(1) one has to know the context, one has to be able to compare one’s own aims with those of the competition which means that one has to have access to the information that is not freely available.

(2) The looking for and the finding of allies, the negotiating of possible alliances, again, takes time and effort, dialogue skills and competencies that, in turn, may be more or less affordable.

Finally, (3) information par excellence requires access to data sources that must somehow be purchased, means of collecting intelligence and then means of channelling of this collected intelligence, storing it, retrieving it, abstracting over it, etc. In short – the formalist account of a transaction matches

the biological tenet that ‘information is expensive’, and that biological species, given their being evolutionarily conditioned, relate to the entirety of information on a strict ‘absolutely need to know’ basis: there is no evolutionary motivating for frivolousness, excess and redundancy. Indeed, transactions are so costly that they make a substantive array of configurations that enable collective action, downright unaffordable – as desirable as a particular configuration might be.

Information behaviour is, therefore, from a formalist as much as from a biological point of view, kind-specific. Vernickaitė<sup>35</sup> in her pragmatic study of the information needs of the Lithuanian parliamentarians, established the specificity of the information being looked for, ordered, consumed and relied upon by the members of the Seimas, the Lithuanian legislature. Neither of the two papers referred to above include a contrastive study of the needs of parliamentarians as opposed to those of, say, ministry ‘career public servants’, but the segments where the information behaviour is shown to correlate with the functions of a member of parliament – the contexts, their addressees, their clientele, the genres – indicate that, pragmatically, one can observe an undeniable specificity within the information behaviour of some serving members of a particular branch of government classically understood. There are to be observed associated information consumption habits.

Information seeking behaviour of parliamentarians is, indeed, well-studied, and the research covers a varied geography.<sup>36</sup> A few publications, respectively, focus on information habits of public administrators (managers in the civil service<sup>37</sup>) and law practitioners.<sup>38</sup> As our aim is more motivated by the philosophical considerations and we remain committed to constructing a conceptual argument, we will refrain from delivering a more elaborate meta-scientific overview of these, but we note that the research does indicate a divergence: the information characteristics, types, sources do correlate with functions; they do point to a customization, perhaps even functional personalization.

Sabatier & Whiteman argue that in the totality of the information needs of parliamentarians/legislators, there are to be distinguished four kinds of relevant data:

- political information, which relates to the configuration of different attitudes in a particular parliament/assembly and in a particular community, pool or electors that the assembly represents;
- policy information, which encompasses the contents of the particular decisions proposed, the favourite and the competing alternatives and the consequences or implications that this or that particular decision is to bring in its direct aftermath or indirectly, the impact it will have on the electorate or just downright generally;
- evaluative information, which focuses on the reliability of the political and policy information available: to what extent did the predictions match the factually observed outcomes in the past?, how successfully some particular laws or programmes may be implemented or tend to be implemented?

<sup>35</sup> See Vernickaitė, A. Lietuvos Seimo narių informacijos poreikiai ir šaltiniai. *Parlamento studijos*, 2012, Nr. 13, p. 16–47; Vernickaitė, A. *Information Behaviour of Members of Parliament and Its Determinants*. Summary of Doctoral Dissertation: Social Science, Communication and Information (08 S). Vilnius: Vilnius University, 2014. Retrieved from <file:///C:/Users/DARIUS-1.ZIE/AppData/Local/Temp/1/2181825-1.pdf> [accessed 27.04.2021].

<sup>36</sup> See Orton, R.; Marcella, R.; Baxter, G. An Observational Study of the Information Seeking Behaviour of Members of Parliament in the United Kingdom. *Aslib Proceedings*, 2000, Vol. 52, No. 6, p. 207–217; Mostert, J.; Ocholla, D. Information Needs and Information Seeking Behavior of Parliamentarians in South Africa. *South African Journal of Libraries and Information Science*, 2005, Vol. 71, No. 2, p. 136–150; Mansour, E.; Alkhurainej, N. Information Seeking Behaviour of Members of the Kuwaiti Parliament (MKPs). *Library Review*, 2011, Vol. 60, No. 8, p. 671–684; Hossain, U. M.; Hossain, A. M.; Islam, S. M. An Assessment of the Information Needs and Information-Seeking Behaviour of Members of Parliament (MPs) in Bangladesh. *Information and Learning Science*, 2017, Vol. 118, No. 1/2, p. 48–66.

<sup>37</sup> See Almutairi, H. Factors Affecting the Information Behaviour of Managers in the Kuwaiti Civil Service: A Relational Model. *Information Research*, 2011, Vol. 16, No. 2. Retrieved from <http://InformationR.net/ir/16-2/paper477.html>.

<sup>38</sup> See Khan, S. A.; Bhatti, R.; Khan, G. Information-Seeking Behavior of Law Practitioners: A Survey of Bahawalpur City. *Library Philosophy and Practice (E-Journal)*, 2011, Vol. 4. Retrieved from <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1612&context=libphilprac> [accessed 27.04.2021].

- management information, which encompasses the timetable of the individual and the schedule of the parliament as a whole, keeping an eye on the timetable of topics as reflected in the tendencies within the public discourse, the public ‘problematica’. This also includes the most down-to-earth data as to the organizational matters of the parliamentary sessions and committee sittings.<sup>39</sup>

The specificity of information behaviour implies a targeted information tailoring: it is economical, rational, elegant, and methodologically reasoned – inasmuch as the information work is ‘outsourced’ to some special dedicated body for information provision – that the production of that body be deliberately tailored. Tara defines information tailoring as ‘a purpose or person-based information provision process, during which information contents are composed and packed according to either a particular purpose or a particular list of users’ needs/wants’.<sup>40</sup> The emphasis on the needs/wants here is crucial: it is the rule played by the relevant end user’s demand that separates information tailoring from information manipulation. (In information manipulation, the composition and packaging of the contents is guided by considerations arising from the information provider.) As such, information tailoring is a notion that has a pronounced application dimension to it. To give a very down-to-earth example, the tailoring plays a role in the construction of various tools, devices and gadgets that carry a display or other component capable of transmitting texted contents: in making a decision as to what should be displayed/made available in what order so that the contents and the navigation solution be intuitive for the user; much research and development goes into discovering such user needs.<sup>41</sup> To give another example, Lehmann et al.<sup>42</sup> focus on the issue of medical information tailoring for cancer patients. There are many other specific domains.

If the principle of information tailoring holds, then, based on the needs of the parliamentarians as have been revealed by the many pragmatically grounded research papers, an argument could be made as to the information tailoring that specifically addresses the members of various legislative assemblies. Before we conclude as to what this tailoring might amount to, we will examine several real life examples, studying the functions, as defined in normative documents and statutes, and as can be factually observed in day-to-day operations, of several parliamentary libraries. We choose this particular concept at this point, even though the subsequent analysis reveals that there is something of a tension between this concept and that of ‘legislative library’ or ‘legislative information service provider’.

## 6. Informal (pragmatic) tendencies

In the context of the preceding analytical, more or less mathematical modelling oriented, sections (though we did recourse to several pragmatic examples), this one will seem out of context. However, the purely theoretical considerations just outlined must be made stand in the context of actually collected real life data.

<sup>39</sup> See Sabatier, P.; Whiteman, D. Legislative Decision Making and Substantive Policy Information: Models of Information Flow. *Legislative Studies Quarterly*, Vol. 10, No. 3, 1985, p. 395–421.

<sup>40</sup> See Tara, M. Aspects of Information Tailoring in the 21st Century. In: *Encyclopedia of Information Science and Technology* / Eds. M. Khosrow-Pour. Hershey: IGI Global, 2015, p. 4042–4044.

<sup>41</sup> See Yoon, H.; Shin, D. H.; Kim, H. Health Information Tailoring and Data Privacy in a Smart Watch as a Preventive Health Tool. In: *Human-Computer Interaction: Users and Contexts. HCI 2015. Lecture Notes in Computer Science*, Vol. 9171, Springer / Eds. M. Kurosu. Cham, p. 537–548; Kim, K. J.; Shin, D. H.; Yoon, H. Information Tailoring and Framing in Wearable Health Communication. *Information Processing & Management*, 2017, Vol. 53, No. 2, p. 351–358; Ghalibaf, A. K.; Nazari, E.; Gholian-Aval, M.; Tara, M. Comprehensive Overview of Computerbased Health Information Tailoring: A Systematic Scoping Review. *BMJ Open*, 2019, 9:e021022.

<sup>42</sup> See Lehmann, V.; Labrie, N. H. M.; Weert, J. C. M.; van, Dulmend, S.; Hanneke, J. C. J. M. de H.; Kersteng, M. J.; Pieterseh, A. H.; Smetsa, E. M. A. Tailoring the Amount of Treatment Information to Cancer Patients’ and Survivors’ Preferences. *Patient Education and Counseling*, 2020, Vol. 103, No. 3, p. 514–520.

The notion of a 'parliamentary library' in pragmatic language occurs most often in *regulations* and other statutory, normative documentation that establishes one, or in *branding*, in that the services or products of a parliamentary library carry the name of the producer.

For the purposes of this article, we surveyed the ways in which the idea of a 'parliamentary library' is implemented in several Western jurisdictions and what particular products and services it is deliberately associated with. We would argue that it makes sense to further concentrate on the models as exhibited by the sovereignties that are culturally, historically and geographically close to Lithuania. For one thing, there is not much variation in the spectrum, and these few examples alone are suffice to characterize the field; secondly, because of developmental affinities, parallelism and contingencies, the selected examples are easy to compare to the Lithuanian historical process and realities.

In the neighbouring democratic countries, the parliamentary libraries are established as separate, individuated institutes, unrelated to the (main) national libraries, here meaning those that receive and administer copies of publications submitted under the requirement of 'legal deposit' (deposit libraries). This exact principle of separation is implemented in Latvia, where 'Nacionālā bibliotēka' is separate from 'Latvijas Republikas Saeimas bibliotēka'. In Poland, the deposit 'Biblioteka Narodowa' is separate from 'Biblioteka Sejmowa', as is the Swedish deposit 'Kungliga biblioteket – Sveriges nationalbibliotek', – from 'Riksdagsbiblioteket'. The parliamentary libraries may be restricted to mere cataloguing and housing relevant printed and electronic matter, and then be separated from individuated 'research and analysis departments' usually functioning within the structure of the parliamentary chancellery (as is the case in Latvia, where the Chancellery of the Latvian Saeima also encompasses a separate division for information analysis and research, 'Saeimas Analītiskais dienests'). Or a parliamentary library may carry out the functions of both (as is the case in Norway, where the 'Stortingsbiblioteket' itself produces regular information summaries as well as foreign affairs and analytical reports).

The distinction between a 'parliamentary library' on the one hand and a 'national library' on the other allowed for a rather specific crystallization of a narrow, but focused and well-delineated functional definition of 'parliamentary information needs' and the associated 'information provision':

- indeed, 'parliamentary libraries' are often, technically, called 'legislative libraries', thereby highlighting their commitment to serve by addressing the specificity of the process of the promulgation and enactment of laws and legally non-binding representative resolutions. Usually these libraries or library services comment on the legislation the potential of which is being explored, comment on the bills proposed and debated, *reflect on the possible (likely) public reaction* – or the reaction of specific interests groups – to the legislation under exploration, debate or scrutiny;
- provide reasoned evaluations of the relationship between the existing laws and the proposed ones, *comment on the legal integrity of the particular jurisdiction's proposed bills, codes and statutes* (this function itself is sometimes debated exactly on the grounds of the separation of powers – the pre-enactment review of bills in terms of their constitutionality stands in sharp conflict with the freedom of the parliament);
- collect and disseminate data, distribute more or less sophisticated primary information or meta-information products that are of relevance when *forecasting the potential impact of some proposed bill*; in this particular context, foreign examples may well be cited and analysed, overviews of the foreign practice that is of relevance or directly equivalent may be compiled and disseminated.

This narrow and focused remit and purposes and aims of the Western legislative libraries or library-like service providers is established in greater or lesser detail in acts and normative texts of individual jurisdictions or in international guidelines (these are merely consultative and recommendatory in nature: 'Guidelines for legislative libraries' and 'Guidelines for parliamentary research services').

## 7. The Lithuanian case

The Lithuanian example is unique: there is no separate library of the parliament.

Though, historically, the principle did have currency. In the years 1981–1990, during the Soviet occupation, the Supreme Soviet of the Lithuanian Soviet Socialist Republic did house a separate library that provided information resources to the then-deputies (information provided by the anonymous reviewer).

One reasonable explanation could be the particular historical circumstance that the current building of the National Library and the current building of the Seimas make parts of one and the same architectural ensemble; what we mean here is the physical proximity, the two buildings stand side by side. However, this proximity is relatively recent and dates back only to 1980; initially it was the building to house the Supreme Soviet of the Lithuanian Soviet Socialist Republic that stood next to the existing National Library. First-hand witness accounts of the current employees of the Library attest to the role that it naturally and organically played in the functioning of the Supreme Soviet – Reconstituent Seimas and the subsequent parliaments, especially starting with the early 1990's.<sup>43</sup> The Presidium of the Supreme Council trusted the National Library with the parliamentary information provision, formally, on 20 February 1991.<sup>44</sup>

Since the interaction between the National Library and the Parliament as a whole or individual parliamentarians is organic, unmediated, and direct, and since any request for meta-information, information or analysis can – and could in the past – be formulated and delivered in person, then carried out and the product returned immediately, the specificity of the work, the *'parliamentary function'* is not – and has never been – formally delineated in a promulgated law or a piece of a more specific secondary, subordinate legislation prior to the early 2000s. In the Lithuanian Law on Libraries issued in 1995, the first mention of 'functions of a parliamentary library' was introduced as the amendment approved in July 2004. The Lithuanian case is somewhat unorthodox in that even though the Office of the Seimas has a special division for investigation ('Tyrimų skyrius') and an additional structure for general and bibliographic information (Bendrosios ir bibliografinės informacijos skyrius), there is no separate library of the Seimas. The functions of a typical parliamentary library are reserved for the National Library.

The aforesaid division for investigation under the Office of the Seimas, first and foremost, handles narrow-in-scope information requests of the members of Parliament, though it is to be expected that the division carry out other functions as well (generally, its profile is comparable to that outlined in the international *Guidelines for parliamentary research services*<sup>45</sup>). Our study of a recent chronological sample of those (spanning 1 January 2021 – 30 April 2021, 15 releases; spanning the whole year 2020, 32 releases; spanning the whole year 2019, 26 releases) revealed that an overwhelming number of those are summaries of some particular practices in other EU or foreign countries: e. g., titles like 'Regulations on mandatory vaccination in other EU countries' or 'Regulations on forensic psychiatric evaluation in foreign countries.'<sup>46</sup> There is no limitation on subjects or scope of a typical survey. Some of the releases are produced and research conducted upon the initiative of the staff members, of whom there are (as of today) 12. A much larger department for law assists the members of the Seimas in ensuring legal integrity of legislative texts. The aforementioned division for general and bibliographic information in its remit matches the prototypical outline of a 'parliamentary library' somewhat closer,<sup>47</sup> but the staff members here are also few (as of 2021, 12).

<sup>43</sup> See Gudauskas, R.; Budriūnienė, J. Nacionalinė biblioteka ir valstybė. *Parlamento studijos*, 2019, Nr. 27, p. 5–14.

<sup>44</sup> *Dėl Lietuvos nacionalinės Martyno Mažvydo bibliotekos funkcijų išplėtimo*. Lietuvos Respublikos Aukščiausiasis Tarybos Prezidiumas, 1991 m. lapkričio 20 d. nutarimas Nr. I-2008.

<sup>45</sup> See *Informacijos ir komunikacijos departamento Tyrimų skyriaus uždaviniai ir funkcijos (2021)*. Lietuvos Respublikos Seimas. Retrieved from [https://www.lrs.lt/sip/portal.show?p\\_r=35381&p\\_k=1&p\\_a=6&p\\_pad\\_id=1004#844](https://www.lrs.lt/sip/portal.show?p_r=35381&p_k=1&p_a=6&p_pad_id=1004#844) [accessed 27.04.2021].

<sup>46</sup> See Valiukaitė, D. *Privalomos vakcinacijos reglamentavimas Europos Sąjungos valstybėse narėse: analitinė apžvalga 19/14*. Lietuvos Respublikos Seimas, 2019.03.22. Retrieved from [https://www.lrs.lt/sip/getFile3?p\\_fid=14722](https://www.lrs.lt/sip/getFile3?p_fid=14722) [accessed 27.04.2021].

<sup>47</sup> See *Informacijos ir komunikacijos departamento Bendrosios ir bibliografinės informacijos skyriaus uždaviniai ir funkcijos (2021)*. Lietuvos Respublikos Seimas. Retrieved from [https://www.lrs.lt/sip/portal.show?p\\_r=35381&p\\_k=1&p\\_a=6&p\\_pad\\_id=1004#844](https://www.lrs.lt/sip/portal.show?p_r=35381&p_k=1&p_a=6&p_pad_id=1004#844) [accessed 27.04.2021].

The Lithuanian Cabinet has a separate Government Strategic Analysis Centre, STRATA, that ‘provides government and ministries with the independent, research-based information required to make evidence-based public policy decisions.’<sup>48</sup>

Under the current version of the Lithuanian Law on Libraries, the more general task of assembling, collecting and administering a more significant pool of data, monitoring the public discourse, supplying the parliamentarians with information that is free from their immediate requests, the conducting of systematic research that addresses the needs of the legislature is delegated to the National Library. Among other functions, the formulation of the task is somewhat liberal and generous; Article 8.11 states: ‘[The National Library] addresses the information needs of the Seimas and the Cabinet, other State government and administration institutions or of the public servants in regard to their acting in the capacity of their official duties [i.e. responds to their requests for information]; [the National Library] collects and administers the documents and data that is relevant for the purposes just stated.’<sup>49</sup>

### 8. ‘Parliamentary information services’, ‘Parliamentary library’, ‘Publication by a national and parliamentary library’

So far we have been gathering all of the tools that are needed to deliver a formal social science based definition of parliamentary information services. In the previous two sections, we surveyed the pragmatic solutions as attested in several Western jurisdictions. We saw the Lithuanian model somewhat diverging from the structuring that is characteristic of a typical Western arrangement. Before continuing, we will now explore the peculiarities as exemplified by the Lithuanian framework further.

A similar arrangement where there is but one and continuous, integrative institute of a national-parliamentary library is the case for but a few other jurisdictions: the United States, where the function is performed by the Library of Congress, and Georgia (Caucasus Region) where the main State library is the National Parliamentary Library of Georgia, ‘Sakartvelos parlamentis erovnuli biblioteka’. In both cases, the tradition is long-standing. The American example dates back to 1800, when a set of books and maps were purchased from London for the use of congressmen, thus initially as a resource for deliberately legislative purposes; the Library of Congress gained the features of a national library in the 1970s and 80s under the leadership of Ainsworth Rand Spofford. The Georgian equivalent, technically, was formed in 1923 upon the merger of the Tiflis Public Library and the Parliamentary Library.<sup>50</sup>

It is also the case that the United States is notorious for the number of publicly partisan think-tanks who deliver political analyses, supply the political debate with information and suggest both informal direction for the legislators and provide them with ready-made answers to challenges and questions. Indeed, not all of the think-tanks, institutes, foundations and public policy institutions are openly tendentious, but a great number of them are and serve in the way of ‘evening things out’ and leaving the field ‘balanced’. Think-tanks, in their contributing to the public debate, often influence the process of law enactment in a visible way.

Inasmuch as such a broad generalization is at all permissible, it is worth noting that both the American Congress and the Georgian Parliament are exhibitiv of a pronounced political polarization and a rather dynamic interplay between/among the parties. One might ask as to whether this feature of the parliamentary modus operandi has something to do with the associated development of a well-endowed, massive, national in character information service to supply the alienated cohorts of representatives with something of a stabilizing tendency or background. (We thank Mrs Matonytė for the suggestion.)

<sup>48</sup> See STRATA: About us. *Government Strategic Analysis Center*. Retrieved from <https://strata.gov.lt/en/human-capital-policy/24-structure-and-contacts/52-about-us> [accessed 27.04.2021].

<sup>49</sup> *Lietuvos Respublikos bibliotekų įstatymas*. Lietuvos Respublikos Seimas, 2004 m. liepos 15 d. įstatymas Nr. IX-2378. Retrieved from <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.238641> [accessed 27.04.2021].

<sup>50</sup> See more Cole, J. Y. *America's Greatest Library: An Illustrated History of the Library of Congress*. Washington: The Library of Congress, 2017.

We would argue, based solely on the Lithuanian, American and Georgian pragmatic cases, the very principle itself, the idea that the functions of a national (deposit) library (which is usually also an integral part of an extensive national library system), and those of a *parliamentary library* might be vested in a single institution is thus sound and should not import any negativity. Especially if one considers Lithuania: the relation and the interplay of information needs on the one hand and information provision on the other between the National Library of Lithuania and the Seimas is of long-standing, productive and exhibitivite of mutual trust; it is an unwritten tradition.

Even more so, and this is quite the point, a parliamentary library that at the same time is also the national deposit library has in its possession fundamentally broader, more varied, indeed, maximally varied, more elaborately, systematically and consistently assembled, catalogued, organized and administered resources than a typical legislative library. These features and characteristics that are atypical of a legislative library, as defined by its narrow functional definition, endow a national and parliamentary with the potential to take upon itself an enhanced, more qualified, richer role in delineating the current contents of the public life of any commonwealth, in detecting and highlighting the tendencies, topicalities, points of gravity within the civic and intellectual life, both in the short and the long term.

The entirety of constantly updated contents that is available to the staff of a national and parliamentary library enables the bibliographers and analysts to inform the legislator not only of textual and juridical implications of a particular bill or law but also to follow, report from, summarize, and analyse the broad and general vista and context of the public life of the country, the field in which various interest groups operate and interact, their aims and their methods for seeking those aims, their preferred strategy implementation methods, the chronological trajectories of particular intellectual or business trends. The resources available to a national and parliamentary library allow to elaborate on the potentiality that some particular motions of law promulgation – will, might – have within the entire perspective of the processes of democratic governance. In this sense, as an integral part of the mechanism, a national and parliamentary library is an authentic, purpose-oriented, arguably indispensable participant in a country's system of information production, consumption and circulation.

At any rate, the more exhaustive pool of information resources and the more advanced information processing and analysis of infrastructure/capabilities that underlie the meta-information products and services of a national and parliamentary library, while enriching the mechanism of state information provision as directed towards state officials or, in an even more general sense, the political elites of a particular country, do not negate the authentic and organic separation between/among the several individuated powers and their autonomous information needs and consumption practices. So as to maintain the distinction between separate powers, the meta-information and analytical production of a parliamentary library should not gain features that are in character for documents directed at the Cabinet, ministries, or courts.

Pragmatically, it would then follow that a meta-information or analytical *publication by a national and parliamentary library* is typically broad and liberal in its attempt to contextualize the phenomena under investigation in the field in many different aspects; it must rely on a survey of sources that as exhaustive as possible; paying attention to – as well and to as many as possible – various interest groups that operate in the field, attempting to remove the (artificial) prominence of some movements within the field that is due to their being deliberately forced to be prominent by organizing a systemic and large-in-scope public relations campaign; purposefully directed, targeted at, focused and useful within the entirety of information provision that is typical for a legislature.

Analytically, as the parliament, the national assembly, is the most inclusive 'power' in terms of the strata represented, has the longest list of participants, veto players, it must be supplied by information that is revelatory in terms of the movements within the field that it represents. Unlike information providers who serve at the pleasure of the Cabinet or the Constitutional Court, the information provider – a

parliamentary library – that serves the parliament must express the idea of ‘parliamentarianism’, here meaning the peculiarities of an institution that exhibits the greatest possible participatory width. The emphasis on the greatest technically possible participatory width carries along with it the tendency not to disregard marginal phenomena as, indeed, merely marginal; minute, insignificant and parenthetical voices as merely minute, insignificant and parenthetical; or discard negligible attitudes as exactly that.

We would argue that more than that, the researchers at a parliamentary library are not to let themselves to be taken hostages of the prevalent, mainstream and received attitudes, for tendencies in the public discourse may be as much forced and manipulatively conditioned as they are organic. To the list of the functional hallmarks of a typical parliamentary library as presented in Section 6:

- comment on the reaction to the legislation, comment on the legal integrity of bills and laws, forecast the potential impact of the proposed bills;
- we would thus add this one: conduct the monitoring of the public discourse, home and abroad, highlight the current developments of interest;
- distribute products that are of various genres and analytical depth that are based on this continued record of the ongoing public life.

These exact principles are to be reflected in greater detail in the guidelines for analytical work, definitions and tips for analysts and bibliographers, instructions and manuals for various meta-information collection, processing and dissemination procedures.

The national and parliamentary library, in the Lithuanian context, as an idea, is thus to be maintained. More than that: if anything, the principles outlined in this paper could be given an even more elaborate expression. Let us say, the issue as to the ownership and direct accountability might be raised and debated (currently, the National Library of Lithuania is technically under the Ministry of Culture of the Republic of Lithuania; its Director-General is appointed by the Minister of Culture and not by the Parliament).

## Outlook

The eight short sections of this paper outline the argument for a particular definition of a ‘parliamentary library’ in the context of separated political powers.

Something of a stratification of ‘society’ per various degrees of involvement seems to be a somewhat unintuitive (perhaps even counter-intuitive) necessity and unavoidability, if a field of freely-interacting rational agents is posited at the point of departure. As much as they would want to, agents cannot afford to be involved in everything in the sense of contributing to (being a part of) consensus always-and-everywhere (consensi at various times and concerning various issues), for such a course of action is transactionally prohibitively expensive. Formation of ‘elites’ is a necessary outcome of social co-existence.

The analysis suggests a reinterpretation of the idea of ‘separation of powers’: the ‘various degrees of involvement’ stratification tends to entrench several – different – parallel pathways to decision making, all of them legitimate at the same time: some decisions will be left exclusively to the discretion of the interested and the experts, whereas in other cases a desire for broader involvement is likely to be observed.

Those decisions that call for the broadest involvement of the population are likely to fall under the most inclusive of the ‘separated’ ‘pathways’/institutions, namely, a ‘parliament’.

Parliament, in its information behaviour, is thus inalienable from a deliberately broad, representative, attentive, continuous and all-encompassing monitoring of the public discourse. An attempt to focus the functioning of a parliamentary library on a narrow tendency to answer the specific questions that the parliament raises is counterproductive and undermines the functioning of a parliament in its analytic definition.

'Parliamentary libraries' as pragmatically observed can be exhibitiv of either of the two proclivities: they are either dedicated parliamentary request handlers or combine the resources and commitment of a national library and a parliamentary one under one roof. This particular pragmatic solution is more consistent with the definition of a 'parliamentary information service'.

This paper thus elaborates on a *definition of parliamentary libraries*: the information provider serving at the pleasure of a parliament – a parliamentary library – must pay special heed to the idea of 'parliamentarianism', i.e. the peculiarities of an institution that exhibits the greatest possible participatory width.

We conclude with a few remarks on the strengths and weaknesses of our work. Much of what has been said in opposition to the original Buchanan & Tullock's publication applies also to us (see Section 2). We will address two points. (1) Indeed, what seems a bit arbitrary is the chosen level of granularity. This puts one right back at the starting point of the whole enterprise of analytic philosophy: if 'society' is dismissed as an illusion, why is a 'man' (redressed as an agent) – not? After all, a man is but the aggregate of tissues, which in turn are aggregates of cells which, in turn, are filled with organelles and so ad infinitum. If one claims that the personifying tendency in human language bears enough justification for the purposes of theoretical 'rightness'/correctness' (well, language does personify 'her' and 'him' as individuals, co-humans, and 'me' as an individual human; it is the language that separates a 'subject' from an 'object'), then 'society' is to be permitted, too, for such 'invisible' aggregates are also perfectly permitted by the structure of language (there is a 'we', and there are 'objects', plural, at least in English). Indeed, Buchanan & Tullock themselves talk about, e. g., 'artificial persons': 'A corporation serves the individual economic ends of those who organize it, yet can be treated as a functional individual for some purposes.'<sup>51</sup> Our argument here is somewhat clumsy. We permit whatever is justified by experimental testability. An 'agent', a 'political actor', is not being proposed nor defended as an entity at the 'right' level of granularity and somehow ontologically 'actual', unlike 'society'. An 'agent' is, after all, a theoretical abstraction that, in this particular case, allows for convenient testing in various paradigms, especially so in computer modelling. If all other assumptions grounding and reinforcing the model stand, this particular theoretical abstraction also allows for the discovery of mathematical regularities. Our argument in favour of an 'agent' is then completely pragmatic, but that does not invalidate analysis as such; analysis cannot possibly be declared wrong, only 'irrelevant', and it is the pragmatics that decides on that.

(2) Additionally, we join some of those who accused the initial Buchanan & Tullock's theory of elitism, conservative bias and politicization: clearly, the entire reconstruction of 'consent' in terms of 'external costs' and 'transaction costs' is economics-inspired, and more than that, it is a special kind of economics that does the inspiring, one that declares marketist distribution to be the 'right' kind of distribution, markets themselves 'efficient' and subscribes to the liberal dogma of the 'invisible hand'. There is no place for humanism.

Indeed, in the formal social/political science there are things that are anathemized; and would just refrain from calling them 'manifestations of humanism'; we would call them 'manifestations of irrationalism', which is the same thing. It is often pointed out that the analytical, formalist, Chomskyesque theorizing addresses not something that objectively exists, but idealizations, and so here: what is outlined in the preceding sections is a theory about rational people, by rational people and for rational people. We agree that the mechanism of the separation of powers as outlined above demands that the agents in the field, the information seekers, producers, providers and consumers, behave in their relation to the information in their environment – rationally. The whole failure of the project of modernism, of the project of enlightenment, even, is often associated with the disastrous realization that people are, indeed, – not – as rational as one would like them to be, and that a typical cascade of human reasoning is unfortunately full of faulty logic, errors, wishful thinking, inconsistencies, incongruities, incoherence, and

<sup>51</sup> Buchanan, J. M.; Tullock, G. *Calculus of Consent: Logical Foundations of Constitutional Democracy*, p. 342.

self-contradictions.<sup>52</sup> Adult human beings routinely make systematic, repeated errors in simple logical tasks.<sup>53</sup> As the original Buchanan & Tullock book was published in 1962, this did not seem as so dangerous a threat at the time, as the authors contend that – overall – the irrationalities are likely to be cancelled out by the bulk of the rational decision making within a system as a whole.

But here we agree. This is not necessarily a theory accounting for how ‘humanism’ is actually expressed in real observable human behaviour, but a slightly idealistic theory that endows humans with (grants them) rationality that is not necessarily a characteristic feature of their behaviour. The benefit of the doubt.

So much for the drawbacks. What motivates us in standing with the framework and in attempting to elaborate on its foundations, is the fact that in spite of its suggested shortcomings, the model allows for modernist optimism in that it defines *both democracy and the notion of at least occasionally valid ‘single truth’ as compatible*: in a liberal market, there is still a way to be ‘right’ that transcends the negative ‘the truth is whatever people want to be the truth’ limitations. The Buchanan & Tullock universe is one in which liberal pluralism does not deny the notion of veracity, pre-empting the whole post-modernist conceptual and methodological dissolution and the loss of the sense of direction. The delineated processes describe ‘the means of arriving at some version of “truth”, some rationalist absolute which remains to be discovered through reason or revelation, and which, once discovered, will attract all men to its support’.<sup>54</sup> Any disagreements, conflicts, differences of opinion, disputes, arguments, contentions, misunderstandings or debates, in principle, could be pushed in the direction of vanishing, and the key to this is ‘information depth’ – becoming fully informed or as fully informed as possible. In this ‘as possible’ there is an inherent limitation to the optimism, but even if limited, it is still optimism nonetheless.

The desire, and the ability, to be ‘fully informed’ is limited, exactly, by human humanism, the irrational, the emotional, the ability to be bored, the tendency to not always judge only according to the rationally reasoned criteria. But it is a limitation that can at least be attempted to overcome, if only in part, and a dedicated information provision service serving the collective action institution with the greatest participatory width – a parliament – is sure to play an important role in it.

## Acknowledgments

Our gratitude goes to the anonymous reviewer of the first draft of this paper for their attentive reading and numerous suggestions, especially so for drawing our attention to the particularities of the Lithuanian parliamentary information provision system.

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<sup>52</sup> See Nisbett, R. E.; Ross, L. *Human Inference: Strategies and Shortcomings of Social Judgment*. Englewood Cliffs: Prentice Hall, 1980; Luper, S. Naturalized Epistemology. In. *Routledge Encyclopedia of Philosophy* / Eds. E. Craig. London: Routledge, 1998.

<sup>53</sup> See Evans, J. St. B. T. In Two Minds: Dual-Process Accounts of Reasoning. *Trends in Cognitive Science*, 2003, Vol. 7, No. 10, p. 454–459; Kahneman, Daniel. *Thinking Fast and Slow*. London: Allen Lane, 2011.

<sup>54</sup> Buchanan, J. M.; Tullock, G. *Calculus of Consent: Logical Foundations of Constitutional Democracy*, p. 3.

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