

## Chapter 5

# Regional Parliaments in Europe and Latin America: Between Empowerment and Irrelevance

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### Introduction<sup>1</sup>

After four centuries of gradual development, the modern parliament was born in England in the 17th century as an instrument by which the rising bourgeoisie could control the monarchy. It claimed legislative supremacy, full authority over taxation and expenditure, and a voice in public policy through partial control (exercized by impeachment) over the king's choice of ministers. It later spread to America – becoming a separate branch of power – then to continental Europe and subsequently to the rest of the world, becoming the emblematic institution for political deliberation and legislative decision-making in modern nation-states (Orlandi 1998). Parliaments, or analogous legislative assemblies, were also established in several subnational units such as states or provinces, some of which were originally autonomous but later united into federal nation-states. Subnational parliaments date back at least as far as the 18th century, being present in the American colonies when independence was declared and the Constitution established. Supranational parliaments, in contrast, are a much more recent phenomenon.

The first significant supranational parliament was the European Parliament which, in the words of the 1957 Treaty of Rome, 'represents the peoples of the States brought together in the European Community.' The Parliament's first direct elections were held in June 1979; since then, it has derived its legitimacy from direct universal suffrage and has been elected every five years. Other processes of regional integration have attempted to replicate such a supranational legislative assembly, Latin America being the region where these experiments have gone the farthest. In November 2005, membership of the Inter-Parliamentary Union (IPU) accounted for 143 national members and seven associate members, all of the latter having an international nature: the European Parliament, the Parliamentary Assembly of the Council of Europe, the Andean Parliament, the Central American

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Parliament, the Latin American Parliament, the East African Legislative Assembly, and the Parliament of the Economic Community of West African States.

This phenomenon raises some questions. First, why should region-makers take the trouble to establish a regional parliament (Rittberger 2003) when integration is first of all an economic endeavour? Second, are regional parliaments real parliaments, or do they fall short? Third, how are these parliaments different, especially regarding those that have taken root in Europe and Latin America?<sup>2</sup> This article addresses these questions through a comparative analysis of five regional - also called supranational - parliaments. It includes all the Latin American cases mentioned plus the recently created Mercosur Parliament and the European Parliament. Some bodies are excluded from this comparison: the Parliamentary Assembly of the Council of Europe is not discussed since it has no ambition to develop any further, and the African cases are too young to be evaluated.

This article proceeds as follows. Each of the first five sections analyze one parliamentary assembly in order to summarize its historical evolution, examine its structure and assess its competences and performance in light of the classical parliamentary functions. These functions are fourfold: representation (related to input legitimacy), legislation/decision-making (output legitimacy), monitoring of the executive branch and the bureaucracy (control legitimacy), and leadership selection and formation - which, as Weber (1994) argued, is essential to democracy. The last section elaborates a handful of comparative conclusions.

### **The European Parliament (EP)**

Anyone looking for the first time at the institutional fabric of Europe is likely to be surprised by the numerous arrangements that overlap, interact and cooperate to make this a unique case of regional integration. Due to the level of integration reached between its members and the scope and intensity of its policy competencies, the EU has become the core organizational structure in Europe. There is, however, a series of other organizations, established prior to the 1957 Rome Treaties, whose contributions to the singularity of the European integration process has been noteworthy - albeit less wide-ranging and encompassing fewer decisional competencies. Some of these international organizations have survived independently of the European integration process, even if they have retained only a symbolic or deliberative role (for example, the Council of Europe) or have later been incorporated into groups involved in the European treaties (for instance, the Western European Union). Some organizations have limited their membership to European nations; others, such as the OECD, have extended their activities to other countries and regions of the world. However, one common feature of most of these organizations is the existence of a parliamentary assembly.

One could also mention other parliamentary initiatives such as the Nordic Council (which includes representatives from the Scandinavian parliaments), the

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<sup>2</sup> The two African parliaments are newer and less developed than the rest, and they only joined the IPU in 2005.

Benelux Inter-parliamentary Consultation Council, the Baltic Assembly, the Black Sea Parliamentary Assembly for Economic Cooperation and the Parliamentary Conference of Central European initiative. None of these extra-EU bodies have, however, played a similar role to the European Parliament (EU) with regard to the European integration process, and nor do they enjoy comparable competencies. Of all the regional parliamentary bodies, the EP is the only one that has developed real decision-making powers and become a central component of the complex decision-making structure of the European Union. In order to understand how the EP has evolved from merely another parliamentary assembly into *the foremost one*, it is useful to review the structures and processes of the European Community.

### *Evolution and Competencies of the European Parliament*

The founding fathers of the 1951 Treaty of Paris (ECSC) sought a rupture with the past. The failure of the Council of Europe as an institutional response to the idea of a united Europe was a clear example of what the ex-members of the Council, such as Paul-Henri Spaak, wanted to avoid in their new project (Urwin 1997, 78). Their ambitious project was based upon an institutional compromise between intergovernmental and supranational decision-making and a tripartite liberal constitutional framework: an executive that initiated and implemented policies; an assembly in which those policies were debated and decided upon; and an independent judicial body whose members reviewed decisions and settled conflicts.

The originality of this regime lay in the translation of the traditional tripartite division of powers – executive, legislative and judicial – into an international institutional arrangement which combined intergovernmental and supranational decision making. The competencies of the three major political bodies – the Commission, the Council of Ministers and the European Parliament – were intertwined to the extent that a clear-cut division of the executive and legislative powers was, and remains, difficult to establish.

Two institutions share the executive function: the European Commission and the Council of Ministers. The European Commission is a supranational body appointed through common agreement between the member states, but which is independent from their respective governments. The Commission represents the interests of the community, acts as ‘guardian of the Treaties’ (by ensuring that treaties and Community law are respected, even if this means bringing a member state before the ECJ), and remains the hub of the decision-making system (Mény 1998, 24). The Council of Ministers is an intergovernmental body composed of representatives of the member states, which embodies their interests.

Although these two bodies are termed executive organs, they also carry out legislative functions. The Commission has a near monopoly on initiating legislative proposals within the community and is responsible for managing existing common policies and monitoring the application of Community law. It can also make decisions (autonomously or upon delegation from the Council), give its opinion and make recommendations. The Council has broad decision-making powers: it may pass regulations and directives, conclude agreements and treaties (which are negotiated with the Commission), and share budgetary powers with the Parliament.

The EP, like the national parliaments of all EU member states, is elected by universal suffrage; however, unlike most European parliamentary regimes, the 'European government' does not emanate from any majority represented in the EP. In other words, election to the EP is not intended as a reward or punishment for a 'European executive', even if the EP has the right to dismiss the Commission in a vote of censure by a two-thirds majority. The EP also has supervisory powers over EU bureaucrats and agencies, and decides on the adoption of legislation together with the Council of Ministers by means of the codecision procedure. The EP can install inquiry commissions, question Commissioners on any issue relating to a common policy, pass resolutions, and hold hearings. However, limited legislative powers and the inability of voters to choose their European executive at the ballot box may partly explain the low turnout at European elections and the tendency of national parties to use these elections to test national incumbent majorities. To this complex institutional triangle, as it is called, one should add the 'decisional power' that emanates from the European Court of Justice's decisions (Mény 1998, 25).

We should not forget that this decision-making structure operates within a complex and evolving balance between three sources of input legitimacy with competing interests: the interests and demands of the European people(s), represented in the EP by their MEPs and the Euro-parties; the interests of member states, as represented in the Council; and the community interests represented in the Commission and expressed by treaties, Community law and the jurisprudence of the ECJ.

#### *The Empowerment of the European Parliament*

Initially, the role of the EP was similar to that of the Council of Europe parliamentary assembly with regard to the scope of its competencies and its institutional design. The EP, known as 'the assembly' until 1962,<sup>3</sup> was essentially a forum composed of delegations appointed from the national parliaments. It had a limited consultative function regarding a small number of issues and legislative proposals prior to their adoption by the Council. The founding fathers did not provide the EP with a central role in the European integration process from the outset. Instead, its competences evolved over time mostly due to institutional mimesis (Costa 2001, 19).

The creation and institutional set-up of the EP was in line with a pattern of institutional design common to all post-1945 occidental regional and international organizations. The majority of these organizations had a similar decision-making structure: a council where decisions were made and a consultative assembly of a more or less permanently representative nature (i.e. UN, WEU, Council of Europe and NATO). The symbolic dimension attached to this type of parliamentary institution was also crucial. These assemblies served not only as an interface between the organization and its national members, but they also made it possible for the political elites of countries that had been at war with each other to be in close contact, and hence the assembly helped to restore the mutual trust and

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<sup>3</sup> The 1986 Single European Act would finally formalize the denomination of European Parliament.

cooperation between old adversaries. Furthermore, in a Cold War context they also sent out the message that the West 'does it better'.

However, there was another important factor involved: the pooling of sovereignty. The idea of building a political project beyond the nation-state, which both Robert Schuman and Jean Monnet had in mind, raised problems of legitimacy and accountability, since it challenged the traditional concept of territorial sovereignty. It was inevitable that the supranational political project would need to include some sort of plenary assembly where the different views, positions and ideas of its members could be expressed and where the decisions made on a much more restricted level for the totality of members could be subject to collective scrutiny and, possibly, majority deliberation. It was too early to talk about a parliament of European people(s) as part of a copy-paste version of national democracies transplanted to the regional level, an idea that had always displeased some European countries (such as the UK). Instead, the founding fathers counted on the ability of such a parliamentary institution to ensure the efficacy and legitimacy of the activities of the supranational High Authority created for the coal and steel community.

Which factors have contributed to the evolution of the EP from simply 'another international parliamentary assembly' into a unique supranational parliament with real decisional powers and a central role in the process of European integration? The answer is not straightforward, but three factors are worth mentioning: early supranationalism, extraordinary leadership and direct elections. Let us develop these further.

First, the institutionalization of the EU evolved from a single objective and supranationally oriented organization - the European Coal and Steel Community - whereas other European international organizations, such as the Council of Europe, were created with the purpose of addressing multiple and diffuse objectives and were always kept intergovernmental. The latter organizations have affected the lives of Europeans, but none of them have had enough strength or vocation to lead to the creation of a supranational structure. The supranational regulation of the production of coal and steel, the raw materials of war and industry and sources of energy, represented a small policy step to countries that had been at war with each other, but it would prove to be a giant leap in the European integration process.

Second, the leaders behind the venture of European integration had common experiences and a common vision. Monnet, Schuman and Spaak had served the Council of Europe project, but later abandoned it in reaction to British euro-scepticism and reluctance to move towards supranational forms of government, even though this only concerned the regulation of a single industrial or commercial sector. Their views were backed by a small number of countries - the Six - that had decided to expand the 'community method' into other economic and social policy areas. Each of these countries had strong reasons to believe in the process of European economic integration: Benelux had already implemented a successful customs area; the running of the High Authority had promoted a lasting Franco-German understanding; and in Italy an important federalist movement had been born.

Third, the direct election of the European parliament in 1979 and the subsequent emergence of Euro-party formations were the turning point for the role

this body would play in the triangular institutional complex of the EC and in the integration process itself (Corbett 1998). Since then, the EP has been elected by the European peoples every five years, according to a distribution of seats that roughly reflects the demographic weight of each state. A system of proportional representation for EP elections, which had already been in place in most member states since 1979, has been used by all member states since the 1999 elections. The electoral dynamics, together with the progressive empowerment granted by each successive treaty reform and the spillover effects of qualified majority voting in the Council, transformed the EP into the only supranational parliamentary assembly in the world that enjoys simultaneous democratic legitimacy, decision-making competencies and the power to bring down a 'government' (the Commission). In it, European parliamentarians have the chance of honing their political skills in an influential, supranational environment – even if they are frequently recruited from the ranks of elder politicians or party dissidents, either as a golden parachute for retirement or as a mutually convenient arrangement to take out internal opponents (Bardi 1996; Scarrow 1997). The evolution of the EP over fifty years is elegantly synthesized by Hix, Raunio and Scully (2003, 191–2):

For much of the half-century since its humble beginnings, the European Parliament... was marginal to the development of European integration and the politics of the European Union. Initially, the institution was essentially a consultative body composed of delegates of national parliaments. Fifty years on, the elected Parliament has significant legislative and executive investiture/removal powers and all the trappings of a democratic parliament that flow from such powers: powerful party organizations, highly-organized committees, a supporting bureaucracy and constant lobbying from private interest groups.

From a European perspective, the EP may still be a developing body with many shortcomings; from the perspective of an outsider, however, the EP is the archetype to which every supranational parliament will be compared to for years to come. Moreover, it has become the standard model for those who would undertake the mission of institutionalizing regional integration elsewhere. Thus far, Latin America is the region where its influence has proved the strongest.

### **The Latin American Parliament (PARLATINO)**

The Latin American Parliament is a regional, unicameral assembly made up of members of twenty-two national parliaments of Latin America and the Caribbean.<sup>4</sup> Founded in Lima, Peru, in December 1964, it was later institutionalized by an international treaty signed in Lima in November 1987 and, since 1992, has been permanently located in the Brazilian city of Sao Paulo. Its main goals, as stated in its charter, are the defence of democracy, the promotion of regional integration and the strengthening of cooperation among parliamentarians and parliaments across

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<sup>4</sup> The signatory countries are Argentina, Aruba, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, The Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, the Netherlands Antilles, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela.

Latin America. It has legal personality and a budget provided by the signatory states. Its official languages are Spanish and Portuguese.

The PARLATINO assembly is composed of national delegations sent by the member parliaments. Each national delegation may appoint up to twelve representatives in a proportion that reflects the weight of the national parliamentary groupings. If a delegation has less than twelve members, each of them can cast up to four votes without exceeding the overall number of twelve; this disposition grants all countries the same voting power regardless of country size. A quorum is obtained when more than half the national delegations are present, provided that their delegates represent at least one third of the overall votes. PARLATINO gathers once a year in its permanent location. It has no decisional authority and limits itself to passing agreements, recommendations and resolutions that are not binding upon any other body or organization.

One puzzling characteristic of PARLATINO is that its membership does not include Haiti (only independent French-speaking state in the Americas) or the French overseas departments (French Guyana, Guadeloupe and Martinique). However, despite the 'latino' component of its name, the organization does include three Dutch-speaking members: one independent country (Suriname) and two dependencies of the Kingdom of the Netherlands (Aruba and the Netherlands Antilles).

Due to its open, malleable and extended territorial scope, PARLATINO resembles the Parliamentary Assembly of the Council of Europe more than the European Parliament; it is also similar to the former institution in its intergovernmental nature and lack of powers. However, as will be seen below, these are common characteristics for most regional assemblies in Latin America. Unlike the other regional assemblies analyzed in this article, though, PARLATINO is not the representative, deliberative or decisional body of any regional organization, but has rather had an independent status since its very inception. This characteristic is unique, as parliaments are generally institutions which belong to some wider encompassing entity.

PARLATINO has gained a certain international recognition notwithstanding its limited influence and competencies. In 1972, it agreed with the European Parliament –which at that time was also indirectly elected – to establish permanent contacts and convene a regular Inter-parliamentary Conference. The first was held in Bogotá in 1974, and since 1975 they have taken place every two years without exception, the venue alternating between a Latin American country and a European Union member state. To date, sixteen such events have been organized, making the conference the longest running bi-regional forum. The debates and resolutions produced as a result of the conferences have constituted a testimony to the dominant issues of the trans-Atlantic agenda, as well as to the evolution and shortcomings of the Conference. The salience of this forum decreased with the consolidation of democracy in Latin America, as most national parliaments saw their continuity guaranteed. When the Inter-parliamentary Conference's long fight for representative institutions and the defence of human rights had finally been won, the Conference failed to find another equally mobilizing issue and its prominence slowly declined. The new focus on institutional quality and the reform of public administration has proved less attractive, and the cause of regional

integration has found better supporters in the sub-regional blocs that were created or relaunched in the early 1990s.

Despite a general agreement regarding the main issues on the common agenda, there have been some topics that have revealed persistent asymmetries between the two regions. In particular, significant consensus has never been reached on matters concerning international trade and foreign debt. In a different vein, cooperation for development is one area that brings to light the structural imbalances between the two regions, but it has never evolved into a controversial matter since its management depends on the unilateral will of the wealthiest party - the European Union.

In sum, PARLATINO is a symbolic rather than an operative body, capable of hosting deliberation on regional and inter-regional affairs but with no prospect of ever becoming a decisional organ. It lacks both political significance and social roots. Its main historical merits have been to provide a beacon for democratic aspirations and parliamentary procedures during the dark era of Latin American dictatorships; its main shortcomings have possibly originated in its not belonging to any significant, more encompassing organization.

### **The Central American Parliament (PARLACEN)**

The Central American Parliament is the deliberative body of the Central American Integration System (SICA). Building upon the Central American Common Market, founded in 1960, the SICA was established in 1991 as a complex organization linking the Central American countries on a variable geometry basis. Hence, while SICA brings together the seven Central American countries (Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama), the PARLACEN excludes two of them (Costa Rica and Belize) but includes the Spanish-speaking, Caribbean state of the Dominican Republic. SICA also features a supranational judicial branch, the Central American Court of Justice, and an intergovernmental supreme authority, the Central American Presidential Meetings. The function of Secretary General exists to coordinate the whole system. PARLACEN is broadly considered to be the parliamentary organ of SICA, although, as will be seen below, it has not developed any legislative function.

PARLACEN was first envisaged in the Declaration of Esquipulas I, which was signed by the Central American presidents with a view to putting an end to traditional rivalries and foster democracy and peace in the region. The presidential summit, strongly supported by the Contadora Group, its Group of Support<sup>5</sup> and the then European Community, took place in May 1986. In a later Declaration known as Esquipulas II, made in 1987, the presidents agreed that the Parliament should be

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<sup>5</sup> The Contadora Group, founded in 1983, was made up of Mexico, Colombia, Venezuela and Panama, whereas its Group of Support, established in 1985, was made up of Argentina, Uruguay, Brazil and Peru. The goals of both groups were to contribute to a negotiated solution to the Central American conflict, and their principles included self-determination, non-intervention, demilitarization and democratization. In 1986 the two groups merged into what came to be known as *Grupo de Rio*.

the symbol of freedom, independence and reconciliation for the region, which had been devastated after years of bloodshed and political instability. Between the end of 1987 and early 1989, Guatemala, El Salvador, Costa Rica, Nicaragua and Honduras successively signed and ratified the PARLACEN Constitutive Treaty. Three additional protocols were signed afterwards in order to allow for the delay in the election of the national representatives and to facilitate the adhesion of Panama to the Treaty – although its incorporation would only be fully complete in 1999. The Parliament was finally established in October 1991 when its assembly first met in Guatemala City, which would become its permanent location. Costa Rica eventually declined to participate, while the Dominican Republic joined the process in 1999.

Since October 28, 1991, PARLACEN has grown from having a total membership of 65 deputies, representing four countries and 13 political parties, to the current total of 132 deputies, representing six countries and 42 parties. The deputies are directly elected every five years by the people of the member countries, each country having the right to elect 20 representatives. In addition, each country has the right to send two appointed deputies, namely their former presidents and vice-presidents. On top of the full member countries, other parliaments send representatives with observer status: among them, PARLATINO, the Andean Parliament and the European Parliament have participated since the beginning of the process, whereas Puerto Rico, Mexico and Taiwan entered at a later stage. The national representations are clustered in three broad parliamentary groups: the largest one represents the centre of the political spectrum, while the other two cover the left and right wings.

As acknowledged by the first article of its founding treaty, the legislative competencies of PARLACEN are limited to proposal, analysis and recommendation. However, the treaty also confers it with the ability to elect, appoint and remove the highest executive official of all the institutions that belong to the SICA. Strangely enough, this parliamentary organ is not able to pass laws but it is (formally) empowered to nominate and hold accountable a myriad of technical administrators (article 5c). It is also allowed to request information and reports from every SICA organ and to make recommendations to them, but not to interfere in their functioning. As for voting procedures, PARLACEN makes decisions by absolute majority, except where establishing or amending internal statutes is concerned: in this case, a qualified majority is required. The country members provide for the parliamentary budget on an equal basis.

After more than a decade of operation, the record of PARLACEN is mixed: while it can boast sound achievements in enlarging its membership, it has made no progress regarding the deepening of its competencies. If, on the one hand, it has effectively contributed to pacification and growing interdependence among the societies it represents, it has at the same time failed to become a decisive actor in the feeble process of Central American integration.

### **The Andean Parliament (PARLANDINO)**

The Andean Parliament is the deliberative organ of the Andean Integration System (AIS). The Andean Pact,<sup>6</sup> precursor of the AIS, was founded in 1969 with the goal of overcoming the shortcomings of the Latin American Free Trade Association (ALALC), a wider regional project that had failed mainly because it had reproduced internally the division between more and less developed countries that it criticized in the world as a whole. The founders of the Andean Pact drew on the model of integration that was then being consolidated in Europe, and so they decided to formalize the process of integration by creating a network of institutions that included majority voting and binding supranational authorities. By the end of the 1980s, after years of turbulence and standstill due partly to domestic factors but also to the failure to foster economic interdependence, the national presidents decided to relaunch the process with more modest aspirations and a more frugal institutional design. However, the institutional structure of the organization still bears a great resemblance to that of the European Union: it features a Commission, a Parliament, a Tribunal of Justice, a Council of Ministers and a Presidential Council, as well as a set of technical institutions such as financial corporations, consultative forums of the civil society and even a university. Nevertheless, the real competencies and performance of these regional institutions lags behind those of their European models.

Within the institutional arrangement described above, PARLANDINO is meant to represent the peoples of the Andean Community and enjoys a supranational nature. Its founding treaty was signed in 1979, coming into force in 1984. Its location is the Colombian city of Bogotá, and in 1997 it was decided that parliamentarians would be elected by popular vote. The electoral process was supposed to take place within the following five years; yet, at the time of this writing only two countries (Venezuela and Ecuador) have completed this process. In the remaining countries, direct elections are either planned for the near future (Colombia and Peru) or subject to a previous constitutional review (Bolivia).

PARLANDINO is made up of twenty-five deputies, five from each member country. There are five standing committees composed of five members each, one of each nationality. PARLANDINO is entitled to issue as many as four different kinds of acts (decisions, agreements, declarations and recommendations), all of which must be approved by an absolute majority. PARLANDINO lacks any decision-making competence. Its competencies are vague and limited to the following areas: steering and fostering the integration process; promoting the harmonization of legislation between member countries; encouraging cooperation and coordination with the national parliaments, third countries and other integration associations; and formulating recommendations regarding the budget of the Andean Community.

In 2004, PARLANDINO celebrated its twenty-fifth anniversary. It is half the age of the European Parliament, which has always been the model and source of inspiration for the founders of the Andean Community. The huge differences between the two assemblies, though, could not be more evident. Considering the

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<sup>6</sup> The Andean Pact was signed by Bolivia, Chile, Colombia, Ecuador and Peru. During the mid-1970s, Venezuela entered the process and Chile left it.

delayed and irregular popular election of national representatives, a composition that is not demographically proportional, and the absence of decision-making attributions, PARLANDINO has evolved relatively little, just like the regional bloc to which it belongs (Bonilla 2001; Malamud 2004). Contradictory national interests, institutional instability, economic turmoil and even political conflict among the member countries have, in fact, rendered the Andean Community a textbook example of what to avoid when crafting an integration project. As key Argentine and Brazilian actors have emphasized, the first steps in the formation of Mercosur drew upon the experiences of the Andean region in order not to repeat the same pitfalls (Caputo 1999; Pereira 2000).<sup>7</sup>

### **The Mercosur Parliament (PARLASUR)**

Mercosur, a Spanish acronym that stands for Common Market of the South, was founded in 1991 by the Treaty of Asuncion, and consolidated in 1994 by the Protocol of Ouro Preto. It brings together four countries: Argentina, Brazil, Paraguay and Uruguay, with Venezuela joining in 2007. It aims at creating a common market through the lifting of intra-regional obstacles to the circulation of goods, capital and services and has taken steps towards a freer circulation of people. Although its founding fathers had in mind the successful experience of the European Union, they were also aware of the poor record of integration in Latin America and attempted to minimize the risks of failure by avoiding premature institutionalization, while keeping the control of the process in the hands of the national presidents (Malamud 2003). Henceforth, Mercosur developed as an exclusively intergovernmental organization: although its legal personality enables it to become involved in international negotiations on behalf of its members, internal unanimity is required in order to make any decision. National sovereignty has neither been delegated nor pooled, and all the decisional organs of Mercosur are exclusively composed of senior government officials from the member countries (Peña 1998). However, there are also some non-decisional institutions worth considering, such as the Joint Parliamentary Commission.

The Joint Parliamentary Committee (JPC) was, until 2007, the organ of Mercosur that brought together the delegations of the four national congresses. The Treaty of Asuncion, signed in March 1991, foresaw the JPC as a means of facilitating the creation of a common market. The means by which it would contribute to such an end was not clear, though, as the Treaty did not endorse it with any competence; instead, it mentioned the national executives' obligation to report to their respective congresses about the progress of the integration project.

It was the Protocol of Ouro Preto, signed in December of 1994, which established a stable design for the JPC, while at the same time defining the overall institutional structure of Mercosur. The JPC was transformed into the representative organ of the national parliaments - its main function, to contribute to

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<sup>7</sup> In 2006, while this book was being edited, Venezuela left the Andean Community and applied to Mercosur, further eroding the former bloc and its common institutions.

the transposition of Mercosur procedures into the national legislation of the member countries. Additionally, it was expected to assist with policy harmonization and perform the role of a consultative assistant to the Common Market Council, the supreme regional body made up of the foreign and economic ministers of the signatory countries (Caetano and Perina 2000, 2003). The JPC should accomplish its duty through the elaboration of recommendations, dispositions and declarations, none of which were binding; it was also assigned the mission of paving the way for the creation of a full parliament of Mercosur.

The Protocol of Ouro Preto determined that the JPC would be constituted by a maximum of 64 members. Each country would elect up to sixteen representatives from active national lawmakers, including members of the two chambers (every Mercosur member country features a bicameral parliament). The representatives would be grouped into national sections that would comprise both deputies and senators. The moment and mechanism for election and the duration of the tenure would be defined by each national parliament, but the Protocol suggested a minimum term limit of two years in order to grant some continuity to intra-parliamentary labour.

The Protocol also established that the JPC would meet at least twice a year, but in order to be valid, a meeting would have to be attended by representatives from every state. Moreover, all the decisions of the JPC would have to be made by consensus, the same rule that applies to every body of Mercosur. These requirements led to a fully intergovernmental institution and contributed to the blurring of party differences and the neutralization one of the main activities usually performed within a parliament, that of voting. The presidency of the JPC was not to be elected by the plenary but rotate among the member states every six months, just like the presidency of Mercosur as a whole. A Permanent Administrative Secretariat existed, but its office-holder, who was not a parliamentarian, was also appointed on a mandatory rotating basis involving the four countries – although this tenure lasted two years instead of six months.

The internal statute of the JPC addressed the possibility of creating committees, as long as they were not standing but *ad hoc*. This regulation did nothing to promote specialization among the parliamentarians or to provide them with a stable career path or progressive training. As a rule, the JPC met in the country that held the temporary presidency. The budget of the JPC was provided for in equal parts by Mercosur member countries.

Since the mid-1990s or even earlier, an increasing number of voices – from both politicians and academics – have demanded the creation and empowerment of a Mercosur parliament (Caetano and Pérez Antón 2003; CEFIR 1998; SM 2004; Vazquez 2001). However, only modest results have been achieved regarding a composition and a set of competences that are acceptable for all member countries. Given the marked demographic asymmetries within the bloc, this is a difficult puzzle to solve. Brazil has roughly 80% of the population of Mercosur, so any distribution under which it is allocated less than 50% of the seats could be perceived as undemocratically biased and would face resistance. On the other hand, giving Brazil more than 50% of seats would mean that it alone would hold a permanent majority. A compromise could be reached by conceding a majority to either party but, simultaneously, stripping that majority of any real power – either

by requiring decisions to be made by ‘super majority’ or by denying the parliament any significant competences at all. The former option would diminish democratic legitimacy, while the latter would neutralize effective decision making (Malamud 2005b).

An agreement was finally struck in December 2005, when the Mercosur Council decided to set up the Parliament of Mercosur. It was located in Montevideo and its installation should be processed along two transitional periods. In the first one, a body similar to the JPC (the only difference being that every country would send 18 instead of 16 parliamentarians) replaced its institutional ancestor. In the second period, direct elections were mandated to take place in 2011. The first regular elections after the transition are to be held simultaneously in all member countries in 2014. The decision, however, stopped short of prescribing the final composition of the body. Its competences, on the other hand, were clearly determined: legislating was not among them.<sup>8</sup>

### **Comparative analysis**

Of all the international institutions either known as parliaments or designed in such a way as to resemble them closely, only the European Parliament has developed a truly supranational character and been allowed to hold effective power thus far. The others lag far behind in all respects (see also Vieira Posada 2000). The history, structure, competencies and functions of these institutions vary widely, as does the degree of legitimacy they enjoy. This chapter has presented an analysis of regional parliaments in order, on the one hand, to homogenize the conceptual field and, on the other, to present a comparative state of the arts.

After examining five regional parliamentary bodies in two continents, the differences between the European Parliament and the four Latin American proto-parliaments are striking – whatever the characteristic considered. Table 5.1 presents a stylized comparison of the five cases.

As far as representation is concerned, only one Latin American parliament, PARLACEN, appoints the majority of its members through popular, direct elections. However, there is no demographic proportionality among the constituencies (that is, the member countries). Input legitimacy is poorly served by any parliament that is neither elected by nor accountable before the citizens. With regard to decision making, no parliament in Latin America has been endowed with any kind of legislative power. Output legitimacy, insofar as this exists, is certainly not a product of any of these regional parliamentary institutions. As for control legitimacy, PARLACEN stands out again as the only assembly to possess any – albeit very weak – powers regarding the monitoring of other regional bodies. In stark contrast to all the Latin American cases, the EP enjoys ever stronger capacities concerning all of the relevant four dimensions. There are many factors

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<sup>8</sup> An exhaustive list of competences includes: to watch over, to elaborate (reports), to request (information), to invite, to receive, to hold (meetings), to examine, to convey, to issue (declarations and recommendations), to propose (studies and projects), to develop (actions), to maintain (institutional relations), to celebrate (agreements) and to foment (values).

that account for such a difference; we outline five of them below and suggest an agenda to promote further research.

The first factor that distinguishes the evolution of regional parliaments across the Atlantic is time: the process of European integration started between two and four decades before the Latin American processes, so differences regarding institutional development may be due to maturity gaps. The second factor is sequence: the current structure of the EU was set up according to the 'Monnet-method', meaning that function should precede form and that incrementalism is preferred to early institutionalization. Some Latin American groupings, by contrast, have unsuccessfully attempted to skip phases, admiring of the outcome of the European process but overlooking how this had been achieved. Third, there is a wide disparity regarding the level of integration: while the EU is already a common market and is consolidating into an economic union, none of its Latin American counterparts have yet reached the level of a customs union; logically, the institutional structure needed for one type of organization does not necessarily satisfy the requirements of others. Fourth, the degree of success in the creation of regional institutions cannot be dissociated from the effectiveness with which institutions work at home; in other words, weak or unstable domestic institutions are not a good foundation upon which to build international institutions. Fifth, most European countries feature parliamentary or semi-parliamentary regimes, whereas all Latin American countries have presidential ones. An important consequence of such a difference is that a 'parliament' does not mean the same thing on both sides of the Atlantic: if, in Europe, it is conceived of as the supreme institution where government is ultimately made and undone, in Latin America the election, authority and survival of the government are independent of parliamentary will. It would be unreasonable to assume that chief executives of presidential regimes would not replicate, on the regional level, a feature that fits them well on the domestic level (Malamud 2005a).

The main implication derived from the last argument is that, also within processes of regional integration, presidential or parliamentary domestic regimes do make a difference – especially regarding the settlement of regional parliaments. As a related consequence, political parties also matter in different ways and for different reasons from one regional setting to another. Political reformers would do well to take these conclusions into consideration, as it has even been argued that a parliamentary system may not be the most appropriate solution for governing a multi-state democracy (Fabbrini 2004; Hix 2002; McKay 2001). The implications of this statement regard the future of regional parliaments not only in Latin America but also elsewhere – including Europe. Bi-regional forums such as the Euro-Latin American Parliamentary Assembly (EUROLAT)<sup>9</sup> could play a role in helping regional parliaments to prevent failure by avoiding the creation of unrealistic expectations.

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<sup>9</sup> EUROLAT brings together 120 Parliamentarians from the European Parliament, the Andean Parliament, the Central American Parliament and the Latin American Parliament, as well as national representatives from the Mexican and Chilean legislatures, and members of the joint parliamentary committee of MERCOSUR. EUROLAT succeeded a previous forum, the Euro-Latin American Inter-parliamentary Conference, in November 2006.

**Table 5.1 Comparative Features of Five Regional Parliaments**

		European Parliament	PARLATINO	PARLACEN	PARLANDINO	PARLASUR
Representation  (input legitimacy)	Popular election	Yes	No	Yes	In transition	No
	National representation	Proportional	Identical	Identical	Identical	Identical
	Party groups	Permanent, strong	No	Yes, but loose	No	No
Legislation  (output legitimacy)	Decision on regional budget	Yes	No	No	No	No
	Law-making competencies	Co-decision Cooperation	No	No	No	No
	Right of initiative	No	—	No	No	No
	Mechanism of decision	Different majorities	Plurality	Different majorities	Absolute majority	Consensus
Control  (control legitimacy)	Government formation	Yes	No	Partial (formal)	No	No
	Government censure	Yes	No	Partial	No	No
	Bureaucracy monitoring	Yes	No	Partial	No	No
Leadership formation	Committees	Standing Specialized	Standing (virtual)	Standing	Standing	Ad hoc
	Hearings	Yes	No	No	No	No
	Salary and immunity	Yes	Already as national reps.	Yes	Yes	Already as national reps.
	Socialization	Strong	Weak	Medium	Medium	Weak

Apart from the classical functions considered in this chapter, regional parliaments may help to accomplish complementary goals such as nurturing a common regional identity among political elites, strengthening the symbolic presence of the regional organization in the minds of the public and third countries, and facilitating intra-regional communication. They may also promote unexpected spillovers. However, these functions are neither exclusive to nor characteristic of parliamentary institutions. If regional parliaments are to be enhanced, the distinction between their constitutive and complementary functions should not be neglected. Entertaining unrealistic proposals, whether based on ingenuous emulation or on insufficient understanding, will most likely doom the enterprise to failure or – at best – irrelevance.

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#### *Parliaments' websites*

International Parliamentary Union: <http://www.ipu.org/english/home.htm>

European Parliament: <http://www.europarl.eu.int/>

Latin American Parliament: <http://www.parlatino.org/>

Central American Parliament: <http://www.parlacen.org.gt/>

Andean Parliament: <http://www.parlamentoandino.org/>

Mercosur Parliament: <http://www.parlamentodelmercosur.org/>