

# Mutual Restraint in Nondemocratic Legislatures

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## Abstract

*ABSTRACT: Nondemocratic regimes often benefit from tolerating the expression of critical opinions and competing policy visions in the legislative branch. Doing so enables them to gather important information about societal preferences, co-opt potential challengers, and address other threats to their control. However, these systems only work when there is mutual restraint: deputies respect regime-set limits on their freedom to express critical opinions, and the regime refrains from punishing deputies for expressing negative views within these limits. By examining the responsiveness of individual deputies to regime-set limits, we are better able to identify both the function and strength of non-democratic legislatures. I illustrate these dynamics using data from the Kyrgyz Jogorku Kenesh about deputy voting behavior and legislative success (2016-2020).*

On June 10, 2016 a group of four Kyrgyz legislators registered a bill to amend an existing law, “On Mass Media.” The bill sought to restrict who could found and finance mass media outlets in the Kyrgyz Republic. In the earliest full-chamber vote, 30 of the 120 deputies voted against it, including members of the regime party and all eleven members of the Ata Meken party, which was part of the formal governing coalition. Despite this opposition, the bill passed in the first reading and was sent to the Committee on Social Policy for review and revision. The subsequent changes made it somewhat less restrictive, but its overall thrust remained the same. When it came back to the full chamber in March, 2017 for its second reading vote, only 6 deputies voted against it. Despite no substantive changes being made between the second and third reading votes, which took place on April 19, five of the six critical voices removed their opposition to the bill at the final

stage, leaving a single deputy - Aida Salyanova from the Ata Meken party - as the lone dissenting voice.

This anecdote provides a striking illustration of everyday legislative politics in nondemocratic regimes. It shows that even when legislatures reliably deliver the regime's desired outcomes, the legislative process is not always characterized by consensus. The passage of the Kyrgyz bill was never in question, but the publicly registered dissent of a quarter of the legislative body indicated a notable degree of disunity. Given the imbalance of power between individual deputies and the central regime, it is puzzling that regimes ever allow dissenting voices to be heard. However, the example also illustrates that deputies ultimately fall in line with the regime's wishes. Support for the draft bill grew steadily as it moved through the legislative process. Changes made between the first and second reading might help explain this, but they cannot explain the behavior of the five deputies who switched their votes at the final stage.<sup>1</sup>

In this article, I argue that legislative politics in nondemocracies function according to a system of mutual restraint. Existing scholarship suggests that, among other things, nondemocratic legislatures are used to gather information about citizen preferences, to co-opt elites and to resolve conflicts among them (e.g. Malesky and Schuler, 2010; Gandhi, 2008; Noble, 2020). Used judiciously, these functions improve the regime's prospects for staying in power (Gandhi and Przeworski, 2007). However, I argue they only work if individual legislators have at least some freedom of expression: deputies must sometimes be able to communicate negative opinions without fear of

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<sup>1</sup> The exception, Deputy Salyanova, was under investigation for abuse of office in connection with her time as Prosecutor General. She would ultimately be found guilty and removed from the the Kyrgyz parliament, the Jogorku Kenesh, on March 3, 2018.

retribution, even when those opinions run counter to the preferences of those at the highest echelons of power. Accordingly, regimes may strategically allow limited critical expression within their legislatures. In their turn, legislators respect regime-set limits on this freedom in order to avoid personal sanction or the revocation of broader regime forbearance.

I demonstrate the dynamics of mutual restraint in the Kyrgyz legislature, the Jogorku Kenesh. I draw on an original dataset of 2088 roll-call votes, 133 deputy biographies, and details of how 826 bills progressed through the legislative process (2016-2020), as well as interviews with local experts and government officials. Consistent with respecting regime-set limits on the expression of negative opinions, Kyrgyz deputies are less likely to vote against legislation when it reaches the final stages of the legislative process and when bill initiators have closer ties with the central regime. In addition, while idiosyncratic factors explain no-voting in high-stakes situations, lower-stakes votes follow more predictable, party-based, patterns. Finally, I examine the limits of regime forbearance by demonstrating that deputies with a track record of expressing criticism on higher-stakes votes are less likely to get legislation signed into law, while a similar track record on lower-stakes votes has, if anything, a positive effect on this likelihood.

This research has several important implications for how we understand legislative politics in nondemocracies. At a broad level, it challenges the assumption that the expression of critical or competing viewpoints by legislators necessarily reflect the strength of the opposition or of the legislative branch vis-a-vis the executive. While strong, independent legislatures provide crucial balancing and oversight functions, I show that even legislatures in which critical viewpoints are regularly expressed can be entirely domesticated by the regime. It is the type of criticism, not its quantity, that indicates a legislature's degree of independence.

It also speaks to literature on the role of legislatures in authoritarian regimes. With some

notable exceptions, discussed below, micro-level theories about legislative behavior in nondemocracies have not kept pace with macro-level claims about the existence and functions of these institutions. The general expectations presented in this paper help bridge the gap between our understanding of why authoritarian legislatures exist and the implications of this for individual legislator behavior. By refocusing attention on the motivations of individual legislators to vote against or otherwise criticize legislation, it is possible to unify existing theories about the roles played by nondemocratic legislatures into a single, overarching framework.

### **The system of mutual restraint**

Why do the central authorities in nondemocracies refrain from punishing legislators who openly express critical opinions? And why do deputies often support legislation they actually oppose? In other words, why do both nondemocratic regimes and individual deputies display mutual restraint within the legislative arena? While there is widespread recognition that modern nondemocratic legislatures are more than just window-dressing (Gandhi, Noble and Svulik, 2020), these questions get to the core of what nondemocratic legislatures do and how, exactly, they do it.

Consider, for example, the potential legislatures hold for addressing the critical task of information gathering in nondemocratic regimes. Legislatures generate a constant flow of fine-grained and issue-specific information, reflecting the wide range of substantive topics addressed in the course of normal legislative activity. Deputy behavior reflects a combination of their preferences and the preferences of the voters or the elite actors to whom they are accountable. In countries where a meaningful opposition exists, members of these movements often hold seats in the legislature (Gandhi, 2008; Lust-Okar, 2004). By observing their behavior, the regime monitors their

opinions and loyalty directly, helping it anticipate challenges and identify exploitable splits in the opposition. However, information is only provided if legislators are at least partially free to oppose policies that come to them for review. Otherwise, there is no way to distinguish between a genuine expression of support and the product of preference falsification (Kuran, 1991). Truth is only revealed if there is the possibility of disagreement.

The same is true with respect to elite co-optation. Managing elites is another fundamental challenge in nondemocracies. Regime insiders must be kept happy to prevent their defection, while peripheral elites must be kept happy enough that the costs associated with coordinating and launching a power grab outweigh the benefits. Handing out seats or specific positions in the legislature can be a powerful tool for accomplishing this (Reuter and Robertson, 2015). While there are often significant benefits associated with holding legislative office, such as immunity from prosecution, access to public funds or credit, and the ability to extort bribes from those seeking access to the regime<sup>2</sup>, many regimes also selectively offer policy-based rewards by allowing legislators to exert real influence over the laws of the land (Gandhi and Przeworski, 2007; Gandhi, 2008). Depending on what individual deputies value, the resulting policies may be programmatic or rent-seeking. Either way, policy-based cooptation requires that legislators have some freedom to express their opinions. Legislators who actively engage in policy-making sometimes express negative opinions as well as positive ones. Otherwise, the system devolves into one of inefficient top-down handouts, rather than true policy-based cooptation.

Similar arguments apply to other ways legislatures help stabilize nondemocratic regimes. For

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<sup>2</sup> Existing research identifies these rewards in a variety of contexts, including Egypt (Blaydes, 2011), Russia (Szakonyi, 2020) and China (Truex, 2014).

example, Noble (2020) proposes that legislatures serve as arenas for resolving internal regime conflicts. This only works when some kind of debate or contestation is allowed within the legislature for such conflicts to be ironed out. Another prominent strand of literature views legislatures as mechanisms for increasing the credibility of authoritarian promises (Boix and Svobik, 2013; Svobik, 2012; Wright, 2008; Wilson and Wright, 2017). Yet legislatures can only increase the credibility of legislative promises if the legislators are able to hold regimes accountable through their, necessarily critical, behavior.

These different functions are not mutually exclusive, and the same legislatures may serve multiple stabilizing roles. But, I argue, they are united in being contingent on regimes permitting some expression of critical or opposing viewpoints. Paradoxically, to gain more control, the regime must grant more freedom. It does this, in part, because restraint in nondemocratic legislatures is not one-sided; it is necessarily *mutual*.

Individual legislators, faced with a perhaps surprising degree of forbearance from the government, refrain from exploiting this freedom by balancing honest expression with restraint. There are many benefits to active engagement in the policy-making process, including future electoral success, financial compensation, and ideological satisfaction. But there is also a significant power imbalance between the central regime and individual legislators: regimes directly influence the careers - and, indeed, physical security - of legislators, regardless of whether they are regime insiders or outsiders (e.g. Shen-Bayh, 2018; Bhasin and Gandhi, 2013). Stepping outside the bounds of what is acceptable to the regime may result in sanction. To avoid this, legislators express critical views only when they perceive a green light from the regime.

The system of mutual restraint, therefore, requires two key principles to be true. First, legislators pursue their own interests, and sometimes express critical opinions, only within limits set by

the regime. Second, legislators are not punished for critical expressions made within these limits. In what follows, I derive specific behavioral implications from these broad theoretical claims.

## **Behavioral implications of mutual restraint**

The first principle of mutual restraint implies that legislators pursue their own interests within limits set by the regime. What, then, are these limits? From the perspective of the regime, allowing critical expression is not without cost. A legislature that reliably and unanimously supports government initiatives highlights the strength and popularity of the central government and its policies, feeding into broader narratives of elite cohesion (Schedler and Hoffmann, 2016). In contrast, a contentious legislature generates the impression of division among elites and a weak regime that cannot control them. Perceptions of regime weakness can increase the likelihood of elite defections and further undermine stability (Hale and Colton, 2017; Reuter and Szakonyi, 2019). Accordingly, regimes limit legislator freedom to situations where these costs are not unacceptably high.

One factor that enters into the regime's decision is the visibility of criticism. Subtle or covert difference of opinion are less likely to be noticed, muting the signal of elite disunity and any associated negative effects. In contrast, more visible criticism is more costly. In line with this, Malesky, Schuler and Tran (2012) find that highlighting legislative track records in authoritarian Vietnam caused legislators to conform to the desires of the government, rather than those of their constituents. In other words, when potential criticism became more visible, legislators responded to the change in the regime's cost-benefit calculation by expressing less criticism.

There is, however, a tradeoff. Subtle expressions of criticism are less costly, but also less beneficial. Information is easiest to amass when identifying and interpreting legislator behavior

is straightforward. Likewise, the positive effects of policy-based cooptation are greater when real influence over policy raises the expected benefit of office-holding.

Different regimes resolve this tradeoff differently, resulting in cross-country variation in the permitted visibility of criticism. Across contexts, however, I anticipate the stakes are higher when negative views are expressed later in the legislative process. High enough levels of opposition to the final version of legislation can, in the extreme, prevent it from passing and meaningfully challenge the central government's monopoly over the policy agenda. But even when this outcome is highly unlikely, opposition at later stages is more likely to be publicized by the media and opponents to the regime, raising its visibility.<sup>3</sup> Consistent with this expectation, Lu, Liu and Li (2018) argue that, while legislative votes in China are notably uncompetitive, some competition occurs at the (very early) proposal stage.

In the Kyrgyz case, at least some critical expression occurs during actual voting: of all votes cast between June 2016 and March 2020, about 3% are “no” votes. I expect the decision to vote against a bill takes into account its visibility: the likelihood of voting “no” should decline as a bill proceeds through the legislative process. Furthermore, this decline should not be contingent on changes to the substance of the bill through amendments. Even those who oppose the legislation will fall in line and support the final version.<sup>4</sup>

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<sup>3</sup> In addition, there is an expectation in nondemocracies that legislators will “fall in line” with the center's demands concerning policy. Any deviation from this expected pattern raises questions about the regime's ability to control the legislature and the policy agenda.

<sup>4</sup> This logic is similar to that described by Overby, Tatalovich and Studlar (1998) in their study of voting in the Canadian House of Commons. However, unlike this scenario, where the con-



In addition to visibility, regimes care about the target of the criticism. The stakes are higher when legislators aim their criticism directly at the regime and/or policies it actively promotes. In this case, their actions represent more than just minor differences of opinion within the elite; they imply the existence of an alternative to the regime that, given the chance, would take the country in a different direction. The regime's inability to constrain direct criticism also signals a greater degree of weakness than allowing disagreement over issues in which it has no clear stake.

Accordingly, I anticipate that regimes discourage legislative freedom on legislation they sponsor directly. An individual who initiates a piece of legislation publicly signals his or her support for the law or policy it proposes. By extension, having agents of the regime among the initiators is a public declaration of the regime's support and dissent on such legislation represents direct criticism of the its policy agenda. Following a similar logic, Schuler (2018) argues that, while the Vietnamese government allows public debate over salient issues not directly controlled by the party, it does not permit this for issues that clearly fall within the party's jurisdiction. I therefore expect critical expression, in this case "no" voting, is less likely for regime-sponsored legislation at all stages of the legislative process.

**Hypothesis 1.** *The likelihood of voting no declines (a) unconditionally over the course of the legislative process, (b) when the regime is involved in initiating the legislation*

The first principle of mutual restraint, also has implications for how deputies behave when the stakes are low. Within regime-set limits, I expect legislators to pursue their own interests or those

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vengeance was towards unified party votes, I anticipate unified regime votes at later stages of the legislative process.

of the individuals they represent. It can be useful to think of nondemocratic legislators as agents with competing principals (Carey, 2007). In nondemocracies, the regime is almost always the most important principal of legislators, but it is not the only one. Legislators are, to varying degrees, also agents of their party leadership, regional elites, and/or the citizens whose votes they need for reelection. When the regime demands conformity, legislators respond. When it does not, the behavior of deputies reflects their interests and the interests of their alternative principals, with all the complexity that implies. Accordingly, patterns of critical expression in lower-stakes situations vary across nondemocracies, depending on which secondary principals hold sway.

In Kyrgyzstan, which has a closed-list proportional representation electoral system, party leadership is a particularly important non-regime principal (Hix, 2004; Andre, Depauw and Shugart, 2014). In these systems, the party determines the list of candidates and voters select a party based on these lists. Since voters cannot directly sanction individual legislators, it is the party leadership that holds poor-performing or non-conformist legislators accountable for their behavior by removing them from subsequent lists. The result is a high degree of party unity in voting.

**Hypothesis 2.** *Deputies from the same party will vote together on low-stakes votes, but not necessarily on high-stakes votes.*

The second principle of mutual restraint focuses on the behavior of the regime: it should refrain from responding punitively to criticism expressed within established limits. As the example of Deputy Salyanova from the introduction demonstrates, this does not mean legislators never face consequences for going up against the regime. But it does mean they can count on a predictable, meaningful amount of forbearance.

Of course, if deputies respond appropriately to the incentives set by the regime, they should

never need to be punished; the threat of punishment is enough to deter undesirable deputy behavior. However, while egregious violations of regime-set limits on legislative behavior rarely arise, I anticipate that regimes use subtle tools, well short of removal from office, to express their displeasure - or pleasure - with deputy behavior at the margins. In this way, deputies may test the limits of what is acceptable and regimes ensure the limits on free expression are understood.

One tool the regime can use to communicate these limits is the success or failure of legislation initiated by individual deputies. Regimes wield two levers of control over this process. First, as discussed above, they can engineer voting outcomes by asserting their position as the primary principle of legislators. But negative outcomes, even decisive ones, still leave the impression of division. The proponents of a failed bill necessarily stand on the opposite side of an issue to the regime. As a result, legislative success more often depends on whether or not a piece of legislation is brought to the floor for a vote.

Control over the legislative agenda is an important tool across regime types. In democracies, this power typically rests with the largest party or coalition and is especially strong when those who wield it are powerful and united (e.g. Cox and McCubbins, 2005; Bräuninger and Debus, 2009; Zubek, 2011). In nondemocratic settings, agenda-setting power rests with the central regime and its most trusted - or most tightly controlled - agents. This power is often complete, even when it is informal. In Kyrgyzstan, the presidential administration has no official say over the agenda, which is planned by the Coordinating Council, but a representative is typically present to “observe” proceedings<sup>5</sup>. By dictating the agenda, the regime can keep undesirable legislation from advancing

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<sup>5</sup> From a personal conversation with an senior official from the office of the President conducted in May 2019, Bishkek, Kyrgyzstan.

and/or ensure that it proceeds through the process with limited delay.

Hindering the successful passage of deputy-initiated bills is a direct punishment, since most legislators propose legislation they value for reasons of personal ideology or expected financial gain. In Kyrgyzstan, it also has an indirect effect on their future career prospects, since rates of legislative success are important determinants of position on subsequent party lists.<sup>6</sup> Accordingly, I expect that deputies who express negative opinions on higher-stakes votes experience less legislative success than those who more clearly fall in line with the regime's interests. Just as importantly, I expect deputies who express critical views in low-stakes situation will experience no such punitive action.

**Hypothesis 3.** *The likelihood a deputy-initiated bill is signed into law declines if the initiator has a critical voting record on high-stakes votes, but does not decline if the initiator has a critical voting record on low-stakes votes.*

### **The Case: Kyrgyzstan's Jogorku Kenesh**

Kyrgyzstan's Jogorku Kenesh has several features that make it well-suited to evaluating this system of mutual restraint. First, Kyrgyzstan's political system falls in the "sweet spot" of being non-democratic enough for the regime to hold outsized influence over legislators, but not so authoritarian that critical opinions are overly subtle. While there is notable disagreement over how to

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<sup>6</sup> From a personal conversation with a current parliamentary deputy conducted in May 2019, Bishkek, Kyrgyzstan.

categorize Kyrgyzstan in the mid-late 2010s,<sup>7</sup> it most clearly numbers among electoral authoritarian countries, defined as: “civilian regimes in which formal democratic institutions exist and are widely viewed as the primary means of gaining power, but in which incumbents’ abuse of the state places them at a significant advantage vis-a-vis their opponents (Levitsky and Way, 2010, p. 5).”

Competitive authoritarian regimes are common in the modern world and worthy of study in their own right, but there is also an empirical advantage to focusing on this regime type. The more closed a society is, the greater the cost of allowing visible critical expression within the legislature and the more subtle such expressions are likely to be. The theory of mutual restraint predicts that - in the vast majority of cases - such criticism still exists, but it may not manifest in voting against legislation. Instead, it might include slowing down the passage of legislation (Noble, 2020; Truex, 2018), initiating bills that are in tension with others (Lu, Liu and Li, 2018), or engaging in critical debates or query sessions with members of the government (Malesky and Schuler, 2010). In Kyrgyzstan and other competitive authoritarian regimes, the costs of disunity are somewhat weaker. Criticism is still limited by the regime, but may have a more open, and thus more observable, form. In such cases, voting records can be meaningful indicators of the presence or absence of critical viewpoints.

Despite the greater level of freedom enjoyed in such electoral authoritarian regimes, the Kyrgyz regime - in this case, personified by the president - retains the ability to influence legislative behavior. Although the 2010 constitution shifted many formal powers from the president to the

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<sup>7</sup> For example, Kyrgyzstan’s Polity Score reached a record high of 8 in 2017, while Freedom Houses’ “Nations in Transit” score not only categorizes Kyrgyzstan as a consolidated authoritarian regime, but suggests it has become steadily more authoritarian since the 2010 revolution.

parliament, the presidency remains the single most important political position in Kyrgyzstan. At least some of this stems from the president's influence over the security forces, which both the second and third post-revolutionary presidents - Atambayev and Jeenbekov, respectively - used liberally to intimidate opposition politicians and journalists.<sup>8</sup> This is a formidable source of power, especially in combination with a weak judiciary. In 2016, one study reported that almost thirty percent of judges admitted that the executive branch placed pressure on the judicial system (SIAR Research & Consulting, 2016), a number that is almost certainly biased downward by fear of culpability and a desire to minimize perceptions of corruption in the judiciary. There are also many high-profile examples of the president using the security services to intimidate potential political rivals. For instance, soon after the 2017 presidential election, the Prosecutor's Office opened an investigation into the second-place finisher, Omurbek Babanov, based on the claim that he incited ethnic hatred during his campaign, causing him to flee the country (RFE/RL's Kyrgyz Service, 2019) and, after the split between the current and former president deepened in 2019, Kyrgyz security forces arrested former president Atambayev (Neuman, 2019). Fear of retaliation is therefore a major reason why legislators respond to incentives created by the president.<sup>9</sup>

The second notable feature of the Kyrgyz case is that it has a closed-list proportional representation electoral system, in which there is a single electoral district and voters select between parties, rather than candidates. Proportional representation systems tend to favor the formation of multiple

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<sup>8</sup> From personal conversations with NGO representatives and scholars. Also, see Nations In Transit (2018).

<sup>9</sup> More information about these and other political dynamics in Kyrgyzstan during this time period are available in the Appendix.

parties (Duverger, 1964), and Kyrgyzstan is no exception. Six parties existed in the legislature between June 2016 and December 2018. Of these, the dominant party was the Social Democratic Party of Kyrgyzstan (SDPK), which was affiliated with both President Atambayev (2011-2017) and President Jeenbekov (2017-). However, the SDPK held only 38 of 120 seats in the period under study. Given this, presidential control over non-regime parties is particularly striking, since - as a bloc - they have the power to prevent legislation the president favors and pass legislation the president opposes. In addition, the use of closed (rather than open) party lists increases party discipline, since party leaders have control of who is included on the list and at what position (Andre, Depauw and Shugart, 2014). This makes the party a natural unit of analysis and enables me to contrast behavior consistent with party-based loyalty versus regime-based loyalty.

Finally, like many parliamentary systems around the world, each piece of legislation must pass three votes, known as the three readings of the bills. In the first reading, the legislation is voted on in the form originally submitted by the initiator(s). Amendments, if proposed, are then appended by the responsible committee. The plenary approves or rejects these amendments during the second consideration of the bill, and the amended version is voted on in its entirety. Changes between the second and third reading are minimal, with bills being sent back for another second reading if major changes are necessary. This means that when a legislator changes their vote between the second and third reading, it cannot be linked to changes in the substance of the legislation.

## **Overview of Data**

The empirical analyses uses data from a variety of official and unofficial sources, focusing on the period June 2016-March 2020. These are described below.

*Roll-call data:* Individual voting decisions are available for all votes taken in the Jogorku Kenesh from June 2016 - March 2020. Roll-call vote data for all three readings from June 2016 until March 2020<sup>10</sup> were made available for a period of time on the official Jogorku Kenesh website (www.kenesh.kg). During this period, roll-call vote data was published on all votes taken in the Kyrgyz parliament, alleviating any possible selection effects associated with studying roll-call votes<sup>11</sup> For each vote, a PDF file containing a list of deputies who are marked as “for,” “against,” “abstain,” or “absent” were scraped from the Jogorku Kenesh website and digitized, generating a comprehensive dataset of 2088 votes at the deputy-vote level. Basic information on the name of the bill, its initiators and reading number was available for each vote.

*Bill data:* The Jogorku Kenesh website also provided information on 826 bills that had at least one associated vote or were initiated within the sample period. Information included the name, initiators, committee assignment, and progress through the legislative process. These bills were matched by hand to the roll-call votes by comparing bill names, initiators, and the dates of votes on each reading.

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<sup>10</sup> Roll call data were not available prior to June 2016. I stopped collecting data after the outbreak of the Coronavirus pandemic in March 2020, which both altered political dynamics in the country and resulted in less reliable record-keeping.

<sup>11</sup> For example, Carrubba et al. (2006); Hug (2009). Some research - for example, Hix, Noury and Roland (2018) - does not find evidence of serious selection effects. Irregardless, the availability of vote data in the Kyrgyz case allows me to sidestep these concerns.



*Deputy data:* Information on party affiliation were collected from the official lists registered with the Kyrgyz Electoral Commission (<https://shailoo.gov.kg/ru/>).

## **Results and Discussion**

### **Hypothesis 1: Regime-set Limits and Deputy Restraint**

The first hypothesis states that legislators adhere to regime-set limits on their behavior. Specifically, this implies the likelihood of voting “no” is lower (1) later in the legislative process and (2) for legislation that is directly tied to the regime.

To evaluate these claims, I use a logit model at the deputy-vote level. The main dependent variable is an indicator for whether a given deputy voted against the legislation, treating both abstentions and absences as missing data. To measure progress through the legislative process, I use the reading number for the piece of legislation under consideration. In doing so, I follow other studies that use votes on different readings to identify changing incentives and preferences over the legislative process (e.g. Ringe, 2005). I exclude any votes outside of the standard first, second, and third vote procedure. In some cases, votes are taken on multiple “second” readings, in which case I include both second readings in the data. To measure the legislation’s ties to the regime, I use a three-category variable to capture who initiated the legislation: the government, deputies, including at least one from the SDPK (*SDPK Initiator*), and deputies from parties other than the SDPK (*non-SDPK Initiator*). Government-initiated legislation is the most directly tied to

the regime, while legislation initiated by non-SDPK deputies is the least directly tied to the regime.

Table 1: Effect of Regime-Set Limits on Voting No

	<i>Dependent variable:</i>			
	Vote No			
	(1)	(2)	(3)	(4)
Second Reading	-0.390*** (0.048)			-0.477*** (0.046)
Third Reading	-0.582*** (0.058)	-0.143*** (0.041)		-0.721*** (0.055)
non-SDPK Initiator			1.194*** (0.054)	1.238*** (0.063)
SDPK Initiator			1.043*** (0.046)	1.097*** (0.050)
Second × non-SDPK				-0.166** (0.073)
Third × non-SDPK				-0.174** (0.083)
Second × SDPK				-0.026 (0.059)
Third × SDPK				-0.285*** (0.070)
Constant	0.875*** (0.200)	-21.116	-3.580*** (0.025)	-3.225*** (0.028)
Deputy FE	Yes	Yes	Yes	Yes
Bill FE	Yes	Yes	No	No
Sample	Full	No 1st	Full	Full
Observations	223,478	138,729	223,478	223,478

*Note:*

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table 1 presents evidence in support of the first hypothesis. Model 1 demonstrates that the

probability of voting against legislation decreases over the course of this legislative process. The inclusion of bill fixed effects ensure the result is not driven by selection, whereby legislation that faces strong opposition does not progress through the legislative process.<sup>12</sup> Rather, these models show that disagreement declines within the process for a given bill. Building on this, Model 2 demonstrates there is a statistically significant decline between second and third reading votes. This is notable, since - by law - no substantive changes to the bill are made between the these readings. The declining likelihood of no-voting cannot, therefore, be explained by alterations or amendment being made to the text of the bill to garner more support.

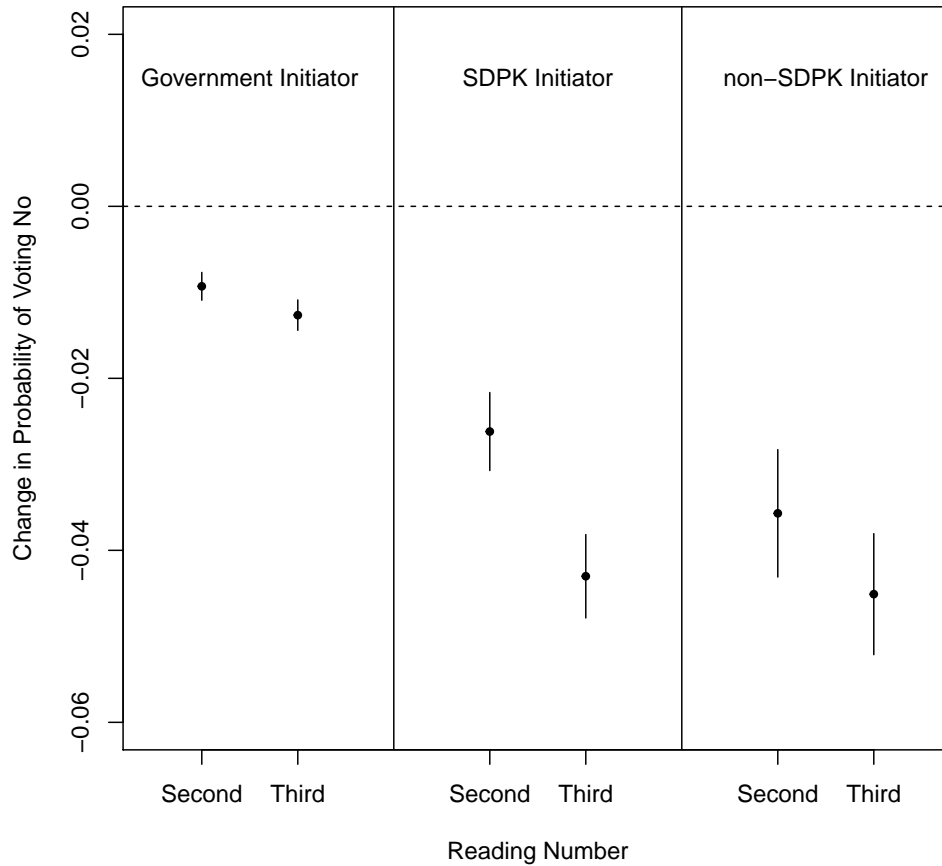
Model 3 demonstrates that legislation sponsored by the regime is also less likely to encounter opposition. Government-initiated legislation, which is most directly tied to the regime, is the omitted category. Thus, Model 3 implies that voting "no" is less likely on government-initiated legislation than deputy initiated legislation. There is also a slight substantive difference between legislation initiated by the SDPK and that initiated by other deputies, with voting no somewhat more likely in the latter case. Since the regime ensures that controversial non-SDPK initiated legislation never reaches a vote, the difference between SDPK initiated and non-SDPK initiated legislation that is actually voted on - particularly in the third reading - is unlikely to reflect actual differences in the degree of regime-friendliness. The main difference is in the target of criticism.

Model 4 incorporates an interaction term for the two main independent variables. Figure 1 illustrates these results, showing the average marginal effect of reading number - relative to the first reading - when the initiator is the government, SDPK deputies, and non-SDPK deputies re-

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<sup>12</sup> While logit models can be biased when the number of fixed effects is large relative to the size of the data, this does not appear to be a concern. See Appendix for more details.

Figure 1: Average Marginal Effect of Reading Number, by Initiator



spectively. The probability of voting no declines over the legislative process, regardless of the initiator. The substantive size of these effects are smallest for government initiators, since there is already a very low probability of voting against such legislation in the first reading. Among the two kinds of deputy initiators, SDPK initiated legislation sees the biggest decline between the second and third reading, providing further evidence that deputies fall in line when the stakes are higher. This pattern is even more pronounced when first reading votes are excluded from the sample (see Appendix): there is a statistically and substantively significant decline for both government initiated and SDPK initiated legislation, while the AME of the third reading for non-SDPK initiated

legislation is not distinguishable from zero.

Taken together, these models suggest that Kyrgyz deputies largely respond to regime-set limits on critical expression, in accordance with the theory of mutual restraint.

## **Hypothesis 2: Deputy Behavior Within Regime-Set Limits**

The second hypothesis states that party considerations dominate voting dynamics when the stakes are low, but not necessarily when the stakes are high. When the regime chooses to exert control, the alternative principals that legislators are accountable to - and their own preferences - necessarily fade into the background. In contrast, when stakes are lower, these principals and preferences are important explanators of behavior.

I begin by creating what I call the “dissent unity” score for each party. Using all votes,  $j$ , such that at least one party member votes “no”, I calculate the following for party  $i$ :

$$Dissent\ Unity_i = \frac{\sum_j \left( \frac{No_{ij} - 1}{No_{ij} + Yes_{ij} - 1} \right) \times Yes_j}{\sum_j Yes_j}$$

where these are counts of the number of legislators voting yes and no. The term in parentheses captures the percent of other (i.e. after the first one) legislators in party  $i$  who vote no. This ranges from 0 if only one legislator votes against to 1 if all legislators in party  $i$  vote against. This is then weighted by the number of legislators, writ large, who vote yes in a manner akin to that in Carey (2007), as a way of down-weighting votes with universal dissent. Since general no voting is greater in low-stakes votes, this correction biases against finding the hypothesized relationship.

Substantively, the dissent unity score captures the degree to which members of the same party

dissent together. When it is high, a legislator only votes against a piece of legislation when others from their party do as well. I use this score rather than the more typical party unity score because, in the Kyrgyz context, voting in favor of legislation is better explained by unity with the regime than unity with the party.

Table 2 displays the average dissent unity scores by party for different subsets of votes. Hypothesis 2 implies there should be less dissent unity on third-reading votes on government-initiated legislation, represented by the top left cell, than on lower stakes votes. Table 2 is generally supportive of this claim. With only a few exceptions, average dissent unity increases as we move to the right and down from this highest stakes vote. This is consistent with party considerations explaining more dissenting votes in higher stakes situations. Supplementary analysis reveals that these patterns generally hold across parties, with only minor differences among them (see Appendix).

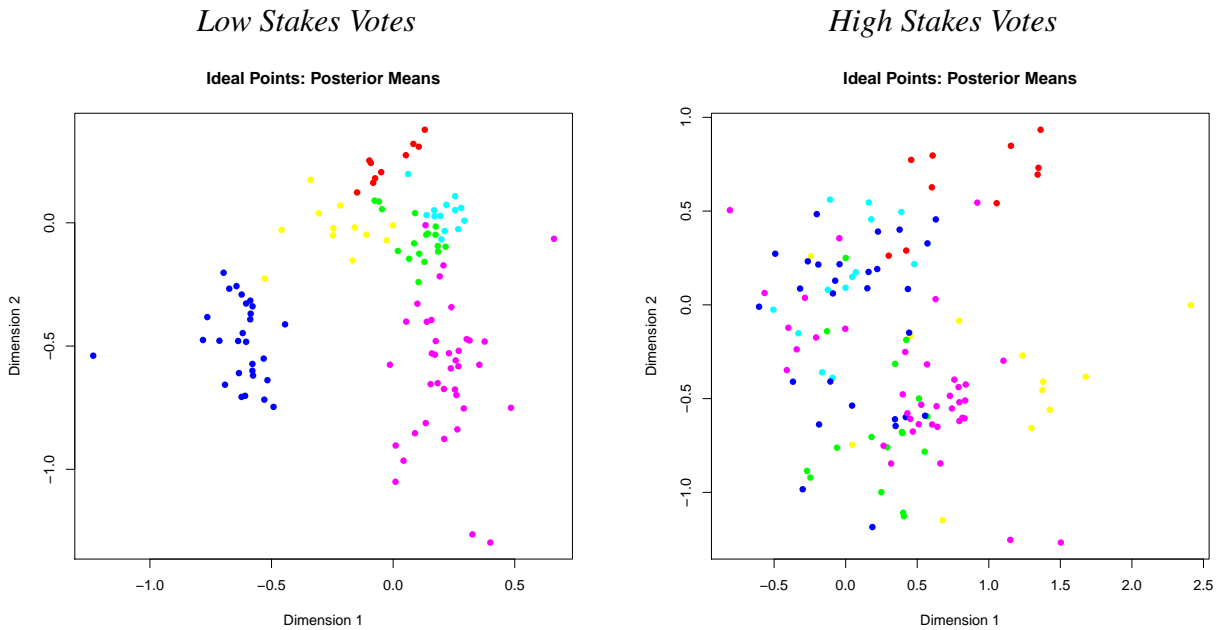
Table 2: Average Party Dissent Unity Scores

	Gov.	SDPK	non-SDKP
Third	0.124	0.134	0.177
Second	0.183	0.202	0.261
First	0.227	0.190	0.252

Next, I use the ‘pscl’ R package (Jackman et al., 2020) to uncover ideal points in two dimensions for legislators. I do this for samples of high and low-stakes votes. High stakes votes include only third reading votes on legislation initiated by the government. Low stakes votes include all first reading votes.<sup>13</sup> The ideal points themselves are not comparable, since there is no bridging between these samples. However, my goal is not to evaluate whose preferences change and in what

<sup>13</sup> While votes on government-initiated legislation are higher stakes, even in its first reading form, I include these for both practical and theoretical readings. First, the sample of the lowest-

Figure 2: Ideal Point Estimation, by Vote Stakes



*Note: Ideal points for low stakes votes are calculated only using vote data from first readings (305 votes). Ideal Points for high stakes votes are calculated only using vote data from third reading, government initiated legislation (134 votes). Parties are as follows: AM - red, BB - yellow, K - green, OP - cyan, R-AJ - blue, SDPK - magenta.*

direction. Rather, it is simply to show that this technique uncovers coherent parties for low-stakes votes, but not for high-stakes ones.

Figure 2 displays the ideal point estimates in two dimensions, with the colors corresponding to each of the six parties. As expected, ideal points for low stakes votes are very clearly clustered by party. While there are some outliers, the general impression is one of cohesion, consistent with either deputies from the same party sharing ideological preferences, the party leadership successfully directing their legislators to dissent on particular issues, or both (Hazan, 2014). This

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stakes votes (non-SDPK initiated in the first reading) is quite small, making inference difficult. Second, Table 2 reveals a somewhat greater change in behavior for reading number than initiator.

contrasts starkly with the second panel. Here, ideal points for deputies from the same party are spread throughout the two dimensional space, suggesting there is very little similarity in the preferences of these deputies, as revealed through their roll call votes. In other words, when the stakes are low, deputy voting follows relatively coherent party-based patterns; when the stakes are high, the importance of the party fades into the background.

### **Hypothesis 3: Deputy Behavior and Regime Restraint**

The third hypothesis predicts that legislators will not be punished for expressing critical viewpoints in low-stakes situations, but will face punishment when expressing criticism in high-stakes situations. In this section, I focus on the relationship between recent voting record and the likelihood that a bill initiated by a deputy is signed into law. To do this, I employ Cox Proportional Hazard models with time-varying covariates. In this model, “failure” implies that the legislation is signed by the president and “survival” implies that the bill has either been rejected or not yet completed its legislative journey.

For every deputy, I generate variables that capture their recent voting record. To do this, I identify the last 10, 25, or 50 days on which the deputy cast a yes or no vote (on legislation of a particular stake) and then generate the proportion of votes taken on those days that were “no” votes. So, for example, if a deputy cast 15 total votes on the past 10 days of voting and 5 of them were negative, their 10 day critical vote record would be 0.33. Next, for every piece of deputy-initiated legislation, I calculated the average 10, 25, and 50-day voting record of all the initiators. This value varies over time as the initiator’s vote record became more or less critical and allows me to evaluate whether the likelihood that a piece of legislation initiated by a particular deputy is



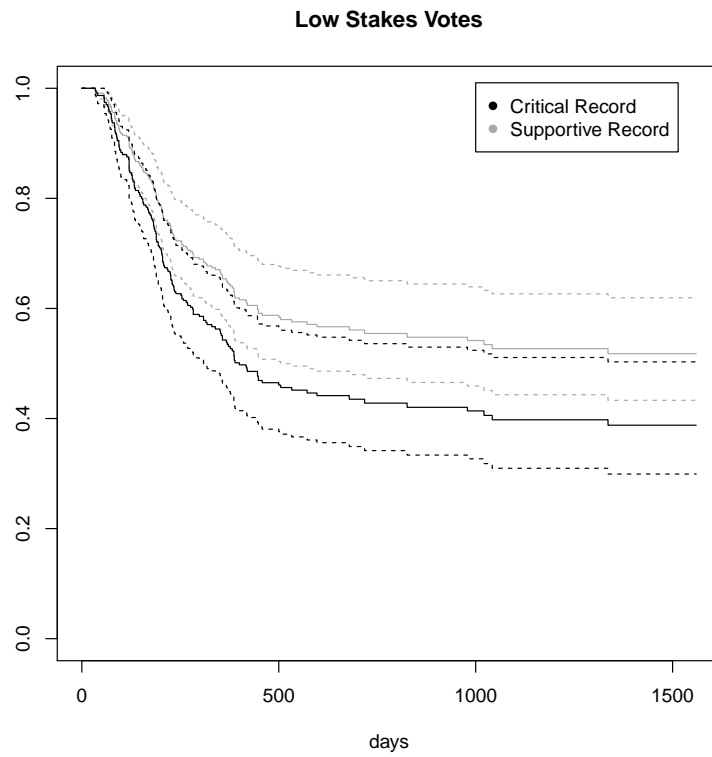
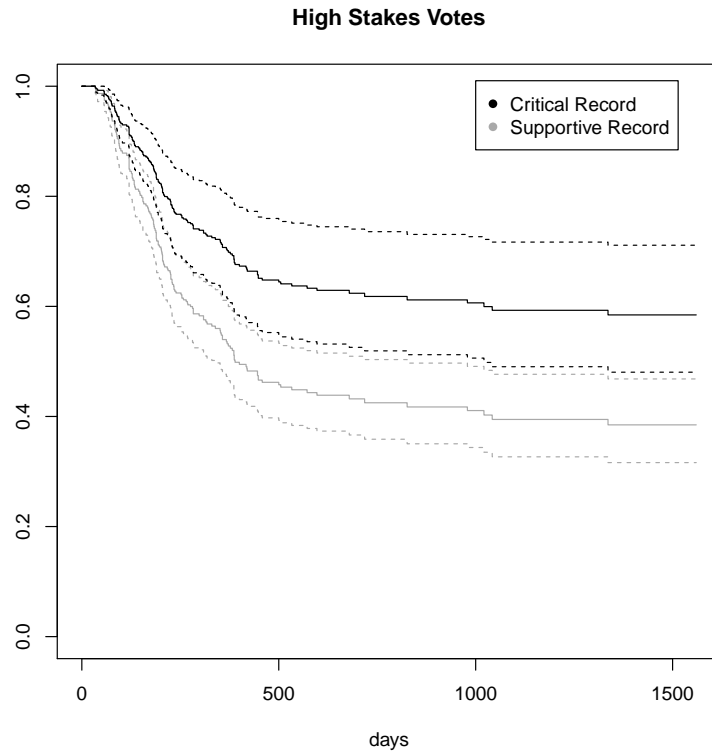
more or less likely to be signed into law as a function of their recent voting record.

Figure 3 illustrates the results. The top panel depicts the Kaplan-Meier survival curves, depending on whether the initiators' voting records on high-stakes votes are critical vs. supportive. The higher values for initiators with critical records suggests that their legislation is less likely to become law. This contrasts starkly with the second panel in which the record on low-stakes votes varies from supportive to critical. In this case, legislation initiated by more critical initiators is somewhat more likely to be signed than legislation initiated by those with a more supportive record. In other words, the regime does not punish deputies for expressing criticism on low-stakes votes.

Figure 3 relies on 10-voting day records, which represents how initiators acted in relative recent votes. Notably, this is not the same as 10 calendar days; in fact, ten voting days usually stretched over one to two calendar months. In addition, the results are very similar for longer-term voting records, based on 25 and 50-voting day records (see Appendix). As a robustness check, I also examined whether the same pattern exists when we define "failure" as any forward progress in the legislative process (e.g. the passing of any reading number or signing into law). The results are again consistent for 10-, 25- and 50-voting day records.

Taken together, this demonstrates that legislators are not punished for expressing critical views when the stakes are low, but they do experience punishment - in the form of less legislative success - when they express criticism in high-stakes situations.

Figure 3: Survival Plots for Legislation Success, by Initiator Record



*Note: Failure implies the bill is signed into law. Critical records are in the 90th percentile, Supportive records are in the 10th percentile.*

## Conclusion

This article argues that nondemocratic legislatures function according to a system of mutual restraint. Deputies refrain from criticizing legislation when the stakes are high and, in turn, the regime refrains from punishing deputies who criticize its policies in lower-stakes forums. This allows both regimes and deputies to realize the benefits associated with systems of, for example, information transmission, policy cooptation, and/or factional bargaining. The case study of Kyrgyzstan's Jogorku Kenesh uncovered patterns of voting and legislative success consistent with this system. Voting against legislation is most likely when the stakes are low. Furthermore, it is on these low-stakes votes that deputies engage in the business of policy making on their own behalf and the behalf of those they represent, resulting in more predictable patterns of no-voting than on high-stakes votes. Finally, I demonstrate that legislative success does not decrease if legislators are critical on low-stakes votes, but declines when they are critical on higher-stakes votes. This is consistent with the regime also showing restraint.

The theoretical argument provides a framework for thinking about both the functions of non-democratic legislatures and the forms that criticism takes. Most of the stabilizing benefits associated with nondemocratic legislatures depend, at least to some degree, on allowing the expression of differing viewpoints. In the Kyrgyz Jogorku Kenesh, this takes the form of no-voting. In other cases, critical expression may be more subtle. Regardless of form, though, this freedom will be limited in predictable ways. Regimes face higher costs when criticism is more visible and more directly targeted at the regime itself. Whatever the baseline levels and forms of free or critical expression, legislative behavior will reflect these incentives.

This, in turn, has implications for how we assess the strength of legislatures around the non-

democratic world. On the one hand, if a regime successfully channels criticism into lower-cost arenas, then the existence of dissenting voices does not necessarily indicate the legislature is independent or strong. A better measure of a legislature's strength is whether or not deputies respond, as a matter of routine, to the interests of the regime. On the other hand, where no-voting is rare or even non-existent, the theory suggests looking for subtler, less visible forms of expression before dismissing the legislature as a "rubber stamp." In short, a more nuanced understanding of how legislators behavior is necessary before we can identify exactly how - and how much - legislatures affect the stability of nondemocratic regimes.

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