

Constructive and Destructive Legislative Review: The Government-Opposition Divide in Legislative Oversight

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Opposition activity in legislative review constitutes a puzzle. Although scrutinizing government bills is costly and hardly ever successful for opposition parties in parliamentary systems, most amendments are proposed from opposition benches with few resources. We focus on the substance of legislative review and introduce the concepts of constructive and destructive review to address opposition and coalition party behavior in legislative oversight. From collective cabinet responsibility, we derive that coalition partners are bound by informal rules that limit them to labor-intensive redrafting of bill portions (constructive review). Contrary, opposition parties frequently take a low-cost approach proposing to delete disfavored bill passages (destructive review). We confirm our argument analyzing a newly compiled data set of hypothetical bills from a German legislature (2006-2018) that would have resulted if all amendment proposals had been successful. These results improve our understanding of opposition strategies in legislative review and control mechanisms within coalition governments.

Keywords: *Legislative review, coalition politics, government-opposition interactions, opposition strategies, automated text analysis, Germany.*

Word Count: 8,847

Why do opposition parties in parliamentary systems propose amendments to government policy even though their proposals are rarely adopted? After government bills are introduced into parliament, opposition parties frequently propose numerous changes to government policy with generally low success rates. Introducing amendments is a fairly costly activity, as it requires time, expertise, and human resources. Such resources are particularly scarce for opposition parties with fewer MPs and support staff. Yet, rather than focusing their efforts on less costly and more visible activities such as parliamentary questions or taking stances in the plenary, opposition MPs propose numerous revisions of government bills with the majority of legislative amendments submitted by opposition parties (Russel and Gover 2017; Thompson 2015).

Political scientists have amassed a wealth of knowledge on coalition governance in parliamentary systems (Laver and Shepsle 1994, 1996; Müller 1994; Thies 2001). An extensive literature has formed around executive-legislative relations within coalitions more specifically (c.f. Saalfeld 2000; Höhmann and Sieberer 2019). Most prominently, a group of scholars has outlined how the legislative review of government bills serves as an intra-coalition mechanism for legislative control of multi-party governments. In these contributions, members of parliament are perceived as watchdogs who police coalition compromises (Martin and Vanberg 2004, 2005; Pedrazzani and Zucchini 2013) and who use legislative amendments for substantive issue differentiation (Fortunato 2019). However, the literature on legislative bill review has surprisingly little to say about the patterns and motivations for bill review by non-government parties.

We contribute to the literature on parliamentary scrutiny of government bills by shifting the focus toward the substance of legislative review and introducing the concepts of *constructive* and *destructive* review. Constructive review implies adding new portions or rewriting existing passages of a proposed bill while destructive review aims to delete bill passages. Whereas (re-)drafting legislation takes considerable time and effort, destructive amendments are significantly cheaper, as they do not require drafting legislative text to express substantive policy ideas.

It has frequently been described how government parties are bound by a set of informal rules which prohibit certain behaviors in coalitions such as voting against bill proposals from ministers of the coalition partner (Laver and Shepsle 1994; Fortunato 2019). We argue that a second feature of *collective cabinet responsibility* prohibits members of coalition parties to destructively interfere with cabinet bills by proposing to discard parts of government bills. Instead, members of coalition parties

are constrained to resource- and labor-intensive forms of legislative control that either rework bill sections which stray from the coalition compromise or add passages which introduce conditions to limit the scope of a bill.

The distinction between constructive and destructive review also helps explain extensive opposition attempts to change government bills. Whereas coalition parties are expected to constructively shape government policy, non-government parties' efforts will often take the form of low-cost destructive review which proposes to delete unfavored passages.

Conceiving of constructive and destructive review as two distinct modes of parliamentary scrutiny suggests a new perspective for research on legislative review. By focusing on the substance of legislative bargaining, we are better able to understand opposition strategies in government bill review and explain the puzzle of high-frequency, low-success amendments with a low-cost approach to government oversight. We also generate new insights on legislative review as a control mechanism within coalition governments by showing how government parties are bound to the constructive engagement with draft bills instead of 'bill obstruction'. Spelling out the normative behavioral expectations among coalition partners to constructively interact with the coalition partner's policy proposals furthers our understanding of the strength of individual ministers in coalition governments. Once a ministerial department has managed to include certain components into proposed legislation, it is difficult for the coalition partners to veto such parts at the parliamentary stage. Instead, legislators have to resort to adding condition and attenuation.

Methodologically, studying the substance of legislative review is challenging, as one cannot analyze opposition efforts by tracing observed bill changes. While this strategy has proven useful and constitutes the state of the art in the research on coalition governments (Martin and Vanberg 2004, 2005; Dixon and Jones 2019; Fortunato, Martin and Vanberg 2019; Pedrazzani and Zucchini 2013), it falls short when we shift our attention to the opposition, as unsuccessful legislative amendments do not translate into observed bill changes. To overcome this challenge, we compare the draft bill as introduced into parliament with *counterfactual bills* that would have resulted if an amendments had passed. This enables an analysis of legislative scrutiny independent of the success of an amendment. To generate counterfactual bills from legislative amendments, we construct a rules-based semi-automated text analysis system that constructs the counterfactual bill versions using the highly structured language of legislative amendments.

Applying this text analysis system to the legislative review in a large German state parliament, we find a substantial difference between government and opposition efforts. As expected, opposition parties are significantly more destructive in reviewing government bills than members of the coalition.

Government Bills and Opposition Review

Legislative scholars have distinguished different types of parliamentary systems and their consequences for the status of opposition parties (Duverger 1951; Sartori 1966). The most well-known distinction in this field is between consensual and competitive-majoritarian parliamentary systems. Consensual systems are characterized by legislative processes that share political power in inclusive ways, including frequent compromises and a blurring of government and opposition roles (De Giorgi and Marangoni 2015). Marked by cooperation rather than competition among the main political forces, consensual behaviors pave the way for cooperative policy making that frequently incorporate opposition ideas. While consensual patterns have been observed in many European democracies (Saalfeld 1990), current cross-national trends point toward increasing competition in electoral and parliamentary arenas (Andeweg, De Winter and Müller 2008).

In competitive-majoritarian settings, interactions between government and opposition are characterized by clear confrontational lines. Law-making processes rarely incorporate opposition inputs and leave opposition parties significantly less room to shape policy. For example, analyzing twelve major bills in the UK from 2005 to 2012, Russel and Gover (2017) show that an average of about 300 amendments were proposed by the opposition for each bill, but only 3.6 percent were ultimately successful. Thompson (2015) demonstrates that in the history of British law, opposition amendments in bill committees have a success rate of 0.6%. Shephard and Cairney (2005) reach similar conclusions in an analysis of the Scottish parliament. These studies show that opposition legislators in competitive-majoritarian parliaments cannot expect to exert a direct policy impact by filing amendments.

One of the peculiarities of competitive parliamentary systems is that even though non-governmental amendment proposals rarely succeed in impacting policy choices, members of the opposition actively engage in the review of government bills. To be sure, one of the opposition's main drivers

in the parliamentary arena is to present policy alternatives to the government agenda. Using a variety of activities such as parliamentary questions, taking stances in plenary debates, and introducing bill proposals, opposition parties can engage in government control, make substantive policy statements, and demonstrate credibility and competence to the public. Nonetheless, the intensity with which opposition parties rework government bills in non-consensual settings should take legislative scholars by surprise. Introducing amendments is a resource-intensive activity (Fortunato 2019), as the highly technical nature of legislation requires considerable labor and expertise to draft amendments for proposed bills. Moreover, as parliamentary groups rather than individual MPs are the main actors in Europe's parliamentary democracies, amendment proposals undergo profound party-internal discussions, requiring considerable efforts even after the initial drafting stage.

Against this backdrop, one might expect opposition parties to focus on other approaches for voicing policy alternatives. First, other forms of government control are more visible outside of the parliamentary arena, whereas amendment proposals are often debated behind closed doors in committee meetings. Second, it is considerably harder to demonstrate a partisan profile through an amendment to a government bill than by introducing a new bill for which credit can be claimed by the introducing party. Consequently, observing that opposition parties make extensive efforts to rework government legislation in competitive systems seems, at first glance, bewildering.

The Substance of Legislative Review

Constructive and Destructive Review

To understand opposition strategies in legislative review, it is important to take the substance of these efforts into account. Categorizing the substantive policy implications associated with amendment proposals is challenging. An ideal measure would capture the substantive impact and issue-specific severity of the changes to proposed policy as implied by the modifications to a bill. As legislation is highly technical and requires extensive domain knowledge in a variety of issue areas, considerable human expertise would be needed to classify each proposed change to a bill (Martin and Vanberg 2005) — an effort that is nearly impossible in anything but selected case studies (cf. Thomson et al. 2006). Therefore, all studies interested in a more comprehensive perspective on legislative review have adopted the strategy of counting the number of changed articles, bill lines,

or words (Martin and Vanberg 2004, 2005; Dixon and Jones 2019; Fortunato, Martin and Vanberg 2019; Fortunato 2019; Pedrazzani and Zucchini 2013).

Despite these challenges, a more nuanced operationalization of the substance of bill scrutiny is possible. Compare a party group that works through the details of a piece of legislation and proposes amendments to add or re-draft portions of a bill with a party group that proposes to strike out several paragraphs of the same piece of legislation. While both kinds of scrutiny constitute amendatory action, we argue that they differ conceptually. Specifically, we can group legislative amendments into three distinct categories. First, amendments can *add* to a proposed piece of legislation by extending the initial bill with new sections or paragraphs. Second, amendments can *alter* parts of the legislation and thus rewrite the initial bill. Last, amendments can *delete* words, sentences, or whole articles in order to shape policy.

These categories help distinguish between two fundamentally different strategies for scrutinizing bills: *Constructive* and *destructive review*. While constructive review implies adding to or rewriting proposals, destructive review relies on deleting passages. The two types of bill scrutiny differ in several regards. Most evidently, they clearly differ in terms of required resources like time, expertise and labor. While actively contributing to policy proposals by substituting passages with altered phrases or developing new bill sections requires significant time and expertise, proposing to cross out passages takes considerably less effort. Hence, we suggest that proposing amendments is not in and of itself a resource-intensive activity. Moreover, constructive and destructive review have different policy implications. Insertions and substitutions imply a new bill version that incorporate the author's policy ideas. By contrast, destructive review merely tries to prevent legislation that is perceived as unfavorable, but does not formulate a substantive alternative for the deleted sections.

Government and Opposition in Legislative Review

The distinction between constructive and destructive review has implications for the study of legislative review as a control mechanism in multi-party governments. The literature on coalition bargaining has suggested a variety of mechanisms with which coalition partners keep tabs on each other in the parliamentary arena (Thies 2001). Among them are the appointment of committee chairs to 'shadow' ministries held by their partners (Carroll and Cox 2012; Kim and Loewenberg 2005), filing parliamentary questions (Hömann and Sieberer 2019), and legislative review (Martin

and Vanberg 2004, 2005; Pedrazzani and Zucchini 2013). While members of the governing parties serve as watchdogs to police coalition comprises, their behavior is bound by a set of predominantly informal rules. These rules have been referred to as collective cabinet responsibility (Laver and Shepsle 1994, Strøm, Müller and Smith 2010). For instance, these constraints prohibit coalition MPs from voting against their coalition partners' proposals and from speaking out against policies once they have been adopted (Fortunato 2019). We argue that it is possible to extend the 'rules of the coalition game' in light of the distinction between constructive and destructive legislative review. Specifically, the constraints will also manifest in an informal rule not to torpedo coalition policy by proposing to strike parts of the legislation introduced by a minister from the coalition partner. Rather, to modify legislation that strays from the coalition comprise, legislators will need to resort to redrafting or adding conditions to limit the scope of the bill.

This argument provides nuance to previously described patterns of legislative review within coalitions. Specifically, we can identify at least two substantive implications for the parliamentary control of coalition governments. First, in light of the distinction between constructive and destructive review, we can describe the legislative review of government legislation by coalition partners as a process of mutual normative expectations. Legislative control of government bills is bound by the *normative expectation* of constructive collaboration among all partners across the legislature and executive. While opposition parties can freely move between constructive engagement and strategies of bill obstruction, these mutual expectations restrict the possible actions of the parliamentary majority toward its ministerial agents, and limits the majority to the subset of constructive control and supervision.

Second, we note that our perspective on the substance of legislative review strengthens the role of individual ministers in coalition policy-making. Among different models of coalition government, Tsebelis (2002) argues that authority structures in cabinets ensure that any coalition party is a veto player regarding any policy proposal regardless of structural factors such as portfolio allocation (p. 96). In contrast, Laver and Shepsle's (1994) ideal-typical model of 'ministerial government' constitutes the opposite pole and describes ministers as having almost full autonomy over their department's policy area as there is "no mechanism by which any other party can prevent the portfolio holder from implementing its ideal point within that jurisdiction" (Strøm, Müller and Smith 2010, p. 523). Our distinction between constructive and destructive review speaks to the

literature on mutual control. If the ‘rules of the coalition game’ prohibit bill obstruction, coalition partners cannot strike out and thus prevent policy once it has been introduced to parliament by the respective minister. If a minister has succeeded in including bill sections into the original proposal, coalition partners cannot remove these passages and need to resort to different strategies such as adding conditions that limit the scope. This way, the normative expectation of constructive legislative scrutiny strengthens our understanding of ministerial powers.

By contrast, it is likely that opposition parties would frequently find themselves in a position of wanting to delete specific passages from a proposed bill. If a proposal shifts the status quo away from a party, deleting certain passages may be a reasonable strategy to ensure a smaller status quo shift. As opposition parties are not bound by the rules governing collective cabinet responsibility, they can follow a pursue a simpler bill review strategy. Moreover, destructive bill review allows opposition parties to circumvent the cost-intensive drafting of new policy content, as removing bill sections requires less effort. Hence, only when incentives for constructive position-taking outweigh the costs associated with constructive review, can we expect opposition forces to constructively engage with government legislation. These arguments help explain opposition parties’ frequent efforts in scrutinizing government bills which rely on low-cost destructive strategies. Overall, we propose that the distinction between constructive and destructive review constitutes a key element to understanding control mechanisms within coalition governments and opposition engagement with government bills, where governing parties are more likely to engage in constructive review and opposition parties in destructive review.

Hypothesis 1a: Government parties are more likely than opposition parties to engage in constructive legislative review.

Hypothesis 1b: Opposition parties are more likely than government parties to engage in destructive legislative review.

The Conditioning Effect of Bill Importance on Opposition Review

So far, we have discussed the government-opposition divide in legislative review. While we do expect a clear difference in the review strategies of coalition and non-government parties, opposition parties can and often will propose changes to government legislation. Conceiving of party groups as rational actors (Tsebelis 2002), opposition parties can be expected to shift from bill obstruction to constructive review given sufficient incentives. While the factors shaping the incentives for such shifts are multi-faceted, we discuss one specific factor in the remainder of this section: the *bill importance*.

Bill importance has attracted widespread attention from legislative scholars. Early work by Price (1978) and Page and Shapiro (1983) has analyzed the link between public opinion and policy attention of legislators. Weissert (1991) studies the effect of issue salience on MP perceptions and finds that legislators who introduce bills related to salient issues are rewarded with higher perceived effectiveness than legislators working on less popular issues. More recent work has evaluated the effect of bill importance on various aspects of agenda control, specifically regarding the organization of legislative calendars. Martin (2004) shows that policy initiatives dealing with issues that are more attractive to all partners in a coalition are likely to be given priority, whereas those dealing with relatively unattractive issues are likely to be postponed. Giannetti, Pinto and Pedrazzani (2016) investigate how parties set the floor timetable and allocate speaking time for plenary bills. Their results suggest that parties schedule longer debates for salient and divisive issues, while they move more quickly on less divisive proposals.

In light of the two modes of legislative scrutiny that we outlined above, bill importance can be expected to influence the likelihood that opposition parties signal their position through constructive amendment proposals. Drafting amendments can be seen as one possible venue for partisan position-taking. Several authors have argued that amendments can serve as a tool for competitive issue differentiation (Fortunato 2019). Amendment proposals entail formal objectives that leave no room for maneuver, such that amendments can be characterized as manifest credible commitments rather than cheap talk. The majority of bills is passed with little to no public attention. However, occasionally ‘high-stakes’ bills are picked up by the media and discussed outside the parliamentary arena. Hence, although proposed bill changes might remain unsuccessful, we argue that opposition

parties propose constructive amendments to highly visible government bills in an effort to set themselves apart from coalition policy. Since constructive amendments are most likely to be perceived by the electorate for ‘high-stakes’ proposals, we expect the incentives for substantive position-taking to be highest for salient bills.

Hypothesis 2: Opposition parties are more likely to engage in constructive review the higher the bill importance is.

Empirical Strategy

Case Selection and Data

Testing our arguments requires a careful empirical strategy to assess the substance of legislative review. We capitalize on data from the *Landtag Baden-Württemberg*, a large state-level German parliament, over three legislative periods (2006-2018). The case is characterized by coalition governments and holds strong comparative value. First, we observe a party system change in the period of study, as the Alternative für Deutschland (AfD), a right-wing populist party, entered the parliament in 2016 with a seat share of 16%. Second, our period of study is characterized by diverse coalition and opposition constellations. In the three legislative terms, there were three different coalition governments between CDU and FDP (2006-2011), Greens and SPD (2011-2016), as well as Greens and CDU (2016-2018).

Our data provide a deeper description of legislative policy-making than is common in the study of legislative review (Martin and Vanberg 2004, 2005, 2014; Pedrazzani and Zucchini 2013). It covers all *proposed* bill changes, whereas previous studies were limited to a comparison between consecutive bill versions, i.e. the sum of all *accepted* changes. Notably, Fortunato (2019) compiled a data set that comprises the number of submitted rather than accepted article changes. We move beyond this effort in two ways. First, instead of counting article changes, we construct the bill versions that would have resulted from each amendment proposal, enabling a study of the substance of the amendment proposals. Second, rather than focusing on intra-coalition interactions, we explicitly incorporate opposition amendments.

To construct the data set, we collected all bills and their associated amendment proposals from the official *Landtag* database. Following Martin and Vanberg (2004), we excluded all amendments on budgetary and constitutional bills, as many of the procedural rules associated with such proposals differ from those for substantive legislation. Our data set is constructed at the bill×party level where one observation is defined as the *hypothetical bill* that would have resulted if all amendment proposals by a party regarding a bill had been successful.¹

Recovering Counterfactual Bill Versions

In the literature on legislative review, scholars have conceived of parliamentary scrutiny as a mechanism for intra-coalition oversight where coalition partners keep tabs on each other by amending bill proposals that deviate from the coalition compromise (Martin 2004; Martin and Vanberg 2005). These scholars typically quantify parliamentary scrutiny by counting the number of observed article changes between the initial bill version and the bill’s final state. We move beyond the conception of legislative review as an intra-coalition control mechanism in response to a delegation problem to shed light on government-opposition differences in legislative oversight. Contrasting intra-coalition and opposition scrutiny poses the challenge that bill mutations which would result from opposition amendments are rarely observed. Hence, comparing two empirical bill versions is not feasible when studying opposition scrutiny, requiring a novel analytical strategy.

Our approach is more nuanced as it incorporates all proposed policy changes independent of parliamentary votes instead of restricting the analysis to a selected subset of successful amendments drafted by coalition parties. Hence, we construct all counterfactual bill versions, along with the empirically observed bill versions that result from *successful* coalition amendments. Tables 1 and 2 depict concrete examples of bill portions and their hypothetical version based on a constructive (Table 1) and a destructive amendment proposal (Table 2). The hypothetical bill section that results from a constructive legislative review process described in Table 1 entails an amendment proposal to rewrite part of the initial ‘bill to change police legislation’. Table 2 shows the hypothetical bill section that results from a destructive legislative review process that simply proposes to delete some parts of the initial ‘bill to change the nature conservation act’.

¹Multi-party amendment proposals count toward all respective bill×party observations.

Table 1: Constructive legislative review and the resulting hypothetical bill section.

Initial Bill Section.

(7) A measure in agreement with Sections 1 and 2 can be directed by the head of the regional police department or by the state’s criminal police office in case of imminent danger. This measure requires approval of the responsible court mentioned in Section 4. The case must be brought immediately.

Amendment Proposal.

Section 7 sentences 2 and 3 are rewritten as follows: "In this case, approval of the responsible court mentioned in Section 4 must be brought immediately. If the direction is not approved by the court within three days, it becomes inoperative."

Hypothetical Bill Section.

(7) A measure in agreement with Sections 1 and 2 can be directed by the head of the regional police department or of the state’s criminal police office in case of imminent danger. In this case, approval of the responsible court mentioned in Section 4 must be brought about immediately. If the direction is not approved by the court within three days, it becomes inoperative.

Note: 'Bill to change police legislation' ID 16/2741, government bill submitted on 2017-09-26. Amendment ID 16/2997-1 from coalition factions CDU and Greens submitted on 2017-11-15. Amendment accepted.

To construct hypothetical bill versions, we built a semi-automated, rules-based text analysis system that takes advantage of the highly structured language of legislative text. In our case, legislative proposals have a hierarchical structure where articles are nested in paragraphs, which are nested in sections. Amendment proposals refer to the specific location where a proposed bill is to be modified and indicate a text portion to be deleted, substituted or added. Hence, amendments can be interpreted as text manipulations within the common structure of the bills. First, we download all bill-related documents from the official web page of the *Landtag*² and extract all relevant information. Next, the system identifies the nested structure of the bills and labels articles, paragraphs and sections accordingly. Subsequently, it screens all amendment proposals for additions, insertions and deletions and executes the necessary text manipulations. In irregular cases, human coders assist in the creation of the hypothetical bill versions.

²Documentation of all parliamentary proceedings is published at <https://parlis.landtag-bw.de/parlis>.

Table 2: Destructive legislative review and the resulting hypothetical bill section.

Initial Bill Section.

14. Par. 49 Section 3 is formulated as follows: “(3) In agreement with the responsible authority, the licensing authority can refrain from involving a nature conversation organization if only marginal impacts for nature and landscape are expected.”

15. Par. 53 Section 2 is formulated as follows: “(2) Extending the enumerated exclusion criteria, the purchase right does not apply to lands that comprise agricultural, forestry or fishery enterprises.”

Amendment Proposal.

Number 15 will be deleted.

Hypothetical Bill Section.

14. Par. 49 Section 3 is formulated as follows: “(3) In agreement with the responsible authority, the licensing authority can refrain from involving a nature conversation organization if only marginal impacts for nature and landscape are expected.”

Note: 'Bill to change the nature conservation act' ID 16/2742, government bill submitted on 2017-09-26. Amendment ID 16/2957-2 from opposition faction FDP submitted on 2017-11-07. Amendment rejected.

Variables, Measurements, Models

Dependent Variable

To trace the use of constructive and destructive review, we measure the constructiveness of legislative review using automated text analysis. We construct a continuous dependent variable based on Levenshtein’s edit distance at the word level. The Levenshtein metric was developed in the fields of natural language processing and computational linguistics (Sörensen 2007) but has enjoyed an increasing popularity among scholars of political text (e.g., Baerg and Hallerberg 2016). Conventionally, the Levenshtein distance sums the minimum number of word deletions, insertions and substitutions that need to be performed in order to transform one text into another. If computed for the original bill and the hypothetical bill that results from a party’s amendments, the distance

metric would indicate how extensively a party tried to amend a government proposal, where each addition, substitution and deletion contributes with a value of +1.

However, we are not only interested in the extent of legislative review but in the level of *constructiveness* and *destructiveness*. Therefore, instead of counting the necessary transformations, we adapt the metric to not only sum the number of deletions, insertions and substitutions, but to assign all word deletions a negative value of -1 . For example, the value of the metric for the following two texts is 2, since transforming the first text into the second requires four word deletions and six word additions:

"This measure requires approval of the responsible court mentioned in Section 4."

"This measure requires approval of the responsible court. The case must be brought immediately."

Our dependent variable can be thought of as a *penalized* version of the Levenshtein distance with a penalty for deletions. It is an indicator for the level of constructiveness with which parliamentary groups engage with a bill in the legislative process. For each bill \times party observation, we construct the metric for the difference between the bill as introduced into parliament and the hypothetical bill version if all amendments by a particular party had passed. Figure 1 provides a visual representation of the dependent variable. The figure shows that both constructive and destructive review is common, with approximately two thirds of all observations taking on values greater than zero (constructive review).

Independent Variables

To assess the government-opposition divide in legislative review, we use a binary indicator documenting whether an amendment was filed by a coalition or an opposition party.³ The second hypothesis concerns the ‘objective’ salience of a specific bill, where opposition parties are expected to turn to more constructive review to position themselves on salient and important issues. We measure bill importance by the order in which bills are discussed in the plenary session. Plenary debates in

³Few amendment proposals, mostly on procedural issues, were jointly submitted by government and opposition parties. They were excluded from the analysis.

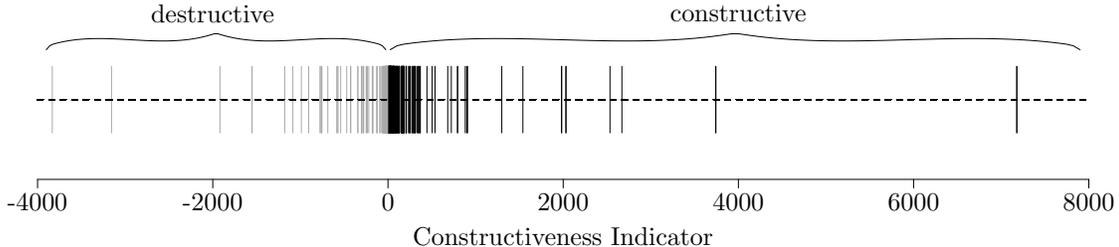


Figure 1: Visual representation of the constructiveness indicator at the word level based on the adapted Levenshtein distance with a penalty for deletions.

the *Landtag* Baden-Württemberg are frequently televised by the *Südwestrundfunk* (SWR) during morning hours. Parties are aware of the presence of the TV and print journalists who attend the plenary sessions in greater numbers in the morning. In order to increase media coverage for salient debates, they are scheduled first, while low-stakes and procedural bills are discussed later in the day (cf. Schöne 2010; Hohl 2018).

To construct the indicator of bill importance, we assume a non-linear process where the first couple of agenda items are highly salient with a quick drop-off in importance. To turn this intuition into numerical values, we apply a transformation to the relative position of the item on the agenda. Specifically, we use power transformations and model our variable of interest, *bill importance*, as a function of

$$y = x^{-c},$$

where y denotes the bill importance and x denotes each bill’s relative position on the agenda. Figure 2 visualizes this transformation for different choices of c ranging from 0.75 to 3. While the specific choice of c is arbitrary, all reasonable candidate values lead to the same substantial conclusions as reported in the next section.⁴

⁴For the analysis, we use a constant value of $c = 1$.

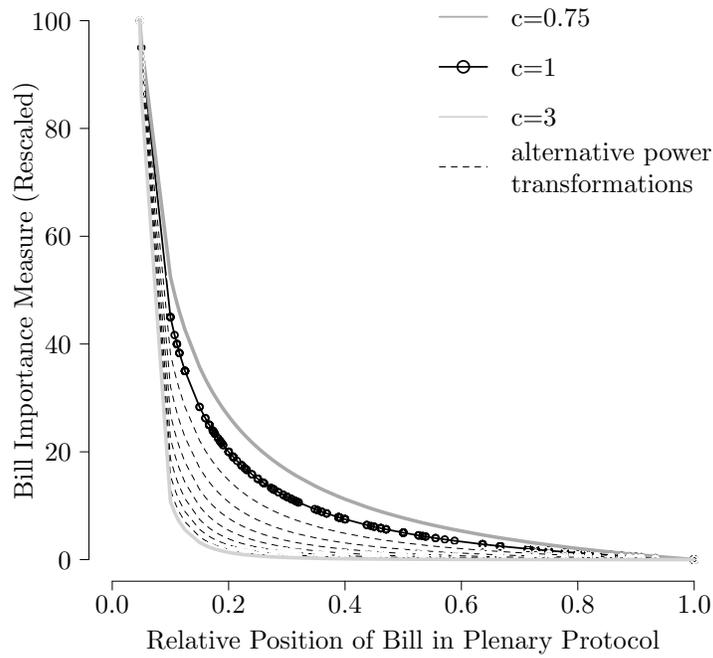


Figure 2: Visual representation of the bill importance measure as a function of a bill’s relative position on the agenda. Lines describe the relation across the entire scale, dots represent empirical observations. The applied transformation rule is described by $y = x^{-c}$. The bill importance measure resulting from the different transformations is rescaled onto a common metric using $y^{res} = (y - y_{min}) / (y_{max} - y_{min}) * 100$.

Control Variables

Since some bills are more likely to be amended than others, we control for a series of factors that may impact both the overall amendatory activity and the outcome. One, confounding at the bill level might result as a consequence of some bills being long and complex. Two, certain policy fields may be more heavily scrutinized in legislative review than others. We adjust for these possibilities by including control variables indicating bill length and the policy field of the proposal. Bill length is measured as the logged number of articles in the legislative proposal. To classify bills into policy fields, we assigned each bill to one policy field according to the Comparative Agendas Project (CAP, Breunig and Schnatterer 2020). In addition, we include controls for party resources. Party resources are measured by the number of parliamentary seats that a party won in the previous *Landtag* election, as more MPs and more associated staff mean more resources for working on amendment proposals. Since an upcoming election will bind MPs' resources away from their parliamentary work and towards their campaign efforts, we further operationalize resources by the proximity to the next election. For each bill×party observation, the time to the next election is calculated as the logged number of months between the introduction of a bill and the next election.⁵ Since past research has shown that government bills are more heavily scrutinized in committees chaired by opposition parties (Fortunato, Martin and Vanberg 2019), we include a binary indicator for bills that are reviewed in opposition-led committees. Table 3 summarizes the descriptive statistics of our key variables.

Statistical Modeling

As our dependent variable is continuous, we employ linear regression. Our data set has a nested structure where observations from several parties are nested within individual bills. The nested structure likely violates the assumptions of traditional regression techniques which treat units of analysis as independent observations, underestimating standard errors (Hox 2010). Therefore, we

⁵The duration of a legislative period is five years. No early elections were called in the time period of our analysis. We use the logged number of months as the relationship between time to the next election and available resources is likely non-linear, such that there are fewer differences in available resources between 33 months and 31 months to the next election, as there are between three months and one month to the next election.

Table 3: Descriptive statistics of key variables.

| <i>a) Dependent Variable: Constructiveness Indicator</i> | | | | |
|--|------------|------------|---------|--|
| Percentile | Opposition | Government | Overall | |
| Min | -3,832 | -774 | -3,832 | |
| 25 | -36 | -6 | -20 | |
| 50 | 33 | 32 | 33 | |
| 75 | 150 | 162 | 158 | |
| Max | 2,670 | 7,178 | 7,178 | |

| <i>b) Independent Variables</i> | | | | |
|---------------------------------|------|-------|-------|-------|
| Variable | Min | Max | Mean | SD |
| Opposition | 0 | 1 | 0.55 | - |
| Bill Importance | 0 | 100 | 11.04 | 13.32 |
| Faction Size | 7 | 69 | 33.01 | 16.76 |
| Date Distance | 1.80 | 56.63 | 27.54 | 14.12 |
| Opposition Chair Committee | 0 | 1 | 0.53 | - |
| Bill Length | 1 | 76 | 8 | 12.38 |

use multilevel modeling in our empirical analysis. We begin with intercept-only regressions, allowing for random intercepts at the bill level. We observe a substantial intra-class correlation of 0.44 at the bill level that is only partially accounted for by the bill-specific control variables. In the analysis, we present linear mixed models which allow intercepts to vary between bills while holding all regression slopes constant over the group-level indicator.

Empirical Evidence on Constructive and Destructive Review

Descriptive Analysis

Because of the novel type of data, we begin by presenting some basic explorations on how the two types of legislative oversight vary between common factors such as policy field and party group. As there have been no prior attempts to model the substance of legislative review in this way, we deem it important to provide some basic intuition on the theoretical concept that we propose. For Figures 3 and 4, we define constructive review as any value on the outcome measure that is larger than zero. This means that more words were added to the bill in the amendment proposal than deleted from it.

Figure 3 plots the two modes of review against the CAP-coded policy fields. We find that almost all policy fields are characterized by some level of constructive and destructive review. Despite some

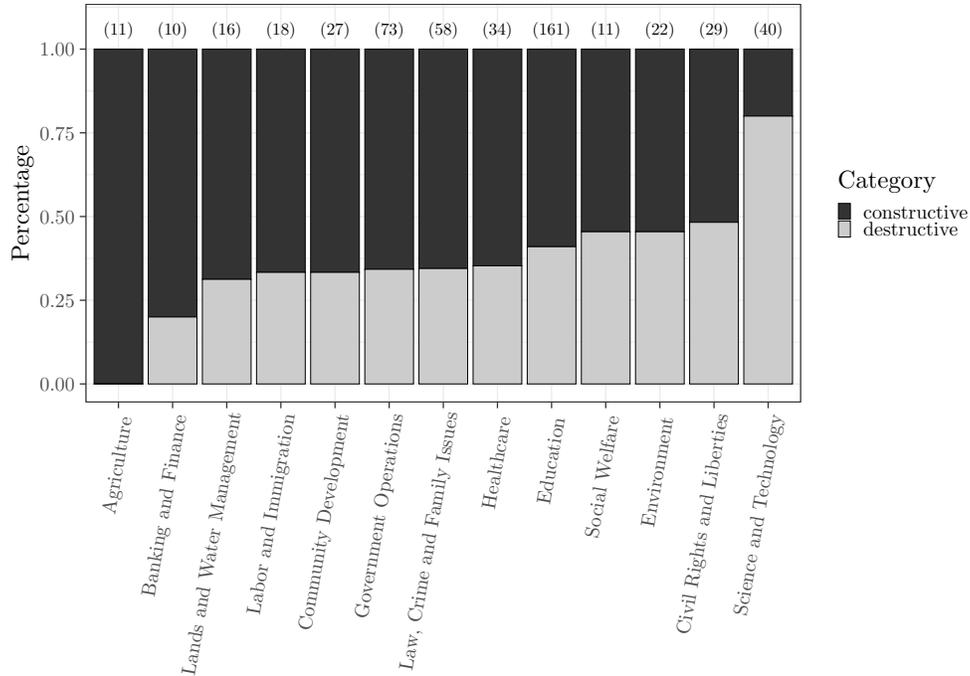


Figure 3: Constructive and destructive review across CAP-coded policy fields. Absolute numbers reported in parentheses. Policy fields with fewer than ten observations are not shown.

variation between the policy fields, we do not observe patterns or clusters in the values which would support the view that constructiveness might be a function of the issue area or of the relevant committee.

As prominently elaborated in the literature, parties selectively focus their attention on certain policy issues in order to generate a track record of “attention, initiative and innovation” (Petrocik 1996, 826) and to develop a steady and enduring ‘ownership’ of specific issues (Walgrave and Swert 2007, Green-Pedersen 2007). Through the constant engagement of parliamentary members with owned issues, party groups develop a reputation for competence in certain issue areas. Hence, one can expect parties to engage more constructively with government legislation if the bill covers their issues areas.

We turn to the German Internet Panel (GIP; Blom, Gathmann and Krieger 2015) to measure parties’ perceived issue competence for a variety of policy fields. In the time period of this study, the GIP asked respondents to rate the competence of political parties on a various issues at five time

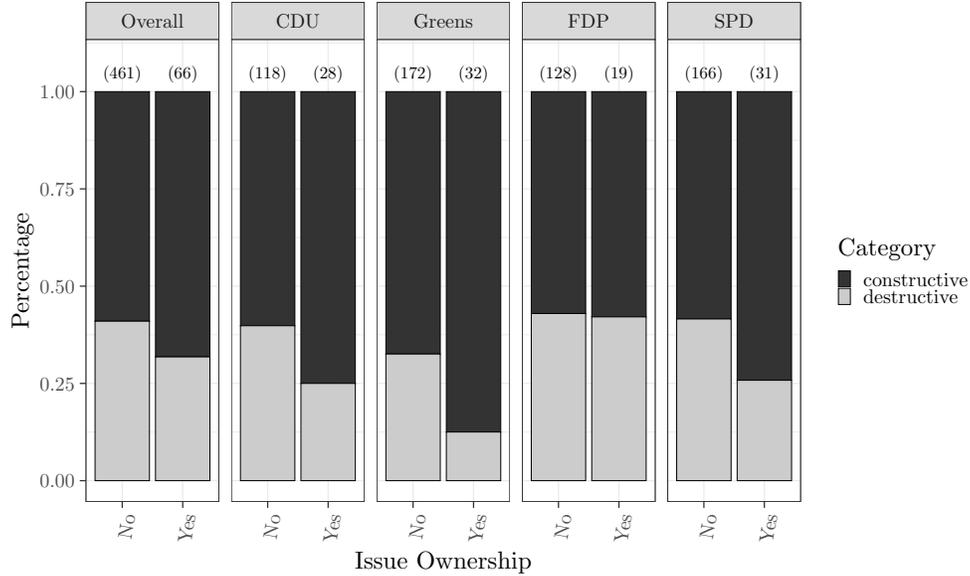


Figure 4: Constructive and destructive review for four party groups and issue ownership assignments. Parties are assigned issue ownership for CAP-coded fields that match the two issue areas for which they are most frequently named as most competent in the GIP data. CDU: Law, Crime and Family Issues. Greens: Energy; Environment. FDP: Banking, Finance and Domestic Commerce; Macroeconomy. SPD: Labor, Employment and Immigration; Social Welfare. Absolute numbers reported in parentheses. Data for the right-wing populist ‘Alternative für Deutschland’ is not reported as the number of observations is too low due to its recent addition to the German party system.

points.⁶ We match the two policy areas for which the perceived party competence was highest in the GIP data to our CAP codings of the bills. In Figure 4, we plot the two modes of parliamentary oversight against parties and a binary indicator of issue ownership. First, we observe constructive as well as destructive review patterns for each party group. Second, we find that the constructive engagement is higher if the addressed policy falls into a party’s ‘owned’ issue area. Overall, the measure for the substance of legislative review behaves in line with expectations and has the potential to provide new insights for the study of parliamentary scrutiny.

Predicting Constructive and Destructive Review

Turning to the statistical models, we first examine our claim that opposition parties’ amendment strategies are more destructive than the legislative oversight of coalition parties. We then consider

⁶Data was collected between November 2012 and March 2015. Data can be accessed from GESIS under identification numbers ZA5867, ZA5871, ZA5873, ZA5921 and ZA5982.

opposition incentives to review more constructively on salient bills. Our analyses reported in Table 4 show robust support for both propositions about the substance of legislative review.

We investigate the government-opposition divide in Model 1. The results from the linear mixed model suggest that opposition parties exhibit drastically more negative values on the constructiveness indicator than coalition parties. Specifically, controlling for bill length, policy field and other factors, opposition parties are expected to delete about 354 words more from proposed legislation than government factions. The difference is statistically significant and more than three times larger than the expected value under a true null hypothesis. This effect provides evidence in line with Hypotheses 1a and 1b.

Figure 5 visualizes the effect. To account for the estimation uncertainty and to take advantage of the framework of simulation-based inference, we follow the protocol described in King, Tomz and Wittenberg (2000) and simulate 10,000 draws from a multivariate normal distribution defined by the vector of parameter estimates and their covariance matrix. The quantity of interest on the y-axis is the share of expected values on the constructiveness indicator that were simulated under the model for opposition and coalition parties that is smaller than or equal to the value on the x-axis. For instance, when focusing on the anchor point zero which divides revisions where more words were added than deleted and vice versa, we observe that 75% of the expected values on the constructiveness indicator are smaller than or equal to zero for opposition parties. Hence, the vast majority of opposition engagement under the model lies in the destructive part of the value range. In contrast, the vast majority of government engagement is predicted to be constructive, as almost the entire share of the cumulative distribution for coalition parties lies in the constructive range of the dependent variable.

Table 4: Results from Multilevel Linear Models.

| | <i>Dependent Variable: Constructiveness Indicator</i> | |
|------------------------------|---|--------------------------|
| | (Model 1) | (Model 2) |
| Opposition | -354.385*** (104.677) | -537.475*** (132.581) |
| Bill Importance | | -18.547* (8.118) |
| Opposition × Bill Importance | | 17.795* (7.946) |
| Log (Faction Size) | -79.514 (75.307) | -74.756 (74.754) |
| Log (Date Distance) | -61.982 (85.671) | -28.172 (88.643) |
| Opposition Chair Committee | -236.601 (143.906) | -275.938 (145.433) |
| Log (Bill Length) | -52.691 (70.499) | -44.481 (70.266) |
| Observations | 277 | 277 |
| Log Likelihood | -2,098.209 | -2,080.543 |
| Akaike Inf. Crit. | 4,242.419 | 4,211.085 |
| ICC | 0.45 | 0.45 |

*Note: All models include dummy variables for 14 CAP-coded policy fields. The table presents fixed effect coefficients from linear multilevel models with random intercepts at the bill level. Coefficient values for the policy dummies and the intercept are not reported. Models were fitted using maximum likelihood estimation. * $p \leq 0.05$; ** $p \leq 0.01$; *** $p < 0.001$.*

Hypothesis 2 stated that opposition parties sometimes face incentive structures that encourage them to deviate from a strategy of bill obstruction and turn towards a constructive engagement with bills. Model 2 supports this expectation. In the model, we present an interaction between bill importance and opposition status. The coefficient estimates suggest that while the baseline review of opposition parties is negative, the values on the outcome variable rise as expected with

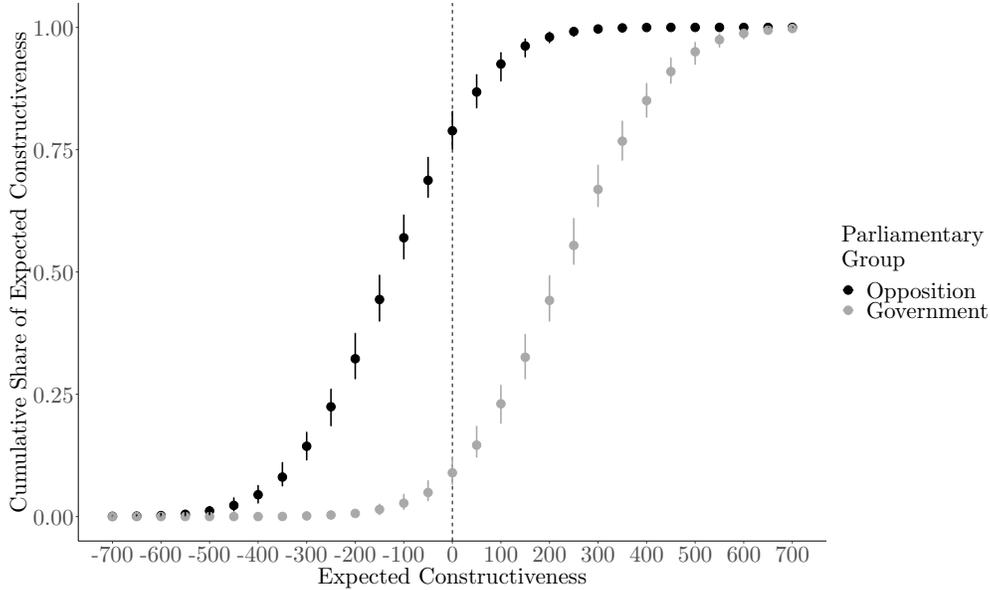


Figure 5: The government-opposition divide in constructive review, based on Model 1 in Table 4. Each point shows the cumulative share of values that are smaller than or equal to the value on the x-axis. Expected values are based on 10,000 draws from a multivariate normal distribution defined by the vector of parameter estimates and their covariance matrix. We hold all control variables at their means, set the policy field to its most frequent category ‘Education’, and change the opposition dummy between zero and one respectively. Error bars indicate the 1% and 99% quantiles of the expected value distributions.

increasing values of bill importance. We visualize this effect in Figure 6, which reports expected values simulated from Model 2 plotted against varying degrees of bill importance.

Conclusion

Drafting and submitting legislative amendments is generally viewed as resource-intensive, as it requires staff and expertise that is in short supply for opposition parties. Moreover, the vast majority of opposition amendments in non-consensual democracies is voted down in parliament. Against this backdrop, the extent to which opposition parties rework government bills seems puzzling. The present study departed from this empirical puzzle and introduced the concepts of constructive and destructive review to the research on legislative bill scrutiny.

First, we shed light on the substance of government and opposition review. We have argued in favor of a distinction between constructive and destructive amendment strategies, where constructive review implies adding to or rewriting proposed policy, whereas destructive review relies on

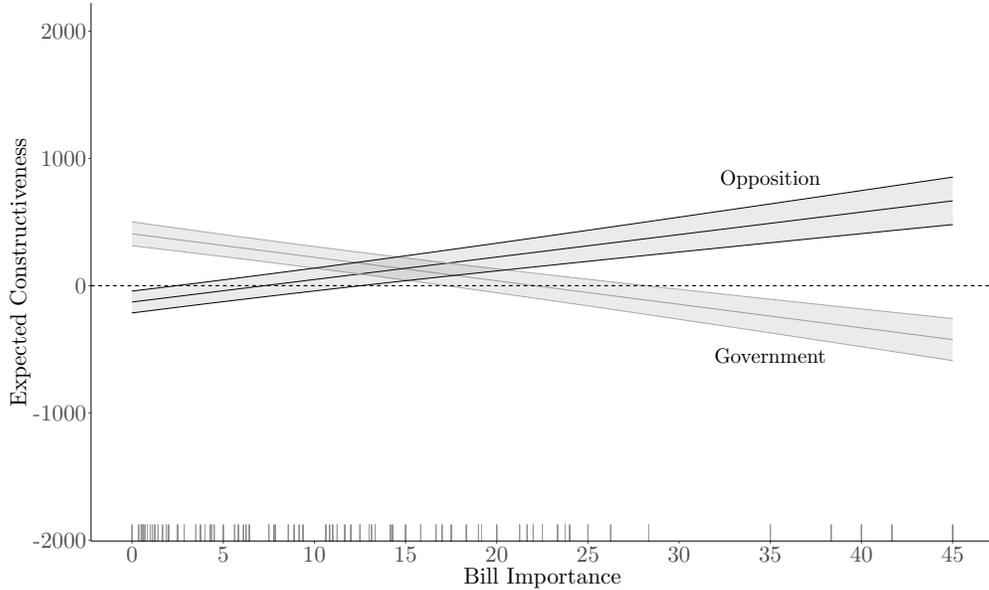


Figure 6: Opposition incentives for constructive review, based on Model 2 in Table 4. The figure plots expected values simulated under the model using 10,000 draws from a multivariate normal distribution defined by the vector of parameter estimates and their covariance matrix. Expected values on the constructiveness indicator are simulated for the policy field ‘Education’. All control variables reported in Table 4 are held at their means. Shaded regions report standard deviations of expected values across all simulated draws.

deleting bill passages. This distinction helps explain the extent of opposition amendments, while also illuminating mechanisms of parliamentary control of coalition governments.

Our study adds to a growing research that studies opposition strategies in parliamentary democracies (Andeweg 2013; Andeweg, De Winter and Müller 2008; De Giorgi and Marangoni 2015; Louwerse et al. 2017). As European parliamentary systems are increasingly characterized by competitive government-opposition interactions rather than consensual patterns of policy-making (Andeweg, De Winter and Müller 2008), it is important to disentangle the motives and strategies of opposition parties in such settings. Opposition groups often circumvent heavy resource investments and enable their extensive engagement by proposing to discard parts of the coalition policy rather than adding to it. We also focused on the conditions when opposition parties do turn to constructive engagement and presented evidence that constructive opposition review of government bills rises if incentive structures—such as the bill importance—make signaling policy position more attractive.

Second, we contribute to research that focused on legislative review as a mechanism for parliamentary control in coalition governments (Martin and Vanberg 2004, 2005, 2014; Dixon and

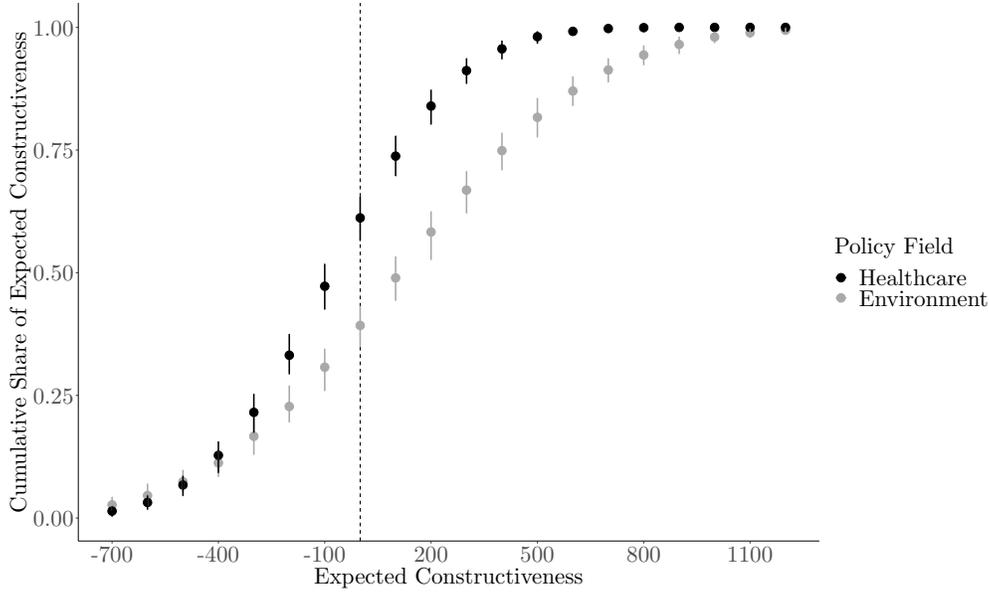


Figure 7: Differences in constructive review between policy fields for the Green party. The figure is based on a re-estimation of Model 1 from Table 4 that only includes amendments of the this party group. On the y-axis, we plot the share of expected values on the constructiveness indicator under the model that are greater than or equal to the value on the x-axis for two policy fields. All control variables are held at their means.

Jones 2019, Fortunato, Martin and Vanberg 2019; Pedrazzani and Zucchini 2013). We argued that collective cabinet responsibility prohibits coalition MPs to veto individual bill sections and restricts legislative control to constructive amendments. On the one hand, this underlines coalition governance as a set of mutual normative expectations to constructively cooperate rather than obstruct bills of the coalition partner. On the other hand, this finding shapes our view of the role and strength of individual ministers in coalition governance. As coalition partners cannot veto individual bill passages (or entire bills), discarding policy sections that ministerial departments proposed is difficult for government MPs. Hence, once a minister has managed to include specific policy statements into legislation, they are hard to undo in parliament.

Our theoretical contribution is applicable well beyond this article. Future scholarship might want to further disentangle the mechanisms that determine the strategic actions of parties in legislative review. As we have already touched upon, the growing literature on issue ownership (Petrocik 1996; Walgrave and Swert 2007; Green-Pedersen 2007; Greene and Haber 2015) is related to our argument, as parties might be expected to engage more constructively in policy fields where their issue competence is high. One, this might result from different competences of MPs between policy

fields since drafting amendments is a highly technical endeavor. Two, parties might be expected to constructively review legislation as a signal toward their electorate, particularly on those issues that are highly salient to their voter base.

There is some evidence for such patterns. We re-estimated Model 1 from Table 4 for different party groups and simulated quantities of interest for different policy fields. Figure 7 is based on a model for the Green party. Legislative review is more constructive in a policy field that is salient to the Green party and its supporters (Environment) in comparison to legislative review in Healthcare.

Additionally, future research might provide further insights into the nature of control mechanisms within coalition governments by taking the substance of legislative review into account. Are there differences in terms of the extent of constructive and destructive amendment patterns towards coalition partners across different characteristics of the legislative arena? Factors such as committee strength are likely crucial, as systems with strong committees can be expected to scrutinize proposed legislation more thoroughly than systems with weak committee structures. In sum, these are examples for a variety of future research endeavors that are possible based on the distinction between constructive and destructive legislative review.

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