

Pressure Groups and the Judiciary

The Political System of the United Kingdom

Intro

Pressure Groups

Theory

Pressure Groups in Britain

The Judiciary

Conclusion



Current Events

Current Events

- ▶ Riots in NI following march
- ▶ SAS death inquests
- ▶ Cameron postpones votes “English Votes for English Laws” & fox hunting
- ▶ ...

Today: Pressure Groups and the Judiciary

- ▶ Political actors so far:
 - ▶ Core institutions: government, parliament, civil service
 - ▶ Parties
 - ▶ The Media
- ▶ Today:
 - ▶ Pressure Groups (including groups formed by ordinary citizens)
 - ▶ Judges (veto players)

What is a Pressure/Interest Group?

What is a Pressure/Interest Group?

- ▶ *Organised* group of citizens with a collective interest
- ▶ Want to affect public policy
- ▶ Different from parties
 - ▶ Don't compete in elections
 - ▶ Usually focused on a single (set of) issue(s)
- ▶ Like parties, not part of the state
- ▶ But possibly with a publicly recognised role

What Roles Do Pressure Groups Perform?

What Roles Do Pressure Groups Perform?

- ▶ Like parties, but more focused
- ▶ Very useful
 - ▶ Provide information about citizens' preference
 - ▶ Help to find workable solutions
 - ▶ Provide legitimacy and help to “sell” policy to their constituencies
- ▶ But unaccountable
- ▶ Not necessarily balanced

The (Neo-)Pluralist Ideal

- ▶ Everyone enjoys freedom of association
- ▶ All interests compete freely for the attention of citizens and policy makers (“the market place of ideas”)
- ▶ No single group is able to control the outcome of that process
- ▶ The common good is the result of this competition
- ▶ (The state/government plays the role of a referee, protects civil liberties and creates a more level playing field where necessary)

Are All Pressure Groups Created Equal?

- ▶ No

Are All Pressure Groups Created Equal?

- ▶ No
- ▶ Group size and specificity of interest
 - ▶ Relatively easy to organise small groups with very specific interests (say doctors)
 - ▶ Next to impossible to organise huge groups with general, diffuse interests (say patients)
- ▶ Blackmailing potential
 - ▶ Some groups provide important services or control relevant resources → very effective threats (farmers, workers in key industries, ...)
 - ▶ Others not (pensioners, students, ...)

What Kinds of Pressure Groups Do Exist?

1. Promotional, cause or attitude groups
 - ▶ In theory, open for the entire population
 - ▶ Trying to achieve or prevent political and cultural change
 - ▶ E. g. environmental groups, reform societies
2. Sectional/interest groups
 - ▶ Much more clearly defined constituencies
 - ▶ E. g. BMA, NFU, Trade Unions
 - ▶ Usually providing a broader set of benefits/services for their members

What Kinds of Pressure Groups Do Exist?

1. Promotional, cause or attitude groups
 - ▶ In theory, open for the entire population
 - ▶ Trying to achieve or prevent political and cultural change
 - ▶ E. g. environmental groups, reform societies
 2. Sectional/interest groups
 - ▶ Much more clearly defined constituencies
 - ▶ E. g. BMA, NFU, Trade Unions
 - ▶ Usually providing a broader set of benefits/services for their members
-
- ▶ Insider vs. outsider groups
 - ▶ Simplistic but useful distinction
 - ▶ Insiders have access to government officials because they have expertise and veto power → strong sectional interest groups

Insider Groups and the Government

- ▶ Policy communities vs. issue networks
- 1. Issue networks
 - ▶ Open, unstable, many participants, conflict
 - ▶ Relationships based on consultation and information, little bargaining
 - ▶ Example in the text: fox hunting
- 2. Policy communities
 - ▶ Limited membership/access
 - ▶ Relationships based on bargaining
 - ▶ Shared interests/values
 - ▶ Interests of departments and pressure groups converge
 - ▶ Examples: agriculture, defence, public sector unions etc.

Insider Groups and the Government II

- ▶ Thatcher/Major
 - ▶ Substantial problems caused by unions in the 1970s
 - ▶ Famously opposed to trade unions, weakened their positions massively, new pressure groups
 - ▶ New Public Management, introduction of new structures in the public service, restructuring of networks
- ▶ Blair/Brown
 - ▶ More consultation
 - ▶ Debts to pay (sometimes literally)
 - ▶ More pro-business than any previous Labour government, uneasy relationship with unions

Insider Groups and the Government II

- ▶ Thatcher/Major
 - ▶ Substantial problems caused by unions in the 1970s
 - ▶ Famously opposed to trade unions, weakened their positions massively, new pressure groups
 - ▶ New Public Management, introduction of new structures in the public service, restructuring of networks
- ▶ Blair/Brown
 - ▶ More consultation
 - ▶ Debts to pay (sometimes literally)
 - ▶ More pro-business than any previous Labour government, uneasy relationship with unions
- ▶ Coalition: No major change, but confrontation with teachers, doctors, nurses

Insider Groups and the Government II

- ▶ Thatcher/Major
 - ▶ Substantial problems caused by unions in the 1970s
 - ▶ Famously opposed to trade unions, weakened their positions massively, new pressure groups
 - ▶ New Public Management, introduction of new structures in the public service, restructuring of networks
- ▶ Blair/Brown
 - ▶ More consultation
 - ▶ Debts to pay (sometimes literally)
 - ▶ More pro-business than any previous Labour government, uneasy relationship with unions
- ▶ Coalition: No major change, but confrontation with teachers, doctors, nurses
- ▶ Today: new legislation on strikes (double majority), picketing, political levy for Labour

Politics and Law

- ▶ Rule of Law
 - ▶ A system of rules
 - ▶ Predictable and consistent application, impartial judges
 - ▶ Removed from politics?
- ▶ Law made by politicians, the result of controversy
- ▶ A means to turn political battles
- ▶ Britain: No clear separation of powers
- ▶ Old office of the Lord Chancellor
 - ▶ Judge
 - ▶ Government minister
 - ▶ Legislator (in the Lords)

How Can Judges Affect Policy?

- ▶ In some system, high-ranking judges as veto players (Supreme Court)
- ▶ Cannot initiate policy change
- ▶ But can “veto” a change of the status quo by declaring it unconstitutional
- ▶ Can sometimes shift the status quo by interpreting general provisions in the constitution
- ▶ Requires a codified constitution and a constitutional court
- ▶ “Activism” can turn judges into policy-makers

The British Tradition

- ▶ Institutional muddle, but in practice largely separate spheres
- ▶ Long tradition of civil liberties, but low degree of legal protection (serious threat from anti-terrorism legislation since 1970s)
- ▶ No real tradition of judicial review
- ▶ Few checks and balances on government/parliament
- ▶ Judges more active since 1970s
 - ▶ Bigger government → more potential for conflict
 - ▶ Citizens more assertive vis-a-vis the government
 - ▶ Changes in the legal system

(Potential) inroads for judges

- ▶ Rulings regarding the legal base for the actions of an official
- ▶ The European Union
- ▶ The European Convention on Human Rights and the HRA

Rulings

- ▶ Did ministers/officials have the authority to act?
- ▶ Where they acting beyond their authority? Did they violate the law?
- ▶ But: No authority to overturn the statute itself
- ▶ No authority to rule on the use of prerogative powers (e. g. treaties)
- ▶ No real administrative courts (vs. Prussia)

The Court of the European Union

- ▶ European law is supreme and immediately applicable
- ▶ British governments and parliament not bound by constitution, but by European law
- ▶ *Citizens* can directly appeal to European Court of Justice at Luxembourg
- ▶ Like in other countries, CoJ became a substitute for a supreme court
- ▶ But the court's jurisdiction largely limited to commerce (but: anti-discrimination, workplace protection etc.)

ECHR and HRA

- ▶ Britain a signatory to the ECHR (1950), but did not incorporate the convention into its domestic law → no appeal before British courts
- ▶ Since 1966, appeals to the European Court at Strasbourg → another quasi-supreme court
- ▶ Human Rights Act (1998) is applied in UK courts, binds public officials and the devolved assemblies
- ▶ But not the parliament at Westminster – parliamentary sovereignty prevails

Conclusion

- ▶ Important and legitimate role of pressure groups, but no neo-pluralist paradise
- ▶ Stranglehold of unions broken by Thatcher (and globalisation); re-organisation of public service and the pressure group system
- ▶ Judiciary reasonably independent, but far less powerful veto players than in Germany or USA
- ▶ Until recently, civil liberties largely protected by traditions
- ▶ Paradoxically, politically powerful judges outside UK (Strasbourg, Luxembourg)
- ▶ UK government less constrained than many other democratic governments?

Class questions

