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Media and lawmaking : exploring the media's role in legislative processes

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Chapter 1

Introduction

1.1 The intense media-politics relationship

In the Dutch television series “Looking inside the soul: Politicians” (*Kijken in de ziel: Politici*), journalist Coen Verbraak interviewed (former) politicians about their profession and about themselves as politicians. The episode called ‘the media’ starts with stories from various politicians about the importance of media performances for one’s position within the party. The Member of Parliament (MP¹) Albayrak argues: “There are ratings of Members of Parliament that have been quoted most often, and that were on the screen the most”. When Verbraak asks whether who is well-known and who is not is taken into account when the list of candidates for the elections is drawn up, she responds by saying: “Yes, and to my taste a bit too much (..), because it means that people who for example make an important contribution to legislation, who work hard, who master the finer points of politics behind the scenes, who are controlling the government very well, but who are just not mediagenic enough, that

¹ The abbreviation ‘MP’ is used throughout the study to refer to a member of the Lower House; the word ‘senator’ is used to refer to a member of the Upper House. If the text says ‘MPs’, members of both Houses of Parliament are meant, unless explicitly indicated otherwise.

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they are punished rather than rewarded” (NTR, 2011).²

The latter quote implies various things: firstly, that in the perception of this MP, appearing in the media is important; secondly, that according to her too much importance is attached to media performances with regard to future elections; and thirdly, and most interestingly, that in her perception being successful in terms of getting media coverage seems to be in contrast with being a good MP in terms of their legislative work. This suggestion is relevant, because it concerns an element of the media-politics relationship that has not been subject to much scholarly research, i.e. the relationship between media and lawmaking. We know quite a lot about the media’s role in other political processes, like parliamentary questioning: parliamentary questions are not only an information-seeking instrument for MPs, but also a means for them to get media attention and to communicate their message to the public (e.g. Van Santen, Helfer & Van Aelst, 2015). And media attention is a potential result of parliamentary questions, but often also serves as the source of these questions (e.g. Vliementhart & Walgrave, 2011). However, we know less about the media’s role in legislative processes. Are the media interested in lawmaking? Do politicians use the media as an instrument during legislative processes? And does media coverage influence lawmaking?

Studies in various countries show that the media affect the work of politicians. According to researchers politics is mediatized, meaning that political actors adjust more than before to the ‘media logic’ (e.g. Altheide, 2004; Brants & Van Praag, 2006; Esser, 2013; Mazzoleni, 2008; Strömbäck, 2008; Strömbäck & Esser, 2014). According to some, the media even have become a political institution on their own (e.g. Cook, 2005; Schudson, 2002; Sparrow, 1999). Large-scale empirical studies show that the media can set and influence policy agendas (e.g. Baumgartner & Jones, 1993; Soroka, 2002; Tan & Weaver, 2009), and that political actors use the media to influence the legislative agenda (e.g. Sellers, 2010). It is almost impossible to think of contemporary politics without (thinking of) the media. Politicians monitor the media closely and respond to the

² All translations in this study are conducted by the author.

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issues of the day. The presence and practices of journalists plays a major role in the everyday behavior of politicians. Politicians adjust to and anticipate the way journalists operate and report (Davis, 2009; Strömbäck, 2008; Van Aelst & Walgrave, 2011).

Politicians may depend on journalists for information and visibility, but journalists depend on politicians to do their work as well. The contact between politicians and journalists is characterized as reciprocal (Kepplinger, 2007) and as a complex interaction (Cook, 2006; Davis, 2009; Sellers, 2010). According to Cook (2006, p. 159), "the media are a product of politics and feed back in to influence politics as well". In this context Sellers (2010) refers to 'cycles of spin'. Based on his research of strategic communication in the US Congress, he argues that the interaction between legislators and journalists has several stages. Politicians create and promote messages, journalists cover these messages, and this media coverage feeds back into the policy process. Following a similar line of reasoning, Wolfsfeld (2011, p. 30) argues that the interrelationship of media and politics should be perceived as a 'Politics-Media-Politics' cycle. This cycle starts with political change that is followed by changes in the coverage of the news in the media, resulting in further political change. Thus the media reflect political change, but also magnify and accelerate change.

Scholars have tried to disentangle whether journalists and politicians in their complex and reciprocal relationship are equally powerful, or whether one of the two groups dominates the other. The fact that conclusions point in different directions (see for example Strömbäck & Nord, 2006; Van Aelst & Vliegenthart, 2013) illustrates the complexity of the relationship between journalists and politicians. Overall, the body of knowledge that has evolved over the past decades suggests that media effects are contingent on a number of factors, but also that more research is needed to develop better insights into media influence on politics (Walgrave & Van Aelst, 2006) as well as into the use of the media by politicians (Van Aelst & Walgrave, 2016). In this study one of the key questions that remains unanswered will be discussed; namely whether and how media play a role in legislative processes.

1.2 Symbolic versus substantial politics

Because of the intensity and reciprocity of the media-politics relationship, it is likely that if journalists pay attention to issues, politicians will do so as well. Over the last decades indeed various studies have demonstrated that what is on the media agenda matters for what is on the political agenda (e.g. Cobb & Elder, 1981; Davis, 2009; McCombs, 2004; Van Aelst, Thesen, Walgrave & Vliegenthart, 2014; Vliegenthart *et al.*, 2016; Walgrave, Soroka & Nuytemans, 2008). Politicians' perception of the political agenda setting power of the media concurs with these findings. Politicians consider the media to be an important, or even the most important, political agenda setter (Lengauer, Donges & Plasser, 2013; Van Aelst *et al.*, 2008; Walgrave, 2008).

In their overview of media and political agenda setting studies, Walgrave and Van Aelst (2006) however show that scholars often focus on the US and that results diverge. Whereas some scholars assert the media's political agenda setting impact is limited, others claim it is strong. To explain such inconsistencies, scholars stress the complexity of the interactions between journalists and politicians and the contingency of the media's influence on politics (Walgrave & Van Aelst, 2006; Wolfe, Jones & Baumgartner, 2013, p. 13). In sum, most studies confirm that the media matter for the political agenda, but the strength of the media impact varies.

It is important to realize that "there is no such thing as *the* political agenda but only an archipelago of different loosely associated political agendas" (Walgrave & Van Aelst, 2006, p. 94). In practice, scholars that study political agenda setting effects never study the political agenda, but always one or more specific political agendas (Dearing & Rogers, 1996, p. 18). In order to differentiate between types of political agendas, Walgrave and Van Aelst (2006) propose to distinguish between symbolic and substantial political agendas. Symbolic political agendas have limited and primarily rhetorical implications, such as parliamentary debates or the public communication of politicians, e.g. presidential speeches (Reinemann, 2014; Van Aelst & Walgrave, 2011). Substantial agendas like laws and

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budgetary spending, on the contrary, have considerable societal consequences because they transform policy intentions into policy decisions and legislation (Brants & Voltmer, 2011). Political agendas can be held by political actors or institutions and it is argued that they can be placed on a continuum, ranging from symbolic to substantial. In other words, scholars do not argue there is a hard and clear-cut distinction between symbolic and substantial political agendas; instead, political agendas can be more symbolic or more substantial. According to Walgrave and Van Aelst (2006, p. 95) MPs may even simultaneously run a symbolical and substantial agenda if they pay attention to issues just to show they care about it or to get into the media (i.e. symbolical), but who also hold legislative power and may propose to change bills in response to media coverage (i.e. substantial).

In terms of consequences for the daily lives of citizens, the media's influence on substantial agendas arguably matters more than that on symbolic agendas. For example, if politicians respond to media coverage only by asking oral questions about an issue, this has less fundamental (potential) consequences than if they decide to introduce a legislative proposal. In practice, scholars who find strong media influence tend to study symbolic political agendas (Walgrave & Van Aelst, 2006). For example, we know that the media affect the oral and written parliamentary questions that are being asked (e.g. Van Aelst & Vliegthart, 2013; Van Santen, Helfer & Van Aelst, 2015; Vliegthart & Walgrave, 2011; Vliegthart *et al.*, 2016). However, the few existing analyses of political agendas with actual regulatory or legislative consequences find limited or no media effects on the attention paid to issues (Pritchard & Berkowitz, 1993; Walgrave & Van Aelst, 2006). In fact, although scholars emphasize that it is an important research subject (e.g. Brants & Voltmer, 2011), substantial political agendas are rarely studied.

Because of the societal implications of policy measures, it is important to develop insights into media effects on debates that have actual and substantial policy consequences. An aspect of politics that definitely has such implications is lawmaking: if bills become laws, they introduce general rules that most often apply to all citizens.

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However, also in research areas outside political communication, academics have rarely studied legislation itself (Voermans, 2011, p. 38). Media coverage may influence political decision making in the context of lawmaking, that eventually translates into legislation. This type of media effect on politics is as yet under-studied, which leaves us ignorant of the actual media influence on the functioning of politicians in their important capacity as legislators (Van Aelst *et al.*, 2008, p. 495).

When studying substantial politics, it is relevant to take an integral approach and study the entire policymaking process. Media effects studies usually focus on the agenda setting phase (Pritchard & Berkowitz, 1993), but, as phrased by Michelle Wolfe (2012, p. 110): “what about media influence beyond agenda setting?”. The moment at which the legislative agenda is set, i.e. when it is decided that new legislation will be developed, is not the end of a political procedure; in fact, it is the start of a political legislative process. It is argued that in the US House of Representatives press attention goes beyond agenda setting and affects later stages of the legislative process as well (Cook, 1989, p. 170). If legislators want to get something done, they must be both ‘outside players’ who are visible in the media and ‘inside players’ who negotiate inside the House. Wolfe *et al.* (2013, p. 21) suggest that in this context the media may set or constrain a substantial political agenda by shifting policymakers’ attention to a policy problem or a particular solution. American scholars argue that politicians may also use media tactics to communicate with their voters and with other legislators (e.g. Cooper, 2002; Kedrowski, 1996). Still, there is very little recent empirical research studying the media’s role during legislative processes, in particular within European parliamentary and multi-party systems.

More knowledge is valuable in itself, but also helpful in order to have informed debates about the (un)desirability of media attention for and influence on lawmaking. The underlying normative question is what the findings concerning the media’s role in legislative processes mean in terms of the functioning of representative democracy. Scholars often perceive the process of mediatization and the institutionalization of media logic in politics as detrimental to

electoral democracy, because it results in a decline of power and influence of political actors (e.g. Swanson, 1992) and because journalists fail to provide citizens with information about important policy issues that is necessary to hold the government accountable (e.g. Esser, 2013; Gurevitch & Blumler, 2000).

However, Sellers for example argues that the media coverage of policymaking processes resulting from the interaction between politicians and journalists can “provide useful signals to voters about the parties’ policy priorities and proposals” (Sellers, 2010, p. 15). Do journalists provide citizens with the necessary information to act as informed participants in democracies? In other words, do the mass media pay enough attention to parliamentary legislative processes? In order for citizens to be able to judge the quality of representation and make an informed decision about whether to reward or punish the MP or party that one voted for at previous elections, it is important that the media report on consequential decision making processes such as lawmaking. At the same time, the media arguably should translate public responses to proposed bills. Do the media provide a platform for public debate about bills, which serves as a source of information for politicians about opinions in society? And because of concerns about the development of a ‘mediacracy’ (e.g. Van Dalen & Van Aelst, 2014, p. 42), it is important to learn whether substantial political processes such as lawmaking are (also) mediated.

1.3 Research question

The aim of this study is to investigate whether media coverage influences legislative processes and impacts the content of laws. On the one hand, legislative processes are often rather lengthy and technical, and therefore may be incongruent with media logic. Scholars suggest that the rather short attention span of the media may limit effects on more slow democratic processes (e.g. Dearing & Rogers, 1996; Protess & McCombs, 1991). Or as Voltmer and Koch-Baumgarten write in their edited volume on *Public Policy and Mass Media* (2010, p. 2): “there seems to be a fundamental mismatch

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between the way in which the media operate and the processes of policymaking”.

On the other hand, it is plausible that media attention matters for lawmaking. Considering the consensus about the media's increasing power, one would expect media reports to play a role in all parts of the political process. Generally speaking, politicians are news junkies (Davis, 2007; Van Aelst *et al.*, 2008). If parliamentarians follow what the media report about legislative processes they are involved in, they may be susceptible to what they read in the newspapers, hear on the radio and see on television. Research suggests that mass media serve as a source of information for MPs, providing clues about problems in society and opinions of the public and other politicians; they can profit from the window of opportunity this public information creates (Van Aelst & Walgrave, 2016). The media send signals about the relevance of interests and arguments to political actors involved in legislative processes, and “as an input into the political system that reweighs information, the media can exert a large influence on the policy process (Wolfe, 2012, p. 123). It is thus plausible that MPs respond to media coverage when discussing proposed bills.

In this study I explore and analyse the media's role in the legislative process. The main research question is: does media coverage play a role in legislative processes, and if so, how? I discuss whether media attention plays a role in lawmaking and the mechanisms via which it influences legislative processes. I investigate the media's influence on the functioning of the legislative process as such, as well as its effect on the eventual legislative outcomes. The former means that I study whether during the lawmaking process political actors respond to media coverage, for example during legislative debates or via the introduction of amendments. The attention to outcomes refers to whether the final content of and support for the bill are affected by media coverage.

The empirical analyses are conducted in a single country, the Netherlands. This is a parliamentary representative democracy with a multiparty system, a bicameral parliament and a democratic corporatist media system (Hallin & Mancini, 2004). Legislative processes are defined as the formal deliberations about bills from the

moment they are introduced to parliament until they are published in the official law gazette. I adopt a qualitative and actor-centered approach; I focus on the behavior of individual political and journalistic actors. Many political agenda setting studies (implicitly) claim that media coverage mechanically leads to political attention (Walgrave & Van Aelst, 2006, p. 98-99). The idea of the actor-centered approach challenges this mechanical reasoning and argues that it is individual journalists and politicians who decide to pay attention to an issue – or not. In order to be able to study their behavior at the micro level, I adopt a case study approach. By conducting in-depth case study analyses of the behavior of political and journalistic actors in three cases, I am able to develop knowledge of the media's role in lawmaking. Consequently, this book adds to current knowledge about media and politics in various ways: a) it shows the media's impact *beyond* the agenda setting phase; b) it provides insights into the media's impact on *substantial* political agendas; and c) it does so by providing *in-depth* information on the individual-level mechanisms driving the behavior of political actors during legislative processes.

1.4 Structure of the book

In Chapter 2, I present an overview of what we know about the relationship between media and lawmaking. Political agenda setting studies suggest or assume that media do influence policy agendas, but whether and how media affects subsequent phases of policymaking processes, in particular legislative processes, remains unclear. Based on the literature, I explore the potential media effects on lawmaking. This overview shows that there is a gap in the literature about the media-politics relationship when it comes to how media attention affects the behavior of MPs with regard to lawmaking *in parliament*. Moreover, a prior quantitative analysis of the newsworthiness of legislative processes in the Netherlands shows that 80% of all bills in parliament receives no media coverage at all (Van Aelst, Melenhorst, Van Holsteyn & Veen, 2015), but if coverage is substantial, it is likely that the parliamentary process is

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influenced by this coverage (see also Melenhorst, 2013).

To study this impact and potentially other relevant mechanisms, I analyze three legislative processes that received ample media coverage on the basis of a heuristic model that guides the case studies. To select the cases, I adopt a sequential case selection strategy. Four research questions are central for each separate case: 1) What does the media attention related to the bill look like? 2) Do politicians in parliament respond to media attention, and if so, how? 3) Do politicians try to generate or influence the legislation-related media coverage? 4) Does media coverage influence the legislative outcome, and if so, how? For each case, I first perform qualitative content analyses of all parliamentary documents of the legislative process and of all press, radio and television coverage of the (topic of the) bill. Subsequently I analyze semi-structured interviews conducted with the main political actors involved, as well as with (parliamentary) journalists that produced the media coverage of the (topic of the) bills.

In Chapter 3 I present the results of the first case study, i.e. the legislative process concerning the bill ‘regulation of the remuneration of top-ranking officials in the public and semipublic sector’ (*Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector*, 32.600). The bill addresses the remuneration of senior officials in the public and semi-public sector. Structured by the four research questions, I analyze whether this legislative process, including several substantial changes in the content of the bill, is inspired by, or a response to media attention (see also Melenhorst, 2015). The analyses show that the largely incident-driven media attention played a role in the legislative process. However, media coverage rarely had a direct, substantive effect and was mainly used to underline or reinforce political actors’ existing positions.

Chapter 4 presents the results of the second case study, i.e. the legislative process concerning the bill ‘employment and security’ (*Wet werk en zekerheid*, 33.818). The bill restructures employment law in the Netherlands and incorporates three issues, namely dismissal law, the legal status of flexible workers, and unemployment benefits. The in-depth analysis shows that media coverage affected

the legislative process to some extent, but does not indicate that the media had a strong influence on the positions of parties or politicians. In particular the agreements reached prior to the introduction of the bill were far more influential than journalistic attention. Media coverage was again mainly used to underline or reinforce political actors' already existing positions, although the extensive coverage with a critical tonality enhanced the doubts various political actors had. However, media coverage alone is not enough: criticism has to be voiced elsewhere as well, and the role of the media attention is subordinate.

Chapter 5 deals with the results of the third case study, i.e. the legislative process concerning the bill 'study loan higher education' (*Wet studievoorschot hoger onderwijs*, 34.035). The bill introduces a student finance system that replaces the existing basic grant with the possibility to apply for a student loan. The analyses show that media coverage did play a role in the legislative process, but that it did not affect the content of and support for the bill. Media coverage directed politicians' attention to specific topics, but it never served as an autonomous, influential source of information for Members of Parliament (MPs). Media coverage was used by MPs to strengthen their position or to attack political opponents; several MPs also tried to create media coverage, to create visibility for their party, and maybe even influence the policy content. Overall, however, media coverage has not influenced the legislative outcome of the process.

Chapter 6 discusses the similarities as well as differences between the three cases. This comparative analysis of the case study data results in a preliminary model of media-lawmaking interaction. The three separate studies show that coverage rarely contains information that is new to the MPs who deal with the bill. Politicians in both Houses of Parliament, and from opposition as well as coalition parties, primarily use media attention rhetorically during legislative debates. Explicit references are more common in the Lower House of Parliament; and because media coverage is often critical, it best suits the aims of opposition MPs. Politicians sometimes try to get into the media to create visibility for their parties' position; journalistic interest for the actual legislative process is often limited. With regard

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to legislative outcomes, the cases show that the media's influence is limited, primarily since parties' positions towards bills are often already determined prior to the legislative process, for example because of what is in their election programs or part of the coalition agreement, or because parties signed an ad hoc agreement about the particular topic. With regard to the differences between the cases, the mechanisms at play do slightly diverge. The type of media coverage and its influence on the legislative process may differ between bills because of their political context; incentives for MPs to respond to media coverage seem stronger with a bill that is driven by public indignation, like in the first case, and weaker if a bill results from an ad hoc political agreement, like in the second and third case.

In Chapter 7 some concluding remarks are presented. I argue that the media's influence on lawmaking is mainly an emphasizing effect: media coverage puts emphasis on issues, arguments or actors. As one of many sources of information political actors have at their disposal, media can highlight a bill's consequences, a particular argument, or the position of an expert. Media coverage is also and primarily used as a rhetorical instrument in legislative debates and helps to emphasize the topicality of an issue, to influence the direction of the debate, and to show the validity or relevancy of an argument. To conclude, I discuss various normative implications of the study and its main findings and argue that when it comes to lawmaking political actors are keeping an eye on media coverage, but that legislative processes are not dominated by or confined to what is covered in the media.