

Rand Paul's budget filibuster shows the decline of the US Senate as a deliberative body



Last week Kentucky GOP Senator Rand Paul filibustered a budget bill which would have kept the US government open. [John D. Rackey](#) writes that Paul's filibuster – which was very unusual in and of itself – was in protest that his amendment to the budget bill was not given a vote. This lack of input outside of the Senate leadership, he writes, illustrates that the US Senate has moved away from its deliberative roots to a much more closed model of legislating.

Last Thursday night, Senator Rand Paul (R-KY) engaged in a rare majority-party filibuster against the budget deal negotiated by Majority Leader Mitch McConnell (R-KY) and forced a government shutdown. Why did Paul feel the need to filibuster the spending deal? What does his filibuster tell us about the current working environment the Senate? We should now expect dysfunction to be the new norm in the US Senate.

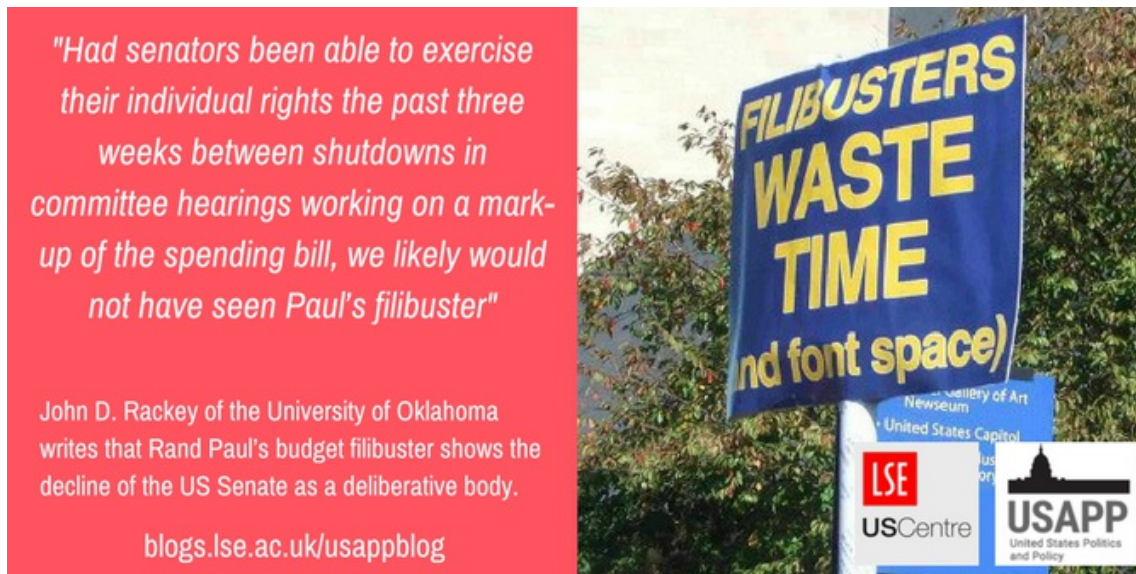
The Unusualness of Paul's Filibuster

What is so notable about Paul's filibuster, beyond the fact that it led to a government shutdown, is that it is an extremely rare type of filibuster in the modern Senate, for two reasons. First, the fact that Paul actually held the floor to speak on the subject engaging in a talking filibuster is highly unusual. As other scholars and I have [argued in the past](#), because Senate leadership has long abandoned the practice of forcing senators to hold the floor in order to filibuster, the frequency with which the filibuster is used has increased. Paul's filibuster being a talking filibuster is an example of an increasingly rare phenomenon because most senators do not wish to risk the increased political costs associated with engaging in such a talking filibuster rather than a more behind the scenes type of filibuster.

Second, Paul's filibuster is rare because it was a filibuster executed by an individual of the majority party. Filibusters have historically been mythologized as a lone Senator standing her ground to speak truth to power in a last-ditch effort to stop a poisonous piece of legislation. In reality, as Lauren Bell points out in her book, [Filibustering in the U.S. Senate](#), since 1980 the filibuster has increasingly been used solely as tool of a partisan minority, not individuals and certainly not individuals of the majority party. Bell shows that, from 1980 to 2008, seventy-seven percent of filibusters were led by members of the minority party, whereas prior to 1980 only about thirty-seven percent of filibusters were minority party led. My recent work extending Bell's list of filibusters shows that since 2008, the shift to the filibuster becoming an exclusive tool of the minority party has been completed. Since 2008, only five percent of filibusters have been led by either majority-party members or a bipartisan coalition of majority and minority party senators. It should be noted, all of the recent majority-party led filibusters, with the exception of one case, were led by Rand Paul.

How Did We Get Here?

During his hours long floor speech Thursday night, Paul made several impassioned pleas to his colleagues to consider what the budget deal would do to the United States' debt. On the floor Paul railed against the fecklessness of his fellow deficit hawks in the Senate for abandoning principle in order to keep the government open. Whether you believe Paul's arguments for why he wanted to shut the government down or favor the [explanation some his colleagues gave](#) for his actions, that he "wanted attention," the fact still remains that his filibuster could probably have been avoided.



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At the heart of Paul's argument was that his amendment to the spending bill should have received a simple up or down vote. The thing is, no senator was given such courtesy on this must-pass legislation. Senate leadership argued that there was not enough time to consider Paul's amendment because if they considered his, they would have to allow other senators the courtesy of offering amendments and that there simply would not be time before the government shutdown to vote on all of the amendments.

This tactic of putting important bills up against artificial deadlines as a means of controlling the legislative process used by Senate leadership is nothing new. But, the increased frequency with which leadership has been using it in combination with a "leadership only" approach to drafting legislation has all but left rank-and-file members of Congress out to dry. Historically, what made being a US Senator such a good gig, as compared to a member of the House, is that as an individual you had enormous authority and autonomy from party leadership. That authority has been waning over the past few decades and is currently at the lowest it has ever been. Had senators been able to exercise their individual rights the past three weeks between shutdowns in committee hearings working on a mark-up of the spending bill, we likely would not have seen Paul's filibuster. Additionally, it would have been less likely for Paul and twenty-seven other senators to vote against the bill's final passage.

A New Normal?

Majority Leader McConnell's perfection of the tactic developed by former Minority Leader Harry Reid of shutting the rank-and-file completely out of the legislative process has left us with a "world's most deliberative body" that more closely resembles a chamber of legislators perpetually engaged in a game of "Who's on first?" Where no one knows the status of any major piece of legislation and everyone is waiting for someone to intervene and tell them what is going on. The closing off of the legislative process has been going on for so long that it is unlikely any junior senator, or even the most senior senators, would even know what to do if they were allowed free and open mark-up of a bill. With little institutional knowledge remaining in the Senate of a process any different from the one we just experienced with the spending bill, it is unlikely that we will see any change going forward.

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