

third-party enforcement. It is more important that constitutional law represents the conventions accepted in a society, and that societal order is coordinated around these conventions. A “dualist” understanding views constitutions as frameworks within which other politics and institutions operate. They establish second-order rules that must be followed when making more specific laws.

By constraining rulers, constitutions aim to protect citizens’ rights. When a constitution stipulates judicial review, citizens can petition courts to invalidate laws that violate constitutional principles. Although, as with the unwritten British constitution, not all provisions are judicially enforceable, they may nonetheless serve as focal points for legal interpretation and political debate, as well as indicators of which government interventions will be accepted by citizens.

A constitution serves, in some sense, to codify existing social relations. Constitutional design, therefore, is constrained by internal and external power dynamics. Resulting agreements reflect these relationships rather than pure legal ideals. As a result, underrepresented groups continue to be excluded, unless they gain influence by extraconstitutional means.

Russell Hardin (1999) sees constitutions more as models of mutual advantage than as binding contracts. It is usually in the best interest of all parties to uphold the rules that maintain order within their society. There are relatively few occasions when it would be more difficult to follow existing rules than to renegotiate the terms of a constitution.

Those rare circumstances on which recoordination is less costly for society are constitutional moments (Ackerman 1991). Changes in power alignments, in relation to internal politics or external influence, may necessitate a change in the substance of a constitution. These moments may involve major amendment to an existing constitution, as in the post–Civil War United States, or they may require a complete overhaul of the constitution, as in South Africa following the inclusion of the black population as full citizens in the 1990s. At these times, questions of legitimacy arise because the constitutional authors have not been elected by a process representing the new social contract, and may not represent the people who will be bound by the new document. If a new constitution is to remain a stable set of rules for the polity, it must represent a credible commitment by citizens and leaders who will not have an incentive to override or renegotiate it, or resort to violence. Such constitutional moments may arise in the context of postwar reconstruction, independence movements, domestic upheaval, or union of existing polities. In each situation, citizens encounter distributional gains and losses reflecting societal change.

SEE ALSO *Judicial Review; Locke, John*

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CONSTITUTIONS

Constitutions can be defined as a set of rules that aim at regulating the channels of access to principal government positions, the allocation of powers among different branches of government, and the rights of citizens. Most constitutions also include rules establishing procedures for their own amendment and the conditions under which constitutional provisions can be suspended.

Nearly all countries in the contemporary world have written constitutions, often identified as the “fundamental law.” Even for these countries, however, it would be misleading to restrict the constitution to a single document so named. Some of the rules that create the structures of government and delimit their authority are also contained in statute law (such as laws establishing the jurisdiction and powers of governmental departments or independent agencies) and in judicial decisions (such as the rulings of a constitutional court) that are not codified in a single document. In addition, there are always unwritten conventions that regulate the behavior of representatives and citizens, particularly in areas where written rules are silent or unclear. Moreover, most parts of a constitution can be composed of unwritten conventions, as is the case of the United Kingdom, New Zealand, and Israel.

Constitutions generally attempt to prevent the arbitrary use of state power. But there is a wide variation in the degree to which state authorities effectively abide by the constitution. Rulers are more likely to observe a constitution that emerged out of a democratically elected body representing a plurality of political forces. They are also likely to comply with the constitution when citizens agree on the authority of the constitution as a set of impartial procedures for the resolution of conflicts. This consensus, however, is often lacking when societies are divided by overlapping cleavages of an economic, religious, or ethnic nature.

Constitutions that are at least minimally enforced are essential for the existence and legitimacy of democratic

regimes. Citizens would not be free to criticize the government and keep its decisions in check without basic constitutional rules guaranteeing freedom of expression and providing remedies against arbitrary state action. Truly competitive elections could not exist without constitutional rules guaranteeing freedom of assembly and organization.

There is great variation in the way constitutions organize a democratic regime. Constitutional democracies can be presidential, if the chief of government is elected by the people for a fixed term, or parliamentary, if he or she is elected by the assembly and responsible to the legislative majority. Legislative assemblies can be unicameral or bicameral. States can be unitary or federal. Most contemporary constitutions establish independent courts responsible for interpreting the constitution. Constitutional courts, however, vary in organization, composition, and powers. Finally, while the majority of constitutions include amendment rules that attempt to make constitutional reforms more difficult to pass than ordinary laws, these rules can be relatively flexible or extremely rigid.

In the twenty-first century constitutions are implicitly or explicitly central to some of the most important research fields in social sciences. Constitutions and their various designs are considered to have a crucial impact on the stability and quality of democracy, on economic policy and economic performance, and on the rate of policy change in political regimes.

SEE ALSO *Authority*

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CONSTRAINED CHOICE

Constrained choice occurs when an economic agent must determine the optimal combination of choice variables (given some relationship between combinations of those variables and payoffs) in the face of a constraint limiting the set of feasible combinations for those variables available to the agent. For instance, a consumer seeks to choose the combination within his or her means of consumption goods and services that maximizes welfare. More specifically, if C_1 and C_2 are the goods for which the consumer must choose the optimal combination, the consumer's problem is to maximize utility ($U(C_1, C_2)$) given a budget constraint: $p_1 * C_1 + p_2 * C_2 \leq M$, where p_1 and p_2 are the prices of the two goods and M is the consumer's overall income or purchasing power.

The concept of constrained choice has been extended both theoretically and empirically to more elaborate settings. It arises naturally when agents must make forward-looking decisions or when agents are uncertain. For instance, life cycle models of saving and consumption focus on the challenge presented to agents who must maximize discounted lifetime utility given the constraints imposed by current and future income, and prices and opportunities to save or borrow. Agents may face uncertainty in terms of future income and prices, as well as the returns to savings. The simple budget constraint posed must then be recast in intertemporal terms in a fashion that reflects the impact of per period saving or borrowing, as well as uncertainty regarding future income flows, returns to saving, and prices. A common way of approaching this is the value function method, which essentially reduces the rather complex intertemporal problem to a series of two-period problems.

The concept of constrained choice has also been extended to other behavioral settings, such as joint decision-making. For example, household bargaining models attempt to capture a household's members' efforts to maximize their personal utility from the consumption of goods and services, given a limit to overall household purchasing power. The household bargaining example also speaks to alternative approaches to choice. For instance, much of game theory studies interactive decision-making. This approach focuses on the constraints placed on an agent's decision-making by other agents' likely responses to his or her decisions. Thus the agent does not necessarily face a static, internal (to him- or herself) constraint as in the examples previously presented, but other agents' likely reactions to the agent's behavior, and their responses' implications for the agent's own payoff function, effectively constrain his or her behavior.

SEE ALSO *Choice in Economics*