

Columbia University
Department of Political Science
Fall 2012

Seminar
The Politics of Constitutional Change in Latin America

Instructor: Gabriel L. Negretto
Room: TBA
Day and time: Thursdays 6:10-8
Office Hours: TBA
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Objectives

The purpose of this seminar is to analyze the politics of constitutional change from a theoretical and comparative perspective. We will discuss different approaches to constitutional stability and change and apply them to explain selected cases of constitutional reform in Latin America. The seminar is divided into three sections: concepts and approaches, institutional design and variation, and constitution making episodes. We conclude with a discussion on the importance of constitutional change for the reformulation of a research agenda on institutional origins and effects.

The first section focuses on conceptual issues. We start by discussing the nature of constitutions, the concept of constitutional change and stability, and theories of constitution making. The second section concentrates on the evolution of central political institutions, such as the separation of powers, electoral rules, presidential powers, and the judicial system in Latin America. In this section, we will study the evolution of these institutions as well as the nature of recent changes. The third section is dedicated to discussing particular cases of constitutional reform. We will cover different areas of reform in Argentina, Colombia, and Ecuador.

Requirements

Each session will be divided into a general introduction to the topic of the week, student presentations and a guided discussion. Since the course has been organized as a seminar, active participation is required. Students are expected to come to class prepared to discuss the literature assigned for the session.

The grade will be based on three criteria: 1) participation in class discussions (10%), 2) two short papers and in-class presentations (20% each) by each student throughout the course of the semester, and 3) a research paper (50%).

The two short papers should be 2-3 pages in length, double-spaced. These papers should cover different aspects of the reading assignments of the week and elaborate on critical

points for discussion. The final research paper will be based on a topic developed from course materials. This paper requires conducting independent research on the theories and concepts discussed in class and may include a case study or comparative analysis. The paper should be 20-25 pages in length, double-spaced typed, with proper citations.

Contents and class schedule

Section 1: Conceptual Issues

1A. Political institutions as causal factors and as objects of explanation (Week 1)

- Riker, William. 1980. "Implications from the Disequilibrium of Majority Rule," *American Political Science Review* 74: 432-446.
- Shepsle, Kenneth. 1986. "Institutional Equilibrium and Equilibrium Institutions." In Herbert Weisberg (ed.), *From Political Science: The Science of Politics*, pp. 51-81.
- Shvetsova, Olga. 2003. "Endogenous Selection of Institutions and Their Exogenous Effects." *Constitutional Political Economy* 14: 191-212.

Recommended

- Grief, Avner, and David Laitin. 2004. A Theory of Endogenous Institutional Change. *American Political Science Review* 98 (4):633-652.
- Carey, John. 2000. "Parchment, Equilibria, and Institutions." *Comparative Political Studies* 33: 735-761.

1B. Perspectives on institutional change: strategic and historical (Week 2)

- Knight, Jack. 1998. "Models, Interpretation and Theories: Constructing Explanations of Institutional Emergence and Change," en Jack Knight and Itai Sened, *Explaining Social Institutions*. Ann Arbor: Michigan University Press, pp. 95-120.
- Pierson, Paul. 2003. *Politics in Time*. New York: Cambridge University Press, Ch. 4.
- Alexander, Gerard. 2001. "Institutions, Path Dependence, and Democratic Consolidation." *Journal of Theoretical Politics*, Vol. 13, No 3: 249-270

Recommended

- Mahoney, James. 2000. "Path Dependence in Historical Sociology." *Theory and Society* 29: 507-48.

- Thelen, Kathleen. 2003. "How Institutions Evolve: Insights from Comparative Historical Analysis, in James Mahoney y Dietrich Rueschmeyer, *Comparative Historical Analysis in the Social Sciences*. New York: Cambridge University Press, pp. 208-240.

1C. On the Nature of constitutions (Week 3)

- Vogdanor, Vernon. 1988. Introduction. In *Constitutions in Democratic Politics*, ed. Vernon Vogdanor. Aldershot: Gower Publishing Company, pp. 1-13.
- Buchanan, James & Gordon Tullock. 1962. *The Calculus of Consent*. Ann Arbor: The University of Michigan Press, Chapter 6.
- Weingast, Barry. 1997. "The Political Foundations of Democracy and the Rule of Law." *American Political Science Review*, 91 (2): 245-263.

Recommended

- Elster, Jon, and Rune Slagstad. 1988. *Constitutionalism and Democracy*. Cambridge: Cambridge University Press.
- Ferejon, John, Jack Rakove and Jonathan Riley, eds. 2001. *Constitutional Culture and Democratic Rule*. Cambridge: Cambridge University Press.

1D. Alternative means of constitutional change (Week 4)

- Lutz, Donald. 1995. "Toward a Theory of Constitutional Amendment." In Sanford Levinson, ed., *Responding to Imperfection: The Theory and Practice of Constitutional Amendment*. Princeton: Princeton University Press, pp. 237-274.
- Elkins, Z., Guinsburg, T., and Melton, J. 2009. *The Endurance of National Constitutions*. New York: Cambridge University Press, Chaps. 4 and 5.
- Negretto, Gabriel. "Replacing and Amending Constitutions. The Logic of Constitutional Change in Latin America", *Law & Society Review*, vol. 46, No. 4, October 2012

Recommended

- Ackerman, Bruce. *We The People*, vol. 1: Foundations (Cambridge, Mass.: Harvard University Press, 1991), Chap. 1.
- Levinson, Sanford. 1995. "How Many Times Has the United States Constitution Been Amended?." In Sanford Levinson, ed., *Responding to Imperfection: The Theory and Practice of Constitutional Amendment*, pp. 13-36.
- Rasch, Bjorn Erik, and Roger D. Congleton. 2006. "Amendment Procedures and Constitutional Stability." In Roger D. Congleton and Birgitta Swedenborg (eds.),

Democratic Constitutional Design and Public Policy. Analysis and Evidence. Cambridge, Massachusetts: MIT Press, pp. 319-342.

1E. Theories of constitution making (Week 5)

- Jillson, Calvin, and Cecil Eubanks. 1984. "The Political Structure of Constitution-Making: The Federal Convention of 1787." *American Journal of Political Science*, 28 (3): 435-458.
- Geddes, Barbara. 1996. "Initiation of New Democratic Institutions in Eastern Europe and Latin America." In Arend Lijphart and Carlos, Waisman (eds.), *Institutional Design in New Democracies: Eastern Europe and Latin America* (Boulder: Westview Press, 1996).
- Elster, Jon. "Forces and Mechanisms in Constitution-Making." *Duke Law Review*, 45: 364-96.
- Negretto, Gabriel. 2012. "A Two-Level Theory of Constitutional Choice," in *Making Constitutions. Presidents, Parties, and Institutional Choice in Latin America*, Chapter 2. Forthcoming, Cambridge University Press.

Recommended

- Jillson, Calvin. 1988. *Constitution-Making: Conflict and Consensus in the Federal Convention of 1787*. New York: Agathon Press.
- Lijphart, Arend. 1992. "Democratization and Constitutional Choices in Czechoslovakia, Hungary and Poland 1989-91." *Journal of Theoretical Politics*, 4 (2): 207-223.
- Colomer, Josep. *Strategic Transitions: Game Theory and Democratization* (Baltimore: The John Hopkins University Press, 2001), Chapter 5, pp. 108-123.

Section 2: Constitutional Design and institutional variation in Latin America

2A. Consensual constitutions and separation of powers (Week 6)

- Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, New Haven: Yale University Press, 1999, Chs. 2 and 3.
- G. Bigham Powell, *Elections as Instruments of Democracy*, New Haven: Yale University Press, 2000, Chs. 1 and 2.
- Negretto, Gabriel. 2011. "Shifting Constitutional Designs in Latin America. A Two-Level Explanation." *Texas Law Review*, No 89, pp. 1-29.

Recommended

- Shugart, Matthew, and Stephan Haggard. 2001. "Institutions and Public Policy in Presidential Systems", in S Haggard and M McCubbins, eds. *Presidents, Parliaments and Policies*. Cambridge: Cambridge University Press, pp. 64-102.
- Alemán, Eduardo and George Tsebelis. 2005. 'The Origins of Presidential Conditional Agenda Setting Power in Latin America'; *Latin American Research Review*, 40, 3-26.
- Negretto, Gabriel. 2003. 'Diseño Constitucional y Separación de Poderes en América Latina,' *Revista Mexicana de Sociología*, 1, 41-76.

2B. Electoral Rules (Week 7)

- Colomer, Josep M. 2005. "It's the Parties that Choose Electoral Systems (or Duverger's Laws Upside Down)" *Political Studies*, 53, 1: 1-21
- Negretto, Gabriel. 2006. "Choosing How to Choose Presidents: Parties, Military Rulers and Presidential Elections in Latin America", *The Journal of Politics*, Vol. 68, No. 2: 421-433.
- Negretto, Gabriel. 2009. "La Reforma Electoral en América Latina. Entre el Interés Partidario y las Demandas Ciudadanas." In Serio Toro e Ignacio Walker (eds.), *Reforma del Sistema Electoral Chileno*, Santiago de Chile: PNUD-CIEPLAN-CEP, pp. 63-103.

Recommended

- Colomer, Josep. 2004. "The Strategy and History of Electoral System Choice." In Josep Colomer (ed.), *Handbook of Electoral System Choice*. New York: Palgrave Macmillan, pp. 3-13.
- Shugart, Matthew y Martin Wattenberg. 2005. "Conclusion: Are Mixed Electoral Systems the Best of Both Worlds?, en Matthew Shugart y Martin Wattenberg, *Mixed Electoral Systems: The Best of Both Worlds?*. New York: Oxford University Press, pp. 571-596.
- Gallagher, Michael. 2005. "Conclusion," en Michael Gallagher y Paul Mitchell (eds.), *The Politics of Electoral Systems*. Oxford: Oxford University Press, pp. 535-541.

2C. Distribution of Powers between president and assemblies (Week 8)

- Shugart, Matthew. 1998. "The Inverse Relationship Between Party Strength and Executive Strength: A Theory of Politicians' Constitutional Choices," *British Journal of Political Science* 28: 1-29.
- Negretto, Gabriel. 2009. "Political Parties and Institutional Design: Explaining Constitutional Choice in Latin America", *British Journal of Political Science* 39: 117-139.
- Negretto, Gabriel. 2009. "Paradojas de la Reforma Constitucional en América Latina." *Journal of Democracy en Español*, Vol. 1, No 1, pp. 38-54.

Recommended

- Geddes, Barbara. 1996. "Initiation of New Democratic Institutions in Eastern Europe and Latin America", in Arend Lijphart and Carlos Waisman (eds.), *Institutional Design in New Democracies: Eastern Europe and Latin America*. Boulder: Westview Press, pp. 15-42.
- Frye, Timothy. 1997. "A Politics of Institutional Choice: Post-Communist Presidencies", *Comparative Political Studies* 30 (5): 523-552.

2D. Judicial Institutions (Week 9)

- Patricio Navia and Julio Ríos-Figueroa. "The Constitutional Adjudication Mosaic of Latin America." *Comparative Political Studies*, 2005, 38 (2): 189-217.
- Jodi Finkel. "Judicial Reform as Insurance Policy: Mexico in the 1990s" *Latin American Politics & Society* - Volume 47, Number 1, Spring 2005, pp. 87-113
- Julio Ríos-Figueroa and Andrea Pozas-Loyo. "Enacting Constitutionalism. The Origins of Independent Judicial Institutions in Latin America", *Comparative Politics* (forthcoming).

Section 3: Cases of Constitutional Reform and Replacement

3A. Argentina (Week 10)

- Acuña, Carlos. "Algunas Notas Sobre los Juegos, las Gallinas y la Lógica Política de los Pactos Constitucionales." In *La Nueva Matriz Política Argentina* (Buenos Aires: Nueva Visión, 1995, pp. 115-50.

- Negretto, Gabriel. 2012. "Constitutional Change as a Strategy to Redistribute Power." In *Making Constitutions. Presidents, Parties, and Institutional Choice in Latin America*, Cap. 5. Forthcoming. Cambridge University Press.
- Grindle, Merilee S. 2000. *Audacious Reforms. Institutional Invention and Democracy in Latin America* (Baltimore: John Hopkins University Press, 2000), Chapter 7, pp. 147-179.

Recommended

- Feijoo, María del Carmen. 1995. "Una Mirada Sobre la Convención Nacional Constituyente" *Revista de Ciencias Sociales*, No. 1: 71-98.
- García Lema, Alberto M. 1994. *La Reforma por Dentro*. Buenos Aires: Planeta.

3B. Colombia (Week 11)

- Nielson, Daniel y Matthew Shugart. 1999. "Constitutional Change in Colombia: Policy Adjustment Through Institutional Reform." *Comparative Political Studies*, Vol. 32: 313-341.
- Dugas, John. 1993. "La Constitución del 91: un pacto político viable?", en John Dugas (ed.), *La Constitución del 91: un pacto político viable?* Bogota: Universidad de los Andes.
- Negretto, Gabriel. 2011. "Constitutional Change as a Response to State Failure." En *Making Constitutions. Presidents, Parties, and Institutional Choice in Latin America*, Cap. 6. Forthcoming. Cambridge University Press.

Recommended

- Archer, Ronald and Matthew S. Shugart. 1997. "The Unrealized Potential of Presidential Dominance in Colombia", in Scott Mainwaring and Matthew Shugart, *Presidentialism and Democracy in Latin America*. New York: Cambridge University Press.
- Roland, Gerard, and Juan Gonzalo Zapata. 2005. "Colombia's Electoral and Party System: Paths of Reform." In Alberto Alesina (ed.), *Institutional Reforms. The Case of Colombia*. Cambridge, Mass.: MIT University Press.

3D. Ecuador (Week 12)

Ecuador

- Pachano Ordoñez, Fernando. “La Reforma Constitucional Ecuatoriana de 1998: Un Análisis desde la Perspectiva de la Gobernabilidad”. Estudio de Caso No 60, Universidad de Chile, 2001.
- Pachano, Simón. 2004. “El Tejido de Penélope: Reforma Política en Ecuador,” en Wilhelm Hofmeister (comp.), *Reformas Políticas en América Latina*. Rio de Janeiro: Fundación Konrad Adenauer, pp. 207-242.
- Negretto, Gabriel. 2011. “Constitutional Change as a Remedy to Ungovernability.” In *Making Constitutions. Presidents, Parties, and Institutional Choice in Latin America*, Chap. 7. Forthcoming. Cambridge University Press.

Recommended

- Mejia Acosta, Andrés. 2002. *Gobernabilidad Democrática*. Quito: Fundacion Konrad Adenauer.
- Hurtado, Osvaldo. 1998. *Una Constitución para el Futuro*. Quito: Fundacion Ecuatoriana de Estudios Sociales.

Conclusions

Constitutional change and the new research agenda on institutions (Week 13)

- Levitsky, Steven and Maria Victoria Murillo. 2009. “Variation in Institutional Strength”. *Annual Review of Political Science*, Vol. 12.
- Mahoney, James and Kathleen Thelen. 2010. “A Theory of Gradual Institutional Change”. In James Mahoney and Kathelen Thelen (eds.), *Explaining Institutional Change. Ambiguity, Agency, and Power*. New York: Cambridge University Press, pp. 1-37.
- Hall, Peter. 2010. “Historical Institutionalism in Rationalist and Sociological Perspective”. In James Mahoney and Kathelen Thelen (eds.), *Explaining Institutional Change. Ambiguity, Agency, and Power*. New York: Cambridge University Press, pp. 204-223.

Constitutional change and Democratic Performance (Week 14)

- Dahl, Robert. Thinking About Democratic Constitutions. In *Political Order: NOMOS XXXVIII*, ed. Ian Shapiro and Russell Hardin, 175-206 (New York: New York University Press, 1996), pp. 175-206.
- Lijphart, Arend. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (Yale, New Haven: Yale University Press, 1999), Chaps. 15 & 16.
- Cheibub, Jose Antonio. 2007. *Presidentialism, Parliamentarism, and Democracy*. New York: Cambridge University Press, Chapter 6.

Deadline to submit final papers: TBA