

Authoritarian Constitution-Making: The Role of the Military in Latin America¹

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Latin America is a region characterized by a high level of constitutional instability. Since independence, constitutions have been drafted and re-drafted following successive changes between governments with different partisan interests and programmatic goals. During the twentieth century, military dictatorships contributed to this pattern by replacing a large number of constitutions enacted during both authoritarian and democratic periods. This proliferation of constitutions under military rule is somewhat paradoxical given that military regimes are provisional in nature and usually justified by the need to restore constitutional order under a civilian government. Why would military rulers invest time and resources in drafting constitutions?

This chapter argues that military leaders want to adopt new constitutions when their intervention in politics seeks broad transformations in the political, social, and economic order. Given these objectives, a constitution makes possible the adoption of effective and enduring reforms by providing the regime with a more solid legal basis and involving a plurality of institutional actors in the decision-making process. Constitutions also facilitate imposing constraints on the functioning of the future democratic regime, something which military rulers typically intend to do to preserve their reforms and protect their personal and corporate interests after leaving power. Yet the capacity of military rulers to achieve these goals through constitution making is always limited. In order to adopt and maintain their constitution, military dictators must be able to mobilize popular and partisan support for the authoritarian regime. Since this condition is rarely met, military rulers often fail in their constitution-making strategy.

The chapter starts with a discussion of the extent of authoritarian constitution-making in Latin America from 1900 to 2008. The second section proposes a series of hypotheses about the incentives and capacities of military rulers to engage in successful constitution-making. The third section provides preliminary support for these hypotheses using cross-national data and a qualitative analysis of the 1966–72, 1972–78, and 1964–84 military governments in Argentina, Ecuador, and Brazil respectively. A brief conclusion follows.

Authoritarian Constitution-Making in Latin America

Authoritarian rule, both civil and military, prevailed in Latin America before the expansion of electoral democracy in the region in the early 1980s. From 1900 to 2008, Latin American countries were under authoritarian rule for an average of 65.2 years. While all authoritarian governments were established by coups or non-competitive elections, they often decided to institutionalize their rule by means of a new constitution. In fact, most constitutions enacted in Latin America during the twentieth century were created by or under the influence of authoritarian rulers.

In order to analyze the extent of authoritarian constitution-making in Latin America, I have created a database which codes all constitutions enacted in the region between 1900 and 2008 as either democratic or authoritarian.³ If authoritarian, constitutions are further classified as military or civilian. A constitution is considered to be democratic if it was adopted in a democratic year or enacted during a transition to democracy by a constituent body made up of civilian parties selected in a competitive election.⁴ A constitution is considered to be authoritarian if it was enacted during an authoritarian year and the constituent body was not elected in a competitive election. Authoritarian constitutions are classified as military or civilian depending on whether the head of the government at the time of enactment was a member of the

regular armed forces.

Table 1 summarizes the number of constitutions per country in each category. According to this classification, the vast majority (70 percent) of the total number constitutions enacted in Latin America between 1900 and 2008 are authoritarian. Within authoritarian constitutions most (67 percent), in turn, have been made by or under the influence of military governments.

Table 1: Constitutions Enacted in Latin America by Government, 1900–2008

Country	Constitutions 1900–2008	Authoritarian Civilian	Authoritarian Military	Democratic
Argentina	2	0	0	2
Bolivia	5	2	3	0
Brazil	5	2	1	2
Chile	2	1	1	0
Colombia	1	0	0	1
Costa Rica	2	0	1	1
Dom. Rep.	3	0	1	2
Ecuador	8	4	2	2
El Salvador	5	0	4	1
Guatemala	4	0	2	2
Honduras	6	0	4	2
Mexico	1	1	0	0
Nicaragua	7	1	5	1
Panama	4	3	1	0
Paraguay	3	0	2	1
Peru	4	2	1	1
Uruguay	5	2	0	3
Venezuela	15	1	11	3
Total	82	19 (.23)	39 (.48)	24 (.29)

Source: Constitutions per country based on Constituciones Hispanoamericanas (<http://www.cervantesvirtual.com/portal/constituciones/>), Political Database of the Americas (<http://www.georgetown.edu/pdba>), and various country sources

As is well known, military dictatorships have been a pervasive phenomenon in Latin America. Yet the fact that more authoritarian constitutions were enacted during periods of military government does not reflect that Latin American countries spent more years under military rule or that military dictatorships were more enduring than civilian ones. It is related rather to the relatively larger number of military over civilian authoritarian regimes and the

larger proportion of the former that engaged in constitution-making. Table 2 shows these comparative data.

Table 2: Authoritarian Regimes and Constitutions in Latin America, 1900–2008

Type	Regimes	Years	Mean Duration	Regimes Adopting Constitutions	Constitutions	Mean Duration
Military	75	588	7.8	25	39	14.9
Civilian	62	586	9.5	15	19	18.6
Total	137	1174	8.6	40	58	16.7

Source: Same as Table 1 for constitutions; Przeworski et al. (2000) and Smith (2005) for authoritarian years

Whereas the accumulated years of military rule represent about half of the total number of country-years that Latin American countries lived under authoritarian rule, the average duration of an authoritarian military regime was 7.8 years, compared to 9.5 years of its civilian counterpart.⁵ Whether military or civilian, comparatively few authoritarian regimes enacted new constitutions. Yet from a total of 75 military regimes, 25 of them (33 percent) adopted one or more constitutions, compared to 15 out of 62 (24 percent) of the civilian authoritarian regimes that engaged in constitution-making. Although larger in number, constitutions enacted under a military regime were less resilient than those of their civilian counterparts. The average duration of constitutions enacted under military rule was 14.9 years, compared to 18.6 years for those adopted during civilian dictatorships.⁶

There are spatial and temporal variations within the total set of military dictatorships and constitutions. Before 1950, military dictatorships that lasted 10 or more years were found only in countries where military interventions had been pervasive since the early decades of the twentieth century.⁷ During the 1960s and 1970s, however, the number of countries experiencing enduring military dictatorships increased regardless of their history of military rule.⁸ As a

consequence, whereas the average duration of the last military dictatorship established before 1959 was 8.3 years, the average duration of the last military dictatorship established before 1989 was 13.8 years. Interestingly, however, the proportion of military regimes adopting new constitutions did not increase over time. Whereas 64 percent of the military dictatorships established between 1930 and 1959 enacted new constitutions, only 50 percent of those established between 1960 and 1989 did so.

Military constitutions have been drafted by different procedures, among which predominate executive commissions and constituent congresses or assemblies. Constitutions designed by executive commissions may be imposed or subject to ratification in a referendum, as was the case of the 1978 Ecuadorean constitution and the 1980 Chilean constitution. Drafting the constitution by a constituent congress or assembly dominated by military rulers is the most common procedure. These bodies are made up of delegates directly appointed by military rulers or elected under their supervision. Examples are the 1967 constitutions of Bolivia and Brazil and most constitutions enacted in Honduras, Guatemala, and El Salvador during military governments. In most cases, constituent congresses and assemblies were not only responsible for adopting a new constitution but also for inaugurating a new period of government through the indirect election of the president.

Constitutions created under the influence of military rulers have had different life histories. One can observe, however, two basic types. The first corresponds to constitutions created during a military regime and in force only for the time the regime is in place; the second, to constitutions created or amended during the military regime that are in force during a subsequent democratic period for the whole or a substantial portion of their lives. The 1967 constitutions of Brazil and Paraguay illustrate the former type, and the 1967 constitution of

Bolivia, the 1980 constitution of Chile, the 1972 constitution of Panama, or the 1978 constitution of Ecuador are examples of the second type. The largest number of authoritarian constitutions created under the influence of the military (31 out of 39) belongs to the first type. Table 3 shows the number of constitutions by country corresponding to each type.

Table 3: Military Constitutions by Periods of Enforcement, 1900–2008

Country	Military constitutions	In force during authoritarian years	In force during democratic years
Argentina	0	–	–
Bolivia	1938	Yes	No
	1945	Yes	No
	1967	Yes	Yes
Brazil	1967	Yes	No
Chile	1980	Yes	Yes
Colombia	0	–	–
Costa Rica	1917	Yes	No
Dom. Rep.	1924	Yes	No
Ecuador	1906	Yes	No
	1978	No	Yes
El Salvador	1939	Yes	No
	1945	Yes	No
	1950	Yes	No
	1962	Yes	No
Guatemala	1956	No	Yes
	1965	No	Yes
Honduras	1906	Yes	No
	1924	Yes	No
	1936	Yes	No
	1965	Yes	Yes
Mexico	0	–	–
Nicaragua	1905	Yes	No
	1911	Yes	No
	1939	Yes	No
	1950	Yes	No
	1974	Yes	No
Panama	1972	Yes	Yes
Paraguay	1940	Yes	No
	1967	Yes	No
Peru	1933	Yes	Yes
Uruguay	0	–	–
Venezuela	1901	Yes	No
	1904	Yes	No
	1909	Yes	No
	1914	Yes	No

	1922	Yes	No
	1925	Yes	No
	1928	Yes	No
	1931	Yes	No
	1936	Yes	No
	1945	Yes	No
	1953	Yes	No
Total	39	31*	8

Source: Same as Tables 1 and 2

** Number of constitutions in force only during authoritarian years*

The reason for the predominance of constitutions in force only during years of military rule is obvious. Most democratic regimes either reinstate the pre-authoritarian constitution (with or without amendments) or create a new one. Maintaining an authoritarian constitution is usually not an option, unless it was ratified by popular vote (as was the case of the Ecuadorian constitution of 1978) or the military regime was strong enough (as in the case of Chile or Panama) to impose legal constraints on the new democracy. Democratic regimes, particularly after long years of authoritarian rule, need to recreate a new form of legality by means of a constitution drafted in a freely elected constituent assembly (Geddes 1990).

This analysis shows that although most authoritarian constitutions in Latin America have been adopted during military dictatorships, not all military rulers have been able to do so. Moreover, when they did adopt a constitution, it did not necessarily outlive the duration of the military dictatorship. This brings to the fore the question about the goals that military rulers pursue when they adopt a constitution, and the varying capacities they have to engage in successful constitution-making. I turn to this question in the following section.

Military Rulers as Constitution Makers

There is something seemingly counterintuitive in the idea of a constitution adopted by military rulers. The enactment of a new constitution signals the intention of a dictatorship to

institutionalize its rule. However, the mission of a professional military is to defend the constitution, not to exercise constituent power. It is precisely for this reason that military interventions, even in the interpretation of their own leaders, are temporary by nature. Regardless of the actual circumstances that prompted the intervention, it is nearly always justified in the need to restore the abolished democratic order. As Alain Rouquie has argued, a permanent system of military rule is almost a contradiction in terms “because it is precisely the subsequent government, the successor regime, that legitimates the prior military usurpation” (Rouquie 1986: 111).

The routinization of military rule by means of a constitution may also work against the preservation of the military as an institution. The maintenance of internal unity is key for the survival of the armed forces as an institution that claims to protect state sovereignty and the permanent interests of the nation. Factionalism, however, is inevitable the more frequent and deeper is the involvement of the military in politics. The longer the military stay in power, the more likely is that conflicts between different military leaders and factions will arise about policy making or alternation in power. In the face of internal divisions, it becomes increasingly probable that the existing military government be either terminated by another coup or voluntarily leave power.⁹

The apparent paradox of constitution making under military regimes is somewhat dispelled if one thinks of members of the military as actors with goals that go beyond a narrow interpretation of their institutional and professional mission. This has been the case in most of the countries of Latin America where the professional military that emerged in the early decades of the twentieth century soon became involved in internal defense functions, economic development strategies, and the resolution of internal political conflicts. This type of intervention

was already visible in the 1930s and 1940s, when military officers took power in several countries not simply to overcome a temporary crisis situation but also to implement social reforms, industrialization policies, internal security plans, and political reforms (Rouquie and Suffern 1998: 149–154). The nature and scope of military regimes, however, has varied both across countries and over time.

There is a group of countries that since the 1930s (or even earlier) experienced increasingly expansive and enduring military regimes. Those countries were Paraguay in the Southern Cone, Bolivia and Venezuela in the Andean region, El Salvador, Guatemala, Honduras, and Nicaragua in Central America, and the Dominican Republic in the Caribbean. Particularly in Central America, military dictatorships such as those of generals Hernandez Martinez (1931-1944) in El Salvador and Ubico (1931-1944) in Guatemala were among the first to be established to pursue long-term goals. They aimed at eradicating internal enemies—usually leftists and reformists—controlling social organizations, shifting economic policy choices, and penetrating political groups. In most countries, however, the scope of military interventions tended to increase over time, especially after World War II.

Until the 1950s, the typical military intervention in Latin America conformed to what Alfred Stepan called the *moderator* model, in which the military would step in to govern for a relatively brief period to depose a government that adopted decisions against their interests or to prevent access to power to a political group unacceptable to them (Stepan 1973: 51). Although the military would take the opportunity to promote some policies while in power, the essential goal was to arbitrate in institutional and partisan conflicts by creating a provisional *de facto* government until democratic order was restored. By the 1960s and 1970s, however, military interventions were being undertaken for grander and less specific political objectives than in the

past. In a context of international and domestic radicalization of political conflicts, the proponents of military interventions unveiled ambitious plans to restructure the political system, the economy, and society at large, to an extent that had never been attempted before.

Seen from this perspective, it seems clear how constitution making could become an important part of the military intervention in politics. The loftier the objectives that military rulers pursue, the longer they may need to remain in power and the more important it becomes to put their decisions on a relatively solid legal basis. A constitution enables an authoritarian regime to demand obedience in the name of the law, to win legal recognition from the international community, and to regulate access to power within the authoritarian elite.¹⁰ In addition, if the constitution imposes some limits to the arbitrary power of the executive and involves a plurality of institutional actors in the decision-making process, it may also secure more effective support for government decisions from ordinary citizens and organized political forces.

When a military intervention has a limited objective; say, to make possible the transfer of executive power in an exceptional crisis situation, it may be sufficient to suspend the existing constitution and rule by provisional executive acts.¹¹ Such a temporary suspension of the existing constitutional order has the advantage of being consistent with the justification of the military intervention as a necessary evil to protect constitutional order. Yet a military government that rules by means of provisional executive acts is condemned to remain as a *de facto* government whose decisions are bound to lapse once political normality is restored. This is clearly inconvenient if military rulers seek more permanent goals, such as promoting a particular model of economic development, eradicating certain political options, or transforming the nature of political competition in the country.

In other words, any military government that seeks to introduce fundamental and lasting

changes in the social and political order is likely to prefer to have its own constitution. Moreover, since the military must eventually withdraw from power, the constitution can also be used to create advantages for their political allies, preserve their reforms, and protect their personal and institutional interests after the inauguration of democracy. One may doubt whether military rulers want a constitution to bind themselves, but it is clear that they would like to use the constitution to bind others.¹² Most military regimes, however, are likely to find that it is extremely difficult to implement a successful strategy of constitution-making.

To imitate the forms of a constitutional government, military rulers need to de-militarize the nature of their system of domination.¹³ This implies first of all adopting the constitution in a seemingly representative manner. The constitution should thus be approved in a popular referendum or in a constituent body that is formally independent from the executive. The difficulty, of course, is that since military rulers want to design the constitution to fit their needs, they also need to keep control over the outcome of the constitution-making process. If the constitution is designed by or under the control of the military, a referendum may be effective because it relies on direct popular consent. This is risky, however, because it requires either having strong popular support or else manipulating the results to the point that the referendum might not be credible.¹⁴ Passing the constitution in a formally independent constituent body may be safer as long as this body remains under the influence of the military. This influence requires that either the military government appoint the members of the constituent body or that a party supportive of military interests obtain majority control over it after some form of election.

To be sure, if the reason for adopting a new constitution is to strengthen the legal foundations of the military regime and make it more inclusive, having a party or coalition supportive of military interests in a constituent body should be preferable to having the

government appoint delegates directly. In addition, even a partial or noncompetitive election of the constituent body may be closer to the formalities of democratic constitution-making than its direct control by the government. The civilian partner of military rulers could either be a preexisting political party coopted by the military, as was the case of the PNH in Honduras and the ANR in Paraguay, or a party directly created under the sponsorship of the military, as was ARENA in Brazil, the PRUD and PCN in El Salvador, the PID in Guatemala, and the PRD in Panama.¹⁵

The existence of a civilian party that articulates the interests of the military also lends credibility to the civilianization of military rule. Since the presence of military officers in key government positions contradicts the basic tenets of a representative government, military rulers usually need a large contingent of civilian partners willing to represent the regime. Some of these partners, particularly those who occupy high positions in the administration, may be non-partisan public officials. However, if military rulers are willing to tolerate the existence of a legislative body in which limited participation of opposition forces is possible, it is clearly convenient to have a pro-government party organization to interact with the opposition in policy negotiation.¹⁶

Finally, military rulers would benefit from the support of a civilian party to make the survival of their institutional legacy after a transition to democracy possible. This is perhaps the single most difficult issue that military regimes must confront. Expansive military interventions may not set a fixed date for withdrawal from the beginning. But since a transition to democracy is at some point inevitable, military rulers are always forced to plan this event ahead of time to preserve the reforms made during their government and protect their institutional and personal interests in the post-authoritarian order. Constitution-making is a key component in this strategy.

Although military rulers may want a constitution to provide the regime with a more solid

legal foundation or make their decisions more acceptable to citizens and organized political forces, they also want to determine policy outcomes. This implies that a constitution adopted by military rulers would inevitably have some power-concentrating and centralizing features, such as limited or conditional constitutional guarantees, restrictive or no methods of election, presidential powers greater than those of Congress or the judiciary, and a national government that stands above local powers. As they prepare a transition to democracy, however, military rulers need new institutions that disperse and decentralize power along with institutions that create restrictions on the decisions of the future democratic regime.

This means that if military rulers managed to enact a constitution during their period in power, at the end of their terms they would attempt to introduce amendments that strengthen some civil and political freedoms and at the same time impose constraints on the new democratic order. For instance, military rulers would like to select electoral rules that benefit their political allies, proscribe certain political parties or individuals, preserve areas of military influence, or prevent their future prosecution for crimes committed while they were in power.¹⁷ If they were unable to create their own constitution, toward the end of the regime military rulers might nevertheless attempt to influence future electoral and policy outcomes by means of amendments to the pre-authoritarian constitution or by adopting a new constitution before the transition takes place.

In either case, military rulers are only likely to be successful in imposing constitutional constraints on a democratic regime if they find a party or parties willing to support them. Moreover, unless the military regime is itself strong enough to be able to impose conditions on democratic forces, its partisan allies should have a relatively significant following among voters. Since democratic parties would frequently attempt to signal the birth of a new democratic era by

convening a constituent assembly, the only way to preserve a constitution drafted under the influence of the military is if a party close to the outgoing regime wins the first democratic election or obtains sufficient political and institutional representation to veto the initiative.

The vexing problem for military rulers, however, is that they may not be able to find or organize a party that is inclined to collaborate with the regime and at the same time is capable of preserving its institutional legacy in the post-authoritarian period. The influence of the military in politics may be pervasive and yet civilian partners may not be available to form such a party. Military rulers have often intervened to save the country from a “corrupt” party system, in which case they typically banish all existing parties. As a consequence, these parties tend to form a homogenous bloc of opponents to military rule. Military leaders have also deposed strongly popular parties from power, which reduce the incentives of other parties to support, at least openly, their rule. Any party associated with the military government under these conditions would compromise its future performance in democratic elections.

The level of institutionalization of civilian parties during years of competitive elections is probably the most crucial determinant of the capacity of military leaders to coopt or create an ally party.¹⁸ Existing parties are more vulnerable to penetration by military interests, and civilian groups are more likely to join a party sponsored by military rulers when the country has had limited or no experience with competitive elections or when party organizations are unstable. In this context, existing parties have not yet developed strong ties of allegiance between voters and have less to lose by supporting a military government. Opportunistic politicians, in turn, may also find the formation of a new party to support the military regime attractive as an instrument to benefit from the spoils from office. For this reason, it is perhaps no accident that in countries with long-standing democracies and stable party systems, such as Argentina, Colombia and

Uruguay, military regimes have been unable to mobilize partisan support.

Yet even if the military regime manages to coopt or create an ally party, this party may not be willing or able to control the transition and preserve the constitutional structure designed by the military. Parties that were coopted by the military may decide to detach themselves from the regime in order to prove their democratic credentials before the transition to democracy. On the other hand, parties sponsored by military rulers may agree to represent the regime in the post-authoritarian era but have insufficient electoral support to influence decisions at the inauguration of democracy. Even in cases where the military retained considerable popular support at the time of leaving office, the parties directly sponsored by them, such as the PCN in El Salvador and the PID in Guatemala, tended to perform poorly in competitive elections.

To sum up, expansive military interventions are likely to provide military rulers with an incentive to engage in constitution making to make more effective transformations during their rule and have influence over the functioning of democracy after they have left power. Their capacity to achieve these goals, however, depends on relatively stringent political conditions, such as the availability of partisan partners that are willing and able to institutionalize a military regime and preserve its legacy. This explains why not all military rulers are capable of adopting their own constitution and why even fewer manage to have their constitution maintained following the inauguration of democracy.

Cross-National Evidence and Case Studies

The main hypothesis that can be derived from the previous discussion is that although the scope of military intervention determines the incentives of military rulers to adopt a constitution, their capacity to engage in successful constitution making depends on the availability of a party supportive of military interests. Partisan support for a military regime, in turn, may depend on

the level of institutionalization of competitive parties in the country. In order to explore the plausibility of these arguments, I have collected aggregate data on various political and institutional features of the years spent under military rule in all countries of Latin America from 1900 to 1990. I have also relied on more detailed case studies in which we can trace the objectives of military rulers, their interaction with organized parties, and the role of constitution making both during their rule and at the beginning of the transition to democracy.

Cross-National Evidence

It is not apparent that we can isolate a single factor determining variation in the scope of military interventions in politics. As I have argued, some countries experienced expansive military interventions since the early decades of the twentieth century, others only after World War II. Moreover, some countries have been relatively immune to comprehensive military interventions. Yet one variable that may affect both the scope of military interventions and the incentives of military rulers to adopt a constitution is the accumulated years of military involvement in national politics.

The accumulation of years of military government in a country signals that either new conflicts emerged over time or that the underlying problems that triggered previous interventions remained unsolved. In either case, it is plausible to think that as the total number of years of military rule increase in a country, military leaders may become more ambitious in their plans of political transformation. In addition, the longer the military intervene in national politics, the more likely it is that military interventions become a norm of ordinary politics and that military and civilian political actors develop relationships of mutual dependence and influence. Both loftier objectives and the blurring of boundaries between exceptional and ordinary rule may induce military leaders to “institutionalize” their rule by means of a constitution.

As shown in Table 4, aggregate comparative data suggest a relationship between accumulated years of military intervention in a country and the number of constitutions enacted during periods of military rule. Except for the Dominican Republic, all countries in the region with more than 40 accumulated years of military rule from 1900 to 1990 are the same countries that have the largest number of military constitutions. The bivariate correlation between accumulated years of military rule in a country and the number of constitutions adopted by military regimes is positive and highly significant ($p < .001$).

Table 4: Constitutions and years of military intervention, 1900-1990

Country	Years of military intervention	Constitutions
Argentina	23	0
Bolivia	46	3
Brazil	26	1
Chile	23	1
Colombia	16	0
Costa Rica	3	1
Dom. Rep.	51	1
Ecuador	32	2
El Salvador	59	4
Guatemala	34	2
Honduras	53	4
Mexico	13	0
Nicaragua	49	5
Panama	16	1
Paraguay	58	2
Peru	30	1
Uruguay	9	0
Venezuela	47	11
Total	588	39

Source: As Tables 1 and 2

Upon closer examination, however, the accumulated years of military rule are not likely to provide a sufficient explanation for important differences in outcomes across countries. For most of the twentieth century, Argentina and Brazil had similar patterns of military intervention

in politics. Yet, while military governments in Argentina were never able to constitutionalize their rule, the military in Brazil adopted in 1967 a constitution that was in force for twenty years. Uruguay and Panama did not experience continued years of military rule until the early 1970s and late 1960s, respectively. But whereas the military in Uruguay tried but failed to legitimize their rule by means of a constitutional amendment in 1980, their counterparts in Panama enacted an entire new constitution in 1972 that remains in force—with adaptations, of course—until this day. The obvious reason for these different outcomes is that not all military rulers have the same capacity to deepen and extend their domination by mimicking the workings of a constitutional government.

As I have argued, whenever they attempt to institutionalize their rule, military leaders face the challenge of adopting a constitution in a way that resembles a representative process while keeping control over the outcome. This means that military rulers not only need an appropriate institutional setting but also a set of reliable actors who can be trusted with the task. Legislatures and constituent assemblies may provide the institutional setting to discuss proposals of constitutional change, pass constitutional amendments and create new constitutions. But since the appointment of members of the constituent body by the government is a visible imposition, military rulers are likely to need partisan support to make the constitution-making process both seemingly representative and predictable.

As shown in Table 5, military regimes often permit a legislature to exist. A legislative assembly functioned—at least part of the time—in 54 of 75 military regimes in Latin America. Since a functioning legislature is frequently—though not always—associated with the popular election of its members, the existence of a legislative assembly may signal the intention of the military regime to adopt the formalities of a regular constitutional government. Yet it is not clear

that having a legislature is associated with the adoption of a constitution. The correlation between years in which a legislature exists and years in which a constitution adopted by military rulers is in force is positive but not statistically significant.

Table 5: Military Regimes, Legislatures, and Partisan Support, 1900–1990

Country	Military Regimes (1)	With Legislature (2)	With Partisan Support (3)	Enacting new Constitutions (4)
Argentina	6	0	0	0
Bolivia	7	5	1	2
Brazil	2	2	1	1
Chile	3	1	0	1
Colombia	3	3	0	0
Costa Rica	1	1	1	1
Dom. Rep.	7	5	2	1
Ecuador	6	5	1	2
El Salvador	3	3	1	1
Guatemala	4	4	4	2
Honduras	7	5	2	4
Mexico	2	2	0	0
Nicaragua	8	8	3	4
Panama	1	0	1	1
Paraguay	5	4	1	1
Peru	5	2	2	1
Uruguay	1	0	0	0
Venezuela	4	4	2	3
Total	75	54 (.72)	22 (.29)	25 (.33)

(1) Number of military regimes, defined as continuous years of military government

(2) Number of military regimes with a functioning legislature

(3) Number of military regimes in which a party supportive of the military existed

(4) Number of military regimes that adopted new constitutions

Less common than a functioning legislature is the existence of a civilian party supporting the military regime. As shown in Table 5, there have been pro-military parties in only 22 of 75 military regimes in the region. Yet the existence of a party supportive of military interests often coincides with the enactment of at least one new constitution by the military regime. At the same time, military regimes tend not to adopt constitutions in the absence of partisan support. With the exception of the military dictatorship established in Chile in 1973, military rulers without a party base usually opt for suspending the preexisting constitution and ruling by means of temporary

institutional acts. In a bivariate correlation, the association between years in which a party supportive of military interests exists and years in which a military constitution is adopted and in force is positive and statistically significant ($p < .001$).

I used a cross-sectional time-series logistic regression to perform a preliminary test of the determinants of constitution-making by military rulers. The dependent variable is the adoption and maintenance of a new constitution during years of military rule. It is a dummy variable that takes a value of one in the year a new constitution is adopted and during each successive year up to the year the constitution is replaced or the military regime ends, and zero in all other years. The main independent variables are the accumulated years of military rule in a country, the existence of partisan support for the military regime, and the degree of institutionalization of competitive parties. The regression first uses observations from 1900 to 1990 and then a more restricted sample from 1945 to 1990, for which data on all the relevant variables was available. The latter is also the period in which expansive military interventions took place in most countries in Latin America.

The first independent variable (YEARS MILITARY) is a numerical variable measuring the number of accumulated years of military rule in the country. An authoritarian year counts as a year of military rule if the head of government came to power as a result of a coup or a non-competitive election and is a member of the regular armed forces.¹⁹ The second variable (PARTY SUPPORT) is a dummy variable that takes a value of one for all the years a military regime has support from a party or coalition, and zero otherwise. A party or coalition is identified as supportive of military interests when it competes in presidential, congressional, or constituent assembly elections as a representative of the military regime.²⁰ Both of these variables are expected to have a positive effect on the probability that a military regime adopts a new

constitution and maintains it in force.

The final relevant variable (DEMOPARTYINST) captures the institutionalization of competitive parties during years of congressional elections.²¹ Since military rulers are less likely to obtain partisan support when the main parties in the country have been able to develop ties of allegiance among voters, the degree of institutionalization of competitive parties should have a negative effect on the adoption and maintenance of a constitution. This variable consists of an index created by Perez Liñan and Mainwaring (2013) which reflects the average age of the parties in Congress, weighted by their seat share in the lower or single chamber and by their experience with democracy since 1900. Unlike other measures of party institutionalization, this index counts only the years in the life of a party that elapsed under a competitive regime.²² Given the expected negative correlation between the institutionalization of democratic parties and the existence of parties supportive of military interests, these variables will be used in separate models.

As control variables, I have used the number of constitutions replaced in the country since 1900 and the average rate of gross domestic product per capita growth in five-year blocks. The first variable (CONSTABILITY) captures the impact of previous constitutional instability, and the second (GROWTH) measures the effect of economic growth. Both variables are expected to have a positive effect on the probability that military rulers enact new constitutions.²³ Pre-existing patterns of constitutional instability should lower the costs of constitutional replacement, thus making military rulers more inclined to adopt a new constitution after taking power.²⁴ Economic growth, on the other hand, should strengthen the position of military rulers, making it more likely that they decide to institutionalize their rule by means of a new constitution. Table 6 shows the results.

Table 6: Determinants of Constitution-Making under Military Regimes, 1900–1990[†]

Independent Variables	Dependent variable= New Constitution		
	1900-1990	1945-1990	1945-1990
YEARS MILITARY	.057 ** (.026)	.012 (.056)	.036 (.066)
PARTY SUPPORT	1.601 *** (.344)	2.254 *** (.634)	————
DEMOCRATIC PARTY INST	————	————	-3.517 *** (.798)
CONSTITUTIONAL STABILITY	-.129 (.151)	.601 (.439)	1.212 ** (.547)
ECONOMIC GROWTH	.068 (.046)	.223 ** (.098)	.274 ** (.117)
N	424	169	165

[†] Fixed-effects logistic regression. Standard errors in parenthesis

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$

The first model uses the complete sample and includes partisan support for the military regime as the main independent variable. It shows that only the accumulated years of military rule and the existence of a party supportive of military interests are statistically significant explanatory variables. Both are positively associated with the adoption and maintenance of a new constitution by a military regime. The second model retains the same variables but uses the restricted sample from 1945 to 1990. This model shows similar results in the effect of partisan support for the military regime. However, the accumulated years of military rule no longer have a statistically significant effect. Economic growth, in turn, turns out to be positively and statistically significantly correlated with the creation of a constitution by a military regime.

The third model maintains the restricted sample but replaces partisan support for the military regime by the degree of institutionalization of competitive parties. Both variables are inversely correlated with a high degree of significance (.74; $p < .001$), which supports using them

in separate models and is consistent with the idea that military rulers are more able to create or coopt parties that support their government when the level of institutionalization of parties in competitive elections is low. This last analysis shows, as expected, that the higher the degree of institutionalization of competitive parties in the country, the lower the probability that military rulers would adopt and maintain a constitution. The control variables show effects similar to those in the previous model.

To be sure, the above analysis is not intended to sustain any strong causality claim about the factors that determine the adoption and maintenance of constitutions by a military regime. But it suggests the plausibility of the association between the constitution-making activity of military regimes and their ability to mobilize partisan support. This association also supports the idea that the adoption of a new constitution is part of a broader strategy for civilianizing the system of military domination by imitating the forms of a representative government. This statistical analysis does not, however, capture the link between the scope of military intervention and constitution-making and the impact of the interaction between military regimes and party organizations on the maintenance of a military constitution at the inauguration of democracy. To these purposes, I have relied on selected case studies.

Case Studies

I have selected three cases that illustrate the logic of constitution-making by military rulers: Argentina 1966–1972, Ecuador 1972–1978, and Brazil 1964–1984. The military regimes under analysis are not only close in time—all established in the 1960s and 1970s—but also similar in scope. All these regimes were inaugurated by a so-called revolutionary coup with lofty ambitions to bring about a political, economic, and social transformation. Consistent with these objectives, none of the military interventions established a fixed date for a return to civilian rule.

In spite of these similarities, however, each case shows a marked difference in the explanatory variables of interest and the outcome of constitution-making. Military rulers in both Argentina and Ecuador lacked partisan support to enact a constitution after they took power, but in the latter case the military were able to attract civilian parties to help them impose some constitutional constraints on the subsequent democratic regime at the end of their term. In contrast, the military in Brazil had the support of a pro-military party to enact a constitution a few years after taking power. This constitution lasted twenty years, but did not survive the military regime. It was replaced after the military and their partisan allies lost control of the transition to democracy in the mid-1980s.

Argentina, 1966–1972

In 1966 in Argentina, a military coup prematurely terminated a civilian government for the fifth time since 1930. The main leader of the coup and the first *de facto* president, General Onganía, declared that this time the military government would have no fixed expiry date. This intention became explicit in the main legal instrument of the dictatorship, the Argentine Revolution Act (Estatuto de la Revolución Argentina), which regulated the functioning of the new government. According to this act, the *de facto* executive would be called “president” rather than “provisional president”—as in previous military governments—and there would be no time limit to the president’s term in office. In addition, executive orders would now have the same legal status as ordinary laws enacted by Congress. However, although the Revolution Act was supposed to be part of the existing constitution, no new constitutional order was enacted. The main legal basis of successive governments until 1972 was the 1853 constitution in all those parts that were not suspended by the institutional act of the military government.

In a way, this outcome resembled previous episodes. There had been attempts to create a

new constitutional order in 1930 and 1955, but in the end military rulers had governed by means of provisional executive decisions. One of the main reasons for this failure was the lack of support for the project among existing political parties. It has been rightly argued that there was close interaction between political parties and the military in Argentina (Rouquie 1987: 275). Yet no important political party in the country officially supported a military government or offered to work as a vehicle for the electoral ambitions of military officers. The Radical Party (UCR) was the main beneficiary of military interventions since 1955. This party was, however, a relatively well-institutionalized democratic party which could not compromise its future by explicitly associating itself with a military government. For the same reason, the UCR usually joined with the Peronist party (PP) in repudiating military leaders' attempts to produce constitutional transformations during their rule.

Military leaders did not, however, relinquish the ambition to produce constitutional changes that would take effect after the inauguration of democracy. In 1957, after deposing Perón and abrogating the 1949 constitution, the military restored the 1853 constitution and convened a constituent assembly to adopt a series of ambitious reforms before the 1958 democratic elections.²⁵ Once party delegates were elected, however, the assembly became deeply divided over the legality of the constituent assembly convened by the military. In the end, the convention only formalized the restoration of the 1853 constitution with a new provision including a short list of social rights.

In 1971, at the end of the military cycle initiated in 1966, General Lanusse proposed a new constitutional reform to be implemented after a democratic government was elected in 1973. At the beginning of the process, the option most favored by the military was to adopt the reforms as part of a pre-election agreement in which political parties would support a military candidate

as the first elected president. No political party, however, agreed with this proposal (Potash 1994: 286). Approval of the reform in a popular referendum was briefly considered (Lanusse 1977: 280). But a referendum was not an attractive option, given the low popularity of the military government at the time.

The military managed to force the parties to accept the reform as a pre-condition for scheduling democratic elections. The final draft of the amendment was based on a proposal by a political commission led by the Ministry of the Interior and the recommendations of an expert commission appointed by the government. Although at various points in the process the military government renewed its attempt to include parties in the negotiation of some reforms, in the end no political party participated in the process or gave support to any of the amendments.

Imposing constraints on the newly elected government was one of the important objectives of the constitutional reform. Although General Lanusse lifted the proscription on the Peronist Party (by then renamed the Partido Justicialista or PJ), he maintained it against Peron by increasing the number of years of residence in the country necessary for a candidate to compete in the presidential election. This had the effect of excluding Perón from the presidential election, since he had been in exile since 1955. In addition, the military tinkered with electoral rules to prevent the election of a Peronist president. The Peronist party was assumed to be the plurality winner in competitive elections, but the military expected that a candidate from this party would fall short of an absolute majority in the presidential election (Potash 1994: 407). For this reason, the reformers replaced the existing electoral college system, which allowed a candidate to be elected with just a plurality of popular vote, with a majority runoff formula for electing the president (Negretto 2004). With this system, military leaders hoped that an alliance of centrist forces could elect a non-Peronist candidate in the second round. In addition, in order to reduce

the advantage of the majority party, the military also enacted an electoral law adopting a PR system for the election of deputies. This law also increased the minimum number of deputies elected per district from two to three to benefit voters from smaller provinces.

Contrary to the military's expectations, the coalition that supported the Peronist candidate managed to win the presidential election as well as a majority in both chambers of Congress. According to the text of the constitutional reform imposed by the military, the new elected government would have three years to accept or reject the reforms for the future. However, even before a new military coup terminated the democratic government in 1976, it was clear that none of the established parties in the country accepted the constitutional amendment imposed by the military. As a result, the reform was abandoned and never restored.

Ecuador, 1972–1978

In 1972, the fourth military coup in Ecuador's history deposed populist president Velasco Ibarra. As in Argentina, the government installed after the coup proclaimed itself as revolutionary and declared that it would not be an interim government, but rather a long-term venture. In spite of these aspirations, and similar to the Argentine case, military leaders in Ecuador did not create a new constitutional order during their rule. They did succeed, however, in adopting a new constitution that would be in force at the inauguration of democracy, in 1979. The particular interaction between the military and political parties in Ecuador was crucial to an explanation of this outcome.

Due to its program of radical social reform, the military government of Rodriguez Lara gained the sympathy of some small leftist parties. Yet none of the main existing parties provided the new government with active support. Center and center-right parties, such as the traditional Liberal and Conservative parties and the more recently created Social Christian party (PSC),

were neither in favor of the new government's economic program nor did they have close ties with the military. The populist *Concentración de Fuerzas Populares* (CFP) and *Velasquistas* were natural political opponents of the military since they were the immediate victims of the military coup. In this context, Congress remained closed and political parties were banned. The government formally restored the 1945 constitution, but it remained *de facto* suspended.²⁶

In spite of Rodríguez Lara's intention to remain in power for a long time, an internal coup in 1976 terminated his government in the midst of an economic crisis and mounting political and social opposition. This time, the new military government announced its intention to be a caretaker government committed to the restoration of democracy. As was the case in Argentina, however, the military did not want to give up power without introducing constitutional changes that would shape the working of the future democratic regime. Accordingly, the government proposed the adoption of a new constitution by a referendum scheduled before presidential and congressional elections.

The Ecuadorian military was more successful than their Argentinians counterparts in the attempt to negotiate constitutional changes with political forces. Although traditional political groups (*Velasquistas*, liberals and conservatives) rejected the proposal, several others, in particular the most recently created parties, such as *Izquierda Democrática* (ID), *Democracia Cristiana* (DC), and *Frente Radical Alfarista* (FRA), agreed to participate in the adoption of new constitutional rules (Mejía Acosta 2002; Mills 1984). In addition, although the military government had institutional preferences in several areas of design, it organized the referendum not as a yes-or-no vote to a single proposal, but as a choice between two alternatives.

The government appointed three committees to prepare the proposals for reform. These committees were made up of experts, party delegates, and representatives from civil society

organizations. The first committee was in charge of revising the 1945 constitution, the second of proposing a new constitution, and the third of drafting a new law of elections, referenda, and political parties. The proposals submitted to popular vote were a revised version of the 1945 constitution, and an entirely new constitution, the alternative most favored by the military. In the referendum held on January 1978, a majority of voters opted for the new constitution.

Although the military did not formally participate in the committees, the ruling junta had the final word on approval of the proposals and they did favor specific provisions, particularly regarding the electoral system. The military desired electoral rules that would promote party pluralism while preventing the rise of populist leaders. As in the case of Argentina in 1972, military leaders in Ecuador favored replacing plurality by majority runoff presidential elections.²⁷ This reform was meant to frustrate the election of populist leader Assad Bucaram, who was expected to win a plurality but not a majority of popular votes in the 1978 presidential election (see *Latin American Weekly Report*, April 22, 1977). With majority runoff, the CFP candidate might have to compete in the second round against a more centrist candidate supported by the rest of the political parties (see *Latin American Weekly Report*, December 16, 1977).²⁸ Further measures included in the reform, also intended to prevent populist politics, were: reducing the term of the president in office, introducing absolute proscription of presidential reelection, and adopting an inclusive electoral system for congressional elections.

Although the military did not have a specific party supporting their interests either during their rule or in the post-authoritarian period, they managed, before leaving power, to obtain the agreement of several parties to negotiate reforms. The support of these parties was crucial for mobilizing voters in favor of adoption of the new constitution in the referendum. This constitution, which incorporated several provisions conforming to the military rulers' ideas about

the proper functioning of democracy, remained in force for 20 years, until its replacement in 1998.

Brazil, 1964–1984

Following the 1964 coup, military rulers in Brazil perceived this intervention as a true revolution and made clear their commitment to transform the country's political institutions. They fulfilled this promise, at least in terms of legal change. From 1964 to 1984, military presidents in Brazil enacted seventeen Institutional Acts that suspended or introduced temporary modifications to provisions of the existing constitution.²⁹ More importantly, however, they had a new constitution enacted in 1967. This constitution contained the first three institutional acts and substantive reforms to the 1946 constitution. It was subject to several suspensions and modifications until 1981 but remained in force until 1988. What explains this use of constituent power by the military?

Two important factors were the low level of institutionalization of democratic parties in Brazil and the ability of the military to coopt some of these parties to support their regime. From 1946 to 1963 Brazilians experienced the first period of democratic elections in their history. The main parties competing in these elections, the Partido Social Democrático (PSD), União Democrática Nacional (UDN), and Partido Trabalhista Brasileiro (PTB), were founded in 1945. Some of these parties, in particular the center-right PSD and the conservative UDN, had ties with the military since their creation. In the presidential elections of 1945, for instance, the candidates for these two parties were drawn from the high ranks of the military.³⁰ UDN was, however, the party that remained closest to the military and usually advocated military intervention as a mechanism for arbitrating political conflicts (Bethell 2008: 95).

Unlike Argentina, where the military deposed both the UCR and the PP, the two largest

political forces in the country, from power, the military in Brazil usually intervened to overthrow governments (both authoritarian and democratic) with low or declining popular support. In 1964, the Brazilian military toppled president Goulart, a politician from the PTB, which obtained only 20 percent of the popular vote in the 1962 congressional elections. Goulart, who became president after the resignation of Janio Quadros, was opposed by the military from the beginning and was allowed to take power with the provisional support of the PSD and UDN, which together achieved a majority in Congress.³¹ By 1963, in the midst of a critical economic situation, Goulart threatened to pass radical social reforms without congressional support. This led to an immediate reaction from the military: they deposed the president with the explicit support of the UDN and important sectors of the PSD.

After the coup, the military decided to maintain representative institutions while limiting their functions. Congress was allowed to meet but with limited autonomy to legislate. Elections for president and Congress would also take place but only through mechanisms that granted government control over the outcome. In particular, president and senators would be elected indirectly. The system to elect deputies remained nominally a PR system, but its working was altered by the limited number of electoral options. A 1965 electoral reform allowed only two parties to compete: a government party (ARENA) and an opposition party (MDB). The large majority of members of the government party came from UDN, followed by the PSD (Bethell 2008: 179). Once this basic institutional framework was established, congressional elections took place in November 1966, with the government party winning a large majority of seats. With this majority, the government asked Congress to approve a new constitution in January 1967.

While the constitution created an institutional configuration that opposition forces could use to their advantage, it also constrained their capacity to influence political outcomes. The new

constitution established a restrictive system of indirect elections and a distribution of powers that clearly favored the executive over any other institution. The president had unilateral power to appoint governors³², members of the judiciary, and high officials of the administration, and extraordinary powers to legislate and limit individual rights in crisis situations. The constitution was subject to successive reforms, all of which exacerbated these features until the late 1970s. The term of the president was extended from four to five years in 1969 and from five to six in 1977. In 1968, the president was invested (Institutional Act No. 5) with the power to dissolve Congress and legislate by decree, intervene in local governments, and suspend political rights. Successive reforms were also aimed at manipulating the composition and jurisdiction of the Supreme Court.

As the possibility of initiating a democratic transition emerged with the presidency of Ernesto Geisel in the mid-1970s, military leaders intended to adapt the existing constitutional framework to more competitive conditions. To this purpose, they eliminated some authoritarian features of the constitution while introducing new rules that would allow military rulers and the government party to control the transition. Some of these reforms altered the distribution of powers between branches of government. For instance, a constitutional amendment of 1978 abrogated the power of the president to dissolve Congress and suspend political rights. As expected, however, the most important reforms made in preparation for the transition to democracy affected the electoral system.

In 1977, a constitutional amendment passed by executive decree established that one third of senators would be directly appointed by the state electoral colleges that had elected governors since 1970. Since the government party controlled all but one of these colleges, the new senators would effectively increase the government party's dominance in the upper

chamber. At the same time, the amendment increased the size of the Chamber of Deputies while imposing a minimum of six deputies per state. The reform was intended to over-represent the less developed states of the north and northeast, where the government party had an advantage (Bethell 2008: 211). In 1979, the government authorized free formation of parties as a strategy to fragment the opposition while maintaining unity within pro-government forces. The government party simply changed its name (from ARENA to PDS), but the opposition broke up into four parties that competed among themselves. To complement this strategy, the government prohibited alliances between parties and constrained voters to vote for candidates of a single party for all elective positions.

As a result of these reforms, in the 1982 elections the government party managed to maintain a majority in the Senate and reach a majority of votes in the Electoral College that would elect a new president in 1985. It also remained the largest party in the Chamber of Deputies. Under these conditions, the military government and its partisan allies initially intended to preserve the 1967 constitution by means of a series of negotiated amendments that would further adapt the constitution to new political conditions. The project failed, however.

In April 1983, the Partido do Movimento Democrático Brasileiro (PMDB) sponsored an increasingly popular amendment to allow direct presidential elections. The government succeeded in opposing and defeating this amendment in Congress, but at a great political cost (Skidmore 1988: 244).³³ The popularity of the amendment galvanized the political opposition and civil society in support of a radical transformation of the authoritarian constitutional structure.³⁴ It also caused defections and divisions within the government party that ultimately led to the defeat of the official candidate in the 1985 presidential elections and the severe defeat of the government in the 1986 congressional elections. Without partisan or popular support, the

military left power and a democratically elected constituent assembly replaced the 1967 constitution in 1988.

Conclusions

Military rulers have been the most active constitution makers in Latin America during the twentieth century. At first glance, this enthusiasm for writing constitutions seems quite intriguing given that military rule is provisional in nature and only justified by the need to restore constitutional order. Yet having a constitution is important when military regimes pursue broad long-term objectives of political, social, and economic transformation. Given these objectives, constitutions facilitate the adoption of more effective and enduring reforms. They also make it possible for the military to exert influence over future governments as they prepare a transition to democracy.

I have argued that whether military rulers are successful in using constitutions for these purposes depends on their capacity to mobilize partisan support. Having partisan support is crucial for demilitarizing the system of domination and imitating the formalities of a constitutional government. It helps the adoption of a new constitution in a seemingly representative manner and its maintenance after the military leave power. The problem is that partisan allies are not always available and when they are, they may fail to support the military regime until the end.

Whenever long-standing democratic political parties exist, they are unlikely to support the institutionalization of a military regime as this may imply perpetuation of military rule and the indefinite postponement of elections. In the absence of strong democratic parties, military rulers are more likely to coopt some of the existing political organizations or create one of their own. But although these party organizations may favor the initial adoption of a constitution, they

may not be willing or able to sustain it after the military withdraw from power. Pro-military parties may want to detach themselves from the regime before competitive elections are held or they may not have sufficient institutional strength to prevent replacement of the authoritarian constitution at the inauguration of democracy.

Military rulers can only preserve their institutional legacy if the regime, its partisan allies, or both have relatively strong popular support at the installation of democracy. Pinochet in Chile was able to enact a constitution in 1980 and keep it later to impose institutional constraints on the subsequent democratic regime thanks to the popular support that the regime and its partisan allies retained in 1989. The military regime established in Panama in 1968 was also able to enact its own constitution in 1972 and preserve it after the transition to democracy. Key to this success was the ability of the PRD, the pro-military party sponsored by Omar Torrijos in 1978, to emerge as one of the main political parties in the country after the transition to democracy was initiated in the early 1980s. These are, however extremely exceptional cases.

Since the 1990s Latin American countries have not been subject to military dictatorships. Democracy is well entrenched and most constitutions today have been drafted by freely elected constituent assemblies. Yet the legacy of constitution-making by military rulers is quite significant for understanding patterns of constitutional instability in the region. Military rulers have been the most active constitution makers during the twentieth century, but they typically failed to use constitutions to preserve their institutional legacy. This chapter is an attempt to explain why this was the case.

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³ For more general information about my database on constitutional change in Latin America and the sources used in building it, see Negretto (2012) and the website (<http://www.la-constitutionalchange.cide.edu/>).

⁴ The classification of democratic and authoritarian years follows Smith (1950) up to 1950 and Przeworski et al. (2000) subsequently. A constitution enacted during the last year of an authoritarian regime is considered to be democratic if it was adopted by a constituent assembly whose representatives were selected in an election in which more than one independent party competed. The 1979 Peruvian constitution or the 1983 Salvadorian constitution belong to this category.

⁵ Regimes are counted by continuous years of military or civilian authoritarian rule.

⁶ Both, however, are below the mean duration of democratic constitutions enacted between 1900 and 2008, which was 19.9 years.

⁷ These countries were Bolivia, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, and Venezuela.

⁸ For instance, countries such as Panama and Uruguay, which did not have a previous history of military rule, were subject to enduring military dictatorships in the 1960s and 1970s.

⁹ It is for this reason that military dictatorships are usually less enduring than their civilian or personalistic counterparts. According to Geddes, while military dictatorships last for an average of 9 years, personalistic and single-party dictatorships have endured an average of 15 and 23 years, respectively (Geddes 2003: 126).

¹⁰ Regulating interactions within the authoritarian elite, in particular terms in office and reelection rules, is considered to be the typical function of authoritarian constitutions, both military and civilian. See Fitzgibbon (1940) and Hartlyn and Valenzuela (1998: 13–14).

¹¹ These executive acts receive various names (*estatutos, actas, actos institucionales*) but they typically subordinate the application of the constitution to their own provisions regulating the rights of citizens, government powers, and decision making processes.

¹² On the use of constitutions to bind others, see Elster (2000: 92–94).

¹³ On the various forms a demilitarization process can take, see Rouquie (1986).

¹⁴ This is what happened, for instance, with the referendum used to approve the 1980 constitution in Chile. On this issue, see Barros (2002: 172–173).

¹⁵ PNH: Partido Nacional de Honduras (National Party of Honduras); ANR: Asociación Nacional Republicana (Republican National Association); ARENA: Alianza Renovadora Nacional (National Renewing Alliance); PRUD: Partido Revolucionario de Unificación Democrática (Revolutionary Party of Democratic Unification); PCN: Partido de Conciliación Nacional (National Reconciliation Party); PID: Partido Institucional Democrático (Democratic Institutional Party); PRD: Partido Revolucionario Democrático (Democratic Revolutionary Party).

¹⁶ On the adoption of representative political institutions by authoritarian regimes to coopt the opposition, see Gandhi (2008).

¹⁷ Although these strategic objectives usually predominate in the institutions designed by military rulers, the latter may also attempt to pursue some “efficiency” goals. For instance, depending on the perceived root of political evils in the country, the military may seek electoral reforms that reduce the number of parties when the party system has been traditionally fragmented, or reduce the advantage of majority parties when strong popular parties were able to win large majorities in the past.

¹⁸ The institutionalization of party systems has several components, but the most important are the age of parties and the stability of voting patterns across elections. See Mainwaring and Scully (1995: 4–6).

¹⁹ Data for coding this variable was obtained from Bethell (1990, 1998), Nohlen (2005), and Smith (2005).

²⁰ Data for coding this variable was based on Bethell (1990, 1998), Nohlen (2005), and various country sources.

²¹ If congressional elections do not take place during the military regime, the level of democratic party institutionalization takes the score of the last congressional election before the installation of the regime.

²² The formula for the index is described in Perez-Liñan and Mainwaring (2013: 15).

²³ Data for constitutional instability and economic growth obtained from Negretto (2012) and the Oxford Latin American History Database (<http://oxlad.qeh.ox.ac.uk/>), respectively.

²⁴ On the impact of legacies of constitutional instability on the probability of constitutional replacements, see Elkins, Ginsburg, and Melton (2009: 120).

²⁵ The military government proposed the strengthening of federalism, judicial independence, and congressional powers; the absolute proscription of presidential reelection; and restrictions on the appointment powers of the executive. The military also adopted for the first time in the country a system of proportional representation to secure pluralism in the convention. See Padilla 1986: 583.

²⁶ An executive act suspended constitutional guarantees for four years.

²⁷ On the role of the military in introducing majority runoff elections in Latin America, see Negretto (2006). See also Rouquie (1987: 382).

²⁸ In the end, the military resorted to a more direct strategy to prevent Assad Bucaram from winning the coming presidential election. In January 20, 1978 (after the new constitutional text won majority support in the referendum), the Minister of the Interior announced that candidates for the presidency must have Ecuadorian parents. This excluded Bucaram, whose family was Lebanese.

²⁹ They also enacted more than one hundred Complementary Acts, which spelled out the specific interpretation of the rules contained in Institutional Acts.

³⁰ The candidates were General Dutra (PSD) and General Gómez (UDN).

³¹ These parties would control the new presidency by means of a constitutional reform adopted before Goulart took office. According to this reform, which the military accepted as a pre-condition for letting Goulart be president, he would share power with a Council of Ministers presided over by a Prime Minister appointed by and accountable to Congress. See Bethell (2008: 139).

³² Since 1970, however, state assemblies were allowed to elect state governors.

³³ On April 1984, a few days before the vote on the opposition-sponsored amendment, President Figueiredo proposed an alternative reform of 138 articles of the constitution, including restoration of direct presidential elections in 1988. The government withdrew the proposal, however, fearing that negotiating these amendments might complicate its most important objective, which was to frustrate the adoption of direct presidential elections in 1985. On this process, see Cachapuz de Medeiros (1985).

³⁴As late as 1982 the PMDB remained deeply divided as to whether the party should recognize or reject the 1967 constitution as the basic institutional framework for the transition to democracy. It was the popularity of the amendment for direct presidential elections and its defeat that unified the PMDB in alliance with other opposition parties to replace the authoritarian constitution by means of a constituent assembly. See Martinez Lara (1996: 35–38).