

# **Constitutional Reform in Latin America: Intentions and Outcomes**

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The “rules about the rules of politics” – constitutional revisions and changes in electoral laws – appear to be in constant flux in contemporary Latin America, although unlike past eras one critical “rule,” that competitive elections will be held, has been respected more than ever before. The continuation of electoral politics, in turn, has framed the diverse motivations of actors who frequently succeed in changing many of the other rules of the political-electoral game, motivations which range from profound democratic disenchantment to narrow political calculation, with the scope of reforms also varying from targeted amendments to complete overhauls.

In this paper we advance a general framework within which to understand these multiple, and often contradictory changes, and illustrate its applicability with several brief case studies. As we develop first below, after addressing definitional issues, both the extent and variety of changes in political-institutional “rules of the game” in the contemporary period has been unexpected. When Latin American countries underwent democratization in the 1980s and 1990s, many scholars argued that agreements regarding constitutional texts reached during the period of transition from authoritarian rule would “freeze” key rules of the game for the democratic regime which would be unlikely to be changed quickly or easily (Karl & Schmitter 1991). However, numerous countries have subsequently carried out extensive and sometimes frequent constitutional, institutional, and electoral changes. Argentina, Colombia, Peru and Venezuela substantially altered their constitutions in specially convened constitutional assemblies, and nearly all other countries have carried out constitutional or electoral reforms of differing magnitude, on a wide range of issues, though in this paper we focus exclusively on political-institutional ones.

In the second section, we map overall trends in the region in changes in formal rules which impact formal executive powers. We develop an index focused on executive political authority, including relations across the executive and legislative branches, as well as executive relations with the judiciary, and the extent of decentralization, direct democracy, and accountability mechanisms. We find evidence, on the one hand, of significant flux with little over-all change regarding formal executive-legislative changes, and on the other hand, of a converging democratizing trend in other arenas that impact formal executive power.

Subsequently, we present a general framework within which to understand constitutional changes in the region, as well as identifying key factors which explain when they are more or less likely to satisfy the goals of those who motivate them. A parsimonious and frequently insightful model of understanding political-institutional change argues that institutional design efforts are the consequence of intentional and farsighted choice by purposive actors: institutions are created or changed because they serve the interests of those responsible for these innovations and thus the effects of institutions can be considered a consequence of the key actors' intentions; another version of this type of argument focuses on the actors' anticipated effects of institutions. This type of consequentialist argument or "actor-centered functionalism" may focus on the moment of institutional origin, or it may deduce the origin from current functioning (the term comes from a critic of the approach, Pierson 2004, 130, 103-32; for many useful applications, see Colomer 2004).

In turn, several scholars criticize this perspective for reasons ranging from the inability of social scientists to build consequentialist arguments of institutional design or creation to the analytical risk of not endogenizing institutions (e.g., Pierson 2004; Shapiro, Skowronek, and Galvin 2006). Building on this literature (while not embracing extreme versions of it), we argue that the consequentialist perspective is not so much always wrong as incomplete (and thus sometimes wrong), for four key reasons. One is that actors often implement reforms with short-term, not long-term, objectives in mind. A second is that it is important to analyze the extent to which reforms are unified and coherent. Especially reforms which are negotiated tend to be ambiguous, incomplete or even contradictory in nature. This means it is not always possible to deduce clear single intentions or interests to be maximized, even as actor miscalculation is also possible. A third reason, then, is that power constellations subsequent to passage of the reforms play a key role in determining the evolution of the outcome.<sup>1</sup> With regard to this issue, it is also analytically important to examine if the institutional dynamics of reform passage play a causal role in determining the subsequent power constellation. Finally, there can also be unforeseen events which can generate unexpected consequences, such as internationally induced socio-economic crises. Actors can also be mistaken about whether a particular measure will lead to a particular outcome, particular the further out in time the outcome in question is.<sup>2</sup>

We examine episodes of constitutional reform carried out consciously by political actors through formal changes to constitutional texts – rather than on the other major way in which constitutions evolve, through judicial interpretation – focusing, as already noted, on issues which impact executive political authority. Although we are constrained in assessing the possible consequences of contemporary reforms by the amount of time which has elapsed since the reforms were enacted, we believe even a preliminary assessment demonstrates the impact of the

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<sup>1</sup> Offe (2006, 12) argues: "Institutions and institutional changes are more consistently explained in terms of the balance of social power that they reflect than in terms of the goals and objectives that they are claimed to serve."

<sup>2</sup> Another way of phrasing this goal of our paper is that we seek to advance a set of causal mechanisms ("plausible, frequently observed ways in which things happen"), which explain when and why the outcomes of reforms over the short-term (the next presidential election) and the medium-term, converge or diverge from initial actor intentions. Quote from Elster (1989, viii) as cited in Pierson (2004, 6); for a useful discussion of causal mechanisms in comparative case study analysis, see Bennett & Elman (2006).

nature of the reforms and of subsequent power constellations in explaining divergences between intentions and outcomes, as well as the occasional important role of unforeseen events.

#### *Definition of constitutional reform*

Most definitions of what a constitution is don't fit all Latin American cases perfectly. Elster (1997) characterizes a constitution as a written document which satisfies three criteria:

- 1) it is a set of laws that countries call "constitution;"
- 2) it is a set of laws which regulate matters that are in some sense more fundamental than others; and
- 3) it is a set of laws with more stringent amendment procedures than ordinary legislation.

Furthermore, he notes, laws governing elections to important elected posts (e.g. the legislature) may not be in the constitution or may not require supermajorities to change, but they should be regarded on par with constitutional provisions proper, due to their fundamental importance in regulating political life. This is especially true if the issue of whether electoral laws should be in the constitution or not was debated in a country's constitution making process.

It is clear that the constitutions of some, if not most, of the countries in the region don't neatly fit all three of these criteria. In the case of Latin America, many would raise questions particularly about the second criterion – in many constitutions, the set of laws called "Constitution" which have more stringent amendment procedures than ordinary legislation often incorporate matters that in most other democracies have been left to statutory law, and at other times the constitution appears to be circumvented or superseded by ordinary legislation or executive fiat. Given these realities, here we will consider "constitution" both the set of laws a country calls "constitution" (and which thus have more stringent amendment procedures than ordinary legislation) as well as laws directly governing elections, whether or not they are directly incorporated into the formal constitutional text.<sup>3</sup>

#### *Literature on democratic transitions and constitutionalism in the contemporary period*

In Latin America, there appears to be a rough pattern whereby the number of constitutions a country has had correlates inversely with a country's democratic experience (Hartlyn & Valenzuela 1994). Victorious caudillos in the 19<sup>th</sup> century often re-wrote the constitution they had typically violated in assuming power to legitimate and sometimes extend their rule, even as reformers sought to generate liberal constitutional texts and to live by them (cf. Hartlyn 1998, see also Gargarella 2005).

In the early 1980s, few predicted that the region would be entering the deepest, most extended period of democratic rule in the region's history. And, this has been especially

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<sup>3</sup> For Sartori, "constitutions are, first and above all, instruments of government which limit, restrain and allow for the control of the exercise of political power," though he recognizes that in actual fact, contemporary constitutions often deviate considerably from this view, incorporating a wide variety of aspirational and other measures (1994, quote on 198). For Przeworski (2004), "constitutions" are "those rules which are difficult to change, because they are protected by super-majorities or by some other devices." Constitutions, he argues, are neither necessary nor sufficient for democracy to survive, are not a contract as there is no third party to enforce them, and may be considered endogenous although they both enable a democratic equilibrium and select one among several possible equilibria.

surprising given that political democracy has persisted in the region in circumstances which in previous historical periods led to successful military coups – particularly economic crisis, high inflation, and extensive mobilization by popular groups. Neoliberal (market-oriented) economic reforms, rather than launching countries on a sustained path of economic growth, over-promised and under-delivered and the region is still in search of a viable development model. From 1980 to 2005, Latin America has barely grown at all on a per capita basis; as Coatsworth has noted, this is the worst quarter century in Latin American economic history since the civil wars after independence from the 1820s to the 1850s, though the last several years have generally been good and the region is currently experiencing a commodity boom.

Also deviating from initial expectations, institutional design efforts did not proceed as many had expected. When Latin American countries underwent democratization in the 1980s and 1990s, a common view was that agreements regarding constitutional texts reached during the period of transition from authoritarian rule would “freeze” key rules of the game for the democratic regime which would be unlikely to be changed quickly or easily (Karl & Schmitter 1991). And, it is true that certain countries did in fact have important constitutional reforms during their transition periods – e.g., Ecuador, Peru, and Brazil – which consolidated often crucial democratic measures, not least, universal suffrage.

Yet, in retrospect the moment of transition has been much less special than initially believed. Some argued that to the extent countries had democratic restorations with former democratic political actors returning to power, typically there were fewer institutional changes, especially in contrast with Eastern Europe (Geddes 1996). But, numerous countries in Latin America have subsequently carried out extensive or continuous constitutional, institutional, and electoral changes. There have been:

- more or less complete overhauls of constitutions, through directly elected constitutional conventions – Colombia, Argentina, Peru, Ecuador, Venezuela (Bolivia likely to join them, Ecuador may again as well);
- significant changes through Congress (Chile in 2005, after multiple failed attempts);
- and, there have been a dizzying array of more discrete changes in electoral rules for congress, regarding presidential re-election, local-level elections, introducing new mechanisms of accountability such as ombudsmen, and others.

In this contemporary period the basic rules of electoral democracy are generally, if sometimes only minimally, accepted. Where this is not the case, where democracy is not “the only game in town,” than hybrid or electoral (or competitive) authoritarian regimes are generally in place, rather than ones that are totally closed politically, and thus rules and their manipulation are still crucial, rather than outright bans and repressions (Diamond 2002; Levitsky and Way 2002; Schedler 2002, 2006). This means that constitutional changes are not motivated as in the past by the pendular swing between democracy and authoritarianism, but rather *permitted* by political opportunity offered by democracy in the near-absence of a military threat. And, actors with very different motives have taken advantage of that opportunity. With regard to the frequency of constitutional change, Latin America is not necessarily distinct from other regions experiencing regime transitions in the contemporary period. Writing about Eastern Europe and Russia in 1995, Holmes and Sunstein noted that though Russia under Yeltsin was at the extreme

of the spectrum, in the region as a whole there was an observable trend of subordinating “constitutional revision to everyday political antics and aims” and that “in general, there is no sharp split between constitutional making and the ordinary processes of politics” (1995, 281; 281-82n).<sup>4</sup> In Latin America, as much or more of ordinary politics under current democracies is in fact taken up with conflict regarding the rules of the game – over *how* to change the rules (through Congress, via a Constituent Assembly) and *what* rules should be changed – as it is with processing conflict within the rules.

*Patterns of changes in political-institutional rules and formal executive powers*

Constitutional reforms are about changing formal rules. In presidential systems, much of the debate regards the extent and nature of power concentrated in the central executive. What should the balance of power be between the executive and legislative branches? How much influence should the executive have in naming judges? Should subnational executives be elected or appointed by the center? Should voters be able to recall elected leaders or initiate legislation directly? Building on the comparative literature, we have incorporated these and other issues into an executive formal power index (EFPI). One set of dimensions relates to relations with the legislative branch (cf. Shugart and Carey 1992, Mainwaring and Shugart 1997 and especially UNDP 2004 from which coding schemes are adopted for several measures). Another set of dimensions looks at a broader array of features within the political system which can reasonably be considered to potentially impact executive power concentration: electoral features (re-election, length of tenure), subnational political power, elements of direct democracy, and aspects of horizontal accountability. Rather than scoring a country following every single amendment or law which impacted one of the 18 items included in the index, we have done so for significant constitutional overhauls (incorporating previous changes which remained) and for the last reform we coded.<sup>5</sup>

This index is clearly a measure of “formal power,” not of actual power, concentration. We fully expect that its representation of the actual extent to which presidents deploy and exercise power will vary. Thus, comparisons across countries and across time periods employing an index such as this one should be done with care. First, we recognize it is possible that the measures employed in the index may not have been weighted appropriately even as other political-institutional measures not measured here may have a significant impact on executive power concentration. An example of the latter is the nature of electoral rules and the electoral calendar (issues which may be incorporated in the future). In general, executives are considered to be in a better position if all elections are held on the same date as the presidential election. Second, even if the particular formal measures we have selected are enforced, they may not operate in similar ways in different contexts. The ways in which subnational power are exercised and serve as a constraint on the president, for example, depend on numerous other features such

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<sup>4</sup> They argue that in Eastern Europe dramatic constitutional revolutions have taken place under the guise of simple revisions and they see several advantages to channeling the “collapse” of constitutional politics into ordinary politics through parliament, forcing political actors to gain governance and coalition forming skills, whereas popular referenda could easily undermine the “still feeble legitimacy of representative institutions” (285-88; quotes on 287 and 288).

<sup>5</sup> See the appendix for a description of how the Executive Formal Power Index (EFPI) was formulated. Note that we are still developing the index and comments are welcome: e.g., we may incorporate issues relating to the electoral system and electoral calendar and also code more constitutional reform years.

as the nature of fiscal federalism and dependency on transfers from the center and the nature of the party system. And third, measures which are approved may not (or not yet) be enforced. For example, in the Dominican Republic as of mid-2007, in spite of a law passed in 2001 establishing an ombudsman's office, no appointment has yet been made. More broadly, informal ways of exercising power which are not captured by these measures and other procedural issues may be more important. For example, the concentration of power in executive hands that has taken place under Chávez in Venezuela is due only in part to certain measures introduced in the constitutional reform of 1999; equally or more important has been the way in which this reform was carried out, which permitted Chávez in his first term in office to bypass an unfriendly Congress, have a Constituent Assembly he controlled replace officials across state agencies, and then hold new congressional elections.

At the same time, it is useful to have a summary indicator of the over-all direction that formal rule changes take following each reform, to compare to actor intentions and to contrast with the actual outcome subsequently. It is reassuring that the index appears to have "face validity" in terms of what the case study literature has argued regarding the direction of change of particular reforms. For example, the Chilean Constitution of 1980, prepared while General Augusto Pinochet was in power, has the highest overall index score (.73 on a scale from 0 to 1) as well as the highest scores on the two component measures, the legislative (.72) and the other powers or constraints (.74) sub-indexes (see Table 1). And, the Colombian Constitution of 1991, widely perceived as seeking to diminish central executive authority and "open up" the political system, has the lowest overall index score (.24), with the lowest non-legislative score (.16), though its legislative score of .33 is not the lowest (the Paraguayan constitutional reform of 1992, reacting against Stroessner's 1967 constitution, has a legislative power score of .21).

[Table 1 about here.]

Comparing formal executive powers found at the beginning of the countries' most recent democratic period (or enacted in the Constitution which ushered in that period) with current formal powers (as of 2006), we find that the over-all trend has been one of slight movement toward declining executive powers. For the 18 countries of the region examined here, the summary score index declines from .45 to .40. At the same time, there is a slight increase in the legislative powers measure from .42 to .43. Thus, the cause of the decrease in the over-all index is due to the emergence of greater (potential) constraints on presidential power concentration in other (non-legislative) areas, where the measure declines from .48 to .37.<sup>6</sup> Furthermore, by the end of the period countries in the region are somewhat more like each other on this measure than at the beginning of the period for the over-all index (standard deviation is lower). This reflects, in turn, a greater convergence regarding the measures of other powers and constraints, given that there is a slight divergence regarding legislative powers. In sum, over this time period the legislative power measure trends toward slightly increased executive powers and greater dispersion across countries; the measure of other powers and constraints, in turn, trends toward sharply lower formal executive powers and greater convergence across the region.

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<sup>6</sup> This decline is statistically significant ( $p < .05$ ); the decline in the over-all index is statistically significant only at the  $p < .10$  level.

These contrasting patterns help explain the difficulty in characterizing the shifts in constitutional changes seen in the hemisphere. Constitutional evolution in the region reflects several on-going dynamics of change at the same time. On the one hand, there has been convergence toward certain changes, which once enacted have not been eliminated, representing what can be termed a formal democratic ratchet effect. Several of these are picked up in our measure, including particularly the increased use of elections to select subnational executive offices, and the increased presence of elements of direct democracy. This gives evidentiary weight to those who argue there is a broad democratizing trend in the region and certainly also forms part of the goals of broad popular movements in favor of constitutional overhauls.

Yet, as this review also indicates, other measures have had a more contradictory record in the region in recent years. Regarding executive-legislation relations, there has been considerable flux, but in the end the region over-all does not look too different from where it was when it began its turn to democracy several decades ago. This points more to the manipulation of rules seeking short-term advantage and with the knowledge (if not the expectation) that others in power may seek to change the rules yet again.

#### *Types of reforms and motivating factors*

Thus far we have established there have been numerous constitutional reform changes and that depending on their type they have not all been unidirectional in nature. In the introduction, we argued there is reason to believe that the consequences of institutional design often diverge from actor intentions. Here, we present a general framework within which these patterns can be explained.

Our framework considers constitutional reforms, ranging from complete overhauls to modest amendments, as intermediate variables in a temporal scheme which considers the initial interests of political actors and subsequent outcomes. As such, constitutional reforms may be considered a dependent variable at one point in time (t1), and then once they are enacted they become an independent variable in subsequent time periods (t2, etc.). In the first “analytical moment” in our framework, we are interested in explaining how and why different types of constitutional reforms have been approved throughout Latin America (see Figure 1).

The bottom-half of Figure 1 considers two key dimensions of constitutional reforms, the type of reform and its scope. Since our focus is on political-institutional features, the central aspect we consider regarding the type of reform is the extent to which reform measures concentrate power in the hands of central national executive authority, diffuse power, or are a hybrid mix of the two. With regard to the scope of the reform, we consider whether there are minimal or extensive changes to the pre-existing constitution. Although actual reforms may of course occupy any space in the figure, for analytical purposes we identify four ideal types in the figure in order to facilitate theorizing about when and why different types of constitutional reform may see greater convergence or divergence between initial actors interests that motivated the reforms and subsequent outcomes.

[Figure 1 about here.]

One type is power concentrating, which as Figure 1 indicates, can vary according to the scope of the reform. Under democratic regimes in this contemporary period, power concentrating reforms have been limited in scope, e.g. seeking to enable immediate presidential re-election where it is prohibited. An opposing type of reform is power diffusing, which can also vary according to reform scope. Potentially overlapping with these two categories at their extreme values of extensive scope are foundational reforms, which comprise extensive overhauls of constitutional texts. The clearest example of a foundational power concentrating reform in the region is the 1980 Constitution under General Pinochet in Chile; there are no examples of these types of reforms under democracy in the contemporary period. The 1991 Colombian Constitution provides a clear example of a foundational power diffusing reform. In turn, the 1999 Venezuelan Constitution is an intermediate foundational reform, with regard to its impact on *formal* executive powers: e.g., it introduced various elements of direct democracy, kept measures such as the popular election of governors and mayors introduced in 1989, and kept various accountability mechanisms, even as it also concentrated authority by extending the length of the presidential term, permitting re-election, and reducing the legislative branch from two chambers to one. Foundational reforms, then, overthrow the previous constitutional order, with varying consequences regarding power concentration in the hands of the executive. Typically, these reforms have been the result of more participatory processes sometimes incorporating prior episodes of extensive mobilization leading to popularly elected constitutional conventions. Those who felt excluded mobilized, seeking that the new order be inclusive not just socio-politically but also legally – the constitution making process itself is viewed as a moment of possible democratic expansion (Segura and Bejarano 2004). The type of process is considered equally as important as content for the legitimacy of the new constitution (Hart 2003). The fourth type, found in the middle of the figure, we term hybrid reforms. These are of intermediate scope and incorporate a mix of power concentrating and power diffusing reform measures. Examples we examine further below are the reforms in Argentina in 1994 and in Uruguay in 1996.

Having characterized the initial outcome of reform (our “intermediate variable”), we now present a stylized analytical framework to explain the variance observed in the region in terms of reform types. Reform outcomes should reflect dominant actor intentions and the power constellations present prior to the reform. Here, we characterize traditional powerholders as presidents from an established party or partial outsiders who emerged from established parties (such as Uribe in Colombia); nontraditional powerholders, in turn, are clear outsiders who have arrived to the presidency (such as Fujimori in Peru or Chávez in Venezuela). In turn, these powerholders may hold a hegemonic position, which we define as one which enables them to enact reforms essentially without negotiating with other political actors; a majority position, which may place them in a favorable position but still with insufficient votes to enact reforms completely on their own, or in which they may be able to enact a reform on their own, yet it requires subsequent approval by a national referendum; and a non-majority position, which requires the most extensive negotiation. To simplify what is already a fairly complex scheme, we focus particularly on two key motivators of reform for dominant actors: either they seek to concentrate and extend power (particularly, to facilitate their re-election), or they are confronting a domestic political situation in which they believe that enacting certain measures can provide them with a degree of legitimacy (even if they also believe these measures could actually help

opposition forces gain more power), specifically “process” legitimacy, to be gained primarily by enacting changes in regime processes typically in ways that incorporate citizens and diffuse power (and, where relevant, in order also to satisfy international demands).<sup>7</sup> Actor intentions (the effects they anticipate) are not always easily determined. We will always have better access to the “reasons” of actors than to their “interests,” as reasons are typically spelled out in speeches, interviews, and written documents (Elster 1999). The best we can do is to “impute” interests based on basic assumptions about the goals of political actors, statements by the actors, and analyses of actor interests and behavior by observers at the time. We do not assume that dominant actors always have a long-term time horizon; sometimes, their focus is on the short-term. In turn, we assume that non-dominant actors typically pursue measures of power diffusion, in order to create greater opportunities for themselves to compete against the dominant actor in the future (short and long term).

As shown in the top-half of Figure 1, then, the six types of power constellation are predicted to play a significant role in determining how directly the power holder’s interests and time horizons get translated into the initial outcome of reforms. In terms of time horizons, a dominant actor might either be motivated to gain greater electoral advantage for the next electoral round and/or by institutionalizing her (political and/or policy) legacy in the long-term. In general, power holders enjoying hegemony should be most able to generate reform outcomes that reflect their interests and time horizons. The Chilean Constitution of 1980 under the Pinochet regime most closely approximates this with regard to power concentration, though even in this case there were both unexpected outcomes from the perspective of the incumbent (defeat in the 1988 Plebiscite) and unforeseen consequences. The Venezuelan Constitution of 1999, in turn, is a foundational reform that blends power-concentrating with power-diffusing measures, as the hegemonic non-traditional actor sought to maximize both re-election and legitimacy goals. When no power holder holds a hegemonic or majority position, as in Colombia 1991, then there is considerable space for negotiation. Here, the extent to which the interests and time horizons of key players appear in the final text can vary considerably, even as ambiguity and even contradictions are likely (cf. Horowitz 2000). Power diffusing reforms of limited scope (such as political decentralization) sometimes are the result of efforts by traditional incumbent power holders to expand their (process) legitimacy in the face of societal mobilization; at the same time, in the case of parties which expect to fare better in local than in national elections, there could also be an electoral incentive in promoting the reform (for an electoral argument regarding the process of decentralization in Colombia, see O’Neill 2005, for a contrasting mobilizational argument see Faletti 2005). In other cases, reforms which diffuse power from the executive to the legislature crystallize as part of a cycle of struggle between legislators and parties with an eye toward the next election and the incumbent executive seeking to continue in power (such as Nicaragua 1995).

Moving down from foundational reforms in the box in the bottom half of Figure 1, we can then consider a variety of more modest reforms. Politicians focused primarily on a limited set of

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<sup>7</sup> It is also possible that reformers enact constitutional measures in order to insure certain specific substantive policy outcomes, and thus gain “output legitimacy” based on citizen satisfaction with certain policy outcomes, but this is less likely to occur in terms of political-institutional changes. The process through which changes are enacted can also be important.

measures to advance their short-term interests must occasionally negotiate with the opposition, thus expanding the scope of the reforms and blending power concentrating measures with those that diffuse power or clarify voter choice. Incumbent traditional power holders in a non-hegemonic position negotiate what they consider clear short-term gains for potential long-term losses. In sum, the interaction between actors' interests and time horizons with the type of power constellation present in the system is the main causal trigger for explaining the initial outcome of reforms on the basis of our four ideal-types.

Finally, we indicate an additional source of inspiration for reforms, and an important set of constraints. As indicated at the top of Figure 1, international diffusion can play an influential role in motivating specific reform types, as well as ways in which reforms are enacted. International diffusion effects lead to a wide variety of reforms; in the contemporary era arguably they have encouraged power concentrating measures such as presidential re-election and focused attention on short-term gains from manipulation of electoral laws ("political engineering"), as well as power diffusing ones encouraged by groups from civil society and international organizations (direct democracy, ombudsmen, etc.).<sup>8</sup> And, as noted in the Figure as well, reformers are constrained by certain path dependent realities. On the one hand, Latin American countries appear bound by presidentialism. On the other hand, many democratizing measures are irreversible in a formal constitutional sense (a "democratic ratchet effect"); once enacted (at least in the post World War II era), certain measures relating to suffrage expansion, or to the introduction of elections for officials at the subnational level, have not been reversed in the region (cf. Colomer 2001). This still leaves many political-institutional features unconstrained.

In the second analytical moment of our framework, constitutional reforms are taken as independent variables, potentially contributing to cause short and long term outcomes. In the Latin American context, the independent impact of formal institutions and rules generated by these reforms cannot be presumed, but must be explored.<sup>9</sup> In Figure 2 we contrast an actor-centered functionalist model with a more general model (functionalist terminology from Pierson 2004, esp. chaps. 4 and 5, as well as critique below and various elements incorporated into a more general model). In actor-centered functionalism, constitutional reforms and their outcomes are observed and then linked backwards to the interest of dominant power holders at the time of reform. Yet, this version of determining interests after examining outcomes, though

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<sup>8</sup> The use of constituent assemblies to mobilize support, enhance legitimacy, sidestep legislative and judicial constraints and concentrate executive power is also arguably being diffused at the present time from Venezuela to Bolivia and Ecuador, and is a mechanism that López Obrador may have attempted in Mexico if he had attained the presidency.

<sup>9</sup> At one extreme, when a particular set of structures and actors dictate (not just influence) an institutional design, one can speak of perfect endogeneity; the institution in that case has no independent impact on the outcome and is epiphenomenal. At another extreme, one can speak of no endogeneity when the institutional design is totally independent from the set of structures and actors and has considerable influence on the outcome (Mitchell 2006). We expect that the cases we are exploring here will fall somewhere between these two extremes, with structures and actors influencing (sometimes extensively) the institutional design, with the resulting institutions then becoming at least somewhat independent. Even in the case of Pinochet's Chile, it is clear that institutions established by the 1980 Constitution had an influence on important subsequent outcomes independent of the actors that established them: e.g., the decision by the Chilean Supreme Court determined that a voter registry would need to be established and employed for the 1988 Plebiscite; Barros 2002).

parsimonious and sometimes powerful, may in many instances be incorrect. Thus, the general model in Figure 2 departs from it in several respects.

[Figure 2 about here.]

There are various reasons to expect that one cannot draw a simple causal arrow from intentions to outcomes. One is that sometimes actor intentions are focused almost exclusively on the short term (frequently, the next major election); short-term and longer-term consequences therefore need to be analytically distinguished. In many cases, then, long term outcomes may be, strictly speaking, a by-product of a decision taken for the short-term. Various traits of the reform process (the relative strength and interests of the opposition, the scope of constitutional negotiation, the incumbents' strategic situation) can also distort the relationship between interests and constitutional reforms. These components are therefore theorized as intervening variables. Ambiguous, contradictory or incomplete elements within reform packages, particularly ones which involved extensive negotiation as no actor was hegemonic, can also affect the relationship between reforms and short-term outcomes. These are also presented as potential intervening mechanisms. We expect further "distortions" to occur in the long-run. One of the most important ways that outcomes may diverge from intended reforms is through strategic adaptation by political actors subsequent to the reforms, dependent on over-all power constellations, particularly in the case of densely negotiated reforms incorporating contradictory elements. This divergence may also be the result of unexpected consequences of reforms. And, external shocks may significantly transform the context in which the new constitution is applied.

We expect specific components of our general framework to be more or less salient for different types of constitutional reform. Figures 3 and 4 presents stylized causal models for the four types of reforms sketched in Figure 1, highlighting the mechanisms we believe are most salient in each case. It would make for a tight logical package if we could argue that there is a direct mapping of specific alternative mechanisms explaining divergences between intentions and outcomes related to each of the major types of reforms to specific alternative mechanisms. This is not the case, though we do believe there are some patterns more typically found in some reform types than others, and thus some useful distinctions which can be drawn across categories.

[Figures 3 and 4 about here.]

First, we look at power concentrating reforms (Figure 3). Here, we expect to find the most direct relationship between dominant actor's interests and short-term outcomes. These reforms are typically enacted by actors who have to negotiate little with other actors and who seek either to further concentrate power in their hands or to prolong it. Thus, these measures are the ones least likely to be affected by problems of incoherence, ambiguity or incompleteness resulting from negotiation. And, to the extent they are successful in concentrating power subsequent to the reform, they can constrain subsequent strategic adaptation and modification. Therefore, these two causal mechanisms distorting the relationship between interests and outcomes might only play out in the long-run. Moreover, in contrast to the remaining three types,

in power concentrating reforms pursued by hegemonic dominant actors we do not anticipate the creation of significant democratic ratchet effects.

Yet, even in these cases, where actors are able to design institutions to their benefit, the focus on the short-term may lead to outcomes unexpected and undesired by the designers over the longer-term, even as these measures are also subject to unforeseen or unexpected consequences. For example, the 1980 Chilean constitution made voting mandatory but registration optional. This complicated formulation was based on the calculation that General Pinochet and his advisors for legitimacy reasons wanted a high turnout in the planned 1988 plebiscite (which would ask voters if they wished to extend his presidency for another lengthy term), yet they feared that too high a turnout could lead to his defeat; in addition, they hoped this formulation would complicate things for the opposition. Nevertheless, General Pinochet went on to lose the 1988 plebiscite. In addition, there was another unanticipated effect, which has been that the Chilean electorate has been steadily aging as younger citizens have not registered, and this aging electorate has remained more focused on the historic authoritarian-democratic cleavage of 1988 than would otherwise have been the case, favoring the center-left Concertación alliance which has been governing the country since 1990 over parties of the right.

Power concentrating reforms of limited scope have frequently taken the form of focused electoral reforms to help incumbents or seek immediate reelection. Indeed, to the extent electoral formulas have been subject to subsequent and frequent modification this obviously limits their ability to generate the types of long-term consequences analyzed in the rich literature on electoral system design. Instead, what we have is electoral system design not as an independent variable, but as an intermediate variable manipulated by incumbents for expected gain in the next immediate election only, with future change likely. For example, the careful analysis by Calvo and Micozzi (2005) of the multiple electoral reforms in contemporary Argentina between 1983 and 2003 at the federal and subnational levels (32 constitutional reforms and 34 electoral reforms) concludes that the conventional wisdom that incumbents enacted these reforms to reduce the risk of electoral defeat is correct. They estimate the advantage for incumbents to be around 7% more seats than those expected by any other party with comparable vote shares, and thus multiple electoral reforms are part of the explanation for incumbent stability in that country. These reforms, which reshaped the subnational electoral map of Argentina, have made it one of the most diverse and complex electoral systems in the world.<sup>10</sup> At the same time, sometimes these reforms do not turn out as the motivating actor expected. In the case of President Mejia in the Dominican Republic, it's true that passage of the 2002 constitutional amendment kept other leaders in his own party in check while he was president (one of the goals of the reform, so as not to experience the fate of past "lame duck" presidents in the country of his own party inhibited by party tradition and unpopularity from seeking reelection). However, he lost the 2004 election (the first incumbent seeking immediate re-election to lose in Latin America since Daniel Ortega in 1990), and given the language of the amendment, he cannot even be candidate again whereas his opponent who went on to win the presidency for a 2<sup>nd</sup> non-consecutive term is seeking re-election for 2008.

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<sup>10</sup> The pattern in Eastern Europe appears to be similar. Flores Juberías argues with regard to Eastern Europe that electoral codes have been considered not as "fixed rules" but as "merely provisional guidelines resulting from political bargaining and bound to be changed as soon [as] the actors or the political scenario change" (2004, 315).

The remaining types of reform are the product of negotiations between dominant and non-dominant actors and all are expected to produce some democratic ratchet effects, given the incumbent's need to introduce legitimizing elements in the reform package and/or her need to provide concessions to the opposition in order to insure the approval of the reform. Given the scope of reforms that characterizes foundational reforms (Figure 3), we predict that in these cases and in spite of ambiguous and even contradictory elements in the reform package, strategic adaptation by opposition forces is typically most feasible only in the medium to long term, primarily due to their limited access to executive and legislative arenas of power in the immediate post-reform era.<sup>11</sup> This is particularly likely to be the case when the process itself of constitution making helps consolidate executive power and the leader's majority. The Venezuelan case is illustrative of this pattern. The new constitution incorporates vast measures of democratic inclusion, combined with significant ones of power concentration; and as already noted, the process itself of constitutional making helped consolidate the president's majority, permitting effective circumvention of constitutional measures and checks and balances and enabling further power concentration (to be enhanced by yet another round of constitutional reform in 2007-08).

Differing from the previous type, after the approval of both hybrid and power diffusing reforms (Figure 4), non-dominant actors can possibly rely on favorable elements introduced within the reform package to pursue strategic adaptation in the short-run. In these two types of processes, we are most likely to observe all the various causal mechanisms through which divergences between actor intentions and outcomes can occur.

Hybrid outcomes involve partial reforms of constitutional texts. They typically involve tense negotiations across actors with different objectives. The most typical examples in contemporary Latin America have involved traditional power holders in non-hegemonic positions seeking to advance a short-term electoral or power concentration goal, yet for legitimacy reasons or lacking a sufficient majority on their own they find they cannot impose their wishes unilaterally. Other actors then see this as an opportunity to introduce power diffusing measures. Given the divergent goals, time horizons and complex negotiations, it's not surprising that here all four mechanisms operate to undermine purposive, predictable institutional outcomes.

We hypothesize that the stronger the negotiating position of the dominant power holders, the better able they are to build in vagueness, flexibility and incompleteness into the Constitutional text. In fact, this is what we see in comparing the Argentine (1994) and Uruguayan (1996) constitutional reforms. In these two country cases, the traditional dominant powerholder – Menem in Argentina, the Blanco and Colorado parties in Uruguay – gained the reform they desired which permitted their immediate objective of re-election. In the case of Menem, it was immediate presidential re-election. In Uruguay, it was the introduction of a second round presidential election if no party gained a majority in the first round; in that way, the two traditional parties whose electoral fortune had been declining (to around 30% each) could

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<sup>11</sup> This becomes less true for foundational reforms which are also power diffusing in nature; see the discussion below focused on those types of reforms.

join together in the second round and defeat the leftist Frente Amplio coalition which would otherwise likely win by a plurality in a single-round.

Menem was in a stronger negotiation position than the parties in Uruguay, due to his high popularity and his threats to employ semi-legal tactics. This translated into a constitutional text with vagueness, flexibility and incompleteness in many of the key measures that Alfonsín and the Radical party negotiated seeking to weaken presidential power, provide an electoral floor for the Radicals in the legislature, and strengthen judicial autonomy. A dynamic review of events since the constitution was enacted highlights that while Menem did achieve his immediate goal of re-election, many of the measures which the Radicals advocated for have not worked effectively and the presidency today in Argentina is no weaker (Giraudy 2007).

In Uruguay, the traditional party actors who bet on the short-term were in a more defensive posture than Menem was in Argentina, limiting their ability to negotiate. Their electoral fortunes were in decline and the constitutional reform negotiated in congress also required passage by a national plebiscite (which it just barely attained). Thus, in addition to introducing a 2<sup>nd</sup> round presidential election, the constitutional reform incorporated several other electoral reforms, many of which had been long advocated by the Frente Amplio (elimination of the DSV, mandatory primaries, single presidential candidacies, and elimination of ad-hoc intra party coalitions for congress) with one measure intended more to help the Colorados (splitting municipal from national elections). The traditional parties in Uruguay did attain re-election in 1999, but then they both lost in 2004 to the candidate of the left, who won with an absolute majority. The traditional parties were unable to manipulate or to modify the electoral law changes to which they had agreed. Furthermore, as Altman, Buquet, and Luna (2006) note, an unanticipated consequence of the change in electoral rules was that it helped crystallize two ideological families competing for votes on program, centered around a state-market divide and creating a bipolar logic of competition. Blancos and Colorados in government found it harder to differentiate themselves from each other as they had before, even as governance did not improve. Their coalitional arrangement was now more explicit. If there had been no reform, then the FA probably would have won in 1999 and the FA would have been in power when the devastating financial crisis of 2002 hit, rather than the traditional parties

With regard to power diffusing reforms, because of the nature of the reform process which typically involves extensive negotiation across non-dominant actors, we expect these to lead to significant divergences between actors' interests and short and medium-term outcomes, as a result of subsequent strategic adaptation to an ambiguous, contradictory, or incomplete text, unexpected consequences, and the interactions of both. The 1991 Colombian reform process and short-term outcome provides an excellent illustration. Pressure from civil society in the late 1980s forced a Supreme Court decision that in fact the Constitution could be reformed through an Assembly, as Congress consistently blocked reform through the legislature as mandated by the Constitution. Traditional political interests in Congress remained uninterested in reform but the President sought limited reform, a battle he lost when the Supreme Court ruled no limits could be placed on a Constituent Assembly. Delegates for a Constituent Assembly were chosen by PR vote and the resulting wide dispersal of political representation meant that no one political block had a majority and that considerable negotiation and compromise were required. The end

result was a Constitution clearly more democratic than the one it replaced, eliminating all vestiges of coalition rule between the two dominant parties and with numerous measures seeking to limit clientelist practices and expand opportunities for new parties to enter into the political process.

The predominant view in the Constituent Assembly was that at all costs the closed, restricted nature of the political system needed to be ended, and the monopoly grip of the two traditional parties needed to be drastically weakened. The representatives of the traditional parties bent to this view, without totally giving in to it. This perspective appears to have been not so much wrong, as incomplete and poorly implemented. Various reforms such as the establishment of a single nation-wide district for Senate, restrictions on clientelist practices (cf. Duhamel and Cepeda, 1997, 270-74), and the elimination of traditional party control over elections and over the judiciary all opened up the political process, but they were combined with elements that did not change. Of these, one of the most important was the measure permitting parties to present multiple lists to elections (viewed as particularly important by the Liberal party), which basically meant that a more representative and more competitive political society was achieved over the 1990s at the cost of fragmenting and atomizing the parties to such an extent that it made them almost incapable of either governing effectively or articulating a credible opposition.<sup>12</sup> In turn, decentralization, which was reinforced under the Constitution, weakened the central government and devolved power to actors who controlled regional and local governments, among them – in some regions – the very rivals of the state (namely, guerrillas and drug traffickers) (Bejarano 2006).

The region has also been witness to numerous more limited power diffusing reforms, such as those introducing measures of political decentralization or new mechanisms of accountability. Many have been carried out by political actors seeking process legitimacy rather than electoral benefit, in the face of growing discontent and social mobilization (e.g., the introduction of popular election of subnational officials in Colombia and Venezuela) or seeking international recognition. These measures have rarely provided medium-term benefit to the parties enacting them.

### *Conclusion*

In the first part of our paper, we discussed the evolution of an index of formal executive power over time in the region. The results indicate two contradictory trends. On the one hand, our measure of formal executive power over the legislature points to slightly increased executive powers and greater dispersion across countries. On the other hand, the measure of other formal powers and constraints points toward greater democratization and power diffusion, toward lower formal executive powers and greater convergence across the region. Thus, certain constitutional reforms have promised a diffusion of power, while others have intended to concentrate power, including through rule manipulation with short-term objectives in mind.

There is an extensive literature on how certain reforms – especially electoral reforms – have predictable consequences likely to be known to the actors carrying out the reforms, and

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<sup>12</sup> See Bejarano and Pizarro 2005. For an analysis of how electoral reform abolishing multiple lists was finally approved in 2003, see Shugart, Moreno and Fajardo 2006.

particularly if kept in place over a sustained period these consequences will in fact result (Norris 2004). Yet, the evidence in contemporary Latin America is weak that political actors behave in this type of farsighted manner. Thus, longer-term outcomes may in fact not be a consequence, but a by-product, of actions taken for short-term goals. And, to the extent politicians embark on near-continuous electoral or constitutional reform, arguments about their potential long-term consequences become overshadowed by the immediate effects sought by politicians with short time horizons, whether they are doing so because they believe they will be better off under the new rules or in the face of concerted social or political pressure. Frequent reforms undermine any expected “engineering” effects of rule changes, generating a far more inter-active process (cf. Norris 2004, 261-264).

At the same time, more sweeping constitutional changes have also provided dramatic opportunities for democratic opening, strengthened by a democratic ratchet effect inhibiting formal rule changes across an important array of institutional political and other rights, and affected by international diffusion of constitutional ideas and measures. Their often disappointing results reflect a divergence between intentions and outcomes.

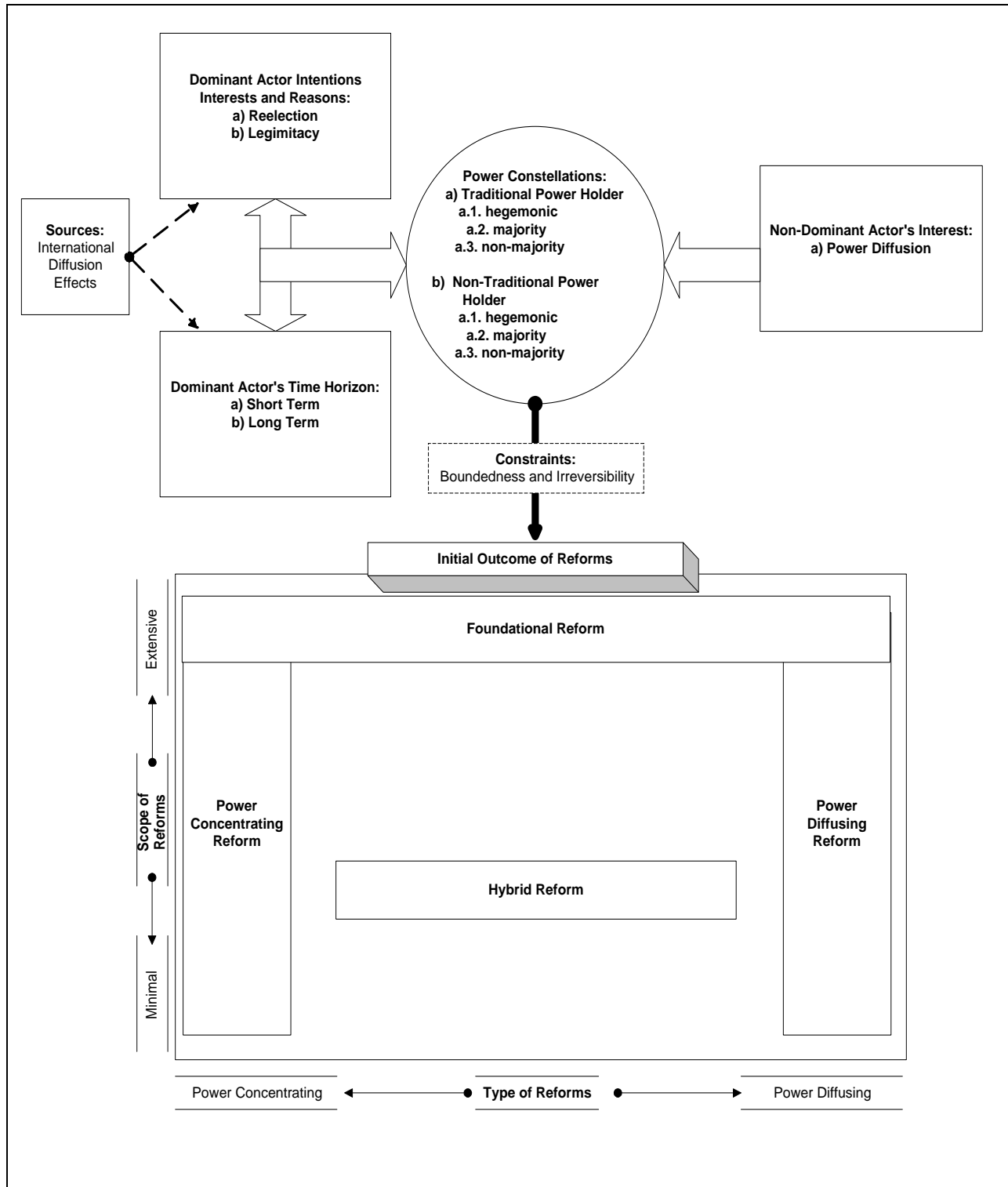
The contexts in which institutional design is clearly the result of intentional, farsighted purposive actors may be highly restricted, limiting the usefulness of this type of argumentation. However, the analytical challenge of finding an adequate replacement model is not simple, as one shifts from this parsimonious hypothesis to a more complex specification of types of mixed motivations, time frames and power constellations and to identifying a range of factors or causal mechanisms to explain patterns of variations between institutional outcomes and actor intentions. We have identified four broad types of reforms and building on the work of others specified what we see as the most common mechanisms through which institutional design efforts have become entangled. One results from analysts miscasting actors’ short-term and long-term goals. A second emanates from the reform process itself, if the resulting text suffers from ambiguity, contradiction, or incompleteness. Another focuses on the power constellations subsequent to the reform enactment, which are critical to the implementation of these texts. And finally we have noted how unexpected events can generate a sharp divergence from an expected or desired institutional outcome.

**Table 1.** Index of executive formal power concentration in Latin America: Overview

<b>Period or country</b>	<b>Full index</b>	<b>SD*</b>	<b>Legislative powers or constraints</b>	<b>SD</b>	<b>Other powers or constraints</b>	<b>SD</b>
<b>At moment of democratic transition</b>	.45	.10	.42	.12	.48	.13
<b>Current (as of 2006)</b>	.40	.08	.43	.14	.37	.10
<b>Highest</b>	<b>Full index</b>		<b>Legislative</b>		<b>Other</b>	
Chile 1980	.73		.72		.74	
<b>Lowest</b>						
Colombia 1991	.24		.33		.16	
Paraguay 1992	.28		.21		.35	
<b>Countries with greatest declines:</b>	<b>Extent of change (full index):</b>		<b>Extent of change (legislative):</b>		<b>Extent of change (other):</b>	
Paraguay (1967 – 1992)	-.34		-.35		-.34	
Colombia (1957 – 1991)	-.25		-.20		-.31	
Chile (1980 – 2005)	-.21		-.14		-.27	
Nicaragua	-.13		0.0		-.26	
<b>Countries with greatest increases:</b>	<b>Extent of change (full index):</b>		<b>Extent of change (legislative):</b>		<b>Extent of change (other):</b>	
Peru (1979 to 2000)	.15		.41		-.11	
Ecuador (1978 to 1998)	.08		.29		-.14	
Bolivia (1967 to 2005)	.06		.11		.01	

\* SD = standard deviation. Source: See Appendix 1 regarding how index has been calculated for 18 Latin American countries. Research assistance by Agustina Giraudy is gratefully acknowledged.

**Figure 1.** Constitutional reforms: From interests and power constellations to initial outcomes



**Figure 2.** Constitutional reforms: From interests to outcomes in two contrasting models

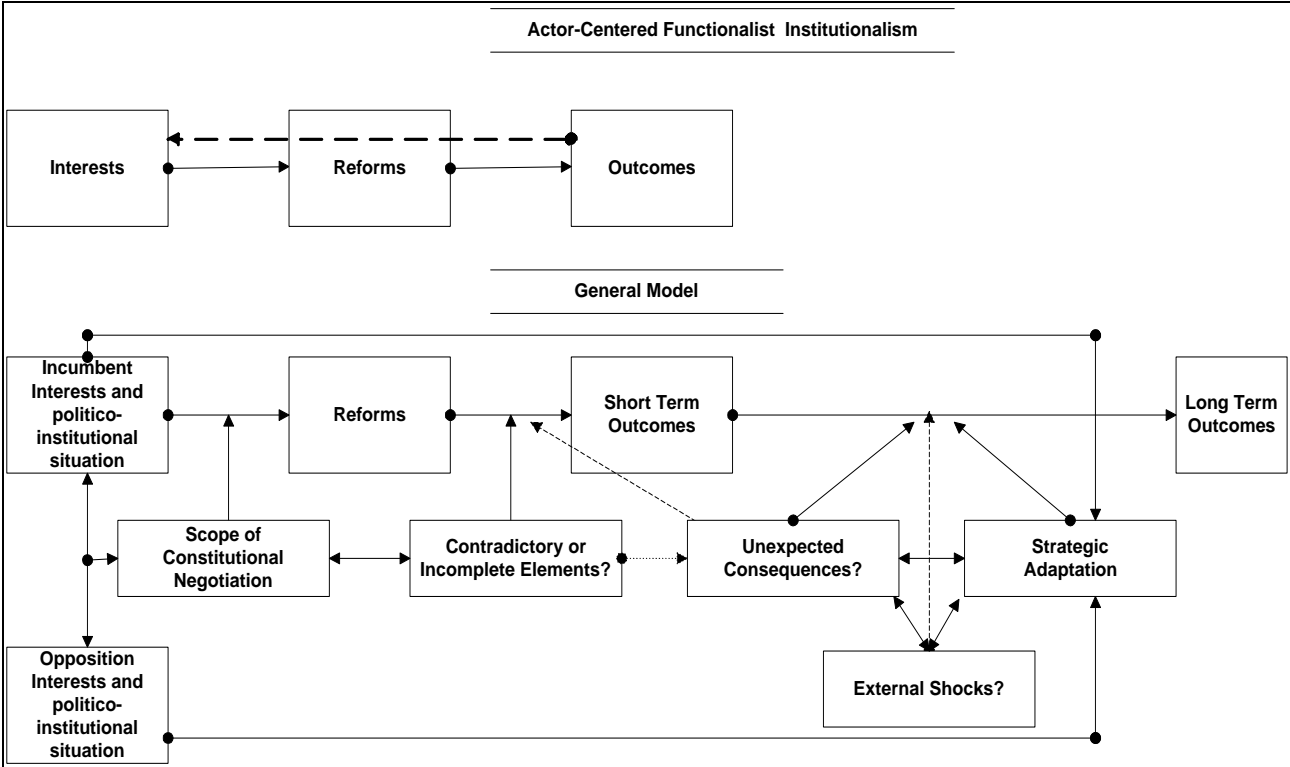


Figure 3. Power concentrating and foundational reforms

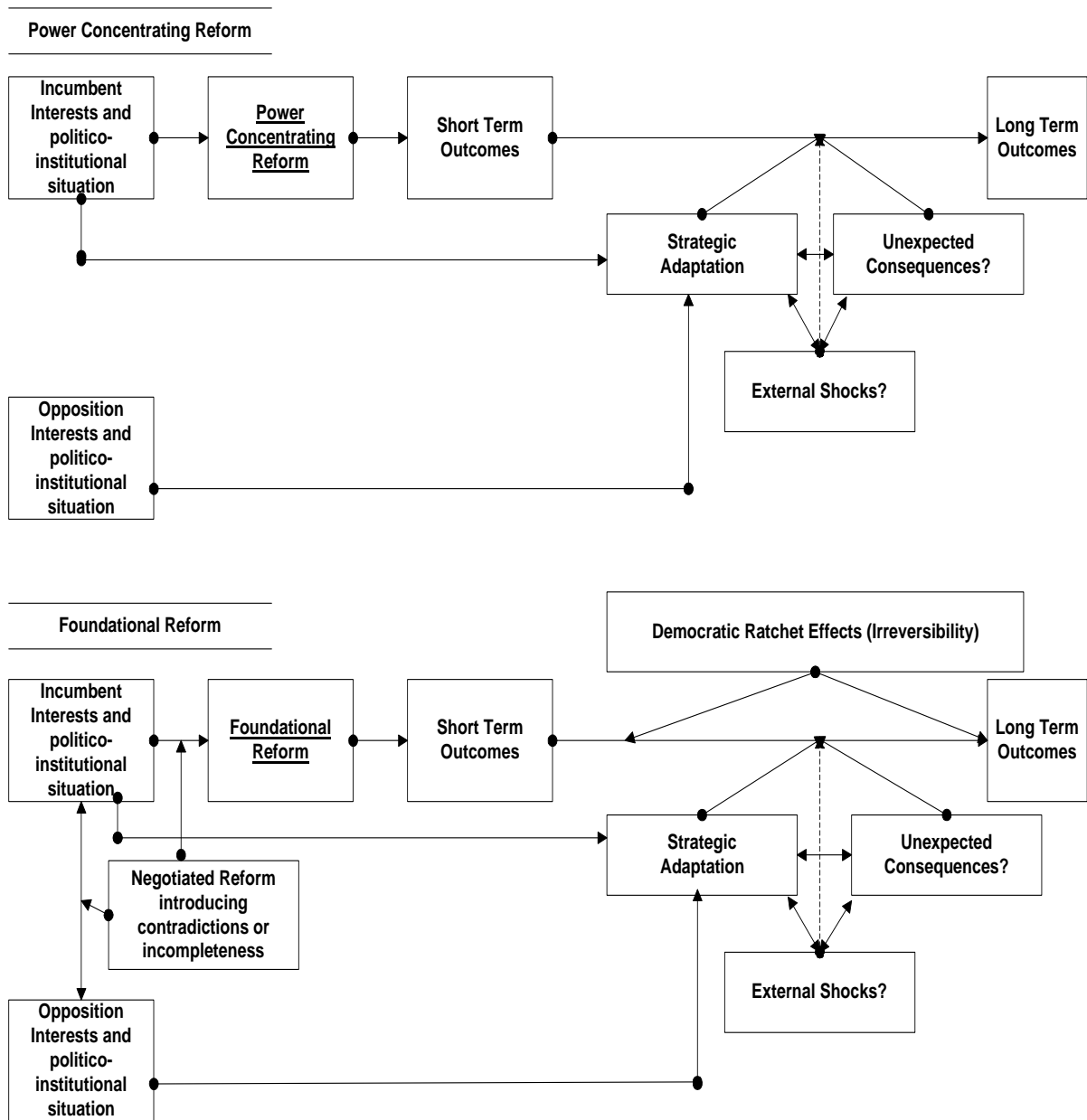
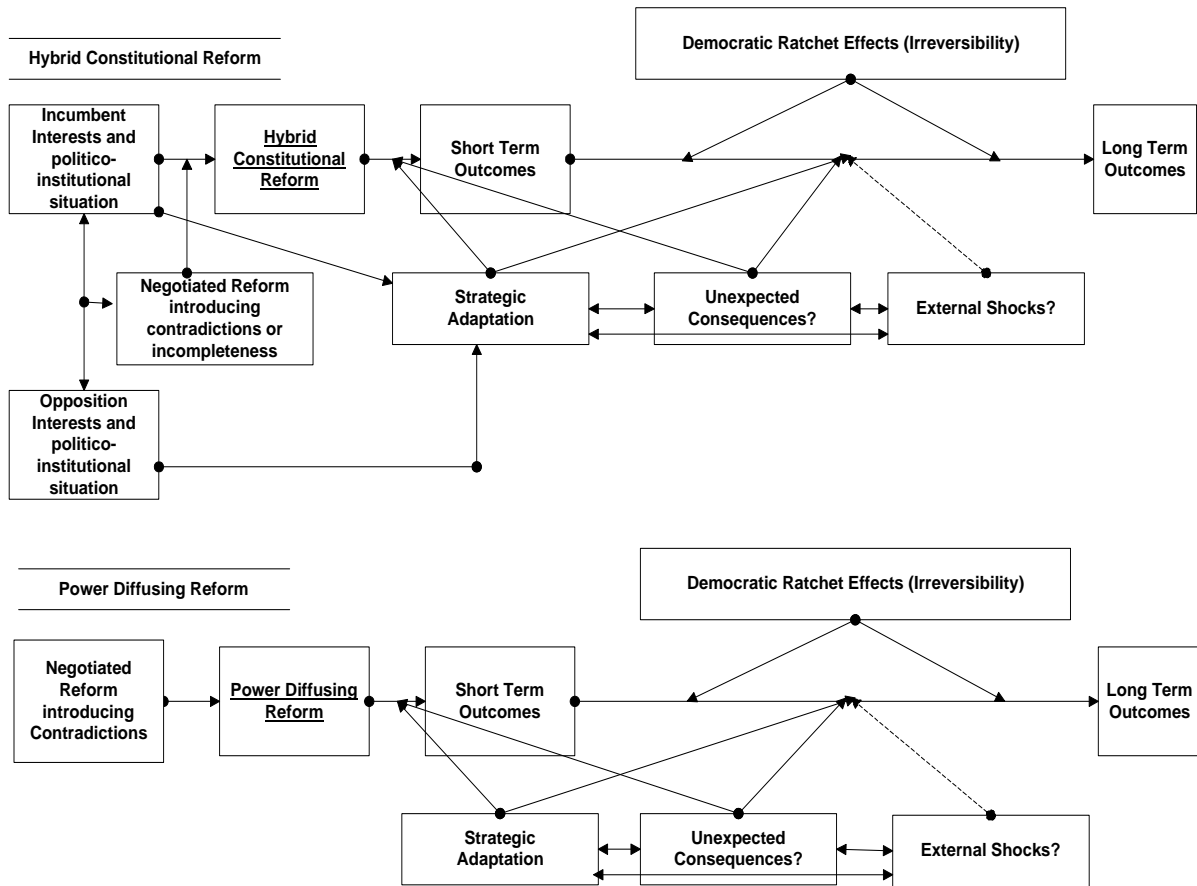


Figure 4. Hybrid and Power-Diffusing Constitutional Reforms



## Appendix

### **Index of executive power concentration: items included based on formal institutions, powers, or procedures.**

(Draft: subject to change, comments welcome)

The index is based on codings of constitutional texts and laws for eighteen Latin American countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela). Research assistance and comments by Agustina Giraudy are gratefully acknowledged.

The items employed include the following:

#### Legislative powers (1/2 of index)

Simple average of 7 items, each scale score is normalized over 0-1:

- Legislative form (0-1) (bicameral, unicameral)
- Presidential decrees powers (scale, 0 to 3)
- Presidential package veto/override powers (scale, 0 to 13)
- Presidential partial veto/override powers (scale, 0-13)
- Executive initiative of legislation (scale, 0-1)
- Executive power to dissolve legislature (scale, 0-2)
- Dismissal of cabinet ministers by legislature (scale, 0-2)

#### Non-legislative powers (1/2 of index)

Weighted average of 11 items, each scale score is normalized over 0-1:

##### Electoral (.4 weight)

- Presidential reelection (scale 0, none to 3)
- Tenure (scale 0, four years to 3)

##### Subnational political power (appointed by executive or popularly elected) (.2 weight)

- Popular election of provincial executive (scale, 0-2)
- Popular election of local executives (scale, 0-2)
- Federal system (scale, 0-1)

##### Presence of elements of direct democracy constraining executive (.1 weight)

- Popular legislative initiative (scale 0, yes-1, no)
- Recall (scale 0-1)
- Plebiscite (scale 0-1)

##### Horizontal accountability (.3 weight)

- Influence of executive on appointment of Constitutional or Supreme court (scale, 0-7)
- Procedures for impeachment and conviction of president (scale, 0-3)
- Ombudsman's office (scale, 0-2)

Summary scores for selected country constitutional (democratic transition index score in italics):

Country / year	Full Index	Legislative index	Nonlegislative index
<i>Arg 1853</i>	0.408	0.264	0.552
Arg 1994	0.415	0.361	0.469
Bol 1966	0.453	0.275	0.632
<i>Bol 1967</i>	0.422	0.407	0.437
Bol 1994	0.465	0.516	0.414
Bol 2005	0.482	0.516	0.448
Bra 1946	0.349	0.308	0.390
<i>Bra 1988</i>	0.398	0.473	0.324
Bra 1997	0.432	0.473	0.390
Chile 1925	0.610	0.597	0.624
<i>Chile 1980</i>	0.730	0.718	0.743
Chile 1989	0.659	0.575	0.743
Chile 2005	0.526	0.575	0.476
<i>Col 1957</i>	0.498	0.529	0.467
Col 1991	0.244	0.326	0.162
<i>CR 1949</i>	0.405	0.396	0.414
CR 2003	0.355	0.396	0.314
<i>DR 1966</i>	0.472	0.407	0.538
DR 1994	0.358	0.407	0.310
DR 2002	0.450	0.407	0.493
<i>Ec 1978</i>	0.383	0.432	0.333
Ec 1995	0.416	0.432	0.400
Ec 1998	0.458	0.718	0.198
<i>ES 1983</i>	0.429	0.396	0.462
ES 2000	0.395	0.396	0.395
<i>Guat 1985</i>	0.393	0.443	0.343
Guat 1994	0.393	0.443	0.343
<i>Hond 1982</i>	0.373	0.432	0.314
Hond 2004	0.378	0.443	0.312
<i>Mex 1917</i>	0.418	0.299	0.538
Mex 1996	0.327	0.299	0.355
<i>Nic 1987</i>	0.517	0.330	0.705
Nic 1995	0.357	0.330	0.383
Nic 2000	0.387	0.330	0.445
<i>Pan 1972</i>	0.541	0.529	0.552
Pan 1997	0.516	0.529	0.502
<i>Par 1967</i>	0.621	0.557	0.686
Par 1992	0.277	0.209	0.345
<i>Peru 1979</i>	0.334	0.302	0.367
Peru 1993	0.520	0.711	0.329
Peru 2000	0.486	0.711	0.262
<i>Urug 1967</i>	0.403	0.326	0.481
Urug 1996	0.436	0.392	0.481
<i>Ven 1961</i>	0.347	0.245	0.448
Ven 1999	0.315	0.284	0.345
<i>Mean</i>	0.434	0.432	0.437

## References

- Altman, David, Daniel Buquet and Juan Pablo Luna. 2006. "Constitutional Reforms and Political Turnover in Uruguay: Winning a battle, losing the war." Presented to the APSA Convention, Philadelphia, August 30-Sept. 2.
- Baldez, Lisa. 2004. "Elected Bodies: The Gender Quota Law for Legislative Candidates in Mexico," *Legislative Studies Quarterly* 29,2 (May), 231-258.
- Barczak, Monica. 2001. "Representation by Consultation? The Rise of Direct Democracy in Latin America," *Latin American Politics & Society*, 43, 3 (Autumn), 37-59.
- Barros, Robert. 2002. *Constitutionalism and Dictatorship: Pinochet, the Junta, and the 1980 Constitution*. Cambridge University Press.
- Bejarano, Ana María. 2001. "The Constitution of 1991: An Institutional Evaluation Seven Years Later," in Charles Bergquist, Ricardo Peñaranda, and Gonzalo Sánchez, eds., *Violence in Colombia, 1990-2000: Waging War and Negotiating Peace*. Wilmington, DE: Scholarly Resources, Inc., 53-74.
- Bejarano, Ana María. 2006. "Placing the Constitution of 1991 in Time: Colombia's Long Road to Democratization." Presented to the APSA Convention, Philadelphia, Aug. 30-Sept. 2.
- Bejarano, Ana María and Eduardo Pizarro. 2005. "From 'Restricted' to 'Besieged': The Changing Nature of the Limits to Democracy in Colombia," in Frances Hagopian and Scott P. Mainwaring, eds., *The Third Wave of Democratization in Latin America: Advances and Setbacks*. Cambridge: Cambridge University Press, 235-260.
- Calvo, Ernesto and Juan Pablo Micozzi. 2005. "The Governor's Backyard: A Seat-Vote Model of Electoral Reform for Subnational Multiparty Races," *Journal of Politics* 67,4 (November), 1050-1074..
- Cepeda Ulloa, Fernando. 2003. "Colombia: The Governability Crisis," in Jorge I. Domínguez and Michael Shifter, eds., *Constructing Democratic Governance in Latin America, Second Edition*. Baltimore: Johns Hopkins University Press, 193-219.
- Chavez, Rebecca Bill. 2004. *The Rule of Law in Nascent Democracies: Judicial Politics in Argentina*. Stanford: Stanford University Press.
- Colomer, Josep. 2001. "Disequilibrium Institutions and Pluralist Democracy," *Journal of Theoretical Politics* 13, 3, 235-247.
- Coppedge, Michael. 2003. "Venezuela: Popular Sovereignty versus Liberal Democracy," in Jorge I. Domínguez and Michael Shifter, eds., *Constructing Democratic*

*Governance in Latin America, Second Edition*. Baltimore: Johns Hopkins University Press, 165-192.

Diamond, Larry. 2002. "Elections without Democracy: Thinking About Hybrid Regimes," *Journal of Democracy* 13, 2 (April), 21-35.

Duhamel, Olivier and Manuel José Cepeda Espinosa. 1997. *Las Democracias: Entre el Derecho Constitucional y la Política*. Bogotá: Tercer Mundo Editores y Facultad de Derecho, Universidad de Los Andes.

Elster, Jon. 1988. "Arguments for constitutional choice: reflections on the transition to socialism," in Jon Elster and Rune Slagstad, eds., *Constitutionalism and Democracy*. Cambridge: Cambridge University Press, 303-326.

Elster, Jon. 1997. "Ways of constitution-making," in Axel Handenius, ed., *Democracy's victory and crisis*. Cambridge: Cambridge University Press, 123-142.

Elster, Jon. 1999. "Reason, interest and passion in the East European transitions," *Social Science Information, Rationality and Society* 38 (4), 499-519.

Falleti, Tulia. 2005. "A Sequential Theory of Decentralization: Latin American Cases in Comparative Perspective," *American Political Science Review* 99, 2 (August): 327-346.

Finkel, Jodi. 2004. "Judicial Reform in Argentina in the 1990s: How Electoral Incentives Shape Institutional Change," *Latin American Research Review* 39, 3 (October): 56-80.

Flores Juberías, Carlos. 2004. "Eastern Europe: General Overview." In Josep M. Colomer, ed., *Handbook of Electoral System Choice*. Houndmills, Basingstoke, Hampshire, UK: Palgrave Macmillan, 309-331.

Gargarella, Roberto. 2005. *Los fundamentos legales de la desigualdad: El constitucionalismo en América (1776-1860)*. Madrid: Siglo XXI.

Geddes, Barbara. 1996. "Initiation of New Democratic Institutions in Eastern Europe and Latin America," in Arend Lijphart and Carlos H. Waisman, eds., *Institutional Design in New Democracies: Eastern Europe and Latin America*. Boulder: Westview Press, 15-41.

Giraudy, Agustina. 2006. "The unintended consequences of the 1994 Argentine constitutional reform." Paper presented to the APSA Convention, Philadelphia, Aug. 30-Sept. 2.

Hart, Vivien. 2003. *Democratic Constitution Making*. Washington DC: U.S. Institute of Peace, Special Report 109 (July), 1-12.

Hartlyn, Jonathan. 2005. "The Challenges of Democratic Reform in the Dominican Republic," paper prepared for presentation at the Fundación Global Democracia y Desarrollo, Santo Domingo, May 17.

Hartlyn, Jonathan and Arturo Valenzuela. 1994. "Democracy in Latin America since 1930," in Leslie Bethell, ed., *Cambridge History of Latin America, Vol. VI, Part 2, Latin America since 1930: Economy, Society and Politics*. Cambridge: Cambridge University Press, 1994, 99-162.

Helmke, Gretchen and Steven Levitsky. 2004. "Informal Institutions and Comparative Politics: A Research Agenda," *Perspectives on Politics*, 2, 4 (December), 725-740.

Horowitz, Donald L. 2000. "Constitutional Design: An Oxymoron?" in Ian Shapiro and Stephen Macedo, eds., *Designing democratic institutions*. New York : New York University Press, Nomos, Vol. 42, 253-284.

Levitsky, Steven and Lucan Way. 2002. "The Rise of Competitive Authoritarianism," *Journal of Democracy* 13, 2 (April): 51-65.

Lijphart, Arend and Carlos H. Waisman. 1996. "The Design of Democracies and Markets: Generalizing Across Regions," in Arend Lijphart and Carlos H. Waisman, eds., *Institutional Design in New Democracies: Eastern Europe and Latin America*. Boulder: Westview Press, 235-248.

Magaloni, Beatriz. 2005. "The Demise of Mexico's One-Party Dominant Regime: Elite Choices and the Masses in the Establishment of Democracy," in Frances Hagopian and Scott P. Mainwaring, eds., *The Third Wave of Democratization in Latin America: Advances and Setbacks*. Cambridge: Cambridge University Press, 121-146.

Mainwaring, Scott and Matthew Soberg Shugart, eds. 1997. *Presidentialism and Democracy in Latin America*. Cambridge: Cambridge UP.

Moreno, Erika, Brian F. Crisp and Matthew Soberg Shugart. 2003. "The Accountability Deficit in Latin America," in Scott Mainwaring and Christopher Welna, eds., *Democratic Accountability in Latin America*. Oxford: Oxford University Press, 79-131.

Munck, Gerardo. 2004. "Democratic Politics in Latin America: New Debates and Research Frontiers." *Annual Review of Political Science* 7: 437-62.

Navia, Patricio. 2002. "You Select the Rules of the Game and Lose?: Advantages and Constraints When Choosing Electoral Rules: The Case of Chile." Ms.

Negretto, Gabriel. 1999. "Constitution-making and institutional design. The transformations of presidentialism in Argentina," *European Journal of Sociology* 40, 2: 192-232.

Norris, Pippa. 2004. *Electoral Engineering: Voting Rules and Political Behavior*. Cambridge: Cambridge University Press.

O'Neill, Kathleen. 2005. *Decentralizing the State: Elections, Parties, and Local Power in the Andes*. Cambridge: Cambridge University Press.

Pierson, Paul. 2004. *Politics in Time: History, Institutions and Social Analysis*. Princeton: Princeton University Press.

Przeworski, Adam. 1988. "Democracy as a contingent outcome of conflicts," in Jon Elster and Rune Slagstad, eds., *Constitutionalism and Democracy*. Cambridge: Cambridge University Press, 59-80.

Sartori, Giovanni. 1994. *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes*. Washington Square, NY: New York University Press.

Schedler, Andreas. 2002. "Elections Without Democracy: The Menu of Manipulation," *Journal of Democracy*, 13,2 (April), 36-50.

Schedler, Andreas, ed. 2006. *Electoral Authoritarianism*. Boulder: Lynne Rienner Publishers.

Segura, Renata and Ana María Bejarano. 2004. "¿Ni una asamblea más sin nosotros! Exclusion, Inclusion, and the Politics of Constitution-Making in the Andes," *Constellations* 11, 2: 217-236.

Shugart, Matthew Soberg and John C. Carey. 1992. *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*. Cambridge: Cambridge UP.

Shugart, Matthew Soberg, Erika Moreno and Luis E. Fajardo. Forthcoming, 2006. "Deepening Democracy by Renovating Political Practices: The Struggle for Electoral Reform in Colombia" in Christopher Welna and Gustavo Gallón, eds., *Peace, Democracy, and Human Rights in Colombia*. Notre Dame: University of Notre Dame Press.

United Nations Development Programme (UNDP). 2004 [2005, first English edition]. *Democracy in Latin America*. New York: UNDP.

Weyland, Kurt. 2005. "Theories of Policy Diffusion: Lessons from Latin American Pension Reform," *World Politics*, 57 (Jan): 262-95.