

Rational Choice and Constitutional Design

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Spring-Summer 2005

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Required Texts:

Mueller, D. C. (1996) *Constitutional Democracy*. New York: Oxford University Press. ISBN 0-19-514407-4 paper back
Congleton R. D. (2003) *Improving Democracy through Constitutional Reform: Some Swedish Lessons*. Dordrecht: Kluwer Academic Press. (also available in Swedish)

Overview:

Modern democratic states are characterized by more than popular elections. Citizens vote on different matters (policies, candidates, and parties), elected government officials have different decision-making structures (bicameral, unicameral, presidential, and prime ministerial), and a nation's governance may be more or less decentralized. There may be an independent judiciary. Do these institutional details matter? And if so, which institutional structures work best? And, moreover, what does "best" mean in the case of constitutional design?

This course explores the relative merits of constitutional designs using elementary game theory and both narrow and extended rational choice models human behavior. Parts II and III of the course develop a contract theory of the state. Part III analyzes how different assumptions about self-interest and different normative visions affect constitutional design. Parts IV and V analyze features of modern constitutional governance.

Tentative Course Outline

I. *What is a Constitution?*

- 12/4 The Constitution as Rules of the Political Game M1, C2,7
(see class website)
- a. Durable procedures and constraints
 - b. Formal and informal rules
 - c. Ancient origins of the constitutional design problem
 - d. Governments as agents for political principals
 - e. Dictatorial constitutions advance the dictator's interests
 - f. Democratic Constitutions advance the median voter's interests

II. *Origins of Government*

- 3/5 The Logic of Collective Action: the Productive State M2
(see class website)
- a. Public and Private Goods
 - b. Commons Problems
 - c. Coordination Problems

- 10/5 Contemporary Rational Choice Theories of the Origin of the State
- a. Olson and Tullock: Conquest (see class website)
 - b. Buchanan and Rawls: the Productive State

III. *Origins and Evolution of Constitutional Analysis*

- 17/5 Early Constitutional Analysis
- a. Plato: Deductive Analysis - philosopher kings (see class website)
 - b. Aristotle: Inductive Analysis - desirability of mixed governments
 - c. Late Medieval Constitutionalists
 - d. the Dutch Republic
 - e. the English Levelers
 - f. the American Colonies
- 24/5 The Enlightenment: Constitutions as Social Contracts
- a. Hobbes (see class website)
 - b. Locke
 - c. Rousseau
- 31/5 Modern Contractarians:
- a. Wicksell / Lindahl (see class website)
 - b. Rawls
 - c. Buchanan

IV. *Elements of Constitutional Design*

- 7/6 Democratic Constitutional Design: Problems and Solutions M27, C9
- a. Can democracies make decisions?
 - b. Do democracies lead to radical redistribution?
 - c. The problem of the Next election
- 14/6 Assessing the Relative Merits of Constitutional Designs C7-9
- a. Democracy vs Dictatorship
 - b. Constrained Democracy vs Unconstrained Democracy
- 21/6 Beyond Majority Rule: Protecting Minority Interests C10
- a. Rights: limiting the domain of politics (see class website)
 - b. Decentralization: Voting with one's feet
- 28/6 Constitutional Durability and Stability M10, C10
- a. Constitutional review
 - b. Constitutional amendment

V. *Conclusions and Extensions*

- 5/7 Constitutional Governance in the Small and in the Large
- a. Private Clubs (see class website)
 - b. Firms
 - c. International Treaty Organizations
- 12/7 International Treaty Organizations as Constitutions

Grades: TakeHome Midterm Exam (50%) / Final Paper (50%)