

1. Introduction: Rational Choice Politics and Political Institutions

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I. Introduction

Democracies are not all created equal. Electoral systems may be based on proportional representation or plurality rule or any combination of the two. The executive may be accountable to the legislature, as in parliamentary systems, or directly elected by the people, as in presidential systems. The legislature may have one or two chambers, the judiciary may be more or less independent of the other branches of government, and local and regional governments may be more or less autonomous. Democratic governance may be subject to more or fewer constitutional and legal constraints. The potential variety is very large, both regarding the broad institutional architecture of governance and regarding institutional details.

Do these differences matter? If “the people” spoke with a single voice, it is possible that the institutional details of democratic governance would matter little. Policy choices might be identical under all democratic systems if a single essentially unanimous voice ultimately determined policy or selected representatives—provided that these representatives were able and willing to faithfully carry out the people’s wishes. However, the people do not speak with a single voice and elected representatives do not always faithfully represent the interests of their supporters. Consequently, differences in constitutional procedures and constraints are very likely to affect public policy.

Although citizens may or may not have preferences about political processes, they most certainly have preferences regarding policy outcomes. Therefore, knowing the policy effects of alternative political institutions is an important prerequisite for informed constitutional choice.

This volume surveys and extends recent empirical evidence on the policy effects of alternative democratic constitutional designs. Its purpose is to take stock of what we know about the political and economic effects of constitutional design with special emphasis on the accumulating empirical evidence. The focus is on the rational choice–based literature, and the papers, for the most part, belong to the field of political economy, although they also include contributions from the rational choice

strand of political science. The contributors to the present volume have all made substantial contributions to the new research on constitutional design, and several are among the pioneers in this field of research.

The empirical analysis focuses for the most part on the experience of the OECD countries. The OECD countries have had relatively stable forms of constitutional democracy for half a century or more and also have extensive reliable data sets on which to base empirical analysis. These features make them excellent laboratories in which to assess the impact of small differences in democratic design. In the OECD countries, it is likely that the strategies used by politicians, political parties, and politically active interest groups are mature reflections of their political institutions rather than historical accidents or temporary experiments of one kind or another. This allows the equilibrium effects of alternative democratic constitutional designs on public policy and prosperity to be estimated and compared. Evidence from broader international studies is largely consistent with the OECD experience and is also reviewed and extended in several of the chapters.

The book is about constitutional design, but the term constitution as used here is not limited to the formal procedures and constraints included in a country's written constitution. A political constitution is defined more broadly as the fundamental and durable procedures and constraints through which laws and public policies are adopted. For representative democracies, these include election laws (which often are not part of a nation's written constitution) the general architecture of government, statements of citizen rights and obligations, the legal system, and the formal procedures for reforming those procedures and constraints. Great Britain does not have a written constitution and lacks a formal process of amendment, but clearly has constitutional governance, as the political and historical literatures on "the" English constitution clearly attest.

Five general areas of empirical research on constitutional design are analyzed in this volume. Part I analyzes the effects of electoral systems on public policy. Part II analyzes the effects of alternative decision-making processes within the legislatures of representative democracies, including the effects of bicameral legislatures. Part III analyzes the effects of decentralization on public policy formation. Part IV examines the economic effects of a nation's legal and regulatory setting, what might be considered a nation's "economic constitution." Part V analyzes dynamic aspects of constitutional design.

This introductory chapter is organized as follows. Sections II-IV provide an overview of the rational choice analysis of democratic constitutional design. The literature review sets the contributions of this volume in perspective and provides the reader with a sense of the origins, breadth, depth, and pace of the new literature. More complete surveys can be found in Mueller (2003) and Persson and Tabellini (2000b), although they do not focus on the constitutional literature as such. Section V notes how the rational choice research program has divided into at least three clusters of researchers. This volume brings together leading scholars from these more or less

independent research groups—specifically the public choice, new institutionalist, and new political economy groups—in order to assess what we have learned from recent empirical research on democratic constitutional design. Section VI contains brief summaries of the individual chapters. Section VII concludes the overview.

Overall, the empirical research surveyed and extended by this volume implies that even relatively small differences in the fundamental procedures and constraints of democratic governance can have relatively large effects on politics, public policies, and prosperity.

II. The Rational Choice Approach to Constitutional Analysis What Is New in the New Literature?

Analysis of the properties and relative merits of alternative political institutions is approximately as old as government itself. Every ruling council and every ruler confronts the problem of organizing governance, and nearly all are interested in effective rules and routines for governmental decisionmaking. Analysis of alternative ways of organizing public policymaking is therefore a very ancient field of research. Applied research on constitutional design is approximately as old as governance itself.

Scholarly work on constitutional design is a somewhat more recent phenomenon, but has been an important part of social science from its inception. For example, Aristotle's pioneering study of the constitutions of 158 Greek city-states continues to draw attention more than two thousand years after its completion. Scholarly analysis of the merits and demerits of alternative political institutions continued for the next two thousand years, albeit with interruptions, and played an important role in the democratic constitutional revolutions of the eighteenth, nineteenth, and twentieth centuries.

Given the long history of constitutional research, one might reasonably ask whether modern work can add anything truly new to this enormous body of work. However, perhaps surprisingly, there is a much that is new in recent research. New methods of analysis have generated new models of political behavior, new empirical evidence, and new research questions—all of which advance our understanding of the relationships between institutions, political processes, and public policies. Analysis of politics and political institutions from the long-standing legal and historical perspectives is limited to the constitutional documents, politically active persons, and circumstances actually observed in history. However detailed is the information about a specific event or set of institutions, and however careful the inductive analysis is undertaken, its conclusions cannot be easily generalized beyond the specific events or institutions analyzed. In contrast, the point of departure for much of the new literature is an analytical model rather than a specific case history. The model characterizes the behavior of rational individuals within a particular institutional context, and the effects of institutions on political outcomes are determined by changing institutional assumptions. This deductive approach allows constitutional

analysis to take place in an “other things being equal” environment that isolates the effects of decision rules and constraints from the wide variety of personalities, culture, and crises that infuse politics in historical settings.

The “rational choice” approach, thus, represents a sharp break with the longstanding historical approach to constitutional analysis—indeed a paradigm shift. It allows sharp hypotheses about the *general* effects of institutions on public policy formation to be formulated, tested for logical consistency, and subjected to statistical analysis.

The use of game theory and rational choice models to analyze politics and constitutional design tends to focus attention on many technical issues of narrow interest to model builders. Are there stable electoral equilibria and dominant political strategies within democracies? If equilibria exist, how are equilibrium strategies affected by electoral rules and other constitutional procedures and constraints? What does it mean to be rational within the context of a specific model? What is the appropriate way to think about equilibria, knowledge limits, and error?

Answers to many of these narrow technical questions, perhaps surprisingly, have broad implications for real institutions. The effects of constitutional rules on political equilibria imply that constitutions may systematically affect policy choices in a manner that is independent of culture or history. The existence or absence of equilibrium strategies may reveal that some forms of government are fundamentally more stable and more durable than others.

The subsequent use of statistical methods to determine whether the relationships discovered analytically are present in the real world also breaks with the longstanding historical analysis of constitutional design in several ways. Most statistical methods require both models and *quantitative* data, whereas traditional historical techniques do not. Contemporary statistical techniques, consequently, encourage the development of new models of institutions and the collection of new historical facts about those institutions. The new facts take the form of numerical measures and more finely gradated classifications of constitutional design. The new models reflect past empirical evidence and analytical innovation. In the long run, the research cycle of model, test, and revision yields conclusions that are increasingly robust to model assumptions, data sets, and statistical techniques. The ultimate aim of the new approach is a science of constitutional design.

The Rational Choice Approach to Political Analysis

The rational choice–based approach to constitutional analysis has its roots in the economic analysis of politics that emerged shortly after World War II. The first rational-choice models of democratic decisionmaking implied that when two parties compete for elective office, there is a tendency for their proposed platforms to converge to that preferred by the median voter (Black 1948 and Downs 1957). Duverger (1954) suggests that two-party systems tend to emerge in “first-past-the-post” electoral systems, and also suggests that coalition governments are more likely

under proportional representation (PR) than under first-past-the-post systems. Majority coalitions must also please the median voter, but will generally adopt policies that reflect the bargaining power and positions of the parties included in majority coalitions (Riker 1962). In more general circumstances, however, pluralistic collective decision rules, unfortunately, may lack a definite equilibrium (Black 1948a and 1948b, Arrow 1954, Plott 1967). In the absence of ideological and constitutional restrictions, majoritarian decisionmaking tends to be both unstable and unsystematic.¹

During the same period, the post-war public economics literature (Samuelson 1954, Riker and Tiebout 1956) demonstrated that public policies can improve on the results of private markets in cases in which private transactions fail to obtain Pareto-efficient results. These results provided analytical foundations for the theory of the productive state. These same results, however, also made it clear that actual governmental policies did not always resemble those of the productive state. Tax and transfer systems had clear excess burdens, many externality problems were ignored, and many others were over-, under-, or mis-regulated.

During the 1960s and 1970s, rational choice-based political research attempted to explain why public policies were less effective than public economics implied they could and should be. A variety of informational and institutional considerations imply that voters may fail to fully understand the consequences of public policies and institutions, or fail to completely monitor and sanction their elected representatives (Downs 1957). As a consequence, mistakes may be made and political agency problems may exist and go unpunished.

Indeed, the first models of the effects of politically active interest groups (Olson 1965) and the bureaucracy (Downs 1965, Niskanen 1971, Breton and Wintrobe 1975) implied that governments do not always adopt policies that advance broadly shared interests or even those of the median voter. Cases exist in which governmental regulators may be “captured” by the industries they are charged to regulate (Stigler 1971, Peltzman 1976). Moreover, interest group efforts to influence government tax and regulatory policies not only reduce economic efficiency and redistribute income in undesirable ways, but may also consume considerable resources (Tullock 1967, Krueger 1974, and Posner 1975).²

The electoral and interest group analyses of democratic politics remained largely independent literatures during the 1970s and early 1980s, as significant extensions of the electoral and interest group models took place. For example, Breton (1974) explicitly considered polycentric policymaking within democracies and argued that bargaining among centers of authority and within coalitions determines public policies. Browning (1975) pioneered intergenerational analysis of elections and demonstrated that long-term public policies such as social security are affected by the timing of those program benefits and similarities in the interests of successive generations of voters as they approach retirement. Meltzer and Richards (1981) demonstrated that an integrated economic and electoral analysis can explain the magnitude of redistributive programs within democracies. Becker (1983) developed a

more comprehensive model of interest group politics, whereas Denzau and Munger (1986) showed how unorganized interest “groups” might also influence democratic politics.

In the late 1980s and early 1990s, several more complete models of democratic politics were developed that incorporated interest groups and informational problems into electoral models (Austin-Smith 1987; Congleton 1989; Coughlin, Mueller, and Murrell 1990; Grossman and Helpman 1996). These more complete models also generally implied that elected officials in open democracies are not always completely faithful agents of their electorates.

Statistical tests of the hypothesized relationships between economic and political variables and policy outcomes were undertaken using a variety of national data, although for the most part the theoretical literature outpaced its empirical counterpart. For example, the median voter, spatial voting, and complete models received considerable empirical support (Holcombe 1977, Denzau and Grier 1980, Congleton and Shughart 1990, Poole and Rosenthal 1991).

The extent of political agency problems, however, continued to be controversial. On the one hand, research such as Weingast and Moran (1983) and Wittman (1995) suggests that political agency problems are not as bad as some of the early theoretical work implied or at least no worse than in the private sector. On the other hand, a substantial literature suggests governmental bureaucracies are generally less productive than their private counterparts (Davies 1971, Crain and Zardkoohi 1978, Boardman and Vining 1989, Laffont and Tirole 1991). Research on government corruption also suggested that political agency problems can be severe (Rose-Ackerman 1978 and 1999).

Regardless of whether agency problems are worse in the public sector than in the private sector, however, an important institutional design question is whether political agency problems can be reduced by an appropriate choice of political institutions. That important question was also addressed by the rational choice literature, and is addressed at several places in the present volume.

III. Rational Choice, Constitutional Design, and Public Policy

From a game theoretic perspective, it is natural to think of constitutions as the “rules of the political game,” and public policy is a consequence of the equilibrium strategies adopted by politicians, voters, and the bureaucracy under those rules. This allows the relative merits of alternative constitutional designs to be analyzed using tools developed from game theory and public economics. Insofar as the rules of a game partly determine the outcome of a game, different constitutions may lead to different public policies. If constitutions affect public policies and some policies are better than others, then some constitutions are better than others. In particular, constitutional designs can potentially improve democratic governance by better aligning the equilibrium strategies of elected officials with the shared long-term policy interests of the electorate.

Political institutions, however, are not exogenous in the sense that the rules of an established parlor game tend to be. Ultimately they are also chosen by the players, or a subset of the players, themselves. Game theoretic representations of policy formation require that a government's basic procedures and constraints be sufficiently stable that they can be taken "as given" during the course of ordinary day-to-day politics, but they do not require the "rules of the political game" to be above politics, per se.

The stability of a particular constitution is partly determined by its ability to advance the interests of those who play under its rules and partly by the procedures for changing those rules. The latter are partly determined by the constitution, itself, through its amendment procedures, which provide rules that govern the political contest over day-to-day political procedures and constraints. The consequences of alternative rules together with the available methods for changing those rules determine the extent to which particular procedures and constraints are likely to remain in place.

Buchanan and Tullock (1962) use such reasoning to explain the use of a variety of voting rules within modern representative democracies. When downside risks associated with new public policies are relatively large, supermajority approval will protect the shared interests of the electorate. When these risks are small or the benefits of immediate action are large, minority or executive decisionmaking may be employed to reduce decision making costs. Similarly, Oates (1972) demonstrates that decentralized forms of government decisionmaking and finance tend to produce public policies that cannot be worse than those associated with centralized control and may well be better, unless there are substantial economies of scale in the production of government services. Tullock (1980) argues that different judicial systems may have systematic effects on crime and the extent of litigation. Shepsle and Weingast (1981) and Hammond and Miller (1987) demonstrate that institutions can reduce uncertainty about policy outcomes by increasing the policy domain in which democratic politics have stable equilibria. The internal organization of the legislature—committees and memberships of those committees—were also shown to have significant effects on the formation of public policies (Ferejohn 1974, Strom 1975, Holcombe and Zardkoohi 1981).

Empirical work on the policy effects of political institutions during this period was for the most part focused on Switzerland and the United States, because their federal systems and histories have generated significant institutional variation among their regional governments. For example, the variation among Swiss cantons with respect to their use of the institutions of direct democracy allows an analysis of the effects of town meetings, popular initiatives and referenda. Within the United States, variation in the details of state budgetary processes, fiscal constraints, and use of referenda allow the effects of these institutions, if any, to be assessed. These intranational variations allow the effects of various constitutional features to be estimated, and the effects of referenda, balanced budget rules, and gubernatorial veto power were assessed statistically (Abrams and Burton 1986, Holtz-Eakin 1988, Crain

and Miller 1990, Carter and Schap 1990). In general, referenda appear to reduce political agency problems, but the effects of other fiscal institutions were empirically less robust. The political and policy effects of those institutions, if any, were evidently more complex than the early analyses assumed.

A parallel literature in macroeconomics investigated the relationship between institutional structures and a nation's macroeconomic policies. Even well-behaved democratic governments are evidently inclined to misuse macroeconomic policy tools in the short run and to expand the public debt and monetary base more rapidly than in the long-term national interest (Nordhaus 1975, Hibbs 1977, Toma and Toma 1986, Grier 1989, Alesina and Tabellini 1990). There is often a tension between democratic politics and effective stabilization policies (Nordhaus 1975, Buchanan and Wagner 1977). Deficits may be controlled to some extent by constitutional structures such as direct democracy (Pommerehne 1978), balanced budget rules (Brennan and Buchanan 1980), and the line item veto (Carter and Schap 1990) within limited circumstances. Tendencies toward inflationary monetary policies may also be resolved institutionally with rule-based policies (Kydland and Prescott 1977, Cukierman and Meltzer 1986) or an independent central bank (Banaian, Laney, and Willett 1983; Rogoff 1985), although the institutions that ensure independence are not immediately obvious. The latter led to a good deal of innovative theoretical and empirical research on credible commitment to rules and on institutional designs that can assure central bank independence (Waller 1989, Cukierman 1992).

Prior to 1990, however, it is fair to say that the effects of constitutional architecture on political agency problems and public policy were largely neglected by theoretical and empirical work in the rational politics tradition, although a very large literature used rational choice models, game theory, and sophisticated statistical techniques to understand politics and policy formation within democracies.

IV. Acceleration of Constitutional Research After 1990

Several factors contributed to a heightened interest in the role of political institutions in the 1990s. The end of the Cold War and the dissolution of the old Soviet empire led to a great wave of constitutional reform in Eastern Europe, Asia, Africa, and South America in the 1990s. These along with the gradual political centralization of the European Union brought constitutional issues to the fore. The pressing need for new constitutions revealed the limits of existing rational choice-based constitutional theories, which were unable to provide more than general structural advice that was perhaps more based on historical studies and intuition than a substantial body of careful empirical research. Moreover, a growing realization among economists that public policies failed to produce what they should lead increasing numbers of economists to examine the effects of political institutions. Public deficits, inflation, unemployment, inefficient transfer programs were increasingly seen as policy failures caused by the incentives faced by politicians and public servants, rather than a lack of information regarding the appropriate policies to

pursue. These incentives, in turn, were seen to depend on “the rules of the political game.”

The 1990s, consequently, saw a great new wave of innovative constitutional research. For example, many books were written during the following decade that deepened the rational choice analyses of political institutions. Barnett, Hinich, and Schofield (1993) survey and extend the principal rational choice–based analyses of democratic political institutions. Alesina and Rosenthal (1995) analyze how staggered election cycles affect macroeconomic policies and the political composition of the legislature. Laffont and Tirole (1993) and Dixit (1996) explore possible contractual and institutional solutions to agency costs within the unelected portion of modern governments. Laver and Shepsle (1996) summarize and extend the literature on government formation within multiparty parliamentary systems. Mueller (1996) provides a careful normative analysis of the relative merits of alternative features of modern democratic constitutional design. Tsebelis and Money (1997) explore the effects of bicameral legislatures on public policies. Cox (1997) analyzes the coordination of voters and parties necessary to make policy decisions within a variety of constitutional settings. Buchanan and Congleton (1998) demonstrate that a constitutional requirement of uniform taxation and public service can make democratic political outcomes more efficient. Wintrobe (1998) examines the political and informational constraints that authoritarian regimes confront. Gordon (1999) establishes historical links between the division of power and the extent of civil liberties in republican government. Przeworski et. al. (2000) develops an extensive international study of the effects of constitutional designs on political stability and a nation’s economic growth. Persson and Tabellini (2000b) provide an extensive overview and synthesis of the politics of government policy formation with special attention to institutions governing macroeconomics and public finance. Brennan and Hamlin (2000) suggest that democratic constitutional designs should account for ethical behavior as well as self-interest. Tsebelis (2003) examines how the number of veto players incorporated into a nation’s political institutions affects political outcomes. Congleton (2003) analyzes the political and policy effects of four Swedish constitutional regimes over the course of nearly two centuries. Mesquita, et. al (2003) develop and test a model of policy choice that takes account of a continuum of constitutional designs in each of which the risk of both internal and external overthrows are significant concerns.

The production of shorter pieces continued apace as several journals opened their pages up to the new constitutional research, and several new journals were founded that focus on rational choice politics, including one devoted to constitutional analysis, *Constitutional Political Economy*.

The rational choice research program continued to be driven in large part by its own methodology and results as models were extended to address new choice settings and as richer models of human behavior and political institutions were explored. Many of the new models used extensive rather than normal form games so that interdependencies between series of decisions within a given institutional setting

could be better represented and understood. And, perhaps paradoxically, some strands of the new research became increasingly narrow and specialized, while other strands became increasingly broad and interdisciplinary. Overall, however, the new theoretical research on constitutions remained conceptual and deductive and addressed both analytical and normative propositions concerning constitutional design.

Of particular interest for the purposes of this book is the large volume of empirical work that tested the new theories using new international and historical data sets and new statistical techniques. For example, Grier and Tullock (1989) provide evidence that relatively more democratic countries tend to grow faster than relatively more authoritarian ones, other things being equal. Knack and Keefer's very influential work (1995, 1997) suggests that culture—social capital—as well as institutional factors affect economic growth. This led to an extensive empirical literature that attempted to evaluate the relative importance of political institutions, culture, and economic variables in determining economic growth rates.

Unfortunately, as is often the case with empirical work in the social sciences, the results were not always as clear cut as one might have hoped. Przeworski and Limongi (1993) and Temple (1999) suggest that the link between growth and indices of political liberties is less than completely robust, although economic freedom and political stability appear to encourage economic growth. The ambiguity of the effects of institutions are consistent with economic theory, which implies that political institutions will have systematic economic effects only if they systematically affect political equilibria and the subsequent policy choices of governments. Gwartney, Lawson, and Holcombe (1999) provide evidence that economic policies rather than political institutions or culture are the decisive variables.

The first efforts to assess the effects of institutions had neglected to determine which policies were affected by which institutional differences. Subsequent theoretical and empirical research attempted to isolate the effects of particular political institutions on particular public policies. For example, insofar as voters disagree about public policy, many public policies are determined partly by election law, because variation in election law will induce changes in the identity of the pivotal voter. The latter systematically affects public policy insofar as candidates and parties propose public policies in order to attract the pivotal voter's vote. Lott and Kenny (1999) find the expansion of women's suffrage increased the effective demand for social insurance programs. Mueller and Stratmann (2003) find similar effects for rules that increase electoral turnout, which also change the identity of the pivotal voter, who generally becomes younger and poorer as turnout increases.

Unfortunately, the policy effects of political institutions are often difficult to untangle, and progress required the development of more sophisticated models, data sets, and empirical techniques. This research program rapidly became one of the most ambitious and innovative of the new lines of constitutional research. For example, the two most widely used rules for determining representation, plurality votes in

single-member districts and proportional representation in multimember districts, have a variety of significant, but subtle, effects on electoral politics, government formation, and the public policies that emerge. Persson and Tabellini (1999) demonstrate that the relatively smaller size of districts within plurality systems increases the electoral advantages of targeted expenditures within plurality-based systems relative to proportional representation (PR) systems. The larger number of parties supported by PR systems also implies that coalition government is the rule rather than the exception. Lupia and Strom (1995) and Diermeier, Eraslan, and Merlo (2002) demonstrate that the stability of ruling coalitions within PR systems is affected by the rules under which governments are formed and dissolved. Coalition governments may choose to be larger than the minimal majority coalitions implied by Riker's analysis (1962), because larger coalitions are more resistant to destabilizing external shocks. Persson and Tabellini (1999) note that the larger number of parties in government in PR systems tends to reduce incentives to attend to the overall program results, which encourages the expansion of government expenditures and deficits. Moreover, the fiscal commons problem also tends to increase with the size of a nation's legislature (Gilligan and Matsusaka, 1995, 2001).

The general architecture of governance and the division of power within a system of representative democracy also have a variety of subtle effects on politics and the selection of public policies. For example, the division of policy making authority affects the flow of information available to voters. Federalism allows individuals to observe the fiscal package available in neighboring communities and punish officials at the ballot box for providing services less efficiently than their neighbors or providing less attractive fiscal packages (Shleifer 1985, Salmon 1987, Besley and Case 1995). Similarly, a divided government can produce useful information about public policy, which potentially reduces the magnitude of political agency problems (Persson and Tabellini, 1997).

Of course, not all of the new constitutional research during recent decades was undertaken by scholars using the rational choice approach. The effects of major and minor differences in political institutions have attracted increased attention from scholars working in a wide range of methodologies. Notable among the many other contributions are multiple-volume historical studies of government by Finer (1997) and of the law by Berman (2003). Moreover, the borders among the historical, legal, and rational choice traditions are not sharp, and complementary contributions to the new constitutional research program have been made by, for example, Ostrom (1990), Shughart (1992), Lijphart (1994), Cooter (2000), and Powell (2000).

Again, the aim of the present overview is not to provide an exhaustive survey of the field, but to provide the reader with a sense of the breadth and accelerated pace of constitutional research undertaken in the recent decades. More extensive reviews are undertaken in the individual chapters below.

V. Independence of the New Research Programs

Overall, the past two decades of rational choice analysis have produced a bountiful harvest of constitutional research. However, much of that work was independently conceived and undertaken.

During the 1970s, the rational choice approach to politics and its associated literature came to be known as “public choice,” and ties between researchers were strengthened as public choice societies were founded in the United States, Europe, and Japan. As the rational choice research program on politics and political institutions became more widely accepted, increasing numbers of economists and political scientists employed game theoretic models of political competition and interest group behavior to analyze problems central to their research. Such models were applied in subfields of economic policy analysis, including taxation, regulation, international trade, economic history, economic development, and macroeconomics. The originality and importance of this new research program has been widely recognized. For example, several researchers have received the Nobel Prize, in part, because of their contributions to the economic analysis of politics. Among those may be counted Arrow, Becker, Buchanan, Sen, and Stigler. To these may be added Coase, Hayek, and North whose research also included rational choice analyses of political and legal institutions.

However, as the breadth of research expanded and the number of researchers increased, more specialized models and applications were developed and connections among scholars dwindled. Although most contemporary models and empirical work continue to reflect the insights of the pioneers, the same roots support many branches of research. Consequently, there is a broad overlap in the methodology and conclusions of recent work on constitutional design, but there is not yet a unified field of constitutional political economy.

At least three clusters of constitutional researchers within the rational choice tradition can be identified. In general, the three major research clusters use somewhat different models, data sets, and empirical techniques; refer to different scholarly traditions of research; and address somewhat different historical and technical questions concerning constitutional design. They publish in different journals and participate in different conferences. They are members of different academic associations and are often from different parts of the world. All three groups, nonetheless, use rational choice models and sophisticated statistical techniques, and all are interested in political decisionmaking, institutions, and the interaction of political and economic variables. The research of these three groups tends to be known as “public choice,” “the new institutionalism,” and “the new political economy,” although many other labels would work as well.³

The independence of these research programs has several advantages for advancing our knowledge of constitutions. The existence of several independent research programs allows researchers to pursue particular lines of research more aggressively than would be possible in a unified framework or within a single circle of

researchers. Smaller more homogeneous research circles allows new work to be encouraged by fellow travellers rather than impeded by the various conceptual, methodological, ideological, and personal conflicts that often exist between fellow researchers in larger groups. Beyond ease of research, independence also implies that any similarities in conclusions and results are also independent and thus more likely to reflect underlying features of the phenomena under study, rather than blinders imposed or necessitated by particular research programs or groups. In areas in which a broad convergence exists among models and results, convergence implies that some methods of thinking about constitutional design are more fruitful than others and that truly general results are possible.

Independent research programs, however, also have disadvantages. When research groups are too independent, they may not be aware of parallel developments in other groups and so fail to recognize the generality or limits of their results. New ideas and methods are less widely discussed and disseminated, and research questions at the margins of the individual groups may be neglected. Moreover, neglected conflicts and agreements as well as redundancy may cause potentially important questions to be ignored. This volume seeks to encourage a broader synthesis and dissemination of the new constitutional research by including researchers from the three major research circles.

VI. An Overview of the Book: The New Constitutional Research

It is clear that more rigorous models, new data sets, and more powerful statistical tools can potentially extend and deepen our understanding of the political and economic effects of political institutions. However, whether increased rigor actually adds anything substantive to our accumulated stock of constitutional knowledge is itself an empirical question. This volume addresses that empirical question by providing an overview of the new empirical research.

Our aim in assembling the present volume is to take stock of what recent research teaches us about the political and economic effects of alternative democratic constitutional designs. As previously noted, the term “political constitution” is broadly construed as a country’s fundamental and durable political procedures and constraints, rather than the subset of its core procedures and constraints that are included within a country’s formal constitutional documents. Five major areas of constitutional design are analyzed: electoral systems, legislative structure, federalism, the legal system, and the amendment process. Each chapter is written by a different researcher or team of researchers, and each summarizes existing theoretical and empirical research, although the emphasis is often on the research undertaken by their particular group. The contributors to the present volume are prominent researchers in the areas analyzed and leading representatives of the three main rational choice–based research programs. The careful reader will note that many of the chapter reference lists overlap only slightly, although broad areas of agreement

exist in tone and substance. In most cases, the chapters also extend the areas of research surveyed.

Except for the last two chapters, the analyses assume that the constitutional settings as exogenously determined in order to focus on the properties of particular institutions. The present volume, thus, neglects radical changes in government, partly because its aim is to explore a single form of governance, namely constitutional democracy, and partly because relatively little empirical work on processes of major constitutional reform has been undertaken by rational choice-based research.⁴

Electoral Systems: Direct and Indirect Democracy

The voting system is the most fundamental political institution in a democracy. Voting rules determine who can vote, how votes are counted, what matters are voted over, and, thereby, which citizen interests are actually represented in elected assemblies and advanced through public policies. Eligibility rules and electoral cycles also affect the degree of political competition that takes place, and thereby largely determine the extent to which voters are able to hold representatives accountable. Indeed, the term democracy is often defined in terms of voting rules. If democracy matters, then a polity's election system will have systematic effects on public policy. There is considerable evidence of such effects as noted above and further developed in chapters 2-4.

In chapter 2, Bruno Frey and Alois Stutzer provide an overview of empirical studies of direct democracy and discuss their relevance for constitutional design, especially for current constitution making within the European Union. A central question in research on elections is the extent to which voting over representatives differs from voting directly over policies. If elected representatives perfectly represent their constituencies, then voters can safely delegate policy making to elected representatives. The Swiss research on direct democracy provided the first clear demonstration of the effects of different electoral feedback systems on public policies and continues to provide convincing evidence that substantial political agency problems exist within representative democratic systems.

In general, the results indicate that public services are provided more efficiently and in a manner more pleasing to voters by canton governments that make the greatest use of the institutions of direct democracy, rather than those that rely more on conventional representative institutions. Similar results have been found at the state level in the United States, where popular initiatives and referenda are also used, albeit less extensively than in Switzerland. The results of this extensive literature as well as recent contributions by the authors themselves clearly indicate that elected representatives often advance interests that differ significantly from those of their electorate. The authors conclude that the institutions of direct democracy are an important corrective for such agency problems, and, therefore, greater use of direct democracy would improve government performance.

In chapter 3, Torsten Persson and Guido Tabellini provide an overview of research on the effects of constitutional architecture on political equilibria and public policy, emphasizing the contributions made by the new political economy school. This literature, to which the authors themselves have made many significant contributions, demonstrates that agency problems vary with electoral systems (proportional representation or plurality) and the forms of government (presidential or parliamentary). Theory suggests that the effects of electoral systems can be both direct and indirect. Direct effects are due to the different incentives provided representatives in different systems. Votes vote for national parties in PR systems and for individual regional candidates in single member–district plurality systems. Indirect effects arise from changes in party structure and government formation (single party or coalition government). The authors hypothesize that the extent of agency problems will be evident in, for example, the degree of corruption and fiscal policies. Empirical tests of these hypotheses have used large international data sets (50–60 countries during 30–40 years covering about 500 elections) and a variety of statistical methods. The findings are consistent with political agency models. For example, plurality voting is associated with more accountability (less corruption), and PR systems tend to have somewhat broader programs of expenditures than plurality systems, in which representatives tend to target their own electoral districts. Coalition governments, a result of PR systems, tend to have larger aggregate government expenditures as well as deficits than single-party governments. Parliamentary governments tend to spend more than presidential governments.

Whether electoral systems directly affect the behavior of representatives elected under them, however, is only indirectly indicated by these broad aggregate measures. In chapter 4, Thomas Stratmann investigates whether the manner in which representatives are elected has significant effects on their behavior in office. Within mixed-member systems, some representatives are elected from single-member districts and others are elected from party lists as within ordinary PR systems. Using data from the German mixed-member system, Stratman’s estimates suggest that electoral systems have observable effects on member behavior. Members elected from single districts are less inclined to vote along party lines and more inclined to serve on committees making targeted grants to local governments than are members elected under PR rules.

Government Formation and the Structure of the Legislature

Public policy is only partly determined by the identity and interests of those elected to office. The formal and informal process of intragovernmental decisionmaking matters as well, because those procedures largely determine the relative influence of offices and office holders as in the case of presidential compared with parliamentary systems. Part two of the book explores the effects of legislative rules and architecture on political equilibrium and policy choices. Does it matter whether a parliamentary government requires majority support to form and whether it is subject to votes of confidence once formed? Does it matter whether the legislature is composed of one chamber or two, and, if so, why?

In chapter 5, Daniel Diermeier, Hülya Eraslan, and Antonio Merlo survey recent work on the effects of constitutional “micro” rules on coalition governments in parliamentary democracies. Specifically, they analyze how the rules for forming and breaking governments within parliamentary systems affect the composition and durability of government. Using a game theoretic model of a “formateur” interacting with coalition members, they demonstrate that coalition governments are not necessarily less stable than those formed by single parties, because stability can be achieved by creating larger majorities. A tradeoff, consequently, exists among the size of the majority, the stability of the government, and the control exercised by dominant parties. These tradeoffs are affected by a number of features of the process by which governments are formed and broken: the electoral cycle, bicameralism, and the stochastic political environment in which governments operate. Tests of these theoretical relationships, unfortunately, cannot be conducted using “off-the-shelf” statistical methods. Using estimators developed directly from their stochastic political models on cross-section data (nine European countries during 42 years), they find that the most stable parliamentary systems have constitutionally fixed electoral cycles and require the ongoing support of a majority of the legislature with new governments being formed immediately after a vote of no confidence.

The stability and composition of public policies are also affected by the structure of legislatures. In chapter 6, Roger Congleton surveys the small literature on bicameralism and uses simulated elections to explore how election cycles affect policy choices in bicameral and unicameral systems. Bicameralism is often predicted to lead to more stable policies, reflecting broader interests and more carefully considered proposals. These predictions are normally based on the assumption that the chambers represent somewhat different interests, as in chapter 7. However, Congleton’s simulations reveal that bicameralism can reduce political agency problems and increase stability, even if the chambers are elected in the same way. Policies adopted by bicameral systems are less affected by electoral cycles and partisan politics than are unicameral systems, insofar as bargaining between the chambers reduces policy variation induced by external random factors. This effect is evident in the experience of Denmark and Sweden, which switched from bicameral to unicameral parliaments in 1953 and 1970 respectively. Using post-war time series data from Denmark (1930–76) and Sweden (1960–97), Congleton finds that their respective time series of government expenditures are significantly less volatile in the period of bicameralism than in their periods of unicameralism.

In chapter 7, Mark Crain and Charles Bradbury provide additional evidence that bicameral legislatures affect public policies. Drawing on the work of Money and Tsebelius (1997), they argue that the effects of bicameralism tend to be largest in cases in which the interests represented in the two chambers are substantially different. Using both international and U.S. pooled cross-section data sets, they find that bicameralism has a larger effect on public policies when the groups represented in the two chambers differ. They also find that bicameralism reduces the “fiscal

commons problem,” that is, the fact that governmental expenditures tend to rise with size of its legislature.

Federalism and Decentralization

Another significant structural variation among democracies is the extent to which policymaking power is centralized within a unified national government or is distributed among the central, regional, and local governments. Part three explores the effects of decentralization on government policymaking. The literature on fiscal federalism is the largest and one of the oldest of the rational choice literatures on constitutional design. An extensive theoretical and empirical literature has analyzed the extent to which competition among local governments encourages the efficient provision of government services or discourages it.

In chapter 8, Dennis Mueller summarizes the normative case for federalism and reviews empirical studies of the effects of decentralization within federal systems. Mueller notes that both decentralized and centralized forms of federalism may potentially have advantages. The normative case for decentralization is that competition among local governments efficiently elicits information about voter preferences and reduces political agency problems. The normative case for centralization is that local determinations of public services ignore effects on individuals living outside the local jurisdiction, which may generate externality problems that are difficult to correct within decentralized systems. Whether decentralized or centralized federal systems, on balance, more effectively promote citizen interests is, consequently, an empirical question.

The empirical literature on fiscal federalism generally finds that relatively decentralized governments are more effective at meeting citizen demands than are more centralized governments. The evidence on intergovernmental grants (the “flypaper effect” literature) suggests that central grants do “stick” to the targeted areas of local expenditures, which allows a central government to address fiscal equity concerns and encourage local governments to solve externality problems that might otherwise be neglected. However, central grants may also encourage excessive spending at the local level by creating “common pool problems.” In general, efficiency requires that spending and financing decisions be made at the same level. Mueller also reviews evidence that the efficiency-increasing effect of federalism is larger in systems in which local governments are more responsive to local demands, as in jurisdictions where referenda are used for key policy decisions.

Of course, not only local governments are affected by decentralization. In chapter 9, Brian Knight analyzes how central government policies may be influenced by local government interests in cases in which representatives are elected from regional or local districts. Common pool problems exist when local governments (and local voters) do not pay the full price for centrally provided local services. In such cases, locally elected representatives tend to take account of their constituent’s local tax prices and local service levels and evaluate national policies on the basis of local rather than global considerations. Moreover, if representatives elected to the central

government actually represent local rather than national interests, they will favor local over national programs at the margin and overrepresented seats will obtain relatively greater resources from the central government. Knight provides evidence that this is the case within the United States and, furthermore, that disproportionality in the seats in the American legislature favors small states over larger states.

Judicial Independence, Civil Law, and the Rule of Law

Besides political decisionmaking procedures, there are a variety of other institutions and political constraints of a more or less constitutional nature that affect the range of public policies that can be adopted. For examples, most modern democracies include a bill of rights that rules out various kinds of policies (arbitrary arrest, discrimination, censorship, and so on), while mandating others (national defense, education, and social insurance). Other durable constraints are implicit in a nation's civil law and judicial system, and in the long-term nature of the policies themselves. Insofar as a polity's constitution may be thought of as its collection of durable decision making procedures and constraints, such laws may be regarded as constitutional in nature whether formally codified in a nation's constitutional documents or not. Constitutional constraints, however adopted, may not bind a government unless some form of electoral or judicial feedback assures compliance with those constraints.

Part four of the book explores the effects of judicial independence and other long term constraints on a nation's public policies and prosperity. Does judicial independence within a democracy affect public policy? Can depoliticizing some areas of law encourage prosperity in well-functioning democracies?

In chapter 10, Stefan Voigt and Lars Feld survey the literature on judicial independence, which suggests that judicial independence can have positive effects on economic development by depoliticizing the implementation of public policy and law enforcement. Uniform enforcement of the civil, criminal, and regulatory law tends to reduce economic and political risks, as well as private transaction costs, which tends to increase investment rates and specialization. Judicial independence, however, cannot be readily deduced from a nation's formal constitutional documents, because the formal relationships between the government and court system allow a variety of fiscal and political pressures to be placed on the judiciary and because not all governments follow the rules of their constitutional documents. Voigt and Feld create indices of de jure and de facto judicial independence for the highest courts of appeal in 80 countries and assemble other economic, political, and cultural data for those countries for 1980–98. Adjusting for country differences, their estimates indicate that de facto, rather than de jure, judicial independence increases economic growth rates.

Overall, the effects of a nation's system of public and private law define a nation's economic constitution—the rules under which private economic decisions are made. In chapter 11, Randall Holcombe, Robert Lawson, and James Gwartney survey empirical work on the effects of durable features of a nation's civil and

regulatory legal system on national growth rates, giving particular attention to studies that include indices of economic freedom. The results of that research program suggest that the worldwide variation in economic prosperity is substantially explained by institutions and laws that reduce uncertainty and transaction costs. Previous index-based research has examined the effects of economic policy and institutions on economic performance for more than a hundred countries. Their new research determines whether those results hold for the subset of developed countries when focusing more narrowly on public policies with a quasi-constitutional status. Using data from 18 OECD countries, their new results indicate that economic growth rates are higher in countries with constitutional provisions and durable public policies that support market transactions (or at least do not discourage them). They conclude that even generally well-performing economic systems can benefit from reform of their economic constitutions.

Constitutional Dynamics and Stability

Constitutions are not chiselled in stone, but are amended from time to time. Constitutions may be revised using formal amendment procedures specified in constitutional documents, or they may be implicitly revised through judicial interpretation and reinterpretation, and as informal norms, rules, and ordinary legislation change through time. If a polity's fundamental political procedures and constraints can affect public policies, as indicated above, and if public policies affect individual wealth and well-being, then it is clear that individuals and groups will have an interest in modifying their existing constitutions to advance both narrow and general interests. In the long run, the constitutional rules governing day-to-day politics in a particular nation are endogenous to its own constitutional politics. None the less, this level of politics is also constitutionally constrained, insofar as formal amendment procedures are applied.

Part five explores some dynamic issues in constitutional design that have not received much attention in the rational choice literature. How important are formal amendment processes? What characteristics do stable constitutions have? Is constitutional durability and stability a consequence of a well-designed amendment process or of other constraints that limit the domain of public policy?

In chapter 12, Bjørn Rasch and Roger Congleton survey the relatively small literature on constitutional amendment procedures. A wide variety of formal amendment procedures are used by democratic countries. These vary from relatively easy majoritarian procedures, as in Sweden and the United Kingdom, to relatively more demanding and inclusive procedures, as in Denmark and the United States. Evidence from the OECD countries suggests that the stability of a nation's formal constitution increases as the number of veto points in the amendment process increases.

The link between the stringency of amendment procedures and overall constitutional stability, however, is not clear. This is, in part, because not all constitutional reforms are equally important, and, consequently, simply counting the

number of reforms provides only a rough measure of the extent to which fundamental political procedures and constraints change through time. It is also because constitutions can be reformed informally as well as formally, and informal changes are difficult to discern and quantify. For example, the hard-to-amend U.S. constitution has changed considerably through time as the result of judicial interpretation rather than formal amendments.

Moreover, informal agreements can be very important determinants of a nation's constitutional stability although they are often unappreciated in constitutional research. In chapter 13, Barry Weingast analyzes how a self-enforcing constitution can fail when the "stakes" of public policy suddenly increase. Using examples from American and Spanish constitutional history, he argues that constitutional stability depends partly on informal pacts among political elites. Both formal and informal pacts among elites are more likely to stand the test of time when they remove particularly threatening policies from the domain of constitutionally permitted legislation. Such informal rules as well as the formal "takings" clauses of modern constitutions increase political stability by keeping the political stakes relatively low, which tends to reduce the extent and intensity of distributive conflicts.

VII. Conclusion: Democratic Constitutional Design Affects Public Policy

The rational choice literature on constitutional design is very much a work in progress, and recent publication rates suggest that much remains to be analyzed and tested. The rapidly accumulating research, however, has already made substantial additions to its rational-choice precursors and to longstanding historical and legal research on democratic constitutional design. Overall, the results suggest that subtle variations in democratic constitutional design can have systematic and quantifiable effects on national politics, public policies, and long-term national prosperity. For example:

- Electoral systems affect public policy both directly and indirectly. Political representatives tend to be more accountable to the electorate under plurality voting than under proportional representation.
- Direct democracy reduces political agency problems even further, affecting both spending patterns and budget deficits.
- Popular initiatives and referenda stimulate policy debate and citizen involvement, making citizens better informed about policy issues, more satisfied with policy outcomes and less distrustful of politicians.
- Government spending patterns differ under PR and plurality systems.
- Politics with proportional representation tend to have larger government sectors and larger budget deficits than those with first-past-the-post systems. This is evidently caused, at least in part, by the prevalence of coalition governments under proportional representation.
- The size and stability of a coalition government is affected by a number of "micro" rules determining government formation.

- Bicameral systems tend to have more predictable public policies, and are somewhat less susceptible to the fiscal commons problem.
- Federal systems tend to be more responsive to variations in local demands. They can also enhance efficiency through institutional competition among local governments. On the other hand, they may contribute to fiscal commons problems at the national level.
- Polities tend to be more prosperous if civil law is depoliticized and protected via an independent judiciary.

An important finding, which runs through many of the contributions in this volume, is that representative systems of governance are subject to a variety of political agency problems. Elected representatives do not always represent the shared interests of their electorate. Agency problems can be reduced through several institutional features, although a tradeoff often exists between benefits and drawbacks of particular institutions. Institutions that can reduce political agency problems tend to be those that ensure some kind of division of power, and include:

- Direct democracy
- Divided government (bicameralism or presidentialism)
- Decentralization (fiscal federalism)
- An independent judiciary

It is not the division of power itself that reduces agency problems, of course, but rather the additional information generated and the productive forms of competition engendered by that division.

The stability of a particular government depends, as noted, on a number of micro rules determining government formation and dissolution. Constitutional stability similarly depends upon both formal and informal procedures of amendment. Democratic constitutions tend to be more stable if unproductive conflicts about political decisions are avoided by depoliticizing some potential areas of policy, whether formally in constitutional documents or with informal agreements among political elites.

Of course, the conclusion that “political institutions matter” has long been present in comparative political research, and it has also long been implied by the rational choice to analyses of constitutional design. In this respect, the new empirical research provides additional support for those strands of research that accord significance to a nation’s institutions. Agreement, of course, is not the same as redundancy. That scholars from different academic backgrounds independently reach largely similar conclusions suggests that the effects of constitutions are real rather than imagined.

The new work differs from the old, moreover, in its attempt to understand the effects of political institutions as products of self-interested behavior by rational

individuals rather than as consequences of broad historical and cultural trends, or of the personalities of the particular persons who rise to positions of power. It attempts to model political relationships analytically and to quantify the effects of those relationships using new and increasingly powerful statistical tools and extensive data sets. The new research, consequently, provides increasingly rigorous models of the processes by which institutions affect political outcomes and stronger quantitative evidence of the magnitude of those effects, which sheds new light on the tradeoffs involved in constitutional design.

The research surveyed in this volume is of interest, in part, because not all modern work in the economic, legal, and historical traditions attributes much importance to political institutions or to constitutional documents. A good deal of economic analysis continues to ignore the affects of political institutions on public policies and thereby on prosperity. And, many histories have been written that devote very few pages to constitutional and institutional developments. The research surveyed in the present volume implies that such economic and historical accounts underestimate the importance of durable political institutions and changes to them.

More important than its contribution to the academic literature, the work summarized in this book sheds new light on the consequences of alternative democratic institutions for public policies and economic development. Democratic constitutions often change through time although they may remain democratic, as has been evident throughout Europe, Eastern Asia, and North America in the twentieth century. It is also evident from the work presented in this book that not all such reforms are improvements or mere symbols of their times. Neither constitutional history nor political economy stops when a nation becomes “democratic,” because the details of democratic constitutional design matter.

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¹ It is sometimes said that the new rational choice models were borrowed from economics. It would be more accurate to say that such models have emerged more or less simultaneously in all the social sciences as tools from applied mathematics became available. Here, one may note that Condorcet (1785) and Borda (1781) were developing rigorous models of political decisionmaking at about the same time that Adam Smith (1776) was developing his well-reasoned, but intuitive theory of the wealth of nations (McLean 1995). The post-war literature rediscovered and reenergized the rational choice approach to political analysis.

Note also that the application of mathematical models and game theory to politics is approximately as old as rational choice politics. The game-theoretic models of Black (1948), Arrow (1954), and Duverger (1954) emerged at about the same time that game theory (Luce and Rieff 1957) and general equilibrium theory (Debreu 1957) gained wide currency among economists and other social scientists.

² It may be surprising to some readers that the work of economists accounts for so much of the rational choice based political research of the post war years. However, relatively few political scientists or constitutional scholars were trained to use rational choice models and statistical analysis. Economists, by contrast, not only share an analytical approach based on rational choice, but also have a shared interest in the economic effects of public policy and have become increasingly interested in the effects of political institutions on those policies.

Although the contributors to the rational choice research program have this in common, there are also significant methodological differences, as is evident in the individual contributions to the literature and to this volume. Overall, however, there is broad agreement that the details of constitutional design have quantifiable effects on a nation's ongoing politics and public policies.

³ The term "new political economy" was evidently first used by Inman and Fitts (1990, p. 81) to describe the entire rational-choice politics research program in terms with which economists would be more comfortable. And, each group could be further subdivided. For example, the public choice group could be divided into European and American communities, or into Virginia and Rochester schools, whose members also tend to publish in different journals and tend to work more or less independently of one another. The new institutionalism can be divided into rational choice, historical, and sociological perspectives (Hall and Taylor 1996). The new political economy might usefully be subdivided into microeconomic and macroeconomic research programs. Moreover, it bears noting that the groups overlap somewhat; thus, as with colors, it is sometimes difficult to determine to which group particular scholars or pieces of research at the margins should be assigned.

⁴ Theoretical work on transitions from one form of government to another has begun. See for example, Voigt (1999), Acemoglu and Robinson (2001) and Congleton (2001).