

## RESEARCH CLINIC

### General information

Supervisor:	Dr. Brandon Zicha (with LUC Alumnus J.D. Mussel, abd)
Title of clinic:	Keeping up with the times: The Comparative of Constitutional Revision.
Number of students:	6
Major ( <i>if applicable and approved by the Major Convener</i> ):	GED and General.
(Pre)requisites ( <i>if applicable</i> ):	Intro to Comparative Politics, Any course in the Institutional Design Track, or with a stated motivation to study constitutions.  Knowledge of languages beyond English and Dutch *highly* desirable though not required. Spanish and French are particularly valuable.

### Research context

#### Research question

This is the second and final research clinic that we are running on this topic in which we are interested in pursuing novel and pathbreaking empirical analysis of the realities of constitutional change and reform.

The specific aim of this project is to learn more about the determinants of the dynamics of constitutional amendment, particularly in democracies. The question, in the simplest terms, is “what makes it ‘hard’ to amend a constitution – and what affect does this have on the pattern of constitutional change?” Existing accounts focus on either the details of the formal amendment procedure, with little political or historical context attached, or else try to provide evidence for the idea that constitutional amendment rates are largely the result of the ‘culture’ surrounding the constitution and legal system (or, alternatively, a constitution’s age – with older constitutions spawning more amendments to try to keep up with policy drift). Most critically, there is a focus on predicting individual changes in a country-year – a task that might be a fools’ errand, and which the data collected in this research clinic would go some distance as to confirming.

#### Theory

The first of the two main hypothesis is that the thresholds for passing amendments through legislatures interact with the shape of the party system to affect how politically challenging it is to amend a constitution. The threshold(s) and party system combine to produce a certain number of parties which act as pivotal players at any given time; the more parties are pivotal, the more of them can unilaterally veto a proposal. The more pivotal players, therefore, the less likely it is that parties can come to an agreement to pass an amendment. Since the distribution of seats among the parties changes from election to election, the number of pivotal players can also change even when the amendment rule remains constant. For example, if the amendment rule is a 2/3 majority in the assembly, and one party wins 2/3 on its own, amendments should be particularly common, since the ruling party can amend the constitution with little constraint, and any time its regular legislative proposals hit a constitutional obstacle, that obstacle can be removed by amending the constitution. By contrast, if two parties each have over 1/3 of seats, they can each veto any proposal, so amendments, which can only pass if both parties agree, are less likely.

The second hypothesis is that the distribution of changes, and thus the distribution of 'risk' or 'probability' of a change is non-normal. Specifically, that as constitutions get 'harder' to change, the distributions of changes become more 'leptokurtic', and thus prone to large periods of status and short periods of substantial change. If so, it would suggest that predicting the risk of change in any particular country-year will fail using standard statistical methods, because the overall process of amendment is simply stochastic and complex rather than mechanical and linear.

### **Status so far**

We have preliminary support for the hypothesis using comparative data. Our comparative dataset, collected by JD, contains almost a thousand observations from over 65 countries; each observation represents a single legislative period. A logistic regression analysis found having 2 or more pivotal players was highly correlated with a lower likelihood of any amendments being passed, with the chance of any amendments passing being about 30% lower under such a situation compared with having 0 pivotal players or a single player able to pass any amendments on its own. Having any kind of referendum requirement also reduced the likelihood of amendment.

JD has also collected data on U.S. state constitutions following a similar format; his data set contains a little over two thousand observations from 46 US states. However, a similar analysis using these data did not return a statistically significant result for my independent variable. We believe that further data collection at a deeper level may help this research by making it possible to test some of the deeper implications of our theory.

We will use the database and experiences collecting the databases to streamline the process of selecting constitutions for more detailed data collection by students.

### **Motivation for further data collection and coding**

Stochastic process modelling suggests that most policymaking processes follow a pattern of punctuated equilibrium – most years see little change, while a few years see a great deal. This pattern should be particularly strong where political institutions impose higher decision costs –

which is exactly the situation that applies to most constitutions. Higher decision costs should mean slower responses to policy problems arising from constitutions, as well as bigger changes when they do happen.

Mainly for practical constraints, our current measures of constitutional change so far have been binary – a 1 for any amendments passed, 0 for no amendments. While it works at a basic level, this variable fails to capture a great deal of variance, especially in the substance of the amendments.

Obviously, some amendments make far more significant changes than others. Having more fine-grained data about the substance of amendments passed in different legislative periods could enable testing of my theory in a way that takes into account the stochastic patterns we describe above.

In our first research clinic, which we organized last semester, we took the first step towards this vision by collecting the texts of constitutional amendments from about 20 countries. In our next research clinic, we hope to use these texts to code quantitative data capturing the type and extent of change represented by different amendments.

### **Students' tasks and activities**

The main aim of this data collection exercise would be to use the constitutional amendment texts we have collected to generate detailed variables about those amendments, specifically coding for information that would enable identifying how significant amendments passed in different periods were. This could potentially include such information as:

- Number of amendments passed
- Length of the text of amendments
- Policy areas and topic covered
- Something about the salience of amendments
  - Were proposals covered in party manifestoes?
  - Did passage of the amendment generate headlines?

A potential secondary aim could be to collect data to make up additional control variables or refine existing ones in order to control for such factors as:

- Party system polarization
- Party discipline

### *Methodological skills*

Students will acquire experience in systematic data collection and content analysis

Student will learn about the difference between stochastic process versus linear process modelling, punctuated equilibrium processes, and appropriate modelling of each.

### *Substantive knowledge*

Students will acquire an intimate acquaintance with real constitutional documents and rules, and the interactions between these rules and party politics.

### *Deliverables*

Students will produce an annotated detailed dataset and attached database of essential documents for that database. They will also produce a report with some preliminary analyses we will conduct with the data collected.