

Variation in Institutional Strength

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Abstract

Comparative research on political institutions has begun to turn from issues of formal institutional design to issues of institutional strength. Rather than assuming a tight fit between formal rules and political behavior, these studies examine how variation in the stability and/or enforcement of formal rules shapes actors' expectations and behavior. This article explores the emerging research agenda on institutional strength. It disaggregates the concept of institutional strength into two dimensions—enforcement and stability—and it argues that institutions vary widely on both dimensions. The article then examines the sources of this variation and its implications for comparative research. It shows how recent research on weak institutions may be used to refine existing theories of institutional effects, design, and development, which should broaden the comparative scope of these theories. The conclusion examines ways of developing comparative measures of institutional strength.

INTRODUCTION

The institutionalist turn in comparative politics focused considerable attention on issues of formal institutional design. Given the extent of democratization across the globe during the last part of the twentieth century, this focus was not surprising. The proliferation of new constitutions, electoral systems, constitutional courts, central banks, and other institutions created an unprecedented opportunity for scholars to study the causes and consequences of institutional design. Moreover, the spread of democracy meant that constitutional arrangements in the developing and postcommunist worlds increasingly resembled those in the advanced industrialized countries, which seemingly presented scholars with an opportunity to test existing theories—nearly all of which were based on studies of the United States and Western Europe—on a new set of cases.

More recently, however, research on political institutions in the developing world has turned to another, heretofore understudied, dimension: institutional strength. Debates about constitutional design during the 1990s often took for granted that the rules being designed would be enforced and minimally stable. In effect, parchment rules (Carey 2000) were equated with institutions, implying that the rules that were written down on paper either reflected or generated shared expectations about how others would behave. Although these assumptions often hold up well in studies of advanced democracies, where underlying rule-making frameworks are stable and effective states ensure that most rules are regularly enforced, they do not travel as well to the developing world. An emerging body of research shows that many formal institutions in Africa, Latin America, Asia, and the former Soviet Union are neither minimally stable nor regularly enforced. In other words, instead of taking root and generating shared behavioral expectations, formal rules are widely contested, routinely violated, and frequently changed.

For example, as this article was being written, Bolivia and Ecuador were drafting new

constitutions aimed at “refounding the republic.” Yet both countries had already written new constitutions during the 1990s; in fact, each had written at least 16 different constitutions—about one per decade—since independence. In Argentina, lifetime tenure security for Supreme Court justices has been enshrined in the constitution since 1853. Nevertheless, virtually every incoming government since the 1940s, including three of the first four presidents elected in the post-1983 democratic era, packed the court with impunity (Helmke 2004). As Huntington (1968) argued four decades ago, a major problem in much of the developing world is that institutions of all types have consistently failed to take root. Such institutional weakness has far-reaching implications. In the absence of stable and effective rules of the game, both democracy and economic growth are difficult to sustain (O’Donnell 1993, 1994; Spiller & Tommasi 2007).

This article examines recent research on the causes and consequences of institutional weakness, seeking to bring a large but disparate body of work together into a more coherent research agenda. Recent studies of political institutions in the developing and postcommunist world show that formal institutions vary widely along two dimensions: enforcement and stability. This variation has important theoretical implications. Where actors do not expect formal institutions to endure or be enforced, their behavior will differ, often markedly. Existing theories about the design and effects of formal institutions may thus need to be refined if they are to be usefully applied to cases of institutional weakness. By treating institutional strength as a variable, rather than a taken-for-granted assumption, recent scholarship has begun to refine institutionalist theories in ways that enhance their utility in contexts—such as much of the developing world—in which strong formal institutions are the exception, not the rule.

The article is organized into three main sections. The first section disaggregates the concept of institutional strength into two

dimensions, enforcement and stability. It then shows how real-world institutions vary along both dimensions. The second section examines some potential causes of variation in institutional enforcement and stability. The third section discusses the implications of variation in institutional strength for theory building in comparative politics.

THE CONCEPT OF INSTITUTIONAL STRENGTH: ENFORCEMENT AND STABILITY

Political institutions may be defined as humanly devised rules and procedures—both formal and informal—that constrain and enable political behavior. Notwithstanding the importance of informal rules and procedures (March & Olsen 1989, North 1990a, O'Donnell 1996, Helmke & Levitsky 2006), this article focuses on formal or written rules, or what Carey (2000) calls “parchment” institutions. Following North (1990a, pp. 4–5), we distinguish between institutions (the “rules of the game”) and organizations (the “players”).

Institutional strength may be conceptualized along two dimensions: enforcement and stability. Enforcement is the degree to which parchment rules are complied with in practice. Where all relevant actors in a given territory routinely comply with parchment rules or face a high risk of punishment, enforcement is high.¹

By stability, we mean durability. Institutions are stable to the degree that they survive not only the passage of time but also changes in the conditions—i.e., underlying power and preference distributions—under which they were initially created and reproduced.² Institutional

¹We do not equate enforcement with compliance. Although enforcement raises the cost of noncompliance, actors often comply with rules for other reasons, including a perception of the rule's fairness, ethical reciprocity in response to others' compliance, ideological agreement, or sheer habit (Levi 1988, 1997).

²This conceptualization is rooted in the historical institutionalist tradition. Scholars from a rational choice tradition generally expect institutions to change in response to changes

		Enforcement	
		High	Low
Stability	High	strong formal institutions	stable (but weakly enforced) formal institutions
	Low	unstable (but enforced) formal institutions	weak formal institutions

Figure 1

Two dimensions of institutional strength.

instability must be distinguished from “normal” institutional change. Because even the most robust rules evolve, one or more instances of institutional change cannot necessarily be taken as an indicator of instability. Rather, institutional instability is best understood as a *pattern* in which, given a common environment (i.e., exogenous shocks, changes in power and preference distributions), a particular institutional arrangement changes with greater frequency than other similarly designed ones. For example, if Bolivia and Ecuador have had six different constitutions since World War II, whereas Mexico has had only one (despite considerable change in regime coalitions, power distributions, and elite preferences), then the Bolivian and Ecuadorian constitutions may be considered less stable than the Mexican one.

Enforcement and stability do not necessarily vary together. As **Figure 1** shows, the two dimensions may be combined to produce four distinct types. The upper left quadrant of **Figure 1** corresponds to strong institutions, or those that are both stable and enforced. It is these “pure” cases of institutional strength—characterized by a tight coupling between formal rules and actual behavior—that predominate in most of the theories of institutions generated by studies of advanced industrialized democracies. Institutional strength is not exclusive to established democracies, however.

in power and preference distributions (see Knight 1992). In our conceptualization, institutions may be stable even though their goals change (see Huntington 1968). Here we differ from Streeck & Thelen (2005), who treat goal adaptation as a form of institutional change.

Mexico sustained and enforced a ban on presidential and legislative re-election throughout most of the twentieth century. Similarly, Argentina's provincial list-based proportional representation (PR) electoral system, Brazil's open-list PR system, and Chile's binomial electoral system remained stable and enforced during the 1990s and 2000s, despite widespread criticism and demands for change.

The lower left quadrant corresponds to institutions that are enforced but unstable. In such cases, parchment rules are widely followed, but they are modified with comparatively high frequency, such that actors are unable to develop shared expectations based on past behavior. An example is electoral rules in Poland. Every Polish election in the first postcommunist decade was "preceded by a contest among political parties to modify the electoral law, resulting in four substantively different electoral laws" (Benoit & Hayden 2004, p. 397). Thus, the electoral system shifted from majority runoff in the 1989 Sejm elections to a two-tiered Hare PR system in 1991, to a D'Hondt PR system with higher thresholds in 1993, to a single-tiered modified Sainte-Lague PR system in 2001 (Benoit & Hayden 2004). Likewise, Madagascar underwent three major constitutional reforms during the 1990s: In 1992, it replaced a superpresidentialist constitution with French-style semipresidentialism; in 1995, it adopted a modified semipresidential system in which presidents could dismiss prime ministers; and in 1998, it reverted back to a presidential system with a dominant executive (Marcus 2005).

The upper right quadrant corresponds to formal institutions that are stable but not enforced. In other words, rules remain on the books for long periods of time but are routinely ignored, serving, in effect, as "window dressing." Frequently in such cases, actors adhere to established informal rules of the game. For example, many clauses of Mexico's 1917 constitution—including those prescribing fair elections, judicial tenure security, and a weak presidency—were ignored for decades. Although the political rules of the game were

relatively stable after the 1930s, many of these rules—including the well-known *dedazo*, in which presidents single-handedly selected their successors—were informal (Weldon 1997, Langston 2006).

Socialist institutions in contemporary China and Vietnam provide another example. In both countries, socialist institutions remained formally in place during the 1990s—perhaps because their elimination would threaten elite cohesion or regime legitimacy—but were increasingly abandoned in practice. In China, laws banning private property remained on the books, but economic agents—with the collusion of local state officials—developed "quasi-legal" arrangements to operate private firms, obtain credit, and raise capital (Tsai 2007). In Vietnam, socialist laws restricting foreign investment were ignored during the 1990s as local state officials carried out "fence breaking" liberalization measures (Malesky 2005, p. 12). In both cases, the failure to enforce existing laws, while keeping them on the books, transformed once-effective institutions into window-dressing institutions.

Finally, the lower right quadrant of **Figure 1** corresponds to institutions that are neither stable nor regularly enforced. Here the coupling between formal rules and actual behavior is very loose. Rules exist on parchment, but in practice, they do little to constrain actors or shape their expectations.³ For example, Bolivia's first constitution, written in 1826, was "never fully implemented" (Loveman 1993, p. 238) and was abolished within three years. Successor constitutions in 1831 and 1834

³ Even these "pure" cases of institutional weakness differ from the *absence* of an institution. Because they exist on paper, even unstable or weakly enforced institutions may softly guide actors' expectations by providing at least some cues about others' behavior. Even when parchment rules are unlikely to be enforced or complied with, actors must at least take them into account, incorporating the low probability of their predicted effects into their strategic calculation. Indeed, rules that are widely subverted may nevertheless serve as a point of reference in the menu of available options, with a slightly higher probability of occurrence than other alternatives.

were also quickly discarded, and new constitutions were promulgated in 1839, 1843, 1851, and 1861 (Loveman 1993, pp. 239–60). General Mariano Melgarejo “canceled” the 1861 constitution after seizing power in 1864, and he subsequently promulgated a new one “on a whim” (Loveman 1993, pp. 251–52). At a banquet celebrating the new charter, Melgarejo declared:

I want the [gentleman] who just spoke to know, and all the honorable congressmen also, that the 1861 Constitution, which was a very good one, I stuck in this [left] pocket, and that of 1868, which is even better according to these [gentlemen], I stuck in this other pocket, and that no one but me rules Bolivia. (Loveman 1993, p. 252)

Many contemporary political institutions combine instability and low enforcement. For example, Pakistan’s postcolonial constitutional structure, which prescribed a strong parliament and a weak executive, was neither stable nor enforced during the country’s first four decades of independence. At independence in 1947, Pakistan was a “British-style parliamentary polity” in which presidents formally had “no direct role in government except in the gravest emergencies” (Rose & Evans 1997, p. 95). However, founding leader Mohammad Ali Jinnah established a pattern of *de facto* executive authority that greatly exceeded that prescribed by either the colonial charter or the postcolonial (1956) constitution (Sherwani 1962; Rose & Evans 1997, p. 95). The parliamentary constitution was dissolved in 1958 following a military coup, and the constitution promulgated by military ruler Muhammad Ayub Khan in 1962 briefly established a formal presidential system (Sherwani 1962). However, Abu Khan’s constitution did not survive his fall from power in 1969, and in 1973, Pakistan again adopted a parliamentary constitution. Between 1973 and 1985, formal limits on presidential power were again weakly enforced, and in 1985, a constitutional amendment formally strength-

ened the presidency (Rose & Evans 1997, p. 95).

Whereas the literature on political institutions has focused primarily on the upper left quadrant of **Figure 1**, all four of these institutional patterns are common in the developing and postcommunist world. Moreover, all four patterns may be enduring. For example, some formal rules endure precisely because they are not enforced. Take the case of postrevolutionary Mexico. Had the 1917 constitution been rigorously enforced, such that elections were truly clean and competitive, the result might well have been intense political conflict that could have threatened the stability of the PRI regime. In other words, the stability of the regime rested, in part, on a systematic failure to comply with core elements of the 1917 constitution. At the same time, enforcement may, in some cases, undermine institutional stability. Take Argentina: Between 1930 and 1943, Argentine conservatives maintained power via fraud-ridden elections. After 1943, however, electoral rules were followed, in that there was little fraud or manipulation of the vote-counting process. A consequence of this compliance, however, was increased institutional instability. Powerful actors who opposed particular electoral outcomes, usually Peronist victories, repeatedly undermined (via coups) and modified electoral institutions—shifting from a plurality system (1958, 1963) to a two-round presidential run-off system (1973) and back to plurality (1983)—in an effort to prevent those outcomes.

EXPLAINING INSTITUTIONAL WEAKNESS

What explains variation in the strength of parchment institutions? Institutions themselves vary in stability and enforcement. For example, laws against prostitution, euthanasia, and the hiring of undocumented immigrants tend to be weakly enforced even in countries with effective legal systems (Van Oenen 2001). Our primary interest, however, lies in cross-national

variation in institutional strength. Why was central bank autonomy respected in post-Pinochet Chile, while it has been repeatedly violated in Argentina? Why did presidential term limits remain intact for nearly a century in Mexico, while they were revised or scrapped only a few years after being enshrined in constitutions in Belarus, Cameroon, the Dominican Republic, Gabon, Kazakhstan, Namibia, Uganda, and elsewhere? During the 1990s, as the global diffusion of formal democratic and market institutions focused scholars' attention on issues of institutional design, these questions were often neglected. Indeed, debates over institutional design often took for granted that parchment rules would be stable and effective. In other words, it was assumed that the actors who wrote the rules would have the will and capacity to enforce them. Yet formal institutions are often "born weak," either because the actors who create them lack an interest in enforcing (or sustaining) them or because they lack the capacity to enforce (or sustain) them. In this section, we explore some of the conditions that underlie such institutional weakness.

Explaining Weakly Enforced Institutions

Weakly enforced institutions may be created intentionally or unintentionally. Many institutions are weak because the actors who create them do not intend to enforce them. Thus, one impetus for the emergence of weakly enforced institutions is a divergence between political actors' real and publicly stated goals. Formal institutions may be so widely viewed as "appropriate" that power holders adopt them not in pursuit of the ends for which they are designed, but rather in search of international or domestic legitimacy—the phenomenon that sociological institutionalists call isomorphism (DiMaggio & Powell 1991, Meyer & Rowan 1991). In their extreme form, such institutions may effectively serve as window dressing, in that power holders have an interest in keeping them on the books but no interest in enforcing them. These insti-

tutions may be stable, but stability is based on a shared expectation that the rules will not be enforced.

In the developing world, window-dressing institutions are often a response to international demands or expectations. Dependence on international assistance creates incentives for state elites to borrow the form—though not necessarily the substance—of Western-style institutions (Joseph 1999, Van de Walle 2001). Take elections. During the 1990s, the unprecedented power of Western capitalist democracies and absence of internationally legitimate regime alternatives created incentives for elites in peripheral states to hold multiparty elections. However, in much of the former Soviet Union and Africa, ruling elites adopted the formal architecture of democracy without any intention of allowing those institutions to loosen their grip on power (Joseph 1999, Levitsky & Way 2002). In many cases, what emerged was a "virtual democracy," a regime whose formal institutions had more to do with "ritual and symbol, appearance and presentability" than with political competition (Joseph 1999, p. 13).

Window-dressing institutions may also be created in pursuit of domestic legitimacy. Some laws are written (or remain on the books) because large numbers of citizens view them as morally appropriate, often because they are rooted in religious codes or widely shared conceptions of basic rights. Thus, even when state officials are unable or unwilling to systematically enforce these laws, their removal is politically unthinkable. Examples of such deliberate nonenforcement include laws against prostitution, soft drug use, euthanasia, and in some countries, abortion (van Oenen 2001). Although punitive anti-divorce and anti-abortion statutes were on the books in Argentina, Brazil, and Chile throughout most of the twentieth century, they were "hardly ever enforced" (Htun 2003, pp. 153–54). According to Htun, the laws were designed primarily to achieve moral or symbolic goals rather than to shape behavior. For example, after a divorce ban was written into Brazil's 1946 constitution, one

commentator remarked that “the disposition was maintained for love and hypocrisy. No one who voted for it denied that the [rule] is...incapable of deterring what is apparent in Brazilian society: de facto divorcing and resulting de facto marriages” (Htun 2003, p. 86).

Weakly enforced institutions may also be unintended. Actors who create formal rules and procedures may lack the power to make them binding on all actors. Indeed, a major cause of weak enforcement is limited state capacity to monitor and sanction. Low bureaucratic capacity—for example, the absence of a professional civil service or an infrastructure that effectively penetrates the national territory—limits state actors’ ability to monitor rule violations (González & King 2004). Where public agencies and officials responsible for enforcement are weak or absent, actors’ incentives to comply with official rules—regardless of their original preferences—will be weak. Recent studies have linked low enforcement, or the “unrule of law,” to the limited reach of the state (O’Donnell 1993, 1999; Herbst 2000; González & King 2004; Yashar 2005; Soifer 2006). For example, Soifer (2006) shows how repeated government failure to enforce tax, conscription, and other laws in Peru was rooted in the state’s limited infrastructural power in the countryside. Likewise, the nonenforcement of civil rights legislation in the U.S. South prior to the 1950s has been attributed to the limited reach of the state (González & King 2004).

Weakly enforced institutions may also be rooted in a disjuncture between those actors with the formal authority to make rules and those with “real” power. In most established democracies, formal rule-making authorities (e.g., parliaments, supreme courts) are fully vested with power, and as a result, the rules they produce are generally made binding on all actors in society. In many polities, however, formal and de facto powers are not so neatly fused. Those who write the rules do not always have the power to systematically enforce them. For example, monarchic, military, or religious authorities may exert informal “tutelary” power

over elected governments, limiting their capacity to enforce the law. Although Guatemala’s 1985 constitution declared the army to be “apolitical, obedient, and nondeliberative,” there existed “few countervailing forces to offset the power of the armed forces” during the 1980s (Fitch 1998, p. 54), and as a result, the army “retain[ed] control of the state from its barracks” (Torres-Rivas 1996, p. 52). Likewise, although the constitution enshrined human rights guarantees, President Vinicio Cerezo acknowledged that he was unable to enforce these rights (Fitch 1998, pp. 54–55), and indeed, “human rights were violated in the same manner as in the era of military governments” (Torres-Rivas 1996, p. 53).

In some cases, weak enforcement is unintended but not unexpected. Reformers may adopt ambitious laws that are unlikely to be evenly enforced initially but that potentially empower weaker actors to pursue their implementation via the courts. In other words, rule writers are aware of their inability to make formal rules binding, but they nevertheless write those rules in an effort to strengthen their hand in future bargaining vis-à-vis powerful actors. For example, constitutions in Brazil (1988) and South Africa (1996) included a variety of social or “third-generation” rights—such as racial and gender equality and rights to shelter, health care, and a clean environment—that the state could not guarantee at the time but that activists pushed for in the hope of making them effective through subsequent legislation and judicial action (Klug 2000, pp. 91–92; Htun 2003, p. 126).⁴ Although enforcement of these rights proved uneven, subsequent legal action did place issues of compliance on the agenda (Pieterse 2004; Htun 2003, p. 126).

Weak enforcement may also be rooted in varying levels of societal compliance. As Levi has argued, functioning rules generally elicit

⁴This strategy was influenced by the U.S. experience, where constitutional civil rights were unevenly enforced (across racial groups and regions) for decades, and the courts ultimately played a central role in increasing enforcement.

high levels of “quasi-voluntary compliance,” which, in turn, is rooted in perceptions that the rules are fair and that others will comply with the rules or be punished (Levi 1988, pp. 52–70; 1997, pp. 19–25). Where levels of quasi-voluntary compliance are high, monitoring and enforcement costs are reduced, as state agencies can focus scarce resources on those actors who are most likely to be noncompliant (Levi 1988, p. 54). Where quasi-voluntary compliance is low, states must rely almost entirely on coercion, which can be costly and ineffective (Levi 1988, p. 50).

Finally, weak enforcement may be rooted in inequality. The coexistence of political democracy and high levels of social, economic, or ethnoreligious inequalities creates conditions under which certain rules are less likely to be enforced. On the one hand, privileged elites have an incentive to evade laws or policies that allow disadvantaged groups to translate their political rights into claims for greater substantive equality. Lieberman (2003) has shown that in Brazil, where nominal political equality (via multiracial citizenship) coexisted with extreme racial and socioeconomic inequality, the wealthy systematically failed to comply with tax laws that, if enforced, would have permitted a redistribution of wealth. On the other hand, enormous wealth disparities make it harder for those who lack resources to demand effective equality before the law, as they are often poorly informed about their rights and lack both access to the justice system and the capacity to monitor the behavior of state authorities.

Explaining Variation in Institutional Stability

Recent studies have found considerable cross-national (and within-country) variation in the stability of formal political institutions (Stein et al. 2006, Spiller & Tommasi 2007). Nevertheless, scholars are only beginning to explore the sources of this variation (see Clemens & Cook 1999, Helmke 2007). Like weak enforcement, instability is often rooted in a disjuncture between rule writers and power holders. Such

disjunctures often emerge when the balance of forces is uncertain or rapidly shifting. Although an uncertain balance of forces may yield a compromise arrangement that protects the interests of all major players (Przeworski 1991, pp. 87–88), it may just as easily lead to miscalculation and error. Those in temporary control of the rule-writing process may fail to take real power distributions into account, leaving newly designed institutions vulnerable to assault by powerful actors who remain outside the process. In Gabon, for example, when a pluralist National Conference was authorized to draw up a new multiparty constitution in 1990, “politically intoxicated” opposition forces created a range of formal checks on presidential authority (e.g., independent electoral authority, term limits), but they failed to strip President Omar Bongo of control over state resources or the coercive apparatus (Messone & Gros 1998, p. 138). With his real power intact, Bongo dismantled most of these institutions in the years that followed.

In transitional settings, new institutional arrangements are most likely to endure where rule writers either (*a*) gain the acceptance of powerful actors and groups who remain outside the rule-writing process or (*b*) decisively defeat major opponents, thereby destroying their capacity to overturn the rules in the future (see Przeworski 1991, pp. 81–88). Where neither occurs, powerful actors who lose out under the new institutional arrangements are likely to work to overturn them as soon as they are in a position to do so. For example, the Perón government used its electoral majority to impose a constitution in 1949 without incorporating opposition Radicals, who maintained considerable power resources despite their electoral weakness. These groups never accepted the new rules of the game, and when Perón was toppled six years later, his constitution was discarded. By contrast, Argentina’s 1853 constitution (which was imposed on all provinces by the winners of a civil war) and its 1994 constitution (the product of a negotiated agreement between Peronist and Radical leaders) proved more stable.

Institutional stability is also rooted in time. Time matters in at least two senses. First, as Grzymala-Busse (2006) has argued, the pace of institutional design may affect stability. Where institutions are created slowly, actors have more time to evaluate their (often unintended) consequences, calculate how the rules affect their interests, and organize for the collective defense of (or opposition to) the rules. Rules that survive a slow process of formation are thus more likely to enjoy organized support and other means of institutional reproduction. By contrast, where rules are designed quickly, actors are more likely to miscalculate their potential consequences and/or how their interests are affected, and mechanisms of reproduction have less time to emerge (Grzymala-Busse 2006).

Another factor underlying institutional stability is the passage of time (Hacker 2004, Pierson 2004). When institutional arrangements persist (and are enforced) over time, surviving repeated crises and changes of government, actors develop expectations of stability and consequently invest in skills, technologies, and organizations that are appropriate to those institutions (North 1990a,b; Pierson 2000a). As these investments accumulate, existing arrangements grow increasingly attractive relative to their alternatives, thereby raising the cost of institutional replacement.

Such virtuous cycles are not inevitable, however. Where formal institutions are repeatedly overturned or rendered ineffective, actors may develop expectations of instability (Przeworski 1991, p. 82; Grzymala-Busse 2006). Consequently, they will be less likely to invest in those institutions or develop skills and technologies appropriate to them, thereby keeping the cost of overturning the rules low. Patterns of institutional weakness may be reinforced by actors' investment in the skills and technologies appropriate to an unstable institutional environment or to alternative informal rules of the game. In a context of persistent regime instability, for example, actors may opt not to invest in party building or in legislative skills—which are only useful under democratic institutions—and instead to develop skills (e.g., insurrectionary

capacity), resources (e.g., clandestine networks and other nonparty organizations), and relationships (e.g., with religious authorities, the military, or foreign powers) that enhance their capacity to operate in multiple regime settings. These investments may give actors a stake in noninstitutional politics, thereby reinforcing existing patterns of institutional weakness. Finally, as Helmke argues in her analysis of institutional crises in Latin America, repeated bouts of instability may undermine the legitimacy of (or public support for) particular institutions. Their decreased legitimacy lowers the cost of future attacks on them, thereby “paving the way for more crises” (Helmke 2007, p. 28).

Institutional instability may thus follow a path-dependent logic (see Grzymala-Busse 2006). An initial period of institutional failure or instability, which may be a product of historically contingent circumstances (including sheer bad luck), may effectively lock a polity into a path of institutional weakness, or what Helmke (2007, p. 28) calls an “institutional instability trap.” In such a context, actors develop expectations that institutions will not endure and, consequently, do not invest in them. Institutions may also fail to generate public support or legitimacy. As a result, the cost of institutional replacement will remain low, which increases the likelihood of further rounds of change—and reinforces expectations of institutional weakness.

Argentina followed a path of institutional instability after 1930 (Levitsky & Murillo 2005). Decades of regime instability, in which both rules and rule-making processes were repeatedly overturned, had a powerful effect on actor expectations (Spiller & Tommasi 2007). Owing to the frequent collapse, suspension, or purge of institutions as important as the constitution, Congress, and Supreme Court, Argentines came to expect instability. Betting that institutions would be replaced or purged with each change of government or regime, political and economic actors did not make long-term investments in them. Few developed a stake in any particular institutional arrangement. In fact, many actors—including Peronist unions, economic elites, and conservative

politicians—invested little in electoral, legislative, and other democratic institutions and instead developed skills, organizations, and relationships (particularly with the military) that helped them survive in a context of regime instability (Cavarozzi 1987, McGuire 1997). As a result, the cost of institutional change remained low.

Path-dependent analyses tend to focus on institutions that endure rather than those that fail. However, the tools of comparative historical analysis may also be employed to analyze the roots of institutional weakness. Such analyses may help identify critical junctures that trigger patterns of institutional instability, as well as the mechanisms—such as changes in actor expectations—by which those patterns are reproduced.

In summary, although weak institutions exist everywhere, there are several reasons why they are particularly widespread in the developing world. One is countries' position in the international system. Lower- and middle-income countries are more likely to engage in institutional borrowing from abroad (Weyland 2004). Borrowing may give rise to window-dressing institutions that governments do not intend to enforce (van de Walle 2001). Second, polities in the developing world are more frequently characterized by a disjuncture between rule writers and actual power holders. Most developing countries continue to be governed by dictatorships, hybrid regimes, or weakly institutionalized democracies characterized by extensive informality and abuse of formal procedure (O'Donnell 1994, 1996; Levitsky & Way 2002). In few of these regimes is binding power consistently vested in the hands of rule-writing authorities. Third, developing countries are often characterized by states with limited bureaucratic capacity and territorial reach (Evans & Rauch 1999). Finally, many developing countries are characterized by high levels of social and economic inequality. Tensions generated by the coexistence of political equality and vast socioeconomic inequality are likely to be resolved via uneven enforcement or continuous institutional re-engineering when existing rules

generate outcomes that powerful players deem undesirable.⁵

IMPLICATIONS OF INSTITUTIONAL WEAKNESS

Variation in institutional strength has important implications for our understanding of how institutions shape—and are shaped by—politics. Different levels of enforcement and stability have important effects on actors' expectations and behavior. When institutions are stable and enforced, actors can assume that (a) others will play by the rules and (b) the rules will endure in the foreseeable future. Because the menu of behavioral options is limited to those prescribed or permitted by the formal rules, actors' choices are constrained, which reduces uncertainty. And because actors believe that others are similarly constrained by the rules, and that the rules will endure, they develop stable expectations about others' behavior, which lengthens time horizons and facilitates cooperation (O'Donnell 1994). In such a context, actors tend to take institutions seriously. Able to define their own institutional preferences (and calculate those of others) with relative ease, they invest time and energy in questions of institutional design, and once institutions are in place, they invest in the skills and organizations necessary to achieve their goals through those institutions (North 1990b, pp. 364–65, Pierson 2000a).

Institutional weakness creates a different set of expectations. Where institutions are weakly enforced, for example, actors cannot assume that others will comply with the rules. In such a context, actors enjoy greater discretion: They may select strategies that are prescribed by the rules, but they may also choose among various extrainstitutional options. As the number of strategic options increases, so does uncertainty. Actors are less able to form stable expectations about others' behavior, which narrows their time horizons and erodes trust. In this way,

⁵On the relationship between socioeconomic inequality and political instability, see Alesina & Perotti (1996).

low enforcement limits cooperation and collective action, which can undermine the quality—and in some cases, the stability—of new democracies (Nino 1992; O'Donnell 1993, 1994; Stein et al. 2006).

The implications of institutional instability have only recently attracted scholarly attention (Stein et al. 2006, Spiller & Tommasi 2007). Although it may be argued that frequent changes in the rules matter little, as long as the rules in place at a given time continue to guide behavior, Spiller & Tommasi (2007) make a compelling case to the contrary. They argue that repeated change undermines institutional credibility and narrows actors' time horizons, which limits their capacity to sustain intertemporal agreements. The result is a volatile policy-making process and, in most cases, low-quality policies (Spiller & Tommasi 2007; also Stein et al. 2006).

In recent years, scholars have begun to refine existing institutionalist theories in light of observed variation in enforcement and stability. This section examines some of these efforts in three areas of comparative research: (a) analyses of institutional effects, (b) theories of institutional design, and (c) theories of institutional development and change.

Assessing Institutional Effects

Much of the comparative literature on political institutions focuses on how variation in institutional design shapes political and/or economic outcomes. During the initial wave of research on comparative institutional design in the 1980s and 1990s, studies frequently assumed a tight coupling between formal rules and actor behavior. Where these assumptions held, comparative institutional analyses often generated fruitful results. This was clearly the case, for example, in the comparative literature on electoral rules (Taagepera & Shugart 1989, Carey & Shugart 1995, Cox 1997). To the extent that parchment rules are not systematically obeyed, however, the assumption that formal constraints can be mapped directly onto political behavior—and consequently, the assump-

tion that institutional design has a significant effect on political outcomes—becomes more problematic.

An example is the comparative study of presidentialism. In evaluating how presidential systems work, scholars have focused on both formal rules (Shugart & Carey 1992, Carey & Shugart 1998) and informal factors such as partisan strength and the character of party systems (Mainwaring 1993, Mainwaring & Shugart 1997). Yet recent studies show that variation in enforcement also has a significant impact on how presidential regimes function. Take the cases of Chile and Mexico during the 1990s. From a constitutional standpoint, the Chilean presidency was among the most powerful in the world, whereas the Mexican presidency was relatively weak (Shugart & Carey 1992). In practice, however, Mexican presidents enjoyed “an extraordinary range of powers” that extended well beyond their constitutional prerogatives (Weldon 1997, p. 225) while the legislature was little more than a “rubber stamp for presidential decrees” (Eisenstadt 2004, p. 40). In Chile, by contrast, presidents of the governing *Concertación* systematically underutilized their vast legislative and agenda-setting powers, preferring to negotiate legislation with coalition partners, opposition parties, and leading interest groups (Siavelis 1997). Hence, presidential dominance in Mexico under the PRI and effective horizontal accountability in post-Pinochet Chile cannot be easily traced to constitutional design. Indeed, constitutional design leads one to predict the opposite.

Similar issues arise in analyses of judicial independence. An established body of literature has linked judicial independence to the rules governing the appointment and removal of justices (see Dahl 1957, Verner 1989). Yet recent research has shown that enforcement of these rules is a critical factor in determining judicial behavior. Although many Latin American constitutions provide formal guarantees of tenure security—including lifetime appointment—for Supreme Court justices, variation in compliance with these guarantees has produced very different patterns of judicial behavior (Bill

Chavez 2004, Helmke 2004). In postrevolutionary Mexico, for example, Supreme Court appointments rarely endured beyond a single presidential term (Domingo 2000, pp. 722–25), and as a result, the Court was characterized by its “subservience to the will of the executive” (Domingo 2000, p. 706). In Argentina, repeated court packing by incoming governments created a logic of “strategic defection,” in which Supreme Court justices ruled in favor of the government as long as it was solidly entrenched in power, but then abandoned it in favor of a likely successor when it was expected to leave power (Helmke 2004).

Taking enforcement into account also helps clarify the relationship between judicial independence and economic growth. Analyses that focus on the formal rules underlying judicial independence—without taking levels of enforcement into account—have found little relationship between judicial independence and economic growth (Glaeser et al. 2004). However, studies that measure *de facto*, or enforced, judicial independence find a positive correlation between judicial independence and GDP growth (Feld & Voigt 2003).

Enforcement issues are also critical to comparative research on central banks. Comparative political economy analyses of central bank independence in advanced democracies generally assume that rules regulating bank independence are enforced and thereby produce expectations of low inflation (Franzese & Hall 1998, Iversen 1998, Franzese 2002). As in the case of judicial independence, however, studies of central banks in developing countries have found a weak relationship between *de jure* central bank independence and economic outcomes (Cukierman et al. 1992). Indeed, Cukierman et al. (1992) show that whereas *de jure* central bank independence is a good predictor of inflation rates in advanced industrialized countries, the level of turnover of central bank presidents—a measure of degree of enforcement of central bank independence—is a better predictor of inflation rates in developing countries.

In summary, the utility of comparative analyses of parchment rules hinges on how well those rules are enforced. Hence, comparative research must take into account not only what the rules say, but also the extent to which actors comply with them in practice. Rules of similar design but distinct levels of enforcement may generate dramatically different expectations, behavior, and outcomes.

Understanding Institutional Design

Variation in enforcement and stability is also relevant to research on institutional design. Theories of institutional design often assume that actors expect the rules they create to endure and to constrain future behavior (for a critique, see Pierson 2000a). For example, scholars have shown that politicians facing a high probability of losing power may create self-binding institutions in order to constrain their rivals in the future (Moe 1990, Geddes 1994, Boix 1999, Boylan 2001). Where institutions are stable and enforced, such assumptions of far-sighted expectations have proven theoretically fruitful. For example, in her study of the origins of central bank autonomy in Chile and Mexico, Boylan (2001) shows how looming democratic transitions created incentives for autocrats to insulate monetary policy making from their democratic successors via the creation of independent central banks.

Yet recent studies have shown that actors’ preferences regarding institutional design often hinge on their expectations regarding stability and enforcement. For example, in her work on redistributive social insurance, Mares (2005, pp. 626–27) argues that workers’ support for the creation of redistributive social policy institutions hinges not only on calculations of how such policies would affect their material interests but also on their expectations about the enforcement of those policies. Thus, workers in high-risk sectors, who would ordinarily support institutions of social protection, may not do so in a context of weak enforcement (Mares 2005, p. 630). In effect, workers’ preferences for risk

redistribution change in line with expectations of enforcement. Indeed, if actors do not expect rules to be enforced, they may support formal institutional arrangements that—on paper—seem to run counter to their interests.

Expectations about enforcement also have implications for research on policy diffusion. Much of the early literature on policy diffusion implicitly assumes that borrowed institutions will be enforced, such that similar rules produce similar behavior across cases. [On the spread of market institutions in postcommunist states, see Aslund (1995). On central bank independence in developing countries, see Maxfield (1997).] As recent research has shown, however, policy makers in developing countries borrow institutions for diverse reasons (see Weyland 2008), and in some cases, their preferences regarding borrowed institutions hinge on whether or not they expect those institutions to be enforced. Because international financial institutions—often lacking the capacity to monitor enforcement—tend to base their evaluations on parchment institutions rather than actual implementation (van de Walle 2001, p. 232), governments may adopt formal rules as window dressing. Such institutions can be expected to function differently. Indeed, in her analysis of state institution building in Central Europe, Grzymala-Busse (2007) finds that institutions imposed by the European Union were more weakly enforced than those whose origins lay in pressure by domestic opposition.

Variation in stability also shapes institutional design. For example, where politicians do not expect formal rules to endure, they may be less likely to build self-binding institutions aimed at constraining their successors. Although the Pinochet government took institutional design very seriously, crafting a range of institutions (e.g., the 1980 constitution, the electoral system, an independent central bank) to limit the power and policy-making discretion of its democratic successors (Boylan 2001), Chile is, by Latin American standards, a case of unusual institutional strength. In countries with weaker

institutions, military dictatorships tended to invest less in constitutional design. For example, Bolivian dictator Hugo Banzer (1971–1978) engaged in virtually no institution building, despite being the country’s longest-serving president in more than a century (Whitehead 1986, pp. 54–58).

In summary, actors’ expectations about enforcement and stability shape how they approach institutional design. Most theories of institutional design emerged from studies of countries with strong institutions; scholars are just beginning to understand how and why actors create institutions in contexts in which the rules of the game are unstable or weakly enforced.

Analyzing Institutional Development and Change

Variation in institutional strength also has important implications for research on institutional development and change. The historical institutionalist literature on institutional development in the advanced industrialized countries focuses more on continuity than change (Thelen 2004, Streeck & Thelen 2005). As Thelen (1999) notes, much of the historical institutionalist literature views institutional change—explicitly or implicitly—through the lens of a punctuated equilibrium model, in which institutional development is characterized by “long continuities,” periodically interrupted by “radical shifts” (Pempel 1998, p. 1; also Krasner 1988). Recent work by Streeck & Thelen (2005, pp. 18–30) points to a variety of other ways in which institutions may evolve, including changes in function (“conversion”), the grafting of new institutions onto old ones (“layering”), and gradual atrophy (“drift”) or loss of relevance (“displacement”). However, nearly all of the patterns of change they identify are gradual and incremental. In a context of generalized institutional strength, such characterizations make sense. By narrowing actors’ choice sets, stabilizing expectations, routinizing behavior, and generating asset-specific

investment linked to existing institutional arrangements, strong institutions take radical alternatives off the table and virtually ensure that—outside of critical junctures—change is incremental.

In a context of institutional weakness, however, patterns of change may be very different. Weak institutions are more open to repeated and radical change. Where the rules are not systematically enforced, actors' choices are not confined to a set of stable and narrowly defined options; actors have a wider menu of strategic options available to them. This includes extraprocedural change, or change that occurs outside existing legal-institutional frameworks and/or in violation of officially sanctioned procedures. Moreover, in a context of low institutional durability, the cost of wholesale replacement may be relatively low, as vested interests and other mechanisms of reproduction have less time to develop (Hacker 2004, Grzymala-Busse 2006). Consequently, institutional change is more likely to take the form of "breakdown and replacement." For example, whereas highly institutionalized European social democratic parties adapted slowly and incrementally to socioeconomic change during the 1980s and 1990s (Kitschelt 1994), Levitsky (2003) shows how Argentine Peronism, whose internal rules were unstable and weakly enforced, underwent rapid and far-reaching programmatic change during the 1990s. In less than a decade, Peronism transformed itself from a labor-based party into a patronage-based machine capable of undertaking radical market-oriented reform. (The party underwent another transformation following the 2001–2002 economic collapse, embracing a more statist project.)

Finally, attention to issues of institutional strength allows us to see an additional pattern of institutional evolution: changing levels of enforcement. Increased or decreased enforcement can produce substantial change in institutional effects—altering actors' expectations and behavior—without modification to parchment rules. Mexican democratization provides an example of institutional change via increased

enforcement. The transformation from a hegemonic regime into a democracy involved relatively little change in the form of Mexico's constitution but dramatic change in enforcement in key areas. Postsocialist China and Vietnam provide examples of change via decreased enforcement. As noted above, initial steps toward economic liberalization in China and Vietnam took the form of relaxed enforcement, rather than dismantling, of state socialist institutions. Socialist institutions remained on the books, but a decline in enforcement allowed both state officials and emerging entrepreneurs to operate according to informal market institutions (Malesky 2005, Tsai 2007). Thus, actors' expectations and behavior changed dramatically.

In summary, relaxing assumptions of formal institutional strength can generate new insights into why politicians create institutions, how institutions shape political outcomes, and how political institutions evolve or change. Emerging research in these areas is critically important if the new institutionalism is to travel to the developing world.

CONCLUSION: ISSUES FOR FUTURE RESEARCH

Variation in the enforcement and stability of formal rules matters. If the new institutionalism in political science is to generate theories that are truly comprehensive, in that they are applicable not only to advanced capitalist countries but also to developing ones, then the strength of formal institutions cannot be taken for granted. Rather, enforcement and stability should be treated as dimensions along which particular institutions vary. As we have shown, recent studies have begun to explore this variation, and their findings allow scholars to refine existing theories of institutional design, institutional effects, and institutional change.

A crucial remaining task is to develop measures of enforcement and stability that can travel across diverse cases. With respect to enforcement, an obvious first step is to separate measurement of the formal rules from

measurement of actual enforcement. In some areas, unsanctioned violations are either highly visible (e.g., Supreme Court packing) or can be reliably counted (e.g., nonpayment of taxes). In such cases, observed violations may be a valid and useful measure. In other areas, however, rule infractions are not as visible or as easily counted (e.g., campaign finance laws, labor regulation). In these cases, the use of observed violations as a measure of enforcement may be biased by the level of monitoring. In other words, violations may be more easily observable in a context of high enforcement, because state officials, the media, and other public “fire alarms” are doing their job more effectively. Hence, measures of violation must control for the level of monitoring. This can be done by assessing the resources, quality, and incentives of monitoring agents [see, e.g., Schrank’s (2006) work on labor inspectors and monitoring in the Dominican Republic].

Where direct observation is difficult, surveys may provide an alternative means of measuring enforcement. Several major cross-national surveys (e.g., Transparency International, Latino-barometer, Afrobarometer) include questions about legal and regulatory enforcement. However, these surveys’ reliance on respondents’ perceptions, rather than actual experience, limits their validity. Studies that directly survey individuals about their own compliance, such as Gingerich’s (2007) recent work on political corruption across state agencies in Bolivia, Brazil, and Chile, are promising. Such studies require techniques to minimize bias rooted in actors’ reluctance to respond truthfully about improper or illicit behavior, and where they involve cross-national surveys, they must be able to correct for culturally rooted differences in perceptions of (and expectations about) enforcement.⁶

⁶See, for example, King et al.’s (2003) proposed use of “anchoring vignettes” to help correct for cultural differences in cross-national survey research or Calvo & Murillo’s (2008) work on clientelistic networks, which treats survey respondents as observers of behavior.

Instability is easier to observe than enforcement, but it can be tricky to interpret. For example, the mere passage of time fails to capture the extent to which an institution has actually been tested, or whether actors have come to expect it to survive. A better way of measuring stability is to examine whether an institution has survived changes in the distribution of power and preferences among the actors who designed it. For example, changes in government or regime may be a useful indicator of institutional stability. The fact that Pinochet’s market institutions survived Chile’s democratic transition and the subsequent election of center-left governments was a clear indicator of their durability—better, perhaps, than the number of years in which they survived under Pinochet. Survival through crisis may also be a useful indicator of durability. For example, the survival of Argentina’s 1994 constitution through the 2001–2002 economic collapse is an indicator of durability. An institution’s survival through a period of crisis may be considered an indicator that relevant actors have come to expect the institution to endure.

Good measures of enforcement and stability—and particularly measures that can travel across cases—are critical to our ability to explain variation in institutional strength across cases and over time. They are also critical to our ability to study the effects of institutional weakness. Developing such measures may be the biggest challenge facing comparative research in this area.

We conclude with a plea for further research on institutional enforcement and stability. Taking institutional strength seriously—treating it as a variable, rather than a taken-for-granted assumption—will help us to build theories of institutions that apply to both the industrialized and developing worlds. Increasing our stock of knowledge about the causes and consequences of institutional weakness will not only improve our understanding of institutions and their effects in theory, but also may ultimately contribute to effective institution building in practice—a process of great importance in many new democracies.

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Errata

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