

CONSTITUTIONMAKING.ORG

OPTION REPORTS

POLITICAL PARTIES

May 24, 2008

The following report is one of a series produced by the Constitutional Design Group, a group of scholars dedicated to distributing data and analysis useful to those engaged in constitutional design. The primary intent of the reports is to provide current and historical information about design options in written constitutions as well as representative and illustrative text for important constitutional provisions. Most of the information in these reports comes from data from the Comparative Constitutions Project (CCP), a project sponsored by the National Science Foundation. Interested readers are encouraged to visit constitutionmaking.org for further resources for scholars and practitioners of constitutional design.

Note that the dates provided herein for constitutional texts reflect either the year of initial promulgation *or* of a subsequent amendment, depending on which version was used for analysis. For example, Brazil 2005 refers to the Brazilian Constitution of 1988, as amended through 2005.

1. INTRODUCTION

Political parties and freedom to form them are crucial for democracy. We describe below the constitutional provisions regarding political parties and the right to form them.

2. DATA SOURCE(S)

The analysis reported below is based on data the Comparative Constitutions Project (please see the appendix for more information on this resource). As of this writing, the project sample includes 550 of the roughly 800 constitutions put in force since 1789, including more than 90% of constitutions written since World War II.

3. CLASSIFICATION AND HISTORICAL TRENDS

Overall, 58 % of constitutions in the current dataset refer to political parties. However, only 32% constitutions provide for the right to form them. As Figure 1 suggests very few constitutions mentioned political parties in 19th century, but the number has been steadily increasing from the beginning of the 20th century. In 2000 more than 80% of constitutions in force mentioned political parties. There is substantial regional variation, as shown in Figure 2. Almost every constitution in force in 2000 in E. Europe/Post-Soviet, Sub-Saharan Africa, Latin America and East Asia mentioned political parties. At the same time only about 40% of constitutions in force in 2000 in Oceania and 60% in Western Europe/U.S./Canada and the Middle East made a reference to political parties.

Figure 1. Percent of Constitutions that refer to Political Parties by Year (N=550)

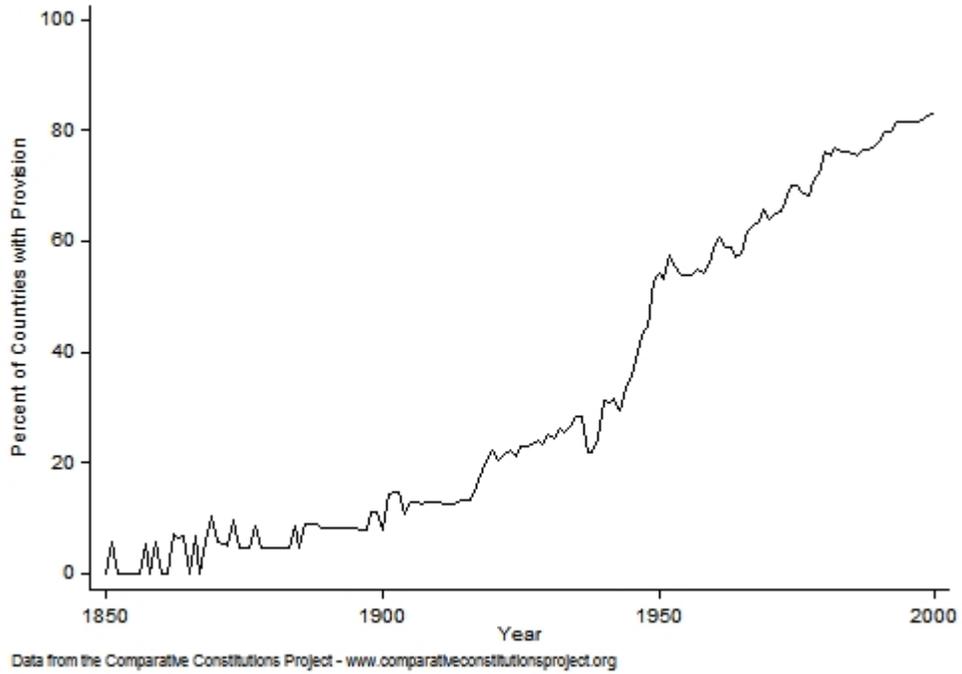


Figure 2. Percent of Constitutions that refer to Political Parties in 2000 by Region (N= 191)

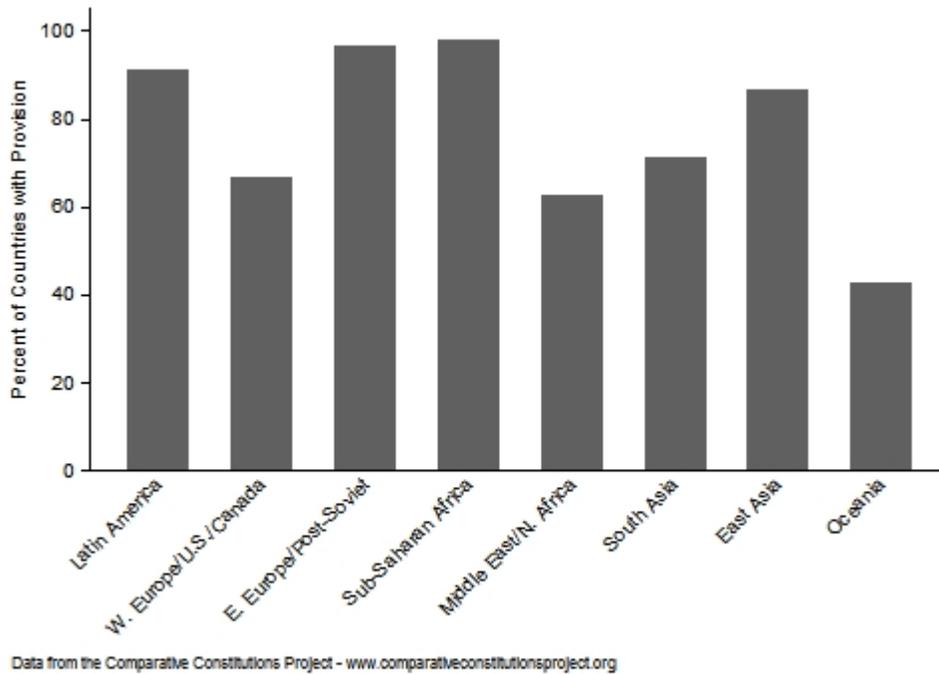


Figure 3. Percent of Constitutions that Provide for the Right to Form Political Parties by Year (N=550)

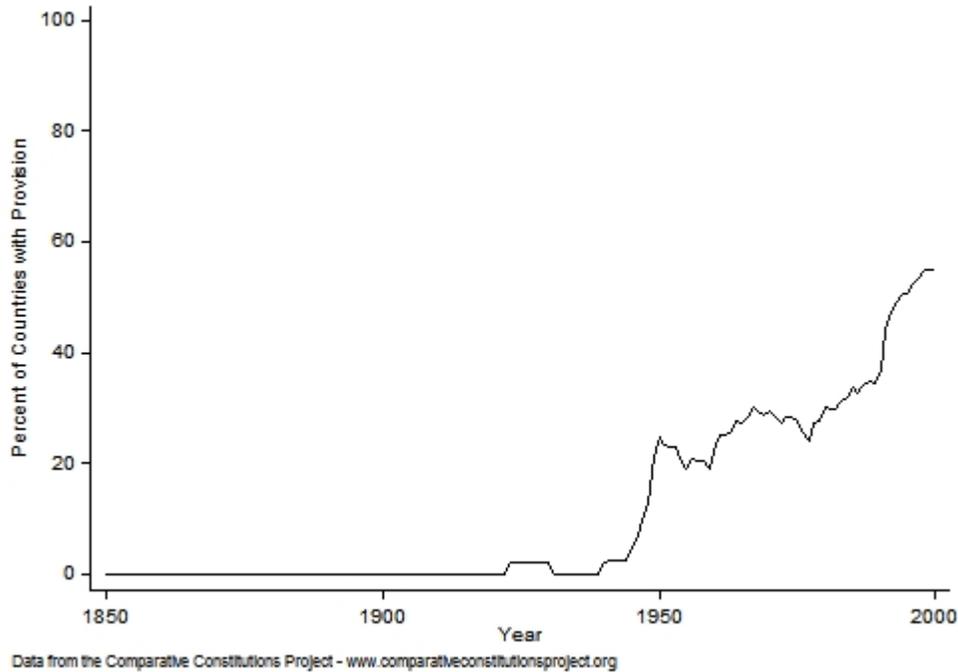
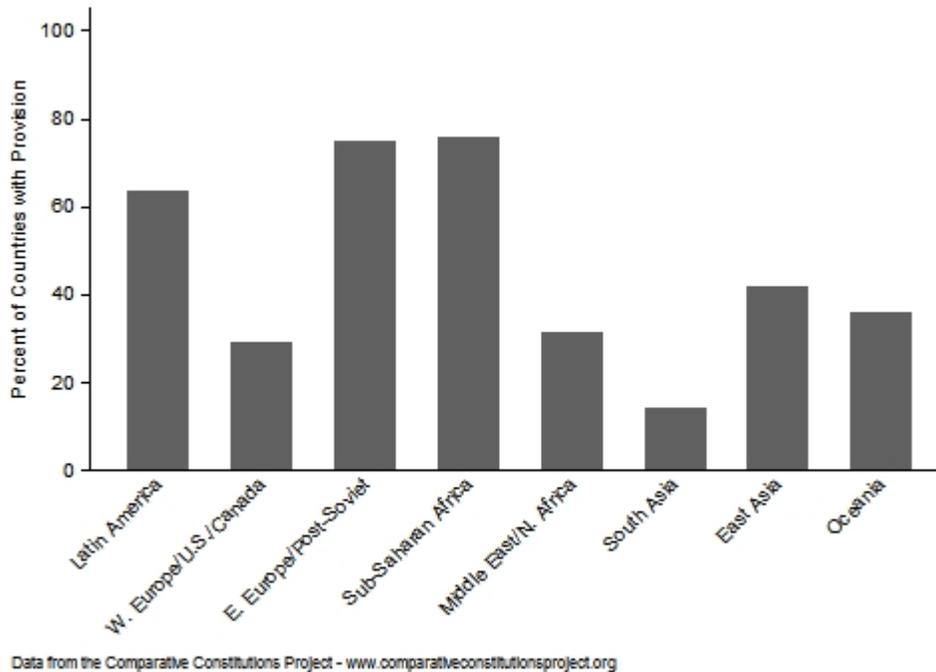


Figure 3 shows percent of constitutions that provide for the right to form political parties. The right to form political parties was almost non-existent among the constitutions written before 1950. However, since then the right has become increasingly common and in 2000 almost 60% of constitutions in force provided for the right to form parties.

Figure 4. Percent of Constitutions that Provide for the Right to Form Political Parties in 2000 by Region (N=191)



Finally, figure 4 shows percentage of constitutions in force in 2000 that provide for the right to form political parties. As figure 4 suggests, almost 80% of constitutions in force in E. Europe/Post Soviet and Sub-Saharan Africa and more than 60% in Latin America provide for the right to form political parties. These regions mostly contain newly democratic countries and newer constitutions, which might explain the attention to political parties. The provision is less common among constitutions in force in South and East Asia, W. Europe/U.S./Canada, Middle East and Oceania.

4. NOTES ON ATYPICAL CASES

This report includes any references to political parties in any context. This includes reference to one particular party, i.e. Communist Party, or explicit banning of political parties, as long as the term “political party” is used. Sometimes, constitutional texts used alternative terms for political parties such as political organizations.

The constitutions differ in the way they incorporate the right to form political parties. Some explicitly grant freedom of formation, whereas others specify the right to join or associate into political parties.

5. SAMPLE CONSTITUTIONAL PROVISIONS

(Note: dates provided reflect the version of the constitution used to obtain sample provisions, and represent either initial year of promulgation or year through which subsequent amendments are included.)

The freedom of association includes the right to establish and join political associations and parties and, through them, to work jointly and democratically to give expression to the will of the people and to the organization of political power.

- *Portugal 2004. Article 51*

Political parties participate in the formation of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles. They must publicly account for their assets and for the sources and the use of their funds.

- *German Federal Republic. Article 21*

In the Republic of Hungary political parties may be established and may function freely, provided they respect the Constitution and laws established in accordance with the Constitution.

- *Hungary 2003. Article 3.1*

A person shall enjoy the liberty to unite and form a political party for the purpose of making political will of the people and carrying out political activities in fulfillment of such will along the democratic regime of government with the King as Head of the State as provided in this Constitution.

- *Thailand 1997. Article 47*

The rights of a citizen include the right to form and join political parties, to take part in political campaigns, and to vote and to be a candidate in free and fair elections of members of the House of Representatives held by secret ballot and ultimately on the basis of equal suffrage.

- *Fiji 1998. Article 6.f*

Political parties or groups take part in the elections and the political, economic and social life. They form and conduct their activities freely.

- *Central African Republic 2004. Article 20*

Political parties express the democratic pluralism, assist in the formulation and manifestation of the popular will and are a basic instrument for political participation. Their creation and the exercise of

their activity are free within the observance of the Constitution and the law. Their internal structure and functioning must be democratic.

- *Spain 1992. Article 6*

The Republic of Poland safeguards the freedom for the creation and the functioning of political parties. Political parties shall be founded on the principle of voluntariness and the equality of Polish citizens, with the goal of influencing the formulation of the policy of the State by democratic means.

- *Poland 1997. Article 11.1*

Creation, merger, incorporation, and dissolution of political parties is free, with due regard for national sovereignty, the democratic regime, multiplicity of political parties and fundamental human rights, observing the following precepts...

- *Brazil 2005. Article 17*

6. APPENDIX

This report is based on the following questions from the Comparative Constitution Project's "survey instrument":

[PART] Does the constitution refer to political parties?

1. Yes
2. No
96. other, please specify in the comments section
97. Unable to Determine

Instructions: In this question we are looking for a mere mention of political parties in any context. This may include reference to a particular party, i.e. Communist Party, an explicit banning of political parties, or a regulation of some types of parties. We treat reference to political organizations as an equivalent term.

[PARTRIGHT] Does the constitution provide for a right to form political parties? (Asked only if PART is answered 1)

1. Yes
96. other, please specify in the comments section
97. Unable to Determine
98. Not Specified

Instructions: This one cannot be implied by the right to association; it must be explicitly stated. A right to join/associate into political parties/organizations or a guarantee of freedom to form parties or organizations is sufficient to answer yes. Formation left to non-constitutional law should be coded as other with the comment "left explicitly to non-constitutional law".

For additional documentation on the Comparative Constitutions Project, (including the full codebook, the sample, the sources of constitutional texts and translation issues related to those texts, coding procedures, publicly available data, etc.) please visit the project website at www.comparativeconstitutionsproject.org.