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POLITICS: A RESEARCH AGENDA**

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**Working Paper #307 – September 2003**

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## ABSTRACT

During the 1990s, comparative research on political institutions focused primarily on *formal* rules. Yet recent studies suggest that an exclusive focus on formal rules is often insufficient, and that informal institutions, ranging from bureaucratic and legislative norms to clientelism and patrimonialism, often have a profound—and systematic—effect on political outcomes. Neglecting these informal institutions thus risks missing many of the “real” incentives and constraints that underlie political behavior. This article seeks to move informal institutions from the margins to the mainstream of comparative politics research. It develops an initial framework for studying informal institutions and, importantly, integrating them into comparative institutional analysis. In the conceptual realm, the article attempts to clarify what is meant by “informal institution” and then develops a typology of four patterns of formal-informal institutional interaction: complementary, accommodating, competing, and substitutive. In the theoretical realm, the article examines two issues that have been largely unexplored in the literature on informal institutions: the question of why and how informal institutions emerge, and the sources of informal institutions stability and change. A final section explores some of the practical challenges inherent in research on informal institutions, including issues of identification, measurement, and comparison.

## RESUMEN

Durante los años 90s la investigación comparativa sobre las instituciones políticas se concentró primordialmente en las reglas formales. Sin embargo, estudios recientes sugieren que un foco exclusivo sobre las reglas formales habitualmente es insuficiente y que las instituciones informales, desde las normas burocráticas y legislativas hasta el clientelismo y el patrimonialismo, suelen tener resultados importantes. Ignorar a estas instituciones informales entraña así el riesgo de perder de vista muchos de los incentivos y restricciones “reales” que subyacen al comportamiento político. Este artículo procura desplazar a las instituciones informales desde los márgenes hacia el centro de la investigación en política comparada. El texto desarrolla un marco inicial para el estudio de las instituciones informales y, significativamente, para su integración al análisis institucional comparativo. En el dominio conceptual, el artículo trata de aclarar qué se entiende por “institución informal” y luego desarrolla una tipología de cuatro patrones de interacción institucional formal-informal: complementario, adecuador, competitivo y sustitutivo. En el dominio teórico, el artículo examina dos tópicos que no han sido explorados en la literatura sobre las instituciones informales: la pregunta acerca de por qué y cómo emergen las instituciones informales, y el problema de las fuentes de la estabilidad y el cambio de las instituciones informales. La sección final explora algunos de los desafíos prácticos inherentes a la investigación sobre las instituciones informales, incluyendo problemas de identificación, medición y comparación.

The 1990s were a decade of institutionalism in comparative politics. Fueled by an unprecedented wave of institutional change in the developing and post-communist worlds, scholars from diverse research traditions turned to studies of how constitutional design, electoral systems, and other formal institutional arrangements affected outcomes ranging from economic performance and social policy to the quality and stability of democracy.<sup>1</sup>

Just as these studies were generating new and important theoretical advances, however, other scholars began to point to the limitations of approaches that focused strictly on formal institutional design. An emerging body of research on politics in Latin America,<sup>2</sup> post-communist Eurasia,<sup>3</sup> Africa,<sup>4</sup> and Asia<sup>5</sup> converged around two key observations. First, many outcomes of interest to institutionalists were not adequately explained by formal institutional design. Second, many of the “rules of the game” that guided political behavior were not found in the formal or written rules; rather, informal constraints, ranging from legislative norms to patterns of clientelism and patrimonialism, often shaped actors’ incentives in systematic—and robust—ways. These studies generated calls, perhaps most notably from Guillermo O’Donnell, for greater scholarly attention to “the actual rules that are being followed.”<sup>6</sup> O’Donnell and others called these unwritten rules *informal institutions*.<sup>7</sup>

The study of informal institutions is hardly new. Informal rules have long been a central object of study in the field of anthropology, and students of comparative politics have for decades pointed to stable patterns of political behavior that depart from—and even undermine—formal institutions.<sup>8</sup> Nevertheless, informal institutions have not been rigorously conceptualized or theorized in comparative politics, and as a result, they remain at the margins of the contemporary literature on political institutions.

The goal of this paper is to move informal institutions from the margins to the mainstream of comparative politics research. Our motivation is simple: if social and political actors respond to a mix of “formal and informal constraints,”<sup>9</sup> then good institutional analysis requires that scholars examine both sets of rules. By broadening the scope of institutional analysis to include informal rules, scholars can gain a better

understanding of the incentives driving political behavior, which should result in both better research and better theory.<sup>10</sup>

The case for taking informal rules seriously hinges on the impact that those rules can be shown to have on formal institutional outcomes. If formal institutions (FI) produce similar outcomes (X) in the presence or absence of a particular informal institution (II), then there is little need to move beyond an exclusive focus on the formal rules.

$$\text{FI (+ II) = X}$$

$$\text{FI (- II) = X}$$

However, if the presence of an informal institution (II) in a particular formal institutional context (FI) can be shown to produce an outcome (Y) that is distinct from that generated in its absence (X), then the case for incorporating informal institutions is strengthened.

$$\text{FI (- II) = X}$$

$$\text{FI (+ II) = Y}$$

An emerging body of research suggests that informal rules do in fact shape formal institutional outcomes in significant—and even systematic—ways. Indeed, these patterns have emerged in areas that have traditionally been the exclusive domain of formal institutional analysis. We briefly highlight a few of these areas below.

*Executive-Legislative Relations.* Recent studies of presidentialism in new democracies suggest that executive-legislative outcomes cannot always be explained strictly in terms of constitutional design. Thus, analyses of “neopatrimonial” democracies in Africa and Latin America have shown how patrimonialist norms of unregulated private presidential control over state institutions may result in a degree of executive dominance over legislative and judicial branches that far exceeds that prescribed by the constitution.<sup>11</sup> Informal institutions may also *limit* presidential power. For example, despite the fact that Chile’s 1980 Constitution created “one of the most powerful presidencies in the world,”<sup>12</sup> Chilean presidents systematically underutilized this power during the 1990s. According to Peter Siavelis, this outcome is explained by the existence of “complex network of informal institutions” that encouraged executive consultation and power-sharing.<sup>13</sup>

*Electoral Rules.* Informal institutions may also mediate the effects of electoral rules. For example, Michelle Taylor has shown that although Costa Rica’s system of

proportional representation with no legislative re-election creates no incentive for legislators to perform the kind of constituency service that parties need for their electoral campaigns, Costa Rican legislators *do*, in fact, engage in constituency service.<sup>14</sup> Taylor attributes this outcome to a set of “informal devices”—such as unofficially-created “districts” and the practice of blacklisting—that encourage party work in the absence of a formal electoral incentive.<sup>15</sup> Another example is the relationship between clientelism and candidate selection. Studies of party primaries in the United States have suggested that because committed voters are more likely to participate, primaries encourage the election of ideologically extreme candidates.<sup>16</sup> Yet this hypothesis rests on the assumption that primary voters bring themselves to the polls—an assumption that does not hold in a context of machine politics. Where clientelism is pervasive, as in Argentina, those who participate in primaries do so because they are induced to vote—and often physically brought to the polls—by local brokers.<sup>17</sup> As a result, primaries are generally won not by the most ideologically polarizing candidates, but by the candidates backed by the largest political machine.

*Judicial Politics.* In the realm of judicial politics, Helmke’s study of executive-court relations in Argentina found that notwithstanding constitutional guarantees of tenure security and judicial independence, Supreme Court justices responded with greater regularity to an informal institution of tenure *insecurity*, according to which incoming (democratic and non-democratic) governments were widely expected to stack the court.<sup>18</sup> The result was a pattern of judicial behavior that departed significantly from that stipulated by the formal rules.

*Political Regimes.* Finally, informal institutions may have a profound impact on political regimes. For example, Kathleen Collins argues that although the Kyrgyz Republic (a semi-liberal democracy) and Uzbekistan (an autocracy) adopted distinct formal regimes after the collapse of the Soviet Union, the existence of powerful clan networks pushed the two regimes toward convergence over the course of the 1990s.<sup>19</sup> According to Collins, clan politics “subverted formal institutions” to such an extent that “informal mechanisms of network-controlled exchange and norms...became the rules of the game.”<sup>20</sup> As a result, formal regimes became “increasingly de-institutionalized and

inconsequential,” and by the end of the decade, the Kyrgyz Republic and Uzbekistan had converged around a single “clan hegemonic” regime type.<sup>21</sup>

Building on this emerging but disparate body of research, this paper develops a framework for studying informal institutions and integrating them into mainstream comparative politics research. The paper begins with an effort to clarify the concept of “informal institution.” It argues that informal institutions must be distinguished not only from formal institutions, but also from a variety of other informal patterns, including weak institutions, informal behavioral regularities, culture, and informal organizations. The paper then examines the different ways in which formal and informal institutions interact. Drawing on the work of Hans-Joaquim Lauth,<sup>22</sup> we argue that informal and formal institutions may interact in four distinct ways: complementary, accommodating, competing, and substitutive. Third, the paper explores some key theoretical issues that, to date, remain largely unexplored in comparative politics research on informal institutions. In this section, we examine the question of why and how informal institutions emerge. We then examine different sources of informal institutional stability and change. The final section of the paper discusses some of the challenges that emerge in carrying out research on informal institutions, such as issues of identification, measurement, and comparison.

Two initial caveats are in order. First, the focus of this paper is on informal *political* institutions. Although the term “informal institution” encompasses a wide range of social (e.g., the handshake, or the rules of dating) and economic (e.g., black markets) institutions, we confine our discussion to analyses of the political rules of the game. Second, although the article draws examples from a variety of different studies and regions, these are merely illustrative. The article is not intended to be a comprehensive survey of the universe of informal institutions.

### **What Informal Institutions Are (and Are Not)**

The literature on informal institutions encompasses a dizzying array of socio-political phenomena. The term “informal institution” has been used to characterize aspects of traditional culture,<sup>23</sup> personal networks,<sup>24</sup> clientelism,<sup>25</sup> corruption,<sup>26</sup> clan and

mafia organizations,<sup>27</sup> civil society,<sup>28</sup> and a wide variety of legislative, judicial, and bureaucratic norms.<sup>29</sup> Such conceptual ambiguity has serious analytic costs, for it limits our capacity to build and test theories. It is therefore essential that we develop a more precise definition of informal institution.

We begin with a fairly standard definition of institutions as rules (or sets of rules) that structure social interaction by shaping and constraining actors' behavior.<sup>30</sup> In conceptualizing "*informal* institution," two distinctions are critical. First, informal institutions must be distinguished from formal institutions. Second, they must be distinguished from other, non-institutional, informal patterns and behavior.

### **Formal versus Informal Institutions**

The distinction between formal and informal institutions has been conceptualized in several ways. One common distinction is state-societal. According to this approach, "formal institution" refers to state bodies (courts, legislatures, bureaucracies) and state-enforced rules (constitutions, laws, regulations), while "informal institution" encompasses civic, religious, kinship, and other "societal" rules and organizations.<sup>31</sup> A problem with the state-societal distinction is that it fails to account for a variety of informal institutions, including the informal rules that govern behavior *within* state institutions<sup>32</sup> and what Ellickson calls "organization rules," or the official rules that govern non-state organizations such as religious orders, political parties, and interest groups.<sup>33</sup>

A second distinction centers around the location of rule enforcement. According to this conception, informal institutions—or norms—are self-enforcing institutions, in that they constitute members of a community's mutual best response to one another.<sup>34</sup> Formal rules, by contrast, are enforced by a third party, usually the state.<sup>35</sup> This distinction also misses key informal institutions. For example, it does not allow for the possibility of informal third party enforcement (mafia bosses may serve as third party enforcers, but few scholars consider mafias to be formal institutions), or alternatively, for state enforcement of informal institutions (i.e., organized corruption).<sup>36</sup>

To address these shortcomings, we adopt a third approach. We define formal institutions as rules that are openly codified, in the sense that they are established and

communicated through channels that are widely accepted as official. By contrast, informal institutions are *socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels*.<sup>37</sup> This distinction corresponds to intuitive understandings of formal versus informal, and it converges with the definitions employed by many leading scholars of formal and informal institutions.<sup>38</sup>

### **A Second Distinction: What Informal Institutions Are Not**

Yet distinguishing between formal and informal institutions is only half the conceptual task. A potential pitfall of the written versus unwritten distinction is that it risks treating “informal institution” as a residual category. Potentially, the concept of “informal institution” could encompass virtually all behavior that is not accounted for by the written-down rules. To avoid this pitfall, it is essential to elaborate further what an informal institution *is not*.

Four distinctions are worth noting. First, informal institutions must be distinguished from *weak institutions*. Many formal institutions are ineffective, in that the rules that exist on paper are, in practice, widely circumvented or ignored. Yet formal institutional weakness does not necessarily imply the presence of informal institutions. It may be that no stable or binding rules—formal or informal—exist, and that politics is characterized by extreme fluidity and uncertainty.<sup>39</sup> The distinction between weak and informal institutions can be seen in O’Donnell’s recent work on Latin American democracies. In his seminal article on delegative democracy, O’Donnell argued that in much of Latin America, the formal rules of representative democracy are weakly institutionalized.<sup>40</sup> In the absence of institutionalized checks on executive power, the scope of permissible presidential behavior widened considerably, which resulted in a widespread abuse of power and frequent political crises. In subsequent work, O’Donnell highlighted the role of informal institutions, such as clientelism and other forms of particularism, in undermining the effectiveness of representative institutions.<sup>41</sup> O’Donnell’s work points to two distinct patterns of formal institutional weakness that should not be conflated. Clientelism and the abuse of constitutionally-defined executive authority are both informal in that they depart from formal rules, but whereas the former

pattern is an informal institution, the latter is best understood as non-institutional behavior.

A second distinction is that between informal institutions and other *informal behavioral regularities*. Not all patterned behavior is rule-bound, or rooted in shared expectations about others' behavior.<sup>42</sup> Behavioral regularities may be products of a variety of other incentives. To be considered an informal institution, a behavioral regularity must respond to an established rule or guideline, the violation of which generates some kind of external sanction. To cite an example offered by Daniel Brinks,<sup>43</sup> the pattern of removing one's coat in a restaurant—as opposed to removing one's hat in church—is a product of a common response to physical discomfort, not a social norm. In practice, it is often difficult to distinguish informal rule-bound behavior from other informal behavioral regularities. For example, public graft is clearly informal behavior, but only some patterns of corruption should be considered institutions. Where graft is organized and enforced from above,<sup>44</sup> or where it is so widely known and practiced that it is expected of public officials,<sup>45</sup> corruption may indeed be institutionalized. Yet in many cases, widespread graft is neither externally sanctioned nor rooted in shared expectations, but rather is a common individual response to other incentives, such as low public sector salaries and weak mechanisms of enforcement.

Third, informal institutions should be distinguished from the broader concept of *culture*. Many scholars have pointed to the role of culture in shaping informal institutions,<sup>46</sup> and the frontier between “informal institutions” and culture is a critical area for research. In our view, however, the best way to pursue this agenda is to cast informal institutions in relatively narrow terms. Specifically, we argue for a cognitive approach that defines “informal institution” in terms of shared expectations rather than shared values. Distinguishing between shared values and shared expectations allows us to analyze potential causal relationships between culture and informal institutions, such as whether societal values reinforce or undermine particular informal institutions.

Finally, informal institutions should be distinguished from *informal organizations*. Although scholars often incorporate organizations into their definition of institution,<sup>47</sup> it is useful, following North, to separate the “rules” from the “players.”<sup>48</sup> Just as formal organizations (such as political parties or trade unions) may be distinguished

from formal institutions, informal organizations such as clans, mafias, and kinship networks should be distinguished from informal institutions. Nevertheless, informal rules may be embedded within these organizations, and just as formal political organizations are widely studied within the overall rubric of “institutionalism,”<sup>49</sup> clans, mafias, and other informal structures may be usefully incorporated into informal institutional analysis.

### **How Formal and Informal Institutions Interact**

Once we have defined formal and informal institutions, we can begin to analyze the ways in which they interact. A casual survey of the literature on informal institutions reveals two starkly different characterizations of the interaction between formal and informal rules. On the one hand, many studies treat informal institutions as playing a functional or *problem-solving* role. Thus, norms are cast as solutions to problems of social interaction and coordination,<sup>50</sup> and informal rules are seen to enhance the efficiency or performance of complex institutions.<sup>51</sup> On the other hand, another strand of scholarship casts informal institutions as primarily dysfunctional or *problem-creating*. These studies highlight phenomena—such as clientelism, corruption, patrimonialism, and clan politics—that undermine the performance of markets, states, democratic regimes, and other formal institutions.<sup>52</sup> As we shall see, however, recent studies suggest a somewhat more complex story, in which informal institutions at times reinforce or substitute for the very formal institutions they appear to be undermining.

Building on the work of Hans-Joachim Lauth,<sup>53</sup> this section develops a typology aimed at capturing—and making sense of—these differences. The typology is based on two dimensions. The first is that of the effectiveness of the relevant formal institutions. Whereas some informal institutions operate in a context of effective formal institutions in which the rules are routinely enforced and complied with, others exist in a context of weak or ineffective formal institutions in which non-compliance routinely goes unsanctioned. The second dimension is that of the degree of compatibility between actors’ goals (i.e., what they seek to accomplish through a particular informal institution) and their expectations about the likely outcomes generated by formal institutions.

Whereas in some contexts actors' goals are similar to or compatible with expected formal institutional outcomes, in other contexts actors pursue goals that are at odds with those outcomes. These two dimensions can be combined to produce the four-fold typology shown in Figure 1. Whereas the types located in the upper-left (complementary) and lower-right (competing) cells correspond to the "functional" and "dysfunctional" types that predominate in much of the literature, the typology yields two additional types (accommodating and substitutive) that help to provide a more complete picture of the universe of informal institutions.

**FIGURE 1**

**A TYPOLOGY OF INFORMAL INSTITUTIONS**

	<b>Effective Formal Institutions</b>	<b>Ineffective Formal Institutions</b>
<b>Compatible Goals</b>	Complementary	Substitutive
<b>Conflicting Goals</b>	Accommodating	Competing

*Complementary Informal Institutions.* The left side of the table corresponds to informal institutions that co-exist with effective formal institutions, such that actors expect that the rules that exist on paper will in fact be enforced. In the upper left corner, which combines effective formal institutions and compatible goals, we have what Lauth calls "*complementary*" informal institutions.<sup>54</sup> Complementary informal institutions generally "fill in the gaps" left by formal institutions—addressing problems or contingencies that are not explicitly dealt with in the formal rules—without violating the overarching formal rules. Hence, they are often said to enhance the performance or efficiency of the relevant formal institution. Examples of complementary informal institutions include the many norms, routines, and operating procedures that allow bureaucracies and other complex organizations to function effectively.<sup>55</sup> Thus, Donald Matthews called attention to the various "folkways" of the US Senate (such as apprenticeship, specialization, and courtesy), without which "the Senate could hardly

operate with its present organizational form.”<sup>56</sup> Similarly, congressional norms such as the seniority system and deference to committees are said to enhance legislative productivity and contribute to US legislators’ re-election goals,<sup>57</sup> and the opinion assignment procedures and the “Rule of Four” are said to facilitate the work of the US Supreme Court.<sup>58</sup>

*Accommodating Informal Institutions.* The lower left corner of Figure 1, which combines effective formal institutions and conflicting actor goals, corresponds to what might be called *accommodating* informal institutions. Accommodating informal institutions can be viewed as a “second best” strategy for actors who dislike outcomes generated by the formal rules but are unable to change or openly break those rules.<sup>59</sup> They violate the spirit, but not the letter, of the formal rules, generally by tempering or modifying the *effects* of those rules. In so doing, they often help reconcile key actors’ interests with existing formal institutional arrangements. Hence, although accommodating informal institutions may not be efficiency- or performance-enhancing, they at times, albeit unintentionally, enhance the stability or sustainability of formal institutions by dampening demands for change.

An example of accommodating informal institutions is the informal power-sharing arrangements created by the post-Pinochet governing elite in Chile. Leaders of the Democratic Concertation inherited an “exaggeratedly strong presidential system” and a majoritarian electoral system that ran counter to their goal of maintaining a broad multiparty coalition.<sup>60</sup> Unable to change the authoritarian-era Constitution, Concertation elites created a set of informal procedures aimed at counteracting its effects. These arrangements “enhanced coalitional trust” in a constitutional setting that “provided very few incentives for cooperation.”<sup>61</sup> Another example is the “informal devices” created by Costa Rican party leaders to induce legislators to engage in constituency service despite the ban on re-election.<sup>62</sup> These informal arrangements comply with the electoral law while at the same time seeking to counteract its effects. Finally, norms of lax enforcement that help reconcile laws that are politically difficult to change with particular economic realities, such as demand for migrant labor, or social realities, such as prostitution or abortion, can also be seen as fitting into this category. An example is the Dutch practice

of *gedogen*, a widely known and accepted practice in which criminal law is not fully enforced on certain issues, such as soft drugs and euthanasia.<sup>63</sup>

*Competing Informal Institutions.* The right side of Figure 1 corresponds to informal institutions that co-exist with weak or ineffective formal institutions. In the lower right corner, which combines weak formal institutions and antagonistic goals, are *competing* informal institutions. Competing informal institutions structure actors' incentives in ways that are incompatible with the formal rules: to follow one rule, actors must violate another. Examples include clientelism, patrimonialism, clan politics, and other particularistic institutions.<sup>64</sup> For example, in his study of Ghana's public administration, Robert Price found that most civil servants believed they would pay a significant social cost (such as a loss of standing in the community) if they adhered to bureaucratic rules at the expense of kinship group norms under which they were obligated to provide jobs and other favors to their families and villages.<sup>65</sup> Some indigenous or custom laws also compete with formal institutions. As scholars of legal pluralism have shown, the imposition of European legal systems created "multiple systems of legal obligation" in many post-colonial societies.<sup>66</sup> Indigenous and European legal systems often "embodied very different principles and procedures,"<sup>67</sup> which meant that in some instances, adherence to custom law required that indigenous people violate state law.

*Substitutive Informal Institutions.* Finally, the upper right corner, which combines weak formal institutions and compatible actor goals, corresponds to what Lauth calls "*substitutive*" informal institutions.<sup>68</sup> Substitutive informal institutions are created or employed by actors seeking to achieve outcomes that formal institutions were expected, but have failed, to generate. An example is found in Todd Eisenstadt's work on the evolution of electoral institutions in Mexico. Because formal institutions of electoral dispute resolution (such as the electoral courts) lacked credibility and were routinely bypassed during the 1990s, officials of the national government and the opposition National Action Party resolved post-election disputes through informal *Concertaciones*, or "gentleman's agreements."<sup>69</sup> *Concertaciones* thus served as a "way station" for government and opposition elites until formal institutions of electoral dispute resolution became credible.<sup>70</sup> Another example comes from Peru, where, when the

army and other state agencies abandoned territories in the highlands during the Shining Path insurgency, peasants created a variety of informal institutions—including *rondas campesinas* (self-defense patrols) and communal assemblies—to maintain order and provide public goods.<sup>71</sup> A third example is the Chinese *guanxi*, or informal personal relationships. According to Hongying Wang, because Chinese legal institutions are “either ineffective or irrelevant,” foreign investors rely on *guanxi*.<sup>72</sup> Although *guanxi* “contradict and undermine formal institutions,” they substitute for state institutions by providing mechanisms of coordination, enforcement, and dispute settlement.<sup>73</sup>

In comparing these four types, several observations emerge. First, whereas studies of informal institutions in the advanced industrialized countries tend to focus on complementary and accommodating institutions, studies of informal institutions in developing and post-communist countries tend to focus on substitutive and competing ones. The explanation for this pattern is straightforward: complementary and accommodating informal institutions exist in stable institutional settings, which are generally found in advanced industrialized countries (though they are also found in some developing countries, such as Costa Rica, Chile, and Singapore), and substitutive and competing informal institutions exist in contexts of formal institutional weakness and instability, which are more likely found in developing and post-communist countries.

Notwithstanding this observation, however, a second point is that informal institutions resist classification in simple dichotomous (functional versus dysfunctional) terms. Informal institutions in developing countries often have ambiguous, double-edged, and even counter-intuitive effects. For example, although substitutive informal institutions such as Mexican *concertaciones* or Chinese *guanxi* subvert formal rules and procedures, they may help achieve outcomes (e.g., resolution of post-electoral conflict or security for investors) that the formal rules were designed to achieve. And although accommodating informal institutions such as informal power-sharing arrangements help actors violate the spirit of the formal rules, they may generate outcomes (such as democratic stability) that are viewed as broadly beneficial. Indeed, in some contexts (e.g., formally authoritarian regimes), normatively desired goals may be best served through informal institutions that subvert the formal institutional framework.

A third point is that the typology does not exclude the possibility that a particular informal institution may fall into more than category. For example, indigenous laws may conflict with, converge with, or operate in lieu of state law.<sup>74</sup> Placement of informal institutions may also vary according to scholars' analytic perspective. For example, although clientelism is frequently characterized as a competing informal institution, it may also be viewed as substitutive, in that clientelist networks effectively substitute for the state in some urban and rural poverty zones.<sup>75</sup>

Finally, informal institutions should not be assumed to be static. The interaction between formal and informal institutions frequently has a mutually transformative effect. Recent literature on institutional syncretism shows how political actors may actively reconfigure competing formal and informal institutions in ways that make them more compatible.<sup>76</sup> Similarly, recent constitutional reforms in Ecuador, Bolivia, Colombia, and Peru resulted in the state's recognition of a variety of indigenous laws.<sup>77</sup> Having laid out an initial framework for conceptualizing informal institutions, then, our next task is to gain a better understanding of how and why they change.

### **Explaining Informal Institutional Emergence and Change**

Although a large number of studies have identified informal institutions and evaluated their effects, far fewer have examined the questions of why they emerge and how they change. Admittedly, explaining informal institutional emergence and change is a difficult task. In formal institutional analysis, the mechanisms of rule creation are generally public and official, and the actors or coalitions who create the rules (e.g., executives, judges, political parties, or interest groups) are relatively easy to identify. In the case of informal institutions, by contrast, the rule-making process is less transparent and the key actors and mechanisms are more difficult to identify. Notwithstanding these obstacles, however, a crucial part of the agenda of incorporating informal institutions into mainstream institutional analysis lies in developing theories about the origins of informal rules and the sources of informal institutional stability and change.

## **The Origins of Informal Institutions: Reactive versus Spontaneous Emergence**

Informal institutions emerge for a variety of reasons, and in several different ways. As a first cut, we distinguish *reactive* informal institutions, or those that are endogenous to formal institutional structures, from *spontaneous* informal institutions, or those that emerge independently of those structures. Reactive informal institutions are established in direct response to incentives created by the formal rules. Whether they are created to “fill in the gaps” of, mitigate the effects of, substitute for, or subvert the formal rules, these informal institutions are created by actors who are motivated by an expected outcome associated with the relevant formal structures. A variety of bureaucratic, legislative, judicial, intra-party, and other organizational norms fall into this category, as do many of the informal power-sharing arrangements that govern elite behavior within democratic regimes.

Spontaneous informal institutions emerge independently of (and frequently pre-date) formal institutional structures. Although they generally coexist and interact with formal rules, spontaneous informal institutions are created in response to incentives that are unrelated to those rules. Examples include indigenous or “traditional” institutions such as custom laws and kinship-based norms, as well as norms of clientelism, patrimonialism, and other particularistic institutions that coexist with new electoral and market institutions in much of contemporary Africa, Asia, Latin America, and post-communist Eurasia.

To date, little comparative politics research has been done on the question of how either reactive or spontaneous informal institutions emerge.<sup>78</sup> Indeed, many analyses—particularly those of spontaneous informal institutions—simply take these institutions as historically given. Thus, phenomena such as clientelism, patrimonialism, and clan politics are treated as part of a more or less constant cultural landscape that shapes, but is not explained by, developments in the political and economic arenas. In addition to leaving questions of institutional origins and persistence unexplored, such studies—like earlier analyses of political culture—risk treating informal institutions as overly static, in that they understate the degree to which informal institutions are modified, adapted, and even re-invented over time.<sup>79</sup>

At the same time, many existing explanations of informal institutional emergence cast informal institutions in the role of solutions to problems that emerge when formal institutions either fail or do not exist.<sup>80</sup> For example, early rational choice analyses of informal institutions often treated legislative norms as efficient solutions to problems of cycling, information, or collective action.<sup>81</sup> These studies confront one of the major pitfalls of early functionalist accounts of formal institutional emergence: they explain the emergence of institutions primarily in terms of their purported effects (or, in the case of rational choice analyses, the efficiency gains they yield), thus failing to identify the actual mechanism by which informal institutions are created. Hence, although efficiency-based explanations may help to explain the persistence of particular informal institutions once they are already established, they are insufficient, if not misleading, for generating theories about institutional emergence.

A key challenge for informal institutional analysis thus lies in avoiding accounts that either take informal institutions as historical givens or explain them in functionalist terms. To do this, we must move beyond the *what* and the *why* of informal institutions to identify the *who* and the *how*. An important first step in explaining the emergence of any informal institution is to identify the relevant actors, coalitions, and interests behind it. Like formal institutions, informal institutions are generally created in a context in which power and resources are unevenly distributed, and like their formal counterparts, they tend to produce winners and losers.<sup>82</sup> Hence, explanations of informal institutional emergence are likely to involve conflict and coercion, rather than pure coordination.

A second step is to identify the mechanism or process by which informal institutions are created. These processes are likely to vary. In some cases, informal institutional emergence may be understood as a decentralized or bottom-up process in which a large number of actors coordinate around a particular rule through established focal points,<sup>83</sup> repeated interaction,<sup>84</sup> or bargaining.<sup>85</sup> Decentralized emergence can be seen, for example, in Ellickson's analysis of the norms used by Shasta County cattle ranchers to resolve disputes over animal trespassing and property demarcation.<sup>86</sup> In other instances, such as the creation of informal pacts or power-sharing arrangements, the emergence of informal institutions may be understood as a top-down process of strategic design driven by a small group of elites.<sup>87</sup> In still other cases, informal institutional

creation may be viewed as an historically contingent process in which informal structures are the (often unintended) product of a set of particular conflicts and compromises that are later reinforced or “locked in” through a process of path dependence. For example, Peter Katzenstein argues that norms of restraint and flexibility within Japan’s security forces were initially a product of intense socio-political conflict in the aftermath of World War II, and that these norms were later reinforced by Japan’s postwar economic success.<sup>88</sup> Whether informal institutions are viewed as a product of decentralized coordination, bargaining, elite crafting, or historical contingency, the key point is that explanations of their emergence must place actors, interests, and the mechanisms by which the rules are created and communicated—in short, politics—at the center of the analysis.

### **Explaining Informal Institutional Change**

Another critical area of research is that of informal institutional change. Informal institutions may change via collapse, replacement by another informal institution, or replacement by a formal institution (formalization). Alternatively, the *purpose* of an informal institution may change even as its structure remains the same.<sup>89</sup> Within comparative politics, however, informal institutions are often characterized as highly resistant to change. Like culture, they are said to possess a “tenacious survival ability” and are seen to persist even in the face of extensive formal institutional change.<sup>90</sup> When change does occur, it is generally expected to be slow and incremental.<sup>91</sup> Thus, Lauth argues that because informal rules “do not possess a center which directs and co-ordinates their actions,” informal institutional change is likely to be a decentralized and “extremely lengthy” process.<sup>92</sup>

Yet not all informal institutions fit this characterization as robust and difficult-to-change. The centuries-old Chinese practice of foot-binding disappeared within a single generation,<sup>93</sup> and many of the informal rules that governed Mexico’s post-revolutionary elite for much of the twentieth century, including the longstanding norm of allowing the president to select candidates (the *dedazo*), collapsed quickly during the 1990s.<sup>94</sup> If informal institutions in fact vary with respect to their stability and pace of change, then an

important set of questions emerges: what explains this variation, and what are the possible sources of informal institutional change?

### Formal Institutional Change

Perhaps the most obvious source of informal institutional change is *formal* institutional change. Formal institutional change may take two distinct forms. The first is a change in formal institutional *design*, which may alter actors' incentives by changing the expected outcomes generated by the formal rules. The second is a change in formal institutional *strength*, or effectiveness, which may change actors' expectations regarding the likelihood that the formal rules will be enforced.

The impact of formal institutional change varies across different types of informal institutions. For example, reactive informal institutions should be particularly susceptible to formal institutional change. Because they emerge in direct response to incentives created by formal institutional structures, a change in either the rules themselves or the enforcement of those rules will directly affect the costs and benefits of continuing to adhere to the informal rules. In these cases, informal institutional change may be quite rapid. By contrast, change within spontaneous informal institutions should be less tightly coupled with formal institutional change. Because these informal institutions are the product of incentive structures that lie outside the formal rules, formal institutional change is less likely to have a direct or decisive impact on them. Thus, electoral design (and redesign) has been shown to often have a very limited impact on clientelism,<sup>95</sup> and formal administrative reforms have been shown to have little short-term impact on informal networks of corruption.<sup>96</sup> That said, however, an increase in formal institutional *strength* may indeed affect spontaneous informal institutions. By raising the costs of adhering to spontaneous competing informal rules that compete with formal ones, increased enforcement weakens the incentive for actors to play by the informal rules. Thus, increased federal enforcement weakened Jim Crow institutions in the US South, and strong states undermined clan politics in postwar Japan and South Korea.<sup>97</sup> Even in these cases, however, informal institutional change is likely to be slower than in the case of reactive informal institutions.

We can also expect variation in the impact of formal institutional change among the different types of informal institutions identified in Figure 1. For instance, complementary and accommodating informal institutions, which exist in a context of effective formal institutions, will likely be particularly susceptible to changes in formal institutional *design*. In these cases, a modification in the relevant formal rules should change the nature of the “gaps” or undesired effects that informal institutions had been designed to address, which may create incentives for actors to either abandon or modify the existing informal rules. For example, the 1974 Bill of Rights of subcommittees in the House of Representatives “produced a sharp change in formal rules that overrode previous informal committee structures.”<sup>98</sup>

By contrast, substitutive informal institutions are more likely to change in response to a *strengthening* of formal institutions. Given that substitutive informal institutions are created in response to a failure of particular formal institutions to achieve the objectives for which they were designed, an increase in the effectiveness of formal institutions may reduce actors’ incentive to operate through those informal structures. Thus, the increased credibility of Mexico’s electoral courts over the course of the 1990s reduced the incentive of opposition leaders to work through informal *concertaciones*,<sup>99</sup> and the increased capacity of the Peruvian state to provide security in rural areas during the 1990s transformed (and in many cases, weakened) *rondas campesinas* and other informal peasant institutions. It is worth noting that substitutive informal institutions may inhibit the (re-establishment of formal institutions by creating new interests and actors with a stake in preserving the informal rules.<sup>100</sup> To the extent that such “crowding out” occurs, a key causal question arises: are substitutive informal institutions a *product* or a *cause* of weak formal institutions—or both?

Finally, change in competing informal institutions may result from changes in either the design or the strength of formal institutions. On the one hand, competing informal institutions often persist because formal institutions are weakly enforced. Increased enforcement would raise the cost of complying with competing informal institutions, which could trigger the collapse of those institutions. On the other hand, competing informal institutions are created by actors who pursue goals that are at odds with expected formal institutional outcomes. Thus, an alternative means of ensuring

formal institutional compliance is to redesign the formal rules so that they correspond more closely to the goals of the subversive actors, that is, to formalize the informal rules. Such a process occurred in the realm of executive-legislative relations in Argentina, where, in the wake of President Carlos Menem's extensive use of extra-constitutional decree authority, opposition politicians—seeking to regulate these informal powers--agreed to include a provision for Necessity and Urgency Decrees in the 1994 Constitution.<sup>101</sup> In effect, what had previously been a competing informal institution was transformed into a formal rule. A similar dynamic can be seen in the recent “constitutionalization” of indigenous laws in several Andean countries.<sup>102</sup>

These outcomes raise an interesting question. Under what conditions will state elites attempt to weaken or destroy competing informal institutions through increased enforcement (e.g., Jim Crow institutions), and under what circumstances will they seek to formalize those institutions, as occurred in the cases of decree authority in Argentina and indigenous laws in the Andes? Relevant factors likely include the state's capacity to enforce the formal rules and the (domestic and international) legitimacy of the informal rules.<sup>103</sup>

### Alternative Sources of Informal Institutional Change

Formal institutions are not, of course, the only source of informal institutional change. Indeed, as noted previously, informal institutions that emerge independently of formal structures often prove highly resilient in the face of formal institutional change. What explains change in these institutions? For scholars who view informal institutions primarily as a product of culture, informal institutional change is rooted in the evolution of societal attitudes or values.<sup>104</sup> Because such cultural shifts tend to be glacial in pace, this pattern of informal institutional change may be expected to be slow and incremental.

Another source of informal institutional change is an alteration of the status quo conditions that had previously sustained the institution.<sup>105</sup> Developments in the external environment may change the distribution of power and resources within a community, weakening those actors who benefit from a particular informal institution and strengthening those who seek to change it. In the Mexican Institutional Revolutionary Party (PRI), for example, the increasingly competitive electoral environment of the 1990s

strengthened party activists vis-à-vis the national leadership, which allowed them to contest and eventually dismantle a set of informal institutions that had sustained centralized presidential dominance over the party.<sup>106</sup> Similarly, it has been argued that the growth of middle class electorates erodes the bases of clientelism by reducing voters' dependence on the distribution of selective material goods.<sup>107</sup> In most of these cases, informal institutional change will occur incrementally as actors gradually reorient their expectations to reflect underlying changes in their and others' bargaining power.

In cases of rapid or sudden informal institutional change, however, other analytical tools are needed. One means of explaining such rapid transformation are tipping models of cultural change.<sup>108</sup> These models suggest that if a sufficiently large enough number of actors become convinced that a new and better alternative exists, and if a mechanism exists through which to coordinate actors' expectations, a shift from one set of norms to another may in fact occur quite rapidly. Applying these principles to explain the sudden eradication of foot-binding in China, Gerry Mackie argues that the move to end foot-binding hinged on creating an alternative marriage market that allowed sons to marry daughters who had natural feet, thereby escaping the inferior convention.<sup>109</sup>

Comparing these alternative sources of informal institutional change, a general hypothesis is that informal institutions with substantial distributional effects (those that clearly benefit some actors at the expense of others) will be more vulnerable to processes of socioeconomic change than those with limited distributional effects (such as those that solve coordination problems). For example, we might expect clientelism to be more vulnerable to socioeconomic development than foot-binding.

Table 1 summarizes these five different sources of informal institutional change. As the table makes clear, informal institutions vary considerably with respect to both the underlying source of change and the pace of change. Whereas some informal institutions (complementary, accommodating, competing) are highly susceptible to changes in formal institutional design, others (substitutive, competing) are likely to be affected by changes in formal institutional strength. Change in spontaneously emerging informal institutions is likely to come from sources that lie outside the formal institutional context, such as cultural evolution, changes in resource distribution, and "tipping" processes. Informal institutions also vary with respect to the pace of change. Whereas cultural evolution is

likely to be a source of incremental change, formal institutional change or coordination around an alternative equilibrium may trigger the rapid collapse of informal institutions.

**TABLE 1**

<b>SOURCES OF INFORMAL INSTITUTIONAL CHANGE</b>				
<b>Source of Change</b>	<b>Mechanism of Change</b>	<b>Pace of Change</b>	<b>Relevant Informal Institutions</b>	<b>Example</b>
Formal Institutional Change	Change in <i>design</i> of formal institution	Often relatively rapid	Reactive: complementary, accommodating, competing	1974 change in committee rules in US Congress;
Formal Institutional Change	Change in <i>effectiveness</i> of formal institution	Variable	Reactive and spontaneous: substitutive and competing	Collapse of <i>concertaciones</i> in Mexico
Cultural Evolution	Change in societal values	Very slow	Spontaneous	Long-term erosion of traditional kinship norms
Change in Status Quo Conditions	Change in distribution of power; new round of bargaining	Usually slow	Spontaneous	Erosion of clientelism through growth of middle class
Updating of Beliefs/Mechanism for Coordination	Tipping	Rapid	Spontaneous	End of foot-binding in China

### **Challenges for Research: Issues of Identification, Measurement, and Comparison**

This essay has argued that informal institutions can and should be incorporated into mainstream comparative institutional analysis. Yet, in both theoretical and practical terms, bringing informal institutions into institutional analysis poses a series of research challenges beyond those normally associated with the study of formal institutions. In this final section, we examine some of these challenges.

A first question is when to bring informal institutions into the analysis. Not all institutional analyses require an examination of informal institutions. One strategy in this

regard is to begin with the formal rules.<sup>110</sup> If the formal rules are sufficient to understand actors' incentives and explain institutional outcomes, then adding informal institutions may simply bring unnecessary costs in terms of parsimony. Similarly, in contexts where informal rules merely complete formal ones, without substantially altering actors' incentive structures, an analyst must demonstrate the value added of including informal institutions. As a general rule of thumb, the more tenuous the link between formal institutions and outcomes, the greater the imperative to examine informal institutions will be.

A second issue is that of identifying informal institutions. Even where informal institutions appear to have a clear independent effect on political behavior, identifying the informal rules of the game is far less straightforward than it is in conventional institutional analyses. Formal institutions are easy to identify because they are written down and officially sanctioned. Frequently, their identification and measurement requires little knowledge of particular cases, which facilitates large-n comparison. The process of identifying and measuring informal institutions is more difficult with informal institutions. A constitution can tell us whether a particular country has a presidential or parliamentary system of government, but it cannot tell us about the pervasiveness of clientelism or kinship networks.

One way of identifying informal institutions is to look for instances in which the similar formal rules produce different outcomes and then attribute that difference to informal institutions.<sup>111</sup> Although the logic of this approach is clear, it reduces informal institutions to a residual category, which risks conflating informal institutions and weak institutions. An alternative is to simply identify stable patterns of behavior that do not correspond to formal rules. However, this approach then runs the risk of treating all behavioral regularities as informal institutions.

Ideally, efforts to identify informal institutions should do three things. First, they should specify actors' shared expectations about the actual constraints they face. Only by examining actors' mutual understanding of the rules can one distinguish between informal institutions and informal behavior patterns. Second, scholars must specify the community to which the informal rules apply. Whereas the scope of formal institutions is often delineated by laws or other official statutes, the domain of informal rules is often

quite difficult to discern. The relevant community may be a village, a nation, an ethnic or religious group, or an organization such as a political party, legislature, or state bureaucracy. In some cases, the relevant community is a political elite, the boundaries of which maybe difficult to define. Third, scholars must identify the mechanisms by which the informal rules are communicated and enforced. Again, whereas it is generally easy to identify the mechanisms by which formal rules are enforced (e.g., the police or courts), mechanisms of informal institutional enforcement are often subtle, hidden, and even illegal in nature. Indeed, informal enforcement takes a variety of forms, from hostile remarks, gossip, ostracism and other displays of social disapproval to “hit men” and other forms of extra-judicial threats and/or violence.

These tasks are not easy to carry out in practice. Hence, it is not surprising that nearly all of the existing work on informal institutions takes the form of either abstract theory (N=0) or inductive case studies (N=1). Because an understanding of the shared expectations and enforcement mechanisms underlying a particular informal institution requires substantial knowledge of the community within which that institution is embedded, there is probably no substitute for intensive fieldwork in informal institutional analysis. Detailed case studies provide essential building blocks for comparison and theory-building. However, to develop a more general body of theory, scholars should seek to incorporate other methods as well.

An obvious first step is the use of rigorous small-n or medium-n comparison. Without losing the sensitivity to context that characterizes case studies, small-n comparative analyses can begin to identify patterns of informal institutional effects, formal-informal institutional interaction, and informal institutional change. For example, Collins’ comparative study of three Central Asian states enabled her to examine the interaction between clan networks and different formal regime types.<sup>112</sup> Along similar lines, small-n comparison could be used to examine how clientelism interacts with different electoral rules.

Within the case study tradition, a more micro-level approach is to construct analytic narratives that blend elements of deductive and inductive reasoning.<sup>113</sup> For example, Avner Grief’s essay on the *Podestá* can be characterized as an approach to studying informal institutions.<sup>114</sup> Using the basic tenets of rational choice theory (e.g.,

methodological individualism, thin rationality, transitive preference ordering), the analytic narrative approach aims to occupy a middle ground between developing universal theory and descriptive narrative. It encourages an investigation of the actual rules and expectations that shape and constrain individual behavior, while at the same time using theory to discipline that search in ways that facilitate rigorous examination of causal processes.

Finally, large-n surveys may also be employed in research on informal institutions. In particular, survey research may be used to capture actors' expectations and beliefs about the "actual" rules of the game. Here it is important to distinguish between conventional surveys that capture values or attitudes toward particular institutions (e.g., the World Values Survey) and those designed to capture socially shared beliefs about the constraints that individuals face. For example, both a cross-national survey of Latin American judges' expectations about staying on the bench and an expert survey of the court's legitimacy reveal something about judicial independence that differs from merely examining the formal rules specified in the constitution. But the former arguably gets us closer to describing whether an informal institution exists and, ultimately, to linking informal institutional rules with incentives. Although expectations-based surveys may initially be limited to the identification of informal institutions, they might eventually be used to generate and test causal claims.<sup>115</sup>

## **Conclusion**

In the two decades since March and Olsen declared that "a new institutionalism has appeared in political science,"<sup>116</sup> research on political institutions has generated a wealth of new and important theoretical advances. Yet because the comparative politics literature has focused primarily on *formal* institutions, it also faces important limitations. As an emerging body of research has shown, an exclusive focus on the formal rules risks missing many of the "real" incentives and constraints that underlie political behavior. Building on this recent research, this paper has sought to develop a framework for incorporating informal rules into mainstream institutional analysis. Far from rejecting

formal institutionalism, we seek to broaden and extend it, with the goal of refining—and ultimately, strengthening—the theories it has generated.

The paper has identified several areas for future research. The first is to build and test hypotheses about how formal and informal institutions interact, and specifically, how informal institutions affect formal institutional outcomes. This research could add to recent theoretical advances within formal institutionalism, examining, for example, the interrelationship among electoral rules, clientelism, and politician and voter strategies, or how informal institutional “veto players” such as clans, mafias, or religious brotherhoods shape policy-making processes. Another area of research involves theorizing about informal institutional emergence, and particularly the mechanisms through which informal rules are created, communicated, and institutionalized. A third avenue for research lies in understanding the sources of both informal institutional stability and informal institutional change. A related question, not developed in this paper, is that of the conditions under which informal institutions are formalized.

Comparative politics research on informal institutions is at an incipient stage. For this reason, advances are likely to come on a variety of fronts, ranging from abstract modeling to ethnographic studies to survey research. Moreover, new insights are likely to be drawn from a variety of disciplines, including anthropology, economics, law, and sociology. Hence, it is essential to promote a broad and pluralistic research agenda that encourages fertilization across disciplines, methods, and regions. Given the growing recognition within comparative politics of the importance of informal institutions, such an endeavor should be well worth the effort.

## Endnotes

<sup>1</sup> For an excellent survey of this literature, see John M. Carey, "Parchment, Equilibria, and Institutions," *Comparative Political Studies* 33 (August-September 2000).

<sup>2</sup> See Michelle Taylor, "Formal versus Informal Incentive Structures and Informal Behavior," *Journal of Politics* 52 (1992); Guillermo O'Donnell, "Another Institutionalization: Latin America and Elsewhere," Kellogg Institute Working Paper #222 (March 1996); Peter Siavelis, "Executive-Legislative Relations in Post-Pinochet Chile: A Preliminary Assessment," in Scott Mainwaring and Mathew Sober Shugart, eds. *Presidentialism and Democracy in Latin America* (New York: Cambridge University Press, 1997); Donna Lee Van Cott, "A Political Analysis of Legal Pluralism in Bolivia and Colombia," *Journal of Latin American Studies* 32 (February 2000); Steven Levitsky, "A 'Disorganized Organization': Informal Organization and the Persistence of Local Party Structures in Argentine Peronism," *Journal of Latin American Studies* 33 (February 2001); Daniel Brinks, "Informal Institutions and the Rule of Law: The Judicial Response to State Killing in Buenos Aires and Sao Paulo in the 1990s," paper prepared for the conference, Informal Institutions and Politics in the Developing World, Harvard University, April 5–6, 2002; Todd A. Eisenstadt, "Trust But Verify: How Mexico's Opposition Forced Electoral Dispute Resolution from Bargaining Tables to Courtrooms and Lived to Tell About it," paper prepared for the conference, Informal Institutions and Politics in the Developing World, Harvard University, April 5–6, 2002; and Gretchen Helmke, "Checks and Balances By Other Means: The Argentine Supreme Court in the 1990s," *Comparative Politics* (January 2003).

<sup>3</sup> See Jozsef Borocz, "Informality Rules," *East European Politics and Societies* 14 (2000); Kathleen Collins, "Clans, Pacts and Politics in Central Asia," *Journal of Democracy* 13 (July 2002); Lucan A. Way, "The Dilemmas of Reform in Weak States: The Case of Post-Soviet Fiscal Decentralization," *Politics and Society* 30 (December 2002); and Keith Darden, "Graft and Governance: Corruption as an Informal Mechanism of State Control," paper prepared for the conference, Informal Institutions and Politics in the Developing World, Harvard University, April 5–6, 2002.

<sup>4</sup> See Mamadou Dia, *Africa's Management in the 1990s: Reconciling Indigenous and Transplanted Institutions* (Washington: World Bank, 1996); Richard Sandbrook and Jay Oelbaum, "Reforming the Political Kingdom: Governance and Development in Ghana's Fourth Republic," Center for Democracy and Development Critical Perspectives Paper (June 1999); and Dennis Galvan, "Institutional Syncretism and Local Democracy in Senegal and in Comparative Perspective," paper prepared for the conference, Informal Institutions and Politics in the Developing World, Harvard University, April 5–6, 2002.

<sup>5</sup> See Natasha Hamilton-Hart, "The Singapore State Revisited," *The Pacific Review* 13 (2000); Hongying Wang, "Informal Institutions and Foreign Investment in China," *The Pacific Review* 13 (2000); Christian Gobel, "Towards a Consolidated Democracy? Informal and Formal Institutions in Taiwan's Political Process," paper prepared for the Annual Meetings of the American Political Science Association, San Francisco, CA, August 30–September 2, 2001; Lily Lee Tsai, "Substituting for the State? The Logic of Private Efficiency in Chinese Local Governance," paper prepared for the Annual Meetings of the American Political Science Association, San Francisco, CA, August 30–September 2, 2001.

<sup>6</sup> O'Donnell (fn 2), 10.

<sup>7</sup> Ibid; Hans-Joachim Lauth, "Informal Institutions and Democracy," *Democratization* 7 (Winter 2000).

<sup>8</sup> See Fred W. Riggs, *Administration in Developing Countries: The Theory of Prismatic Society* (Boston: Houghton Mifflin Company, 1964); Robert M. Price, *Society and Bureaucracy in Contemporary Ghana* (Berkeley: University of California Press, 1975); Goren Hyden, *No Shortcuts to Progress: African Development Management in Perspective* (London: Heinemann, 1983); Kenneth Jowitt, "Soviet Neotraditionalism: The Political Corruption of a Leninist Regime," *Soviet Studies* 35 (1983).

<sup>9</sup> Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (New York: Cambridge University Press, 1990), 67.

<sup>10</sup> For example, rational choice analyses of institutions have been criticized for their "excessive attention to formal rules" and "insufficient attention to firmly established informal practices and 'institutions'" (Kurt Weyland, "Limitations of Rational-Choice Institutionalism for the Study of Latin American Politics," *Studies in Comparative International Development* 37 (Spring 2002), 67). This is a valid critique. However, there is no reason why informal institutions cannot be studied within a rational choice framework. Greater attention to informal rules would help scholars avoid making assumptions that violate empirical reality, while at the same retaining the methodological rigor and core theoretical insights of rational choice analysis.

- <sup>11</sup> Guillermo O'Donnell, "Delegative Democracy." *Journal of Democracy* 5 (January 1994); Jonathan Hartlyn, *The Struggle for Democratic Politics in the Dominican Republic* (Chapel Hill: University of North Carolina Press, 1998); and Sandbrook and Oelbaum (fn 4).
- <sup>12</sup> Peter Siavelis, "Exaggerated Presidentialism and Moderate Presidents: Executive-Legislative Relations in Chile," in Scott Morgenstern and Benito Nacif, eds., *Legislative Politics in Latin America* (New York: Cambridge University Press, 2002), 81.
- <sup>13</sup> Peter Siavelis, "Informal Institutions and Democratization: Theoretical Lessons from Chile." paper prepared for the conference, Informal Institutions and Politics in the Developing World, Weatherhead Center for International Affairs, Harvard University, April 5–6, 2002.
- <sup>14</sup> Taylor (fn 2), 1056–8.
- <sup>15</sup> Ibid.
- <sup>16</sup> Gerald C. Wright, Jr. and Michael B. Berkman, "Candidates and Policy in United States Senate Elections," *American Political Science Review* 80 (June 1986).
- <sup>17</sup> Levitsky (fn 2), 62.
- <sup>18</sup> Gretchen Helmke, "The Logic of Strategic Defection: Court-Executive Relations in Argentina under Dictatorship and Democracy," *American Political Science Review* 96 (June 2002).
- <sup>19</sup> Kathleen Collins, (fn 3) and "Clans, Pacts, and Regime Transitions in Central Asia," paper prepared for the conference, Informal Institutions and Politics in the Developing World, Harvard University, April 5–6, 2002.
- <sup>20</sup> Ibid, 23.
- <sup>21</sup> Ibid, 30, 23–28.
- <sup>22</sup> Lauth (fn 7), 25.
- <sup>23</sup> Dia (fn 4) and Galvan (fn 4).
- <sup>24</sup> Wang (fn 5) and Borocz (fn 3).
- <sup>25</sup> O'Donnell (fn 2) and Lauth (fn 7).
- <sup>26</sup> Borocz (fn 3) and Darden (fn 3).
- <sup>27</sup> Lauth (fn 7) and Collins (fn 3).
- <sup>28</sup> Caroline Boussard, "Democratic Consolidation: The Role of Informal Institutions. Illustrations from Central America," paper delivered at the XXII International Congress of the Latin American Studies Association, Miami, Florida, March 16–18, 2000.
- <sup>29</sup> Siavelis (fn 13), Helmke (fn 2), Hamilton-Hart (fn 5).
- <sup>30</sup> This definition is consistent with those of North (fn 9), 3–4; Jack Knight, *Institutions and Social Conflict* (New York: Cambridge University Press, 1992), 2; and Carey (fn 1), 735.
- <sup>31</sup> Boussard (fn 28); Tsai (fn 5); and David Scott Palmer, "Citizen Responses to Conflict and Political Crisis in Peru: 'Informal Politics' in Ayacucho," in Susan Eva Eckstein and Timothy P. Wickham-Crowley, eds., *What Justice? Whose Justice? Fighting for Fairness in Latin America* (Berkeley: University of California Press, 2003).
- <sup>32</sup> See, for example, Hamilton-Hart (fn 5); Brinks (fn 2); and Darden (fn 3).
- <sup>33</sup> Robert C. Ellickson, *Order without Law: How Neighbors Settle Disputes* (Cambridge: Harvard University Press, 1991), 31.
- <sup>34</sup> See Knight (fn 30) and Randall Calvert, "The Rational Choice Theory of Social Institutions: Cooperation, Coordination, and Communication," in Jeffrey S. Banks and Eric A. Hanushek, eds., *Modern Political Economy* (New York: Cambridge University Press, 1995).
- <sup>35</sup> Knight (fn 30).
- <sup>36</sup> See Darden (fn 3).
- <sup>37</sup> This definition draws on Brinks (fn 2), 9–10.
- <sup>38</sup> See, for example, North (fn 9); O'Donnell (fn 2); Carey (fn 1); and Lauth (fn 7).
- <sup>39</sup> See, for example, Steven Levitsky, *Transforming Labor-Based Parties in Latin America: Argentine Peronism in Comparative Perspective* (New York: Cambridge University Press, 2003).
- <sup>40</sup> O'Donnell (fn 11).
- <sup>41</sup> O'Donnell (fn 2).
- <sup>42</sup> See H.L.A. Hart, *The Concept of Law* (New York: Oxford University Press, 1961), 53–56; and Knight (fn 30), 66–72.
- <sup>43</sup> Brinks (fn 2), 8.

- <sup>44</sup> John Waterbury, "Endemic and Planned Corruption in a Monarchical Regime," *World Politics* 25 (July 1973); and Darden (fn 3).
- <sup>45</sup> Melanie Manion, "Corruption By Design: Bribery in Chinese Enterprise Licensing," *Journal of Law, Economics, and Organizations* 12 (1996).
- <sup>46</sup> North (fn 9); Galvan (fn 4).
- <sup>47</sup> Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), 8–9; and Scott Mainwaring and Timothy R. Scully, "Introduction," in Mainwaring and Scully, eds., *Building Democratic Institutions: Party Systems in Latin America* (Stanford: Stanford University Press, 1995), 4.
- <sup>48</sup> North (fn 9), 4–5.
- <sup>49</sup> See Sven Steinmo, Kathleen Thelen, and Frank Longstreth, eds., *Structuring Politics: Historical Institutionalism in Comparative Analysis* (New York: Cambridge University Press, 1992).
- <sup>50</sup> Edna Ullman-Margalit, *The Emergence of Norms* (Oxford: Oxford University Press, 1978); and Robert Axelrod, "An Evolutionary Approach to Norms," *American Political Science Review* 80 (1986).
- <sup>51</sup> Donald R. Matthews, "The Folkways of the United States Senate: Conformity to Group Norms and Legislative Effectiveness," *American Political Science Review* LIII (December 1959); Barry Weingast, "A Rational Choice Perspective on Congressional Norms," *American Journal of Political Science* 23 (1979); James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: The Free Press, 1989).
- <sup>52</sup> See O'Donnell (fn 2); Hartlyn (fn 11); Borocz (fn 3); Lauth (fn 7); and Collins (fn 3).
- <sup>53</sup> Lauth (fn 7) distinguishes among three types of formal-informal institutional relationships: complementary, substitutive, and conflicting. He does not elaborate on these types, however.
- <sup>54</sup> Lauth (fn 7), 25.
- <sup>55</sup> March and Olsen (fn 51), 21–38.
- <sup>56</sup> Matthews (fn 51), 1086.
- <sup>57</sup> Weingast (fn 51); and Barry R. Weingast and William J. Marshall, "The Industrial Organization of Congress; or, why Legislatures, Like Firms, are not Organized as Markets," *Journal of Political Economy* 96 (February 1988).
- <sup>58</sup> Forrest Maltzman and Paul J. Wahlbeck, "May it Please the Chief? Opinion Assignment in the Rehnquist Court," *American Journal of Political Science* 40 (1996); and Lee Epstein and Jack Knight, *The Choices Judges Make* (Washington DC: Congressional Quarterly Press, 1998), 118–36.
- <sup>59</sup> We thank Susan Stokes for suggesting this point.
- <sup>60</sup> Siavelis (fn 13), 10–11.
- <sup>61</sup> *Ibid.*, 21.
- <sup>62</sup> Taylor (fn 2).
- <sup>63</sup> Gijs Van Oenen, "Citizenship and 'Informal Rule of Law.' How Law Enforcement Can Sustain the Rule of Law," paper prepared for the 2001 Meeting of the Latin American Studies Association, Washington, D.C. September 6–8, 2001.
- <sup>64</sup> See O'Donnell (fn 2); Hartlyn (fn 11); Borocz (fn 3); Lauth (fn 7); and Collins (fn 3).
- <sup>65</sup> Price (fn 8), 73–81. In this context, the violation of official rules was "a rational pattern of behavior from the individual point of view" (*Ibid.*, 42).
- <sup>66</sup> M.B. Hooker, *Legal Pluralism: An Introduction to Colonial and Neo-Colonial Laws* (Oxford: Clarendon Press, 1975), 2; also John Griffiths, "What is Legal Pluralism?," *Journal of Legal Pluralism and Unofficial Law* 24 (1986); and Van Cott (fn 2).
- <sup>67</sup> Sally Engle Merry, "Legal Pluralism," *Law and Society Review* 22 (1988), 869.
- <sup>68</sup> Lauth (fn 7), 25.
- <sup>69</sup> Eisenstadt (fn 2).
- <sup>70</sup> *Ibid.*, 24.
- <sup>71</sup> Ana María Vidal, "Derecho Oficial y Derecho Campesino en el Mundo Andino," in Rodolfo Stavenhagen and Diego Iturralde, eds., *Entre la Ley y la Costumbre: El Derecho Consuetudinario Indígena en América Latina* (Mexico City and San Jose: Instituto Indigenista Interamericano and the Instituto Interamericano de Derechos Humanos, 1990), 150–52; and Palmer (fn 31).
- <sup>72</sup> Wang (fn 5), 531.
- <sup>73</sup> *Ibid.*, 531, 534–36.

- <sup>74</sup> Raquel Yrigoyen Fajardo, “The Constitutional Recognition of Indigenous Law in Andean Countries,” in Willam Assies, Gemma van der Haar, and André Hoekema, eds., *The Challenge of Diversity, Indigenous Peoples and Reform of the State in Latin America* (Amsterdam: Thela Thesis, 2000), 198.
- <sup>75</sup> James C. Scott, “Patron-Client Politics and Political Change in Southeast Asia,” *American Political Science Review* 66 (1972); and Javier Auyero, *Poor People’s Politics: Peronist Survival Networks and the Legacy of Evita* (Durham: Duke University Press, 2000).
- <sup>76</sup> Galvan (fn 4); and Rudra Sil, *Managing ‘Modernity’: Work, Community, and Authority in Late-Industrializing Japan and Russia* (Ann Arbor: University of Michigan Press, 2002).
- <sup>77</sup> Yrigoyen Fajardo (fn 74) and Van Cott (fn 2).
- <sup>78</sup> The question of informal institutional emergence has been the subject of a large literature within formal political theory. For example, see Andrew Schotter, “The Evolution of Social Institutions,” in Richard Langlois, ed., *Economics in Process* (Cambridge: Cambridge University Press, 1986); Knight (fn 30); and Calvert (fn 34).
- <sup>79</sup> As several scholars have shown, many seemingly ancient custom laws are in fact new institutions, created by state or indigenous elites, that merely draw upon older traditions. See Van Cott (fn 2) and Galvan (fn 4).
- <sup>80</sup> For a critique of this approach, see Knight (fn 30).
- <sup>81</sup> See Weingast (fn 51); Kenneth A. Shepsle and Barry R. Weingast, “Structure Induced Equilibrium and Legislative Choice,” *Public Choice* 37 (1981); and Weingast and Marshall (fn 57).
- <sup>82</sup> Knight (fn 30).
- <sup>83</sup> Thomas C. Schelling, *The Strategy of Conflict* (Cambridge, MA: Harvard University Press, 1960).
- <sup>84</sup> Robert Sugden, *The Economics of Rights, Cooperation, and Welfare* (London: Basil Blackwell, 1981); Schotter (fn 78); and Calvert (fn 34).
- <sup>85</sup> Knight (fn 30).
- <sup>86</sup> Ellickson (fn 33).
- <sup>87</sup> Siavelis (fn 13).
- <sup>88</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Ithaca: Cornell University Press, 1996), 197–200.
- <sup>89</sup> This was the case with many *rondas campesinas* in Peru during the 1990s. We thank Donna Lee Van Cott for suggesting this point.
- <sup>90</sup> North (fn 9), 45; Also Dia (fn 4); O’Donnell (fn 2); and Collins (fn 19).
- <sup>91</sup> North (fn 9), 45; Lauth (fn 7), 25.
- <sup>92</sup> Lauth (fn 7), 24–5.
- <sup>93</sup> Gerry Mackie, “Ending Footbinding and Infibulation: A Convention Account,” *American Sociological Review* 61(1996).
- <sup>94</sup> Joy Langston, “The Formal Bases of Informal Power: Statute Battles in Mexico’s PRI, 1990–2000,” paper prepared for the conference, Informal Institutions and Politics in the Developing World, Harvard University, April 5–6, 2002.
- <sup>95</sup> Herbert Kitschelt, “Linkages Between Citizens and Politicians in Democratic Politics,” *Comparative Political Studies* 33 (August-September 2000), 859.
- <sup>96</sup> Luis Moreno Ocampo, “Corruption and Democracy: The Peruvian Case of Montesinos,” *Revista: Harvard Review of Latin America* (Fall 2002).
- <sup>97</sup> Collins (fn 19), 29–30.
- <sup>98</sup> North (fn 9), 88.
- <sup>99</sup> Eisenstadt (fn 2).
- <sup>100</sup> See, for example, Wang (fn 5), 548.
- <sup>101</sup> Delia Ferreira Rubio and Matteo Goretti, “When the President Governs Alone: The Decretazo in Argentina, 1989–93,” in John M. Carey and Mathew Soberg Shugart, eds., *Executive Decree Authority* (New York: Cambridge University Press, 1998).
- <sup>102</sup> Yrigoyen Fajardo (fn 74); Van Cott (fn 2).
- <sup>103</sup> For example, indigenous laws enjoyed far greater international prestige during the 1990s than Jim Crow laws did during in the 1960s.
- <sup>104</sup> North (fn 9), 44–45; Dia (fn 4); Galvan (fn 4).
- <sup>105</sup> Knight (fn 30).
- <sup>106</sup> Langston (fn 94).

<sup>107</sup> James Q. Wilson, *Political Organizations* (Princeton: Princeton University Press, updated edition, 1995; original edition, Basic Books, 1973); and Kitschelt (fn 95), 857.

<sup>108</sup> Schelling (fn 83); and Schelling, *Micromotives and Macrobehavior* (New York: W.W. Norton, 1976).

<sup>109</sup> Mackie (fn 93).

<sup>110</sup> We thank Melanie Manion for this suggestion.

<sup>111</sup> See, for example, North (fn 9), 36.

<sup>112</sup> Collins (fn 19). Other examples of small-n comparative studies include Brinks (fn 2) and Sil (fn 76).

<sup>113</sup> See Robert H. Bates, Avner Greif, Margaret Levi, Jean-Laurent Rosenthal, and Barry R. Weingast, *Analytic Narratives* (Princeton: Princeton University Press, 1998).

<sup>114</sup> Avner Greif, "Self-Enforcing Political Systems and Economic Growth: Late Medieval Genoa," in *Ibid.*

<sup>115</sup> For example, one could examine how differences across judicial expectations about tenure security and their insulation from other types of political manipulation generate different patterns of decision-making.

<sup>116</sup> James March and Johan Olsen, "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review* 78 (1987), 734.