Democracy is supposed to prevent the entrenchment of power. Unlike autocrats, the leaders of a functioning democracy know that the voters may remove them at the next election, and it is this insecurity that is expected to make the government responsive and accountable to the people. If political incumbents can manipulate at will the rules governing elections, their own authority, and individual liberties, they may be able to insulate themselves from challenge. So democracy ideally uses entrenchment of one kind (rules) to prevent entrenchment of another kind (power).

That ideal, however, is not easy to achieve. When rules have calculable effects, they often have calculating authors. Those who fashion rules are rationally interested in their consequences, not least for themselves and the policies they favor. Democracies therefore have an inescapable internal tension between their reliance on elections as a method for ensuring accountability and the interest of incumbents in crafting rules for elections and other features of government that enable them to stay in office or at least prevent their policies from being reversed.

Democratic governments provide opportunities for the strategic entrenchment of power and policy for another reason. There is
no single design for democracy that unambiguously, and without bias, puts democratic principles into practice and provides the one true expression of the people’s will. Liberal protections of individual rights put boundaries on the range of alternatives. But without necessarily violating liberal democratic principles, those in power at moments of institutional design have great leeway in crafting electoral rules and the architecture of government. Some choices are typically spelled out in a constitution, while others are left to legislative and executive decision. Both constitutional and ordinary political moments present opportunities for political engineering—that is, for choosing rules likely to bring about particular results. If the rules are spelled out in a constitution, they may be hard to change because amending the constitution is difficult. If they are left to elected officials, they may be hard to change because those officials have an interest in maintaining rules that may have enabled them to win in the first place. When they agree to new rules, it may be because the old ones no longer serve their purposes.

Constitutionally entrenched rules are an attempt to solve one problem for democracy—how to prevent incumbents from continually recasting political institutions to their own advantage—but they are also the source of a democratic dilemma: Why should the living be bound by the decisions of their ancestors? Like the entails that the British aristocracy imposed on their heirs, a constitution is a type of perpetuity since its provisions usually have no sunset date. Just as Adam Smith objected to entail on the grounds that it was absurd for “the present generation [to] be restrained and regulated according to the fancy of those who died” long before, some democratic critics of constitutions have objected to being bound by the “dead hand of the past.” The most famous of these critics was Smith’s contemporary Thomas Jefferson, who declared in a letter to James Madison in 1789 that “the earth belongs in usufruct to the living” and “the dead have neither powers nor rights over it.” Later he ridiculed people who “look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched.” Jefferson was an original but not an originalist. Constitutions, he wrote to Madison, should expire every nineteen years, a proposal many people would find terrifying. Whoever had the upper hand at the point of a constitution’s
expiration could then reset the rules for their own benefit, a prospect that could regularly ignite destructive conflicts.

But while Jefferson’s idea for an expiration date on constitutions was no solution, the problem is genuine. Constitutions not only reflect the ideas of the dead; they often impose on the living the preferences that the rich and powerful had in the past. The provisions in the U.S. Constitution that protected slavery are only the most egregious example. Democratic constitutions written during political transitions or periods of intense social change often incorporate provisions sought by elite interests, sometimes those associated with the prior regime, who are willing to accept a democratic government provided their vital interests are protected. The uncertainties surrounding social and political upheavals heighten the interest in entrenched rules; anxious about their possible successors, those with influence at times of institutional design understandably want to increase their chances of retaining power and reducing the damage if they lose it. Consequently, what I earlier called “rules of change”—the rules of the game that govern changes in other rules—are often framed not only to allow for change but also to limit it.

These interests in controlling risk and uncertainty during democratization have repeatedly led to the adoption of rules of change that serve as “safeguards” against what elite groups and predemocratic parties see as the dangerous potential of popular majorities or the political leaders who claim to represent them. This chapter focuses on three such types of rules: electoral rules that affect party systems and the basic understanding of democracy; rules that limit the authority of elected leaders and assign certain areas of decision-making to constitutional courts, central banks, and other independent, ostensibly nonpolitical institutions; and rules entrenched in international treaties and transnational institutions that limit the policies of individual nation-states. Elite interests have sought to use all three types to entrench their power. They have used electoral rules to reduce the ability of radical parties to win power, counter-majoritarian institutions to circumscribe the choices of the parties and leaders that do win elections, and international agreements to provide a backup level of protection against wayward states.

But while elite interests in entrenching power and policy have shaped these rules, they are not the entire explanation for the rules’
development and do not necessarily define their ultimate significance. Limiting majoritarian power is a cause that unites minorities of many kinds: not only propertied elites but also marginalized ethnic groups, political dissenters, and others who fear ascendant majorities and the unfettered power of the state. Moreover, while rules have calculating authors, they often outlive both the authors and their calculations. Rules expected to reinforce power may have the opposite effect when economic and demographic conditions change. As we saw in the previous chapter, southerners at the Constitutional Convention in 1787 expected their states to grow more rapidly than others and consequently sought a decennial census to reapportion the House of Representatives and Electoral College. But that provision cost them control over the national government when the North raced ahead in population. By the time it becomes clear that a rule no longer works as expected, it may be too late: The rule may have become so entrenched, perhaps even sacralized, that its originators are stuck with it. What begins as the entrenchment of power through rules may lead to the entrenchment of the rules themselves.

Partly for that reason, even when rules originate in strategic calculations by the powerful, their entrenchment may come to reflect a more general interest. Concessions to elites during democratization may lead them to accept a regime they would otherwise oppose and disrupt. Their acceptance of change may thus produce a more “settled” path of democratization and a stronger and more effective democratic state. Conservative in the sense of maintaining some interests in property and privilege, the design of democratic institutions may be more open-ended in its long-run consequences. It is not just liberal or progressive institutions and policies that have had unanticipated consequences. Strategies for entrenching power and limiting liberal and progressive possibilities also don’t always work out as planned.

ENTRENCHMENT OF ELECTORAL RULES

The standard narrative of democracy from the eighteenth to the twentieth centuries is a story of falling barriers—falling barriers to voting participation by the disenfranchised, and to contestation by
previously excluded parties and candidates. But the story has another side. During the same period when ruling parties and elites agreed to extend rights, they made other institutional changes that reduced their risks of losing power to radical parties of the left. Some of these changes then became lasting features of democratic governments, albeit not always with the originally expected effects.

Among the lasting innovations were changes in the rules that translate votes into representation. Although electoral systems come in many varieties, by the early twentieth century two types had emerged as the most common. In the system that still prevails in the United States and Britain, voters in a legislative district pick one representative, who needs only a plurality to be elected. These are single-member-district plurality systems, more commonly known as “first past the post.” (In an important variant of single-member-district systems, the winner needs to receive a majority, and if no candidate does so in the first round, the top two compete in a runoff.) In contrast, under proportional representation (PR)—the system in use in about 80 percent of democracies with more than one million in population—parties receive a share of seats proportionate to the votes for the parties’ candidates in multi-member districts.1

The two principal electoral systems are associated with different party systems. Single-member plurality creates an incentive for voters to choose a candidate of one of the two leading parties instead of “wasting” their vote on a third-party candidate, whereas PR allows voters to choose smaller parties without wasting their votes because the electoral threshold—the threshold for winning a seat—is lower. As a result, countries with single-member plurality typically have a two-party system (or one dominant party), while countries with PR generally have multiple parties—a pattern known as Duverger’s law. Even though candidates under “first past the post” may win elections with less than a majority of votes, such systems are generally called “majoritarian” because elections usually deliver a majority of legislative seats to one party. In contrast, by providing more seats to minority parties, PR often yields no majority for any single party and requires the formation of governing coalitions.
The difference between majoritarian and proportional election rules influences a society’s dominant understanding of democracy. The majoritarian conception sees democracy as a series of contests in which voters choose between two rival parties and give power to one or to the other, whereas voters in PR systems—“consensus democracies,” in Arend Lijphart’s phrase—generally understand that elections often lead to post-election bargaining and may enable minority parties to hold a share of power. Social movements develop differently as well. In a majoritarian system, movements typically aim to influence at least one of the two major parties, if not both, while under PR they may more readily take the form of parties and compete in elections directly. The high threshold for unseating one of the two major parties in a majoritarian system means that the parties themselves tend to become more entrenched than parties do under PR. Even without any explicit constitutional recognition, much less protection, party systems may become highly resistant to change because of the forces set in motion by the choice of electoral rules.

It was during the nineteenth and early twentieth centuries that single-member plurality came to predominate in the United States and Britain, while proportional election rules spread in continental Europe. The first country to adopt PR was Belgium, in 1899, followed by Finland in 1906, Sweden in 1907, and a large number of western European countries shortly after World War I. The timing of these developments suggests a causal relationship between democratization and electoral system change, and indeed in some countries the same legislation expanded suffrage and changed electoral rules. The regional spread of PR, as well as the concentration of first-past-the-post in the English-speaking democracies, also suggests mutual influence among political parties and governments with cultural and political connections. Countries with electorally viable socialist parties were especially likely to shift to PR, though exactly why they did so is a matter of dispute. According to one view, just as elites agreed to expand voting rights as a concession to popular demands, so they adopted proportional rules as a concession to socialists. That view seems to fit with evidence that countries with PR later developed more highly redistributive welfare states. But in fact, many socialist parties were opposed to PR or...
indifferent to it when it was first proposed. No single factor explains all the cases of electoral system change, and more than one set of conditions may lead to the same rules. In the most common pattern, PR was originally adopted by ruling elites as an exclusionary “safeguard” to reduce the impact of inclusive reforms.6

Before they had established universal manhood suffrage, most emerging democracies in western Europe contained a mix of multi-member and single-member districts, electing legislators under either plurality or majority rules. In many countries, as cities grew, governments added seats to existing urban districts, often leaving rural districts as the only ones with a single representative. But while increasing the number of seats per district in urban areas—sometimes up to a dozen or more—governments initially retained the rule that the party winning the district received all its seats.7 This winner-take-all system took on special significance with the change in the electorate. The extension of the franchise to working-class voters and the rise of socialist parties posed a risk to governing elites that radical forces could gain power by sweeping winner-take-all urban districts.

In this context, a shift to either single-member districts or PR could help the existing elites maintain their power. Both systems would divide up representatives of urban areas. With single-member districts, the preexisting parties could prevail in the middle- and upper-class parts of a city, and under PR they would also win a share of a city’s seats. In both cases, given their support outside of metropolitan areas, the established parties could prevent the socialists from taking power at the national level.8

The adoption of new electoral rules was part of a more general strategic shift by ruling elites in Europe in the nineteenth century. Just as they often banned unions, strikes, and radical publications, so they at first sought to exclude socialists altogether from legislative representation. When finally agreeing to expand voting rights, many leaders of established parties thought that they could win over workers, as the major parties in the United States had done. But as efforts to repress socialism failed and workers’ parties entered the electoral arena on their own, the established parties shifted to strategies that would enable them to outcompete the insurgents. Initially, the winner-take-all multi-member districts had
offered an optimal strategy for shutting out socialists entirely. Later, with the mass enfranchisement of working-class voters, winner-take-all in urban areas became too risky, and the established parties did away with it.

Belgium exemplifies how strategic considerations led to changes in electoral systems. Like the other early adopters of PR, the Belgian government was in the midst of democratization at the time it introduced new electoral rules. Although its 1831 constitution called for a representative government, as of the early 1890s Belgium still limited voting rights to only about one-tenth of adult men. The electoral system included single- as well as multi-member districts, the latter with up to eighteen representatives; elections were held under a winner-take-all majority rule, requiring a runoff if no party received a majority in the first round. In 1894, amid labor unrest, the government agreed to constitutional changes, giving nearly all adult men the right to vote while establishing a system of plural voting that awarded up to three votes each to men with more property or education—a measure plainly intended to limit the number of seats won by the radical, socialist Belgian Workers’ Party. The assembly that approved this change also debated the merits of single-member districts and PR but could not agree on either one. In the first election under the new rules, the Catholic Party won 103 seats, while the Workers’ Party won 28, displacing the Liberals as the second largest. By edging out the Liberals in urban areas in the first round, the Workers’ Party became the main opposition party, and under the winner-take-all rules, it stood a chance some day of taking power. By 1898, with the Liberals close to extinction, the Catholic Party—still with an overwhelming majority—enacted a PR system (including the plural vote for the more affluent) that had the effect of restoring the Liberals as the principal opposition and enlarging the antirealist legislative majority. The diminished Liberals naturally supported the measure, which brought them back to life, while the socialists voted unanimously against it. In effect, the Catholic Party sacrificed some of its own seats to revive an ideological ally in resisting the radical left.9

Aside from having rising socialist parties, all but two of the European countries that opted for PR shared another characteristic.
Like Belgium, they had single-member *majority* systems with run-offs, not single-member plurality. A system with a majority rule and runoffs initially helped deny seats to socialists by raising the electoral threshold and allowing supporters of the antisocialist parties to join together in the second round. But the interests of established parties flipped when the socialist opposition reached the point of winning majorities; now the antisocialist parties stood the risk of being shut out and saw PR as preferable. But unlike first-past-the-post, a majority rule with a second round had already fostered a multiparty system. When there is a runoff, smaller parties have an incentive to run in the first round and then try to obtain concessions in return for their endorsement in the second round. As of 1898, countries with majority rules and runoffs had on average more parties and were more likely to have coalition governments than countries with single-member plurality. These countries moved more readily to PR because they already had multiparty systems. Historically, as one analyst of electoral rules points out, rather than rules determining party systems (Duverger’s law), it was the other way around: “multi-party systems already existed in most countries when electoral systems of proportional representation were chosen.”

In the early twentieth century, a variety of minority parties supported PR in the hope of gaining a share of power. Consequently, PR often gained support from diverse coalitions, sometimes including socialists. Switzerland, one of the many countries to adopt PR in the wave that followed World War I, exemplifies this pattern. In the face of a long-standing Liberal Party monopoly on power in the national government, two minority parties—Socialists and conservative Catholics—joined together in a strange-bedfellows alliance to support PR and finally succeeded in establishing it through a popular referendum in 1919.

PR’s attraction to minority groups and minority parties is that it offers them a direct parliamentary voice and a chance of holding power in a coalition government. Not only do multiparty systems incline countries toward PR; the parties have strong incentives to resist shifting to majoritarianism. But the politics that results from PR may also change the parties. While PR did not succeed in excluding socialists from government, it helped moderate their
revolutionary ambitions. The coalition governments that grew up under PR in western Europe often fostered cross-class alliances and economic arrangements for collaboration between business and labor. The historical evidence does not suggest these were factors in the origin of PR, but they were significant in its entrenchment and in the reconciliation of capitalism and democracy in many countries.

So why did majoritarianism and two-party systems become entrenched in the United States, Britain, and many other English-speaking democracies? The diffusion of institutional models and mutual influence among countries with a shared political heritage may help explain the adoption of similar electoral rules, but such considerations can take us only so far with the countries that have served as primary exemplars—the United States and Britain.

Although Americans now take single-member districts for granted, the Constitution does not prescribe any system for elections to the U.S. House of Representatives. From 1790 to 1840, states had a combination of single- and multi-member districts, and one-quarter of the states used the “general ticket”—that is, a state’s representatives to the House were all elected at large on a party ticket in a winner-take-all election (the method still used for the Electoral College by all but two states). Not until 1842 did Congress require states to elect representatives from single-member districts. At the time, the Whigs were in control of Congress but were staring at a likely defeat in the midterm elections. With single-member districts, they could at least hope to win some of the seats in what would otherwise be solid Democratic delegations. As it turned out, this short-term political engineering was a failure: The Whigs were crushed in 1842, with some of the Democratic states still using the general ticket in defiance of the federal law and able to get their representatives seated in the new Congress thanks to its Democratic majority. But when the House changed hands again, the recalcitrant states fell into line for fear of having their representatives turned away.

Although parties with congressional majorities in later years might have gained advantage by eliminating the single-member district system, it has had powerful self-reinforcing effects. Unlike
the at-large representatives elected on a “general ticket,” the representatives of single-member districts have incentives to perform local constituent services and may be better able to accumulate seniority, thanks in part to the states’ use of gerrymandering in periodic redistricting. These considerations may help explain why states adopted different rules for the Electoral College than for Congress. Neither constituent service nor seniority is relevant in the Electoral College, where nearly all states have kept the general ticket, winner-take-all system to maximize their influence in presidential elections. If a radical, socialist party in nineteenth-century America had threatened to win pluralities across the country in enough congressional districts and states, and if instead of first-past-the-post, American elections had followed a majority rule with runoffs, the United States might have developed a multiparty system and then responded as those parties did in Europe by introducing PR. But the established parties never faced a serious socialist threat, and only a few jurisdictions adopted a majority rule with runoff elections, so no pressure arose for PR.

In Britain, as in the United States, the single-member-district system also owes its modern form to short-term political engineering in the 1800s, although Britain has come close to changing its election rules several times. Until 1885, it had a mix of single- and multi-member parliamentary districts, the latter having up to four representatives. When a Conservative government in 1867 expanded the franchise, it included a provision for the “limited ballot” in multi-member districts (fewer ballots per voter than seats available). The ostensible reason was to give fair representation to minority parties, but the legislation applied the limited ballot only to urban constituencies typically dominated by Liberals, thereby giving Conservatives a better chance to win some seats. Meanwhile, the limited ballot did not apply to rural constituencies, which were held by Conservatives. In 1885, when it was the Liberals’ turn to expand the franchise, they used the opportunity to abolish multi-member districts entirely. By this time, PR had prominent advocates in Britain, who argued for it chiefly as a means of improving minority representation. But it was rejected in the 1885 and several subsequent electoral reforms, often on the grounds that single-member plurality produces more decisive and
effective government precisely because it turns a narrow edge in
evotes into a clear majority of seats.15

The established parties in Britain, unlike the United States, did
face a challenge from an electorally viable socialist party. After an
alliance with the Liberals, the trade union movement entered the
electoral arena with its own candidates just after the turn of the twen-
tieth century, and in the early 1920s, the Labour Party overtook the
Liberals without triggering a move away from single-member plural-
ity. Two factors help explain the persistence of the old electoral rules.
Compared with the more radical socialist parties in continental Eu-
rope, Labour presented less of a threat to the existing order. The Lib-
erals also simply miscalculated. They could have instituted PR while
in power, but they suffered a catastrophic split and an unexpected,
precipitous decline after World War I. What happened at that point
illustrates how single-member plurality rules can withstand party
change. Although Labour had previously supported PR, it reneged
on its commitment once the party moved ahead of the Liberals in the
1922 election and Labour’s leaders saw how they could benefit from a
majoritarian system. In 1924, when the Liberals in Parliament finally
voted nearly unanimously in favor of PR, Labour provided the mar-
gin of defeat by voting by more than three to one against it.16 Reneg-
ing on commitments to electoral reform has been a recurrent pattern
in British parties after they have won parliamentary majorities.17

Just as the multiple parties under PR oppose any shift to ma-
ajoritarianism, so the top two parties under majoritarian rules typi-
cally have no interest in changing to PR, which would enable third
and fourth parties to gain traction or dissatisfied groups in their
own ranks to split off and run on their own. It should not be sur-
prising, therefore, that change in electoral systems is relatively in-
frequent, though not impossible. Data on democratic governments
over the past two centuries suggest that shifts from majoritarianism
to proportional representation are more common than the re-
verse.18 In recent years, mixed-member proportional systems (with
elements of both single-member districts and proportional repre-
sentation) have spread, and most of the countries adopting these
hybrid arrangements have previously had majoritarian systems
(or in some cases dictatorships).19 As a result, the proportional
principle has gained at the expense of majoritarianism.
This shift toward proportionality may reflect several developments. The first is a wider acceptance of minority rights and an effort to avert conflict in ethnically divided societies by giving minorities direct legislative representation. A second factor is risk aversion among leaders of political parties during transitions from authoritarianism. Single-member plurality is a high-stakes bet: Parties can win or lose in a big way because the system tends to exaggerate wins and losses. If three or more parties are electorally viable with roughly equal prospects at the moment a democratic constitution is being drafted, a majoritarian system is risky for all of them because of the sharp fall-off in seats for any party that comes in third or lower, possibly because of how its support is spread geographically. Under those conditions, PR is safer from the standpoint of political survival. Widespread public dissatisfaction with two dominant parties can also destabilize a majoritarian system, as it did in New Zealand, which in 1993 replaced single-member plurality with a mixed-member proportional system through a popular referendum.

The United States is a curious case. The American political system has been plagued by a variety of rules regarding ballot access, districting, primaries, and other features of elections that have helped protect incumbents. As in New Zealand before its change-over, public opinion polls register high levels of dissatisfaction with both major parties, but Americans have virtually no experience with PR at any level of government. If proportional and mixed systems continue to spread around the world, including possibly to Britain, the United States could someday be the last great redoubt of first-past-the-post.

The entrenchment of electoral systems illustrates a larger point. Although parties historically used changes in electoral systems for strategic purposes in efforts to entrench themselves in power, they were not wholly successful. In the United States, the Whigs in 1842 failed to prevent electoral disaster; European conservative parties failed to keep socialists out of government. What has become entrenched has primarily been the structure of electoral and party systems and prevailing conceptions of democracy. It is the entire complex of institutions and corresponding norms and beliefs that makes an electoral system resistant to change. If
partisan advantage alone led to changes in electoral systems, governing parties would have changed the systems far more often than they have. At least in this respect, the long-established democracies have fulfilled liberal democracy’s demand for the entrenchment of rules rather than power.

COUNTER-MAJORITARIAN ENTRENCHMENT: SUPREME COURTS AND CENTRAL BANKS

Not every aspect of a democratic government is up for grabs in elections, at least not immediately. In exercising their powers, elected leaders usually face limits entrenched in constitutions, independent or semiautonomous branches and agencies of government, and international agreements. These limits are instances of strategic entrenchment insofar as they stem from earlier decisions about institutional design that deliberately made certain rules, powers, and structures hard to undo. In liberal states, some of these entrenched limits serve as counter-majoritarian safeguards—that is, efforts to protect minorities from the unfettered power of the majority. The minorities in question are again a heterogeneous category that may include propertied elites as well as ethnic or political minorities. Partly for this reason, some of the factors that enter into the choice of proportional electoral systems also affect the development of counter-majoritarian institutions.

In the standard narrative of democracy, constitutional protections of minority rights emerged as part of the general expansion of rights, including the right to vote. But as with electoral rules, the story has another side. Just as incumbent parties responded to uncertainty and threats of decline by changing electoral rules, so they have adopted counter-majoritarian safeguards to reduce the risks to privilege and power posed by ascendant majorities. The historical development of two institutions—constitutional courts and independent central banks—exemplifies the logic of counter-majoritarian entrenchment.

If it is solely up to political leaders to determine what a constitution means, they face no institutional impediment to interpreting it however they wish. A supreme or constitutional court with powers of judicial review is supposed to impose constitutional fidelity
and restraint, and thereby fulfill the promise of an entrenched constitution and rule of law. Constitutional rules are more firmly entrenched where amendments require the approval not just of one legislative chamber but of two, and not just by a majority but by a supermajority; and where they must also be approved by majorities or supermajorities of constituent state or provincial legislatures or by popular referendum. The greater the number of veto players, the greater is the rigidity of a constitution. Requiring a legislative body to approve amendments in two successive sessions has some of the same effect in constraining constitutional change.

To be sure, constitutional entrenchment doesn’t always prevent rules from being reinterpreted (especially where, as I suggested in the previous chapter, they concern general principles rather than express procedures for the machinery of government). In countries with constitutional courts and judicial review, judges may be able to change constitutional doctrine, and political leaders may do so through judicial appointments. As in other areas, entrenched rules impede or constrain political change but do not necessarily stop it.

Like judicial review, the independence of central banks takes decisions out of political hands and depends critically on the rules governing the appointment and tenure of the institution’s decision-makers, as well as their authority to make policy without being politically overruled. In the case of central banks, that authority primarily involves monetary policy. The banks’ legal mandate often commits them solely to the goal of price stability, and even where it includes other aims, such as full employment (as it does in the United States), central bankers tend to give higher priority than do political leaders to low inflation. Central bank independence entrenches that preference.

The origins of constitutional entrenchment and central bank independence date to late seventeenth- and eighteenth-century England and America and are closely connected to the emergence of constitutional liberalism. Internationally, however, the spread of constitutional courts and independent central banks took place mainly in the twentieth century during the wave of democratization after World War II, and especially during the larger wave from the late 1970s to the 1990s. In the international diffusion of any institution, the causes are not necessarily the same for the early and
late adopters, in part because of the influence of countries in the lead on those that follow. In the cases of judicial review and central bank independence, the late adopters were influenced not only by the early adopters’ example but by the pressure of international institutions.

Until World War II, the only countries with flourishing systems of judicial review were the United States, Canada, and Australia, a pattern that led some observers to identify judicial review with federalism. On this theory, a supreme court’s distinctive function was to referee conflicts between a national government and its subdivisions. Judicial review later spread, however, to non-federal governments. After 1945, four major countries adopted it—three of them (Japan, West Germany, and Italy) as a direct consequence of being defeated by the United States and its allies, and one of them (India) in the process of decolonization. In the last third of the twentieth century, judicial review expanded worldwide. During the transitions from authoritarianism and communism between the 1970s and early 1990s, many new governments and some older ones adopted constitutional courts in a global trend toward constitutional entrenchment of rights and greater judicial power.24

In the same period, an increase in central bank independence paralleled the rise of constitutional courts. Central banks date to the seventeenth century; Sweden’s was founded in 1668, followed by the Bank of England in 1694. The United States saw two early national banks overturned in the nineteenth century before Congress established the Federal Reserve in 1913. Until the late twentieth century, most governments lodged central banking functions in finance or treasury departments under direct executive control. The shift to greater central bank independence began in the late 1980s; during the 1990s, fifty-four countries adopted laws making their central banks more independent, while only one (Malta) did the opposite.25 Between 1989 and 2003, according to the widely used Cukierman index (based on statutes), the average level of central bank independence doubled from 0.3 to 0.6.26

The similarities in the history of judicial review and central bank independence suggest a two-level process: first, their development in a few countries on the basis of internal processes, and then the international diffusion of those models. The internal conditions
that led to judicial review and central bank independence have generally been explained in two ways. One of these sees counter-majoritarian entrenchment as a form of *political insurance* for elites facing risk and uncertainty. The other views counter-majoritarian institutions as a means of *credible commitment* that fosters mutual gains and general benefits to a society.

The reduction of political risks is central to both of these theories. In the political insurance theory, the risks are to a party or elite that is uncertain of its future power. The logic here is similar to the rationale for changing electoral rules during democratization. At moments of political change, entrenchment through constitutional courts and central banks insures against the risk that the opposition will gain power through elections. The basic argument goes as follows: If a party or elite believes its power to be insecure and sees its potential successors as a threat, it is more likely to seek to entrench its power and policies through the redesign of institutions that critically affect its own interests and those of its supporters. In contrast, if an elite or party is confident of remaining in power through ordinary politics, it is less likely to seek to create constitutional or other institutional mechanisms to impede ordinary political processes. Indeed, if the incumbent party remains in office, its leaders would sacrifice the advantages of direct political control by empowering potentially troublesome independent decision-makers in courts and central banks.

Versions of the insurance theory appear in analyses of both judicial review and central bank independence. The adoption of new constitutions with judicial review during transitions from authoritarianism to democracy fits readily into this framework. Explicitly formulating the insurance theory, Tom Ginsburg points to the “time horizons of those politicians drafting the constitution” as the critical factor. Those who see themselves as winning elections are “likely to design institutions without encumbrance,” whereas prospective losers will prefer to “entrench judicial review as a form of political insurance.” The appeal of judicial review is that it offers “an alternative forum to challenge government action.” The same logic applies to shifts toward judicial entrenchment in countries experiencing transfers of political power short of a regime change. In a study of four such cases—Canada, Israel, New Zealand, and
South Africa—Ran Hirschl argues that after previously rejecting a formal constitution or judicial review, elites altered their positions as their electoral prospects fell. The South African case is a good example. Under apartheid, the dominant National Party had no interest in establishing a constitution with a bill of rights; it preferred a system of parliamentary sovereignty, exclusively under white control. But as the party saw its electoral fortunes decline, it discovered the virtues of constitutional entrenchment.\(^1\)

The same patterns appear in analyses of the sources of central bank independence. Even conservative leaders prefer direct control when their power is secure, but when they fear for their future, they are inclined to favor an independent central bank to “bind the hands of their inflation-prone successors.”\(^2\) In Chile during the 1970s and early 1980s, the Pinochet government retained control over monetary policy even though the free-market economists who influenced the government’s other economic policies advocated an independent central bank. Not until a 1988 plebiscite confronted the government with a future when it would “no longer be in charge” did it seek to “safeguard its interests by enacting a constitutional amendment to create a highly autonomous central bank.”\(^3\)

While the insurance theory sees parties and elites adopting counter-majoritarian institutions to limit the risks of losing power, the credible-commitment theory views the state, or a dominant party, as rationally tying its own hands for the sake of larger gains. The basic argument is that constitutions and other entrenched constraints on political leaders serve as credible commitments to stable legal rules and are therefore conducive to economic development. In the paradigmatic historical case study developing the theory, Douglass North and Barry Weingast argue that the political institutions that emerged from the Revolution of 1688 fostered England’s economic growth. Before 1688, in a pattern typical of unconstrained sovereigns, the Stuart monarchs opportunistically reneged on commitments to repay loans and arbitrarily seized assets, undermining the security of property rights and limiting the government’s access to capital markets. The 1688 revolution, however, established parliamentary supremacy and the independence of the judiciary, credibly committing the government to limits on the use of its power. The Crown was barred from raising taxes without
Parliament’s approval, and judges, instead of serving at the king’s pleasure, could be removed only for a criminal offense or by action of Parliament. Not only did the division of powers among branches of government increase the number of veto players capable of checking abuses of power; the government also created a private constraint on itself by establishing an independent central bank. In 1694, seeking subscribers for a new loan, the government invited them to incorporate as a bank—the Bank of England—which then became responsible for handling all loans to the government. If the government failed to meet its obligations, it would have difficulty getting access to funds from a current loan. The new institutional structure enabled the English state to raise far more money than before on the capital markets, which were, in turn, greatly stimulated in private lending as well. Stable legal rules thereby reduced the interest rates paid by the English state and contributed to the private economy’s expansion. Without a doubt, England would not have enjoyed such good credit if it had not also raised taxes substantially (in fact, by 600 percent from 1688 to 1783) to meet its obligations, but the state’s ability to collect those taxes partly reflected the legitimacy it gained from parliamentary approval of taxes and scrutiny of the public accounts.

The political-insurance and credible-commitment theories overlap in that both see counter-majoritarian institutions as a response to political uncertainty. They differ in their predictions, however, when a dominant party does not need the cooperation of other parties and expects to remain in power. Under those circumstances, the insurance theory predicts a low likelihood of entrenchment (why should the dominant party accept any constraints?), whereas the credible-commitment theory may plausibly predict a higher probability of entrenchment (the dominant party may be more likely to capture systemic benefits than when power is diffused). Cross-national data on judicial review provide modest support for the insurance position. In addition, several of the case studies that highlight the timing of decisions about central bank independence and judicial review favor the political-insurance position: Regimes or parties with a firm grip on power have repeatedly shown no interest in creating independent central banks or constitutional courts until their power begins slipping away.
But while the political-insurance theory may better explain the decision to establish counter-majoritarian institution, the credible-commitment theory may be highly relevant to their reinforcement and spread. In the English case, lower interest rates contributed to the state’s ability to carry more debt, most of it war-related. Credible commitments to self-restraint (in relation to asset holders at home, not necessarily anyone else!) thereby augmented England’s military power as well as its economy, enabling it to extend its empire and institutions around the world. Constitutional limitation can become a formula for increasing state power: limited power is sometimes more powerful than unlimited power. Just as individuals may increase their overall power by committing to certain rules of conduct (thereby foregoing opportunistic gains at the expense of others), so governments can become more powerful through enforced self-restraint. To be sure, even after the Revolution of 1688, England was not a democracy, so its institutional innovations cannot be described as counter-majoritarian (the entire government was counter-majoritarian). But by strengthening judges’ independence, creating a central bank, and passing a Declaration of Rights, England established a model for counter-majoritarian entrenchment in democratic regimes. Not only did the entrenchment of power lead to the entrenchment of rules, the reverse occurred as well: constitutionally entrenched rules furthered the entrenchment of power, with consequences that extended beyond a single nation-state.

Judicial review and central bank independence have also spread worldwide through international processes. Institutions may diffuse from one country to another because the first coerces the second, or the second learns from the first. States may adopt the same institutions as they compete with rivals for investment, or because transnational organizations or professional communities elevate a model into a universal standard and make adhering to it a condition for membership, loans, and other benefits. Counter-majoritarian institutions have spread through all these mechanisms, especially through chains of influence. The United States sought to copy the Bank of England in the early development of national banks. Later, the American development of judicial review and central bank independence influenced their adoption in
other countries, including Germany while it was under military occupation after World War II. The Bundesbank and the German constitutional court in turn influenced the establishment of the European Central Bank and constitutional review in the European Court of Justice. Competitive and normative pressures came especially into play in the accelerated spread of these institutional forms late in the twentieth century. During the 1990s, the constitutions drawn up for post-communist countries all included “at least a paper provision for a constitutional court with the power of judicial review.”

Central bank independence followed a similar pattern as it became widely accepted by the early 1990s, even by left-wing parties. By then, the prevailing view among economists was that independence for a central bank increases price stability without impairing economic growth. International financial institutions came to expect central bank independence as a sign of creditworthiness. Global and regional factors dominated domestic ones in this “revolution” in monetary policy-making institutions.

Political uncertainty in the late twentieth century was strongly related to the timing of counter-majoritarian entrenchment. During transitions from authoritarianism to democracy, when the design of institutions is in play, neither the departing elites nor any of the new groups forming parties may be entirely confident that they will emerge and remain the winners. A stable, dominant party at that point—the condition leading to no counter-majoritarian entrenchment, according to the insurance theory—is therefore relatively unlikely. Entrenching a bargain among the various parties may satisfy them when they peer into the future through the veil of ignorance that large-scale political change often creates.

Uncertainty alone, however, cannot explain the specific institutions that spread in the late twentieth century. Earlier periods of high political uncertainty did not typically result in the entrenchment of judicial review and central bank independence. At times of institutional choice—constitutive moments—ideas become critically important, and in the late twentieth century, the ideas were liberal democratic with a distinct neoliberal slant. Although not exclusively American, they reflected the legitimacy that these responses to political uncertainty enjoyed in an era when the United States was the dominant international power and exerted influence
(and sometimes pressure) both directly and via international organizations.  

In that global context, both high levels of internal political uncertainty and high exposure to foreign influences through trade, investment, and linkages to transnational civil society created favorable conditions for the establishment of counter-majoritarian institutions. Many regimes that had been hostile to internal constraints now accepted them as a necessary precondition of international legitimacy. Like the internal interest in counter-majoritarian entrenchment, the external interest originated from a concern about threats posed by ascendant majorities and leaders claiming to represent them. Domestic political elites in the late twentieth century were not alone in insisting on credible commitments to political rights, property rights, and price stability and to the establishment of judicial review and central banks as insurance policies against electoral uncertainties and limits on decision-making by elected leaders. Of course, many governments made only “paper provisions” for counter-majoritarian domestic institutions. But international treaties and other agreements backed up these institutions, serving as yet another level of entrenchment.

ENTRENCHMENT THROUGH INTERNATIONAL TREATIES

Just as elected political leaders face limits to their power entrenched in constitutions and agencies of their own government, so too they face limits created by international regimes. Treaties, transnational organizations, and trade and loan agreements impose conditions and obligations on states that often make specific policies hard to reverse and thereby constrain political leaders. Some of these conditions are imposed one-sidedly on weaker states by a hegemon or alliance of dominant powers, sometimes at the end of a war. Other constraints arise through more evenly balanced agreements that are structured to be difficult to undo by all parties. Constraints also arise out of a third situation: the very insecurity of a government may lead it to seek binding international agreements. A nation’s leaders may enter into international agreements or organizations in a deliberate effort to entrench a policy or institutional
arrangement at home, knowing that once their government signs and ratifies a treaty it will become difficult for their successors to get out of it. In other words, rather than just being unwillingly subject to pressure, political leaders may invite constraints as a means of entrenching policies against potential domestic opposition or subsequent political change. As Robert Keohane writes, “A major strategic problem that any programmatically committed democratic government faces . . . is how to ensure that its policies are perpetuated after it has left office. . . . Policies that are incorporated in international agreements are much more difficult for future governments to alter.” A policy is entrenched through an international institution if the latter prevents a government from abandoning a policy when the government or its preferences change—for example, because of new circumstances that lead those in power to see the policy as no longer in their interest.43

International agreements vary in their legal status, from statements of mutual understanding with no legal force to treaties that are incorporated into a country’s domestic law. What begins as a treaty may evolve historically into a constitution. The Articles of Confederation, ratified in 1781 as the United States was still fighting for its independence, was more like a treaty among the states than a constitution. In contrast, the agreement signed in Philadelphia in 1787 and ratified the following year was a constitution by virtue of the stronger government it created for the “Union,” as it properly came to be known. Western European countries started down a similar path after World War II, when they established the Common Market and common standards of human rights, which led to the Treaty on European Union in 1993 and the creation of European citizenship and European law. But the EU is not a union in the American sense; exit is an option if a country is willing to bear the costs (as Britain may if it carries out its 2016 referendum to leave). Although the provisions entrenched in the European constitutional order represent constraints on the policies of individual member states, they are much weaker constraints than in a unified federal government.44

The origins of European human-rights law illustrate how entrenchment through treaties serves as political insurance, providing a backup to domestic constitutional guarantees and an additional forum beyond the nation for groups that see their rights as
threatened domestically. Negotiated under the Council of Europe during 1949–50, the European Convention on Human Rights (ECHR) is the source of authority for the European Court of Human Rights, established in 1959. Most of the Council of Europe’s forty-seven member states have not only accepted the ECHR but made it part of their domestic law. Contrary to what one might expect, its leading proponents were not the dominant powers and long-standing liberal governments but instead new democracies attempting to entrench preferred policies in the face of uncertainty.45

Most international agreements, however, are not entrenched through constitutionalization. A nation’s leaders may nonetheless still observe an agreement that no longer serves their interests if the costs of abrogating it are enough of a deterrent. Those costs may come from direct retaliation by other parties for breaching the agreement, indirect costs of noncompliance such as costs to reputation, and adverse domestic reactions. Indeed, these three responses may follow in sequence—retaliation for breaches creating immediate direct costs and stirring up adverse reactions at home.

The development of free-trade agreements from the 1930s to the 1980s illustrates this entrenchment process. In the United States during the nineteenth and early twentieth centuries, trade policy divided the two major parties. The Republicans favored protectionist policies and, as the dominant party after the Civil War, were able to entrench a high-tariff regime; the Democrats, as the party of free trade, sought to cut tariffs but could make only small modifications. High tariffs were self-reinforcing; they favored the growth of industries that benefited from protection, and those industries then exerted pressure to maintain the policy. The regime was entrenched until 1933, when a unified Democratic government under Franklin D. Roosevelt passed the Reciprocal Trade Agreements Act, giving the executive branch power to reduce certain tariffs in exchange for other countries’ reductions of trade barriers. Though its effects were initially limited, the legislation set in motion a series of institutional changes that ultimately entrenched a free-trade regime. From then on, abrogating reciprocal agreements would have significant economic and political costs: retaliatory protectionist measures by trading partners and domestic
mobilization of export-oriented interests, which grew stronger over time as a result of free-trade agreements. Multilateral trade agreements impose greater constraints on reversibility. As Keohane writes of the post–World War II General Agreement on Tariffs and Trade: “One effect of reaching multilateral trade agreements is to bind mutual concessions, thus making these tariff-cutting exercises difficult for future governments to reverse.”

By the 1980s, however, the development of free trade had entered a distinctly different phase as governments began to use trade agreements as a means of entrenching market-oriented domestic economic policies. International trade had grown steadily and substantially under the Bretton Woods Agreement negotiated in 1948, but the terms of that agreement excluded major industries and gave individual countries the means of limiting the domestic impact of trade. Under the influence of the views variously known as the Washington Consensus, market fundamentalism, and neoliberalism, these continuing limits on free trade came under attack in new rounds of trade negotiations. The advent of the World Trade Organization (WTO) in 1995 signaled a major shift from “shallow” to “deep” economic integration. Shallow integration had not demanded much of domestic policy, but under deep integration, government regulations could be ruled an impermissible restriction on trade. Trade policy trumped domestic policy. Now it became not only more difficult for individual countries to erect trade barriers to protect domestic interests; corporations seeking the elimination of environmental and other forms of regulation could use the WTO to do an end-run around their domestic political opponents. Entrenching rules at the international level made them difficult to reverse through electoral politics.

The interaction between developments abroad and those at home is critical for international human-rights law as well, though here the prospects for entrenchment have depended on domestic support. Unlike treaties that regulate the conduct of states toward one another, human rights treaties regulate the conduct of states toward their own citizens or other persons under their power. Consequently, direct retaliation by other states for failure to comply is far less likely than with trade or security agreements. Though often dismissed as lacking enforcement, the human rights treaties
pose the same question as constitutional protections: Why do governments accept such limits, and when do they observe them? Under traditional concepts of national sovereignty, governments were not internationally accountable for their human rights abuses. The Universal Declaration of Human Rights, adopted by the United Nations in 1948, marked the beginning of a shift, though it was not legally enforceable. But a series of treaties regarding genocide, torture, civil rights, women’s rights, and children’s rights adopted since World War II are legally binding on nations that ratify them. Like constitutional rights and judicial review, formal commitments to international human-rights treaties have spread to governments that ratify them as a matter of “window dressing.” But the more a nation is tied into the global economy and civil society, the more likely a treaty commitment results in improved human rights practices. A key factor is the effect of such treaties on transnational organizations and domestic political mobilization.49

Entrenchment at the international level favors liberal democratic values only insofar as liberal democracies dominate international institutions and promote abroad the principles they are constitutionally bound to uphold at home. Those commitments have been eroding for nearly two decades. In contrast to the earlier pressures on governments to protect human rights, the new international security regime established after the attacks on the United States on September 11, 2001, required governments to expand surveillance and control. A United Nations Security Council resolution requiring member states to criminalize terrorism and to change their laws accordingly became a convenient way for some countries to justify repression.50 With the election of Donald Trump in 2016, the United States has effectively reversed even the limited previous efforts it took to uphold liberal democratic values elsewhere in the world.

The use of international institutions to entrench free-market policies has also grown weaker and even backfired, damaging the very idea of a rules-based international order. Populist parties and governments in many countries have portrayed the policies as violations of their national sovereignty and denounced the civil-society and political groups that supported them as puppets of foreign powers. The rise of populist and illiberal governments is now putting
both liberal internationalism and neoliberal economic policies to a test that will determine just how deeply entrenched they are.

The path to a consolidated democracy—the entrenchment of democracy itself—is strewn with obstacles. Even after a democratic government is established, elite and popular discontent may bring back authoritarianism by any of several means, including the seizure of power by a single leader or party, a revolutionary insurgency, or a military coup. Democracies die from internal conflicts along racial, ethnic, and religious lines and from opposition fanned by old elites unreconciled to the new regime. Consequently, democracies not only use constitutionally entrenched rules to limit the entrenchment of power; they also, to some degree, entrench the power of minority interests to minimize the risk that those interests will disrupt or undo a democratic settlement. All the institutions discussed in this chapter can be understood in this light.

Here a comparison with the consolidation of revolutionary dictatorships, such as those in the Soviet Union, China, and North Korea, may be instructive. Revolutionary regimes, Steven Levitsky and Lucan Way write, “can survive for many decades despite intense external pressure, poor economic performance, and large-scale policy failures.” One source of their durability is that the violent struggles at their origin resulted in “the destruction (or substantial weakening) of alternative centers of power,” including the killing, exile, or expropriation of previous ruling elites. Since democratic regimes, in contrast, generally do not emerge from violent struggles that eliminate prior elites, they often face a continued challenge from those elites and the alternative centers of power they represent.

The prospects for democratic consolidation hinge in significant degree on whether those elites accept the new regime or at least do not try to reverse democratic changes. Reassurance of the right has therefore often been crucial to successful transitions from authoritarianism. To state it plainly: If conservative elites believe left-wing radicals are under control and their own conservative party has a reasonable chance of electoral success, they may decide to live with democracy; if not, they turn to authoritarianism. Concessions to property have been the price for democracy.
During the late twentieth century, liberalizing movements and parties often used guarantees to privileged elites to win support from an authoritarian regime’s “soft-liners” and to discourage them from defecting back to authoritarianism later on. In their work on transitions in southern Europe and Latin America in the 1970s and early 1980s, Guillermo O’Donnell and Philippe Schmitter argue that prospects for democracy improved when the opposition proceeded “on the installment plan” through bargaining that elicited cooperation from authoritarian elites, often through “pacts” that protected their “vital interests.” When those agreements led to founding elections, according to O’Donnell and Schmitter, democracy was more likely if the left did not win a smashing victory. In general, others argue, democratic consolidation is more likely when there are “institutions that place limits on pro-majoritarian policies.”

 Guarantees to elites associated with a prior authoritarian regime include both “diffuse” protections such as constitutionally entrenched property rights and “targeted” protections to elites such as the military, affording them institutional autonomy and power as well as immunity from prosecution for earlier crimes. Similarly, constitutional guarantees contribute to democratic consolidation if they offer protection to ethnic minorities and minority parties fearful of majoritarian power. Proportional representation makes it easier for minorities to win legislative representation and gain a direct political voice. An independent judiciary to enforce constitutional rights may be especially important if the electoral system is majoritarian. When ethnic or religious minorities are geographically concentrated, federalism may serve to protect their rights. In all these cases, constitutionally entrenched inclusiveness offers minorities—whether propertied elites or historically disadvantaged groups—a guarantee against the risk that the majority will renege on its promises to respect minority rights. When a government signs a human rights treaty or joins a transnational organization such as the EU, it may provide a further guarantee. Elected democratic leaders may use international agreements to ensure that liberal principles are entrenched domestically when they are no longer in office.

 But the use of any of these mechanisms has mixed possibilities. The entrenchment of policies in international agreements may undermine democratic government by hamstringing economic policy
in damaging ways, or merely by lending plausibility to populist ac-
cusations that a liberal government has conceded sovereignty to
foreign powers or international financial interests. The central
bank, courts, and other autonomous agencies may become so pow-
erful as to confine democratic institutions to a narrow range of pol-
icies. In the extreme case, the elites that dominated an old regime
may exercise de facto control over the new one and make a sham of
democracy.

As much as democracies need counter-majoritarian institu-
tions, they also need counter-oligarchic ones. No problem is more
difficult for democracies than the entrenched power of concen-
trated wealth. Eighteenth-century republicans believed that by
changing the rules of inheritance, they could bring the political
power of concentrated landed wealth under control. The oppo-
nents of slavery in antebellum America sought to deny the Slave
Power its sway over the nation. Both of those groups succeeded in
their immediate goals, yet the fundamental problem remained.
Limiting the political power of wealth may seem to present endless
difficulties—but wealth has not always had its way. In the next
chapter, I turn to the historical developments in the mid-twentieth
century that limited the power of concentrated wealth and, in
some respects, entrenched progressive and egalitarian policies.
Chapter Four. The Conservative Design of Liberal Democracy


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8. In the effort to promote minority representation from urban areas (the “minorities” in this case being the more affluent voters), some governments also experimented with other electoral rules. Under the “limited ballot,” for example, a voter in a district with three seats might be able to cast only two votes; under the “cumulative ballot,” voters in that same district might each be given three votes, which they could cast entirely for one candidate. The rationale for these alternatives was to give minorities in multi-member districts a better chance to elect a representative. Both alternatives, however, could be gamed by parties that coordinated their supporters’ balloting, and neither caught on. Colomer, “The Strategy and History of Electoral System Choice,” 35–36; Ahmed, Democracy and the Politics of Electoral System Choice, 67, 123–125.


17. The recent British experience can also be read as further evidence of the entrenchment of majoritarianism. From 1979 to 1992, the Conservatives triumphed in four straight elections, though they never received more than 44 percent of the vote and won large majorities of seats only because of a divided opposition. The Thatcherite revolution would probably not have been possible with proportional representation. Consequently, support for electoral-system change grew among Labour as well as the Liberals (later Liberal Democrats). Yet, as in the 1920s, Labour reversed itself when it had the opportunity to change the system. After winning power in 1997 (with 43 percent of the votes but 63 percent of seats), Labour reneged on an earlier promise to put a form of proportional representation to a vote in a national referendum. National electoral reform again became a possibility after the 2010 elections, when the Conservatives fell short of a majority of seats, turned to the Liberal Democrats to form a coalition government, and agreed to hold a national referendum on the “alternative vote” (AV) or “instant runoff” system. The referendum resulted in a resounding defeat. AV, however, belongs to the majoritarian family; voters choose representatives in single-member districts. But they rank candidates, and if none receives a majority of first-preference votes, the votes for the candidate finishing last are reallocated according to the voters’ second preferences—a process that is repeated until a candidate passes 50 percent. Thus the system is majoritarian, but it bolsters the position of third parties. Under the name “ranked-choice voting,” the system has been adopted in some U.S. cities as well as the state of Maine.


20. For the argument that risk aversion leads political actors to choose rules that reduce their probability of being “absolute losers,” see Colomer, “The Strategy and History of Electoral System Choice,” 7.
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23. Lijphart, Patterns of Democracy, 206–211.


38. Sylvia Maxfield, *Gatekeepers of Growth: The International Political Economy of Central Banking in Developing Countries* (Princeton, NJ: Princeton University Press, 1997). In a study of changes in central banking laws during the 1990s, Simone Polillo and Mauro Guillén find that bank independence increased with a nation’s exposure to foreign trade, investment, and multilateral lending and that the more a given country traded with other countries that had an independent central bank (or competed with such countries), the more independent its own central bank became. Polillo and Guillén, “Globalization Pressures and the State.”
ternational Law in Domestic Politics (New York: Cambridge University Press, 2009). Simmons finds mixed evidence: long-established democracies were quickest to ratify two human rights treaties, while “newly transitioned” democracies were quickest to ratify three others (82, 86). Emphasizing the role of civil society in compliance, Simmons identifies polities with “fluid” institutions as those where the treaties are most likely to have their biggest effect (16). In both the Moravcsik and Simmons accounts, actors use entrenchment devices to overcome risk.


46. Keohane, After Hegemony, 118.
52. O’Donnell and Schmitter, “Tentative Conclusions About Uncertain Democracies.”

Chapter Five. Entrenching Progressive Change

1. Lucy Barnes and Peter A. Hall, “Neoliberalism and Social Resilience in the Developed Democracies,” in Peter A. Hall and Michéle Lamont, eds.,