Constitutional choices

Consensus v. majoritarian democracies
Policy Areas

- Human rights, justice, rule of law, Amnesty
- Media freedom, CPJ
- Civic society, social capital, CIVICUS
- PAR, decentralization, anti-corruption, TI
- Elections, ACE/UNDP/IFES
- Parties, women, Quotas Project
- Constitutions IDEA

Democratic governance
Class Structure

I. Lijphart’s typology of types of democracy

II. Majoritarian democracy
   - Case study of the UK May 2005 election

III. Consensus democracy
   - Case study of the Swiss 2003 election

IV. Discussion exercise
   - What might be the arguments for adopting either type of democracy for new constitutions in Iraq, Afghanistan, Sudan, and Nepal?
Additional resources

- Pippa Norris
  - *Driving Democracy* (CUP 2008)
    - www.pippanorris.com (under ‘books’)
- Comparative Constitutions Project
  - http://netfiles.uiuc.edu/zelkins/constitutions
- International Constitutional Law Documents
  - http://www.uni-wuerzburg.de/law/index.html
INTERNATIONAL IDEA
SUPPORTING DEMOCRACY WORLDWIDE

The International Institute for Democracy and Electoral Assistance is an intergovernmental organization. Its programmes aim to:

- Provide knowledge to democracy builders
- Provide policy development and analysis
- Support democratic reform

AREAS OF EXPERTISE

ARE YOU ACTIVELY INVOLVED IN THE PROCESS OF BUILDING DEMOCRACY?

ARE YOU ACTIVELY INVOLVED IN POLICY DEBATE ON DEMOCRACY AND DEVELOPMENT?

IN FOCUS
February 20, 2008
30 YEARS ON: ARE LATIN AMERICAN WOMEN RIDING THE POLITICAL WAVE?
Michelle Bachelet made history in Chile in 2006 and Cristina Fernandez did the same in Argentina in 2007 by being elected president of their countries by popular vote.

SPOTLIGHT ON WHAT’S IN A DAY?
International Women’s Day 8 March 2008

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In brief
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CONSTITUTION BUILDING

Constitution building is a key component of democratization and conflict management in divided societies. International IDEA supports inclusive and participatory Constitution-Building Processes (CBPs) that result in constitutions with the following features: they are nationally owned, sustainable and sensitive to gender and conflict prevention dimensions.

CBPs use constitutional dialogue to allow participants in the process to formulate long-term solutions and address their own democracy challenges. These may arise from deep political divisions, serious conflict, the denial of political participation and gross violations of other human rights, or merely from the failure to improve the quality of life for ordinary citizens. The voice of citizens is critical to the process due to the need to accommodate all legitimate perspectives if support for constitutional reform is to be achieved.

International IDEA has supported many Constitution Building Processes during the last ten years (1996-2006) and is currently implementing a substantial CBP knowledge resource and capacity building programme.

Within the next three years (2007-2009), International IDEA’s CBP programme will produce:

KNOWLEDGE RESOURCES

- **Handbook for CBP practitioners**, in partnership with Interepex: The Handbook will provide comparative material and useful options for anyone engaged in the process of constitution building. It will be helpful for those in fragile and post-conflict states.
- **CBP modular training curriculum** with Interepex: The curriculum will help build the capacity of practitioners and institutions in countries that are involved in CBPs, and will have modules appropriate for training of civil society, media and newly-appointed constitutional commissions and constituent assemblies.
- **ConstitutionNet virtual library**, in partnership with Interepex: It will be the first dedicated and systematic compilation of primary and secondary materials on CBPs. Users will have access to primary documents from past and ongoing national CBPs.
Theoretical framework: Lijphart

- Arend Lijphart
  - *The Politics of Accommodation* (1968)
  - *Democracy in Plural Society* (1979)
  - *Electoral systems and party systems* (1994)
  - *Patterns of Democracy* (1999)
  - *Thinking about Democracy* (2008)
Why focus on constitutions?

- Institutions can influence democratic governance e.g.
  - Electoral rules have a mechanical impact on the number of parties in parliament and in government
  - Executive-legislative relations influences state capacity for effective governance

- Potential for practical political reforms e.g.
  - Electoral reform in Italy, Japan, New Zealand, Venezuela
  - Constitution-building in Bosnia, Cambodia, South Africa, Afghanistan, Iraq, Nepal, Sudan
Constitutions

- **Formal institutions**
  - Written constitutions, legal statutes, administrative decisions, executive decrees, judicial rulings, budgetary allocations
  - Open to short-term political reform

- **Informal institutions**
  - Norms, values and common practices which shape and constrain human behavior
  - Open to long-term cultural evolution
Stages of Institutional Reform

- **State building**
  - Post-conflict peace settlements
    - E.g. Afghanistan constitution

- **State reform**
  - Transition from autocracy
    - Eg Choice of electoral system in post-Communist states
  - Common in established democracies
    - Improving existing arrangements within a limited set of parameters/options
    - Eg UK green paper “The Governance of Britain” (2007)
Consociational democracy

- Lijphart (1968) *The Politics of Accommodation*
- Netherlands exemplified ‘pillorized’ divided society
- Yet there was stable democracy and elite consensus
- Why? Constitutional arrangements
  - Executive power-sharing/grand coalition
  - Minority veto in government
  - Proportional representation of all major groups in elected/appointed office
  - Cultural autonomy for groups
- Model for other divided (plural) societies?
- E.g. Belgium, Switzerland, Lebanon, Cyprus
Normative values

**Majoritarian (Westminster) democracy**
- Goals...
  - government accountability and transparency of decision-making
  - single-party executives,
  - effective opposition parties,
  - vigorous parliamentary debate, and
  - decisive elections.
- Yet dangers of
  - elective dictatorship,
  - permanent majorities,
  - lack of checks and balances.

**Consociational democracy**
- Goals...
  - consensual decision-making, bargaining and compromise
  - multiple parliamentary parties, each with a stake in coalition government, and
  - dispersed decision-making processes.
- Yet dangers of
  - ineffective governance,
  - extreme multiparty fragmentation,
  - lack of accountability.
The logical sequence of consociational theory

- PR electoral systems or reserved seats
- Election of ethnic minority parties
- Greater support within minority communities
- Peaceful democratic consolidation

Plural societies

Federalism & decentralization

Election of ethnic minority parties

Does the logic make sense? Criticisms?
Potential criticisms?

- For constructivists, ethnic divisions have meanings shaped by political structures and elites. Power-sharing regimes can thereby freeze/reinforce ethnic cleavages (Donald Horowitz)
  - Eg Bosnia-Herzegovina
- By contrast, majoritarian elections force vote-pooling across groups and bridging appeals (Ben Reilly)
- Not the only outcome: some peace settlements are negotiated, others result from outright victory
- Majoritarian solutions may be more effective in restoring fragile states. Sequencing process in peace settlements? (Mansfield and Snyder)
Types of Democracies

Source: Lijphart Democracies (1999)

Democracies

- Majoritarian (Westminster)
  - eg UK? New Zealand? Barbados

- Mixed
  - eg USA Costa Rica France

- Consensus (Consociational)
  - eg EU Belgium Switzerland
<table>
<thead>
<tr>
<th>Ref: Arend Lijphart <em>Patterns of Democracy</em> 1999</th>
<th>‘Majoritarian’ Model</th>
<th>‘Consensus’ Model</th>
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<tbody>
<tr>
<td></td>
<td>Effective and accountable</td>
<td>Inclusive and representative</td>
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<tr>
<td><strong>Exec-Parties</strong></td>
<td>One-party cabinet</td>
<td>Coalition government</td>
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<tr>
<td><strong>Parliament</strong></td>
<td>Executive dominant</td>
<td>Balanced exec-legislature</td>
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<td><strong>Party system</strong></td>
<td>Two-party</td>
<td>Multi-party</td>
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<td><strong>Electoral system</strong></td>
<td>Majoritarian</td>
<td>Proportional Representation</td>
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<td><strong>Interest groups</strong></td>
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<td>Corporatist</td>
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<td><strong>Federal-Unitary</strong></td>
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<td></td>
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<tr>
<td><strong>Government</strong></td>
<td>Centralized-unitary</td>
<td>Decentralized-federal</td>
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<td><strong>Parliament</strong></td>
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<td>Balanced Bicameral</td>
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<td><strong>Constitution</strong></td>
<td>Flexible</td>
<td>More Rigid</td>
</tr>
<tr>
<td><strong>Judiciary</strong></td>
<td>Parlt. sovereign</td>
<td>Judicial review</td>
</tr>
<tr>
<td><strong>Central Bank</strong></td>
<td>Dependent</td>
<td>Independent</td>
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</table>
Table 4.1 The thirty-six democracies included in this study, classified by decade and first year of the period (until the middle of 1996) analyzed

<table>
<thead>
<tr>
<th>Decade</th>
<th>First year analyzed</th>
<th>Democracies</th>
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<tbody>
<tr>
<td>1940s</td>
<td>1945</td>
<td>Austria, Canada, Denmark, Finland, Luxembourg, Norway, United Kingdom</td>
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<tr>
<td></td>
<td>1946</td>
<td>Australia, Belgium, Iceland, Italy, Japan, Netherlands, New Zealand, United States</td>
</tr>
<tr>
<td></td>
<td>1947</td>
<td>Switzerland</td>
</tr>
<tr>
<td></td>
<td>1948</td>
<td>Ireland, Sweden</td>
</tr>
<tr>
<td></td>
<td>1949</td>
<td>Germany, Israel</td>
</tr>
<tr>
<td></td>
<td>1953</td>
<td>Costa Rica</td>
</tr>
<tr>
<td></td>
<td>1958</td>
<td>Colombia, France, Venezuela</td>
</tr>
<tr>
<td></td>
<td>1961</td>
<td>Trinidad and Tobago</td>
</tr>
<tr>
<td></td>
<td>1962</td>
<td>Jamaica</td>
</tr>
<tr>
<td></td>
<td>1965</td>
<td>Botswana</td>
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<tr>
<td></td>
<td>1966</td>
<td>Barbados, Malta</td>
</tr>
<tr>
<td></td>
<td>1972</td>
<td>Bahamas</td>
</tr>
<tr>
<td></td>
<td>1974</td>
<td>Greece</td>
</tr>
<tr>
<td></td>
<td>1976</td>
<td>Mauritius, Portugal</td>
</tr>
<tr>
<td></td>
<td>1977</td>
<td>India, Papua New G</td>
</tr>
<tr>
<td>Plural societies</td>
<td>Population (000s) 1995</td>
<td>Human development index 1994</td>
</tr>
<tr>
<td>----------------------</td>
<td>------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>India</td>
<td>929,358</td>
<td>0.446</td>
</tr>
<tr>
<td>Spain</td>
<td>39,199</td>
<td>0.934</td>
</tr>
<tr>
<td>Canada</td>
<td>29,606</td>
<td>0.960</td>
</tr>
<tr>
<td>Belgium</td>
<td>10,146</td>
<td>0.932</td>
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<td>Switzerland</td>
<td>7,039</td>
<td>0.930</td>
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<tr>
<td>Israel</td>
<td>5,521</td>
<td>0.913</td>
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<tr>
<td>Papua New Guinea</td>
<td>4,302</td>
<td>0.525</td>
</tr>
<tr>
<td>Trinidad</td>
<td>1,287</td>
<td>0.880</td>
</tr>
<tr>
<td>Mauritius</td>
<td>1,128</td>
<td>0.831</td>
</tr>
<tr>
<td>New Zealand</td>
<td></td>
<td></td>
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<tr>
<td>Costa Rica</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Botswana</td>
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<tr>
<td>Bahamas</td>
<td></td>
<td></td>
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<tr>
<td>Barbados</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Semiplural societies</th>
<th>Population (000s) 1995</th>
<th>Human development index 1994</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>263,119</td>
<td>0.942</td>
</tr>
<tr>
<td>Germany</td>
<td>81,869</td>
<td>0.924</td>
</tr>
<tr>
<td>France</td>
<td>58,060</td>
<td>0.946</td>
</tr>
<tr>
<td>Italy</td>
<td>57,204</td>
<td>0.921</td>
</tr>
<tr>
<td>Colombia</td>
<td>36,813</td>
<td>0.848</td>
</tr>
<tr>
<td>Netherlands</td>
<td>15,460</td>
<td>0.940</td>
</tr>
<tr>
<td>Austria</td>
<td>8,054</td>
<td>0.932</td>
</tr>
<tr>
<td>Finland</td>
<td>5,110</td>
<td>0.940</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>410</td>
<td>0.899</td>
</tr>
</tbody>
</table>
Typology of Democracies

Ref: Lijphart Patterns of Democracy 1999

Unitary-Federal

Executive-Parties

Consensual

Majoritarian
Consensus democracy matters

- For the inclusion of minority parties
- For the protection of minority interests
- For women’s representation
- For public policy, economic outcomes, and welfare states
II: Majoritarian institutions

Case study: UK 5\textsuperscript{th} May 2005 general election
Institutions: UK 1945-1997

- Unwritten constitution – Magna Carta etc.
- One-party cabinet government since 1945
  - Collective responsibility, primus inter pares
- Two-party parliamentary competition
  - Labour and Conservative in govnt and opposition
- Programmatic & disciplined parties
  - Mass-branch party organizations, few independents, few backbench rebellions, manifesto program
- Parliamentary sovereignty (no Supreme Court)
- Unitary state (local government administration)
- Bicameral parliament but Commons predominant
- Plurality FPTP elections – exaggerates votes: seats for winner
UK House of Commons, June 2005

Majority 66

Labour
355

Conservative
197

LibDems
62

Others
23

MPs in UK House of Commons
<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Address</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BHATT</td>
<td>Atul Kumar Bhatt, 52 Dovedale Road, Sunderland</td>
<td>Independent</td>
</tr>
<tr>
<td>2</td>
<td>DODDS</td>
<td>Brian Dodds, 264 Leechmere Road, Sunderland</td>
<td>The Labour Party Candidate</td>
</tr>
<tr>
<td>3</td>
<td>FRYETT</td>
<td>David Brian Fryett, 159 Sea Road, Fulwell, Sunderland</td>
<td>Liberal Democrat</td>
</tr>
<tr>
<td>4</td>
<td>STOREY</td>
<td>Dorreen Storey, 82 Torver Crescent, Seaburn Dene, Sunderland</td>
<td>Conservative</td>
</tr>
</tbody>
</table>
## 2005 UK election result

<table>
<thead>
<tr>
<th>Party</th>
<th>% of Votes</th>
<th>% of seats</th>
<th>Ratio</th>
<th>Number of seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour</td>
<td>35.2</td>
<td>54.9</td>
<td>1.56</td>
<td>355</td>
</tr>
<tr>
<td>Conservative</td>
<td>32.3</td>
<td>30.4</td>
<td>0.94</td>
<td>197</td>
</tr>
<tr>
<td>Lib Dem</td>
<td>22.0</td>
<td>9.5</td>
<td>0.43</td>
<td>62</td>
</tr>
<tr>
<td>SNP</td>
<td>1.5</td>
<td>0.9</td>
<td>0.60</td>
<td>6</td>
</tr>
<tr>
<td>PC</td>
<td>0.6</td>
<td>0.5</td>
<td>0.83</td>
<td>3</td>
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<tr>
<td>Other</td>
<td>8.4</td>
<td>3.4</td>
<td>0.40</td>
<td>23</td>
</tr>
</tbody>
</table>

**Labour Maj.** 2.9 24.5 66

**Total** 100 100 659

‘Winner’s bonus’ UK

Note: The votes-seats ratio is calculated as the percentage of UK seats divided into the percentage of UK votes for the governing party. A ratio of 1.0 would indicate no electoral bias for the government. Source: Pippa Norris & Chris Wlezien Ed. Britain Votes 2005 (OUP 2005)
UK % Vote 1900-2005

Edited by Anthony Seldon and Denis Kavanagh Cambridge University Press
UK % Seats

Edited by Anthony Seldon and Denis Kavanagh Cambridge University Press
Why exaggerated bias for winner?

1. Malapportionment
   - Unequal size of electorates in each seat
   - Decline of urban pop/Labour constituency
   - Delayed effect of boundary changes

2. Differential turnout
   - Lowest in safe Labour seats

3. Anti-Conservative tactical voting

4. Efficient distribution of party votes
Geography also matters:
UK 2005 Election Seats

Source: Pippa Norris *Britain Votes 2005* (OUP 2005)
Simulated seats GB June 2005

Source: Dunleavy and Margetts in Pippa Norris (Ed) *Britain Votes 2005* OUP
Projection next UK general election

Vote swing is the % change in the two-party vote

Note: The estimates assume a Con-Lab uniform national swing across the UK with no change in the share of the vote for the other parties. A positive swing indicates a fall in the Labour party, and increase in the Conservative party, share of the total vote. A negative denotes the opposite. The 'winning post' necessary to assure an overall parliamentary majority for one party is half the 646 MPs ie 324. Source: Norris *Britain Votes 2005* OUP.
Moderate party competition

Figure 1:
British parties ideological movements along a left-right scale

Source: Comparative Manifesto Project/ Judith Bara EPOP 2005
Breakdown of classic ideal type since 1997

- Federalism:
  - Devolution for Scotland and Wales
  - Northern Ireland assembly
  - Elected Mayor/Assembly for London

- Electoral reform:
  - Party list PR for Europe
  - AMS for Scotland/Wales
  - STV for Scottish local elections

- House of Lords reform (?)
- Written Bill of Rights- Euro. Convention
- Direct referendums
Advantages and disadvantages?
III: Consensus democracy

Switzerland
Swiss democracy

- Pop 7.4m
- Plural cleavages
  - Religion (46% Catholic, 40% Protestant)
  - Language
    - (65% German, 10% Italian, 18% French),
  - Region/canton
  - Class ($32,800 per capita PPP 2003)
- Social divisions, yet elite consensus?
- Stable power-sharing coalition but lack of accountability?
Since 1848, Switzerland has been a confederation, currently with 26 cantons and 2873 communes.

The Government (Federal Council) has 7 members elected by parliament for 4 years:
- From 1959-2003, ‘magic formula’ 2 seats each for the FDP, CVP, and SPS, and 1 seat for the SVP.
- October 2003, 2 seats given to SVP, 1 CVP
- Annual president rotates as primus inter pares
Swiss parliament

- **Bicameral Federal Assembly:**
  - Direct elections
  - PR List elections w. high proportionality votes: seats
  - The National Council (popular representation, 200 seats, based on population size per canton) and
  - The Council of States (cantonal representation, 46 seats, 2 per canton)
  - Eight party factions in Federal Assembly and 13 parties in total.

- **Federal Supreme Court**
- **Many popular initiatives and referendums.**
# October 2003 Election results

<table>
<thead>
<tr>
<th>Party Name</th>
<th>%Vote</th>
<th>%Seats</th>
<th>Seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schweizerische Volkspartei</td>
<td>26.6</td>
<td>27.5%</td>
<td>8</td>
</tr>
<tr>
<td>Sozialdemokratische Partei der Schweiz</td>
<td>23.4</td>
<td>26.0%</td>
<td>9</td>
</tr>
<tr>
<td>Freisinnig-Demokratische Partei der Schweiz</td>
<td>17.3</td>
<td>18.0%</td>
<td>14</td>
</tr>
<tr>
<td>Christlich-Demokratische Volkspartei der Schweiz</td>
<td>14.4</td>
<td>14.0%</td>
<td>15</td>
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<tr>
<td>Grüne Partei der Schweiz</td>
<td>7.4</td>
<td>6.5%</td>
<td>-</td>
</tr>
<tr>
<td>Liberale Partei der Schweiz</td>
<td>2.2</td>
<td>2.0%</td>
<td>-</td>
</tr>
<tr>
<td>Evangelische Volkspartei der Schweiz</td>
<td>2.3</td>
<td>1.5%</td>
<td>-</td>
</tr>
<tr>
<td>Eidgenössische Demokratische Union</td>
<td>1.3</td>
<td>1.0%</td>
<td>-</td>
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<tr>
<td>Schweizer Demokraten</td>
<td>1.0</td>
<td>0.5%</td>
<td>-</td>
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<tr>
<td>Partei der Arbeit der Schweiz</td>
<td>0.7</td>
<td>1.0%</td>
<td>-</td>
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<tr>
<td>Lega dei Ticinese</td>
<td>0.4</td>
<td>0.5%</td>
<td>-</td>
</tr>
<tr>
<td>Solidarités</td>
<td>0.5</td>
<td>0.5%</td>
<td>-</td>
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<tr>
<td>Christlich-Soziale Partei</td>
<td>0.4</td>
<td>0.5%</td>
<td>-</td>
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<tr>
<td>Alternative Liste</td>
<td>0.5</td>
<td>0.5%</td>
<td>-</td>
</tr>
<tr>
<td>- Sozialistisch Grüne Alternative Zug</td>
<td>0.5</td>
<td>0.5%</td>
<td>-</td>
</tr>
<tr>
<td>Freiheitspartei der Schweiz</td>
<td>0.2</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
Swiss party competition

Note: Legislative voting patterns 1999-2003
Advantages and disadvantages?
IV: Discussion exercise

In designing new constitutions for Afghanistan, Iraq, Sudan and Nepal, what are the pros and cons of each type of democracy?

What would be the major consequences of these institutional choices for stability and effectiveness?
Conclusions

- Useful classification of democratic institutions
  - From ideal types to continuous measures
  - Clarifies values and normative debates
  - Systematic comparisons
  - Consequences of institutional design?

- Next class:
  - Electoral Systems
## Next class

### Part III: Options: reform strategies and agencies

<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Event</th>
</tr>
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<tbody>
<tr>
<td>13</td>
<td>Mon 16&lt;sup&gt;th&lt;/sup&gt; Mar</td>
<td>Strategies and options for strengthening democratic governance #1</td>
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<tr>
<td>14</td>
<td>Wed 18&lt;sup&gt;th&lt;/sup&gt; Mar</td>
<td>Constitution-building: International IDEA</td>
</tr>
<tr>
<td>15</td>
<td>Mon 30&lt;sup&gt;th&lt;/sup&gt; Mar</td>
<td><strong>Elections: ACE and IFES</strong></td>
</tr>
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<td>16</td>
<td>Wed 1&lt;sup&gt;st&lt;/sup&gt; Apr</td>
<td>Strengthening parliaments, parties, and women's empowerment: the Inter-parliamentary Union</td>
</tr>
<tr>
<td>17</td>
<td>Mon 6&lt;sup&gt;th&lt;/sup&gt; Apr</td>
<td>Building the state: public administration reform, local governance, and anti-corruption: Transparency International</td>
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<tr>
<td>18</td>
<td>Wed 8&lt;sup&gt;th&lt;/sup&gt; Apr</td>
<td>Civil society, social capital, and media: the Open Society Institute and CIVICUS, Committee to Protect Journalists</td>
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<tr>
<td>19</td>
<td>Mon 13&lt;sup&gt;th&lt;/sup&gt; Apr</td>
<td>Human rights, justice, and rule of law: Amnesty International # 2</td>
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