Slovakia: From the Ambiguous Constitution to the Dominance of Informal Rules

Darina Malová

in Democratic Consolidation in Eastern Europe Volume 1: Institutional Engineering

Describes the reasons behind the hastily drafted Constitution of Slovakia and explains why it proved insufficient to provide guidance to political leaders and to foster the consolidation of democracy. The main argument of this chapter is that the preponderance of informal rules has impeded the institutionalization of formal rules and undermined the constitutional government. The chapter focuses on the factors that have contributed to the dominance of informal rules and pushed actors to turn to unconstitutional alternatives. Slovakia's institutional developments are explored in four parts. The first part reviews institutional traditions and the constitution-making process. The second part examines the electoral system and its impact on the party system and the composition of political power. The third part examines the substance of the Constitution, particularly, the unclear articles regarding the separation of powers, which have led to institutional conflicts. The last section analyses the durability of the constitution and attempts made by political actors to balance power through institutional engineering.

Carl J. Friedrich and Federalism as Process

Michael Burgess

in In Search of the Federal Spirit: New Comparative Empirical and Theoretical Perspectives
The chapter provides a brief intellectual biography of Friedrich and examines in detail his major contribution to the study of federalism. His distinctive approach to and understanding of federalism is revealed and a textual exegesis of his major works on federalism is conducted. Friedrich’s overall contribution to the study of federalism is characterised as wide-ranging, based upon an unusual combination of practical experience and scholarly endeavour. His intellectual feud with Riker is introduced, chronicled and appraised and his fidelity to the federal idea of Johannes Althusius as essentially about political community-building is sketched out to expose the most vivid attachment to the federal spirit among the five main theorists of federalism.

Theory and Practice I: Bentham and the Greek Constitution of 1822

F. Rosen

in Bentham, Byron, and Greece: Constitutionalism, Nationalism, and Early Liberal Political Thought

Published in print: 1992 Published Online: October 2011

This chapter considers three major themes of the ‘Observations’: Jeremy Bentham’s thesis that the acceptance of popular sovereignty should lead to a transformation of the theory and practice of constitutional government; his use of the greatest happiness principle to resolve problems arising from the exclusion of the Turkish community from citizenship; and his novel and important contribution to constitutional theory in the doctrine of ‘latent negatives’. The chapter also explores the relationship between the ‘Observations’ and Bentham's better-known work on constitutional government, the Constitutional Code. Finally, it discusses the allegation that the constitution of Epidaurus was a mere ‘façade’ created by Greece to impress Europeans as to the capacity of the Greeks to operate a Western, centralised government. This allegation raises not only the question of the point of Bentham's commentary but also the general issue of the relationship of constitutional theory to practice.
The Idea of Constitutional Conservatism in the Early Twentieth Century
Johnathan O'Neill

in Constitutionalism in the Approach and Aftermath of the Civil War

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Item type: chapter

For decades scholars have argued that social Darwinism and laissez-faire ideology transfixed early twentieth-century American constitutionalism. This view has been considerably undermined by a wave of revisionism which argues that conservatives of the so-called Lochner-era respected the law and the Constitution. This chapter builds on this revisionism by examining non-jurisprudential constitutional commentary among a small but notable group of intellectuals, officials, and scholars who responded to progressivism and socialism based on their self-understanding as constitutional conservatives. Frequently they measured the constitutional challenges of their time against those of the Civil War and Reconstruction era. At the center of this development was the National Association for Constitutional Government (NACG) and its journal, Constitutional Review, which ran from 1917 to 1929. The publication's circulation was never large, but NACG, the Review, and a few other like-minded public figures sustained a conservative constitutional position throughout the 1920s.

The Constitution: Government and the rule of law
Rachel S. Turner

in Neo-Liberal Ideology: History, Concepts and Policies

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Item type: chapter

This chapter looks at the constitution and the rule of law. It sees the constitution as a fundamental concept for neo-liberalism, one through which the powers of government may be curtailed. The chapter explores national forms of constitutionalism, and identifies the different models of constitutional government that neo-liberalism draws upon to create its own ideal constitution. It sets out the neo-liberal ideal of a Rechtsstaat and the fundamental distinction between law and legislation. The chapter argues that the emphasis which neo-liberalism places on the constitution demonstrates that, far from being anti-political, neoliberalism is rather
an ideology with a serious doctrine about politics and government at its heart.

Losing Naples
John A. Davis

in Naples and Napoleon: Southern Italy and the European Revolutions, 1780-1860

Published in print: 2006 Published Online: September 2007
Item type: chapter

This chapter reconstructs the events that followed Murat's defection to the Allies in 1814, his subsequent decision to rally to Napoleon after the flight from Elba, and his defeat by the Austrians at the battle of Tolentino in May 1815. It explores the growth of opposition to Murat's government after 1812 in southern Italy, in particular the spread of the secret societies and the Carbonari. Closely linked to the earlier Masonic lodges, these became important vehicles for spreading support for demands for constitutional government, for which the constitutions conceded by the British in Sicily and adopted by the liberals in Spain offered recent and alternative models. The chapter concludes with a description of the remarkably peaceful transition of power in 1815.

The Social Question and the Problem of History after Empire
Uday Singh Mehta

in Lineages of Empire: The Historical Roots of British Imperial Thought

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Item type: chapter

Decolonization of the European empires in the twentieth century was spurred by the colonized based on two purposes: the desire for independence, and the desire to build a sovereign political identity. The most obvious feature of the first intention was the formation of anti-imperialist movements, organised under the banner ‘they must leave’. The latter was characterized by the establishment of constitutional government, which highlighted the identity of a novice country in a political and unified form and which featured a central source of power. These two purposes share a complex relationship. For power to be sovereign, independence must be gained first. Power cannot be obligated to the wishes of another power or constrained by the laws of another

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regime. The struggle for independence of European empires did not readily create the conditions for the exercise of a sovereign power. It was elusive at the moment of independence. This chapter discusses some of the implications of these two purposes, with emphasis on the second purpose and the Indian experience. It addresses questions such as: what is the meaning of collective identity to those newly independent countries in the context of politics; what were the pressures on the claims to political identity and unity; how did these pressures encourage a revolutionary mindset in the conceptualization of constitutional provisions and political power; and how does the struggle for political identity relate to the history of nation and its struggle for independence?

Introduction
Louis Henkin

in Foreign Affairs and the United States Constitution

Constitutional government has come to suggest limited government, and the constitution of the United States is commonly thought of as an edict of limitations on the government of the United States to protect individual liberty. In fact, in the largest part, the constitution is not a charter of liberties but a blueprint for a federal system of government and for dividing authority among branches of the national government. Limitations are implied, of course, in these allocations, divisions, and distributions, and in the principles of federalism and the ‘separation of powers’ they reflect. The constitutional blueprint, of course, shapes the activities of government, not least the conduct of the nation's foreign relations, and constitutional prohibitions and limitations inhibit foreign affairs as they do other governmental action.

Virginia's Northern Strategy: Southern Segregationists and the Route to National Conservatism
George Lewis

in Painting Dixie Red: When, Where, Why, and How the South Became Republican

Virginia's Northern Strategy: Southern Segregationists and the Route to National Conservatism
George Lewis
In contradistinction to much received wisdom on the chronology of how the South became Republican, this chapter emphasizes the development of Republicanism at the state and local levels first—not the presidential. It provides an in-depth and nuanced examination of ties between conservative Democratic Virginians and northern Republicans (especially from Pennsylvania) concerned with segregation, states' rights, economic regulation, and home rule. And again, in a revisionist mode, the chapter stresses a time period prior to the Goldwater campaign of 1964 as central to the development of a Republican South. Much attention is given to the previously understudied role of Virginia's Commission on Constitutional Government and the strategy and tactics of journalist James J. Kilpatrick and the CCG's visionary leader, David J. Mays.

Concepts in the Language of Politics
Axel Körner

in America in Italy: The United States in the Political Thought and Imagination of the Risorgimento, 1763-1865

Published in print: 2017 Published Online: May 2018
Item type: chapter

This chapter examines references to the United States of America in the Risorgimento's political language by focusing on concepts such as constitutional government, political representation, and federalism. It first considers the question of natural rights in a constitutional government before discussing the ways in which Italians assimilated and translated American ideas into the historical context of their experiences in the context of the more general Italian assessment of American political institutions. The chapter focuses on the works of Giuseppe Mazzini and other prominent political thinkers such as Cesare Balbo, Vincenzo Gioberti, and Gian Domenico Romagnosi. It also looks at Luigi Angeloni's 1832 pamphlet entitled Schifezze politiche proposte dal dottor Carlo Botta, in which he condemned Botta's antirepublican attitudes, and Antonio Rosmini's critique of American democracy.

The Coming of the Republic
Mary Vincent

in Catholicism in the Second Spanish Republic: Religion and Politics in Salamanca 1930-1936

Published in print: 1996 Published Online: October 2011
Item type: chapter
On 28 January 1930, seven years of dictatorial rule in Spain ended with Primo de Rivera's forced resignation. The king handed over the reins of government to General Damaso Berenguer, a conservative military man charged with the uncomfortable and, ultimately, impossible task of overseeing a return to constitutional government. Catholic political interventions in favour of the monarchy were not confined to the ranks of the clergy. Despite its national prominence, the Derecha Liberal Republicana lacked any extensive organizational infrastructure in the provinces. Although the leaders of the Derecha Liberal Republicana went to some pains throughout the election campaign to demonstrate both their personal religious beliefs and their respect for the institutional Church, the Spanish hierarchy continued in its implicit-and occasionally overt-support for the monarchy.

The Constitutional Thought of Alexander Hamilton

M. N. S. Sellers

in Constitutions and the Classics: Patterns of Constitutional Thought from Fortescue to Bentham

Published in print: 2014 Published Online: January 2015
Published Online: DOI: 10.1093/acprof:oso/9780198714989.003.0016
Item type: chapter

This chapter analyses the constitutional views of Alexander Hamilton. Hamilton was one of the most perceptive and influential exponents of modern constitutionalism, both in theory and in practice. He shared the constitutional principles of his republican contemporaries in his commitment to bicameral legislatures, elected executives, the separation of powers, checks and balances in government, and representative (rather than direct) democracy, but differed somewhat in his much stronger commitment to federal institutions, to executive power, and to independent judges as the ‘bulwark’ of constitutional liberty. Hamilton became as ‘Publius’ (with James Madison) in The Federalist the foremost advocate and interpreter of constitutional government as it would ultimately be implemented in the United States of America. These principles, widely accepted in principle by ‘enlightened’ political discourse in Hamilton’s era became real in the constitutions of the American States and ultimately the United States Constitution of 1787, from which they have extended across the globe. Hamilton was, with John Adams and James Madison, the primary architect and strongest advocate of modern constitutional institutions and ideals.
Review Essay—Remarks on Post-Sovereignty and International Legal Neoconservatism

Ignacio De La Rasilla and Del Moral

in Comparative Law as Transnational Law: A Decade of the German Law Journal

Published in print: 2011 Published Online: January 2012
Item type: chapter

This chapter reviews the books, Law Without Nations? Why Constitutional Government Requires Sovereign States and The Case for Sovereignty: Why the World Should Welcome American Independence, by Jeremy Rabkin. It presents Rabkin's neoconservative defense of United States sovereignty by attempting to soften the impact of the most rhetorically aggressive aspects embedded in his books. Playing along with his rhetorical, strident spiral risks obscuring far more scholarly substantive considerations that frame his work within a specific contemporary doctrinal trend. To categorize Rabkin's as “untouchable” by stressing the aspects of its partisan political posture that would also gratuitously reinforce the accursed fame that neoconservative legal scholars enjoy within their own academy. Moreover, approaching Rabkin's scholarship without animosity offers additional analytic possibilities beyond simply adding another chapter to the inflated rhetoric of “hegemonic international law” that is so in vogue.

Beyond the Myth of Consensus

Saul Cornell

in Beyond the Founders: New Approaches to the Political History of the Early American Republic

Published in print: 2004 Published Online: July 2014
Item type: chapter

In the period between 1776 and 1828, Americans from all walks of life entered into a wide-ranging debate about the nature of constitutional government. During that period, the founders were deeply divided over many basic constitutional questions such as the meaning of federalism or the nature of freedom of the press. This chapter focuses on the constitutional debate over the right to bear arms in the early republic. It suggests that the argument between Federalists and anti-Federalist over the right to bear arms was closely connected to the larger debate over the meaning of federalism.
Abolition, War, and the Vindication of Constitutional Government: 1867–1871

in The Party of Order: The Conservatives, the State, and Slavery in the Brazilian Monarchy, 1831–1871

Published in print: 2006 Published Online: June 2013
Publisher: Stanford University Press DOI: 10.11126/
stanford/9780804753692.003.0007

This chapter examines the history of the abolition movement, the vindication of constitutional government, and impact of war on local politics in Brazil during the period from 1867 to 1871. It explains the Dom Pedro II believed that slavery was backward and unworthy and dangerous to sustain and that he also participated in one of the earliest organized abolitionist efforts in the Court in 1856. It discusses the political implications of the coup of 1868 and the Paraguayan war and the appointment of Joaquim Rodrigues Torres, Viscount of Itaboraí to replace Zacarias de Goes e Vasconcel as prime minister.

The Quest for Racial Change

Brian D. Behnken

in Black Intellectual Thought in Modern America: A Historical Perspective

Published in print: 2017 Published Online: May 2019
Publisher: University Press of Mississippi DOI: 10.14325/
mississippi/9781496813657.003.0004

This chapter explores the history of black liberalism. Itself the most often recognized form of black intellectualism, liberalism is far more complex than is commonly understood. Black liberals imbied the notions of American democracy and constitutional government, albeit with black people included equally within that constitutional or political framework. Black liberals have had a multiplicity of goals and tactics, from integration to voting rights, from public scholarship to political leadership. But their most important endeavor was rooted in the concept of racial change. Racial change symbolized a transformation of American life that, at its most basic, meant the complete evolution of black equality in the United States.
After Brown, white segregationist women build national organizations and were devoted to making white youth political activists and future purveyors of white supremacy. As the legal support for segregation diminished, the Jim Crow order remade itself. While moderates directed the implementation of integration, southern segregationist women continued to work in various ways and with national political constituencies to secure resistance to racial equality and to meaningful integration. They continued their efforts for racial segregation after the forced federal integration of Central High School in Little Rock, Arkansas, and of Ole Miss. As white segregationists focused on training white youth for the next iteration of white supremacist politics, they gradually amplified their color-blind political rhetoric. They built organizations like the Women for Constitutional Government and Patriotic American Youth that emphasized limited government, anti-communism, and school choice and opposition to decolonization, joining conservatives and segregationists nationwide to shape the New Right.

Politics

Carol V. R. George

This chapter examines how Norman Vincent Peale’s message of practical Christianity intertwined with his conservative politics during the period 1935–1955. It argues that Peale’s populist religion and conservative politics were mutually reinforcing, whose own postwar bid for acceptance, entitlement, and power coincided with the fullest flowering of Peale’s ministry. The chapter first considers Peale’s Toryism and populism, and more specifically how he first warmed to partisan politics through Prohibition, before discussing his involvement with the National Committee to Uphold Constitutional Government and with a
politically partisan group called Spiritual Mobilization, his chairmanship of the Christian Freedom Foundation, and his participation in and eventual withdrawal from Facts Forum, the “educational” organization sponsored by Texas oilman H. L. Hunt.

The Maintenance of Liberal Democracy in Colombia, Costa Rica, and Venezuela
John A. Peeler

in Latin American Democracies: Colombia, Costa Rica, Venezuela
Published in print: 1985 Published Online: July 2014
Item type: chapter

After the establishment of stable liberal democracy in Colombia, Costa Rica, and Venezuela, there was balance in political participation and policy processes in these countries. This chapter analyzes the maintenance of liberal democratic regimes in each country, and examines similarities and differences in terms of representation for legislative elections, community organizations, characteristics of the constitutional government, and economic and social transformations. It also discusses the armed forces of Colombia, Costa Rica and Venezuela, and how these countries have avoided military takeover.

A Quaint and Quixotic Group of Gentlemen
Jennifer Ritterhouse

in Discovering the South: One Man's Travels through a Changing America in the 1930s
Published in print: 2017 Published Online: September 2017
Item type: chapter

This chapter begins by contrasting Daniels's open-minded, documentary approach to his travels through the South with the staunch, conservative convictions of Nashville Agrarian Donald Davidson. The chapter provides an overview of Agrarian thought in I'll Take My Stand and subsequent writings, as well as an understanding of how the thinking of Howard Odum, Rupert Vance, and other southern Regionalists differed. The Southern Policy Committee, fostered by Francis Pickens Miller, brought the Agrarians and Regionalists into direct debate. By the late 1930s, the Agrarian group had disbanded, but Davidson kept the faith while becoming increasingly reactionary on racial issues. In 1955 he became
the founding president of the Tennessee Federation for Constitutional Government, an organization dedicated to resisting the integration of public schools. Even by 1937, Daniels could sense that Davidson felt a deep sadness over the passing of his idealized, traditional South.