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ABSTRACT   This article outlines a conceptual framework for analysing constitutional change in federal systems. It begins by explaining the dilemmas, tensions and dynamics inherent in federations that cause the need for adaptation and formal reform of constitutions. After reviewing some approaches and concepts from the literature, the article introduces a conceptual framework for understanding constitutional federal change. It tackles its complexity by determining its modes, mechanisms and outcomes. First, it proposes an analytical distinction among four types of constitutional federal change—reform, innovation, evolution and adjustment—and presents a distinction among four mechanisms of change, distinguishing change produced through constitutional policy making, 'implicit' change of intergovernmental rules and patterns of governance practices, intergovernmental competition and/or 'paradigmatic' shifts in constitutional ideas and values, or change in court decisions and legal interpretation and discourses. It also deals with several typical outcomes of federal change. Finally, some implications for further research are examined.

KEY WORDS: Constitutional change, comparative federalism, federal dynamics, reform, institutional change

Introduction

Many scholars studying federal political systems have described their dynamic character, their ongoing evolution, but also their instability. They have explained the continuous need to balance powers and resources between different actors and institutions at different levels of government. Some have referred to ambitions of actors, who try to shift the balance incrementally in a direction favourable to them, thus causing "authority migration" (Gerber and Kollman, 2004). Others have pointed out developments in society that can lead to a 'rescaling' of tasks and call for a revision of the allocation of powers and resources. Moreover, social change can influence the economic development in territories of the constituent governments and modify their relative resource

bases or induce modifications in the relations between governments, parties and civil society.

Due to these dynamics, it is widely acknowledged that federal systems need constitutions in order to stabilize the balance of power. While establishing rules required to make collective decisions, constitutions also have to depoliticize these rules in view of conflicting goals and competing interests of actors seeking to alter the allocation of powers and resources. But no constitution *per se* can guarantee stability. From time to time, pressures arise to revise constitutional rules in order to restore the balance between central powers and those of the federal units or to reduce fiscal imbalances.

Federations' flexibility and their ability to amend their constitution determine the extent of their adaptation to changing environments and, thus, their effectiveness and legitimacy. The variation found in constitutional change in federations, its mechanisms, causes and consequences, raise several interrelated theoretical problems for the study of comparative federalism and politics. An adequate empirical theory of federalism and federal dynamics should be able to explain why and how structures of federations evolve and adapt in order to survive and respond to societal or domestic or external policy problems. We know that in many federations deliberate constitutional reform is not the only or the most frequent source of change. Sometimes formal or explicit change just reflects 'implicit' changes caused by evolutions in society, politics or policy making. Once achieved, its effects are often not always those intended. But we still have to understand the conditions under which constitutional change and reform are possible in different federations if we want to predict the feasibility of deliberate change and its relationship with the long-term unintended evolution of federal institutions.

Reforms are typically proposed regarding the distribution of powers and responsibilities between levels of government, the allocation of fiscal resources or spending power, the role and influence of second chambers in the representation and participation of the component units in the federal institutions, or the special status of one or several culturally distinct units. In other cases, the units will undertake a reform of their constitutions or regional statutes to improve their effectiveness or reinforce the symbols of their autonomy or the rights of their citizens. The intensity of the public discussion, the content of the reform demands, and the likelihood of adoption of the formal constitutional reform vary considerably in different federations.[1] Some federations have been able to initiate and adopt limited constitutional reforms and others have had to adapt informally without endeavouring formal amendments. In Switzerland, for example, there have been 110 constitutional amendments since 1891, while, in Australia, from 42 reform initiatives since 1901, only eight have been approved (Watts, 1999: 2). After several failures in the adoption or ratification of constitutional reforms of federalism, some federations have abandoned this way of renovation and have sought more creative means of non-constitutional renewal (Lazar, 1997). In most federations, however, a growing gap has been perceived between the *reform need* and the *reform capacity* of the system (Scharpf, 1988, 2006).

When comparing federations where formal reforms have been achieved with examples where this has not been the case, a primary question comes to the fore. Why and how do constitutional reforms enter the political agenda; and why are they finally adopted or why do they fail? In other words: under what conditions do demands to change a federal design emerge in federations? Are some federations

more prone to the emergence of reform initiatives than others? Are there variations among them in the extent to which reform negotiations fail? Additional questions thus arise. What explains the occurrence, content and outcomes of formal federal reform? How do the institutional arrangements and the federal process influence the emergence of reform initiatives and the achievement of feasible outcomes *vis-à-vis* other factors, such as the strategies of the political actors (political parties or governments), the modes of reform themselves, the pressures in the environment or the very issues involved? To what extent may the outcome of reform processes be explained by the history of national institutions, the institutional path dependency or the internal logic of actors' incentives and interactions? How does the type of federal system influence the content and the type of constitutional change and reform, and how does it affect their success or failure? Do different domains, modes or procedures of federal reform vary in their ability to succeed?

In the following sections, we outline a conceptual framework for analysing constitutional change in federations. We start by explaining the tensions and dynamics inherent in federal systems that cause the need for adaptation and formal amendments of constitutions. Then we introduce a conceptual framework for understanding constitutional change after reviewing some approaches and concepts. Our concept of constitutional change here is fairly broad and not synonymous with constitutional reform. It includes formal amendments or formal constitutional reform, but also implicit change or constitutional evolution derived from institutional change in federal rules or legal interpretations. We will use the concepts 'constitutional change', 'federal change' or 'federal constitutional change' interchangeably. This article aims at a more nuanced analytical distinction among four types of constitutional federal change: reform, innovation, evolution and adjustment. It is suggested that this framework be applied in further research, which is needed to improve our understanding of federal change. The contributions collected in this special issue of the journal represent a fine selection of recent scholarship, which elaborates in greater detail and from different theoretical lenses important aspects of constitutional change in federal systems.

Constitutional Challenges of Federal Systems and Sources of Change: Tensions and Dynamics

Structures of a federation reflect a political "bargain" (Riker, 1964), which has to accommodate conflicting interests. It can be guided, but not determined by normative reasons, is influenced by actors' interests to extend their powers and has to be adjusted to the needs of dealing with public issues of a society. Therefore, the federal bargain has to create an institutional order supported by normative reasoning, balancing individual interests of actors holding power and responding to functional requirements of society. To make federalism work, the basic rules of this order are entrenched in a constitution. However, normative reasons for particular structures are ambivalent and can be contested, the allocation of powers is unstable due to actors' efforts to increase their share, and functional requirements change due to the dynamics of modern societies and policy making. For these reasons, federal constitutions have to be at the same time stable and flexible (Kincaid, 2005: 442; Bednar, 2009), and they have to be changed from time to time. This holds true, in particular, for democratic federations, where

the 'bargain' on constitutional rules not only concerns the allocation of power and resources between levels of government, but also determines how governments interact in policy making and how federalism relates to democracy.

Normative Ambivalence

According to the normative theory of federalism, constitutions are considered as decisive elements of federations, entrenching the basic compromises on the allocation of power and on rules of operation. But even as a normative framework, constitutions are not protected against political dispute. By accommodating conflicting goals, they rather tend to hold dispute in abeyance (De Raadt, 2009). Regarding the allocation of powers, normative theories may provide criteria, which can be applied depending on interests and ideas (Treisman, 2007; Hooghe and Marks, 2009). But, given the political nature of decisions on centralization and decentralization, the particular structure can always be contested. Moreover, the relevance of criteria changes due to social and economic developments or if new political coalitions gain influence. Therefore, decisions on decentralization or centralization and the respective constitutional rules usually remain ambivalent.

Beyond that, the federal bargain causes a tension between shared rule and autonomy of governments. Autonomy enables groups to pursue their particular goals, while it reduces the chance to deal with common problems requiring co-ordination across boundaries of jurisdictions and between levels. Shared rule, on the other hand, increases transaction costs in policy making, depending on the particular pattern of multi-level governance. It also constrains governments' ability to pursue the will of their citizens, while autonomy may have a "demos-enabling" effect (Stepan, 1999).

Linking federalism to democratic government creates additional sources of tensions. Democracy stipulates equality among individual citizens, but it also requires considering the rights of territorially organized groups. Therefore, democratic federations are confronted with a "continual tension between persons and places" (Kincaid, 2002: 134). The principle of equality of citizens vested with individual rights tends to require uniform decisions and supports centralization of power in federal systems. Hence, liberal democracy apparently is in conflict with federalism, implying decentralization and autonomy of lower-level governments, even if decentralized structures provide citizens with increased opportunities to participate. In a similar vein, the political structuring of interests may interfere with the allocation of power in federal systems. Societies dominated by class conflicts or functional differentiation of interests tend to cause centralization of power, while culturally or ethnically diverse societies tend towards decentralization of many policy areas. In addition, the organization of democracy not only increases the complexity of institutions in federal systems, it also creates a "contradictory potential of institutions" (Onoma, 2010: 65). The territorial division of power by a federal constitution can interfere with the 'intra-governmental' allocation of powers in democracy, e.g. by limiting the power of legislatures and extending the power of executives or courts. Tensions vary with the particular patterns of democracy and federalism, but cannot be avoided by any constitutional design (Benz, 2009).

Finally, different federations pursue different values and strategies that are embedded in their constitutional design options—e.g, self-government and autonomy

arrangements, integration and participation in the federal institutions, recognition of collective rights and symbolic recognition of specific groups in their treatment of the more relevant socio-political diversities and the accommodation of ethnic identities and the achievement of unity. Those values and definitions of the political community are not always shared by all the constituent units. This creates an additional source of ambivalence and possible conflict around the federal constitution (Colino and Moreno, 2010).

Instability

Given these inherent ambivalences and contradictions in the structures of federal systems, constitutional rules are often subject to disputes about normative reasoning. Therefore, they can be challenged by actors trying to extend their power. Politics in federations is usually not only about conflicts of interests related to a particular policy, but also concerns institutions and positions of actors in the federation. This gives actors opportunities to incrementally shift the balance of power in a direction favourable to them. As a consequence, a federation may suffer from "authority migration" and notorious instability (Riker, 1964).

Recent theories of federalism have emphasized this instability. Accordingly, constitutions are considered as agreements among actors who consent on binding rules in order to solve collective choice dilemmas and enable effective interaction. Generated by bargaining, constitutions are subject to recurring attempts of individual actors to renegotiate rules. While stability is defined as an "institutional equilibrium whereby formal rules and individual motives generally and over time remain in agreement" (Filippov *et al.*, 2004: 13), instability results when rules and individual motives diverge. Stability is said to be rather unlikely in a federal system where the allocation of powers is vulnerable to attempts of governments to extend their powers (Bednar, 2005). Moreover, constitutional contracts between governments expressing the 'federal bargain' can never establish rules for all future situations; they are inevitably incomplete (Rodden, 2006: 37–38; Farrell and Héritier, 2007). As a consequence, actors have not only incentives but also opportunities to alter the allocation of powers to their advantage. This process is self-enforcing. The more power a government accumulates, the better it is able to expand its powers. Therefore, federal systems seem to be doomed by either a tendency towards over-centralization or a tendency towards disintegration due to excessive decentralization of powers.

Scholars dealing with the problem of stability and equilibrium have observed different ways by which instability may be prevented, such as an integrated party system or a federal culture.[2] However, these conditions can hardly be deliberately designed and they are rather inflexible. Therefore, trends towards authority migration have to be counterbalanced by constitutional change, either though formal amendments or, as Jenna Bednar (2009) has suggested, by procedural safeguards like decisions of courts or parliaments.

Social Change

Constitutions of federations are also affected by processes of social change. They can lead to a 'rescaling' of tasks and calls for a revision of the allocation of powers and

resources (Benz, 1985). Change in social cleavages reflected in the organization of societal interests and parties can impact on the organization of democratic federations, too. These dynamics are caused by three mechanisms of collective action in societies (Bartolini, 2005): exit/entry (or mobility of actors) across the territorial boundaries set by political systems; loyalty of individuals to a group, which they develop due to their willingness to identify with others and to achieve common goods; and political structuring of actors who wish to pursue their interests in collective action. The structure of a federal system is affected by each of these three mechanisms of collective action.

Increasing mobility determines the scope of interdependent societal activities and, as a consequence, of the problems governments have to deal with, but it also leads to inequality between territories. On the one hand, exit from and entry into a territory may cause external effects that cannot be managed by decentralized powers in small territories. Even the opportunity of actors to move or to relocate capital across boundaries of jurisdictions creates interdependence. On the other hand, mobility regularly affects regions in different ways and causes fiscal imbalances in federal systems. Economic activities generate regional clusters of production, which strengthen the role of decentralized governments. But some regions profit and others suffer from territorial reallocation of investments. Regions with dynamic economies attract young people who leave behind an ageing population in less attractive rural areas. Depending on the particular conditions, the effects of exit and entry justify centralization and decentralization of powers. In any case, the contrasting shifts in boundaries of social spaces often call for an intergovernmental management of interdependence, if not a reorganization of territories.

Closely connected to processes of exit and entry across territorial boundaries are changes in loyalties. For political systems, group loyalty is a basic condition for general support, which is essential for legitimizing redistributive decisions. The increasing mobility across political boundaries in a globalized society can reinforce or weaken particular identities of groups, depending on whether it results in social plurality in a particular territory or whether it reinforces homogeneity and gives rise to defensive nationalism. Which effect prevails is determined by different conditions, in particular the responsiveness of political leaders to loyalty claims. As a consequence, processes of changing loyalty can either support demands for uniform policies in a federal system or can give impulses towards more diverse policies or institutional arrangements.

Finally, political structuring of collective interests—in particular, changes in political parties and party systems—has significant effects on federal structures. In order to gain elections, parties tend to focus on policies which are salient in elections. Therefore, they allocate organizational resources on to the level where relevant powers are wielded (Chhibber and Kollman, 2004). But parties also stand for particular collective goals of social groups and reflect social cleavages and ideologies. If they organize class conflicts or functional differentiation, their structures cut across territorial differentiation in federations. Parties can also organize interests of groups living in a specific region. More often than not we find party systems which combine state-wide and regional parties (Hepburn, 2009). Social change altering the relative strength of the parties can lead to a shift towards one of these types of parties, with considerable impact on the politics of federal systems.

Given the dynamics of any federal structure, stability cannot be guaranteed by constitutional arrangements or values. Against the usual assumption of some rational choice institutionalist approaches to federations, it appears that in reality there is no such thing as an institutional equilibrium which implies a self-enforced balance of power. We can only expect relative stability to result from continuous corrective processes responding to an imbalance of powers and resources (Bednar, 2009). It is successful constitutional policy and change that provides one basic mechanism for maintaining a federal system. As a consequence, instead of searching for permanent or ideal federal arrangements, we have to look for factors that explain success and failure in constitutional change in different federations.

Constitutional Change in Federations: Modes, Mechanisms and Outcomes

Approaches to Constitutional Change and Reform in Federations: Identifying Dilemmas, Propensities and Triggers for Change

Scholars agree that federal systems are exposed to dynamics of politics and society and that they have to adjust their institutional structures accordingly. However, federal constitutions are usually described as rather rigid. Therefore, federalism is confronted with a fundamental dilemma. On the one hand, a rigid constitution can prevent amendments which are necessary to adapt a federal order to changing external conditions. On the other hand, a flexible federal constitution allows for adaptation, but can be exploited by actors to extend their power. Thus, change is necessary for maintaining stability, but it is also a source of instability. At the same time, instability can be caused by stagnation, if actors sticking to their positions impede necessary adaptation to societal and political conditions and if constitutional rules cause deadlock in policy making.

In research dealing with this dilemma, representatives of an 'old' institutionalism—i.e. scholars applying legal theories of federalism—regarded constitutional change as a solution, independent of whether it results from amendments, from court decisions or from change of conventions (Wheare, 1964: 209–236; McWhinney, 1981). However, they did not elaborate a theory of change and regarded institutions as more or less static. In contrast, political science approaches and the 'new' institutionalism are focused on dynamics. Actors pursuing their interests and, in order to do this, tending to expand their powers are considered as driving forces (Riker, 1964; Filippov *et al.*, 2004). But again, constitutional change is not an issue in this literature. Neo-institutionalist studies of policy making and institutional design in democracies have sought to explore how several types of institutional arrangements and actors' constellations influence reform capacity. These studies analyse the modes, the conditions and the consequences of the institutional design within democratic political systems. The theoretical debate has confronted authors who optimistically assess the possibility of institutional choice *ex novo*, with those who are sceptical about successful deliberate institutional design. Other researchers have studied the feasibility and obstacles of concrete administrative or institutional reforms in periods of regime change or the transformation of existing institutions, such as electoral systems, parliaments or territorial accommodation.

Until very recently, federalism scholars had explained processes and outcomes of federal change and reform by resorting to several structural or conjunctural

idiosyncratic factors in each case in an *ad hoc* fashion (see Colino, 2010a). Some studies dealing with constitution making and constitutional change in different countries have examined the determinants of decision processes and outcomes in federal systems. A group of empirical studies, related to the 'politics' or the 'political economy' of constitutional reform, have looked at agenda setting, negotiation processes and adoption or ratification procedures in different unitary and federal countries (Lutz, 1994, 2006; Manfredi and Lusztig, 1998; Voigt, 1999; Lorenz, 2008; Hönnige *et al.*, 2011). These studies have analysed the factors that influence access to the agenda of reform initiatives, reform discourses and ideas by looking at the relative importance of the procedural or structural factors *vis-à-vis* the strategies, resources, tactics, sequence and negotiators' shared norms and perceptions. In cases of failed reforms they have tried to explain the conditions of that failure, observing, among other factors, the role of negotiation procedures, the power of elites and the intervention of citizens in the design and the ratification of agreed reforms. In many cases, path-dependency or cultural and actors' interests have dominated explanations. These efforts to come to terms with federal constitutional change have resulted in a number of case studies and explanations of concrete processes, but have not yet come to a theoretical framework that can support comparative research. Only recently have scholars begun to look for a more generalizable explanation that accounts for the variation among federations and across types of reforms (Broschek and Schultze, 2007; Benz, 2008a; Braun, 2008a, 2009; Köppl, 2008; Lorenz, 2008; Behnke, 2009; Behnke and Benz, 2009; Simeon, 2009; Grotz and Poier, 2010).

In order to compensate for the weaknesses of the different approaches or conceptual lenses, an analytical framework is needed to sort out the different meanings of federal constitutional change according to different dimensions. First, we should distinguish different modes and objects of constitutional change. Second, we can identify mechanisms of change, i.e. patterns of causal relations between actions, constraints and effects on structures and processes. Finally, such a framework should also strive for an evaluation of federal constitutional change that takes into account different outcomes caused by different mechanisms and producing particular modes of change.

Modes of Constitutional Change in Federations

Institutional change in general and constitutional change in particular may be a blend of accident, non-deliberate evolution and deliberate design (Goodin, 1996). For that reason, it seems reasonable to differentiate between constitutional change as long-term systemic evolution and constitutional change as a political reform process or public policy, an intentional activity of reform of the federal institutions carried out by the actors, where interest conflicts and actors' strategic behaviour occur. Both modalities seem somehow related in a complex fashion, which is still under-conceptualized. Constitutional reform proposals and policies undertaken in several federations can be understood only in the light of the global evolution of those federations in the last years, since although they can produce similar effects they have had very different contents and have been guided by different rules in each country.

There are, thus, various ways to categorize federal constitutional change. It may be defined according to how we define federal institutions—as rules, as organizations, as

norms, as practices or conventions. In relation to the time perspective taken, change can be long term or short term. Also, it can be distinguished according to its object. It may concern formal rules, institutions or organizations in several domains that are reformed, or can result from practices which implicitly and in a legitimate way modify the effective constitution. Aiming at a general analytical framework, we abstract from particular features of federations that may be affected by change and focus on two broader conceptual dimensions. First, we distinguish constitutional change which is intended and deliberately designed by actors, and change that emerges from unintended effects of collective actions. Second, change may have effects of a different scope. It may affect the whole system or refer only to an organization, particular rule, or to policy sector. By combining these two dimensions, we may define four different modes of federal constitutional change that appear in Table 1.

- *Reform* results from deliberate change. It refers to the occasional conscious redesign of the basic rules of the system affecting its structure or general configuration in terms of powers, representation and resources. This type of change takes place according to particular amendment rules and procedures established in federal constitutions, or the negotiations and pacts between parties and its parliamentary representatives. Thus, constitutional reform is not restricted to amending the written text ("explicit constitutional change") but can also result from practices which implicitly and in a legitimate way modify the effective constitution ("implicit constitutional change", Voigt, 1999: 145–176), for example, through the revision of other subconstitutional laws or subnational constitutions or statutes (Colino, 2009).
- By *innovation* we mean an intended change or a deliberate reproduction affecting some specific elements of the system or a policy sector. It would mean a reshaping or partial modification and redesign of some institutions and rules. It would refer, for example, to the design or the creation of new interaction, decision or aggregation rules in one institution or one sector, the regulation of relationships by establishing formal bodies allowing discussion or negotiation, the transfer of competencies or

Table 1. Modes of federal constitutional change

		Degree of intentionality	
		deliberate change	unintentional change
Scope	the whole system	*Reform* Federal change as renegotiation and agreement among the actors on the basic rules of the game	*Evolution* Federal change as systemic transformation, reflecting social change and affecting the interaction of governments
	parts of the system	*Innovation* Federal change as deliberate reshaping or partial modification of some institutions and rules, seeking a new power balance	*Adjustment* Federal change as transformation of the configuration, operation and legitimating beliefs of some components of the system

budgetary changes in particular sectors in public policies or the regulation of the legal spending capacities in a sector.

●	*Evolution* denotes the transformation of federal structures. It results not necessarily from intentional action but is caused by an interplay of institutionalized and informal interactions affecting the general characteristics of the system as a whole. This mode of change may refer, for instance, to the emergence of new configurations or structural patterns, such as the greater or smaller centralization/decentralization in spending, a particular horizontal or vertical allocation of powers, or to general changes in the informal patterns of the governmental actors' interaction.

●	*Adjustment* refers to non-deliberate, spontaneous change, which affects some parts or specific institutions of the federation or different policy sectors by means of the daily occurrence of formal or informal modification of rules, structures or legitimizing beliefs. For instance, more and more sectors of public policy work with an intergovernmental element for their solution, for which new institutional mechanisms are devised to channel concertation, negotiation and joint financing of policies.

These four models of change cannot always be neatly separated empirically, since in practice they obtain simultaneously in federal systems. It seems, however, worthwhile to strive for the analytical distinction. They imply different causal mechanisms in their workings and, therefore, their comprehension would require diverse theoretical lenses and approaches.

The Objects of Constitutional Change

In all of those modes of change, four main institutional domains usually constitute the object of constitutional change and reforms (Colino, forthcoming).

●	Domain of authority or competencies: Rules that grant more or less autonomy or assign jurisdiction over sectors of public activity to the governmental levels.

●	Domain of fiscal relations and fiscal autonomy: Rules that allocate fiscal resources between levels, producing redistribution and solidarity or maintaining the differences or existing imbalances.

●	Domain of representation and participation in central decisions: Rules that refer to the representation in central decisions or the creation or improvement of vertical and horizontal intergovernmental bodies with the purpose of establishing joint-decision or co-ordinating mechanisms.

●	Domain of symbolic or community recognition. Rules that recognize certain principles or values or distinguish symbolically certain constituent units.

Mechanisms of Federal Change

These modes of change affecting different domains can be linked to particular mechanisms, i.e. processes of collective action in a federal system which in one way or another have an impact on constitutions. However, we do not suggest that a particular mode of change can be explained by a particular mechanism. Rather we assume that all mechanisms interact and that the actual outcomes are caused by different combinations

of mechanisms. For this reason, we have to understand federal dynamics and change as a process evolving in sequences of deliberate and unintended actions, of formal and informal change, and shifting between periods of systemic change and sub-systemic innovation or adjustment as well as between periods of stagnation and reform.

In this conceptual framework, federal constitutional change can have two principal sources and can be focused on two different action levels. First, change can be caused either by intended policy making or by unintended effects of collective action or external forces influencing the distribution of power and resources. Mechanisms of intended change can be regarded as a policy making process between actors participating in different roles and with different powers. Unintended change is brought about by tensions and competition due to conflicts of interests between actors or the impact of social change on structures of powers and resources. More often than not, unintended evolution and adjustment emerges if new ideas get ground in a political system or if rules are reinterpreted either by courts or by 'epistemic' communities (in particular by lawyers).

On the other hand, change can be focused, or can be initiated or exercised, on the constitutional level or through decisions in 'normal' policy making affecting the validity of rules or the allocation of power and resources. These two types of sources of change and the different level produce four types of mechanisms (depicted in Table 2), which can be related directly to the four modes of federal change presented in Table 1.

Constitutional policy making. In view of significant constitutional reforms in a number of federal states, as well as the European Union, political scientists recently have shown new interest in constitutional policy making.

A number of empirical studies have looked at constitutional reforms and the processes of negotiation, decision and implementation of constitutional reform policies or amendments in different federal countries. Many of them have regarded federalism as a major issue usually discussed in constitutional change processes. They have also tried to explain the determinants of constitutional change by looking at the processes of negotiation of the original constitutional pact, the discussions on their reform or

Table 2. Mechanisms of federal change

		Principal causes	
		intentional actions and constraints	institutional tensions and ideas
Initiated at	constitutional level	*constitutional policy making on federal rules (agenda setting, negotiations, majority decision)*	*intergovernmental competition and/or 'paradigmatic' shifts in constitutional ideas and values*
	level of normal policy making	*'implicit' change of intergovernmental rules and patterns of governance practices, such as policy experimentation*	*Change in court decisions and legal interpretation and discourses*

Source: own elaboration

later revision, at how the reform processes take place and under what historical or institutional conditions reforms become possible (Banting and Simeon, 1985; Simeon, 2009). Influenced by approaches to the study of policy-making processes, they have considered constitutional reform policies as not radically dissimilar from normal policies. They have thus tried to analyse under what conditions political actors demand or initiate constitutional reforms or conduct negotiations for constitutional change. To that end, they have studied what factors affect the entrance in the agenda of reform initiatives, the reform discourses and ideas and the development of negotiations and their results (Colino, 2010b). Some of these studies emphasize the goals, the knowledge and the power of some actors and their choices and deliberate decisions at certain foundational or renegotiation moments of the constitutional pact. The main assumption of these studies has been that designers of the constitution know the effects of different alternatives and are able to control their consequences, and that the adoption of one or another alternative will depend on the negotiation among the actors. Therefore, the evolution of the federations may be steered by means of an appropriate design. For other studies, processes of constitutional reform imply not only negotiation and bargaining but also an exchange of ideas and new values, leading to a redefinition of some actors' identity or of the very political community (Olsen, 2002). In sum, for this approach, constitutional change depends on agreements among elites with diverse interests, who, at certain moments, achieve stable pacts that may change during constitutional processes. Conscious or deliberate design is, therefore, possible and institutions matter, since they establish the rules of the game to redesign the very institutions.

Regardless of the different approaches used to analyse the process of constitutional policy making, studies distinguish three interdependent stages. The process starts with setting the agenda by actors interested in a revision of the status quo, continues with negotiations of proposals for reform and ends with a decision on proposals according to formal rules of constitutional amendment. Institutionalist explanations have emphasized the relevance of amendment rules and, following from them, the (usually high) number of veto players (Tsebelis, 2002). However, we should not ignore that veto players decide on an agenda and on reform proposals negotiated among different actors.

The dynamics of agenda setting are influenced mainly by public discussions initiated by social groups and the media. In federal systems, constitutional issues usually attract attention in intergovernmental relations, if governments perceive imbalances in the allocation of powers or finances or if policy making ends in deadlock or inefficient results. Moreover, experts may be able to instigate debates on federal constitutions. However, as Simon Toubeau explains in his contribution to this special issue, political parties play an important role in setting the agenda if the integration of a federation is at stake. Thus, regardless of the particular theory of agenda setting applied, we have to be aware that federal constitutional politics right from the beginning may evolve in different ways depending on the type of conflicts and the actors using agenda power. Presumably, constitutional agendas determined by governments or experts tend to be formulated in a more pragmatic way, focused on what is feasible in reform processes and usually are restricted to innovation of parts of the federal system, whereas agendas resulting from party politics tend to be more open to significant change at the systemic level.

Negotiations constitute the basic process of constitutional policy making. If they fail to produce a result, veto players do not play any role. If negotiations end with proposals that disregard relevant interests, the ratification of proposals is put at a high risk. The same holds true if negotiators settle compromises at the lowest common denominator. Processes of constitutional negotiations can be organized in different ways and may include different actors. But usually, the decision on a proposal submitted to formal ratification is made by representatives of governments of the different levels or committees including members of parliaments from different parties. Therefore, one could expect that bargaining prevails. In this case, constitutional reform would hardly bring about far-reaching changes and would rather end in incremental amendments, if negotiators represent or control veto players.

However, the arenas of negotiation and ratification do not necessarily overlap (Weaver, 2000). Ratification by a referendum is an open process that can hardly be controlled by governments or parties. The same holds true if parliaments have to ratify with a qualified majority and governments are dependent on the support of opposition parties, which are not represented or under-represented in negotiations. In order to reduce the risk of ratification failure, proposals for constitutional change need to be justified by general reasons. This is presumably the main reason why negotiation processes do not proceed as a pure bargaining game, but shift between bargaining and cooperative problem solving ('arguing'), as Astrid Lorenz (2008) has shown in her studies.[3]

It goes without saying that amendment rules entrenched in federal constitutions, in particular the qualification of majorities required and the process of ratification, are a factor that must be considered when explaining constitutional reform. However, studies have not yet confirmed assumptions referring to the number of veto players (Lorenz, 2005; Grasl and Detzer, 2009). Moreover, in view of the unclear results, we have reasons not to overestimate decision rules (Rasch and Congleton, 2006). From this, it follows that much more emphasis needs to be put on agenda setting and constitutional negotiations processes, in particular since these are the processes that may be influenced by other factors mentioned in the literature, such as ideas (Braun, 2009), bargaining power (Heckathorn and Maser, 1987), pressure of social groups (Erk, 2008) or policy transfer (Elkins, 2010).

'Implicit change' of intergovernmental rules and patterns of governance practices. Constitutional reforms may be more or less differentiated from normal policy making (Benz, 2011). For this reason, policy making on issues that have an indirect impact on constitutional rules has to be included in the analytical framework as a distinct mechanism of change. The ongoing innovation of institutions in normal policy making has always been considered an important source of change, and theories of constitutional change have incorporated the possibility of "implicit change" (Voigt, 1999).

Studies on federalism have argued that governance tasks in different sectors of public activity, such as, for example, the demands of the welfare state or economic management, would explain the change of federal institutions (Obinger *et al.*, 2005; Braun, 2008b). This evolution may vary in different sectors of public policy. It is, therefore, possible that centralization and decentralization or co-operation and competition can occur at the same time in a system within different sectors of public activity

(Benz, 1985; Münch, 1997; Hesse and Benz, 1990). According to this explanation, federal institutions would change when they no longer work or solve the problems for which they were designed, by incremental adaption to the new tasks to recover effectiveness.

There is no doubt about the relevance of implicit change, of emergent transformations resulting from the ongoing practice of policy making. However, when we are interested in deliberate change, we have to ask how normal policy making is linked to constitutional reform. The outcome of reform depends to a considerable degree on the implementation of changed rules in normal policy making. We also observe that conflicts on particular issues influence the interest of actors in constitutional reform, the way they behave and the scope of the agenda. Thus, constitutional and policy change are interdependent mechanisms and their linkage can explain federal dynamics (Benz, 2008a).

This aspect is important to understand constitutional reform, which can be more or less entangled with normal policy making. As we observed, for example, in Germany, recent constitutional reforms, which started as a project of modernization of the federal system, focused on details of legislative, administrative and financial issues and were influenced strongly by experts in administration. The negotiations became more and more overloaded with issues and tasks of specialized departments of government, while the more general goals disappeared from the agenda. This development was due to an organization of constitutional negotiations which hardly differed from normal legislation affecting federal and *Länder* governments. Constitutional reforms in other federal systems have been clearly separated from normal policy making, either by a particular organization or by a clear focus on basic rules and norms.

However, the mechanism of institutional change through normal policy making can not only constrain, but also trigger constitutional change, at least in a decentralized federal system, as suggested by Jenna Bednar in her contribution. By allowing or supporting experimentation at the lower levels, federal governments can induce change of the federal constitution or promote flexibility. Innovation from below can either continue in constitutional reform or can set off change by policy transfer between constituent units. Contrary to what theories of competitive federalism tell us, this mechanism does not work automatically and it is often blocked by divergent interests of the central government. Thus, a 'robust', i.e. a stable and flexible federation, requires a particular linkage of constitutional policy and normal policy, which are made in distinct but interacting arenas and thus establish a kind of loosely coupled system.

Intergovernmental competition and/or 'paradigmatic' shifts in constitutional ideas and values. When looking at unintended change, we find many possible explanations and mechanisms in theories of self-organizing systems or historical institutionalism. However, as Mahoney and Thelen (2010: 6) have pointed out, these theories tend to overestimate institutional constraints and emphasize continuity rather than change. Constitutional evolution is, indeed, a product of human action, constrained by cultural norms or institutional history. Therefore, it develops slowly and in an incremental way. Evolution is subject to many influences that cannot be controlled in a rational way by rational designers. It proceeds in continuous interaction between formal and informal institutions that can lead to mutations of the constitutions created in a founding

moment. For this perspective, change of federations will, in general, depend on the change of economy and society. It will transform constitutions independently of any intentional design, until it approaches congruence with its cultural or social bases (Erk, 2008). Also, due to the peculiar configuration of various structural factors in each country, persistent national 'paths' of development will be followed.

However, in the context of federal systems, we should not rule out dynamics of evolution and adjustment caused either by *intergovernmental competition*, which can be vertical or horizontal, or by a *paradigmatic change of ideas and values regarding the constitution*. The first mechanism is outlined in this issue by Angustias Hombrado. Significant constitutional change can occur in an asymmetrical federal constellation, if regional governments, by claiming to represent a nation or particular community, succeed in gaining powers and autonomy. This process can end in an asymmetrical federalism, but usually induces efforts of other regions to be treated equally. As is revealed by the Spanish case, such a competition can lead to a dynamic evolution without constitutional reform.

The second mechanism, the paradigmatic change of ideas (Benz, 1984, 1985), has been included recently in theories of historical institutionalism (Liebermann, 2002; Béland and Cox, 2010; Broschek, 2010; see also Jörg Broschek in this special issue). Ideas, variously described as frames, belief systems, scripts, concepts, paradigms, etc., are important for legitimizing institutions and constitutions (Braun, 2009). While federalism is an important legitimizing concept by itself, discourses on changes usually deal with particular paradigms or varieties of federalism, such as competitive or co-operative federalism, treaty federalism, multinational federalism. Moreover, the concept of subsidiarity has gained impact in constitutional debates in European federations during the last decades. These ideas may guide constitutional reforms. But more often than not they bring about constitutional evolution or adjustment as they co-ordinate perceptions of all actors in the federal system on a certain normative framework, legitimize particular structural effects of practice and de-legitimize others. For instance, the acknowledgement of the "distinct society" concept in Canadian federalism had a significant impact on federal constitutional development without constitutional reform. In a similar vein, the consensus on the subsidiarity principle ruled out a functionalist justification of European integration which prevailed until the 1970s. Constitutional evolution may be constrained by path-dependency, but there are certainly periods of significant change when new ideas arise and institutions are in conflict with them.

Change in legal discourses and legal interpretation by courts. A more incremental evolution is caused by changing legal discourses and decisions of (constitutional) courts. Although they may touch on issues of general constitutional relevance for the federal order, decisions of courts usually refer to particular policy issues and individual cases. So they are part of the ongoing processes of normal politics. They usually stem from intergovernmental tensions and jurisdictional or distributive conflicts, and from changing policy ideas in different sectors of public activity. Yet, by reinterpreting constitutional norms, courts and the 'epistemic community' of lawyers can contribute to federal change. The role of courts in interpreting and reinterpreting federal institutions and rules varies between federal states, as outlined by Jan Erk in

this issue. While he emphasizes the impact of different societal constellations on court decisions and their relevance for federal change, other theories regard courts as actors responding to expectations in politics (Vanberg, 2004). The institutional position of courts in a federal system and the election of judges are also said to determine outcomes (e.g. Bzdera, 1993). Regardless of which theory is held as appropriate, change in legal discourses and court decisions should be considered an important mechanism of federal change, in particular as it links policy developments and conflicts to paradigmatic changes of ideas. Courts and lawyers contribute to approproriate conflict resolution by implementing constitutional norms, but they decide with reference to normative frameworks and contribute to the evolution of these frameworks.

Table 3 summarizes the mechanisms of federal change proposed in this section.

Outcomes of Change

Given the possibility of change generated by different mechanisms, by constitutional and normal policy as well as by intentional collective decisions and emergent evolution and adjustment, we have to take into account that federal constitutional change can lead to different outcomes in terms of its consequences on the configuration of the system, its integration and effectiveness and, therefore, its stability and legitimacy. Usually, studies have also distinguished outcomes according to the scope (far-reaching or partial change) or the speed of change (revolutionary transformation or incremental

Table 3. Summary of the characteristics of mechanisms of federal constitutional change

	Constitutional policy making	'Implicit change' of intergovernmental rules and interactions and of governance practices	Intergovernmental competition and/or 'paradigmatic' shifts in ideas and values	Change in legal discourses and legal interpretation by courts
Level/arena	constitutional level	level of normal policy making	constitutional level	constitutional level or level of normal policy making
Sources/ causes	intentional actions and constraints	intentional actions and constraints	institutional tensions and ideas	institutional tensions and ideas
Typical mode of change	reform	evolution or adjustment	evolution or reform	evolution, adjustment or innovation
Main actors involved	parliamentarians, party leaders, heads of governments	federal and regional ministers and elected officials, non-elected officials in sectoral departments	governments, political parties, public opinion, experts	courts, legal academics, legal and policy experts
Examples in special issue	Lorenz, Behnke *et al.*, Toubeau	Bednar	Hombrado, Broschek	Erk

development), or they have measured results according to the modification of the status quo (reform or dead-lock). Our conceptual framework proposes to take into account an additional and more important differentiation, which is further elaborated in the contribution by Nathalie Behnke, Bettina Petersohn, Andrea Fischer-Hotzel and Dominik Heinz to this special issue.

If we consider constitutional change first as explicit reform, i.e. the formal amendment of rules and institutions, we can determine whether a reform ended with a final decision or whether it was blocked by disagreement among actors in negotiations or by a negative vote in ratification. Moreover, the result of a formal reform can be compared to the agenda defined at the outset. This way we can pinpoint more or less successful change of formal rules.

For the effectiveness or stability of a federal system, it is more important to know to what extent a reform or a federal change through any of the mentioned modes and mechanisms solves the problems defined by actors as relevant. To be sure, determining the extent of problem solving is much more difficult than to measure formal change (but see the approach of Behnke *et al.*, in this issue). None the less, we should be aware that formally adopted constitutional reforms do not guarantee that problems are solved. Not only do reforms never come up to expectations, they also may produce effects which have negative impacts in terms of effectiveness or integration of a federal system. In the Belgian case, for instance, a series of constitutional reforms since the 1970s have increased the tensions between the Flemish and the Walloon communities, with the consequence that now the country is on the brink of dissolution. In Germany, experts debate about whether the recent reforms of the federal system have significant effects on how federalism works and some argue that governability may even suffer due to the recent amendments of the constitution (Moore *et al.*, 2008; Scharpf, 2009).

On the other hand, failure of formal ('explicit') constitutional change does not necessarily lead to failure in terms of problem solving. In Canada, parts of the issues that constituted the 'Meech Lake Accord' and 'Charlottetown Accord', defeated in ratification, had been implemented in a process of "non-constitutional renewal" (Lazar, 1997). During this process, the federation apparently became more stable (Benz, 2008a). The impossibility of formal change or reform may lead to alternative mechanisms which may prove more efficient in terms of problem solving. Thus, by combining these two analytical dimensions, formal reform capacity and the achieved problem-solving capacity of federal change, we can distinguish four potential outcomes, all of which have relevance for empirical research (see Table 4).

As a consequence of this analytical distinction, an explanation of outcomes has to be differentiated accordingly. Most institutionalist approaches focus on decision making in formal reforms and seek to explain the extent of formal change (in particular, Tsebelis, 2002). But they do not tell us anything about the substance of change, i.e. whether problems are solved or not. Fritz W. Scharpf's (1988) model of the joint-decision trap goes beyond this perspective and considers the consequence of blockades of institutional reforms for policy making and problem solving. But, focusing on a particular federal system, i.e. co-operative federalism in Germany and in the EU, he expected ineffective incremental change rather than a solution to problems of intergovernmental policy making. So far no theory of constitutional change or reform

Table 4. Outcomes of federal constitutional change

		Formal change (compared to agenda)	
		Adoption	Blockade or rejection
Problem solving (integration, effectiveness)	improved	*successful reform or innovation*	*positive evolution or informal adjustment*
	not improved	*inadequate or insufficient reform*	*Institutional stagnation or malfunction*

Source: adapted from Behnke *et al.*, in this issue

consistently covers the distinction and potential divergences of formal and substantive change.

Some Theoretical and Practical Implications of the Conceptual Framework

We believe that the conceptual framework presented above can constitute a basis for developing a differentiated analysis and explanation of processes and outcomes of federal change. Such a theory has to consider the interplay of the different mechanisms of change arising under particular conditions. For instance, if constitutional reforms include the same governmental actors or parties with their particular interests which cause deadlocks in normal policy making, and if the reform is not guided by a new idea for renovating the constitution, it is likely that the process ends in the 'joint-decision trap'. Apart from distributive bargaining behaviour, this result will be explained by a close interference of constitutional and normal policy making. Depending on the particular conditions, reforms may end with a package deal or a compromise confirming more or less the status quo. This explains why, in Belgium, parties could agree on decentralization as long as this appeared as a positive-sum game, and why they fail to settle issues which imply redistributive conflicts. Under different conditions, a reform was possible in Germany, reflecting the lowest common denominator of interests of federal and *Länder* executives.

Effective change contributing to solving substantive problems is likely to occur if intergovernmental competition or paradigmatic changes in constitutional ideas set the normative frame of reference for reforms. Moreover, a dissociation of arenas of constitutional reform and arenas of normal policy making is a decisive precondition for this outcome. Experimental policy making in decentralized federations is certainly conducive to substantial solution of problems, at least if these problems relate to effectiveness of institutions. In divided societies with heterogeneous federal arrangements, intergovernmental competition can lead to a self-enforcing process of decentralization. In cases where it is not constrained by a constitutional agreement, it can cause negative consequences and can end in the dissolution of the federation.

Finally, legal discourses or court decisions and interpretations produce incremental adjustment of federal systems which are regularly considered as a stabilizing element. However, as can be concluded from Jan Erk's study, court decisions are ambivalent. By settling conflicts of normal policy making, they can make a federal system more

effective. But the juridification of politics can give rise to legitimacy problems, in particular in divided, multinational federations. Thus, again, we would expect substantial solutions of problems—not by particular mechanisms of change, but by an interplay of decisions in the judiciary and constitutional reform.

Certainly, these few remarks do not aspire to constitute a theory of federal change and the conditions of successful constitutional change in federations. They are only intended to illustrate the potentials of our conceptual framework for generating hypotheses. Much theoretical work needs to be accomplished. The contributions to this special issue also focus on selected aspects and cover only particular elements that may contribute to a more comprehensive theory. But, given the complexity of the issue, 'modules' of a theory linked by an analytical framework (Scharpf, 2001: 20) constitute the basis of progress in theory building.

The Contributions to the Special Issue

It goes without saying that the articles collected in this special issue cannot cover all aspects included in our analytical framework. However, by focusing on particular aspects, they contribute to theory building on constitutional change. The first three articles deal with constitutional policy making and reform, while the others analyse different modes and mechanisms of innovation, evolution or adjustment. Among them, Jörg Broschek's contribution widens the theoretical perspective to theories of historical institutionalism and gradual change.

Based on her comparative study of constitutional negotiations, Astrid Lorenz addresses the question: why do veto players usually agree to constitutional amendments? Lorenz complements theories on institutions and negotiations based on conventional rational choice approaches by including the dynamics of interaction orientations in the explanation. She establishes a typical sequence of bargaining and arguing and identifies favourable conditions for co-operation based on different interaction orientations. The article argues that actors can reconcile the conflicting logics of intergovernmental or party competition and joint decision making in constitutional politics through a sequence of bargaining and arguing. This, however, runs the risk of undermining the legitimacy and functionality of the constitution.

From a different point of view, Simon Toubeau develops a two-stage framework that focuses on the different avenues through which regional nationalist parties set the agenda and on the process of political bargaining between partisan actors that produce constitutional change. Toubeau advances four hypotheses that can be verified across countries during different moments in the macro-level process of restructuring, emphasizing the significance of the electoral conjuncture, a political system's institutional arrangements and the ideology of partisan actors in determining the power relationship between regional nationalist and mainstream parties in different arenas, as well as in conditioning the likelihood of constitutional change.

Nathalie Behnke, Bettina Petersohn, Andrea Fischer-Hotzel and Dominic Heinz report on a multi-country comparative project that tries to assess degrees and variations of reform success, focusing on cases of constitutional reforms concerning territorial institutions and arrangements in multi-level systems. In order to measure the success of these constitutional reforms, the article distinguishes between formal and

substantive success and failure. Substantive success is assessed utilizing two indicators: degree of agenda fulfilment and degree to which the reform is perceived as solving the constitutional problem. Analysing several cases of territorial reforms, they also distinguish between two types of problems—group and efficiency problems. The comparative analysis of formal and substantive success demonstrates that reforms can be at least partly successful in terms of substance, although failing formally; secondly, fulfilling the reform agenda seems to be a necessary but not a sufficient condition for solving the constitutional problem at stake; third, cases with group problems score higher on both indicators, thus, being more successful than cases with efficiency problems.

As Behnke *et al.* show, federal systems in culturally divided societies reveal particular patterns. Asymmetrical allocation of powers and resources seem to solve the conflicts, but cause dynamics of their own. Angustias Hombrado examines the role that non-specially empowered regions can play in processes of constitutional reforms, affecting the asymmetrical allocation of powers between the constituent units of a federal or quasi-federal state by raising anti-asymmetry reactions in the form of 'catching-up' and 'blocking' demands. A theoretical argument is developed concerning the causal mechanism linking several relevant conditions together (type of asymmetry, the distribution of national identities across regions, relative economic development and party politics) and lying between them and the alternative outcomes.

Based on a sceptical view of the prospects of constitutional reform, Jenna Bednar describes how federal unions can be structured to innovate yet accept predominantly productive changes. She establishes two main challenges that federations face: how to encourage costly state governmental experimentation, and how to tolerate mildly selfish experimentation. Without sufficient experimentation the system will not be robust to changing circumstances, both on efficiency grounds and in the system's robustness to external shocks. Bednar seeks to demonstrate how a robust federal system might enable both behaviours, to the benefit of the union, arguing that policy experimentation should precede formal alteration of the distribution of authority between federal and state governments.

From a different viewpoint, Jan Erk studies the development of constitutions. Based on a paired comparison of the behaviour of the Canadian Supreme Court and the German Federal Constitutional Court, he argues that constitutional court behaviour in federations reflects the societal composition. In concrete terms, constitutional courts in multi-nation federations let politics take primacy over jurisprudence, while constitutional courts in mono-nation federations play an important role in bringing about constitutional change. Erk's article proposes a sociological explanation with differences in democratic legitimacy between federations, with a single demos, and multi-nation ones where the federation represents a union between multiple demoi.

Also with an interest in constitutional development, Jörg Broschek evaluates the contribution of historical institutionalism for investigating and explaining both the origins and patterns of constitutional change in federal systems. He looks at three strands within the historical-institutionalist literature and asks what each can contribute to the analysis of constitutional change in federal systems. Applying a framework suggested by James Mahoney and Kathleen Thelen (2010), Broschek sketches how historically constructed constitutional regimes variously respond to demands for

change. According to the author, depending on how different federal regimes juxtapose inter- and intra-institutional elements, which are often reproduced in a path-dependent manner, constitutions offer entrepreneurial agents different avenues to encounter institutional rigidities and to exploit their reconfigurative potential.

Conclusion: Federal Constitutional Change as a Multi-dimensional Process

Federal systems constitute complex, 'multi-dimensional' configurations of institutions (Broschek, 2010; Colino, 2010a). They are confronted by internal tensions causing instability and external pressure for adjusting their structures. Constitutional change is, therefore, significant in order to stabilize a federation and to maintain its effectiveness. However, when looking at particular cases of change and reform, we find a multifaceted picture in terms of mechanisms and outcomes of constitutional change.

As explained in this article, change has to be considered as a multi-dimensional process as well. If we consider constitutional reform processes, we have to take into account that the outcome is shaped by the different stages of agenda setting, negotiations on amendment proposals and ratification of these proposals. Even if these stages are closely linked, they have to be analytically distinguished in order to identify particular conditions affecting actors' behaviour, interaction and decisions. Moreover, reforms are influenced by ongoing processes of politics and policy making, which may stimulate innovation or cause stagnation. Constitutional change has to be understood as a process shifting between the macro-politics of reform and micro-politics of innovation or adjustment. Dynamics are produced by different directions of this shift. Problems or deadlocks in policy making can lead actors to set constitutional rules on the agenda, intending to modify the conditions constraining normal policy making. In case of a successful reform, policy makers have to adapt their standard operation procedures to new rules. If a reform is voted down in ratification, the ideas and agreements can nevertheless induce 'implicit' change via innovations in normal policy making. Even without formal amendments of constitutions, it is possible that deliberate change can be brought about by experimentation and transfer of innovation.

Moreover, a reformed constitution more often than not results from a sequence of limited amendments. All reforms evolve in certain periods, but they are embedded in long-term historical evolution of federal systems. Evolution is shaped by innovative practices, by impacts of societal development, by strategic interaction among governmental actors interested in extending their power, by decisions on legal disputes related to constitutional norms and by discourses on ideas legitimizing or de-legitimizing a particular order. Depending on particular constellations, it implies constraining or supportive conditions for deliberate change.

As a consequence, developments in federal systems' constitutions reveal sequences of continuity and change (Olsen, 2009). We also may observe fluctuations between reform, adjustment, innovation and evolution, between formal and informal (Héritier, 2007) or intended and unintended change. In the longer term, the different modes, objects and mechanisms of change interact and together create quite different patterns of federal dynamics, producing different outcomes. Short-term developments, in particular constitutional reforms, are to be comprehended as events in a historical development of constitutions, which is driven by external and internal causes, by ideas and

power, by conservative and progressive forces, by centripetal and centrifugal tensions, and by opportunities and constraints produced by established institutions (see the contribution of Jörg Broschek).

The conceptual framework outlined in this article seeks to tackle this complexity of federal constitutional change. We do not intend to outline a comprehensive theory of constitutional change, although this special issue is intended to advance theory building. Rather, the purpose of the framework is to identify particular patterns of change which can be studied in empirical research and which can be explained by a limited set of variables. It also can be applied in order to systematize available empirical studies and draw some general conclusions from the knowledge they have accumulated. The framework, thus, can guide theoretical work. It implies that theories of constitutional change will necessarily focus on particular types or patterns and, therefore, have a limited range. However, we should be aware of the wider range of dynamic forces affecting the different dimensions of federalism. Certainly, one particular challenge for future research is to find out how, in the longer term, different modes and mechanisms of change are linked and what explains particular configurations.

By emphasizing the different modes and mechanisms of constitutional change and their interplay, the framework also evidences the need for further research, both related to theoretical approaches and systematic comparative studies. This research needs to take into account the variety of federal systems. The articles collected in this issue cover a number of cases, but they are limited to established democratic federations, including some emerging federal or regionalized states. Federations in Eastern Europe, in South America, in Asia or in Africa, as well as transnational federations like the EU, would broaden the variety concerning the historical background, the societal context, the institutional configuration or the constitutional problems. Multinational federations, asymmetrical constellations concerning economy or culture, high degrees of centralization or decentralization or variation in the institutionalization of democracy cause quite different challenges for constitutional change. Research on comparative federalism has made great strides in covering this variety, but we still lack good analytical concepts to reveal the relevant distinctive features.

Acknowledgements

Notes

[1]For Canada, see Banting and Simeon (1983), Russell (2004) and Hueglin (2008); for Germany, see Große-Hüttmann (2006), Hrbek (2006), Benz (2008b), Burkhart (2009), Scharpf (2009) and Sturm (2010); for Switzerland, see Freiburghaus (2005), Vatter *et al* (2006) and Braun (2009); for Austria, see Bußjäger and Hrbek (2005), Gerlich (2005), Konrath (2005) and Pollak and Slominski (2005); for Spain, see Orte and Wilson (2007), Colino (2009), Keating and Wilson (2009) and Tudela and Kölling (2009); for Australia, see Brown and Bellamy (2007), Galligan (2008); for the UK, see Münter (2005), Bradbury (2008), Trench (2008), Jeffery (2009) and Mitchell (2009).

[2]For a summary, see Lemco (1991).

[3]See, in particular, Lorenz's contribution to this special issue.

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