

Contemporary Issues in Comparative Politics

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Lecturer

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Assessments

- Assessment Component 1 – 60% in total
 - Long Essay - 2500 -3000 words (50%)
 - Present in class preliminary arguments (last week) (10%)
- Submit your presentation (powerpoint) on Moodle (December 13)
- Submit your essay on Moodle (January 10)
- Is the United States greatest country in the world? Why or why not?
-

Assessments

- Assessment Component 2 – 40%
- Exam (90 minutes) – During examination period (January)
- Contents: Week 1 to Week 4 (Introduction, State and Nationalism, Democracy and Authoritarianism, Political Economy and Development)
- 2 Parts:
 - Short Answers (4)
 - Short Essay (1)
- What to study?
 - Slides / Class discussions
 - Essential Readings

Missed week

- Options:
 - Next week Tuesday (21 November)- 3-7pm (one long class)
 - Next week Wednesday (22 November) 12-2pm (additional class)
 - In two weeks: Tuesday (28 November) 2-6pm (one long class)
 - In two weeks: Tuesday (28 November) 3-7pm (one long class)

Last Week

- Political Economy
- Economic Indicators
- Welfare States
- Development

WEEK 5 – Constitutions, Legislators, Elections

- Constitutions and types of constitutional design.
- Key distinctions between different types of constitutional polities.
- Judicial Review
- Legislatures
- Distinctions between types of electoral systems and their impact on representation.
- Mock Constitutional Convention – South Sudan!

Constitutions - Concepts

- Constitutions
 - *Fundamental and supreme laws, usually written in a charter, that establish the basis of a political system and the basis for other laws*



Constitutions

- Constitutional Design
 - Separation of powers
 - Responsibilities between levels of government
 - Responsibilities between branches of government



Types of Constitutions

- Flexible and Rigid Constitutions
- Separation of Powers:
Judicial Review and Parliamentary Sovereignty
- Federalism and Unitarism:
Federalism
Unitarism
- Authoritarian and Democratic Constitutions

Flexible and Rigid Constitutions

- Some constitutions are easily changed
 - These are more *flexible* constitutions
 - The most flexible constitutions may require only a simple legislative vote to change
 - Example?
 - Ex.: United Kingdom
 - Several documents with constitutional significance (eg. Magna Carta of 1215, Bill of Rights of 1689, Acts of Settlement of 1701)
 - Parliament is sovereign: If a majority passes a law, it is constitutional.
 - Note: customs in the U.K. mean that constitution does not change just on whims
 - British Bill of Rights vs European Convention on Human Rights

Flexible and Rigid Constitutions

- Other constitutions are more difficult to change
 - These are more *rigid* constitutions
 - These may require supermajorities of legislators, assent of many states in a federal system, etc. Examples?
 - Ex.: United States, amended only 17 times since 1791 (Bill of Rights).
- **First Amendment** : Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the **freedom of speech**, or of **the press**, or the right of the people peaceably **to assemble**, and **to petition** the Government for a redress of grievances.
- **Second Amendment**: A well regulated Militia, being necessary to the security of a free State, **the right of the people to keep and bear Arms**, shall not be infringed.

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Judicial Review and Parliamentary Sovereignty

- In some countries, the judiciary reviews the constitutionality of legislation
 - This is *judicial review*. Why is this necessary?
 - Ex.: U.S. federal courts and Supreme Court
 - Ex.: Germany, France, South Africa, etc.



Side note: Effectiveness of Constitutional Courts

Do systems of constitutional justice have an influence on the broader political process?

- Constitutional courts are effective if:
 - Political disputes are actually brought to review
 - The judge's decisions are accepted
 - The court justifies its decisions
- Most systems of constitutional review outside of democratic countries have been ineffective.

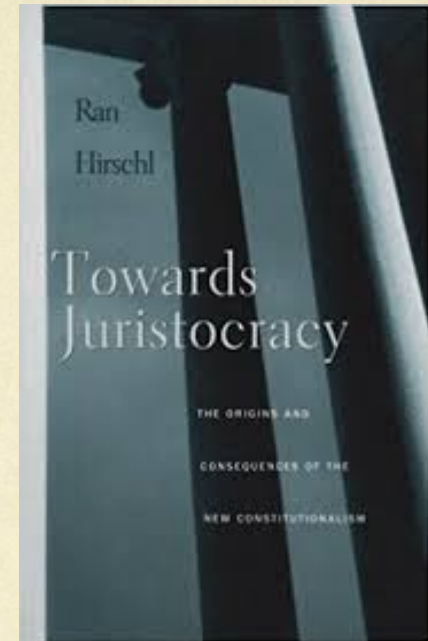
Ex. Poland's proposed reforms

Judicial Review and Parliamentary Sovereignty

- In other countries judicial review is not practiced
 - This is *parliamentary sovereignty*
 - Ex.: United Kingdom on most issues
 - However, no massive change in constitutional understanding due to national, norms, values, customs, and traditions.
 - So perhaps, institutions are not the only determinants of outcomes...

Judicial Review and Democracy

- Judicial review is controversial
 - Judges interpret the law
 - In so doing, they affect the law
 - For critics, this is “legislating from the bench”
 - Sometimes called *judicial activism*
 - Removes major issues from public debate
- Ran Hirschl, “Toward Juristocracy”
 - Canada, Israel, New Zealand, and South Africa
 - Strategic calculations by elites to protect their interests.



Judicial Review and Democracy



- Is judicial review anti-democratic?
- Plus side: Judges at times defend basic rights that are not secured by legislation
 - Ex.: Brown v. Board of Education (1954) and segregation
 - The Supreme Court declared that state laws establishing separate public schools for black and white students are unconstitutional.
- Down side: Judges at times may infer rights that should be determined through democratic electoral process
 - Debate: Including same-sex marriage in definition of marriage?



United States v. The Amistad

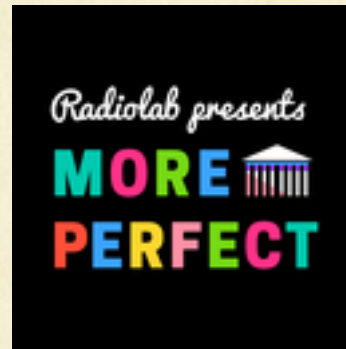
- In 1838, African captives, who had been kidnapped in Sierra Leone and illegally sold into slavery and shipped to Cuba, escaped their shackles and took over the ship (Amistad).
- In 1840, a federal district court found that the transport of the kidnapped Africans across the Atlantic was in violation of laws and treaties against the international slave trade.
- The Supreme Court ruled the Africans were entitled to take whatever legal measures necessary to secure their freedom, including the use of force.
- <https://www.youtube.com/watch?v=BJFDOvGMD0U>



Courtesy of California State Library

Podcast Suggestion

- <http://www.wnyc.org/shows/radiolabmoreperfect/>



- How does an elite group of nine people shape everything from marriage and money, to safety and sex for an entire nation?

Types of Constitutions

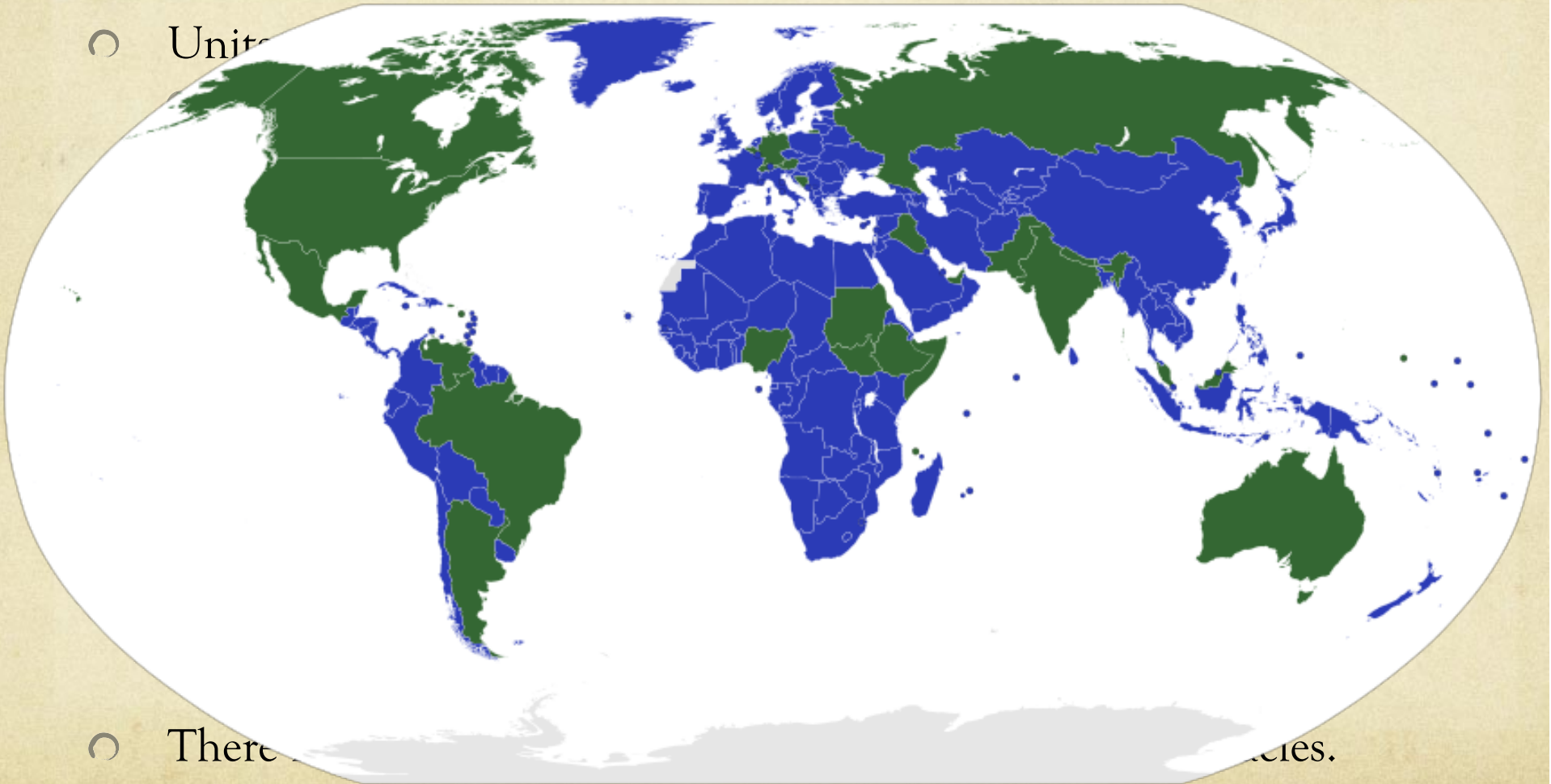
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Federalism and Unitarism

- Federal systems have semi-autonomous government levels below the national
 - States or provinces have some autonomy.
 - Examples?
 - Ex.: U.S., Germany, India, Brazil
 - Federalism may be defined by several features:
 - Constitutional guarantees for subnational governments
 - Independent subnational legislatures or executives

Federalism and Unitarism

Unit



There are 2^k series.

WHAT ARE THE EFFECTS OF FEDERAL CONSTITUTIONS? STABILITY

- Federalism can impact stability in divided societies
- Plus side: May support stability
 - Federalism gives different groups (ethnic or regional, e.g.) some power and stake in system
 - May serve as a sort of safety valve that releases pressure
- Down side: May compromise stability
 - Federalism may empower separatist or secessionist groups
 - Note: independence movements are not all “bad”, but this may result in conflict, whether groups are “right or wrong”

WHAT ARE THE EFFECTS OF FEDERAL CONSTITUTIONS? DEMOCRACY

- Federalism shapes democratic rights
- Plus side: allows different regions of a country to have different laws
 - Allows policies in line with local preferences
 - This fits with idea of expanding democracy
 - Ex.: Some states can have higher taxes and more public services vs. others with lower taxes and fewer services

WHAT ARE THE EFFECTS OF FEDERAL CONSTITUTIONS? DEMOCRACY

- Down side: Should basic rights be subject to different interpretations in one country?
 - Rights should hold for all persons in a country
 - Ex.: abortion rights in United States
 - If states have different policies, what is result?
 - Pro-life and pro-choice states would set different “rights” for unborn and women
 - Not equal protection under law across the country

WHAT ARE THE EFFECTS OF FEDERAL CONSTITUTIONS? ECONOMY

- Federalism can affect economic performance
- Plus side: promotes “healthy competition” between states or provinces
 - States have to appeal to firms, businesses, citizens
 - Economic actors “vote with their feet”
 - Leave inefficient places for more efficient places
 - Leads to greater efficiency
 - Better services, lower taxes, or both

WHAT ARE THE EFFECTS OF FEDERAL CONSTITUTIONS? ECONOMY

- Down side: can hurt economic stability
 - If states have political power, they may overspend
 - Pass on costs to center, expecting “bailouts”
 - National economy is compromised

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Authoritarian and Democratic Constitutions

- Constitutions are often associated with democracy
 - “Constitutionalism” suggests limited government
 - Making a constitution has often been an important democratic process
 - Usually as a reaction to a previous oppressive regime
 - Ex.: Brazil (1988), South Africa (1996), U.S.

South African Constitution



- Republic of South Africa
- 1. The Republic of South Africa is one, sovereign, democratic state founded on the following values:
 - (a) **Human dignity, the achievement of equality** and the advancement of human rights and freedoms.
 - (b) **Non-racialism** and non-sexism.
 - (c) Supremacy of the constitution and the rule of law.
 - (d) Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

US Constitution Preamble

- *We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.*





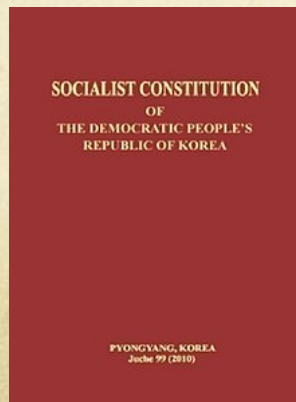
Magna Carta



- 63 clauses – only three of them remain part of English law.
- No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.
- To no one will we sell, to no one deny or delay right or justice.

Authoritarian and Democratic Constitutions

- Authoritarian regimes also use constitutions, BUT...
 - May suspend all or part of democratic constitution
 - May leave constitution intact, but govern outside its provisions
 - May put in place very “progressive” constitutions, but ignore the provisions
 - May seek return to democratic and constitutional rule



Legislatures and Elections



What are legislatures?

- *Assembly or body of representatives with the authority to make laws*
 - Ex.: U.S. Congress
 - Ex.: British Parliament
 - Ex.: Japanese Parliament

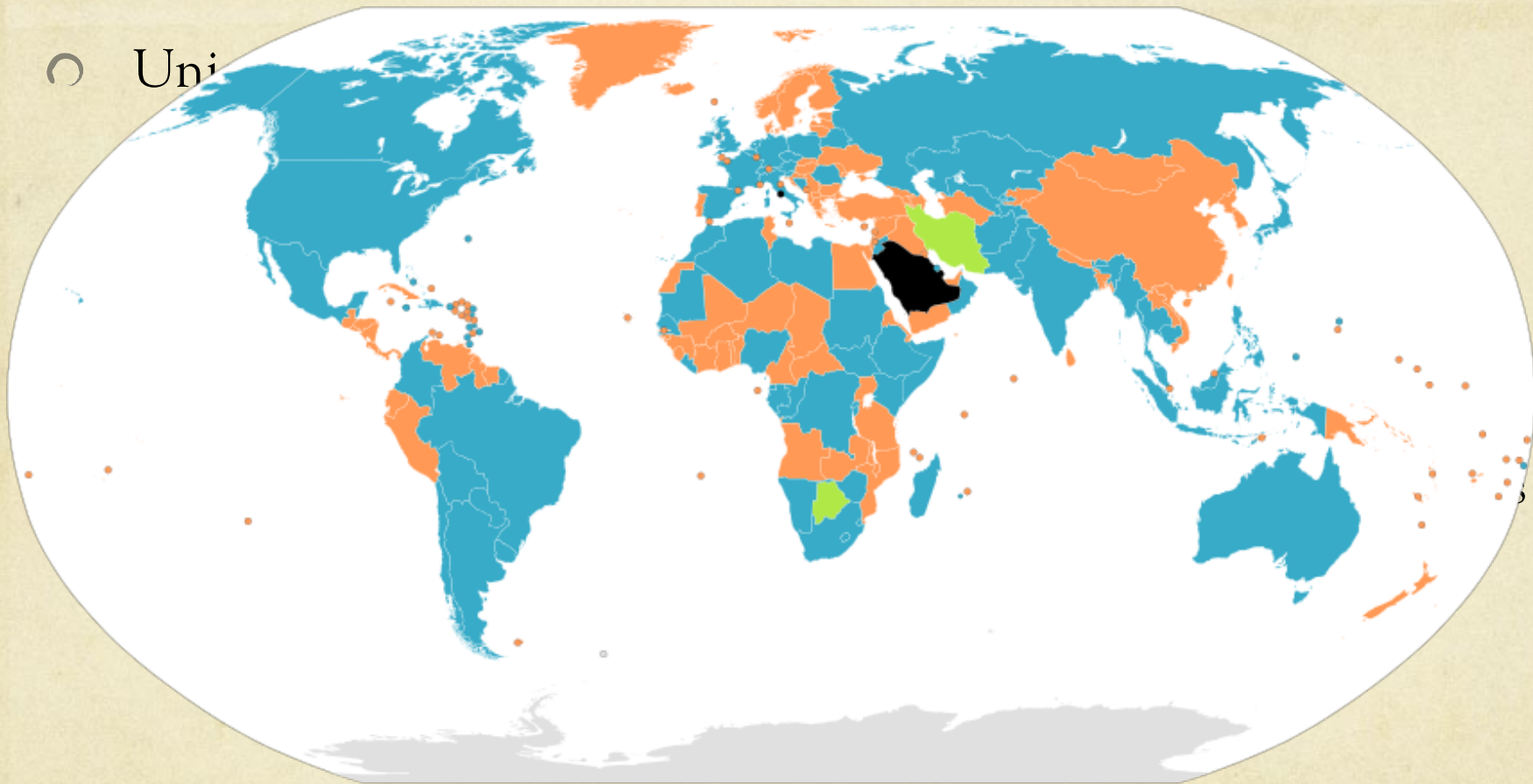


Concepts: What Legislatures Do

- Linkage of citizens to government
- Representation of citizens
- Vote on (and debate) legislation
- Control spending (“power of the purse”)
- Oversee the executive
 - Request/demand information
- Can remove executive
 - Votes of no confidence (parliamentary systems)
 - Impeachment (presidential systems)
- “Socialize” politicians into ways of the system

Types

○ Uni



Electoral Systems

- District Systems
 - Voters select representatives from specific geographic constituencies
- Single-Member District (SMD)
 - Single representative wins election
 - First-Past-the-Post: candidate with most votes wins
 - May be majority or may be only plurality
 - Runoff: top candidates (usually 2) after first round go to additional rounds until majority is won

Electoral Systems

- Proportional Representation (PR)
 - *Electoral system in which voters choose a preferred party and parties win seats according to the percentage of the vote the party wins*
- Most PR is “closed list”
 - Party leaders determine politicians elected
- Open-list PR
 - Citizens vote for individual candidates
 - Votes for all candidates aggregated by party to determine composition

Electoral Systems

- Mixed or Hybrid
- Combine
- representa
- Ex.: Germ

Stimmzettel
für die Wahl zum Deutschen Bundestag
im Wahlkreis 5 Kiel
am 18. September 2005

Sie haben 2 Stimmen

hier 1 Stimme

für die Wahl
eines
Wahlkreisabgeordneten

Erststimme

hier 1 Stimme

für die Wahl
einer Landesliste (Partei)
- maßgebende Stimme für die
Verteilung der Sitze insgesamt
auf die einzelnen Parteien -

Zweitstimme

1	Dr. Bartels, Hans Peter Angestellter Kiel Esmarchstraße 16	SPD Sozialdemokratische Partei Deutschlands	☐		☐		SPD Sozialdemokratische Partei Deutschlands Dr. Ernst Dieter Rossmann, Bettina Hagedorn, Frau Thömmes, Gabriele Häler-Uhm, Sönke Rüx	1
2	Dr. Murmann, Philipp Geschäftsführer Heikendorf Hardenbergblick 3	CDU Christlich Demokratische Union Deutschlands	☐		☐		CDU Christlich Demokratische Union Deutschlands Wolfgang Börmann, Dr. Ole Schröder, Anika Eymar, Otto Bernhardt, Gero Storzmann	2
3	Müller, Klaus Diplom-Volkswirt Kiel Wilhelminenstraße 29	GRÜNE BÜNDNIS 90/DIE GRÜNEN	☐		☐		GRÜNE BÜNDNIS 90/DIE GRÜNEN Gisela Böttig, Rainer Steinhilber, Moriska Reinold, Sebastian David Fricke, Erika von Kalben	3
4	Blumenthal, Sebastian Angestellter Kiel Hamburger Chaussee 46	FDP Freie Demokratische Partei	☐		☐		FDP Freie Demokratische Partei Jürgen Koppeln, Dr. Christel Hoppach-Kasen, Sebastian Blumenthal, Wolfgang Schnabel, Dr. Michaela Blank	4
5	Thoro, Björn arbeitsuchend Kiel Feldstraße 97	DIE LINKE. Die Linkspartei, Schleswig-Holstein	☐		☐		DIE LINKE. Die Linkspartei, Schleswig-Holstein Lutz Heilmann, Heidi Beutin, Wiebke Misfeldt, Björn Thoro, Brigitta Wendt	5
6	Gutsche, Hermann EDV-Berater Kiel Königstraße 22	NPD Nationaldemokratische Partei Deutschlands	☐		☐		NPD Nationaldemokratische Partei Deutschlands Uwe Schäfer, Jens Lüke, Ingo Stewitz, Wolfgang Schimmel, Alfred Hennig	6
7	Mrozewski, Oliver Koch Altenholz Danziger Straße 5	FAMILIE FAMILIEN-PARTEI DEUTSCHLANDS	☐		☐		FAMILIE FAMILIEN-PARTEI DEUTSCHLANDS Matthias Kortüm, Werner Lehmann, Sabine Cavid, Hike Pothshagen, Bettina Kortüm	7
			☐		☐		MLPD Marxistisch-Leninistische Partei Deutschlands Jakobus Fröhlich, Inge Marbach, Andrea Sibylle Hähner, Joachim Griesbaum, Maria Meyer	8

Causes and Effects: Electoral Systems

- In district systems, voters on the losing side may not feel “represented” by their elected official
- Districting (shapes and sizes of districts) can result in more/less seats for different parties
 - Districts can be *gerrymandered*, with irregular shapes giving advantage to certain groups
 - A 200 years old phenomenon, named after Elbridge Gerry, the governor of Massachusetts, who had drawn electoral districts so contoured on a map that one of them was said to look like a salamander. His object, of course, was to rig the districts in favour of his party, which is quite easily done once you know who lives where (from the Guardian).
 - Example?

Causes and Effects: Electoral Systems

- Apportionment of seats by geographic constituencies affects representation
- Many countries have a degree of malapportionment
 - *Voters are unequally represented in a legislature*
 - More legislators per capita in low-population (often rural) areas and fewer legislators per capita for high-population areas
 - At the 2010 general election the average Welsh constituency had 55,767 electors, compared to 70,203 for England.
 - Common in upper chambers (Senate, e.g.)

Causes and Effects: Electoral Systems

- PR systems apportion seats according to proportion of votes for each party
 - Votes are not “wasted” in districts where they don’t affect outcome in legislature
- PR does not provide voters with legislator that specifically represents their geographic constituency
 - Voters may not know to whom to direct demands
 - There is not necessarily representation of local interests

Next Week

- Executives
- Political Parties

Mock Constitutional Convention: South Sudan



Discussion

- How do referendums fit into our discussion of constitutions and legislatures?
- Are referendums useful measures to either introduce or amend law?
- What are some advantages?
- What are the drawbacks?