

Faculti Summary

<https://faculti.net/how-constitutional-drafters-use-comparative-evidence/>

This video is a transcript from a presentation focused on a co-authored study about diffusion in the context of constitutional reforms, conducted by the speaker and Zach Elkins from the University of Texas at Austin. The study aims to explore how constitutional drafters reference foreign models and experiences during deliberations for new constitutions. The authors seek to answer three main questions: whether these drafters refer to foreign constitutional models, how they do so, and which specific countries or models are referenced.

The study highlights the significance of foreign references during the constitutional debates in two key cases: Brazil (1987-1988) and Ukraine (1991-1996). Findings reveal that these references were frequent and central to discussions, often occurring as frequently as mentions of democracy and freedom. Both countries predominantly referenced nations like the US, UK, Canada, and France, even though some specific mentions varied (e.g., Brazil mentioning Portugal and Ukraine referencing Russia).

The research methodology involved analyzing transcripts of constitutional deliberations to identify and categorize foreign references, examining their context, the perceived motives of the speakers, and the nature of the references (whether they advocated for or warned against adopting foreign models). The results showed a balance between positive endorsements and warnings against certain models.

Overall, the study offers insights into the mechanisms of how foreign models influence constitutional development, countering the notion that such adaptations are merely mechanical. It underscores that constitutional drafters conduct thorough evaluations and discussions regarding foreign experiences before incorporating them into new constitutional frameworks. This video provides a more nuanced understanding of the diffusion processes involved in constitutional reform.