

CHAPTER 8

CONCLUSION

This dissertation has explored the acceptance or rejection of proposed constitutional rules in nine municipalities over a period of fifty years. Changes were tracked for single and multiple rules in the three areas corresponding to Maser's procedural safeguard rules: electoral systems, direct democracy, and allocating authority. This chapter highlights the central findings and their implication for theories of governance and local constitutional change.

By placing the procedural safeguards of transaction resource theory (Maser 1998) within the institutional analysis and development framework (Ostrom 1990) we were able to systematically examine the consequences of proposed rule changes. Entrepreneurial activity and the interaction of actors, both demanders of change and demanders of the status quo, provided a dynamic characterization of competition for rules of governance. These approaches were integrated in the model of dynamic constitutional change developed in Chapter 2. The next three sections will highlight the individual perspectives of institutional change and spotlight important linkages to the overall dynamics of the process.

8.01 Institutional Analysis and Development Framework

The IAD framework suggested specific attributes of the action situation that are important for understanding institutional change (Ostrom 1990). The results confirm the usefulness of the IAD framework and they lend support for the IAD categories of rules, actors, and context particular to the framework. The Boolean analysis afforded the ability to analyze cases in the constitutional change process and provided linkages between the outcome and the hierarchal authority, the change embeddedness, the importance of the present local constitution, the context of the community, and the competing rule choices. The nesting of rules in authority hierarchy and the embeddedness of change were evident in the consolidation and constitutional rule change. Constitutional rules have the highest authority and take precedence over the rules at other levels. However, these rules are also the paramount fundamental rules for organization and governance of the community and, thus, are the most embedded as far as difficulty of change. These elements

punctuate the difficulty of change and the durability of the status quo.

In all the consolidation attempts and in most of the constitutional change cases the local community was aware of the importance of the local constitution authority. In almost all the consolidation cases the opposition did not concentrate on the concept of consolidation, but instead, on the proposed consolidation charter rules. This underscores the importance of the combination of governance rules. In many of the cases, citizens feared that proposed consolidation rules, specifically rules that addressed financial matters, would negatively impact the ability of public utilities and authorities to raise revenue. This is an instance where groups feared that the institutional arrangement for operational rules would be subjected to a change in the proposed constitutional arrangement. The local citizens also were aware of the impact of electoral system rules on their representation in the government.

The IAD framework identifies the attributes that define the local community and the individual actors in the constitutional setting. The emphasis on the present constitutional arrangement allowed the comparison of the proposed changes to the present system. The comparison of the present rules to the proposed rules allowed the prediction of which groups would support or oppose the proposed change.

However, in order for the IAD framework to be useful for analysis of the constitutional change process, modification and extension was needed to incorporate stages that would provide concrete transition points in the process. This allowed division of the framework into testable model points for analysis. The resulting framework, which I will now call Constitutional Competition, allows the inclusion of transaction resources, interactions among demanders of change, entrepreneurs, and demanders of the status quo.

8.02 The Constitutional Competition Model

Although, the IAD framework values the actor in the decision of proposed governance rules, it cannot distinguish between actors who supported or opposed constitutional change. This research extends this approach by incorporating opposing groups that struggled either for or against proposed governing rules. This resulting model better captures the dynamics of the process. During the campaign stage for a proposed set of rules, support for the combination of rules provided critical information.

In all the proposed consolidation constitutional campaigns as well as other forms of constitutional change there was always at least one actor or group who supported change and at least one actor or group who opposed change. For example, in the proposed consolidation charters, homeowner and taxpayer associations could lend active public support for consolidation charters if the combination of rules included the maintenance or increase in the number of districts and there was a tax rate cap OR if there was an increase or maintenance in the number of seats. Although the tax rate cap was postulated to be important to this group, other electoral system rules that addressed representation were also linked to support.

Previous work concentrates on only entrepreneurs seeking change (Schneider, Teske, and Mintrom 1995). This ignores the role of those who prefer to have the system stay the same, the demanders of the status quo. Maser (1998) recognized the importance of conflict by groups for the inclusion and exclusion of safeguards in a local constitution. This study included different groups in the dynamic process of rule confirmation. Those actors were divided into groups who supported the acceptance of a proposed constitutional rule and those groups who opposed the proposed rule. Individual rules did have groups that either supported or opposed the proposed rule based on the safeguards.

8.03 Transaction Resource Theory

A key finding of this study is that procedural safeguards are central to acceptance of proposed local constitutional change. Procedural safeguards played a major role in all three stages of constitutional change. This evidence supports Maser's (1998) transaction resource theory which emphasizes the importance of the types of rules in local constitutions. Procedural safeguards in constitutional rules mitigate problems of cooperation in local governance. Maser's (1998, 561) own work found only modest and inconsistent support for procedural safeguards. The combination of case studies and Boolean analysis in this dissertation provided much stronger evidence confirming the role of procedural safeguards posited by transaction resource theory. The ability to concentrate on combinations of attributes that define each case, rather than just quantitative variation, allowed me to link attributes to the outcome.

This research concentrated on the three procedural safeguard rule domains identified by Maser (1998): electoral system, direct democracy, and allocating authority. Three rules that

define each of the three rule domains were analyzed. Electoral systems rules that affect the citizens' ability to access the governing body and allow their preferences to be considered were: district representation, number of districts, and number of seats. The direct democracy rules that addressed the citizens right to actively participate in the governance process were: initiative, referendum, and recall. Finally, allocating authority rules that allow the citizen to grant power to the leadership in the local community were: direct election of the mayor, mayoral appointment power, and mayoral veto power. In some cases these proposed rules were embedded in a proposed total new constitution; therefore, several models that explored the individual rule were used.

Strong support was found for Maser's (1998) transaction resource theory in general and the role of procedural safeguards in local constitutions in particular. The safeguards in constitutional rules do matter. In consolidation the combinations of rules could be linked to acceptance or rejection of the proposed consolidation constitution. Rejection from a Boolean analysis perspective was linked to the absence of at least one of the electoral system safeguard. Acceptance, on the other hand, could be linked to the increase in at least one electoral system rule.

Maser (1998, 552) proposed that greater heterogeneity in the population increased the probability of crafting safeguards to reduce division and increase responsiveness. Patterns of electoral system rules that safeguard against division confirm this hypothesis. In all three of the electoral system rules, greater heterogeneity of the population was associated with the acceptance of change, but the attribute was always combined with the critical level of Black population. Whether the safeguard was present, however, was not necessarily in the configuration.

In most of the cases of proposed changes in individual rules, the presence of a safeguard could be linked to acceptance. Although, in some cases, the safeguard reduced out of the logical model, those configurations with the presence of the safeguard in the proposed charter rule was accepted and configurations with the absence of the safeguard led to rejection. The case studies and Boolean analyses presented here provides stronger support for transaction resource theory. Strongest support was found in consolidation attempts, where almost all the proposed consolidation constitutional rules were analyzed.

Although transaction resource theory has definite advantages in the exploration of proposed rules, the constitutional competition modifies this approach by including both accepted and rejected changes. This reduced the number of cities that could be analyzed, but provided greater knowledge of the dynamics of change in the local municipal setting. This also provided the means to incorporate actors who had a preference for a certain combination of rules and would support those rules in the constitution.

The Boolean analysis also explored the direction of the rule safeguards and the conflict between groups who either supported or opposed proposed rules. This provided a glimpse into the dynamics not only of the proposed rules and actors in the campaign for local governance rules, but also the community context. This led to a constitutional competition model of constitutional change.

8.04 The Constitutional Competition Model

Each perspective of the constitutional level change domain provided an essential perspective for the dynamics of local constitutional change process, but each perspective had limitations as to delineating elements and actors in the process. All three perspectives when modified, extended, and adapted could be interconnected into a testable theory of the constitutional change process. The subsequent model of the process introduced in Chapter 2 is presented, again, in Figure 8.01.

Revisiting the constitutional competition theory of local constitutional change, the model consists of three stages: Agenda, Crafting, and Campaign. Stage I Agenda Setting, gets the preferences for and against change out in the open and brings desires for different rules into the public forum. It is the institutional entrepreneurs, who seek constitutional change at the local level. In the agenda stage, the demanders of the status quo seek to maintain the current constitutional arrangement, while the institutional neutrals are either undecided or inactive at this point. Support from the neutrals could provide either the entrepreneurs or the status quo with the numbers to swing the rule decision in either direction. There is no set time frame for this stage.

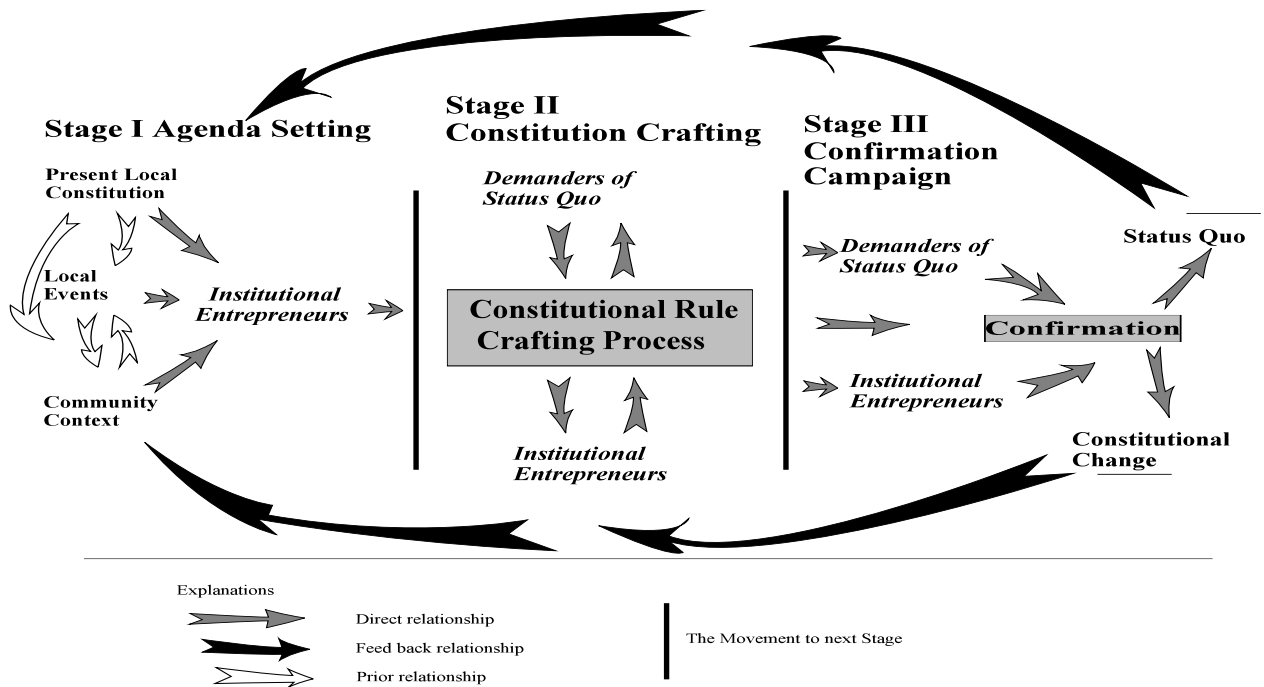


Figure 8.01 Constitutional Competition in Local Governance

[A version appears in Johnson (2004b, 173), from *City County Consolidation and Its Alternatives: Reshaping the Local Government Landscape*, eds. Jered B. Carr and Richard C. Feiock (Armonk, NY: M.E. Sharpe, 2004). Copyright M. E. Sharp, Inc. Reprinted with permission]

Once a constitutional committee or group is formed, the system proceeds to the next stage. The physical transition of a committee formation cannot only provide a point that can be tracked, but also can be a cue to groups who have an interest in the proposed rule area, and a point to begin working for either acceptance or rejection. Also in this stage the dynamics of the community and the present constitutional arrangement provide the backdrop for the conflict and action.

Stage II, the Constitutional Rule Crafting Stage, begins when the governance structure names a committee to explore change. How that proposed rule is crafted becomes part of this stage. The example of the change from at-large to district representation could have a different combination of entrepreneurs and status quo groups. Once the desire for a rule change is at the drafting stage, different individuals or groups will have the desire for different combinations of attributes in the rule. For example, if district representation is the proposed rule, then there

could be a mix of district and at-large, or a mix of some smaller districts and two or three larger super districts that combine the smaller districts.

Once the constitutional rule is drafted, the rule must be enacted by the legislature or ratified by the local community, sometimes both. The legislative delegation will have a local bill enacted but it is contingent on local ratification. Many consolidation attempts are this way. This moves the process into Stage III, the Constitutional Rule Campaign Stage. We could see a different combination of groups at this stage. If the rule is not crafted in the original form that is desired by the agenda setting entrepreneurs, then those actors may actively campaign against the change, since the change would not benefit them or could even harm them. The campaign stage ends with the form of ratification: local referendum, the passage of the legislation or the outcome of the court case. The outcome of this decision point can be tracked. However, this may not be the end of the process. If the rule change was not successful, the original entrepreneurs may try to induce change again or if the rule change was successful the original status quo group could become institutional entrepreneurs and mount a constitutional rule change to return to the original. This happened in Miami Beach (1972-1973) and West Palm Beach (1995-1997) with at-large versus district elections.

The case studies and Boolean analysis revealed strong support for the constitutional change process in both the revolutionary change process of consolidation and the more gradual change process of proposed constitutional rules. The analysis also offered strong support for the competition between actors who prefer either change or the status quo. The next two sections will discuss some of the patterns found.

8.05 Constitutional Rules

The constitutional rules in this study were rules that provide for procedural safeguards in electoral systems, direct democracy, and allocating authority. Electoral system rules analyzed in this study were: district representation, number of districts, and number of seats. The main component of these rules was to mitigate the risk of division and promote responsiveness in the community (Maser 1998, 553).

Direct democracy rules lessen the threat of government defection and thus will promote efficiency (Maser 1998, 544). Initiative, referendum, and recall rules are forms of participatory

democracy (Zimmerman 1986; Hahn and Kamieniecki 1987). Allocating authority rules can alleviate the risk of non-coordination and promote stability (Maser 1998, 553). The rules that provide for the direct election of mayor, mayoral appointment power, and veto power can provide stability and “deviation” from the preferences of the median voter (Maser 1998, 550).

The combination of rules are important to the acceptance or rejection of a proposed consolidation charter. In Chapter 5, the rule configuration revealed that, logically, if the number of districts did not equal or exceed the present number of districts, the proposed consolidation charter would be rejected OR if the number of seats did not equal or exceed the number of seats in the present system AND the form of government was mayor-council, then the proposed consolidation charter would be rejected. This would agree with Maser’s view of the importance of electoral systems.

Acceptance of the proposed consolidation charter could occur when the electoral system procedural safeguards are present. However, the option of a strong, directly-elected mayor rule is also important. This supports Maser’s (1998) arguments regarding the salience of procedural safeguards.

8.06 Actors in the Campaign for Rules

In the Rule Campaign Stage III, again, there are two groups of actors, those who oppose the proposed rule (those who desire the status quo) and those who support the proposed rule (the institutional entrepreneurs). The actors at this stage are not necessarily the same groups that supported or opposed the drafting of a rule since the final rule could move groups to change sides. In order to discuss these two groups, they will be divided in consolidation and charter rule change.

The theory postulated is that each group would be expected to support rules that provide their group with the greatest selective benefits:

1. Business groups would support rules that provide the greatest economic and development incentives;
2. Minority groups would support rules that increase representation and social welfare of minority interests;
3. Elected officials would support rules that increase their potential to gain and maintain public office;
4. Government employees would support rules that increase their likelihood of job

retention and provide autonomy;

5. Homeowners would support rules that keep property taxes in check, but allow for services;

6. Media would support rules that provide greater income;

7. Civic organizations, League of Women Voters, and Academic Community leaders would support rules that provide an increase in their prestige and membership.

Compelling support was found for these hypotheses. This is discussed in the next two sections.

8.07 Actors and Rules in Consolidation

In Chapter 4, the consolidation case study confirmed that the choice of rules matter. Certain groups fear the loss of access to government. The Black community might not support consolidation if it reduced their representation. In several attempts there would be a split of support and opposition in the Black community. In the two successful consolidation attempts, there was division among the Black leaders, but the division was not as decisive as in the rejected consolidation attempts.

Homeowners and property owners for the most part opposed the consolidation charters if there was not an assurance that taxes would not increase. In cases where they publicly supported the consolidation charter there was the provision for tax rate caps, as in Macon 1972 and 1976 or the Athens 1982 attempt. This was supported by the Boolean analysis if the combination of rules included a tax rate cap and also provided a safeguard for an electoral system rule.

The Chamber of Commerce and the League of Women Voters did, in most cases, support consolidation. However, there were instances, as in Tampa in 1970, where the Chambers that were outside the city did not support the proposed change. These groups may have feared for their survival when merged with a larger group or may have feared the increased cost of business in their area.

When these and other actors were analyzed with the Boolean method using QCA, much of the case study was validated. Lack of support by Black leaders was sufficient for rejection of a proposed consolidation charter. This could also occur when there was a lack of support by either professional organizations or the combination of lack of support by civic organizations and government, together, plus combinations.

The one group that actively supported consolidation where rejection occurred was

developers. Vocal, active, public support by developers, when combined with active, public support of the civic organizations or combined with lack of support by government employees could lead to rejection. It is interesting that logically, developers vocal public support can negatively impact the acceptance of a proposed consolidation charter. This was present in the acceptance model of proposed consolidation charters. The absence of active support by developers when combined with active support by either professional organizations, civic groups, business leaders, black leaders, or homeowners could be linked to acceptance of the proposed consolidation charter. The electorate may view the developers' support as a definite private incentive and may fear the cost of such development.

Active opposition by rural residents, the county commission, and business leaders can be linked to rejection. Rural residents, like farmers, who own property could fear the rise in taxes. This could also be true of the business community. This was revealed in the case studies. A consolidation charter would need to assure the presence of procedural safeguards to garner support for acceptance of the charter.

8.08 Actors and Rule Safeguards in the Constitutional Setting

In Chapter 7, differences were found between the acceptance of rules in full models that included those rule choices that are legislated or litigated and rules chosen through referendum. The rejection of rules did not have the same complexity of variation since the study did not test rejected proposed laws or rejected court cases.

Maser suggests that an increase in the number of seats will provide greater opportunities for minorities to participate while district elections will increase responsiveness to minority interests (Maser 1998, 548). The electoral system rules that address district representation, number of districts, and number of seats, had ethnicity as an important factor. Once a population reached a critical level they could desire greater representation on the local council. This was also seen in the case studies in Chapter 6. However, in Atlanta in 1973, the ethnic group that desired greater representation was the white population. This was also present in Miami Beach, but the majority group was the elderly. This group also preferred at-large elections and no districts. This would agree with Kanter's (1977) view that as a representative group's numbers increase, their preferences become salient. This was an important finding of this study. The preferences of the

majority group usually become translated into the governing rules. A constant conflict results when the two groups are close in numbers. This would also agree with Kanter's view of numbers in organizations.

In all the electoral system models the rejection could be linked to a mix of the two measures of ethnicity: greater heterogeneity and increase in Black population above twenty-five percent. Either one is present or the other attributes are absent. However, in the acceptance models, the two attributes when together are either both present or both absent. This has implications to communities exploring rules that affect the electoral system. The governing system may ignore a group when the numbers are low and the group is spread throughout the community, but when the number increase to the critical point and they reside in a certain area of the community, their preferences become more salient. This would agree with Maser (1998).

There were several acceptance configurations in each of the electoral system models that had the presence of the safeguard, and at least one configuration in each reject model that contained the absence of the attribute. The rule direction matters, perhaps not always, but does appear to logically endure through reduction.

In the direct democracy rules, the presence of a new mayor the year before was present in all three reduced logical models of acceptance and absent in all the reduced logical reject models. In many of the models a fiscal attribute is either present or absent. When the new mayor is combined with the presence of a tax attribute there is acceptance of a direct democracy rule. This could be a leadership cue to suggest the desire for change. However, the direction of the change is not indicated in any configuration model.

The strength of different groups was important to the direct democracy models. For example, the lack of growth of newspaper employees in the county when property tax is low and the proposed change would increase the citizens' safeguard and can be linked to acceptance. Growth in the real estate industry is present in both rejection and acceptance of recall rules but when combined with the presence of a new mayor, the proposed rule is accepted.

Allocating authority rules cannot only provide leadership but also accountability. In the constitutional change models, the one attribute common to the acceptance models for direct election of mayor, mayoral appointments, and mayoral veto was the presence of a new mayor in

the previous year. This could be a push by the mayor for greater power or it could be a reaction by the citizens to a new mayor. In direct election of mayor there are signs of fiscal stress with increasing taxes and housing and community development. However, there are signs of growth in some industries. The citizens, perhaps the property owners, could reject the attempt to elect the mayor directly if there were few signs of increasing government growth, and they might be satisfied with the status quo.

High growth and cost of government could lead the citizens to desire a mayor with increased appointment power accountable to the all citizens. A new mayor may push for this power. However, the provision of mayoral veto, growth of government employees, increase in the Black population above the critical level, and absence of a new mayor could be important to the rejection, while high costs and growth could lead the citizens to desire to curb costs by accepting a change in the veto power.

The rules, actors, and context are important to the decision to accept or reject the proposed change in all three rule areas. These attributes are important to decisions in the local constitutional setting.

8.09 Context of the Community in Consolidation

In Chapter 5, the Boolean Analysis of the community context with indirect measures revealed the importance of the number of Black elected officials to the outcome. When the community had a percentage of Black elected officials that mirrored the numbers in the population the consolidation charter was more likely to be accepted. In rejection of the proposed charter a community where the Black community had reached the critical level, but did not have the corresponding number of Black officials on the governing board, the consolidation charter was rejected.

One interesting finding was that communities that had an increasing percentage of their budget spent on housing and community development were also more likely to accept the consolidation charter. This is consistent with the fiscal crisis explanation postulated by Rosenbaum and Kammerer (1974).

This study explored the rejection or acceptance of proposed rules. However, there are areas in the model that were not analyzed in this study. This will be left for future research. One

area of interest is how the desire for a set of rules comes to the public attention, the agenda setting stage.

8.10 Continuum of Constitutional Change

Chapter 2 introduced the idea that there is a continuum of constitutional change. City-county consolidation was depicted as a more radical, revolutionary form of local constitutional change rather than a separate phenomenon. The evidence provides support for this continuous change. The predication was that consolidation was a revolutionary form of constitutional change and the constitutional rule change was gradual, evolutionary change. The process did support the view of a gradual development in the choice of rules. For example, in Miami Beach in the early 1960s, the movement toward district representation took several years, then was overturned the next year. This was a case of desire by groups in the community for representation. In this case it was the business and professional community. However, when two groups are close in representative numbers, then the rules for representation can be overturn and it may be difficult to sustain the change. This supports Maser's (1998, 541) view of the tradeoff between stability and responsiveness.

In cases where an entire local constitution was presented for confirmation, there were groups that became active over the combination of rules, particularly if the rules differed from the status quo. This could also be seen in proposed consolidation charters. The combination of proposed rules were cited most often for the opposition to the proposed change. Consolidation did, however, elicit greater public, vocal, and active support or opposition. This was due to the scale of the change and the impact of the chosen combination of rules on groups.

Constitutional changes that did not occur due to local referenda, can also be placed in the continuum. Although these rules were not subjected to the review of the entire electorate, they did provoke reaction. In many cases, for electoral system rules, the reaction was by the governing body who had the most to lose from the proposed change.

8.11 Implications: Agenda Setting and Rule Crafting in Local Constitutions

In many cases, the proposed rule may not make it to the referendum stage. Sometimes it does not make it to the Constitutional Rule Crafting Stage. For example, Atlanta has never run a consolidation attempt with Fulton County. That does not mean the thought has not been

presented in the public forum. In 1973, The Chairman of the Fulton County Commission suggested that the city of Atlanta and Fulton County be merged “under a mayor administrative director and a 17-man council” and sent details to the legislative delegation (Allen 1973, 23A).

In 1995 the subject of consolidation of Atlanta and Fulton was raised again (Campos and Stepps 1995, H2). The proposal to consolidate the city and county began as a bill to grant greater autonomy to one of the cities and became a bill to consolidate the city and county (Atlanta Journal Constitution 1995, 1J). The plan was dropped the next year after strong vocal opposition by local representatives (Campos 1996, 1F).

Macon, after a 33-year wait on consolidation reopened the subject in 1999. A committee was established to explore Macon Bibb unification (Ga. Law 1999 p. 3511). The subject of consolidation was revived in 1997 by a county commissioner (Macon Telegraph 1997). The city and county “tentatively” agreed to set up a committee in 1998 (Wallace 1998). The issue died down and was revived in 2002 by the new mayor (Macon Telegraph 2003). These incidents provide illustrations of agenda setting in the model. The outcome of a rule or consolidation campaign is not the end of the attempt. Actors and circumstances in the local community can bring the subject back into the public spotlight.

The rule crafting stage was briefly discussed in both consolidation and constitutional change case studies, but were not empirically tested. This stage can be fraught with conflict. Each rule has opposing directions that increase or decrease the citizens’ safeguard. For example, the choice between at-large or district representation or the choice between a mayor chosen by the council or elected by the citizens. The decision of which rule to propose can divide the community. Each group has an incentive to have their preferences provided in the set of rules and will lobby hard for their preferred rules. This conflict can provide insight into the incentives of a group and why groups may desire change but not support the final choice of rules.

8.12 What We Have Learned

One of the most important implications of this study is that multiple perspectives on the dynamics of local governance can be incorporated into a testable theory. This interconnection provided a comprehensive and dynamic perspective of the competition for governance rules. However, this presented difficulties in testing the dynamics with conventional quantitative

methods. Case studies can provide the in-depth evidence regarding the dynamics, but can be difficult in comparing multiple complex outcomes. Qualitative Comparative Analysis, a Boolean method, allowed the maintenance of the integrity of each case with the ability to link combinations of attributes in diverse cases to the outcome. Boolean analysis integrates the desire to address the complexity of the system, link combinations of attributes in diverse cases to the outcome, and explain the phenomenon.

This study differs from other local constitutional change in five ways. First, the study concentrated on change in one level of the local institution, the local constitution. Second, it built on Maser's (1998) transaction resource theory of local constitutional change by incorporating the selective incentives for change and integrating the rejected proposed rules into the analysis. Third, the study viewed all forms of charter change as constitutional change which allows the theory to include both charter revision and the more radical city-county consolidation as a continuum of charter transformation, local constitutional change.

Fourth, the study incorporated entrepreneurs and demanders of the status quo into the theory of competition for governance rules. The ability of entrepreneurs and demanders of the status quo to persuade and influence the community to either support or oppose proposed rules was incorporated into Ostrom's Institutional Analysis Framework. Finally, it moved entrepreneur studies to the constitutional level and argued that actors try to induce change in order to lock their preferences into the system.

The incorporation of multiple perspectives, actors, rules, and local dynamics moves research in local governance constitutional change in a new direction. The integration of several models of institutions and charter change provides a dynamic view of competing actors in the struggle to lock their preferences into the local constitution. The focus on actors with specific rule preferences provides us with a new understanding as to why certain actors appear to support change at the agenda stage but oppose change at the referendum stage. This will provide a new understanding of the importance of institutions, actors, and change in local governance constitutions.

This work has a potential to be extended, not only to the different stages of the model, but also to other cities, longer time periods, and to different levels of governance. It would be useful

to look at a city throughout its history from incorporation to present. This would provide an in-depth study of a local community context. The theory could be extended to the state level to look at competition for state constitutional rules. This is just the beginning of research in local constitutional change.