

***Improving Democracy?  
Party Dominance and Mechanisms of Popular Participation in Latin America\****

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### **Abstract**

In recent years, a massive wave of constitutional changes has increased institutional opportunities for autonomous citizen participation in Latin America. The literature on the adoption of popular initiatives in Western Europe and the US proposes that these reforms are likely to be enacted by declining majority parties under the pressure of minority parties. This argument does not apply well to an environment where low levels of citizens' trust in representative institutions are combined with high levels of electoral volatility and party system change. The present article proposes that in such a context majority parties have incentives to expand mechanisms of popular participation, particularly if they are weakly institutionalized and have a populist or extreme ideology. It also argues that these parties are likely to opt for institutions with potentially contradictory effects, both increasing opportunities for autonomous citizen participation and expanding the discretion of the executive in the use of plebiscitarian instruments of popular mobilization. A statistical analysis of the determinants of constitutional reform in Latin America supports these arguments and suggests further research on how features of the reform process may have an impact on whether participatory institutions are likely to strengthen democratic governance.

Before the 1980s, very few constitutions in Latin America had provisions promoting the direct involvement of citizens in the law making or constitutional change processes. By 2012, however, all countries in the region incorporated some of these provisions via constitutional amendment or replacement. In spite of this general trend of reform, important variations exist in the number and nature of the mechanisms of popular participation adopted across countries. Whereas some constitutions only prescribe a mandatory referendum to ratify constitutional amendments or authorize a government-initiated plebiscite to approve policy decisions, others provide citizens with a wide array of instruments to propose and vote on legal and constitutional changes. What explains this variation?

The existing literature on the introduction of direct legislation in Europe and the United States emphasizes the level of interparty competition and elite divisions at the time of reform to explain the adoption of citizen-initiated mechanisms of popular participation. In particular, it is proposed that these reforms are only likely to be enacted by established but declining majority parties under the pressure of minority and third parties. This argument does not apply well to an environment where low levels of citizens' trust in representative institutions are combined with high levels of electoral volatility and party system change. The present article proposes that in such a context majority and even dominant parties have incentives to expand mechanisms of popular participation, particularly if they are weakly institutionalized and have a populist or extreme ideology. It also argues that these parties are likely to opt for institutions with potentially contradictory effects, both increasing opportunities for autonomous citizen participation and expanding the discretion of the executive in the

use of plebiscitarian instruments of popular mobilization. A statistical analysis of the determinants of constitutional reform in Latin America supports these arguments and suggests further research on how features of the reform process may have an impact on whether participatory institutions are likely to strengthen democratic governance.

This paper starts by analyzing the background conditions that explain the emergence of reform proposals to adopt mechanisms of popular participation within established and new representative democracies. This is followed by a classification of mechanisms of popular participation from the point of view of citizens and state authorities. A third section provides a critical discussion of existing arguments in the literature about the choice of direct democracy institutions and derives from this discussion a series of hypotheses about the adoption of different mechanisms of popular participation. The next section offers a statistical test of the determinants of mechanisms of popular participation, comparing those that potentially increase citizen autonomy with those that expand executive discretion. A discussion of the results is complemented with an analysis of how inclusion and participation in the reform process may matter to explain the type of participatory institutions adopted and the future quality of the democratic regime. A brief conclusion follows.

### **The expansion of direct democracy**

The origins of mechanisms of direct popular participation in the modern representative regime have been historically linked to its foundational moments or to crisis situations in which citizens started to question the legitimacy of representative

institutions. The first instruments of direct democracy were created in the context of the American and French revolutions. That was the case with the popular approval of constitutions, which had its origins in the ratification processes of the constitution of Massachusetts of 1780 and of the French constitution of 1793. The latter also invested citizens for the first time with the right to reject legislation and propose revisions to the existing constitution. At a later period, and within the context of existing representative regimes, reform movements demanding direct citizen participation typically emerged at times of economic and political crisis. As Kriesli and Wisler observe (1994: 45-48), both in Switzerland during the 1860s and in the United States during the 1890s, social movements advocating direct citizen participation and control arose during periods of economic crisis for which people blamed a self-serving political elite who did not represent the interests of the majority. In coincidence with the emergence of these movements, instruments of direct democracy were adopted in Switzerland, first in the cantons (most notably in Zurich, in its 1869 constitution) and later at the federal level, in the constitutional reforms of 1874 and 1891.<sup>1</sup> In the United States, direct democracy institutions were adopted in 23 states between 1898 and 1918, but never at the federal level (Cronin 1989).<sup>2</sup>

Except for a few countries, the trend toward the adoption of instruments of direct democracy in national constitutions was stalled from the First World War to the 1970s. The fall of the Weimar republic, whose constitution included procedures of national referendums and initiatives, and the plebiscitarian strategies of legitimation

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<sup>1</sup> The 1869 constitution of Zurich adopted constitutional and legislative initiatives as well as mandatory constitutional and legislative referendums. At the federal level, the abrogative referendum was adopted in 1874 and the popular initiative in 1891.

<sup>2</sup> In the United States, the states adopted either popular initiatives and/or referendums.

adopted by several authoritarian and totalitarian regimes that emerged during the inter-war period, created a negative image of direct democracy in the West. These apprehensions, however, disappeared during the late part of the twentieth century. Starting in the 1980s, and particularly during the 1990s, the appeal of direct democracy consistently increased among established democracies. Fifteen of twenty-three established democracies adopted reforms that expanded opportunities for direct citizen participation from 1978 to 1998 (Scarrow 1997: 657). Different from the early trends of reform, the late expansion of opportunities for citizen participation within established democracies was not so much associated to an economic crisis. Yet it shared with them a climate of growing citizens' distrust of politicians and political parties. This distrust has been commonly associated to changing mass attitudes toward democracy. More affluent, more educated, and more informed citizens, have come to expect more of their democracies in the form of greater accountability, more consultation, less corruption, and more influence of voters on public affairs (Newton 2011). The adoption of mechanisms of popular participation is one possible response to these demands.

In recent decades, instruments for direct democracy have also expanded among new democracies, particularly in Latin America. The reform trend started gradually during the 1990s and became visible by the first decade of the twenty-first century, when all constitutions in the region incorporated at least one mechanism of popular participation that was absent in the past. Although the reform trend in Latin America shares some common features with the early and late expansion of direct democracy in the US and Western Europe, it also has a distinct nature.

As in the early cases of reform, the expansion of direct democracy in Latin America was associated with critical economic and social conditions, in particular with the suboptimal performance of new democracies in generating economic growth, reducing poverty and unemployment, and securing an adequate provision of basic public services. Although poor economic performance contributed to popular discontent and a growing distrust in representative institutions, the latter was also reinforced by the frequent occurrence of corruption scandals involving representative institutions, in particular Congress. It is crucial to note, however, that in spite of the importance of popular discontent for explaining pressures to reform, only in a few instances were reforms associated to grassroots social movements demanding greater citizen participation and control over representatives. In several cases, the main promoters of reform were emerging parties and political leaders seeking to build support for a new political movement.

One final specific feature of the expansion of direct democracy in Latin America is related to the process through which reforms have been adopted. In most of the early and late reforms adopting mechanisms of popular participation among established democracies, institutional change has been implemented by means of constitutional amendments or legal reform. In several Latin American cases, however, reforms have been associated to ambitious processes of constitutional creation that emphasized the re-foundation of democracy on a different, more popular basis. As I will argue, this is a key aspect of the expansion of direct democracy in Latin America that we should bear in mind when explaining variations in the outcome of reforms.

## **Mechanisms of popular participation: institutional variations**

Mechanisms of popular participation (MPPs) are institutions that make possible the influence and direct intervention of citizens on ordinary law making and constitutional change and their control over the behavior and decisions of representatives. As we will see, however, not all these mechanisms have the same value from the point of view of citizens and state authorities. Whereas some make possible independent citizen participation in politics, others make citizen participation dependent on the discretion of state authorities.

A relatively simple typology of MPPs that captures these basic differences is based on two dimensions: how is the mechanism activated and who sets the agenda by formulating the proposal (see Kriesi 2012). MPPs can be activated in three ways: by request of state authorities, by constitutional prescription, or by the initiative of citizens. The proposal, in turn, can be elaborated by state actors or by citizens. In a typical “top-down” MPP, state actors both elaborate the proposal and activate the mechanism. By contrast, in a typical “bottom-up” MPP, citizens both elaborate the proposal and activate the mechanism. Intermediate categories are those in which state actors elaborate the proposal but the mechanism is activated either by constitutional mandate or by citizen’s request. Table 1 summarizes this typology.

**[Table 1 about here]**

MPPs can be divided into “referendum” and “initiative”, depending on whether state actors or citizens elaborate the proposal (Leduc 2002; Kriesi 2012). The referendum,



in turn, can be classified into plebiscite, mandatory referendum, and abrogative referendum. When state actors can convene at their discretion a popular vote on a proposal elaborated by them, the referendum receives the name of plebiscite. In a mandatory referendum, the constitution requires a popular vote on a particular decision that was previously reached by state authorities. Mandatory referendums usually apply to the ratification of constitutional amendments and new constitutions. In some cases, however, the constitution mandates popular ratification for certain decisions that would otherwise pass through the ordinary legislative process. The abrogative referendum occurs when citizens react to a proposal made by state authorities after the decision has been made, for instance requesting the abrogation of a law or a constitutional amendment. Yet this form of reactive referendum can also be used to request a popular vote over the rejection of a bill or constitutional amendment that has been proposed, but not passed, in congress. To distinguish it from the first, this form of referendum can be called “rejective” (see Breuer 2007: 559).

Citizen initiatives, in turn, can be classified into proposals that must be adopted by a representative body or by citizens themselves in a popular vote. In the former case, citizens can propose a new law or a constitutional reform to be adopted by the legislature, or the adoption of a new constitution by a constituent assembly. Since they do not lead to a direct popular vote, these instruments are often called legislative or constitutional popular initiatives. When citizens can request a direct vote, it is usually on a piece of legislation or a constitutional reform proposal. This form of citizen initiative is usually called “popular initiative” and is the strongest instrument of popular participation in direct decision-making by citizens. As some authors have

observed (Altman 2011: 16), the recall can be considered as a subtype of initiative, although it is aimed at persons, not at issues. This instrument allows citizens to propose a vote to dismiss and eventually replace an elected authority. By definition, the proposal to vote on the continuity or dismissal of a representative can only emerge from citizens through the collection of signatures; hence the analogy of this procedure with initiatives.

The different MPPs enumerated have a potentially different impact, depending on whether they allow citizens to activate the mechanism and make the proposal and depending on the effects of the particular institution. Table 2 proposes an index of MPPs that reflects the relative weight of each instrument according to the degree of autonomous influence or control it provides to ordinary citizens.

**[Table 2 here]**

The index presented in Table 2 gives no weight to pure top-down MPPs because in these cases popular participation is totally dependent on the discretion of state authorities. Plebiscites are potentially manipulative instruments that state authorities use to legitimize government decisions or to bypass the other branch. At the other extreme, the instrument that makes possible the most autonomous form of popular participation is the popular initiative because it allows citizens to propose bills or constitutional reforms to be passed by popular vote. Mandatory referenda occupy an intermediate position in that in these cases the proposal emerges from a particular branch of government, but this branch is not free to decide whether or not people should vote on the proposal.

In between the extremes of pure top down and pure bottom up MPPs we also find other instruments, such as proposals of legislative or constitutional change that must be approved by representative bodies, and proposals to submit the rejection of a congressional proposal or the abrogation of an existing law or constitutional reform to popular vote. The impact of recall from the point of view of the control it provides to citizens over representatives varies depending on whether it can be used to dismiss and replace sub-national authorities, individual legislators, or the national executive.

Additional dimensions, such as whether the mechanism is proactive or reactive, or whether the outcome of a popular vote is binding or not binding, have been used for the purpose of a general classification of MPPs (see Altman 2011, Breuer 2007). These dimensions do not add more information to the proposed index of citizen autonomy. The difference between proactive and reactive instruments is already incorporated in the distinction between popular initiative and abrogative referendum. And when these instruments are regulated by the constitution, they are almost always binding. These dimensions are relevant, however, if we want to consider the degree of discretion and power that top-down MPPs provide to elected representatives, in particular the executive. Table 3 provides a scale from this perspective.

**[Table 3 about here]**

The lowest scores correspond to the cases in which the executive has no authority or can only convene a plebiscite with congressional authorization. At the other extreme, state authority enjoys the maximum degree of discretion when the executive alone can convene a binding plebiscite without the intervention of congress.

Intermediate levels of discretion occur when the executive can decide the plebiscite but only as a response to congressional action or when the executive alone can convene a plebiscite but the outcome is not binding. As with the case of measuring the potential for autonomous citizen participation, the exact weight of each instrument in this scale may be debatable. The overall point of both scales, however, is to capture the relative difference among MPPs from the point of view of citizens and from the point of view of state authorities.

### **Explaining reform: actors and process**

Poor economic performance, underprovision of basic public goods, and frequent corruption scandals involving elected representatives, have no doubt undermined the trust of citizens in representative institutions in Latin America during the last two decades. According to Latinobarometro, from 1995 to 2010 67.4 and 75.9 percent of respondents in 18 countries of the region expressed little or no trust in congress and political parties, respectively.<sup>3</sup> These low levels of trust in representative institutions correlate with a general trend of reforms (including the adoption of instruments that increase the opportunities of direct citizen participation) seemingly intended to placate public discontent.<sup>4</sup> Moreover, the Andean countries, which have experienced the most radical reforms in adopting instruments of direct democracy, are also the countries with the highest levels of citizen distrust in representative institutions. Yet citizen and elite evaluations about democratic performance only explain the

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<sup>3</sup> See <http://www.latinobarometro.org/latino/latinobarometro.jsp>

<sup>4</sup> Similar in spirit are also reforms that aimed at reducing the size of congresses, controlling corruption among legislators, or diminishing the control of party leaders in candidate selection processes.

emergence of proposals to replace or amend the existing constitution in a certain direction; they do not explain why reforms are adopted at a particular point in time or why the content and extension of reforms varies so much across countries (see Negretto 2013). I will concentrate on the second of these questions.

A relatively small but consistent body of literature has analyzed the adoption of popular initiatives in the United States and Western Europe. Since popular initiatives involve the delegation of lawmaking authority to citizens, this literature often starts by posing a puzzle: why would lawmakers and established parties deprive themselves from their monopoly control over lawmaking? (Bowler, Donovan, and Karp 2002: 733; Smith and Fridkin 2008: 338). A frequent proposition to solve this puzzle is that legislators are more likely to empower citizens to influence law making as the level of interparty competition increases or divisions emerge among the established parties (Scarrow 1997; Smith and Fridkin 2008; Kriesi and Wisler 1994).

In a recent article, Smith and Fridkin (2008: 226-227) provide the following version of this argument. The party that controls a majority of seats in the legislature is not likely to initiate reforms that undermine its own power. For this reason, the adoption of citizen-initiated mechanisms of popular participation tends to occur when minority opposition parties challenge established major parties by mobilizing citizen discontent against representative institutions. Since this challenge should be proportional to the institutional strength of opposition parties, a majority party is likely to become more receptive to public opinion and cater to the median voter only when minority parties increase their representation in congress.

As applied to Latin America, several of the assumptions underlying this argument are questionable. In particular, the assumption that the institutional body that approves the reform is an ordinary congress, that there is always a majority party to control the reform process, and that reforms are adopted by established rather than by new challenger parties. The argument is also restrictive because it applies only to the adoption of popular initiatives.

Many reforms in Latin America have been adopted by constituent assemblies elected to create a new constitution rather than by ordinary congresses amending the existing one. There is no puzzle, however, in the adoption of citizen-initiated mechanisms of popular participation by constituent assemblies. Delegates to constituent assemblies are elected independently of congress and are often made up of members of parties that have no representation or very different representation in congress. Moreover, constituent assemblies often enter into conflict with ordinary congresses because they are elected to reform congress. For instance, the constituent assemblies of Colombia in 1991, Peru in 1993, or Ecuador in 1998 were all elected in the midst of severe public criticism to congress and with the explicit mission to reform this institution. It is not surprising, then, that these assemblies adopted a wide array of instruments that potentially weaken the power of the ordinary legislature.

The assumption that there is a majority party in the reform body is also problematic. Obviously, there may be situations in which no party holds a majority of seats at the time of reform. For this reason, and in order to make the argument applicable to various partisan configurations across constitutional regimes, the focus should be not on the majority party but on the largest party at the time of reform. In a

presidential system, this party is usually the party of the president or the party that is likely to win the presidency in coming elections.

The argument that interparty competition increases the likelihood of reform assumes that the basic conflict about direct democracy takes place between a governing party that defends the status quo and new or preexisting opposition parties that propose increasing the opportunities of citizen participation. Although this scenario is plausible, it is based on the idea that the party system is relatively stable: reforms take place under the pressure of challenger parties but are not adopted by them. In Latin America, however, high levels of electoral volatility have produced the collapse or decline of established parties and the emergence of new dominant parties that often rose to power by proposing the adoption of more participatory forms of democracy. Once in power, these new majority parties organized ambitious processes of constitutional change that included the adoption of radical mechanisms of direct popular participation (see Barczak 2001). The clearest illustrations of this situation are the constitution making processes of Peru in 1993, Venezuela in 1999, Ecuador in 2008, and Bolivia in 2009.

The fact that in all these cases the dominant, anti-system party was a relatively new party suggests that in addition to the relative strength of the largest party at the time of reform, its level of institutionalization may be relevant to understand the incentives of this party to adopt institutions enhancing opportunities for autonomous citizen participation. Analyses of direct democracy reform in the United States and Western Europe have also argued about the potential effect of the strength and age of parties. Since younger parties have weaker links with voters, they are more likely to

delegate more power to citizens than old, established parties. According to Kriesi and Wisler (1994: 60), the presence of political parties with a low level of organizational development was an important factor for the success of reforms for direct legislation in both Switzerland and the United States. In a similar vein, but focusing exclusively on the United States, Smith and Fridkin (2008:340) argue that legislatures are more likely to devolve institutional power to citizens when political parties are young and organizationally weak. None of these authors, however, considered the possible interactive effects between the strength and age of parties.

Finally, although popular initiatives allow citizens to pass legislation against the wishes of elected legislators, there is a wide range instruments that may enhance autonomous citizen participation in both law making and constitutional change. Recent reforms in Latin America offer a rich menu of these instruments. For this reason, and based on the previous discussion, we can derive the following hypothesis:

H1: The largest party at the time of reform is more likely to support institutions increasing opportunities for autonomous citizen participation when the party is relatively new and weakly institutionalized

Party ideology may also contribute to explain the adoption of direct democracy institutions. Bowler, Donovan, and Karp (2002) hypothesize that right-of-center parties are more likely to support citizen-initiated referendums than left-of-center parties. The logic of their argument is in part inductive and based on the evidence that although initially these types of referendums were used to expand the public sector when it was relatively small, more recently parties proposing market-oriented



policies have become more supportive of these instruments.<sup>5</sup> Important counter-examples come to mind, however. Participatory democracy has been part of the program of many left-wing parties, particularly in Latin America, were until recently these parties were relatively weak and excluded from power. Direct, unmediated democracy is also part of the traditional repertoire of populist parties and leaders, whether from the left or the right (Canovan 1999: 3-4). In fact, one can even say that there is an “elective affinity” between populist parties and direct democracy.

The possible relationship between party ideology and direct democracy does not seem to be so much about specific policies, as about how radical the position of the party is in relation to the program of established parties. Most established parties in most democracies tend to be located between the center-left and the center-right. Populist and extreme policy programs are more likely to be embraced by new and minority parties. Since these parties usually challenge the status quo and are critics of representative democracy, they are the most likely to mobilize citizen discontent to demand reforms adopting instruments of direct democracy. From this perspective, we can derive a second hypothesis:

H2: Parties with a populist or extreme political ideology are more likely than centrist parties to support institutions increasing opportunities for autonomous citizen participation.

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<sup>5</sup> The authors, however, do not find strong support for the hypothesis in the cases they studied (New Zealand, Canada, and the United States).

The process of constitutional change may also affect the content of constitutional reforms. A growing body of literature on the impact of constitution making on democratic governance has argued that participatory constitution making processes increase the level of support of the constitution and help to create democratic regimes that protect civil and political rights (see Banks 2008). Although this broader claim has yet to be tested empirically in a systematic comparative way, some studies have found a correlation between popular participation in constitution making and the content of the constitution adopted. Based on a study of 12 episodes of constitutional replacement, Samuels (2006) finds that participatory processes of constitution making often lead to constitutions that provide rights to groups which had not up to then gained political protection or recognition. Possible explanations for this association are that the expansion of rights was placed on the agenda by civil society groups consulted during the drafting process or that the inclusion of these rights would facilitate the approval of the constitution in a popular ratification process.

The logic of this argument can be naturally extended to the adoption of instruments of direct democracy. In a recent article, Ginsburg, Elkins, and Blunt (2011: 218) propose that constitution making processes in which the public had an approval role are more likely to result in constitutions that involve the public in political decisions. And these authors find that, indeed, constitution-making processes involving approval by referendum are far more likely to include rights of political participation.<sup>6</sup> Based on these analyses we can thus formulate the following hypothesis:

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<sup>6</sup> However, they caution (correctly) that both participation in constitution making and the inclusion of mechanisms of popular participation in the constitution may be themselves caused by a third, unobserved factor.

H3: The higher the level of popular participation during the process of constitutional change, the more likely reformers will support institutions increasing opportunities for autonomous citizen participation.

As we have seen in the classification of MPPs, although several of these instruments have the potential to enhance the direct involvement of citizens in democratic governance, others make possible the manipulation of popular participation from state authorities. The typical plebiscite, for instance, is usually blamed for plebiscitarian politics and the emergence of delegative democracies (see Lissidini 2008). Given the potential negative effects of these instruments on democratic practices, it is interesting to explore how their adoption, in particular the level of discretion they provide to the executive, relates to the adoption of mechanisms that expand the opportunities for autonomous citizen participation.

Presidential plebiscites tend to increase the power of governments. The executive can use plebiscites to lend democratic legitimacy to divisive political decisions or to put pressure on a reluctant congress to pass controversial legislation. For this reason, these types of instruments are likely to be favored by incumbent presidents or party leaders with presidential ambitions. Rank-and-file members of presidential parties may also support these reforms if the party is young and weakly institutionalized. Members of these parties usually have little political autonomy in relation to their leaders and tend to be dependent on the executive for their future career advancement. It is also likely that populist and extreme parties that reject institutional mediations are more inclined to adopt plebiscitarian mechanisms of participation. Since these parties usually challenge the status quo, they may benefit from

instruments that provide democratic legitimacy to radical policies. This reasoning leads to the following hypotheses:

H4: The largest party at the time of reform is more likely to support institutions increasing the discretion of the executive in the use of plebiscites when the party is relatively new and weakly institutionalized.

H5: Parties with a populist or extreme political ideology are more likely than centrist parties to support institutions increasing the discretion of the executive in the use of plebiscites.

The relationship between other factors and the adoption of plebiscitarian mechanisms is less certain. For instance, a normative argument about participatory constitutional change may suggest that the direct involvement of citizens at the time of designing the constitution may limit the capacity of reformers to adopt mechanisms that benefit state authorities and thus limit citizen autonomy. Several constitutions in Uruguay, for instance, may fit this category because they have been created in participatory processes and never included plebiscites. Yet it is also possible that participation at the time of reform is promoted to both increase opportunities of autonomous citizen participation and the discretion of the executive in mobilizing support for government policies. This may be the case of the processes that led to the adoption of the 1999 Venezuelan constitution and the 2008 Ecuadorean constitution. For this reason, I will leave undefined *ex ante* the possible relationship between plebiscites and popular participation at the time of reform.

## **Determinants of MPPs in Latin America**

In order to test the hypotheses proposed in the previous section, I have gathered information on all major instances of constitutional change that occurred in eighteen Latin American countries between 1900 and 2012. The observations selected for the database consist of new constitutions and amendments enacted by popularly elected parties since 1900 and in force in years when the executive and the legislature were elected and more than one independent party competed in elections. The events that meet these criteria include all instances of constitutional replacement and a selection of important amendments in which institutional designers adopted at least one mechanism of popular participation. The total number of observations included in the sample that meet these criteria are 31 new constitutions and 9 amendments.

### *Dependent variables*

As already argued, mechanisms of popular participation can be evaluated from the perspective of citizen autonomy or from the perspective of state discretion. The main dependent variable of the analysis is the degree of autonomous citizen participation that constitutions make possible, measured by an additive index whose components and relative weights are presented in Table 2. This index ranges from 0 to 8.5, with an actual variation in the sample from 0 to 5.75 and a mean score of 1.28. The second dependent variable is the degree of discretion that the constitution grants to the executive in using direct appeals to the people in the form of plebiscites to approve political decisions or legislation. The degree of executive discretion is measured by an additive index whose components and relative weights are shown in Table 3. The

index ranges from 0 to 2, with the same range of actual variation in the sample and a mean score of 0.22. Table 4 shows the scores of both indexes for each country by 1950, 1980, and 2012.

**[Table 4 about here]**

As we can see in this table, MPPs are adopted in most constitutions after 1980. The range of variation is greater in the index of citizen autonomy than in the index of executive discretion because even after 1980 there are several countries (eight) whose constitutions have never incorporated executive plebiscites. In spite of this difference, however, it should be noted that the correlation between the indexes of citizen autonomy and executive discretion in MPPs is positive (.61) and statistically significant ( $p < 0.001$ ).

*Explanatory factors*

Table 5 provides descriptive information on the independent variables.<sup>7</sup> The first of these variables is the strength of the largest party at the time of reform, which can be measured in different ways. One alternative is to measure the share of seats of the largest party in congress or in the constituent assembly to determine whether stronger parties are more or less likely to adopt reforms increasing opportunities for citizen participation.<sup>8</sup>

**[Table 5 about here]**

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<sup>7</sup> Unless otherwise indicated, data for the coding of the independent variables has been obtained from the *Latin American Constitutional Change Database* (<http://www.la-constitutionalchange.cide.edu>)

<sup>8</sup> Smith and Fridkin (2008) use a variant of this measurement, which is the surplus of seats beyond the 50 percent threshold that the majority party has in congress.

The main problem with this variable, however, is that it does not take into account whether the largest party has enough seats to become dominant in the reform process. Whereas in constituent assemblies it is customary to make decisions by simple majority rule, in ordinary congresses adopting constitutional amendments it is often required a qualified majority of either two thirds or three fifths. For this reason, I created a dummy variable (DOMINANT) that takes into account the decision rule in the reform process to determine whether the largest party has the capacity to adopt reforms unilaterally (1) or needs the support of other parties (0) to pass reforms.

As I have argued, the incentives of the largest party to adopt reforms increasing the opportunities of citizen participation may depend not only on its relative strength during the reform process, but also on whether it is an established or a newcomer party. In particular, relatively new and weakly institutionalized parties that rose to power as critics of established parties might be more likely to adopt these types of reforms, even if they have control over the reform process. The concept of institutionalization of both parties and party systems has several components, but the most important are the age of parties and the stability of voting patterns across elections (see Mainwaring and Scully 1995, 4–6). Since comparative data on the electoral and institutional volatility of the largest party at the time of reform cannot be used in the absence of democratic periods before the reform (for instance, when new constitutions were adopted at the beginning of a transition to democracy) I have used party age as a proxy of party institutionalization. This variable (PARTAGE) traces the age of the largest party from its foundation to the year of reform and its effect is considered both separately and in interaction with the condition of party dominance.

In order to test the influence of party ideology, I have included a variable (PARTIDEOL) that measures the relative policy position of the largest party in the constituent body. The variable ranges from 0, when this party has a centrist policy position, to 2, when it has a clear left or right position. Parties that combine positions from both sides of the ideological spectrum receive an intermediate score of 1.<sup>9</sup>

The degree of popular participation in constitutional change is measured by an additive, ordinal variable (PARTICIPATE) with three components: first, who proposed the revisions; second, who approved the revisions; and third, whether the constitution or the constitutional amendment was ratified by popular vote. The variable has a minimum score of 0 (when revisions are proposed and decided by a non-elected body or institution and there is no popular ratification) and a maximum of 10 (when revisions are proposed in a popular initiative, the constitution is approved in an independently elected constituent assembly and the constitution or its reform is ratified by popular vote).<sup>10</sup>

A descriptive analysis of the evolution of MPPs in Latin America shows a strong temporal effect, which seems to prevail over the possible contagion or imitation effect among geographically proximate countries.<sup>11</sup> MPPs spread in the region, regardless of

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<sup>9</sup> These are populists or personalist parties that typically take a non-centrist position in electoral campaigns even though their programs lack internal ideological consistency.

<sup>10</sup> The actual components of the scale are as follows. Revisions proposed by a non-elected body = 0; by an elected president or congress without popular participation = 1; by president via plebiscite = 2; by congress via plebiscite = 3; by citizens via popular initiative = 4. Revisions approved by a non-elected body = 0; by elected president = 1; by an ordinary congress = 2; by a constituent congress = 3; by a constituent assembly previous approval of ordinary congress = 4; by an independently elected constituent assembly = 5. Ratification of revisions by popular vote = 1; otherwise, 0.

<sup>11</sup> Given the visible temporal effect, a geographic diffusion variable (for instance, taking into account the percentage of countries in a given sub-region adopting a particular type of MPP in a given year) would confuse as imitation of neighboring countries what is simply a common response to shared political problems that have increased over time.



the specific geographic location of the country, in each successive year after 1978. Uruguay is the clearest exception because this country adopted reforms increasing opportunities for autonomous citizen participation since the early 1940s. Yet this country does not appear to have been influenced by neighboring countries nor it had any visible influence over them. Most instruments of this type appeared in South America and elsewhere in Latin America only after the late 1980s. For this reason, I have included a control variable (YEAR) that considers the year of adoption of the reform as a measure of the temporal diffusion of MPPs.

### *Regression Analysis*

To test the determinants of the choice of different types of MPP, I used an OLS estimation, with robust standard errors clustered by country to control for correlation among observations within each country. Table 6 shows the results.

### **[Table 6 about here]**

The first two models test the determinants of opportunities for autonomous citizen participation in the constitution. Model 1 considers party dominance and party age as having separate and independent effects on the content of reforms. Against the hypothesis that increasing party competition facilitates the adoption of instruments that empower ordinary citizens, results show that when the largest party is dominant during the reform process, the number of institutions increasing opportunities for citizen participation actually increases.<sup>12</sup> This suggests that different

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<sup>12</sup> The same positive and significant effect is observed if instead of a dummy variable measuring party dominance we use a continuous variable measuring the share of seats of the largest party.

from the explanation of the adoption of popular initiatives in the US, in Latin America the incentives to adopt reforms increasing opportunities for autonomous citizen participation may actually increase as the largest party becomes stronger. In the additive model, the age and ideology of the largest party have no significant effect on constitutional choice.

Model 1 also shows that citizen participation during the process of reform does have, as expected, a positive and significant impact on the outcome of reform. In particular, as the process of constitutional change becomes more participatory reformers tend to expand opportunities for citizen participation in the constitution as well. The year of adoption of reforms also had the expected effect of increasing the instruments of autonomous citizen participation.

As I have argued, the impact of the strength of the largest party should not be independent of its level of institutionalization. Model 2 captures this interactive effect using party age as a proxy of party institutionalization. This model shows that the presence of a dominant party has a statistically significant effect on reforms only when the age of this party is 0. Since the age of the largest at the time of reform is always positive — the minimum age is one year — this result needs interpretation. Figure 1 shows the marginal effect of party dominance as the age of the largest party increases. This figure confirms that party dominance and party age interact. In particular, it shows two things: first, that younger dominant parties are more likely to increase opportunities of autonomous citizen participation than older parties; second, that as the largest party ages and becomes more institutionalized, this effect ceases to be significant.

**[Figure 1 about here]**

The second two models test the determinants of executive discretion in calling plebiscites. In Model 1, where the effects of party dominance and age are considered as independent, neither of these variables is statistically significant. There is, however, a significant and positive effect of party ideology, indicating that when the largest party has a populist or extreme ideology, it is more likely it will adopt institutions that increase the discretion of the executive in using plebiscites. Popular participation in constitutional change also facilitates the adoption of these instruments, which suggests that citizen involvement at the time of reform has an ambivalent impact on empowering citizens at a later stage in the democratic regime. As expected, the year of adoption also has a significant effect on the level of discretion granted to the executive in the use of plebiscites.

The results of Model 2, which includes an interaction between party dominance and party age, are apparently similar to the previous model. Neither the interactive term nor its components are statistically significant. Yet these results cannot be interpreted directly without calculating marginal effects. Figure 2 shows the marginal effect of party dominance on executive discretion as party age increases.

**[Figure 2 here]**

This figure indicates that there is an inverse relationship between the age of the dominant party and the adoption of plebiscitarian instruments of popular mobilization. In particular, as the dominant party becomes older and thus more institutionalized, it tends to significantly reduce the discretion of the executive in

using plebiscites. By contrast, younger and less institutionalized parties do not decrease the capacity of the executive to use plebiscites in a discretionary manner. The rest of the variables in Model 2 have a similar effect as in the previous model.

### **Paths to direct democracy: the risks of participatory but exclusionary reforms**

The preceding analysis indicates that dominant but weakly institutionalized parties are likely to favor empowering citizens in the constitution. At the same time, these parties are not likely to decrease executive discretion in the design of MPPs, and may actually increase it when they have a populist or extreme ideology. It also suggests that although popular participation during the reform process has a positive impact on the adoption of instruments empowering citizens, it does not prevent the simultaneous incorporation of instruments that expand the authority of the president to mobilize citizens at his discretion.

These results point to the contradictory outcomes and potential risks associated to processes of constitutional change that are highly participatory, because citizens take part in the formulation or approval of reforms, but at the same time are highly exclusionary, because a dominant party is able to impose reforms without (or with a minimum of) deliberation or negotiation with other parties. In Latin America, this seems to have been the case of reforms adopted by new challenger parties that in a critical juncture achieved an electoral majority as opponents of established parties and as critics of representative democracy. Once in power, these parties organized an

ambitious participatory process of constitutional replacement that incorporated an extensive list of MPPs.

Given the relatively small number of observations involved in the previous statistical analysis, we can examine more closely the cases where party dominance was associated to both high participation during the process of constitutional change and a high score in the dependent variable. For the degree of citizen autonomy in MPPs, the relevant observations are Bolivia 2009, Ecuador 2008, Paraguay 1992, Peru 1993, and Venezuela 1999. For the degree of executive discretion, the relevant observations are Bolivia 2009, Ecuador 2008, and Venezuela 1999.<sup>13</sup> Note that with the exception of Paraguay (where the dominant Colorado Party was an old conservative party) in all the other cases the dominant party was relatively new and characterized by an extreme or populist political ideology.

When we exclude these observations from the regression analyses presented in Table 6 we observe that in all models (results not shown) participation in the constitution making process ceases to be statistically significant. This result supports

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<sup>13</sup> The case of Bolivia is somewhat complex to codify. The congressional law convening the constituent assembly required a two-thirds vote of the members present in the assembly to approve the new constitution. This implied that with most members present, MAS, the majority party, would have to seek agreement with other parties to approve the constitution. This party had 137 of 255 members. Yet from the very beginning of the sessions, there was a conflict over the interpretation of the two-thirds rule. Initially, MAS proposed that majority vote should be the general rule, requiring two-thirds only for some important issues. A final compromise was reached according to which the approval of the constitution would require an absolute majority for the general text, and a two-thirds vote for individual articles. If on some articles the assembly did not reach the two-thirds, a popular referendum would decide on the matter. The final draft was approved article by article on December 2007 by more than two thirds over the members present. This was possible, however, because the opposition decided to withdraw from the session and MAS alone had more than the required number to reach two-thirds of the vote (109) over 164 members present. Given the general dynamics of the process, the polarization between government and opposition, and the overwhelming influence of the largest party on the final approval of the constitution, I decided to code Bolivia 2009 as a case of party dominance. On the general features of the process, see Lazarte (2008).

the idea that in the presence of a dominant party the level of participation in constitutional change may be endogenously determined by the same factor that affects the selection of instruments of direct democracy. This factor may be the strategy of young and weakly institutionalized anti-system parties to use popular mobilization to both strengthen their legitimacy vis-à-vis the traditional political elite and concentrate decision-making power in hands of the government.<sup>14</sup>

It should be noted that in most of these cases the new instruments of popular participation did not remain simply in the letter of the constitution; many were actually implemented (see Altman 2012; Breuer 2007; Welp 2010). Yet there are two main problems with constitutions that emerged from participatory but exclusionary processes. The first is that they may incorporate contradictory institutions, as was the case in Venezuela, Ecuador, and Bolivia, both increasing opportunities for autonomous citizen participation and expanding the authority of the government to mobilize voters in support of its decisions. In other words, constitutions created in these types of processes make possible both radical and plebiscitary forms of democracy. The second problem is that participatory though exclusionary processes of constitutional change may provide a single party and its leader with an aura of democratic legitimacy that can be used to harass the opposition and concentrate power in the executive branch in a way that in practice reduces opportunities for autonomous citizen participation. This has been probably the case of Paraguay from

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<sup>14</sup> More exceptionally, relatively old parties could resort to a similar strategy if they are strong but in need for new forms of democratic legitimation, as was the case of the Colorado Party in Paraguay due to its past association with the military regime.

1992 to 2007, of Peru from 1993 to 2000, of Venezuela since the adoption of the 1999 constitution, and of Ecuador after the enactment of the 2008 constitution.

Representative and direct democracy should complement each other. On the one hand, traditional political liberties and limits on state power are necessary conditions not only for fair elections but also for autonomous citizen participation. On the other hand, having explicit, legal channels for autonomous citizen participation strengthens popular sovereignty and facilitates citizen control to prevent or remedy abuses of governmental power. As Altman has shown (2010, 2011), this is true not only in theory but also in practice since the effective use of channels for autonomous citizen participation is associated with higher levels of democracy.

Yet the process by which instruments of direct democracy are created may have an impact on whether they are implemented in a way that reinforces or contradicts representative democracy. Reforms that are at the same time participatory and inclusive may lead to forms of direct democracy that strengthen popular sovereignty without jeopardizing traditional political liberties. Such is the case of reform processes like those of Uruguay in 1967 or Colombia in 1991, both highly participatory, because they involved the people in the formulation or approval of reforms, but also consensual, because reforms were adopted by means of deliberations and negotiations involving different parties. In these cases, reforms increasing opportunities for autonomous citizen participation were adopted without the simultaneous expansion of the authority of the executive in the use of plebiscites. At the same time, the consensual and inclusive nature of the reform process increased the number of actors with an interest in enforcing the constitution and preserving its

institutions (on this point see Elkins, Ginsburg, and Melton 2009). Under these conditions, it is likely that the newly created participatory institutions contributed to strengthen the existing democratic regime.

In some cases, however, direct democracy can be designed and implemented as an alternative rather than as a complement to representative democracy. This is likely to be the case of reforms that emerged from a participatory yet exclusionary reform process. In this situation, the implementation of mechanisms that in theory make possible autonomous citizen participation may be limited by government-controlled institutions or may be overwhelmed by the more frequent use of plebiscitarian instruments of top down popular mobilization. We should not expect here a reinforcing relationship between direct and representative democracy.

## **Conclusion**

It makes sense to think that governing majority parties will be reluctant to delegate institutional power to the people if these parties are established parties with relatively stable patterns of voter support across elections and institutionalized channels of communication with their constituents. Yet this scenario may not always occur when very low levels of public trust in parties and congresses are associated with high levels of electoral volatility and party system change. I have argued that in this context a governing majority party that rose to power as a critic of established parties and representative institutions may have incentives to adopt reforms that increase opportunities for autonomous citizen participation, particularly if the party is



weakly institutionalized and has a populist or extreme ideology. I have also argued that this type of party is likely to adopt institutions with contradictory effects, both empowering citizens to participate directly in politics and expanding the discretion of the executive to use plebiscitarian instruments of popular mobilization.

The empirical analysis pursued in this paper provides support to these arguments and finds that new dominant anti-system parties that adopt reforms expanding MPPs also tend to activate popular participation during the process of constitutional change. This opens an interesting avenue of research linking the process by which mechanisms of popular participation are created with the quality of democratic governance. A participatory but exclusionary process of constitutional change may not be the best way to “democratize” existing representative democracies. These processes lead to the adoption of institutions that make possible different types of popular participation, some enhancing, others undermining citizen autonomy. They also strengthen a single actor that claims to be the true representative of the citizen body. This may explain why some countries that created new constitutions through a participatory but exclusionary process have at the same time the highest scores in the design of MPPs and the lowest scores of representative democracy.

Table 1

**Mechanisms of Popular Participation**

<b>Mechanism activated by</b>	<b>Source of proposition</b>	
	<b>State actors</b>	<b>Citizens</b>
<b>State actors</b>	Plebiscite	_____
<b>Citizens</b>	Abrogative (or rejective) referendum	Initiative (passed by representatives or voters themselves)  Recall
<b>Constitution</b>	Mandatory referendum	_____

**Source:** Author, based on Kriesi (2012).

Table 2

**Degree of Citizen Autonomy in MPPs**

<b>Law Making</b>	<b>Weight</b>
No citizen participation or participation in state-initiated plebiscite	0
Mandatory referendum	0.25
Citizens can propose bills to congress	0.50
Citizens can vote the abrogation of an existing law	0.75
Citizens can pass a new law by popular vote	1
<b>Constitutional Change</b>	
No citizen participation or participation in state-initiated plebiscite	0
Mandatory ratification of amendments	0.25
Mandatory ratification of new constitution	0.25
Citizens can propose amendments to congress	0.50
Citizens can vote the abrogation of an amendment passed by congress	0.75
Citizens can propose and pass an amendment by popular vote	1
Citizens can propose and vote on convening a constituent assembly	1
<b>Control</b>	
No recall	0
Recall subnational authorities	0.5
Recall national legislators	0.75
Recall national executive	1
<b>Maximum Score</b>	<b>8.5</b>

**Table 3****Degree of Executive Discretion in MPPs**

<b>Law Making</b>	<b>Weight</b>
President has no authority to convene a plebiscite on political or legislative decisions	0
President can only convene a plebiscite with congressional authorization	0.25
President can convene a plebiscite but only after congressional action	0.50
President alone convenes a plebiscite but outcome is not binding	0.75
President alone convenes a plebiscite and the outcome is binding	1
<b>Constitutional Change</b>	
President has no authority to convene a plebiscite on constitutional change	0
President can only convene a plebiscite with congressional authorization	0.25
President can convene a plebiscite but only after congressional action	0.50
President alone convenes a plebiscite but outcome is not binding	0.75
President alone convenes a plebiscite and the outcome is binding	1
<b>Maximum Score</b>	<b>2</b>

**Table 4**  
**Score of MPPs in Latin American Constitutions by 1950, 1980, and 2012**

Country	Index of Citizen Autonomy			Index of Executive Discretion		
	1950	1980	2012	1950	1980	2012
Argentina	0	0	0.5	0	0	0.75
Bolivia	0	0	5.75	0	0	1
Brazil	0	0	.5	0	0	0
Chile	0	0	0	0	0.5	.5
Colombia	0	0	4	0	0	.5
Costa Rica	0	0	2.5	0	0	.25
Dom. Rep.	0	0	1	0	0	0
Ecuador	0	1.5	5.75	0	1.25	2
El Salvador	0	0	.25	0	0	0
Guatemala	0	0	.75	0	0	.75
Honduras	0	0	3.5	0	0	.5
Mexico	0	0	.5	0	0	.25
Nicaragua	0	0	1.5	0	0	0
Panama	0	.25	2.25	0	0	0
Paraguay	0	0	3	0	0	0
Peru	0	0	4.5	0	0	0
Uruguay	1.25	2.5	2.5	0	0	0
Venezuela	0	.25	5.25	0	0	.75
<b>Mean</b>	<b>0.07</b>	<b>0.25</b>	<b>2.44</b>	<b>0.00</b>	<b>0.10</b>	<b>0.40</b>

**Table 5**  
**Descriptive Statistics: Independent Variables**

<b>Variable</b>	<b>Type</b>	<b>Min</b>	<b>Max</b>	<b>Mean</b>	<b>Std. Dev.</b>	<b>N</b>
<b>DOMINANT</b>	Dummy	0	1	0.5	0.5	40
<b>PARTAGE</b>	Numerical	1	143	40.2	41.3	40
<b>PARTIDEOL</b>	Ordinal	0	2	0.6	0.9	40
<b>PARTICIPATE</b>	Ordinal	1	9	4.8	1.8	40

**Table 6**  
**Determinants of MPPs in Latin America (1)**

Independent Variable	Citizen Autonomy (2)		Executive Discretion (3)	
	Model 1	Model 2	Model 1	Model 2
<b>DOMINANT</b>	.818 * (.399)	1.481 ** (.409)	-.094 (.078)	.018 (.113)
<b>PARTAGE</b>	.004 (.004)	.009 (.006)	-.001 (.001)	-.000 (.001)
<b>DOMINANT*PARTAGE</b>	_____	-.018 * (.009)	_____	-.003 (.002)
<b>PARTIDEOL</b>	.098 (.272)	.008 (.237)	.122 *** (.040)	.104 ** (.036)
<b>PARTICIPATE</b>	.521 *** (.101)	.514 *** (.091)	.104 * (.053)	.102 * (.053)
<b>YEAR</b>	.044 *** (.008)	.047 *** (.008)	.009 *** (.003)	.009 *** (.003)
Constant	-89.817 *** (16.883)	-95.480 *** (16.574)	-17.964 *** (5.630)	-18.928 *** (5.957)
Adjusted R <sup>2</sup>	0.66	0.68	0.44	0.43
N	40	40	40	40

(1) OLS

(2) Continuous variable ranging from 0 to 8.5

(3) Continuous variable ranging from 0 to 2

Numbers in parentheses are robust standard errors clustered by country.

FIGURE 1

Marginal effect of party dominance on citizen autonomy in MPPs as party age increases

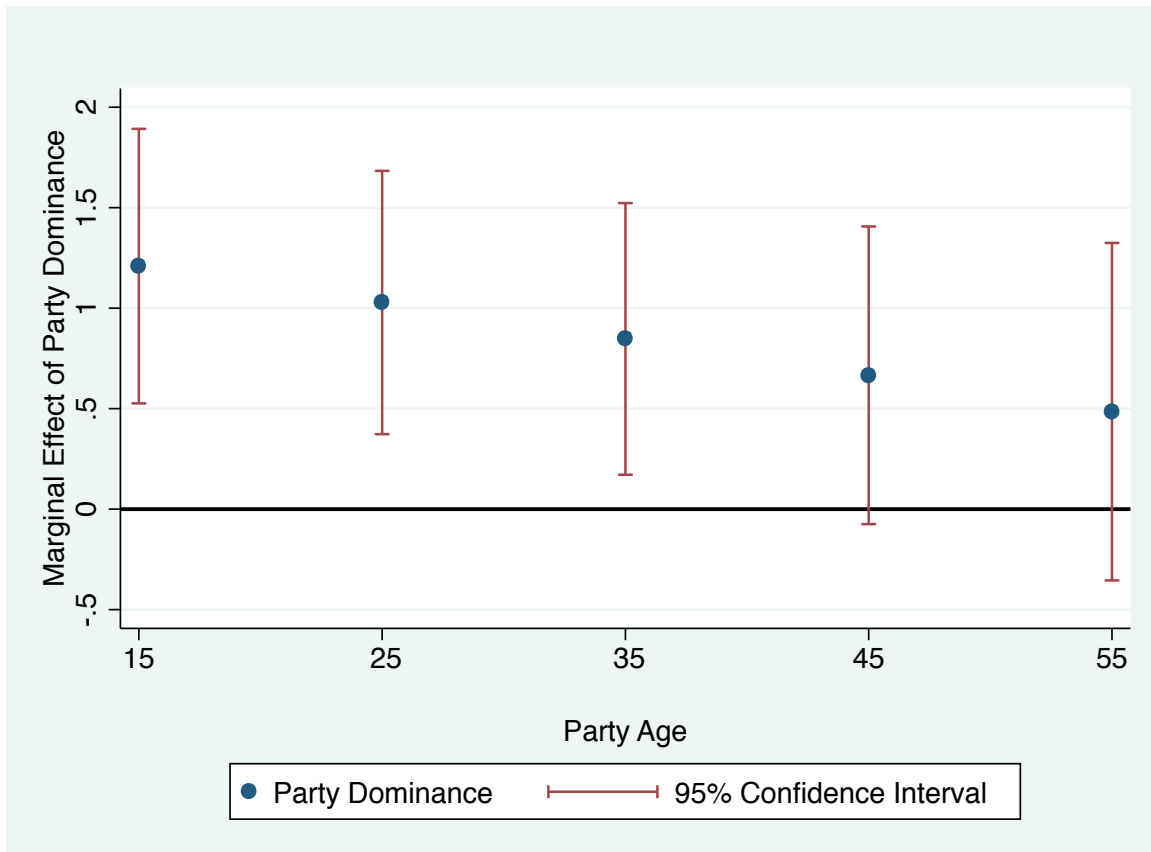
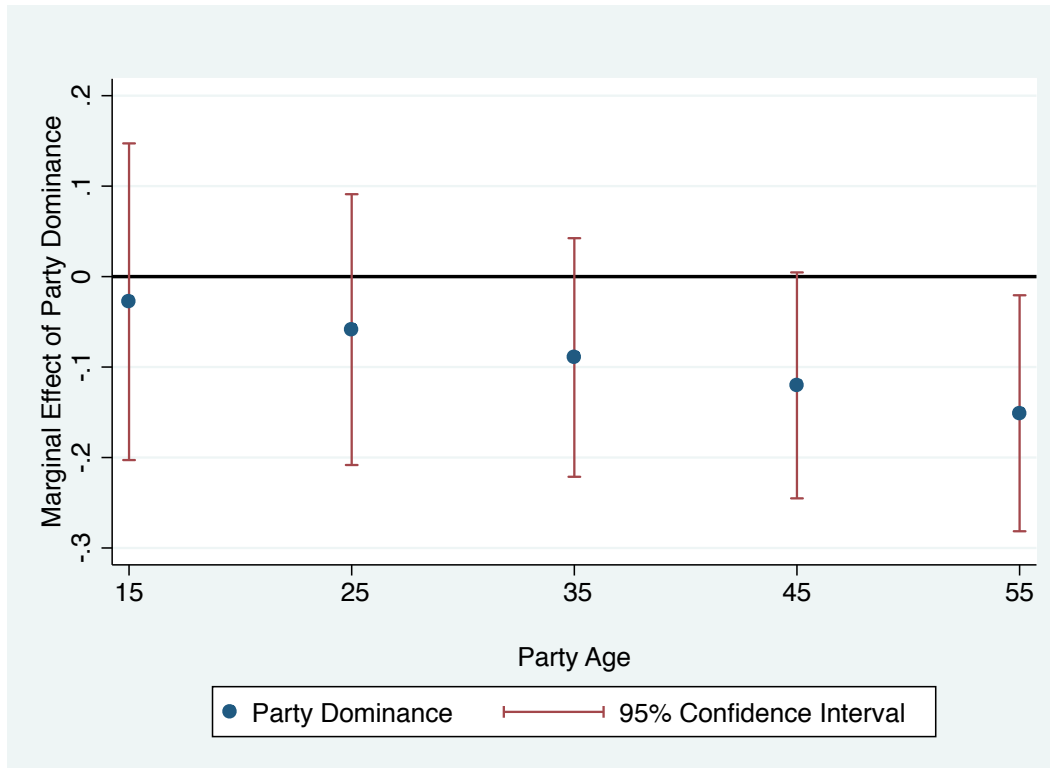




FIGURE 2

Marginal effect of party dominance on executive discretion in MPPs as party age increases



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