

**“Uncertainty and the General Interest in the U.S. Constitution:
A Study of Embedded Power Relations”**

DRAFT 1

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Abstract

The Veil of Ignorance Project (VOIP) is a research program organized and led by Professors Louis M. Imbeau and Steve Jacob at Laval. This set of studies is located in the area of constitutional political economy. The studies are based on research published in 2011 (Imbeau and Jacob) and 2009 (Imbeau) and ask two broad questions: which national constitutions belong to the constitutional level of decision-making and which do not? What explains the variation? These questions currently are being explored by expert national teams via a content analysis of several national constitutions.

This paper systematically extracts the power relations embedded in the American constitution as discourse, and communicates empirical findings concerning their presence and direction. The results of this case support Imbeau and Jacob's main hypothesis: the American constitution clearly reflects the general interest more than the constitution drafters' private interests. Owing to this, the empirical results support James Buchanan and Gordon Tullock's seminal proposition, articulated in their 1962 work *The Calculus of Consent*, that uncertainty about the future guides constitutional architects to labour on behalf of the general interest, rather than to serve their self-interest. So uncertainty is an important guarantor of the general interest, and these findings support several theoretical treatments (e.g. Rawls) concerning the effects of uncertainty on behavior.

An Outline of the Main Sections

Introduction

This study contains empirical tests of power relations embedded within the text of the American constitution to probe James Buchanan and Gordon Tullock's core proposition about the key role uncertainty supplies by protecting the general interests in constitutional drafting exercises. Imbeau and Jacob propose Buchanan and Tullock are correct; this study confirms the proposition.

Section 1- Historical context of the drafting and adoption of the constitution

1.1 Key issues and historical events leading to the drafting and adoption of the American constitution.

- Domestic and international issues: political, economic, social.
- Main global sources of uncertainty at the time of drafting and Adoption.

1.2 The Drafters and the Adopters: motivation and interests.

- Subjective motivations (i.e., their own discourse or the discourse of their contemporaries or of historians about what motivated them.
- Objective interests, inferred from their position in the structure of political, economic, and preceptoral power (cf. Imbeau 2009; Imbeau & Jacob 2011)?
- What were the sources of uncertainty, from an individual point of view?

1.3 The evolution of the drafting and adoption processes.

Section 2: The Constitution's content from a power relation framework perspective .

2.1 Description of the constitutional text (i.e. structure, number of sections, number of words)

2.2 Statistical results from the content analysis.

2.3 Agents in the constitution.

2.4 Constitutional capacities of the agents (what can/may they do)

- Capacity to act over events or things (instrumental power).
- Capacity to act over other agents (social power).

2.5 Capacities the text takes from these agents (what they are prevented from doing)

- Capacity to act over events or things (instrumental power).
- Capacity to act over other agents (social power).

2.6 The certainty and uncertainty of drafters and adopters as manifested in the content of the constitutional text (general vs private interests)

- The distribution of the content of the constitution concerning uncertainty and certainty.

Section 3. Discussion

- Consideration of the units of the content analysis (power relations) that seem to go against the hypothesis: [V1=2 or V1=3]; [V2=2]; [V3=2]; [(V1=2 or V1=3) and V2=2].
- To what extent do they suggest, in the theoretical and methodological context of this project, that decisions were not made under uncertainty.
- Which agents have been ignored in the text? What can be inferred from this omission?
- The stability of the constitution: constitutional change and the justifications of those changes.

Section 4: Conclusion

The results of this study of embedded power relations within the American constitution support Imbeau and Jacob's main hypothesis: the American constitution clearly reflects the general interest more than the constitution drafters' private interests.

Owing to this, the empirical results support James Buchanan and Gordon Tullock's seminal proposition, articulated in their 1962 work *The Calculus of Consent*, that uncertainty about the future guides constitutional architects to labour on behalf of the general interest, rather than to serve their self-interest. So uncertainty is an important guarantor of the general interest, and these findings support several theoretical treatments (e.g. Rawls) concerning the effects of uncertainty on behavior.

This case, alongside the others currently in progress for several other countries (Belgium, Cameroon, Canada, Chad, Estonia, France, Germany, Greece, Italy, Niger, Switzerland, and Tunisia) makes a new and substantial contribution to the constitutional political economy literature.

Main Empirical Findings: Analysis of the US Constitution

Table 1: Source of power

	Effectifs	Pourcentage	Pourcentage valide	Pourcentage cumulé
Valide Authority	380	85.4	85.4	85.4
Wealth	9	2.0	2.0	87.4
Knowledge	27	6.1	6.1	93.5
Indeterminate	29	6.5	6.5	100.0
Total	445	100.0	100.0	

Table 2: Type of power

	Effectifs	Pourcentage	Pourcentage valide	Pourcentage cumulé
Valide Social power	226	50.8	50.8	50.8
Instrumental power	219	49.2	49.2	100.0

Total	445	100.0	100.0
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Table 3: Direction of power

	Effectifs	Pourcentage	Pourcentage valide	Pourcentage cumulé
Valide Positive	402	90.3	90.3	90.3
Negative	43	9.7	9.7	100.0
Total	445	100.0	100.0	

Table 4: Source of power * Type of power

Effectif

		Type of power		Total
		Social power	Instrumental power	
Source of power	Authority	192	188	380
	Wealth	4	5	9
	Knowledge	20	7	27
	Indeterminate	10	19	29
	Total	226	219	445

Table 5: Source of power * Direction of power

Effectif

		Direction of power		Total
		Positive	Negative	
Source of power	Authority	341	39	380
	Wealth	7	2	9
	Knowledge	26	1	27
	Indeterminate	28	1	29
	Total	402	43	445

Table 6: Source of power * Type of power * Direction of power
Effectif

Direction of power			Type of power		Total
			Social power	Instrumental power	
Positive	Source of power	Authority	169	172	341
		Wealth	4	3	7
		Knowledge	20	6	26
		Indeterminate	9	19	28
	Total		202	200	402
Negative	Source of power	Authority	23	16	39
		Wealth	0	2	2
		Knowledge	0	1	1
		Indeterminate	1	0	1
	Total		24	19	43
Total	Source of power	Authority	192	188	380
		Wealth	4	5	9
		Knowledge	20	7	27
		Indeterminate	10	19	29
	Total		226	219	445

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