



# Latin American Constitutionalism,1810-2010: The Engine Room of the Constitution

*By Roberto Gargarella*

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## **Latin American Constitutionalism,1810-2010: The Engine Room of the Constitution** By Roberto Gargarella

Latin America possesses an enormously rich constitutional history, one that has only recently become the subject of scholarly inquiry. As noted legal theorist Roberto Gargarella contends, contemporary constitutional and political theory has a great deal to learn from this history, as Latin American constitutionalism has endured unique challenges that have not appeared in other regions. Such challenges include the emergence of egalitarian constitutions in inegalitarian contexts; deliberation over the value of "importing" foreign legal instruments; a long-standing exercise of socio-economic rights; issues of multiculturalism and indigenous rights; and substantial experience with "unbalanced" versions of the system of "checks and balances." Moreover, Latin American nations have endured numerous and frequent constitutional changes over the past two centuries.

In this landmark book, Gargarella provides a broadly comparative history of Latin American constitutionalism, informed by constitutional theory. He organizes the book across four major historical periods of Latin American legal history, infusing this history with a discussion of the ideas of thinkers including Juan Bautista Alberdi, Francisco Bilbao, Simón Bolívar; Juan Egaña, José González Vigil, Victorino Lastarria, Juan Carlos Mariátegui, Juan Montalvo, José María Mora, Mariano Otero, Manuel Murillo Toro, José María Samper and Domingo Sarmiento. Written by one of the leading scholars in the field, this book is truly a milestone in the study of Latin American constitutionalism.

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#### Review

"Roberto Gargarella provides a panoramic view of the structures of Latin American constitutionalism in the nineteenth century, and then shows how those structures were both preserved and transformed in the constitutional reforms of the twentieth and early twenty-first. This is a major contribution to the field."--Mark Tushnet, Harvard Law School

"A breathtaking panorama of 200 years of Latin American constitutionalism. The central argument-that implementation of social rights is impeded by the absence of political reforms-will undoubtedly provoke widespread debates well beyond Latin America."--Adam Przeworski, New York University

"An extraordinary achievement. Gargarella-widely recognized as one of the best constitutional scholars of our time-has come up with a path-breaking analysis of the Latin American constitutional tradition. Examining the constitutional issues that Latin American statesmen and jurists have dealt with in the last two centuries, Gargarella identifies patterns and insights which greatly illuminate our understanding of Latin America's constitutional trajectory. He skillfully links constitutional history, constitutional theory, and socio-legal analysis in a work destined to become canonical in the field of comparative constitutional law and theory. This is an indispensable book not only for scholars of Latin American constitutionalism and history, but for anyone interested in the current processes of constitutional reform in the region."--Javier Couso, Universidad Diego Portales Law School (Chile)

"Roberto Gargarella has written a wonderful, remarkably sweeping, forcefully argued book on Latin American constitutionalism. Drawing together philosophy, political science, history, and constitutional law, he presents a compelling analysis of Latin American constitutions and constitutional traditions. He complements that analysis with a powerful normative-practical thrust. Latin America, he says, needs to reject Presidentialist and centralist traditions and embrace an egalitarian constitutionalism that unites strong protections of individual autonomy with a subordination of power to norms of collective self-government. Moving in these new directions will require reformers to concentrate on how constitutions organize power, not simply how they enumerate rights."--Joshua Cohen, Stanford University

#### About the Author

**Roberto Gargarella** is Professor of Constitutional Theory and Political Philosophy at Universidad de Buenos Aires and a researcher for CONICET in Buenos Aires and the Christian Michelsen Institute in Norway. He received a John Simon Guggenheim grant in 2000 and a Harry Frank Guggenheim grant in 2002-3 and has published on issues of legal and political philosophy, as well as on U.S. and Latin American

constitutionalism.

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