

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy in Spanish America

M. C. Mirow

Excerpt

[More information](#)

---

## Latin American Constitutions

*Latin American Constitutions* provides a comprehensive historical study of constitutionalism in Latin America from the independence period to the present, focusing on the Constitution of Cádiz, a foundational document in Latin American constitutionalism. Although drafted in Spain, it was applied in many regions of Latin America, and deputies from America formed a significant part of the drafting body. The politicization of constitutionalism reflected in Latin America's first moments proved to be a lasting legacy evident in the legal and constitutional world of the region today: many of Latin America's present challenges to establishing effective constitutionalism can be traced to the debates, ideas, structures, and assumptions of this text. This book explores the region's attempts to create effective constitutional texts and regimes in light of an established practice of linking constitutions to political goals and places important constitutional thinkers and regional constitutions, such as the Mexican Constitution of 1917, into their legal and historical context.

M. C. Mirow is a professor of law at Florida International University.

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy  
in Spanish America

M. C. Mirow

Excerpt

[More information](#)

---

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy  
in Spanish America

M. C. Mirow

Excerpt

[More information](#)

---

# Latin American Constitutions

## *The Constitution of Cádiz and its Legacy in Spanish America*

M. C. MIROW

*Florida International University College of Law*



**CAMBRIDGE**  
UNIVERSITY PRESS

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy in Spanish America

M. C. Mirow

Excerpt

[More information](#)

**CAMBRIDGE**  
UNIVERSITY PRESS

32 Avenue of the Americas, New York, NY 10013-2473, USA

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9781107025592](http://www.cambridge.org/9781107025592)

© M. C. Mirow 2015

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2015

Printed in the United States of America

*A catalog record for this publication is available from the British Library.*

*Library of Congress Cataloging in Publication Data*

Mirow, M. C. (Matthew Campbell), 1962– author

Latin American constitutions: The constitution of Cádiz and its legacy in Spanish America / M. C. Mirow, Florida International University College of Law

pages cm

Includes bibliographical references and index.

ISBN 978-1-107-02559-2 (hardback)

1. Constitutional history – Latin America. 2. Law – Latin America – Spanish influences. 3. Spain. Constitución (1812) I. Title.

KG545.M57 2015

342.802'9–dc23 2015016110

ISBN 978-1-107-02559-2 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party Internet Web sites referred to in this publication and does not guarantee that any content on such Web sites is, or will remain, accurate or appropriate.

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy  
in Spanish America

M. C. Mirow

Excerpt

[More information](#)

---

*To Angela, Camila, and Andrea,  
my Calliope, Thalia, and Clio*

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy  
in Spanish America

M. C. Mirow

Excerpt

[More information](#)

---

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy  
in Spanish America

M. C. Mirow

Excerpt

[More information](#)

## Contents

<i>Acknowledgments</i>	<i>page ix</i>
Introduction	I
1 Constitutional Limbo in Early Nineteenth-Century Latin America	9
2 The Constitution of Cádiz: America's Other First Constitution	31
3 The Colonies Speak to the Metropole: Transatlantic Constitutionalism	74
4 The Failures and Successes of Metropole Constitutionalism	117
5 Latin American Constitutionalism after Independence	145
6 The Legacy of the Constitution of Cádiz: Twentieth- Century Latin American Constitutionalism	201
7 Constitutional Promise: Latin American Constitutionalism Today	239
Conclusion	270
<i>Appendix: Selected Provisions of the Constitution of Cádiz of 1812</i>	275
<i>Bibliography</i>	283
<i>Index</i>	307

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy  
in Spanish America

M. C. Mirow

Excerpt

[More information](#)

---



Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy in Spanish America

M. C. Mirow

Excerpt

[More information](#)

## Acknowledgments

“One’s second book is always the most difficult to write” observed David Brading when reviewing his contributions to the field of Mexican history over the past decades.<sup>1</sup> These words rang horribly true during the writing of this book and yet gave me the strength to complete it. Although I have participated in and written other books in the decade that separates this work from my study of Latin American private law, this work is in many ways my second book. It has certainly been my most difficult. Family, personal, and professional demands had at one time or another nearly conspired to convince me to abandon the work. The expansive and relatively uncharted nature of the topic and my increasingly keen awareness of its scope also led to moments of great doubt. Nonetheless, Brading’s words and support from so many family members, friends, colleagues, and institutions gave me enough encouragement to see the work through.

I thank Dean Alex Acosta of the Florida International University College of Law and Professor Alejandro Guzmán Brito of the Escuela de Derecho of the Pontificia Universidad Católica de Valparaíso, Chile, for their support of this project. Essential research for this project was conducted at both institutions and at the Latin American Collection of the Smathers Library, University of Florida, Gainesville, and the Escuela de Estudios Hispano-Americanos, Seville, Spain. I am grateful to the University of Florida’s Center for Latin American Studies for a research travel grant and to Richard Phillips who assisted my work there. Dr. Marisol Floren-Romero of the Florida International University College of Law Library provided excellent bibliographic support and advice.

<sup>1</sup> Brading, “A Recusant Abroad,” 23.

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy in Spanish America

M. C. Mirow

Excerpt

[More information](#)

Special thanks are due Julie Beineke, Assistant Director of International and Graduate Studies at Florida International University College of Law. She ran the daily administration of our Office of International and Graduate Studies so competently, thoughtfully, and skillfully that I knew everything was under control.

The following individuals have been academically or personally helpful at one stage or another in this project: Carlos Alejano, Sir John Baker, Thomas Baker, Lauren Benton, David Brading, Patricio Carvajal, Elizabeth Dale, Juan Javier del Granado, Antonio Dougnac, Thomas Duve, Scott Eastman, Stanley Fish, Carlos Garriga, Michael Grossberg, Felicity Heal, Clive Holmes, David Hook, Fr. Daniel Houde, O.S.S.T., David Ibbetson, Graciela Iglesias, Robert Jarvis, Sherry Johnson, Charles Jones, Fr. Joseph Landauer, Abelardo Levaggi, Marta Lorente, Ian Magedera, Aniceto Masferrer, Eduardo Martiré, Alejandro Mayagoitia, Fernando Mayorga, Fr. Adelson Moreira, O.S.S.T., Juan Pablo Pampillo, Eduardo Posada, Marci Rosenthal, Bernard Rudden, Austin Sarat, Frank Sicius, Natalia Sobrevilla, Jonathan Thacker, Kerri Stone, Victor Tau, Consuelo Varela, Howard Wasserman, and Alain Wijffels. Renzo Honores and Victor Uribe-Urán were selfless in their willingness to review nearly the entire work or large chunks of it at the final stages of writing. Any mistakes are mine.

Portions of this book have been presented at various conferences. I thank the following institutions for their hospitality and for their members' comments: the American Society for Legal History, Cambridge University, the European Society for Comparative Legal History, Fordham Law School, Ghent University, George Washington University, the Instituto Internacional de Historia del Derecho Indiano, the Instituto Riva-Agüero, the Max Planck Institute for European Legal History, Oxford University, the Pontificia Universidad Católica de Chile, the Pontificia Universidad Católica de Perú, the Pontificia Universidad Católica de Valparaíso, the Senate of Mexico, the University of Cambridge, and the University of Buenos Aires. In addition to these institutions, I thank the Centre Georges Chevrier (UMR 5605 – Université de Bourgogne/CNRS) (Dijon), the Escuela Libre de Derecho (Mexico City), the Fulbright Commissions of Chile, Peru, and the United States; Gonville and Caius College (Cambridge), the MECESUP<sub>2</sub> program of the Chilean Ministry of Education, the Latin American Studies Association, the Mellon Foundation, and Merton College (Oxford).

At Cambridge University Press, I thank Deborah Gershenowitz for her wonderful and understanding encouragement, Diane Aronson and David Morris guided the book to completion. I also thank Theresa Kornak and

Cambridge University Press

978-1-107-02559-2 - Latin American Constitutions: The Constitution of Cádiz and its Legacy in Spanish America

M. C. Mirow

Excerpt

[More information](#)

### *Acknowledgments*

xi

Nishanthini Vetrivel for their editing and preparation of the manuscript for publication. This work was also substantially improved by the corrections, comments, and suggestions made by anonymous reviewers for the press at various stages of writing. I owe these readers my many thanks.

Finally, I am grateful to my family for their support. My Colombian parents, Nelly Franco and Antonio Mesa, died shortly before I finished this book. They helped me in many ways, and I miss them greatly. I am blessed with many family members who lovingly refrained from asking too many questions about my progress. Shirley, Gregory, Jock, Joyce, Jake, Isabel, Trevor, Pedro, Norm, Cherene, and Amy, thank you.

Portions of Chapters 2, 3, 6, and 7 and the conclusion are derived from or republished from the article “Visions of Cádiz: The Constitution of 1812 in Historical and Constitutional Thought,” *Studies in Law, Politics, and Society* 53 (2010): 59–88. Unless otherwise noted, translations to English are mine. I thank Carolina Academic Press for permitting me to reprint selected provisions of the Constitution of Cádiz in the Appendix.