I. Modern polities place an important emphasis on the formal organization of political institutions: constitutions are an important element of this formal organization of powers. In a permanent document:

A) they define spheres of authority inside the state apparatus
B) they define features of the decision process in the public sphere
C) they define citizens rights and duties
D) they define the limits between public and private sphere
II. Despite the many functions performed by the constitutional text, one question remains:

Why to empower actors, define government structures, distribute rights and duties in a rigid document? Does this rigid document have any impact on the political actors behavior? Wouldn’t be better, in the case of democracies, to leave to the majority to decide what to do in each case?
III. “Rules rather than discretion”

Suppose we have a strong democratic government: The same government that can deliver to you the political goods you care may overturn them. What guarantees can we have against state encroachments?
IV. A rigid constitution is written to overcome this problem. How else to make the protection of property rights, of citizens rights and so on, a stable policy choice of the political system? By means of a rigid constitution the state actors can credibly commit to policy choices they want to be stable.
V. According to this commitment perspective, constitutions are:

Efficiency enhancing mechanisms (commitments) that provide stable rules of social, political and economic interaction. Constitutions are an antidote against myopic behavior (solutions that seem expedient in the present may hurt the political system’s futures capacity):

- a sovereign that overspends may have more money in the present but will lose credit in the future.
- a majority that doesn’t respect minority rights in the present may have less security in the future when it loses the majority status.
VI. But commitment solutions have also distributive consequences:

Mechanisms to contain sovereign’s debt may empower creditors over debtors; Self-containing mechanisms for majorities may empower specific minorities with veto or reversal power.
VII. Political systems vary on how much they formalize in their political constitutions: some constitutional texts are more detailed than others:

USA: 7 articles and 26 amendments
France: 92 articles
India: 395 articles
Brasil: 246 articles
Russia: 137 articles

VIIa. The advantages of vagueness:

Constitutions are written to last but they may reflect past and present concerns and therefore, many articles may be unsuitable to deal with future problems that may appear.
Ex. Germany after the war, Forbidding re-elections in the USA
VIII. Political systems may also vary on which policy areas are inserted in the constitutional text:

USA: Judicial Review and Independent Central Bank
Brasil: Judicial Review and Non-Independent Central Bank
France: No Judicial review and Non-Independent Central Bank
Argentina: Judicial Review and Independent Central Bank
IX. Some constitutional charters have social rights charts or even social policy articles, others not:

Spain: work training and social security
Germany: education (totally publicly funded)
Netherlands: welfare and regulations about education
Brasil: an article with 34 paragraphs with detailed social regulation (regulation of health conditions in work, work accident insurance, minimum wage and so on) an entire chapter on social security and another on education;
X. Constitutions empower political actors. The problem constitution framers face is how to guarantee these political actors will act on the behalf of their legitimate political constituencies. (the incentive compatibility problem) For instance, how can we prevent political actors to follow particular interests and stimulate their concern for the general welfare? How can we prevent them from shirking?
From a distributive and informational perspective, we cannot completely overcome this problem.
Exs: electoral systems
Majoritarian systems>parochialism
Proportional systems> partyism
Improving civil servants performance
Encouraging innovation> increase discretion
Encouraging performance> overpaying
Increasing concentration power>arbitrariness
Fragmenting authority> inefficiency or delaying
XI. How much rigid must the constitution be? 
Do present majorities have the right to bind future majorities? 
The problem of amending a constitution. How much to entrench and what to entrench?

Constitutions differ in their amending thresholds:

USA: proposed by 2/3 of both houses ands approved by ¾ of the state legislatures; 
Brasil: 3/5 of both houses in unicameral session, in 2 rounds; 
Germany: 2/3 of votes in the lower chamber and 2/3 of the votes in the senate 
New Zealand: no provision 
Spain: 3/5 of both houses or 2/3 of the lower chamber and absolute majority in the Senate; may be subject to referendum, if requested by one tenth of the members of either chamber. 
Poland: 3/5 of the lower chamber and absolute majority of the Senate; some matters may be subject to referendum.
XII. Constitutions also differ on the geographical distribution of political power
Unitary and Federal States.
As of 2000: 20 Federal States and 173 Unitary.
Federal States:
USA
Canada
Mexico
Brasil
Argentina
India
Pakistan
Tanzania
Nigeria
United Arab Emirates
Comoros
Malaysia
Australia
Russia
Belgium
Austria
Switzerland
China (?)

Big countries show some tendency to adopt federalist structures.
XIII. Why decentralize?

A) Solving the externalities problem: when the provision of political goods generates spillovers is better to centralize; When the opposite is true, is better to decentralize.

B) Solving commitment problems: Federalism leads to the fragmentation of power, which reduces the probability of an overpowering sovereign to encroach upon the citizenry rights. Federalism reduces the threat of expropriation and as such, promotes growth. (Weingast, 1995)

B) Increasing the probabilities of exit: In a population with heterogeneous tastes for political goods is better to decentralize; increases the bargaining of the citizenry versus the state (Mueller, 1996)
XIV. Which political goods to decentralize?
A politics matter
Basic Education: France (highly centralized)
  England (less centralized)
Higher Education: USA (decentralized)
  Brasil (centralized and decentralized)
Industrial Incentives (Tax exemptions, etc): USA (decentralized)
  Brasil, Mexico (before centralized, but recently decentralized)
XV. Does the federal structure matter for the distribution of resources?

<table>
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<th>Countries</th>
<th>Central Gov. Revenue%</th>
<th>Local Gov. Revenue%</th>
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<tr>
<td>Japan</td>
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Constitutions are incomplete contracts
Not all contingencies can be foreseen