

## Constitutional Upheavals and Autocracy in Southeast Asia

### ***Introduction***

The foundation for any modern nation-state is a written constitution. The emergence of constitutionalism as a legal doctrine in the Enlightenment period was one of the crucial developments necessary for the growth of democracy and decline of absolutism. A constitution is merely the means by which a state constitutes and specifies the limits of legislative power, executive power, and judicial power. This turn towards limiting these powers (which began with the Magna Carta and the English Glorious Revolution) marked a turn away from absolutism—although plenty of non-democracies have employed constitutions.<sup>1</sup> It is thus now commonly accepted that constitutions form the bedrock of government, autocracy and democracy.

In this essay, the author will apply these ideas to a region of the world heavily tilted towards authoritarianism but with a tremendous diversity in regime type: Southeast Asia. How do new constitutions and significant constitutional upheavals affect levels of autocracy in Southeast Asian nations? Does it matter the context of these major constitutional changes?

### ***Definitions***

Before examining the link between constitutionalism and autocracy, one must define these terms. Constitutionalism's definition is *not* widely contested nor controversial, so the author will adhere to the widely-accepted definition that a constitution sets limits on the power of government. For the purpose of this article, a constitution is defined as any document that lays out governing principles and limits on governmental power. Importantly, whether a document qualifies as a constitution is entirely independent of whether the principles or limits laid out in the constitution are followed in reality.

The selection of levels of autocracy, rather than levels of democracy for this paper ultimately comes down to the lack of democracies in Southeast Asia. No strong, durable democracy emerged in the post-colonial wave of democratization and only one nation—Indonesia—has escaped the authoritarian regression in the 4<sup>th</sup> wave of democratization.<sup>2</sup> It would not make sense to investigate how major constitutional changes would change levels of democracy in a region where few countries have ever approached the status of democracy.

Instead, the author uses Svoboda's definition of autocracy. Svoboda importantly seeks to describe autocracies, or dictatorships, along the conceptual dimensions one is interested about. Thus, there are a variety of variables to measure and analyze, even while the definition avoids becoming over-maximalist in the fashion of Freedom House's definition of democracy.<sup>3</sup> In particular Svoboda measures four different indicators, corresponding to four different dimensions of authoritarianism: *military involvement in politics*, *restrictions on political parties*, *legislative selection*, and *executive selection*.

It is important to point out that as Svoboda explains, dictatorship is a “residual category”, capturing everything democracy *isn't*. So, one can assume that any measure of an autocracy is the inverse of a measure of a democracy, allowing one to examine the literature between constitutionalism and democracy and extrapolate theoretical expectations about the relationship between constitutionalism and autocracy.

What constitutes a “significant constitutional upheaval” is another key definition. Here it is defined as one of the following: 1) a country drafting and ratifying a wholly separate, novel constitution or 2) a country passing major amendments changing the fabric of the constitution. For the second of these cases, in particular, “major” may be nebulous; however, very few such cases exist in Southeast Asia given the relative lack of incremental constitution changes in the

region compared to nations like the United States. Later in the paper, the author will discuss how the selected cases fall into one of these categories.

## ***Literature Review***

The literature is rich with investigations of the causes of change in the outcomes of interest for this article—Svolik’s four dimensions of authoritarian rule: *military involvement in politics, restrictions on political parties, legislative selection, and executive selection*.<sup>4</sup>

Scholars have advanced multiple theories to explain military involvement in politics. Bove, River, and Ruffa claim that terrorism and the threat of terrorism open a window of opportunity for military intervention in politics.<sup>5</sup> It has also been demonstrated that military involvement in politics (when a civilian leader is in control of a country) is bounded by the civilian leader’s popularity and thus popular legitimacy.<sup>6</sup> Another possible explanatory variable is budgetary allocation towards the military.<sup>7</sup> The literature is in general agreement that an opportunity structure must exist for military involvement in politics—like other country elites, they have power and thus must be dealt with by an autocratic or democratic leader. Slater demonstrated that to prevent encroachment by elites like the military, authoritarian leaders must be extracting power from elites in a protectional pact setting, often enabled by external crises, or *contentious politics*.<sup>8</sup>

In terms of legislative restrictions on parties, little work has been done—only one cross-national standard source of data of legislative party restrictions exists.<sup>9</sup> However, party legislation seems to bear little import in the case of Southeast Asia: Karvonen’s lone dataset includes only Indonesia, Myanmar/Burma, and Cambodia as countries to have officially passed party legislation, although countless others have restricted political parties through less official and quasi-legal means. The conclusion from this analysis is straightforward: party legislation

emerges when the ruling party wants to grant a favored position to itself relative to other parties' position in the political landscape. Other theories include that in conflict-prone societies, broad-based parties are key to reduce conflict—and thus the restriction of political parties may be an authoritarian's attempt to create broad-based parties to reduce conflict and prevent fragmentation.<sup>10</sup>

For legislative and executive selection, the literature is rife with explanations of elections in authoritarian regimes. Donno found that incumbent strength is the key determinant of what type of legislative/executive selection elections in competitive authoritarianism constitute.<sup>11</sup> Other explanatory variables for type of selection include quality of electoral competition, elections provide elites with autonomy and thus pose an opportunity for elite co-optation, and that legislative selection provides means for elites to advance their careers and thus pose an opportunity for ensuring elite loyalty.<sup>12</sup>

Yet, all these explanations for the outcomes of interest fail to provide what a comprehensive analysis linking constitutionalism and autocracy would. Constitutions set out the governing principles of a nation. When a new constitution is written, or when a major constitutional upheaval occurs, the professed governing principles of a country are re-written. Constitutions also, in many contexts at least, carry a practical weight—they undergird the opportunity structures and political contexts that the literature sees as so critical to levels of autocracy. Thus, any analysis of the causes of changes in autocracy is incomplete without a consideration of the role major constitutional upheaval plays. And the literature is largely silent on this latter question.

Constitutionalism itself refers to “restrained and divided” power, while democracy is identified as allowing for the “unified and unconstrained” exercise of citizens' rights—exposing

an apparent contradiction.<sup>13</sup> Do constitutions foster or limit popular sovereignty? Most scholars, however, agree that constitutionalism enhances democracy.<sup>14</sup> Empirical political science studies of this relationship, however, are absent from the literature.

The empirical studies concerning authoritarian constitutions that do exist examine constitutions as the dependent variable. For example, Ginsburg and Simpser do a wonderful job explaining *why* authoritarians would adopt a constitution that may ostensibly limit their power.<sup>15</sup> Their typology of “operating manual”, “billboard”, and “window dressing” constitutions don’t directly link to Lowenstein’s typology; however, the central conceit is the same thing. Constitutions serve different purposes and the categorization of their utilities to the regime in power directly determines their power, and thus effects on levels of autocracy.

Of particular note are their conceptions of two actors in particular: the military and the courts. Ginsburg and Simpser point out that a military may institute a constitution to gain influence over the successive regime; remember that military involvement in politics is one of our outcomes of interest. Additionally, Ginsburg and Simpser obsess over the role of courts, understandably, in settling constitutional questions. Svobik’s dimensions of autocracy don’t include the courts; this is helpful because of the nefarious nature of attempting to earnestly capture the judiciary’s independence or lack thereof.

Asian-specific studies of constitutionalism have focused on categorizing Asian constitutional developments rather than analyzing their relationship with elements of autocracy/democracy—serving as useful context but revealing an opening in the literature this work attempts to fill. Dressel and Bunte examined the processes by which constitutions are made in Southeast Asia—examining the dynamic politics and power balances in four particular

contested areas.<sup>16</sup> However, their analysis, while valuable, uses constitutions as the outcome of interest.

Their analysis does yield key insights into constitutions in SE Asia. First, they examine Lowenstein's classic tripartite classification of constitutions: normative (a "real and effective" constitution), nominal (a constitution "not lived in practice"), and semantic (a constitution whose purpose is merely to expand the power of the already-powerful).<sup>17</sup> To some extent, this paper is an analysis of why a constitution would come to fall into one of these three categories; after all, while Dressel and Bunte fail to say so explicitly, a semantic constitution will lead to higher levels of autocracy than a normative one.

The literature has two key shortcomings this article attempts to address: first, the relationship between constitutionalism and democracy has been overwhelmingly evaluated in the US case and has been largely contested in the context of political philosophy and legal theory.<sup>18</sup> Second, the literature is largely devoid of rigorous *empirical* studies concerning the relationship between constitutionalism and elements of democracy/autocracy. No study compares different types of new constitutions' effects on the dimensions of autocracy in the manner this paper seeks to. This article will accomplish both—applying an unprecedented rigorous, empirical analysis to Southeast Asia. It will also answer pressing questions about the nature of constitutions and their practical impact on levels of autocracy and democracy that have simply not been empirically evaluated, much less in a country that thwarts theoretical expectations like Southeast Asian is prone to.<sup>19</sup>

## ***Proposed Argument***

As amply demonstrated above, constitutions form the bedrock of governance. Historically, constitutions have served the interest of protecting democracy and liberties in

general; after all, constitutionalism arose as a political force in response to the political absolutism of traditional monarchies. However, what is preached in a constitution often differs—rather significantly—from what is practiced by a government. As Dressel and Bunte have pointed out, SE Asia is often characterized by “constitutions without constitutionalism.”<sup>20</sup> Countless governments have used constitutions to underpin authoritarian ruling, with different levels of adherence.

The proposed argument of this paper involves two variables through which a constitutional upheaval may or may not affect levels of authoritarianism: 1) the strength of a state and 2) change in ruling coalition spell. First, we must examine whether a state is strong or not. For constitutions to have an actual effect on governance, there must be enforcement; in the context of civil war, there is a void of authority in the country and enforcement of any constitution is hardly a priority for a regime (likely dominated by the military) fighting merely for its survival. The “tipping point” scholarship supports this—many scholars find that a certain socioeconomic level is necessary for constitutionalism to take hold, much like modernization democratization theory.

Thus, without a strong state, it is *impossible*—regardless of the status of the next variable—for a constitutional upheaval to have a liberalizing affect on levels of authoritarianism.

Second, change in ruling coalition spell is likely to affect a constitution’s ability to cause changes in levels of authoritarianism. One would expect (most obviously) that if a dictator remains in power, levels of authoritarian are not likely to substantively change—as the dictator’s primary goal is to remain in power. While authoritarian leaders do have incentive to write constitutions, their enforcement will not go so far to seriously threaten their position—after all, the new structures of rule-of-law they created may come after the authoritarian if they lose power

through democratic contestation. Thus, authoritarians are either encouraged to: step down nobly of their own accord, flee the country, or do everything in their power to remain in power.

This explains democratization and, to some extent, the lack of democratization. However, are their particular components of a constitution that may have an effect on this process? I disagree with this premise. Constitutions are intensely the result of the context within which they were produced. Even if their contents, on paper, don't match democratic expectations, authoritarian leaders have enough power to twist constitutions to serve their aims. And if authoritarian leaders don't have enough power to twist constitutions to serve themselves, that authoritarian likely wouldn't be able to withstand a legal or democratic assault made possible by the constitutional upheaval. Once again, Dressel and Bunte exhaustively demonstrated that the dynamics of a constitution are ever-changing—provisions of a constitution that were once merely performative nonsense may be turned into the concrete word of law at the snap of a finger for an autocrat, and vice-versa.

## ***Research Design***

When selecting cases, a few conditions must be met. First, most obviously, every case must have a constitutional upheaval we expect to lead to a decrease in levels of authoritarianism. Thus, the abrogation of a constitution could not be considered a case. Here, I assume that the advent of a constitution in an authoritarian society would, if perfectly enforced, result in a decrease in level of authoritarianism. Additionally, independence constitutions are excluded because there was no sovereign nation to compare prior to the constitution.

Second, variation must be fully captured in both of the conditional variables and the dependent variable. Thus, we have a case of democratization (Indonesia), and three cases of no change or increase in authoritarianism (Vietnam, Burma, and Cambodia).



Variation must also be captured with regard to the conditional variables. Thus, we have four cases: 1) a strong state with a change in ruling coalition (Indonesia, 1999), 2) a strong state with no change in ruling coalition (Vietnam, 1992), 3) a weak state with a change in ruling coalition (Cambodia, 1993), and 4) a weak state with no change in ruling coalition (Myanmar, 1974). Next, the definition and categorizations of the cases must be explained and defended.

First, while there are several thorough indexes of state power crafted, they lack deep historical data.<sup>21</sup> In this paper, however, I base my categorization of state power on Brookings's index, which states that “weak states are *countries that lack the essential capacity and/or will to fulfill four sets of critical government responsibilities: fostering an environment conducive to sustainable and equitable economic growth; establishing and maintaining legitimate, transparent, and accountable political institutions; securing their populations from violent conflict and controlling their territory; and meeting the basic human needs of their population.*”<sup>22</sup> Note that because each of our cases are authoritarian nations, at the very least *prior* to the constitutional upheaval focused, the second condition of a weak state (“legitimate, transparent, and accountable political institutions”) is relaxed.

There's little ambiguity among our cases. In the case of Cambodia, while the Khmer Rouge had agreed to the Paris Peace Accords, peace was only instituted with the arrival of UN Peacekeeping forces—the Cambodia state was not strong enough to end the Civil War on its own.<sup>23</sup> In fact, just four years later in 1997, street-level violence led to a coup and the end of democracy. In Myanmar, the longest-running civil war in the world continues to rage in 2022. In particular, the Karen-populated parts of the country “have been affected by armed conflict since 1949, the year after independence.”<sup>24</sup> This includes, obviously 1974—the year that Myanmar

instituted a new constitution. Thus, both in the case of Cambodia in 1993 and Myanmar in 1974 there is little difficulty in determining the weakness of the state.

In Indonesia 1999 and in Vietnam in 1992, however, no such violent instability or lack of control occurred. Neither political context was characterized by a total lack of governing power; instead, the durability of Vietnam's dominant-party regime since the end of the Vietnam War (a state strong enough to even exert power abroad, as in Cambodia) signifies the strength of the state. And in Indonesia, the strength of the state was established by Suharto's lengthy regime. Importantly, Suharto stepped down peacefully, indicating that the strength of his regime did not disappear over night but instead had some staying power.

In terms of the other conditional variable, Svobik seeks to define "ruling coalition spells," "an uninterrupted succession in office of politically affiliated authoritarian leaders."<sup>25</sup> The ruling coalition spell accords approximately to what is often considered a particular "political regime" or "dictatorship"—allowing one to capture constitutional changes that occurred in a system that didn't drastically change.

The author defined a change in ruling coalition as one of the following conditions occurring: 1) an 'opposition' or 'unaffiliated' leader (per Svobik's data) takes control consecutively and 2) any leader takes power non-consecutively (i.e. there was a gap between them and the previous leader), regardless of regime affiliation.

Table 1.2 demonstrates neatly the great diversity in ruling coalitional stability in Southeast Asia, ranging from the extreme volatility of Thailand to the incredible stability of Malaysia or Thailand. Now, the key is to match up constitutions or major constitutional changes in SE Asia with one of three possible contexts: 1) democratization; 2) continued authoritarian

spell, constant ruling coalition; and 3) continued authoritarian spell, different ruling coalition. Because of research design constraints, one needs at least one case in each of these categories.

For defining and ensuring variation in outcomes (authoritarianism vs. democratization), Svobik's dataset is incredibly helpful in determining authoritarianism. This article will follow his definition of an "authoritarian spell", or an "uninterrupted period of dictatorship in a particular country."<sup>26</sup> Svobik identifies multiple authoritarian spells in SE Asia, all shown in Table 1.1.<sup>27</sup> Note the changes that occur at the end of authoritarian spells (i.e. democratization or the loss of authority). To hold the broad binary variable of 'autocracy' constant, one must identify *when* countries were indeed authoritarian.

With the cases selected (as demonstrated in Table 1.3), the author will conduct a medium-n analysis of the data. Borrowing Svobik's data on levels of autocracy according to several different dimensions, the author will chart the before and after values for his four indicators—*military involvement in politics, restrictions on political parties, legislative selection, and executive selection*.<sup>28</sup> The author will examine whether the observed changes are greater in one of the three cases than in the others.

Because of the small nature of the dataset, the author will also be able to conduct a case study of sorts. In particular, the process of the formulation of each constitution (with an eye towards the two key dimensions of democracy, contestation and participation) as well as the content of the constitution themselves will be evaluated. Did the constitutions promise something different from the existing law of the land? Did the constitutions make promises that weren't delivered upon, or did they refrain from making ambitious promises at all? Did the more ambitious constitutions correlate to decreasing levels of autocracy, or even democratization? A

qualitative analysis of each constitution will enable the author to answer these questions, whereas just quantitative study would not be able to do so satisfactorily.

The basic causal story outlined above's variables also need to be collected. These include 1) whether the country is characterized by a dominant-party regime or military regime; 2) the level of instability seen in a country; 3) the type of instability, if there is any, in a country; and 4) the actions of a leader immediately preceding the constitutional upheaval.

### ***Indonesia, 1999-2002 Constitutional Amendments***

First, let's begin with Indonesia's 1999-2002 series of Constitutional Amendments—the case of a different ruling coalition, strong state, and continued authoritarianism. This is the only case to not be characterized by a completely new constitution; however, to give one a sense of the immense scope of the four constitutional amendments passed, the first modified nine articles, the second modified twenty-one articles, the third modified twenty-three articles, and the fourth removed all mention of the Supreme Advisory Council. Rather than simple amendments 'adding' to the constitution, then, these are thorough revisions and changes to the very fabric of the constitution.

Indonesia's constitutional history is a rather simple one. It begins with a 1945 independence constitution, written at the end of the Japanese occupation of Indonesia. The constitution was classically liberal, featuring universal suffrage for legislative elections and executive selection as well—with no mention of the military.<sup>29</sup> Thus, if this constitution were to be perfectly enforced, it would result in a fully democratic state according to Svobik's definition. This independence constitution was briefly abrogated by a 1949 constitution; however, that constitution too was quickly replaced by a 1950 one under which the country functioned for nine years. The constitution's difficult to judge—it contained the most core basic elements of

democracy (universal secret ballot for legislative selection); however, it also granted sweeping powers to the autocrat-like Sukarno—including allowing him to dissolve the House of Representatives at will. In fact, Sukarno did just that, and in 1959 issued a decree returning the nation to the 1945 Constitution. Indonesia has been governed by the 1949 Constitution ever since 1959. The 1945 Constitution remained completely intact and undisturbed until the *Reformasi* period between 1999 and 2002, when a series of amendments reformed the governing text and transformed Indonesia into a democracy.

The case of Indonesia is interesting because an authoritarian leader in Sukarno used the 1945 Constitution as a weapon of authoritarianism. Sukarno had even failed to return to the 1945 Constitution through democratic means, with the legislature failing to clear the obligatory two-thirds hurdle. While the 1945 Constitution promised full democracy along Svoblik's dimensions, it also granted greater power to the executive and embodied the nationalist principles () that Sukarno, then-dictator, needed for regime legitimization. Sukarno, it seemed, had long given up on democracy, instead embracing the infamous concept of “guided democracy”, blending nationalism, religion, and communism in an authoritarian regime.<sup>30</sup>

Yet, Sukarno's vision didn't last very long: Suharto engineered a coup in 1966, shifting regimes from “Guided Democracy” to the “New Order,” the new as authoritarian as the last. The literature has thoroughly documented the New Order's transformation from “a system of oligarchic military rule” into “a highly personalized regime.”<sup>31</sup> However, for the purposes of this paper we need only home in on the state of Suharto's regime at its end, immediately prior to the constitutional amendments identified with the *reformasi* period.

Most obviously, Suharto was not elected in any process resembling a free and fair election: Indonesia failed Svoblik's first dimension. After all, Suharto went uncontested in 1978,

1983, 1988, 1993, and 1998.<sup>32</sup> Second, assessing the role of the military in New Order politics is difficult. Suharto obviously began as a military officer and the military dominated the beginning of the period of Suharto's reign; however, while the military's role was clearly diminished, the military still had significant power: Suharto remained loyal to them for a reason. This seems to be more of a case of Suharto neutralizing a potentially threatening institutional rival rather than eliminating military influence for the good of our democratic polity's health. On top of that, the Indonesian legislature was a shell of what it once was, chosen hardly through democratic means.<sup>33</sup> Thus, by the time of 1999, Indonesia was *not* a democracy by any stretch of Svobik's definition.

Next, we must demonstrate that Indonesia was, by the time of 1999, a strong state. This too is relatively simple to demonstrate. According to Brookings's index of state strength, an indication of a *strong* state is a strong record of economic growth, which Indonesia clearly had: for the period of 1990-1997, Indonesia exhibited an average growth rate of 7.92%, with remarkable consistency.<sup>34</sup> Indonesia, while starting from an incredibly poor place in its causal story, demonstrated very rapid growth in the 90s, only temporarily disrupted by the Asian Financial Crisis of 1998—fulfilling the first condition of state strength.

Next, Brookings's state strength index requires a state to have full control over its sovereign territory—a difficult requirement for Indonesia just given the sheer diversity and uniqueness of each population within the already diverse and unique island is incredible. On this point, Indonesia has a clear point of weakness. Given Indonesia's unmatched diversity and geographical distance (made worst by its refusal to engage in a federal system), secessionist movements have been quite in common. For example, the Papua War and the abysmal handling of the Timorese separatist movements both tested Jakarta's mettle.<sup>35</sup> However, none of these

were threats to the nation's sovereignty; instead, they were legitimate ideological grievances spouting for independence. To claim that these separatist movements' clamors for independence would be to refer to the US in 1900 was *not* a strong state because of the Philippine-American War, or to the European powers who faced armed opposition across bodies of waters in their colonies. Suharto's strength in the central locations of Indonesia was unmatched: it's natural for power to diminish across different bodies of water, languages, and religions. Additionally, Suharto voluntarily stepped down despite student protests; at no point was his seat of power under the existential threat of any revolution or widespread social movement.

Lastly, to address Brookings's index of state strength, we must examine whether the government is meeting the basic needs of the population. Towards the end of Suharto's reign, in 1996, absolute poverty had fallen from 40% in 1976 to 11%.<sup>36</sup> Indonesia had largely accomplished universal education by the 1980s, provided safe water, and significantly lowered infant mortality (from 118 per 1,000 births in 1970 to just 47 in 1997).<sup>37</sup> Clearly, the Indonesian state was strong enough in providing for its populace's most basic needs.

There must, however, be a caveat in this discussion of state strength: the Asian Financial Crisis, the very reason Suharto was forced to step down. While the crisis caused an incredible retraction of the Indonesian economy with long-lasting effects, the Indonesian economy bounced back quickly, suffering only one year of negative economic growth rate.<sup>38</sup> Thus, the crisis did *not* significantly weaken the state in the long-term: the advances made under Suharto could hardly be undone by one year of economic contraction, no matter how steep the fall.

Finally, we can examine how the 1999-2002 Constitutional Changes led to democratization in the case of Indonesia. Despite, the lack of public input in the drafting of the constitutional amendments, the amendments were crucial for creating a stronger separation of

powers (Suharto's complete domination of the legislature was one of them any enablers of his authoritarian reign), creating firmer human rights (practically ignored in the 1945 Constitution), granted supremacy to the constitution (setting the stage for actual constitutionalism in practice), de-centralizing government, the creation of a true constitutional judiciary, and—most importantly—limits to the previously all-powerful president.<sup>39</sup> Importantly, the purpose of these constitutional changes was not purely to create a more democratic text (recall that the 1945 Constitution alone would have guaranteed full democracy, according to Svoblik, had it been perfectly enforced), but instead to create a democracy more resistant to authoritarian changes or attempted changes like Suharto's reign.

What explains the democratization of Indonesia, as defined by Svoblik and countless other scholars and NGOs?<sup>40</sup> Our proposed argument outlines two necessary conditions, neither sufficient on their own, to explain democratization resulting from constitutional upheaval: 1) a strong state and 2) a change in ruling coalition.

We have clearly demonstrated Indonesia to be a strong state. While far from being a wealthy nation or incredibly strong state, the apparatus created by Suharto had delivered on its basic obligations to Indonesians. The strong economic growth and impressive strides made in social development fits nicely with some modernization theories: perhaps Indonesia had escaped the shadow of colonialism-induced absolute poverty that allowed for Suharto to take power from Sukarno as easily as he did and now the nation was 'ready' for democracy and pluralism. Certainly, because of the linkages between the middle class and a strong state according to Brookings's index, this is a possibility; however, as demonstrated in the case of Vietnam, a strong state is not *sufficient* for explaining democratization.



Suharto stepped down, allowing for his Vice President B.J. Habibie to take over as President. Habibie thwarted expectations of a figure from the same ruling coalition as the authoritarian, moving elections to earlier positions, distancing himself from Suharto, releasing political prisoners, and liberalizing press laws.<sup>41</sup> Why did Habibie do this? Perhaps one explanation is that while from the same ruling class as Suharto, Habibie was essentially a technocrat, who had overseen science and technology in the Suharto regime for roughly two decades. Habibie was seriously lacking in anything resembling a power base—the military and the Golkar Party had much greater power than him. So much of Suharto’s power had relied on his political skill in isolating opponents and maneuvering that Habibie had no hope of replicating.

Thus, while there was no change in ruling coalition at the very top of the government, Suharto was a singular leader: Habibie came from the same ruling coalition, but the power dynamics *between institutions* had shifted with the change in leadership. The position of President didn’t have the power it once did and suddenly the very configuration of Indonesian national politics had wildly changed. Thus, there was an *opening* for actual democratization resulting from the constitutional upheaval.

For this democratization to occur, however, a true change of ruling coalition would have to occur—which it did. Habibie did not even run for re-election and Abdurrahman Wahid won election to the Presidency. Habibie and Suharto’s Golkar party did not even field a candidate. democratization enforced and possible in the first place by the strength of the Indonesian state. The removal from power of the Golkar Party was essential to democratization occurring in Indonesia, as Suharto’s cronies’ hands were wrested away from every segment of the economy they had so long dominated. In fact, the reason Habibie hadn’t run for President was because the

Golkar Party had rejected a pro-reform speech of his, an indication that the ruling coalition of Golkar (whether Suharto, Habibie, or another leader was at its helm) would have blocked democracy, and a change in *ruling coalition*, not just ruler, was absolutely necessary. Thus, in the case of Indonesia, our proposed argument is confirmed.

### ***Vietnam, 1992 Constitution***

Next, let's turn our attention to Vietnam's 1992 Constitution. Vietnam had an interesting relationship with constitutions and constitutionalism. The political legacy of Vietnam, most obviously, lies with pre-reunification North Vietnam, whose first constitution was its 1946 text. Examining this constitution along Svobik's four dimensions of authoritarianism, it becomes clear that were this Constitution perfectly enforced, it would result in a full democracy. Article 17 declares voting to "be free, direct and secret" and suffrage universal.<sup>42</sup> Legislative selection is subject to these elections, and the Executive is to be selected from the legislature. No political power is granted to the military and there is no explicit mention of political party (nor Communism), much less a restriction placed on political parties. However, this constitution did little in practice—North Vietnam was fully autocratic. Ho Chi Minh's regime was mired in the French-Indochina war and after achieving independence (and the splitting up of Vietnam along with it), the Communist party remained the sole party with real power in Hanoi and the military continued to dominate governing—a dominance that only grew more pronounced as Viet Minh opposition to South Vietnam's very existence escalated.<sup>43</sup>

Then, in 1959 as the North consolidated itself and gained strength as a state, a new constitution was ratified. The key difference was that this new constitution was inherently ideological—rooted in principles of socialism. That being said, the Communist Party was not

directly named.<sup>44</sup> This was the Constitution that formed the political foundation upon which North Vietnam struggled to re-unify the country throughout the Vietnam War.

After re-unification, Vietnam adopted a new Constitution in 1980. Now, for the first time, the Vietnamese Communist Party was named in a constitution and directly handed immense power—although in other matters the Constitution retained its fundamentally liberal and democratic rhetoric.<sup>45</sup> Once again, however, there is no mention of military involvement in politics. Despite this flowery rhetoric and the end of the Vietnam War, Vietnam remained an intensely autocratic nation.

By the time of 1992, none of the many liberal and democratic aspects of any of its three previous constitutions had been put into practice. In the mid-to-late 1980s, however, serious reform was engineered by Premier Nguyen Van Linh, his reforms given the name *Doi Moi*. Linh was even referred to as the “Vietnamese Gorbachev” by some. However, while his reforms engineered market liberalization, no serious liberalizing efforts occurred during his time in power (which ended in 1991): Linh even said, “it is not objectively necessary to establish a political mechanism of pluralism and multiparty government,” referring to Western democracy as “demagogic bourgeois democracies.”<sup>46</sup> Thus, we have clearly demonstrated that Vietnam, prior to its 1992 Constitution, was fully authoritarian.

We must also demonstrate that Vietnam, in 1992, was *not* a weak state. An indication of the strength of the Vietnamese state was its project of power abroad: Vietnam dominated Laos’ policy beginning with an exploitative cooperation agreement in 1977 and occupied Cambodia in 1979.<sup>47</sup> However, looking specifically at Brookings’s index of state strength, we have three criteria. First, in terms of economic growth, Vietnam averaged an impressive 6.056% growth rate between 1985 and 1992.<sup>48</sup> Additionally, 1992 was a time of significant optimism. The Cold

War's end meant reduced tension between Vietnam and the West, in particular the United States. In 1994, the US lifted the trade embargo and in 1995 the United States entirely normalized relations with Vietnam—opening the door to even further growth for the export-heavy Vietnam.<sup>49</sup>

Second, was Vietnam meeting its population's basic needs? The strict adherence to a state-controlled economy after reunification in the 1970s led to massive economic problems for the nation, much like it did in the case of Burma. However, Vietnam quickly changed footing and adopted its signature *Doi Moi* policy reforms in the late 80s, liberalizing the economy: now price controls for agriculture were slowly removed, foreign direct investment was legalized, and trade significantly liberalized.<sup>50</sup> Not only did this induce great growth, but also sharp reductions in poverty and hunger. While in 1992 poverty was still high (58% in 1992/3 while it would fall to 37% just five years later) and hunger was accordingly very prominent, clearly Vietnam was on the brink of fulfilling basic material needs.<sup>51</sup>

Finally, did Vietnam control its own territory, the third and final criteria for a strong state? There was no widespread unrest in the country in the late 1980s and early 1990s. An indication of this can be seen in the fact that the leading conservative candidate for Prime Minister in 1988 was forced to face open competition in the National Assembly from a reformer (indicating contestation, even in the face of a lack of any widespread participation).<sup>52</sup> Despite this competition (and the competition was largely region-based among Assembly delegates), no serious social unrest combined. There was a great deal of conflict and tension along Vietnam's borders; however, Vietnam had no difficulty in batting away threats from Laos or Cambodia, even dominating these nations during this time through aggressive foreign policy.

Finally, let's examine the contents of the 1992 Constitution—drafted in a time of divergent liberalization, applying only to the economy of Vietnam while leaving its politics practically untouched. This tension is felt quite clearly in its constitution. Article 4 immediately proclaims the Communist Party of Vietnam as “the leading force of the State and society.”<sup>53</sup> In Article 7, the constitution also makes the same claims to “universal, equal, direct, and secret suffrage” in the matter of legislative selection it has been making since 1946. Interestingly, however, the constitution *does* contain an entire chapter (its second) devoted only to “Human Rights and Citizen’s Fundamental Rights and Duties.”

It is in Chapter III that we can see how the new Communist regime has discarded the old Communist orthodoxy. It proclaims its desire to “provide favorable conditions for entrepreneurs, enterprises and individuals...” and guarantees that nationalization will *not* occur.<sup>54</sup> Importantly, an indication of the lack of constitutionalism in Vietnam’s political tradition is that the change in the fabric of laws in the nation—from the communist orthodoxy of the previous three constitutions to the new, economically liberal 1992 text—seems delayed. The regime had played by different rules before changing the rules, the antithesis of constitutionalism. Here we can see clearly how the 1992 Constitution, still in effect today, is a perfect case of Lowenstein’s type of “semantic” constitution—it expanded the power of Linh’s wing of the party, which was already controlling the politics of the country.

It should thus come as no surprise that levels of authoritarianism didn’t change after 1992. According to Svobik’s four dimensions, there has been no significant change in the politics of Vietnam. The Communist Party is still the sole party with any power (485 of 500 seats are currently controlled by the Communists, and the 14 seats *not* held by the Party are held by

independents). Elections are still thoroughly rigged and civil liberties non-existent. As Human Rights Watch writes, “Vietnam’s human rights record remains dire in all areas.”<sup>55</sup>

Why did the 1992 Constitution fail to produce *any* reductions in levels of authoritarianism? This question takes on added urgency in light of the liberalizing market reforms undertaken at that same time—often an indication (such as in the Soviet Union also in the late 80s) of a thawing of political restrictions as well.

Returning to our proposed argument, we have two conditions for constitutional upheaval to produce reductions in levels of authoritarianism: a strong state and change in ruling coalition. Vietnam, as has been thoroughly demonstrated, fulfilled the first. Yet, it failed to fulfill the second—with a caveat. As mentioned before, there was a clear distinction between the Party Leaders who engineered the *Doi Moi* reforms and created the 1992 Constitution and the Party Leaders responsible for the final Five-Year Plan, created in 1981 and a spectacular failure. There was even open conflict—for the first time a premier candidate faced opposition in the General Assembly when attempting to ascend to the premiership (although this contest was, of course, battled out only for the most elite of party members).

The simple answer is that Svolik did not record this change leaders as a change in ruling coalition—but this should not satisfy us. The ‘reform’ wing of the Party, assuming power, derived its power from the same location as the ‘conservative’ wing of the Party—criticize the party elders as he may, Linh had been selected by the same system that had selected the Prime Minister before him and the one before him. Thus, the incentive to change the electoral system—as reducing levels of authoritarianism would’ve necessarily done—was non-existent for Linh or his fellow leaders. Additionally, whatever change in power distribution in the party had occurred happened a half decade before the promulgation of the Constitution. The shifting of the waters

had long since been complete by the time the Constitution came up for ratification in 1992. Rather than destabilizing the power of the Party, the success of market liberalization instead ensconced Linh and his wing of the Party, a consolidation of power (both along political and economic lines) that the Party transferred onto paper in the form of the 1992 Constitution through its economic liberalism and political orthodoxy.

Thus, our theoretical expectations are correct: a strong state is a necessary, but not sufficient condition for constitution upheavals to have an effect reducing levels of authoritarianism. There is no doubt of the Vietnamese state's capability in enforcing a constitution; in fact, they *did* enforce the market liberalizing portions of the constitution. However, there was no incentive to enforce the politically liberalization constitutional provisions because of a lack of change in ruling coalition.

### ***Cambodia, 1993 Constitution***

Next, let's turn our attention to Cambodia's 1993 Constitution. Cambodia's constitution history reflects the experiences of many countries in the region: a post-independence constitution deeply flawed in enforcement and a new constitution with every resulting ruling regime—whether authoritarian or democratic. Cambodia ratified its first Constitution in 1947, before it even had officially won independence from France (although it had declared independence, and was granted it, by the occupying Japanese forces). The 1947 Constitution is a hybrid of naked authoritarianism (article 21 states that “all the powers exceed from the King” and article 23 states that “the executive is exercised in the name of the King by the Ministers”).<sup>56</sup> While legislative selection is by universal and secret suffrage (article 50), they ultimately had to “swear to be true to the King”. The King is ultimately a military figure, so while the military can't be elected to the

legislature, the military—through the supreme body of the King—is involved in politics. Even if perfectly enforced, this constitution would clearly result in an authoritarian system, then.

If this first constitution faithfully reflected the supreme power of the King, the nation's next in 1972 reflected the singular power of Lon Nol, then the supreme political boss of the short-lived Khmer Republic.<sup>57</sup> With a military general exercising supreme power (including suspending the National Assembly), the Khmer Republic was fully authoritarian despite a supposedly liberal constitution that was devoid of any mention of the supremacy of the King, having been deposed in Lon Nol's coup.

In 1975, the Khmer Rouge destroyed the Khmer Republic, instituting a brutally repressive regime. They too adopted their own constitution, an incredibly ideological one that made “all important general means of production” collective property (Chapter Two), while adopting liberal rhetoric such as announcing the legislature would be selected by universal and secret suffrage and that the executive would be selected by the legislature.<sup>58</sup> However, according to the letter of the constitution, the military would be heavily involved in politics: a quarter of the seats in the legislature would be reserved for “the revolutionary army” (chapter five). Here we have a constitution clearly full of hot air, window dressing meant to distract from the horrific abuses of the brutally repressive Khmer Rouge (whose first action was to forcibly expulse urban dwellers and slaughter intellectuals).

The 1981 Constitution, following the Vietnamese occupation of the nation and the fall of the Khmer Rouge, was nothing but an opportunity for Vietnam to expand its power: the text is wildly ideologically devoted to socialism, places the Marxist Kampuchean People's Revolutionary Party at the head of the state, while suffrage is universal and secret.<sup>59</sup> The constitution's sham nature can be demonstrated by the only general election held following its



ratification: in May 1, 1981, in an election with 97.83% turnout, the Revolutionary Party won all 117 seats—never to be contested again until the promulgation of the new Constitution in 1993.<sup>60</sup>

Finally, this leads us to the 1993 Constitution—another document whose origin is found overseas. Following the Paris conference in 1991, the UN moved to secure Cambodia and begin a resettlement process to return exiled Cambodian people in the region. Elections *preceded* the drafting of a new constitution, although the elections were marked by widespread violence and intimidation—the Khmer Rouge, in particular, blocked access to polling sites.<sup>61</sup>

The make-up of the legislature that drafted the Constitution hardly represented a break from the past: the top two vote-getters in the elections were the royalist party and the Cambodian People's Party (led by Hun Sen, who had been in power in the country since 1985 under the Vietnam-sponsored regime).<sup>62</sup> As to the document itself, liberal values dominate. There's a clear break from the past in Article 7, which states that "The King of Cambodia reigns but does not govern."<sup>63</sup> Elections are guaranteed to be universal and secret and the military is granted no role in official politics. Clearly, then, were this Constitution to be enforced to the letter, according to Svobik's definition, democracy would ensue in Cambodia. Democratization, however, failed to occur.

First, however, we must establish that prior to the promulgation of the Constitution, Cambodia was an authoritarian nation. This is relatively simple to do: Hun Sen had been in continuous power beginning in 1985, a position of power he had assumed without even the dressings of democracy. Hun Sen and his Revolutionary Party did *not* surrender power following the 1993 elections, which affirmed their right to power through democratic, if deeply, deeply flawed, means. However, to classify Cambodia as a democracy in this instant would be an immense stretch: while Svobik's definition errs on the side of a minimalist definition of

democracy and does *not* embrace Przeworski's controversial 'alternation' rule, the power of the new government was not actually determined by the voters at all, but by a deal made with Norodom Sihanouk, then the leading royal of Cambodia.<sup>64</sup> Sihanouk, alongside Hun Sen and Norodom Ranariddh (the two opposing leaders of the most successful parties in the 1993 elections), agreed to split the ministries 50-50 between Sen's and Ranariddh's parties—a power-sharing agreement made by an un-elected royal to avoid authoritarian rule. All this, too, was despite heavy, heavy, irregularities in the elections themselves. Thus, Cambodia was by no stretch a democracy prior to the Constitution's promulgation.

Now we must demonstrate that Cambodia was a *weak* state—an easy mark. According to Brookings's index for state strength, a state must have control over its sovereign territory. Most obviously, the Cambodian Civil War was still raging: the Khmer Rouge had never de-mobilized and committed violence at democratic polling places in the 1993 elections. Additionally, the source of stability in the country was the UN peacekeeping force—an external force. The Cambodian state had never been able to fully control its territory; once the UN left, instability would return as the Cambodian state itself had never strengthened.

In the face of such instability and weakness along the control of sovereignty front, only a cursory examination of the economic state of the country is necessary. Unfortunately, economic data does not exist for the years of the Khmer Rouge and the Vietnamese occupation: however, an indication of the economic weakness of Cambodia is that, in real terms, it was wealthier in 1968 (with a GDP of \$1.07 billion) than in 1974 (with a GDP of \$0.59 billion)—and that was prior to the Khmer Rouge's massacre of countless intellectuals and complete removal of all urban life.<sup>65</sup> Cambodia, prior to the 1993, Constitution, was clearly not a strong state.

In 1997, only four years after elections, co-Prime Ministers Hun Sen and Norodom Ranariddh (each representing two dominant strands of authoritarianism in Cambodian history) fell out: Hun Sen used the military to oust Ranariddh and install a more pliant figure in his place. The 1998 elections were marked by even more irregularities than the 1993 ones, and though the competitiveness of legislative elections have varied since then, Cambodia's descent into authoritarianism culminated in the 2018 elections, in which Hun Sen's Cambodian People's Party (in power since 1979) was the only party even in contention.<sup>66</sup>

Why did Cambodia fail to democratize? According to our theoretical expectations, two conditions must be met for a constitution to result in changes in level of authoritarianism: a strong state and a change in ruling coalition. In Cambodia, as has been demonstrated, there were neither. While rapid economic growth took place in the 1990s in Cambodia, the Cambodian Civil War ended only in 1998—*after* Hun Sen's ouster of his co-premier. However, the explanation for the failure of democracy lies before that: Hun Sen had *lost* the 1993 elections. It was a power-sharing agreement engineered by the monarch that had returned a semblance of democracy. A key aspect of this power-sharing agreement was an eagerness for peace and stability, as well as the legitimate threat of creeping authoritarianism in the figure of the once-dominant King. The weakness of the state following the destruction caused by the Khmer Rouge and the occupation by the Vietnamese left the country in an extraordinarily fragile position, because of which the authoritarian-bent leaders (the trifecta of Hun Sen, Norodom Sihanouk, and Norodom Ranariddh) were able to grab power. Without the threat of the Khmer Rouge looming at polling places in rural areas, or the instability that caused the need for direct UN intervention, such clearly authoritarian leaders wouldn't have held so much electoral promise.

Second, the lack of a change in ruling coalition also plays a key role in this causal story. Sun Hen remained in power—despite finishing second in the 1993 elections. He had grown accustomed to power and developed strong networks of power, particularly in his control over the military. He had, after all, been an *authoritarian* leader in power for eight whole years prior to the elections. Thus, the contest between him and his co-premier was a pitched battle: Ranariddh didn't have the connections and influence within the military to combat a coup coming from Hun Sen. Hun Sen had no incentives to embrace the democratizing aspects of the 1993 Constitution and didn't—and he was able to thwart the power of semi-democratically elected forces controlling half of government precisely *because* he had been in power. Without a change in power from Hun Sen to someone else, democratization would never have occurred in Cambodia. Thus, the case of Cambodia confirms and demonstrates our proposed argument.

### ***Burma, 1974 Constitution***

Lastly, we have Burma's 1974 Constitution—the case of a constant ruling coalition, weak state, and continued authoritarianism. Burma, since independence had a fraught relationship with its constitutions as governing documents. For example, its 1945 independence constitution—in order to unify the incredibly diverse country—allowed for two states to “opt out of the national union after ten years and with a referendum, but no central government was likely to let that happen.”<sup>67</sup> In fact, that very clause was seized upon as reason for a 1962 military coup in which the military arrested all civilian leaders, banned all political parties, violently suppressed protestors, and began rigorous censorship.

Most obviously, all these actions violated the very liberal and equality- and rights-focused 1945 constitution.<sup>68</sup> At this point, Burma had devolved into a typical military regime dominated by a single dictator: Ne Win. It is thus no surprise that along Svoboda's four dimensions

of autocracy, Burma did incredibly poorly. Along Svoboda's first dimension (military involvement in politics), it's clear the military *was* politics—between, 1972 to 1988, 1,743 military officers were transferred to civilian government. 43.6 per cent of which were transferred to the People's Councils."<sup>69</sup> Svoboda's second dimension is the restriction of political parties—also clearly at play, as described above. Svoboda's third dimension is legislative selection. The *de-facto* center of power in Burma was a military council following the 1962 coup—officers *not* chosen by any election. Additionally, while legislative dressings remained, elections were entirely uncontested, as only one party could run.<sup>70</sup> Finally, Svoboda's fourth dimension is executive selection. Ne Win was the military autocrat of Burma, and he was in that position because he was selected as the head of Burmese military long before, upon Independence.<sup>71</sup> So, we have clearly demonstrated that Burma, prior to 1974 was a heavily authoritarian nation *despite* its existing constitution that professed equality, free and fair elections, and generally liberal principles of governing. This is a perfect demonstration of the “constitutions without constitutionalism” phenomenon mentioned above.

We have also demonstrated above that Burma was a weak state. The Brookings index of weakness lists three conditions for authoritarian nation. First, in terms of economic development and meeting the population's basic material needs, there is a great divide between what the military regime of Burma professed and what it accomplished. Beginning in 1947 and continuing through 1974, Burma was a resolutely socialist economy. Writing in 1964, one scholar wrote of “agricultural indebtedness, poverty of the masses and the general impoverishment of the country as a whole.”<sup>72</sup> Prior to the military coup, socialism was hardly succeeding in bringing economic progress and development to Burma: more than half of rural Burmese farmers were continually in debt (public and private), the government had to write off as losses the entirety of its farmer-

loan program, and the failure of compulsory education to achieve universal education. At the time of the coup, Burma was one of the poorest nations in the world on a per-capita basis.<sup>73</sup> One justification for the 1962 coup was that the civilian administration had “betrayed” socialism—after assuming power, Ne Win quickly nationalized all banks and the key sectors of the Burmese economy.<sup>74</sup> Between 1967 and 1974, Burma averaged a mere 3.62% for its growth rate, a figure distorted by a single year in which it grew by 12.06% (it failed to surpass 5.5% in any other year in this range).<sup>75</sup>

Burma had largely staked its claim to socialism on its agriculture (the shift to a socialism focused on the proletariat was one of the goals of the 1974 Constitution). To pick one example, Ne Win’s nationalization of rice created an economic disaster: prices remained low as the government nationalized trade. However, because of the nationalization of trade, exports fell from 3,198 (the pre-war average) to just 645 thousand-tons in 1971—the Burmese economy, due to the intervention of the state, had been caught between the trap of deflating prices *and* decreasing exports.<sup>76</sup> Thus, production—and accordingly the financing of the state due to decreases in state procurement of rice—suffered as a result. In fact, only in 1981 did Burma return to its pre-war height (all the way back in 1931) in per capita gross domestic product.<sup>77</sup> It’s abundantly clear that along the dimension of economic growth and well-being, Burma was an incredibly weak state.

Second, in terms of controlling territory and protecting citizens from violence, the Karen National Union’s (KNU) armed revolution in the Karen State of Burma is “among the longest-running conflicts in the world”, first having broken out in 1949 before even the Independence constitution was ratified.<sup>78</sup> So weak was the central government of Ne Win’s in the outer reaches of the nation that the KNU was able to form the National Democratic Front (NDF) alongside

eight other ethnic nationalities. The account of Saw Ralph and Naw Sheera, two common soldiers of the KNU, illustrates the power of KNU: it was not merely a guerilla movement but instead a quasi-state organization that received training from Thai Special Forces, conducted its own trade, and practically governed parts of the country.

Now that we have established Burma's authoritarian nature and its weakness as a state, let's turn our attention to the 1974 Constitution—the historical story behind it and its effects on levels of authoritarianism. The 1974 Constitution, at first glance, is hardly from the same liberal tradition that the 1945 Constitution, crafted in the euphoria and optimism of post-independence, arose from. Immediately, in its preamble, the constitution decries the failure of “capitalistic parliamentary democracy” as endorsed by the 1945 Constitution.<sup>79</sup> The first distinction of this Constitution is clear: it is an ideological work. This clearly reflects the power dynamics at the time: the military regime of Ne Win was *intensely* ideological, inseparable from the ideology of socialism. Ne Win's version of socialism was the pre-eminent power, the source of his and the entire regime's legitimacy: thus, that version of socialism is reflected pre-eminently in the Constitution of 1974.

The constitution also affirms the dominance of the “Burma Socialist Programme Party,” the only legal party then existing in Burma. In fact, Article 11 of the Constitution explicitly states “the State shall adopt a single-party system.” Here, we encounter a key problem: even if the 1974 Constitution was perfectly enforced to the letter, it would not result in a full democracy under Svobik's definition because it legally excluded all other political parties. This is a valid concern; however, the constitution also contains many elements that would greatly reduce the levels of authoritarianism: in particular, along Dahl's dual dimensions of democracy and Svobik's concern over legislative/executive selection, the Constitution makes lofty proclamations of participation,

declaring that “every citizen has the right to elect, and be elected as, people’s representatives to the Organs of State Power” (Article 15) and that “the working people shall have full participation in local matters” (Article 17)—executive selection and legislative selection are thus nominally liberalized in the Constitution.

Obviously, none of these promises became reality, creating an interesting mix: in some respects (namely free and secret-ballot elections), the constitution acts as a nominal constitution according to Lowenstein’s methodology. However, in other ways—namely the explicit banning of other political parties and the organizing of state political organs—the 1974 Constitution had practical effects in enshrining the power of Ne Win’s regime, as a semantic constitution expanding the power of the already-powerful according to Lowenstein’s methodology.

That being said, few to no changes occurred in actual governance. Steinberg’s detailed survey of the military in Burma/Burma (in practice a survey of the state since the state and the military became essentially one) only briefly mentioned in the 1974 Constitution and, upon mention, didn’t even discuss absolutely any changes in governance resulting from its promulgation.<sup>80</sup> And there were certainly *no* changes in levels of authoritarianism. Why?

According to our proposed argument, two conditions must be met for constitutions to cause a decrease in levels of authoritarianism: 1) a strong state and 2) a ruling coalition change. Neither occurred in Burma in 1974 and there were no changes in levels of authoritarianism, in accordance with our theoretical expectations. However, was our causal mechanism correct?

The reason why we hypothesized a strong state to be necessary for a constitution to produce real effects in reducing authoritarianism was because a weak state couldn’t hope to enforce a constitution—it would be too concerned with protecting itself from internal and external threats, or it would be mired in perpetual ‘survival’ mode.



This doesn't seem to entirely be the case for Burma. Instead, the weakness of the Burmese state was reflected on the Constitution. While Burma was certainly a weak state, its weakness could not be found in a weakness of Ne Win's authority in Rangoon, the capital. The violence that threatened the state was far from existential—the Karen conflict never directly threatened Win's regime. This lack of national unification *was* reflected in the Constitution, but largely in its rhetoric—such as winding preamble that declares the people of Burma “have throughout history lived in harmony and unity sharing joys and sorrows in weal or woe” or in Article 2 when the document proclaims that Burma “is a State wherein various national races make their homes together.”<sup>81</sup>

Instead of the state's weakness alone preventing enforcement of the constitution, the state's weakness combined with the lack of a ruling coalition change to create disincentives to enforce the aspects of the Constitution that would've decreased levels of authoritarianism. As has been documented thoroughly, popular satisfaction with Burmese socialism was reducing sharply—unlike the socialist states of North Korea or North Vietnam, popular support could not be staked upon the defense against an external, ‘imperialist’ threat. Instead, the rhetoric of ‘imperialism’ in the Burmese context rang slightly hollow; China was its only real external threat, and that too was a Communist state. In 1974, colonialism was still a fresh memory, but political change distanced the victors of independence from those dominant in the military regime. Ne Win took power of the military only after the end of Japanese occupation and the adoption of the 1945 Constitution.

Aung San's assassination just before independence became reality protected the founding myth from Ne Win.<sup>82</sup> By 1974, the military had squandered whatever credibility remained from its suppression of existential rebellions in the 50s—so significantly had socialism failed. Popular

elections could be hardly expected to yield results other than turnover among the ruling elite. Thus, the regime of Ne Win would have avoided increasing participation because of its weakness as a state. Additionally, the weakness of the state in terms of resources and control in rural areas would indicate that it would not be able to rig elections the same way that strong authoritarian states like Mexico were able to.

Thus, we have a causal story slightly different than the one initially proposed. Rather than a distinct two-step causal story, the weakness of the Burmese state conspired with the lack of change in ruling coalition spell to prevent the adoption of a new constitution with liberalizing elements ‘on paper’ from reducing levels of authoritarianism in practice.

## ***Conclusions***

Given that the ostensible purpose of constitutions is to reduce levels of authoritarianism or enshrine democracy, the dearth of studies examining the effects of constitutions on levels of authoritarianism is surprising. This paper seeks to begin to fill that gap, and leverages the extraordinary variation, both in authoritarianism and in constitutional history, in Southeast Asian history.

Our findings are mixed. We propose a simple causal story linking constitutional upheaval with changes in levels of authoritarianism. In order for levels of authoritarianism to be reduced by a constitutional upheaval, two conditions must be met: 1) a strong state and 2) a change in ruling coalition. The logic behind this proposed argument is relatively simple: only a strong state would have the power to enforce the constitution. A weak state would, facing existential crises political, economic, or social, either be unable to enforce a constitution or would be preoccupied with its immediate survival to embark on a democratizing project. On the other hand, a change in ruling coalition spell is necessary because if a ruler remains in power throughout a constitutional upheaval, that ruler has no incentive to act upon the constitution to democratize the country.

This proposed argument largely held true for our four cases: Indonesia's 1999-2002 constitutional amendments, Burma's 1974 Constitution, Cambodia's 1993 Constitution, and Vietnam's 1992 Constitution. Tentatively, then, we have a new theory linking constitutions with changes in levels of authoritarianism.

There is, however, a limitation of the application of this new theory. Primarily, most obviously, this theory needs to be tested on a much grander scale. To generate new theories, small-N analysis is incredibly helpful; however, to test these theories and scrutinize them, large-N analysis is necessary. The next step for this theory is an analysis of *all* authoritarian constitutions—across the world. Such an analysis would also require a more formal process for the coding and determination of a state's strength (such as the application of the Brookings's precise formula to each case) and levels of authoritarianism.

Beyond this, the theory would benefit from the inclusion of more salient independent variables, or their consideration at the very least. What about the split between military regimes (such as Burma) and dominant party regimes (such as Indonesia or Vietnam)? Or countries of a certain colonial heritage (such as the French Indochina tradition of Vietnam and Cambodia) and another (such as the Dutch tradition of Indonesia)? How does the theory of constitutions and authoritarianism match theories of democratization like modernization theory, particularly given the correlation between the size of middle class and the strength of the state when following the Brookings's index of state strength? These are pressing questions, given that the literature on democratization is perhaps the most fundamental, and important, question in political science.

## ***Appendix 1 – Tables***

**Table 1.1**<sup>83</sup> Authoritarian Spells in SE Asian Countries

<b>COUNTRY</b>	<b>YEARS OF AUTHORITARIAN SPELL</b>	<b>ORIGIN</b>	<b>END</b>
BRUNEI	1984 – continuance	Independence	Continuance
CAMBODIA	1953 – 1969	Independence	No authority
	1976 – 1978	No authority	No authority
	1988 – continuance	No authority	Continuance
INDONESIA	1949 – 1999	Continuance	Democracy
LAOS	1974 – continuance	No authority	Continuance
MALAYSIA	1957 – continuance	Independence	Continuance
BURMA/BURMA	1959 – 1960	Democracy	Democracy
	1963 – 1963	Democracy	No authority
	1971 – continuance	No authority	Continuance
PHILIPPINES	1970 – 1981	Democracy	No authority
SINGAPORE	1965 – continuance	Independence	Continuance
THAILAND	1946 – 1975	Continuance	Democracy
	1977 – 1979	Democracy	Democracy
	1992 – 1992	Democracy	Democracy
	2007 – continuance	Democracy	Democracy
VIETNAM	1976 - continuance	No authority	Continuance

**Table 1.2<sup>84</sup>** Changes in Ruling Coalitions in SE Asian Countries

<b>COUNTRY</b>	<b>YEARS OF SAME RULING COALITION</b>
BRUNEI	1967 – 2008*
CAMBODIA	1953 – 1975
	1975 - 1979
	1985 - 1991
	1991 – 2008*
INDONESIA	1945 - 1966
	1966 - 1998
LAOS	1962 - 1975
	1975 – 2008*
MALAYSIA	1957 – 2008*
BURMA/BURMA	1958 - 1962

	1962 – 2008*
PHILIPPINES	1959 - 2008
SINGAPORE	1965 – continuance
THAILAND	1944 - 1946
	1946 - 1947
	1947 - 1957
	1957 - 1973
	1973 - 1975
	1976 - 1977
	1977 - 1988
	1991 - 1992
	2006 - 2007
VIETNAM	1945 – 2008*

**Table 1.3** Cases Chosen

TYPE OF CASE	CHANGE IN RULING COALITION	NO CHANGE IN RULING COALITION
STRONG STATE	Indonesia, 1999-2002 Constitutional Amendments	Vietnam, 1992 Constitution
WEAK STATE	Cambodia, 1993 Constitution	Burma, 1974 Constitution

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<sup>4</sup> Svolik, *The Politics of Authoritarian Rule*, pp. 32.

<sup>5</sup> Vincenzo Bove, Mauricio Rivera, and Chiara Ruffa, "Beyond Coups: Terrorism and Military Involvement in Politics," *European Journal of International Relations* 26, no. 1 (2020): 263-288.

<sup>6</sup> David Pion-Berlin, "Military Autonomy and Emerging Democracies in South America," *Comparative Politics* (1992): 83-102.

<sup>7</sup> Vincenzo Bove and Robert Nisticó, "Military in Politics and Budgetary Allocations," *Journal of Comparative Economics* 42, no. 4 (2014): 1065 – 1078.

<sup>8</sup> Dan Slater, *Ordering Power: Contentious Politics and Authoritarian Leviathans in Southeast Asia* (New York: Cambridge University Press, 2010).

<sup>9</sup> Lauri Karvonen, "Legislation on Political Parties: A Global Comparison," *Party Politics* 13, no. 4 (2007): 437-455.

<sup>10</sup> Benjamin Reilly, "Political Engineering and Party Politics in Conflict-Prone Societies," *Democratization* 13, no.5 (2006): 811-827.

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