

revealed, when it is assumed that there is no qualitative distinction among Chinese Confucianism, Indonesian Islam, and Thai Buddhism *as long as* they all buttress a strong state or virtuous political leadership.

This is not to say that to think about modern Asia as a political concept reflecting its increasingly shared political practices and governance styles is impossible or unimportant. My point is that Gilley could have made his core argument, which connects political culture to governance style more effectively and convincingly, even if he did not take the dangerous path of Orientalism. Despite this quibble with the book's methodological strategy and basic assumptions, I find it full of interesting observations and compelling qualitative analyses. This is a must-read for anyone interested in Asian politics, especially those who are struggling with Asia's nonliberal path toward political changes, social reforms, and economic development.

Constitutions in Authoritarian Regimes. Edited by Tom Ginsburg and Alberto Simpser. New York: Cambridge University Press, 2013. 282p. \$105.00 cloth, \$39.99 paper.

Opposing the Rule of Law: How Myanmar's Courts Make Law and Order. by Nick Cheesman. New York: Cambridge University Press, 2015. 338p. \$99.00 cloth, \$29.99 paper.
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— Maria Popova, *McGill University*

Why do many authoritarian leaders adopt constitutions and publicly profess their commitment to the rule of law if they regularly abrogate rights and disregard the constitution? Is authoritarian constitutionalism an oxymoron? Tom Ginsburg and Alberto Simpser's *Constitutions in Authoritarian Regimes* and Nick Cheesman's *Opposing the Rule of Law* examine authoritarian regimes across geographic regions and historical eras and provide some complementary and some contradictory answers to these questions. Both books make significant contributions to the subfields of comparative judicial politics, comparative authoritarianism, and law and society studies and will be essential additions to any graduate syllabus on these subjects.

Constitutions in Authoritarian Regimes is a theoretically sophisticated and empirically sweeping work. Editors Tom Ginsburg and Alberto Simpser outline a research agenda that explores the varied roles that constitutions can play in authoritarian regimes. Anyone who wants to pursue research on the subject will have to engage with this volume's arguments. The book's contributors move beyond the conventional wisdom perception of authoritarian constitutions as mere window dressing—an attempt to fool domestic and/or international audiences into believing that the autocrat's behavior would be constrained by constitutional provisions. Instead, they claim that some

authoritarian constitutions serve as operating manuals and “describe actual political practice” (p. 6). Adam Przeworski discusses the decision by some Communist parties to enshrine their leading political role in the Constitution and Law and Mila Versteeg point to Saudi Arabia's “weak constitution,” which accurately outlines the limited civil and political rights that Saudi citizens have. Authoritarian constitutions could also resemble blueprints that can signal the leader's policy goals and intentions. Stilt describes how Egyptian strongman Hosni Mubarak used constitutional amendments to target his opponents from Muslim Brotherhood, even as he framed the changes in such a way as to fool international audiences into perceiving them as democratizing. Gabriel Negretto argues that Latin American military dictators who “seek broad transformations in the political, social, and economic order” (p. 83) are more likely to adopt constitutions. Authoritarian constitutions can coordinate the relationships among key elites within an authoritarian governing coalition by affecting both formal institutions and “informal political arrangements” (p. 9).

The coordination argument receives the most attention in the book. The gist of the claim is that a constitution is useful to an autocrat because it provides a self-enforcing mechanism that increases regime stability. More specifically, Michael Albertus and Victor Menaldo argue that constitutions allow “political groups and organizations other than the dictator [to] codify their rights and interests [. . . thus] fostering loyalty and trust between the dictator and his launching organization” (p. 57). David Law and Mila Versteeg hypothesize that both the structural provisions in a constitution and the rights provisions can coordinate behavior among political and social actors by allocating power among them—thus enhancing regime stability (p. 173). And Ghandi argues that the constitutional definition of presidential powers allows the opposition to unite behind a single candidate in authoritarian elections, because they know by what rules the winner would govern (p. 205).

The limitation of the coordination argument, in my view, is the self-enforcement assumption, i.e. that constitutional provisions become meaningful commitment mechanisms just for being written down and without the need for an external guarantor. In the absence of an independent judiciary, however, why should elites trust the autocrat not to renege on the commitments he has made in the constitution? Authoritarian regimes (like democracies) vary on the level of independence accorded to their judiciaries, so maybe independent courts contribute to regime stability. The cross-national empirical testing of the coordination argument would be stronger if it controlled for the level of judicial independence. Moreover, there is tension between the findings that authoritarian constitutions are less specific (as Tom Ginsburg, Zachary Elkins, and James Melton argue)

and more likely to be sham documents that promise more than they deliver (as Law and Versteeg's analysis demonstrates) and the coordination logic. The coordination logic requires authoritarian elites to believe that they can use the constitution to protect their interests from encroachment from the autocrat, but why should they if the constitution is vague and promises things the autocrat does not intend to deliver? Only the chapter by Henry Hale addresses the lack of external enforcement and demonstrates how constitutional provisions about the structure of the executive can affect authoritarian regime dynamics. Using examples from post-Communist patronal regimes, he shows convincingly that the constitution alters elite behavior informally even if it is not formally followed by incumbents or enforced by an independent Constitutional Court. It would be interesting to see the coordination argument further developed to understand how rights provisions might affect actors' behavior even in the absence of guarantees that they will be applied in practice by an independent judiciary.

The volume contains many important empirical contributions based on varied data sources and methodologies. On the basis of data from Latin American dictatorships in the 1950–2002 period, Albertus and Menaldo argue that new autocrats are more likely to adopt a constitution in order to cement the support of their launching organization and that those who do, will have greater chances of regime survival. On the basis of their Comparative Constitutions Project's database of 846 constitutions adopted since 1789, Ginsburg, Elkins, and Melton argue that constitutions vary more by region and by era, than by regime type. Law and Versteeg argue that military and monarchic authoritarian regimes are more constitutionally honest than civilian authoritarian regimes, i.e. they are less likely to promise rights that they do not intend to uphold. Using a focused comparison of Ukraine, Kyrgyzstan, and Moldova, Hale argues that divided-executive constitutions have a democratizing effect, while presidential constitutions facilitate authoritarian consolidation.

Ironically, the volume's main contribution—the careful search for the meaning and impact of authoritarian constitutions—is also likely to provoke criticism that the authors look too hard. For example, Przeworski imputes subtle constitutional arguments behind Poland's decision not to enshrine the Communist party's leading role in its Constitution and suggests that this omission might have contributed to the regime's vulnerability and collapse. But the Polish regime's weakness relative to other Soviet Bloc regimes has been attributed to historical, geopolitical, social, and demographic structural reasons that could explain both its constitutional modesty and its eventual collapse. After all, Poland bucked other Soviet-imposed trends as well, such as the mandates to collectivize agriculture and outlaw religion. Mark Tushnet's chapter,

which sets out to define authoritarian constitutionalism, also overreaches. It attempts to reconcile the arbitrary use of unchallenged power that defines authoritarian regimes with the predictability and rights protection that come with constitutionalism. The six characteristics of authoritarian constitutional regimes (pp. 45–46), which envision free and fair elections, “reasonable” openness to political dissent and criticism, and sensitivity to public opinion, blur the distinction between an authoritarian regime and a democracy with one really popular, dominant party that keeps winning elections and uses the incumbency advantage to make sure its opponents remain weak. Reading them, I am reminded of Hungary under Orbán, rather than Russia under Putin. And Putin's authoritarian regime is not a brutal one, historically speaking. Finally, anyone interested in informal politics will be disappointed since most of the chapters emphasize the mere existence and the formal provisions of a constitution and set aside the informal ways in which authoritarian constitutions are circumvented, hollowed out, or, on occasion, respected.

Scholars of informal politics would be more interested in Nick Cheesman's *Opposing the Rule of Law*. Cheesman's study of Myanmar's judiciary throughout the country's history from British colony to socialist military dictatorship and beyond, tracks the gap between a purported commitment to the rule of law and a criminal adjudication process that is anything but conforming to the ideal. In his words, the rule of law in Myanmar is “lexically present but semantically absent.” Despite regularly invoking the rule of law, Myanmar's political sovereign operates under another legal doctrine that Cheesman calls *law and order*. Moreover, in Cheesman's view, law and order and the rule of law are profound opposites. “The rule of law relies on general rules to maintain order, whereas law and order rests on particularistic commands and directives in response to exigencies” (p. 34). Cheesman bills the conceptual opposition between the two ideals as one of his study's main contributions. He argues against using the other concept that is often juxtaposed to the rule of law—*rule by law*. The problem, he argues, stems from the fact that rule by law is not well-defined on its own terms, but is simply a residual category for what the rule of law is not. In my opinion, this conceptual discussion is not the most useful part of the book. Cheesman opts not to define rule of law, because of the huge pre-existing literature on the concept. However, throughout the empirical chapters runs an implicit definition of the rule of law as the meaningful protection of a set of substantive rights (for e.g. on p. 73 and p. 95). While such a definition of the concept is reasonable enough, it would have been more useful to contrast it explicitly with both law and order and rule by law. The distinction between law and order and rule by law is not as clear as Cheesman hopes it to be. At various times, he describes both concepts as the instrumental use of the law

by rulers who are unbound by it. Perhaps the distinction is that law and order implies a commitment to a specific ideal—the maintenance of order—whereas rule by law may encompass any instrumental use of the law by the sovereign. This distinction does not seem substantial enough, but suggests that law and order is simply a guiding principle in criminal law, subsumed into a broader rule by law doctrine.

For me, the book's main contribution is the original, conceptually and empirically rich discussion of criminal justice in Myanmar. Despite focusing on one country, the book should be of great interest to anyone who studies legal culture and practice in authoritarian settings. As a scholar of Soviet and post-Soviet authoritarianism, I found insightful discussion of several analogous phenomena, which I had thought might be typically (post)-Soviet. Cheesman discusses the exercise of "sovereign *cetana*," the ability of the sovereign to "qualify, delimit, and withdraw citizen's rights in response to policy imperatives" (p. 99) and its corollary—the identification of public enemies who are perceived as "higher in the hierarchy of threats to law and order than other persons" (p. 99). These concepts provide a generalizable framework, through which we could understand why Russia's criminal justice system overreacted to an obscure punk rock band's profanity-laced performance by jailing the singers for 2–3 years. Using Cheesman's conceptual framework, we could see that by insulting Putin and Putinism, the Pussy Riot punk rockers had transformed themselves into public enemies, which is why they were dealt with much more harshly by the courts. Cheesman's discussion of presidential pardons in Myanmar (pp. 127–129) could be used word for word to understand Putin's 2014 pardon of Russia's most famous political prisoner, former oil tycoon Mikhail Khodorkovsky. As Cheesman argues, the pardon perfects the exercise of sovereign *cetana* by "magically restoring something arbitrarily withdrawn, not by correcting the wrongs done to the person, but through dogged insistence that no wrongs have been committed at all—other than by the person pardoned" (p. 128). The discussion of the secrecy shrouding politically sensitive trials, the use of hired thugs alongside regular security forces to intimidate protestors extra-legally, the tales of the mechanisms of judicial corruption, and the use of courts for reprisals against complainants and protestors is insightful and illuminating of many similar post-Soviet practices.

I would have liked to see more discussion of political factors and variables, though to be fair, the focus on social variables is logical given that the book is part of the Cambridge Studies in Law and Society series. Still, it would have been interesting to see Cheesman's take on the politics of democratization during the last few years as political competition seems to be slowly returning to Myanmar. For example, he asserts that there has been a change towards openness to investigative journalism and

even bona fide legislative investigations into judicial corruption since 2011 (p. 244), but we do not know which political actors initiated these changes and why.

Even though this is not one of Cheesman's goals, his study contributes to the research agenda on authoritarian constitutionalism that motivates Ginsburg and Simpser's volume. In my interpretation, Cheesman offers a complementary answer to the question of why authoritarian leaders would bother to provide rights on paper if they do not intend to respect them in practice. The sovereign *cetana* principle suggests that one of the roles of rights codification is to differentiate between those citizens on whom the regime magnanimously bestows some of these rights, some of the time, and the public enemies whose rights are swiftly withdrawn or delimited. With the pretense of the existence of rights, the act of abrogating them assumes greater meaning and visibility.

Nations Under God: How Churches Use Moral Authority to Influence Policy. By Anna Grzymala-Busse. Princeton, NJ:

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— Jonathan Fox, *Bar Ilan University*

Nations Under God examines the extent and nature of the political influence of churches on national policy. Its central argument is that rather than influencing policy through electoral politics or the use of public pressure, churches are most influential through backroom politics and institutional access. In fact, churches are most successful at influencing policy when they meet two criteria. The first is appearing to be above politics: "Churches gain their greatest political advantage when they can appear to be above petty politics—exerting their influence through the secret meetings and back rooms of parliament rather than through public pressure and partisanship" (p. 2). The second is that they are considered by politicians and society to have moral authority which, according to Grzymala-Busse, is best gained through a historical record of defending the nation. These factors explain significant variance in success at influencing policies in countries that have otherwise similar patterns of religious belief, belonging, and attendance.

Institutional access is also the most reliable means for influencing policy. Public advocacy, especially when on behalf of narrow church interests, can undermine a church's moral authority in society. Alliances with political parties can be short lived and these parties can have other priorities. Voters, even in religious countries, do not always agree fully with church views and may vote based on their economic interests rather than their religious views. Thus, if done quietly, the use of institutional access and backroom politics can be the most effective and long lasting means to pursue a church's political agenda.