

The third wave of democratization has been accompanied by two innovative theoretical claims that procedural regime attributes have systematic consequences for substantive outcomes under democracy and authoritarianism. Many “rule of law” claims associate democracy with lower risks and greater predictability over outcomes than authoritarianism. The “institutionalized uncertainty” claim expects nearly the opposite pattern. Each has important implications for regime support and thus for regime (in)stability. This article argues that neither approach effectively captures global patterns of risk and predictability. A reconsideration shows that both approaches mischaracterize both regime types. Predictability is shown to vary at least as much across as between the two regime types. This is the result of factors exogenous to procedures, such as structures of political, social, and economic conflict. As a result, these structural conditions, rather than regime features alone, explain outcomes such as democratic instability and consolidation. Evidence suggests this is the case.

INSTITUTIONALIZED UNCERTAINTY, THE RULE OF LAW, AND THE SOURCES OF DEMOCRATIC STABILITY

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Through most of the modern global proliferation of democracies, it became a common claim that regimes are best defined in procedural rather than substantive terms. In this spirit, Rustow (1970) refers to “the general recognition that democracy is a matter primarily of procedure rather than of substance” (p. 345). But in the past 10 years, prominent theorists who fully accept the conventional procedural definitions of democracy and authoritarianism argue that although the two matters can be divorced in principle, “a radical separation between substantive and procedural issues does not obtain in practice” because distinguishing procedures are themselves pregnant with extensive substantive consequences (Mainwaring, 1992, p. 314). This inter-

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pretation is a major feature of two prominent recent lines of theorizing. The first is the widely cited argument, associated with Przeworski, that democracy distinctively “institutionalizes uncertainty” over policy outcomes (outputs) (Przeworski, 1991, pp. 10-14). In the second, which is increasingly prominent in both scholarly and development-policy circles, a number of theorists argue that the “rule of law” means that democracy offers guarantees regarding substantive outcomes that authoritarian rule does not and cannot. These two claims share three important features. First, both assume that each regime’s distinctive procedures profoundly shape major political outcomes under that regime. Second, the two claims are in important ways mirror images of one another. Rule-of-law claims portray authoritarian regimes as highly capricious and unpredictable and democracies as constrained and more certain, whereas in the institutionalized-uncertainty approach, democracy is associated with greater uncertainty than authoritarianism. Third, both claims, because they connect definitional procedural attributes to substantive consequences, have major implications for the regime support and stability we should expect to find around the world, implications that a number of scholars make explicit.

Like both of these approaches, this article accepts the common procedural definitions of democracy and authoritarian rule. But I argue that both approaches mischaracterize the substantive consequences of these procedures; consequently, they misanalyze the sources of democratic stability. Vigorous rule-of-law claims overestimate the systematic differences in outcomes that actors can expect under regime alternatives because they understate the extent to which both regimes are ruled by people, not laws. Institutionalized-uncertainty claims also overestimate differences in outcomes between regime types because they fail to recognize that the people who rule both regimes vary sharply across countries and time. As a result, both approaches can easily mispredict regime support. Later sections of this article argue that because key patterns in substantive outcomes are not determined a priori by generic regime procedures, actors’ forecasts of outcomes and hence their regime support must be explained in terms of country- and time period-specific events. This argument converges with substantial research showing that many important outcomes vary with factors external to formal institutions or procedures—factors such as political, social, and economic structures of conflict; diverse aspects of political and civil society; and policy legacies, bureaucratic structures, and state efficacy.

THE RULE OF LAW AND INSTITUTIONALIZED UNCERTAINTY

Most theorists today rely on variations of common procedural definitions of the two major regime types. In *democracies*, nearly all adults have the right to participate in the making of binding decisions by periodically casting equally weighted votes for representatives. This necessarily entails decision rules and rights. First, the views of (typically) millions of voters are channeled through electoral and constitutional laws that Holmes (1995) argues are required to “organiz[e] the people for self-rule” (p. 300). Second, to “maintain democracy as an ongoing process requires . . . that all citizens . . . possess the rights that are necessary to the method by which democracy operates” (Sartori, 1987, pp. 31-34). What O’Donnell (2001, p. 11) terms “surrounding freedoms”—termed “core rights” in this article—are closely focused on the tools required for making free electoral choices. Dahl’s (1971) influential list includes some press freedoms and rights to form and join diverse political organizations (Dahl, 1971, pp. 3-5). “Illiberal” democracies that lack core rights are not democracies. Because democracy is defined by distinctive procedural attributes, *authoritarian rule* is characterized by corresponding “procedural” differences. Under it, binding decisions are made by some relatively small subset of the population, which maintains power through repression.

The distinctive contribution of rule-of-law and institutionalized-uncertainty theorizing is to argue that although democracy and authoritarian rule can be defined in strictly procedural terms such as these, these procedures inevitably have substantive consequences. This section argues that these two approaches build from the same proceduralist definitions of the regime types but culminate in mutually incompatible characterizations of outcomes under democracy and authoritarian rule. Robust rule-of-law claims associate democracy with a predictably more abbreviated range of possible outcomes and hence lower risks than authoritarian rule. In contrast, the institutionalized-uncertainty approach posits greater *ex ante* uncertainty over outcomes in democracy than under authoritarian rule. This incompatibility is not inevitable. The two approaches might be compatible if they operated on the basis of a strict division of labor. For example, rule-of-law claims might be understood to identify predictability concerning the processes by which political decisions are made, whereas institutionalized-uncertainty characterized the specific content of the decisions made through those processes.¹ But prominent versions of both approaches insist on a much tighter connec-

1. This position is approximated by Colomer (1995).

tion between the procedures by which decisions are made and their content. It is in this sense that Mainwaring (1992) concludes that “a radical separation between substantive and procedural issues does not obtain in practice” (p. 314). Both approaches are thus brought to bear on many of the same substantive outcomes. They cannot both be right.

The rule of law has become an increasingly common reference in debates over democratization, institutional reform, and the conditions for economic development. I exclude from the following discussion those analyses that focus only on the functioning of courts and proceedings under any regime as well as legal philosophers’ analyses of rules for law making that are neither definitional nor exclusive to either regime type (e.g., Raz, 1977). I focus on vigorous recent claims that firmly associate democracy with the rule of law and authoritarian rule with the “rule of men”—that is, which treat rule of law features as both definitional and exclusive to democracy.² For Schedler and Santiso (1998), for example, “authoritarianism is the realm of arbitrariness, bounded perhaps by informal understandings. Liberal democracy . . . means the rule of law” (p. 8). Przeworski (1991) associates transitions from authoritarian rule to democracy with “the devolution of power from a group of people to a set of rules” (p. 14). Linz (1978) states more generally that “there is an obvious overlap between [Weber’s] type of legal-rational authority and democratic regimes as we have defined them” (p. 102, note 29). In essence, these versions divorce the rule of law from nondemocratic regimes because authoritarian rulers by definition stand above laws, whereas in democracy “nobody is *de legibus solutus*,” as O’Donnell (1999, p. 321) emphasizes.

Recent rule-of-law theorizing argues that differences in procedures cause stark differences in substantive outcomes under alternative regimes. Most important, procedural attributes that are both definitional and exclusive to democracy are said to abbreviate the range of possible substantive outcomes in democracy, specifically eliminating diverse, high-risk outcomes by limiting discretionary power and thereby creating “predictability” and “security.” Several mechanisms cause this. Constitutions—which Linz and Stepan (1996) call the rule of law’s “primary organizing principle”—“deliberately reduce uncertainty to promote mutual security” and create “certainty [that] enables the citizens to form long-term plans, which are a condition both for economic growth and for personal security” (Elster, 1993, p. 175; Linz & Stepan, 1996, pp. 14, 248; Mainwaring, 1992, p. 314; Sartori, 1987, p. 42). Democratic rights offer “security from arbitrary violence” by state agents (Przeworski, 1991, p. 31). Sunstein, Linz, Mainwaring, and Holmes con-

2. Rose et al. (1998, p. 32) are among others who portray these features as necessary but not necessarily exclusive to democracy.

verge on the claim that rights place “rigid restrictions on majority discretion” by “narrowing the *range of issues* [italics added] over which governmental authorities can claim jurisdiction” and thus reduce the “*range of possible outcomes* [italics added]” in that regime (Holmes, 1995, pp. 299-300, 302-304; Linz, 1997, p. 118; Mainwaring, 1992, p. 313; Sunstein, 1988, p. 327). Moreover, democracy’s formal decision rules “shape what substantive outcomes are possible, hence limiting uncertainty and enhancing security,” whereas the absence of such rules renders “decision making in authoritarian regimes . . . in an important sense more uncertain” (Mainwaring, 1992, pp. 313-316; see also Rose, Mishler, & Haerpfer, 1998, pp. 124-125). Finally, democracy also requires equal treatment before the law, whereas authoritarianism entails favoritism and arbitrariness. These procedural features, in sum, mean that democracy offers all actors, even those who lose elections, a “floor” below which the value of political outcomes is not allowed to fall. It is the very nature of democratic decision making that renders substantive outcomes relatively predictable.

In contrast, authoritarian rule cannot offer such guarantees because it places no (enforceable) formal limits on rulers’ discretion. This lack of discretion affects much more than simply the process by which decisions are made or how decisions are enforced, and also concerns their content. Even relatively privileged actors lack formally private spheres, run the risk of repressive threats to their safety, and face targeted favoritism or predatory abuse and exploitation on the basis of the rulers’ whim or expediency. “Mafia economics” can threaten even their property and income (Chehabi & Linz, 1998, pp. 23-25). As in democracy, it is the nature of decision-making procedures—which, in the authoritarian case, do not bound the range of formally possible outcomes—that endows substantive outcomes with their distinctive degree of (un)predictability and risk. Under authoritarian rule, there is no value below which substantive political outcomes may not fall.

If true, this logically would have sweeping implications for regime support among outcome-oriented actors. Thus, Rose et al. (1998) argue that support for democracy over authoritarian alternatives has survived in postcommunist Eastern Europe despite severe economic problems because the outcomes delivered by democratic rights and rules exert an attraction. Similarly, Linz (1997) argues that constitutionalism, by reducing “incertitude,” can “encourage those who might be fearful about their interests to participate in the democratic political game” (p. 120).

The institutionalized-uncertainty approach is, in important ways, a mirror image of this, associating democracy with higher levels of contingency and ex ante unpredictability than authoritarian rule. In the process, this approach inverts the language of many rule-of-law formulations. In the fullest and most

widely cited statement, Przeworski argues that procedural regime features have substantive consequences. First, Przeworski (1991) notes that because democratic governments automatically expire, disputes are “temporarily suspended rather than resolved definitively” (p. 11), creating what Schmitter and Karl (1991) term a regularized “possibility of change” (p. 82). Second, democracy’s contestation means “no single force controls what occurs” (Przeworski, 1991, p. 12). Because “the consequences of [each participant’s] actions depend on the actions of others . . . outcomes cannot be predicted exactly under democracy” (Przeworski, 1991, p. 12). In contrast, authoritarian regimes are, in Linz’s (1998) words, “not defined as limited in time . . . they are expected to last” (p. 20). And such systems contain a single veto player. The result, Przeworski argues, is a sharp contrast.

In an authoritarian system it is certain that political outcomes will not include those adverse to the will of the power apparatus, whereas in a democracy there is no group whose preferences and resources can predict outcomes with near certainty. (Przeworski, 1991, p. 47)

Prediction in democracy thus confronts not merely the informational constraints that exist anywhere but greater contingency under that regime. Because it is not possible to know ahead of time the results of contested decisions, democracy intrinsically creates *ex ante* uncertainty.³

Here, too, theorists argue that differences in procedural regime features have implications that extend to differences in substantive outcomes and specifically to differences in perceived risks in outcomes. Because actors in democracy cannot know who will win elections and policy contests, they cannot know the content of policies. In contrast, “in an authoritarian regime . . . there is much greater assurance about the kinds of policies and directions that will never be adopted” (Hirschman, 1986, p. 41). Once again, it is the nature of each regime’s decision-making procedures that structures substantive outcomes. A single authoritarian ruler’s decisions are predictable, whereas a contested democratic decision can only be known *ex post*.

And this, too, has important implications for the regime preferences of outcome-oriented actors. Przeworski (1986, p. 60) argues that democracy’s greater uncertainty can “threaten . . . the interests” of some actors, an effect that can be mitigated through low-stakes decision rules. But he also highlights an aspect of uncertainty that could attract actors to democracy over

3. Mainwaring (1992, p. 313) critiques the institutionalized-uncertainty claim by arguing that democracy’s predictability-enhancing features, including rights and decision rules, reduces *ex ante* uncertainty.

authoritarian rule. Przeworski argues that actors who lose in a given democratic contest must, when considering alternative courses of action, include in the utility of complying with democracy the additional positive value of democracy's distinctive opportunities for future winning, a factor emphasized in diverse frameworks. Di Palma (1984) identifies democracy's "best trump card" for attracting support as its "open-endedness, because its game is never final, because nobody loses once and for all and on all arenas" (p. 175). Lake and Rothchild (1996) suggest that democracy's uncertainty "provides many players with an incentive to participate" (p. 60). Citing Przeworski, Sisk's (1995, pp. 47, 287-288) analysis of regime support in transitional South Africa focuses on maximizing democracy's uncertainty through opportunities for future winning. Some vigorous but eclectic scholars such as Linz, who makes significant rule-of-law-based claims, also pursues the institutionalized-uncertainty approach; in this case, and also citing Przeworski, Linz (1998) argues that "the hope of the reverse of the [electoral or policy] outcome in a reasonable time, a framework of a few years" is an important source of support for democracy (p. 20) (see also Miller, 1983, pp. 742-744; Riker, 1962, p. 103).

The two approaches are, in important ways, mirror images of one another. Regarding authoritarian rule, rule-of-law claims argue that the discretionary nature of authoritarian rule makes the policies of that regime less predictable than a democracy's; the institutionalized-uncertainty approach suggests that authoritarian decisions are more predictable. Regarding democracy, vigorous rule-of-law claims emphasize the predictability and security not merely of the procedures through which decisions are made or how they are enforced but also of the content of its outcomes. Institutionalized uncertainty addresses the same outcomes from the opposite perspective because actors who cannot know *ex ante* who will win democratic elections and policy contests cannot know policy content. In both formulations, the regime's procedural attributes are said to have direct consequences for degrees of predictability in substantive policy content. But these approaches characterize many of the same substantive outcomes under each regime in antagonistic terms. They cannot both be right.

The sections below argue that both are wrong. Vigorous rule-of-law claims underestimate the extent to which both regimes are forms of rule by people. This means that these claims overstate the effectiveness of procedural constraints on democratic decision making and underestimate the effective (nonprocedural) constraints that often act on authoritarian regimes. I argue that democratic procedures are compatible with a very wide array of political decisions, which are driven by country- and time-specific factors such as

political, social, and economic structures; features of political and civil society; and party systems. The result is diversity in outcomes rather than law-induced uniformity. Similar variation is visible in authoritarian decision making. The factors that cause greatest constraint on decision making are ones that operate across the two regime types. This ensures that although many actors have detected greater risks under authoritarian rule than democracy, many others have detected the reverse. In turn, the institutionalized-uncertainty approach underestimates the necessary degree of *ex ante* uncertainty over outcomes under authoritarian rule and overstates it for democracy. This is because the people who rule both regimes vary across countries and time in ways that make *ex ante* uncertainty also vary on a system-specific basis. The result here, too, is that although many actors have often associated democracy with greater uncertainty than authoritarian rule, many others have detected the reverse. In sum, within-regime differences are at least as great as between-regime differences and are typically greater.

This does not mean that concrete examples cannot be found supporting each claim. Rule-of-law claims can be illustrated by reference to low-risk, currently consolidated democracies that contrast sharply with personalistic dictatorships. In turn, the institutionalized-uncertainty approach can usefully contrast highly predictable authoritarian regimes with freewheeling, inter-war European democracies in which almost any coalitional and policy combination appeared possible at times. But the fact that both claims are able to find supportive evidence in some democracies and authoritarian regimes suggests that neither approach can withstand comparison with the widest array of real-world regimes. It may be time periods, rather than geography, that generate evidence in support of one approach rather than the other. For example, in the 1960s and early 1970s, democracies in developing countries were widely associated with substantial political and policy turmoil and were overthrown by bureaucratic-authoritarian and other regimes. In Serra's (1979) words, subsequent theorizing often portrayed authoritarian rule as capable of replacing "the instability that is inherent in democracy" in poor countries with the "high degree of future predictability with regard to the economy" required by large-scale investment (p. 150).

But by the 1980s and 1990s, a record of prominent chaotic events in many authoritarian-managed economies and years of uncertainty over the very future of authoritarian rule coincided with apparent stability in many preexisting and new democracies. Images of stability within democracies may also have been reinforced by time period-specific factors such as capital mobility, the acceleration of which in recent years has been identified by some theorists as an effective constraint on economic policy making. If more regimes were democratic in this period, democracies could appear to generate more con-

strained policy outputs.⁴ The result may be, as in the 1950s and 1960s, that scholars are forming wide-ranging generalizations about likely events under alternative regimes on the basis of the events specific to a circumscribed historical period.

To assess the assumptions and conclusions of the rule-of-law and institutionalized-uncertainty approaches, it is more useful to rely on a wider array of cases from diverse periods. The next two sections use this array of examples to show that both the rule-of-law and institutionalized-uncertainty approaches overestimate the systematic differences in outcomes that actors can expect under the two regime types. First, I argue that predictability and risk vary widely across authoritarian regimes rather than being either consistently high or low. The subsequent section makes the same argument for the category of democracies. It is the resulting overlap of the two regime categories that explains crucial aspects of real-world patterns of support for democracy and dictatorship.

RISK ASSESSMENT UNDER AUTHORITARIAN RULE

This section advances two arguments concerning risks and predictability under authoritarianism. First, authoritarian regimes frequently generate the same type of *ex ante* uncertainty that Przeworski (1991) identifies in democracy. Second, the existence of this *ex ante* uncertainty, however, does not mean that all authoritarian regimes are highly unpredictable or risky, as rule-of-law claims suggest. Although some authoritarian regimes are highly risky, the behavior of many others is quite effectively constrained, rendering them—like many democracies—operationally predictable, despite the fact that they technically generate *ex ante* uncertainty. The factors capable of exerting such effective constraint vary sharply across countries and time. As a result, political actors find authoritarian regimes less or more predictable versus risky on the basis of system-specific factors.

The institutionalized-uncertainty approach is predicated on the assumption that democracy distinctively possesses the two characteristics that jointly create *ex ante* uncertainty: contested decision-making and prospects for change. This claim about democracy's distinctiveness is in turn based on two crucial assumptions about how authoritarian regimes operate. First, the notion that contested decision making is distinctively democratic rests on the conventional unitary-actor conception of authoritarian rule, a conception that highlights the role of "the dictator." Second, the notion that democracy dis-

4. For a contrary view regarding capital mobility's effects, see Mosley (2000).

tinctively offers regularized possibilities for change in policies, whereas authoritarian rule resolves disputes “definitively,” conceives of authoritarian decision making as also unitary across time, making a decision on each issue only once, forever. These two assumptions are a useful stylization of those regimes that entrench a stable policy formula through dynastic monarchies or a long-serving strongman with a consistent “mentality” (Linz, 1970). But they provide a poor “fit” to numerous other authoritarian regimes. To anticipate the argument below: Actors often experience substantial *ex ante* uncertainty over authoritarian decisions because these are often produced through contestation between regime factions, the outcomes of which are not knowable to anyone ahead of time, and even when decisions are made by a singular decision maker, actors often cannot know beforehand either the ruler’s preferences over a given feasible set or even what the ruler’s feasible set will be.

A number of authoritarian regimes do definitively resolve certain disputes. For example, military rule in Chile after 1973 indefinitely terminated debate over movement toward a socialist society. But even such regimes often manifest shifting commitments in many other issue areas. And many other authoritarian regimes offer grounds for anticipating change even on the most salient issues, whether due to frequent turnover in the authoritarian executive, to a durable dictator’s lack of a consistent “mentality,” or to contestation within the regime. We can consider these in turn. Executive turnover is frequently substantial. Linz (1998, pp. 19-21) says that authoritarian regimes “are expected to last,” a point he illustrates by reference to long-serving rulers such as Franco, Tito, sultanistic rulers-for-life, and entrenched totalitarian formulas. But other authoritarian systems have experienced rates of ruler turnover higher than the frequency of elections in many democracies. Examples include Bolivia and Ecuador in much of the interwar and post-1945 periods, Thailand from the 1940s to the 1970s, and Syria from the 1950s to the 1960s. Moreover, even stable dictators routinely reverse or modify previous decisions. To pick one among many examples, Nelson (1989) describes both fears and hopes that economic adjustment policies in the 1970s and 1980s would shift as the result of opposition to them. Under both regime types, “both supporters and opponents were often skeptical that fragile stabilization and specific investment incentives would endure” (Nelson, 1989, pp. 11-13). For both of these reasons, many authoritarian regimes offer tangible prospects of future decision points.

And authoritarian decisions are also commonly the products of contestation between factions with conflicting priorities. This applies most obviously to juntas and systems populated by multiple institutional “power centers.” Hinnebusch (1985) argues that under Anwar Sadat, Egyptian “policy making was typically mediated by a process of intra-elite bargaining and

rivalry inside the executive between factions varying in their goals and political ties” (pp. 122-123). This extends even to strongman regimes, when the undisputed single arbiter functions as a reactive veto player. Kershaw argues that “more important for the working of Nazi government than whether Hitler can be regarded as a ‘strong’ or ‘weak’ dictator is the fact that he produced so few directives in the sphere of domestic politics” (p. 75). Thus researchers acknowledge the influence on Hitler’s eventual decisions of “bitter jurisdictional and power struggles” (Bracher, 1973, pp. 427-429). Similarly, Gunther (1980) identifies Franco’s ample “zone of indifference” and the opportunities this created for contestation in a regime in which “no single group was in a sufficiently powerful position to become dominant” (pp. 6, 261).

In these circumstances, forecasting final decisions requires knowledge both of competing proposals and—what cannot be known by any actor ahead of time—the result of intra-regime contestation. Even each member of the regime elite has reason to recognize some positive probability that their preferences will win out. Ames (1987) thus argues that the abortive *abertura* in Brazil in the early 1970s was conducted “in such a way that neither left nor right [factions] ever felt its situation was hopeless” (p. 145). The result is that in such regimes, like in democracies, actors “know what is possible and likely but not what will happen” (Przeworski, 1991, p. 12). Certainly, the range of views within the regime’s elite can be so compact that intra-regime contestation takes place within very narrow bounds, begging the question of just how much *ex ante* uncertainty is actually created by factional contestation. But as we will see, the exact same point can be made of many democracies as well. Equivalence in this matter is the point: If democracy is institutionalized uncertainty, authoritarian rule is often *un*institutionalized uncertainty.

Yet *ex ante* uncertainty does not prevent actors from meaningfully predicting the behavior of every authoritarian regime. Predatory authoritarian regimes whose decisions are highly unpredictable (and risky) can be contrasted with more predictable versions of authoritarianism. Under many predatory regimes, subjects have routinely feared for their lives and much else. Weber’s (1978/1920) analysis of “the arbitrariness of patrimonial rulership” addresses the chilling effects this has on, for example, long-term investment (pp. 237-241, 1099). Under such regimes, the range in which the regime’s decisions might plausibly fall is extremely wide, perhaps so wide that even staff of the extended power apparatus may be unable to identify almost any specific decision as highly implausible. In several regions since 1945, “sultanistic regimes” threatened property and income with “Mafia economics,” and “even the violation of people’s basic human rights is arbitrary . . . giving rise to pervasive fear” and “creat[ing] uncertainty and unpre-

dictability” (Chehabi & Linz, 1998, p. 25) Such unpredictability emerges as a major factor in Fatton’s and Callaghy’s analyses of sub-Saharan Africa, where “the calculability nexus is very weak” (Callaghy, 1988, pp. 77-78; Fatton, 1992, pp. 24, 53, 109). In such cases, explanation might easily be reduced to evaluations of rulers’ psychologies, and data relevant to such explanations “may . . . be difficult to obtain, except ex post facto,” leaving ex ante predictions mired in radical uncertainty (Decalo, 1989, p. 185). And even it were possible to know the ruler’s preferences over a specified feasible set, it may be that no one, not even the ruler, can know ex ante what that feasible set would be.

But Weber identified a crucial historical shift in Europe toward “calculability” within the authoritarian category. Scholars advance several explanations for this shift, focusing on factors that might not have formally limited the discretion of nondemocratic rulers but which did effectively constrain their behavior. These include rulers’ increasing returns from expanding economic activity, state bureaucratization, increasingly powerful legal institutions, power-sharing bargains within ruling elites, and regime embeddedness “in a concrete set of social ties that binds the state to society” (e.g., Evans, 1995, p. 12; North & Weingast, 1989; O’Donnell, 2001). Whatever the cause, the net result was regimes that were nondemocratic but whose decisions were “legible” to a wide array of observers because they were highly likely to fall in a relatively narrow if “fuzzily” bounded portion of the overall range of formally possible outcomes. Such developments could even create liberties as “a private sphere existing de facto” in economic, religious, and associational matters and a “dense web of civil rights” (O’Donnell, 2001, p. 21; Sartori, 1987, p. 284).

This development transformed Europe’s socio-political landscape by permitting the high levels of confidence over political decisions necessary for the long-term investments characteristic of modern capitalism—in other words, by “reducing risk and uncertainty” (Jones, 1981, p. vii). A cluster of “liberal oligarchies” embedded in socio-political coalitions with relatively defined interests—in Britain, the *Kaiserreich*, Second Empire France, and, to a lesser extent, Italy and Restoration Spain—had regularized systems of civil and commercial law and policies protecting income and property claims. The result was sufficient predictability in these matters to create markets populated by extensive private heavy industry and complex financial systems and indeed to be widely associated with the rule of law. Contemporary counterparts are the East Asian “tigers” under authoritarian rule. In such cases, the narrow amplitude of the regime leaders’ expected behavior afforded, in Hirschman’s (1986, p. 41) words, great “assurance about the kinds of policies and directions that will never be adopted.”

Crucially, this predictability was often extended to personal safety. O'Donnell (2001, p. 17) argues that core rights are crucial to explaining support for democracy. By the same standard, explaining segmental support for authoritarian rule often requires recognition that many rulers offer key sectors (often numbering millions of people) highly reliable assurances over safety, privacy, and criminal procedures. This can occur because aggregate levels of repression are low. Bermeo (2000) concludes that for the rise of complex associational life in 19th-century Europe, "what seemed to be more important than *de jure* legality in all the stories told here was *de facto* toleration" (p. 243). But even high aggregate repression can be very unevenly distributed. Actors such as whites under apartheid may enjoy formal exemption; more often, favored sectors enjoy informal but very real liberties based on party affiliation, class, or ethnicity. The experiential difference between these liberties and democratic rights can be vanishingly small. Spanish conservatives report having confidently expected they would not be the targets of repression under Franco. Similarly, a selection of Haitian business leaders reported in interviews that, under military rule from 1991 to 1994, they had believed they and their families and close friends were highly unlikely to be subjected to repression (Alexander, 2002, chap. 5).⁵

In sum, actors are unable to predict the level of risk or to estimate degrees of *ex ante* uncertainty over outcomes under authoritarian rule based simply on that regime's definitional procedural characteristics. Instead, these actors require information on the likely behavior of specific people—the authoritarian rulers—in that country and time period. The wider the perceived amplitude of the range of that behavior, the greater the risks posed by the regime; the narrower the range, the more predictable or less risky it is. Actors must ask the system-specific question that is elsewhere termed "authoritarianism under whom?" (Alexander, 2002).

DEMOCRACY'S SOVEREIGN PEOPLE

What about risks and predictability under democracy? This section advances two arguments. First, democracies are not as legally constrained as strong rule-of-law claims frequently suggest. Instead, the range of formally possible political outcomes in democracy is very wide, because democracy also grants sweeping discretionary powers to people, though not the same people as authoritarianism. Second, here, too, this does not mean that actors always experience high levels of unpredictability over outcomes in democ-

5. Also based on the author's interviews, Port-au-Prince, 1996.

racy. Instead, as under authoritarianism, risks to vital interests vary on a system-specific basis because the people who rule democracies vary sharply across countries and time. In democracies with relatively polarized or volatile electorates and party systems, the amplitude of the range of plausible political decisions is extremely wide. One crucial result of this is that actors, in some cases, have detected greater risks to their vital interests in specific democracies than under authoritarian alternatives. But in other democracies, the range of plausible outcomes is reliably extremely narrow, reflecting a stable, compact electorate and party system. When this is the case, outcomes are highly predictable and democracy institutionalizes uncertainty only in a technical and not in a substantive sense.

Vigorous rule-of-law claims can easily mischaracterize the extent and efficacy of the formal constraints that are definitionally characteristic of democracy. We can examine this in more detail. Rule-of-law claims commonly portray four of democracy's procedural attributes as effective constraints on decision making in that regime: enforceable rights, formalized decision rules, regulation of officeholders, and equality before the law. But both the extent and effectiveness of these constraints can easily be exaggerated. Democracy's discretionary powers are definitionally required to operate through some set of decision rules and may not be used to violate core rights and periodic elections. But these prove to be relatively modest constraints, and outside of them, binding policies generated democratically are formally permitted to take on essentially any value whatsoever. In terms of rights, democracy definitionally requires only narrow "core" rights concerning political information, political association, and electoral campaigning, rights designed to create "opportunities to oppose the government, form political organizations, express oneself on political matters without fear of governmental reprisals, read and hear alternative points of view, [and] vote by secret ballot" in competitive elections" (Dahl, 1971, p. 20).

These rights create important outcomes in democracy: tangible spheres of privacy and security. But they do not therefore inevitably create greater security than exists under authoritarianism. First, we have already seen that the outcomes created by democratic rights are often "matched," at least for many actors, by the tangible *de facto* liberties offered by authoritarian regimes. Moreover,

- Theorists suggest that democracy offers an "increased sphere of legally protected rights" regarding property, religion, and other issues (Linz & Stepan, 1996, p. 299). But democracy does not require any such supplementary rights. An important distinction must be made between core individual rights and

property and other “rights” that one democracy might offer and another might well not.

- Regulation of officeholders does not in any way constrain democracy’s ultimate decision makers: voters. Those voters can decide to exercise democratic powers in ways considered highly intrusive by many, even by the standards of some low-risk authoritarian regimes.
- Democracy is not required to treat all citizens equally in any matters beyond core rights.
- The resulting sweeping discretionary powers that democratic rules of the game invest in people must be exercised through some set of electoral and other decision rules. But democracy does not require any specific set, as Schmitter and Karl (1991) emphasize, and the large set of possible rules include ones that profoundly privilege some groups at the expense of others.

The only definitional constraint is that democracy’s sweeping discretionary powers must operate through some set of decision rules and may not be used to violate core rights and periodic elections. Holmes (1995) emphasizes that the function even of these narrow constraints is not to shackle democratic decision making but, on the contrary, to make effective the exercise of focused power amassed by millions of people. Outside of these constraints, democracy grants sweeping discretionary power to people, not laws. Democracy is ruled by people even when decision making operates through formal channels and the discretion of bureaucrats is kept to a minimum. This is consistent with enduring characterizations of democracy as “majority rule,” “rule by temporary majorities,” or “minorities rule,” in each case constrained by periodic elections and core rights, but all of them forms of rule by people, not laws (Dahl, 1956; Rustow, 1970, p. 351). These people—voters and representatives, who jointly produce laws and policies through a (changeable) set of decision rules—possess the characteristic of any sovereign: They cannot alienate the authority to revisit any law or policy. They can meaningfully be understood as “above the law” in the sense that they have the authority and power to remake both laws and the rules that organize political interactions and decisions. Regarding constraints outside of elections and core rights, we can at most speak of “‘self-binding’ mechanisms” that can be undone depending on what democracy’s decision makers use their power to do (Linz & Stepan, 1996, p. 248).

Because the people who rule democracies vary across both space and time, the result is conflict-induced diversity across democracies rather than law-induced uniformity—in other words, wide diversity within the democratic category as in the authoritarian one. Thus, threatened minorities in some democracies benefit from consociational decision rules. But in others,

they confront rules designed to magnify their weaknesses. Some democracies “tightly constrain . . . majority rule” with expansive supplementary rights, and others, although respecting narrow core rights, “give almost unlimited powers to current majorities,” what Przeworski terms “democracy without guarantees” (Przeworski, 1991, pp. 27).

For example, Przeworski (1991) describes “the traditional dilemma of the Right”: “Political power in the form of universal suffrage and the right to associate may be wielded to restrict property rights” (p. 34). This threat is not merely theoretical. Major political challenges to existing property claims offering little or no compensation were mounted in democracies in interwar Spain, Brazil after 1945, and Chile both in the late 1960s and the early 1970s. As late as 1987 and 1988, Chilean business leaders expressed “concern . . . about something as fundamental as property rights,” indicating “the degree of uncertainty with which even relative optimists faced the transition to democracy” (Bartell, 1995, p. 64). In transitional South Africa, “one of the main concerns amongst Whites” was the precariousness of claims to either property or market-pegged compensation (Sisk, 1995, pp. 275-276). It is true that the historical record does not offer us many instances of mass property expropriation in democracy. But this is not because it is formally proscribed; it is in large part because such agendas were suppressed by conservative authoritarian takeovers designed to do just that—as Przeworski (1995, p. 21) reminds us, “the observed world is not a random sample of the possible worlds.”

Similarly, democracy does not guarantee religious rights. Spain’s Second Republic center-left governments ignored the Catholic Church’s protests and ended its tax-exempt status, banned the Jesuit order, declared all church buildings national property, prohibited members of the clergy from teaching, scheduled all Catholic schools to close, and made outdoor “religious funeral ceremonies . . . subject to regulation by local authorities” (Payne, 1993, p. 83).

The lack of mandatory supplementary rights permits democracies to generate policies that are fully legal but highly intrusive by the standards of more protective democracies and that are comparable to such threats under predatory authoritarian rule and more extensive than those anticipated and experienced under embedded authoritarian regimes. Democratic decision makers have used sweeping and fully legal powers to: confiscate property, ban trade unions as economic cartels, pass retroactive laws, deny nearly all social provision, ban named occupations, execute convicts, deliberately undermine minority cultures, ban specific books, block the expatriation of assets, forbid specific medical procedures (including abortion in cases of rape and incest), grant or tolerate predatory monopolies, and deny marriage rights solely to

homosexuals. In sum, democracy is compatible with both prohibitions on many acts between consenting adults and with vigorous protection of acts perpetrated by some citizens on others.

Actors may achieve favorable supplementary rights and/or protective decision rules in a given democracy in a given period. For example, Przeworski (1986) argues that private property claims “are virtually guaranteed” by some decision rules (p. 60). But even when these are achieved, they alone cannot guarantee outcomes in democracy as they can be reversed or modified within democratic rules of the game. The notion that democracy permanently removes key issues from politics by juridifying them is captured in the phrases “the *rule* [italics added] of law,” Przeworski’s association of democratization with “the devolution of *power* [italics added] from a group of people to a set of rules,” and Diamond’s aphorism that “democracy requires a constitution that is *supreme* [italics added]” (Diamond, 1999, p. 12; Przeworski, 1991, p. 14). But a constitution or other law that is actually “supreme” is not democracy, and if it can be changed, then democracy is ruled by politics, not laws.

Democracy can be meaningfully described as “ruled” by laws only when it is conceived in static terms. A specific election is governed by the existing electoral law, a legislative vote by diverse provisions and a bureaucratic decision by regulations. But when it is understood in dynamic terms, we are reminded that democracy’s decision makers have the authority to reshape the rules that govern the next set of interactions. Laws and policies are only “temporarily binding” (Przeworski, 1986, p. 56). Elster, Offe, and Preuss’s (1998) discussion of decision rules applies to supplementary rights as well: People ultimately

must develop the capacity . . . to comply with these rules *as if* they had been imposed and enforced by some hierarchically superior actor . . . The fact is that ‘we’ could easily change the rules . . . The authority of the rules is thus equivalent to the capacity of agents *to overcome such opportunistic temptations*.
(p. 30)

When such temptations are overcome, the result is stable supplementary rights and decision rules. But many partisan forces often succumb to “opportunistic temptations” and mount major revision challenges, as disputes over first-order rules (policies) extend to second-order rules (decision rules) and even third-order rules (amendment procedures). In all this, the judiciary does not stand above politics because “judges . . . can be democratically overruled simply by changing the constitution they are entrusted to enforce” (Holmes, 1995, p. 305).

In sum, actors can know *ex ante* neither whether a given democracy will offer specific supplementary rights and protective decision rules nor whether any such rights and rules existing at time t will still be in place at $t + 2$ or $t + 4$ (Alexander, 2001). Take the example of decision rules. Numerous electoral laws can be changed by simple majorities and the time frame for meeting even supermajority revision requirements may be only a few years, during which elections become high-stakes referenda on control of the institutional agenda. These are not merely theoretical possibilities. At various points, French, British, and Spanish conservative sectors found their best institutional protections in, respectively, the Third Republic's president and senate, the House of Lords, and interwar Spain's supreme court. But in each case, they confronted viable revision challenges from the Left. The same is true of supplementary rights, which have at times been resubmitted to political decision making. U.S. legal traditions long shielded income from direct taxation but were "democratically overruled" by a constitutional amendment. Catholics initially succeeded in retaining the church's official status in Third Republic France. But opponents revisited and undid this decision, separating church and state, dissolving the Jesuits and other orders, confiscating their property, banning their members from teaching in state schools and later from teaching at all, and denying them the rights of association granted to most nonreligious communities (Atkin, 1991). None of this suggests that such revisions are frequent or easy, only that which institutional designs or supplementary rights are achieved and how durable actors expect them to be are case-specific facts, not generic regime attributes.

Finally, neither regulation of officeholders nor equality before the law effectively contains the range of possible outcomes in democracy. Constraining democratic prime ministers is not the functional equivalent of binding absolute monarchs because the former are not the regime's ultimate decision makers. Constraints on officeholders are powerless to reduce risks that emanate from the electorate and party system. In the words of an early American conservative, "The invasion of private rights is *chiefly* to be apprehended, not from acts of government contrary to the sense of its constituents but from acts in which the government is the mere instrument" of the majority (Matthews, 1995, pp. 141-142). If anything, elites perceiving substantial risks in democracy often attempted not to reduce the discretion of officeholders but rather to make them less accountable to voters.

Similarly, the notion of equality before the law suggests that democracy protects citizens from the targeted policies that can threaten them under authoritarian rule. O'Donnell (1999) argues that the rule of law's "minimal meaning" is "that whatever law there is, it is fairly applied by the relevant state institutions" (pp. 307-308, 319-320). But actors cannot predict that

democratic decisions will therefore not target them in ways they consider arbitrary and either deeply abusive or privileging. A sharp distinction must be maintained between procedural equal treatment and substantive equal treatment. Democracy requires only the former: Officials must impartially enforce the terms of policies and laws. But those terms may be highly discriminatory; impartial enforcement then leads to substantively unequal outcomes. There may be very good reasons for deliberately disparate treatment, such as the redressing of inequalities. But substantial research suggests it often results when politically powerful sectors succeed in imposing their preferences on weaker ones. Bates (1981) analyzes how power is used under authoritarian rule in Africa: "to secure advantages for particular interests" by forcing certain already-impooverished groups to subsidize others through biased state-imposed prices (pp. 5-7, 113). Waldner (1999) emphasizes that identical policies are used by democratic decision makers who seek electoral support by providing excludable "class-specific goods such as subsidies, support prices, and protected markets" at the expense of specific other groups, a practice he terms "constituency clientelism" (p. 39). In democracies, for example, politically effective groups have achieved particularized policies such as tax provisions "designed to affect certain classes, groups, regions, industries, professions, states, cities, companies, families, and individuals" (Steinmo, 1993, p. 38).

Disparate treatment is not limited to fiscal policy. Rémond (1999) summarizes the results of the French Third Republic's anticlerical measures: "The movement for secularization, initially inspired by the desire to suppress every inequality arising from confessional reference . . . established a new kind of discrimination, this time against the church" (p. 148). Indeed, the equality requirement does not even preclude treating individuals unequally. Kirchheimer (1967) emphasizes that democratic processes can easily result in policies "like bills of attainder" (p. 295). Periphrastic wording is not required: Named corporations are nationalized, Weimar's 1926 referendum confiscated the property solely of Germany's princely families, named individuals and entities receive tax exemptions, and workaday pork-barrel legislation regularly requires distant taxpayers to subsidize named groups in specific localities.

This section has considered a wide range in the types of political decisions produced through democratic processes. At least one important theoretical tradition suggests that this should not be surprising. The notion that a democracy's network of formal rules effectively depoliticizes many issues closely parallels the notion, long since critiqued by Karl Polanyi and others, that major features of economic markets are fundamentally nonpolitical as well. In reality, each market is the result of political processes. In the same way, key

features of individual democracies are the result of historically varied political contests and trajectories. As a result, actors cannot form expectations over outcomes on the basis of generic regime attributes; knowing that you live in a democracy simply does not tell you whether your property will be protected. Instead, actors require system-specific information about the likely behavior of the people who are invested with their democracy's sweeping discretionary powers in their period of history. They must ask in effect, "Democracy with whom?"

WHEN DEMOCRACY INSTITUTIONALIZES CERTAINTY

I said earlier that just because some authoritarian regimes are highly unpredictable does not mean that all actors living under authoritarian rule experience great *ex ante* uncertainty. In the same way, actors do not necessarily face radical unpredictability in democracy either. Unpredictability in democracy is high when the spectrum representing major groupings of voters and parties is polarized. When that is the case, alternation in office can produce such wide shifts in policy that actors cannot *ex ante* exclude many policies as implausible. This was the case in Italy and Spain's interwar democracies, in Brazil from 1945 to 1964, Chile in the late 1960s and early 1970s, and perhaps Russia since the early 1990s. But in other contexts, democratic outcomes can confidently be predicted within a relatively narrow range. This is possible because it is not strictly true that "in a democracy there is no group whose preferences and resources can predict outcomes with near certainty" (Przeworski, 1991, p. 47). There is such a group: the electorate taken as a whole establishes the outer boundaries of the range in which decisions will fall.

In a significant number of countries, concentrated since 1945 in the North Atlantic region, democracy's millions of joint decision makers populate a strikingly compact range of policy preferences. Here, democracy institutionalizes uncertainty only in a technical and not a substantive sense. Uncertainty is technically present because actors cannot know exactly which party or coalition will win a given election. But it is not substantively present because they can nonetheless predict with high degrees of confidence that major policies will fall in a narrow range. One result is that not all viewpoints have meaningful prospects for winning. Marginal groups aspiring to policies that lie substantially outside the electoral range have vanishingly small positive probabilities for future winning. These are democracy's counterparts to serfs under the czars, reduced to hoping that the regime's unresponsive decision makers will somehow, someday, accede to their long-neglected preferences.

For them, “the outcome of the regulated uncertainties of constitutionalism is not that uncertain” (Fatton, 1999, p. 218). In such cases, actors may be able to predict outcomes even on crucial issues with essentially complete confidence. For example, in late 20th-century Western Europe, the United States, Japan, Canada, Australia, and New Zealand, actors could predict with certainty that no election could plausibly result in socially revolutionary challenges to existing property regimes. What was wholly uncertain in, say, Spain’s interwar democracy, was entirely predictable in Spain’s democracy in the 1980s and beyond for reasons that necessarily transcended generic regime features.

Schmitter and Karl (1991) recognize such variation by emphasizing that democratic uncertainty is “limited” by factors which “vary from country to country” (p. 83). Such factors may include fiscal and other constraints emerging from the international system as well as the same battery of political, social, and economic factors that appear to influence degrees of risk under authoritarian rule. For example, O’Donnell (2001) argues that social and economic elites who did not perceive that democracy’s decision makers would be effectively constrained “saw the extension of the [democratic] wager as extremely threatening” (pp. 20-21). But where that same regime was introduced over a preexisting and rights-reinforcing legal “architecture,” democratization was a “tempered” wager rather than a jump in the void because diverse outcomes threatening to elites were rendered implausible. O’Donnell locates the most extensive constraints at work in democracy’s “originating countries,” where property and other rights often rested on complex socio-economic and state infrastructures before being inscribed in constitutional and legal codes and imprinted on what became highly institutionalized party systems.

THE EFFECT OF VARIATIONS IN RISK ON SUPPORT FOR DEMOCRACY VERSUS AUTHORITARIANISM

If predictability of (or risks in) outcomes vary at least as much within regime types as across them, then we should expect actors to shift regime preferences as circumstances warrant rather than always preferring one regime type. To better understand the modern democratic experience, it is valuable to track the regime strategies of the political Right. This political sector has been the single most important influence on the prospects for the survival and stability of democracies in 19th- and 20th-century Western Europe and modern Latin America. Rightists have widely been understood to pursue durable interests under either regime, including their personal safety,

Table 1
The Right's Political Risks Across Regime Types

	Democracy	Authoritarianism
Low perceived risks to the Right's safety and policy interests	Currently consolidated democracies in Western Europe, Japan, and North America (4)	Embedded authoritarianism: Porfirio Diaz's Mexico, Spain (1939-1975), and Chile (1973-1988) (3)
High perceived risks to the Right's safety and policy interests	Polarized democracies: interwar Italy and Spain (2)	Weber's patrimonial regimes, Decalo's "African personal dictatorships" (1)

traditional religious institutions, and property claims and income. If risks to these interests and values were always greater under one regime type than the other, we would expect to see the Right commit to the less-risky regime in all cases and time periods. But because there is substantial overlap in levels of risk in all democracies and all authoritarian regimes, in some cases the Right could perceive lower risks in democracy than under the most likely authoritarian regime in that country, whereas in others they could perceive higher risks in democracy. From this perspective, regimes can be portrayed in a simple table (see Table 1). Threats to the Right's core interests and values rise sequentially from cell 1 to cell 4. Correspondingly, rightists, instead of always preferring one regime over the other, have repeatedly demonstrated a willingness to make "step-wise" choices, interspersing versions of authoritarian rule and democracy in their preference ordering.

As show by the table, the Right's worst choice is unconstrained authoritarian regimes characterized by high degrees of indiscriminate (or even specifically anti-rightist) policy intrusion and state violence. This category includes Weber's patrimonial regimes and modern brutal tyrannies. Compared to such regimes, even high-risk democracies at least delivered core rights. But the range of plausible outcomes in polarized democracies was still wide enough to include acute threats to the Right when the Right perceived the Left as actually or potentially maximalist. For example, conservatives perceived threats "to the survival of the basic capitalist parameters of society" in democracy in both interwar Southern Europe and a number of post-1945 Latin American cases (Malefakis, 1995; O'Donnell, 1979, p. 295).

Unfortunately for democratic prospects in these cases, the most likely alternative to these high-risk democracies was not even riskier patrimonial regimes but instead authoritarian formulas that the Right perceived were likely to safeguard property claims and to disarticulate leftist organizations with repression that was highly selective, not indiscriminate. Once in place with extensive rightist backing, these authoritarian regimes eliminated the

risks of polarized democracies by compressing the range in which political decisions would plausibly fall. This is suggested, regarding Latin America, by O'Donnell's (1979) depiction of bureaucratic-authoritarianism's "most crucial supporters" as "represent[ing] a spectrum of society far more narrow than the entire nation" (p. 286). It is no coincidence that rightist threats to modern democracies were acute in interwar Europe and postwar Latin America, where this particular pattern obtained: Wide-spectrum democracies were vulnerable in the face of a likely authoritarian alternative that posed low risks to the society's most powerful sectors.

However, rightist support for authoritarian regimes in these cases does not reveal a systematic rightist preference for authoritarian rule in all circumstances. In Western Europe after 1945, the spectrum representing politically significant groupings of voters and parties has ranged only from the center-right to moderate social democrats. This may have resulted from maturing industrialization, middle-class expansion, welfare states, or other factors eroding the historic social bases of leftist radicalism. Whatever the cause, the compacting of political spectra left intact the formally *possible* range of outcomes in democracy but sharply abbreviated the range of *plausible* outcomes, eliminating many that had long been threatening to the Right. Here, democracy presented the Right with technical ex ante uncertainty: No one could know exactly which party would win the next election. But there was not substantive uncertainty: Rightists could confidently predict that many of the threats their predecessors had feared for centuries now lay outside the range of plausible outcomes in democracy. For example, it could be predicted with extraordinarily high levels of confidence that existing property claims would be vigorously preserved by the Swiss, U.S., or Australian governments regardless of which party (or parties) won. The range of plausible outcomes in these democracies was (and is) narrower than under almost all known authoritarian regimes. Authoritarianism became the more unpredictable option as it was increasingly difficult to forecast what types of decisions were likely to be made by any new authoritarian regime that might be installed. It was in this context that rightist sectors in the region severed long-standing associations with diverse authoritarian projects and formed the long-term commitment to inclusionary rules of the game that are characteristic of consolidated democracies (Alexander, 2002).

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