

Southern Political Science Association

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Source: *The Journal of Politics*, Vol. 58, No. 3 (Aug., 1996), pp. 627-654

Published by: [Cambridge University Press](#) on behalf of the [Southern Political Science Association](#)

Stable URL: <http://www.jstor.org/stable/2960436>

Accessed: 30/03/2013 23:13

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ARTICLES

“Constitutional Promises” and Repressive Reality: A Cross-National Time-Series Investigation of Why Political and Civil Liberties are Suppressed

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I investigate whether or not national constitutions provide any insight into when states use political repression. Specifically, three constitutional provisions are identified: (1) what political and civil rights are mentioned explicitly, (2) what emergency powers are mentioned, and (3) what restrictions are placed on these two factors. I then examine how each of these provisions affect the use of censorship and political restrictions on 39 countries from 1948 to 1982, with a pooled cross-sectional time-series design ($N = 1,365$). This encompasses 73 constitutions in total.

As found, political repression is negatively affected when two constitutional provisions were mentioned: freedom of the press and states of emergency. These results hold while controlling for system type, political conflict, and economic development. The findings change when interactive relationships with political conflict are considered, as only mediated effects are found to be statistically significant. Although the effects on repression are still negative, this change suggests that the relationship between national constitutions and repressive behavior is a complex one and that political context is important to understanding the manner in which these documents affect state behavior. I conclude with numerous suggestions for future research.

INTRODUCTION

Most national constitutions make references to the political and civil rights granted to citizens within a particular territorial jurisdiction. These rights include: freedom of speech, freedom of expression, freedom of the press, freedom to

I have benefitted from the assistance of numerous people including Don Lutz, Raymond Duch, and Dannielle Roberts. I am also grateful to Belinda Botha and Marika Litras who assisted with the actual coding of the constitutions.

THE JOURNAL OF POLITICS, Vol. 58, No. 3, August 1996, Pp. 627–54
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unionize, and freedom to strike. Some constitutions grant many rights to their citizens, explicitly detailing what they are entitled to, whereas some grant very few. The variance across different countries is readily apparent upon glancing at the texts themselves.

What is less clear about national constitutions is the degree to which their content actually influences the relationships that governments have with their citizens. Specifically, it is not clear whether the content of national constitutions affects the manner in which governments restrict political and civil rights (i.e., repression¹), or whether the content of national constitutions is generally irrelevant to how governments behave. This question is important, not only because it allows us to understand the relationship between law and one type of state behavior, but also because the issue has recently received a significant amount of attention in several countries around the globe (i.e., South Africa, the former Soviet Republics, Venezuela).

Attempting to address the question of constitutional relevance, the literature on repressive behavior itself is found to be of only marginal assistance. A growing body of work has consistently identified three variables that account for variance in political repression. These include *system type* (Hibbs 1973; Ziegenhagen 1986; Henderson 1991; Poe and Tate 1994; Davenport 1995a; 1995b), *political conflict* (Markus and Nesvold 1972; Hibbs 1973; Duff and McCamant 1976; Ziegenhagen 1986; Alfatooni and Allen 1991; Poe and Tate 1994; Davenport 1995a; 1995b), and *economic development* (Hibbs 1973; Ziegenhagen 1986; Henderson 1991; Poe and Tate 1994; Davenport 1995a; 1995b).² With regard to the particular effect of law and more specifically national constitutions, however, the relationship has generally been ignored.³

¹This is similar to Goldstein's definition (1978, 1983) where,

(p)olitical repression consists of government action which grossly discriminates against persons or organizations viewed as presenting a fundamental challenge to existing power relationships or key government policies, because of their perceived political beliefs. (1978, xvi)

To decrease the amount of redundancy within the text "repression" will be used interchangeably with "repressive behavior" and "negative sanctions."

Although this label has been used within numerous studies (Poe and Tate 1994, for example), I would highlight several differences between my use of the word and theirs:

1. I address repression as a rate (i.e., a frequency count) and not as a level (i.e., as a system characteristic);
2. the government actions I address are generally nonviolent;
3. the government actions themselves are directed against what are called political and civil liberties as opposed to rights pertaining to the integrity of the person.

²Other variables have been and are used: coercive capacity (Hibbs 1973; Ziegenhagen 1986; Davenport 1995a; 1995b), dependency (Alfatooni and Allen 1991), ideology (Pion-Berlin 1989), culture (Mitchell and McCormick 1988; Poe and Tate 1994), external conflict (Poe and Tate 1994), population (Henderson 1991; Poe and Tate 1994), but they are not widely employed; i.e., only a few studies use them within their analyses.

³For a good definition of constitution see Van Maarseveen and van der Tang (1978; chap. 8). For the time being Mueller's (1991) definition will suffice "(t)he constitution is a form of social contract among citizens (and the government) defining the rules within which the society functions." (326)

Some insight is provided by theoretical analyses and case studies that explore the nature of state-societal relations. This literature suggests that national constitutions are directly relevant to the application of political repression (Duchacek 1966; Bay 1970; Riker 1980; Pritchard 1986; Elster and Slagstad 1988; Morris-Jones 1988; Blasi 1994; Blasi and Cingranelli 1995; Davenport 1995c). There are two reasons offered for this. First, they argue constitutions clearly delimit a regime's commitment to political and civil rights; that is, what rights will and will not be respected by the regime. This could provide us with a measure of government willingness to use repression by noting how many rights are explicitly discussed within the text of the constitution itself. Second, these authors argue that constitutions provide specific indications as to whether or not governments will apply repressive behavior and restrict citizens' rights across different circumstances. For example, in the case of emergency powers (i.e., martial law and states of emergency),⁴ we would be able to gauge a regime's disposition toward repressive behavior by identifying under what conditions it allowed itself legitimate recourse to such action.

Not all researchers in this area, however, believe that national constitutions are relevant to how governments actually behave. Some believe they are generally extraneous to what governments do (Henkin 1990; Koh 1990); this is especially the case with regard to issues of “national security” and political repression. Some even go so far as to say that constitutions merely serve as public relations campaigns, targeted to different audiences in an effort to improve a particular country's global and/or domestic image.

Which opinion is more accurate? In an effort to address this question, I consider the issue to be an empirical one and investigate it systematically. To accomplish this, I examine if and in what manner “constitutional structure” (as measured by mentioning specific rights and emergency powers within the constitution) influences the use of censorship and political restrictions. The analysis itself has six components.

First, I address the various ways in which national constitutions have been viewed previously. Second, I present a case for how constitutions might provide a good measure for government willingness to use political repression. Third, prior research efforts into this subject are discussed. Specific attention will be given to operationalization of important variables, research design, and the findings of the empirical analysis. The fourth component of the study identifies the data used to investigate the relationship of interest as well as the particular methodological technique employed. This section highlights the measurements for repressive behavior, constitutional structure and also various contextual variables that are used as controls (i.e., system type, conflict, and economic development). Additionally, I discuss the statistical analysis which is a pooled cross-sectional time-series investigation of 39 countries from 1948 to 1982. This encompasses a total of 73 constitutions and 1,365 observations. The results from this empirical examination are

⁴These refer to clauses that allow the regime to suspend certain rights (assembly, protest, strike, press, speech, and so forth).

addressed within the fifth component. Here, I present the findings of the investigation as they relate to the hypotheses identified. I conclude with a brief review of the results and explore their meaning for those countries currently involved in writing/modifying their national constitutions. Specifically, I concern myself with how this effort will likely influence the manner in which states apply repressive behavior.

DO CONSTITUTIONS MATTER?

The relationship between political repression and national constitutions takes place within a relatively long-standing debate about the relevance of these documents to understanding what states actually do. Some authors suggest that they are extremely important to figuring out how governments will behave across different circumstances and over time⁵ (Duchacek 1966; 1973; Bay 1970; Riker 1980; Morton 1987; Kornblith 1991; Nsereko 1993; Maser 1994; Blasi 1994; Blasi and Cingranelli 1995; Davenport 1995c). From this view, constitutions identify what governments find most important, they provide “guiding principles” about how governments will behave, and they communicate to different audiences the government’s desired relationship to society. On this point, Van Maarseveen and van der Tang (1978) are quite informative as they state that

(w)hatever the forms in which the various constitutions may be shaped, and whatever their substance, they are often intended to embody a number of messages pointing out a certain way of political behaviour and requiring a certain attitude towards the political system. Some messages may be addressed to public office-holders, dispersing competences among them, sometimes in minute detail, and not infrequently carefully prescribing how to act in given circumstances. Other messages are directed at the broad mass of citizens, offering them opportunities for political action, freedom of expression, freedom of assembly and association, other participatory rights such as suffrage, and in many cases guarantees or promises for their social, economic and cultural well being. In this way constitutions function as ingredients in the process of political communication and serve the purposes of political socialization and integration. (212)

An alternative view maintains that constitutions are no more than legalistic “window-dressing”; i.e., they look good, but they do nothing. Xu Bing, speaking about the Chinese case after the Tienanman Square incident of 1989, maintains that “legal provisions are divorced from real life, (and) that some constitutional and legal rights of the citizen remain only on paper and citizens cannot really fully enjoy them” (Kent 1991, 179). From this perspective, observing national constitutions would provide no information whatsoever about how governments might behave. Such an opinion is not rare because numerous references can be made to different national constitutions (across different time periods and geographic locations) that each convey a relatively pessimistic view of their effect on guiding and regulating government action (Henkin 1990; Koh 1990; Wiseman 1992). The

⁵This draws on the argument that constitutions are binding documents followed generation after generation. For interesting discussion see Holmes (1988, 225).

debate is further confounded by a third category that vacillates between the two extremes identified above (Sartori 1962; Eckstein 1963; Finer 1974; McIntock 1984). These authors support both arguments within the same discussion. In other words, they maintain that constitutions are and are not relevant to understanding actual state behavior. The effect itself is usually contingent upon different contextual factors such as system type and political conflict.

THE CONTENT OF NATIONAL CONSTITUTIONS
AND THE USE OF REPRESSIVE BEHAVIOR

Turning to the relevance of constitutions to political repression, it is clear that the subject is by no means a new one. For years many authors have suggested that constitutions help identify a given regime's commitment to the rule of law⁶ and also to its general respect for political and civil rights granted to its citizens (Danelski 1966; Duchacek 1973; Claude 1976; Boli-Bennett 1976; Blasi 1994; Blasi and Cingranelli 1995; Davenport 1995c). Even cynical critics of constitutions acknowledge this relationship when they admit that “(e)very government must at least pay lip service to the notion that its citizens have rights and that it protects those rights” (Greiff 1985, 443).

It is readily apparent, however, that not all constitutions discuss political and civil rights or do so to the same degree. These differences might account for variances in state practices of political repression. To investigate this possibility, I suggest that we entertain as valid the position that constitutions directly identify what governments will do within different circumstances and that these “guiding principles” are binding over time. From this view, if the text of a national constitution explicitly grants certain political and civil rights to citizens, then it is expected that the government would be less likely to violate these rights. Primarily, this is because such an action would go against the regime's “guiding principles.” If, on the other hand, the text of a national constitution does not grant certain political and civil rights to citizens, then it is expected that the government would be more inclined to use political repression. In this case, the regime has not stated that they respect these rights and, consequently, there would be less of a reason to restrain their application of negative sanctions (i.e., restrictions placed on citizens' rights).⁷

I propose four ways in which information about citizens' rights and the regime's position with regard to them might be communicated within the text of national constitutions.⁸ First, one can identify what rights are explicitly mentioned. Here,

⁶For discussion of rule of law see Walker (1988) and the International Commission of Jurists (1981).

⁷I do not wish to force the issue of coherency within constitutions for as Sunstein (1988, 327) suggests “different constitutions and different parts of the same constitution, protect different interests.” I do believe it is possible to identify a particular orientation toward the issue of citizens' rights and their protection by carefully observing the text.

⁸In one effort towards this objective, Duvall and Shamir (1980) attempt to measure disposition and investigate its relationship to repression. Their measure is constructed by regressing conflict on repression, while saving the error and observing its variance. Disposition is believed to be identified here

certain rights such as freedom of speech, freedom of unionization, freedom of expression, and so forth can be identified. It is expected that if these rights are mentioned, then the greater the government's concern for these rights will be and thus the lower the likelihood that the government would restrict them. Borrowed from Pritchard (1986), I call this the "constitutional promise" argument.

On the other hand, the mention of specific rights may not indicate the regime's commitment to them at all. Rather, it may indicate the issues that the regime is relatively sensitive about and, therefore, those that they are more likely to restrict. From this view, mentioning specific rights increases the likelihood that governments would use political repression for they are more "threatened" by them. I call this the "constitutional threat" argument.

Concerning the second indicator, one can identify what limitations (if any) are placed on the rights mentioned within the text. It is often the case that governments allow themselves the option to remove or limit citizens' rights; i.e., within a domestic crisis or when the government deems it is necessary.⁹ By considering this possibility, two things can be determined: (1) the overall commitment of the regime to nonrepressive rule by identifying how many rights the regime allows itself the freedom to restrict, and (2) the rights that are viewed as being most sensitive to political authorities, as not all rights might be limited. Whether or not the identification of restrictions on political and civil rights reveals a greater concern for the protection of rights ("constitutional promise") or the extreme sensitivity that the regime has toward specific rights ("constitutional threat") is left as an empirical question.

The third manner in which one can "read" national constitutions concerns the government's opportunity to withhold multiple rights. Articulated within clauses of "martial law" and/or "states of emergency," this refers to those situations where the regime maintains a legitimate and legal basis for withholding several rights at one time.¹⁰ Similar to the previous variable, I believe these clauses are important because they can convey essential information about negative sanctions. Indeed, on the one hand, the invocation of states of emergency and martial law might allow us to see a regime's attempt at legitimating its use of repressive behavior. By incorporating this information into its "guiding principles," therefore, the government is noting that it might be necessary to suspend certain rights at specific times and,

because the authors believe that by controlling for the domestic threat presented, what is left within the error term captures the regime's disposition towards the repressive policy itself. Closer examination of this study, however, reveals that Duvall and Shamir's (1980) measure is rather limited. First, the effect of other explanatory variables is ignored, and thus the measure of disposition is obscured by the presence of other factors. Second, the authors assume that government disposition is hidden from view and that it cannot be identified in a more straightforward fashion. This last point I bring into question.

⁹Such a situation could arise when the government decides that particular behavior is "threatening" and its authority, the economy or a "way of life" is in jeopardy.

¹⁰This is different than the previous type of restriction for it does not deal with individual rights but rather several of them (if not all of them) at once.

additionally, that it wishes to include this possibility within its constitution. I argue this is in line with the “constitutional promise” argument because it reveals a general concern for legitimate governance and the delimitation of state powers under different circumstances. On the other hand, the inclusion of these clauses might be providing us with a clue as to how the regime might behave. Viewed from this perspective, the clause identifies a certain sensitivity that the government has to problems of domestic governance and to the possibility that it might suspend certain rights, when it deems such behavior necessary. Here, explicit mention of restrictions would increase (and not decrease) political repression. This, I argue, would be in line with the “constitutional threat” argument.

Fourth, one can identify where restrictions on martial law and states of emergency are found. Accepting that “constitutional promises” are binding, restrictions on declarations of states of emergency and martial law convey a general concern for restrained political activity and they lead me to believe that the regime is interested in regulating its own repressive behavior (i.e., maintaining their “constitutional promises”). If a regime does not have any restrictions on its use of these provisions, however, then I believe a regime is less concerned with restricting itself. Here, by not establishing any limitations on its suspension of citizens’ rights, a regime is provided with the clearance to do anything that its members desire for as long as they desire. This would be directly in line with the “constitutional threat” argument.

RESEARCH ON CONSTITUTIONAL STRUCTURE AND REPRESSIVE BEHAVIOR

From my review of the literature, only two empirical investigations of the relationship between constitutional structure and repression have ever been undertaken. Both highlight the fact that additional research is necessary.

One study, conducted by Pritchard (1986), examines variance in political repression as determined by three variables: (1) “constitutional promises” (i.e., the promise to recognize specific rights as identified within national constitutions), (2) economic resources (government revenue), and (3) judicial independence (clear separation of the judiciary from other governmental structures). The measurement for repression is derived from a seven point index of civil, political and socio-economic rights collected by Gastil (1978). The measurement for “constitutional promises” is derived from a content analysis of national constitutions themselves (provided by Boli-Bennett 1976).¹¹ The empirical investigation is conducted with a path analysis where the effects of “constitutional promises” and the other two explanatory variables are used to account for variance in political and civil rights.

Contrary to what was expected, “greater acknowledgment of rights in constitutions was found to result in lower actual enjoyment of (those) rights” (Pritchard 1986, 120). We thus find, supporting the “constitutional threat” argument, that

¹¹ The first two are taken from Gastil (1978) and the third is taken from Morris’ (1979) Physical Quality of Life Index.

explicit mention of citizens' rights identifies a government's sensitivity to this issue and also their willingness to withhold political and civil rights. While this finding is important to the debate about the relevance of national constitutions to repressive behavior any conclusive opinions must be suspended for the study itself is not without its difficulties.

First, "Pritchard does not distinguish among the many constitutional rights" that are available and she does not factor in those rights that can be "ignored or overridden by government under a different constitutional provision" (Blasi 1994, 9). Second, she does not consider the constitutions within her sample over time. This is particularly important because the measure for human rights she uses is taken in 1974 and the measure for constitutional provisions is taken in 1970. Since numerous countries changed their position on various rights during this intermediary period (Bulgaria 1971; Nepal 1972; Philippines 1973; Poland 1973, and Burma 1974), the omission might be crucial to the analysis. Third, and last, three relatively standard contextual factors are not included within the analysis: system type, political conflict and economic development (Hibbs 1973; Ziegenhagen 1986; Henderson 1991; Cingranelli 1992; Poe and Tate 1994; Davenport 1995b). This leads us to question the validity of the results, for they may not be found under certain factors being considered.

Another study of the subject, following on the work of Pritchard, is conducted by Blasi and Cingranelli (1995). This analysis proposes that variance in repression is determined by four variables: (1) the constitutional guarantee of an independent judiciary, (2) the constitutional guarantee of a federal system, (3) the actual independence of the judiciary, and (4) the actual decentralization of government operations. The measurement for repression is obtained from a content analysis of Amnesty International country reports observed in 1990.¹² The measurement for constitutional guarantees is derived from a content analysis of national constitutions (collected by Blasi 1994). The measurements for actual independence of the judiciary and governmental decentralization are taken from the U.S. State Department's Country Reports of Human Rights Practices for 1990 and the Political Handbook of the World, respectively.

Employing simple correlations to demonstrate the "analytical utility" of their model, three findings are identified by this study as important. First, constitutional provisions are not found to significantly influence repressive practices. This finding directly contrasts those of Pritchard's (1986) analysis and is in support of the null hypothesis that constitutions do not matter. Second, it was found that the

¹²According to Blasi and Cingranelli (1995)

(e)ach country was given a score on a seven-point scale ranging from zero to six. The scores reflect the frequency of the use of torture by government officials, the frequency of disappearances, and the numbers of political prisoners held. Higher scores signify superior human rights practices. (10)

structure of the political system (i.e., the independence of the judiciary and the decentralization of government operations) did affect the use of repression at statistically significant levels. Both factors examined increased the respect for political and civil rights. Third, and last, constitutional guarantees were found to indirectly affect political repression through their influence on the structure of the political system. Specifically, constitutional guarantees of an independent judiciary and a decentralized government were found to directly increase the presence of these factors in actuality (i.e., when constitutions stated they would be present generally the judiciary would be independent and the government would be decentralized). Constitutions are thus found to play a small role in influencing state behavior.

While this analysis furthers the debate about constitutional relevance to political repression, there are several difficulties with the study that lead me to conclude that additional investigation is still necessary. First, the impact of political context is not considered. Since the authors employ bivariate gamma coefficients to investigate the relationship of interest, the study is simply unable to assess relevant contextual effects. Such an issue would be better addressed within a multivariate analysis that could account for numerous factors simultaneously. The second problem concerns the fact that the analysis only considers causal relationships as they exist within one year (1990). Similar to Pritchard (1986) it is possible that the relationships investigated are not representative of how they truly exist and that the only way to identify them is to consider them over time. Third, the study does not investigate the importance of constitutional provisions that override other parts of the constitution (i.e., emergency powers). This is particularly surprising given that Blasi (1994) identified this limitation with Pritchard's study.

In an effort to develop this line of inquiry further, I investigate the relationship between constitutional structure and repressive behavior over time, controlling for numerous contextual factors and also controlling for different countermeasures found within national constitutions that relate to the issue of citizens' rights. Such an inquiry would amount to an important contribution to the literature of repressive behavior. Principally, this is because empirical research in this area tends to ignore variables that involve the government, the beliefs of its members and the laws that guide their behavior. In fact, of all the variables used to account for repression, only three have addressed the government in any fashion: (1) system type (Hibbs 1973; Ziegenhagen 1986; Henderson 1991; Poe and Tate 1994; Davenport 1995a; 1995b), (2) ideology (Pion-Berlin 1989), and (3) repressive disposition (Duvall and Shamir 1980). Only one, however, is consistently applied within empirical analyses, that being system type.

What of the regime's stated commitment to political and civil rights? What of the exceptions that it allows itself to restrict these rights? Are these factors at all important to explaining variance in applied repressive behavior? This is precisely what I seek to determine.

DATA AND METHODOLOGY

For the empirical analysis, 39 countries are observed from 1948 to 1982. This provides 35 observations for each country and a total N of 1,365. Although the geographic locations as well as the political-economic characteristics of the countries themselves vary widely, the final number selected was inevitably determined by data availability.¹³

To measure political repression, I employ the use of Taylor and Jodice's (1983) indicator of "negative sanctions." The variable itself is composed of two components: censorship (the limitation of the news media), and political restrictions (various constraints placed upon individual citizens and also political parties).¹⁴ The actual measure itself is expressed as a natural logarithm, after adding an increment of one.¹⁵

Although often criticized with regard to the appropriateness of this measure,¹⁶ this operationalization has been consistently identified as the most useful for comparative analyses viewed longitudinally (Goldstein 1986). In line with these evaluations and the relatively extensive use it has received within the literature (Hibbs 1973; Muller 1985; Ziegenhagen 1986; Davis and Ward 1990; Alfatooni and Allen 1991), I continue in this tradition.

For the measurement of the primary explanatory variable, constitutional structure, I observe four factors in line with the suggestions of Duchacek (1973), Boli-Bennett (1976), Van Maarseveen and van der Tang (1978), Pritchard (1986), and Blasi (1994).¹⁷

¹³ Another reason for the limited number of countries was simply the number of countries that had been in existence for the 35-year time frame. Quite simply, there were not many countries that were independent in 1948 and for the remaining countries that did exist data collection efforts were minimal at best.

¹⁴ Censorship includes such acts as closing of a newspaper or journal, censoring of articles in the domestic press and so forth. Political restrictions include such acts as declaring martial law, mobilizing troops for domestic security, instituting a curfew, etc. (For more thorough discussion see Taylor and Jodice 1983, 61–77).

¹⁵ The reasons for this are adequately addressed within Dixon, Muller, and Seligson (1993).

¹⁶ Criticism usually revolves around the ability to accurately portray state repression and also with regard to possible biases that might exist within the data (Goldstein 1986; Stohl et al. 1986; Brockett 1992). With regard to Brockett (1992), one example that has been used to criticize the data quite recently, two comments are in order. First, Brockett's criticism of Taylor and Jodice focuses on a measure of domestic political violence (i.e., antisystemic political conflict) not state repression. Thus, his comments are directed toward another variable entirely. Second, he focuses in on one of the attributes of the Taylor and Jodice data that the authors themselves present skepticism about. In fact, because of the authors' concern with the reliability of "politically sensitive" variables I do not employ their measure of political executions, another measure sometimes for repression.

¹⁷ I do not consider the independence of the judiciary because of the primary research interest of this study. Unlike both Pritchard's (1986) and Blasi's (1994) work, that maintains more of a focus on legalistic matters, I am more concerned with how and why governments behave in the way that they do. I do not, therefore, address instrumental forms of what might impede or assist governments in violating

All of these variables are measured dichotomously in that when specific rights are mentioned and/or restrictions on these rights, the variable is coded “1” and when these factors are not mentioned the variable is coded “0”.¹⁸ Each variable is identified from a content analysis of 39 countries’ national constitutions for the full time period (i.e., from 1948 to 1982). The data is taken from several sources: *Constitutions of the Countries of the World* (1980; 1987); *Constitutions of the Americas* (1948); *Constitutions of Nations* (1965); *Constitutions of the Communist Party States* (1968). As most countries contain several constitutions during this time, in total there are 73 constitutions that are observed. Following a discussion of the variables themselves basic frequencies are provided for each one addressed.

Considering the first measure, I identify the explicit enumeration of different rights within the constitution. These include the right to free expression, the right to free speech, the right to strike, the right to unionization and the right to press freedom.¹⁹ I expect that if rights are mentioned, then the use of political repression will decrease in line with the “constitutional promise” argument, controlling for various contextual factors. This particular hypothesis is put forward based upon the clear position of the literature on this point. Such a comment cannot be made of the remaining variables and hypotheses, except for perhaps the last one.

The second variable concerns restrictions placed on the rights identified above. This includes limitations such as: “law,” “public morality,” “noninterference with the rights of other citizens,” and the stipulation of nonviolence. If restrictions are placed on these rights, controlling for various contextual factors, it is unclear whether or not repression will increase or decrease. As identified earlier, restriction of specific rights might reflect the regime’s overall concern with legitimate governance within crisis situations; i.e., “constitutional promise” (Finn 1991). Alternatively, restrictions might reflect the regime’s general concern with maintaining control over citizens’ behavior (i.e., “constitutional threat”). Thus, I leave the issue an empirical one.

political and civil rights (i.e., judiciaries). Rather, I am more concerned with what rights are “promised” (granted) to citizens and how these promises are or are not kept.

¹⁸ At a later date I intend to develop these categorizations further and explore whether or not the particular phrasing of a right is important to its protection, as well as whether or not the specific limitations on emergency powers are important to their use (i.e., does the role of different supervisory bodies exhibit an effect or does a specific time limit play a greater role).

¹⁹ Economic and social rights are also deemed important, but they are not considered for this investigation. I believe that to measure government willingness to use political repression one should pay attention to the government’s position on those rights that are used to mobilize against it (strikes, speech, assembly and so forth) and to the restrictions on these rights (martial law and states of emergency). Additionally, I believe it is more appropriate to investigate the relationship between two factors that the regime can be directly accountable for (i.e., constitutional “promises” for political/civil rights and the behavior relevant to political/civil rights). It can be argued that the government is not responsible for (nor often capable of) socioeconomic rights and/or behavior.

Third, I identify whether or not “martial law” and/or “states of emergency” clauses exist within the constitution. Recall that these clauses allow for the suspension of a broad number of rights at one time. Similar to the previous situation, I am not clear what the effect on repression will be if these clauses are found. The clauses might capture a legitimate attempt at sanctioning government behavior within certain circumstances (“constitutional promise”) or they might represent the government’s general attempt at circumventing nonrepressive governance (“constitutional threat”).

The last variable concerns limitations that are placed upon emergency powers. When reading national constitutions it is clearly apparent that even though some governments allow themselves the right to restrict political behavior, not all do so without limitation. Some establish a specific time limit that the emergency powers can exist and some establish circumstantial restrictions (i.e., two-thirds majority of the legislature, the discretion of the executive). What is conveyed here is a general concern for sustaining legitimacy, while at the same time allowing the ability to confront different circumstances. Unlike the previous two variables, here my expectations are relatively clear. Specifically, I expect that if restrictions on emergency powers exist, then the use of political repression would be decreased. This directly follows the “constitutional promise” argument.

One can readily see from the table that there is a significant amount of variance displayed with regard to whether or not certain rights are mentioned within national constitutions. Freedom of the press is relatively standard across constitutions (36 countries and 77% of the sample observations), while the right to strike (15 countries and 28% of the sample observations) and the right to unionize (19 countries and 33% of the sample observations) are less prevalent. It is also found that most regimes do not place restrictions on these rights, although the freedom of the press (13 countries and 29% of the sample observations) and freedom of expression (10 countries and 13% of the sample observations) are most frequently restricted.²⁰

²⁰ Comparing these findings to other content analyses of constitutional structure, where the N is considerably larger, proves to be quite difficult. One study, conducted by Van Maarseveen and van der Tang (1978) on 142 national constitutions, identifies two rights that are also examined in this study: freedom of expression and freedom of the press. According to Van Maarseveen and van der Tang (1978), freedom of expression is identified in 87.3% of the constitutions they observed. Here, my results differ as the number I find is equal to 49% of the sample observations. The constitutions I select, therefore, are less likely to mention freedom of expression than that identified within the Van Maarseveen and van der Tang (1978) study. The second variable both studies share in common is freedom of the press. Van Maarseveen and van der Tang (1978) find that this particular right is mentioned in only 12.3% of the constitutions they identify. Again, my results differ, for I find that this right is mentioned in 77% of the sample observations considered.

Although this comparison is somewhat informative by highlighting the fact that sample selection is important, three comments are in order: (1) only two variables were held in common (thus rendering any comparison limited), (2) Van Maarseveen and van der Tang (1978) do not consider different constitutions held by the same country over time, and (3) the authors estimate the presence of a particular right by viewing the constitution as the unit of analysis whereas I employ the constitution year. All

TABLE 1A
CONSTITUTIONAL RIGHTS BY COUNTRY

Country Name	Expression	Speech	Strike	Unions	Press
Afghanistan	Y(Δ ;+)	Y(Δ ;+)	~	~	Y
Argentina	~	~	Y	Y	Y
Australia	~	~	~	~	~
Belgium	Y	Y	~	Y	Y
Brazil	Y(Δ ;+)	~	Y	Y	Y
Bulgaria	~	Y	Y(Δ ;+)	Y(Δ ;+)	Y
Burma	Y	Y(Δ ;+)	~	Y(Δ ; -)	~
Canada	Y	~	~	~	Y
Chile	Y	Y	~	Y(Δ ; -)	Y
Colombia	~	~	Y	~	Y
Costa Rica	Y	Y	Y	Y	Y
Cuba	Y	Y	Y(Δ ;M)	Y(Δ ;M)	Y
Czechoslovakia	Y(Δ ; -)	Y(Δ ; -)	~	~	Y(Δ ; -)
Denmark	~	~	~	~	Y
Egypt	Y	Y(Δ ;M)	~	Y	Y
Ecuador	Y	Y(Δ ;M)	Y	Y	Y(Δ ;M)
El Salvador	Y	~	Y	Y(Δ ;+)	Y
Finland	~	Y	~	~	Y
France	~	Y(Δ ; -)	Y(Δ ; -)	Y(Δ ; -)	Y(Δ ; -)
Greece	Y(Δ ;+)	Y	Y(Δ ;+)	Y	Y
Hungary	Y	~	~	~	Y
Indonesia	~	Y	~	~	Y
Iran	~	~	~	~	~
Italy	Y	Y	Y	Y	Y
Jordan	Y	Y	~	~	Y
Lebanon	~	Y	~	~	Y
Mexico	Y	~	Y	Y	Y
Nepal	Y(Δ ; -)	~	~	~	Y
Norway	~	Y	~	~	Y
Philippines	~	Y	~	~	Y
Poland	~	Y	~	Y(Δ ;+)	Y
Portugal	Y	Y	Y	Y(Δ ;+)	Y(Δ ;+)
Rumania	~	Y	~	Y(Δ ;M)	Y
South Africa	~	~	~	~	~
Switzerland	~	~	~	~	~
Turkey	Y(Δ ;+)	Y	Y	~	Y
USSR	Y(Δ ;+)	Y	~	Y(Δ ;M)	Y
USA	Y	~	~	~	~
Venezuela	Y	Y	Y	Y	Y

Y = Right mentioned.

~ = Right not mentioned.

Δ = Change in right(s) identified.

+ or - = Direction of change.

M = Multiple changes identified.

TABLE 1B

LIMITATIONS ON CONSTITUTIONAL RIGHTS BY COUNTRY

Country Name	Expression	Speech	Strike	Unions	Press
Afghanistan	Y	Y(Δ ;+)	~	~	Y
Argentina	~	~	~	~	Y
Australia	~	~	~	~	~
Belgium	Y	Y	~	Y	Y
Brazil	~	~	~	~	~
Bulgaria	~	Y(Δ ;-)	~	~	Y(Δ ;-)
Burma	~	~	~	~	~
Canada	~	~	~	~	~
Chile	~	~	~	~	~
Colombia	~	~	~	~	~
Costa Rica	Y	Y	Y	~	Y
Cuba	Y	Y(Δ ;-)	~	Y	Y(Δ ;-)
Czechoslovakia	~	Y(Δ ;-)	~	~	Y(Δ ;-)
Denmark	~	~	~	~	~
Egypt	Y	Y(Δ ;-)	~	~	Y(Δ ;-)
Ecuador	Y	Y(Δ ;M)	Y(Δ ;M)	Y	~
El Salvador	Y	~	~	~	~
Finland	~	~	~	~	~
France	~	~	~	~	~
Greece	~	~	~	~	Y
Hungary	~	~	~	~	~
Indonesia	~	~	~	~	~
Iran	~	~	~	~	~
Italy	~	~	~	~	~
Jordan	~	~	~	~	~
Lebanon	~	~	~	~	~
Mexico	Y	~	~	~	Y
Nepal	~	~	~	~	~
Norway	~	~	~	~	~
Philippines	~	~	~	~	~
Poland	~	~	~	~	~
Portugal	Y	~	~	Y	~
Rumania	~	~	~	~	~
South Africa	~	~	~	~	~
Switzerland	~	~	~	~	~
Turkey	~	~	~	~	Y
USSR	Y	Y(Δ ;+)	~	~	Y(Δ ;+)
USA	~	~	~	~	~
Venezuela	~	~	~	~	Y(Δ ;-)

Y = Right mentioned.

~ = Right not mentioned.

Δ = Change in right(s) identified.

+ or - = Direction of change.

M = Multiple changes identified.

From Table 2, it is also clear that the discussion of emergency powers within constitutions is less likely to appear than discussion of political and civil rights. Thirty-seven percent of the sample observations identified mentioned martial law (18 countries) and 37% of the cases allow themselves to declare states of emergency (19 countries). The restrictions placed on these provisions are also quite limited. Twenty-one percent of the sample observations (12 countries) place limitations on their use of martial law and 23% of the sample observations (16 countries) place restrictions on the use of states of emergency. As a consequence, it can be concluded that when states give themselves the right to legitimately and broadly restrict political/civil rights, they generally place some form of restriction upon that right.²¹

The remaining measurements for the variables employed in the analysis are provided below. These involve the most frequently used independent variables within the literature: system type, domestic political conflict and economic development. System type is measured by Gurr’s composite democracy variable (Gurr et al. 1989).²² This measure is derived from numerous factors: the competitiveness of political participation, the openness and competitiveness of executive recruitment and the constraints placed on the chief executive. To measure political conflict, I employ four variables considered together: general strikes, antigovernment demonstrations, guerrilla warfare, and riots. These are taken from Bank’s Cross-National Data Archive (1992). Energy consumption per capita, also taken from Bank’s (1992), is used to measure economic development. This follows a relatively standard practice followed by numerous scholars in the area of political repression and human rights (Henderson 1991; Poe and Tate 1994; Davenport 1995b).²³

The methodological technique applied here is a pooled cross-sectional time-series design. This particular strategy is used to address variance in repressive behavior across both time and space (Stimson 1985; Ostrom 1990; Burkhart and Lewis-Beck 1994). To contend with the two most common difficulties with this strategy, heteroscedasticity and autocorrelation, I employ two remedial strategies as well as three postcorrection diagnostics.

three of these factors tend to suggest that any direct comparison between the two should be viewed carefully. I will maintain, however, that my analysis should be considered exploratory in nature. I intend to code all countries with constitutions for the time period under examination in future work, therefore, testing the hypothesized relationships without concern for sample selection.

²¹Running Pearson correlations between the two in order to find out (in some coarse manner) if they are at all related, I observe that mentioning martial law and restrictions on martial law correlate at .65 (significant at the .01 level) while mentioning states of emergency and restrictions on states of emergency correlate at .7 (significant at the .01 level).

²²Previously, I have used Bank’s composite legislative index. Following the critique of Burkhart and Lewis-Beck (1994), I have opted for this new measure. Although seldom applied within comparative politics, this particular indicator has become rather popular in international relations (Maoz and Abdolali 1989; Morgan and Campbell 1991; Russett 1993; Raymond 1994).

²³Several authors have used GNP per capita to measure economic development (Alker and Russett 1964; Hibbs 1973; Dye and Ziegler 1988). In line with the criticism of Summers and Heston (1988), I have decided to use this other measurement.

TABLE 2

PROVISIONS FOR EMERGENCY POWERS BY COUNTRY

Country Name	Martial Law (ML)	Restrictions on ML	State of Emergency (SOE)	Restrictions on SOE
Afghanistan	Y(Δ ;+)	Y(Δ ;+)	Y(Δ ;+)	Y(Δ ;+)
Argentina	~	~	Y	Y
Australia	~	~	~	~
Belgium	~	~	~	~
Brazil	Y(Δ ;-)	~	~	~
Bulgaria	Y(Δ ;-)	Y(Δ ;-)	~	~
Burma	~	~	Y	Y(Δ ;-)
Canada	~	~	~	~
Chile	~	~	Y(Δ ;+)	Y(Δ ;+)
Colombia	~	~	Y	Y
Costa Rica	~	~	Y	~
Cuba	Y(Δ ;-)	Y(Δ ;-)	Y(Δ ;-)	Y(Δ ;-)
Czechoslovakia	Y(Δ ;-)	Y(Δ ;-)	~	~
Denmark	~	~	~	~
Egypt	Y(Δ ;-)	Y(Δ ;-)	Y(Δ ;+)	Y(Δ ;+)
Ecuador	Y	Y	Y	Y(Δ ;M)
El Salvador	Y	Y(Δ ;-)	Y(Δ ;+)	Y(Δ ;+)
Finland	~	~	~	~
France	Y(Δ ;+)	Y(Δ ;+)	~	~
Greece	~	~	~	~
Hungary	Y	Y	Y	Y
Indonesia	Y	~	~	~
Iran	~	~	~	~
Italy	~	~	~	~
Jordan	Y	Y(Δ ;M)	Y	Y(Δ ;M)
Lebanon	~	~	~	~
Mexico	Y	~	Y	Y
Nepal	~	~	Y(Δ ;+)	Y(Δ ;+)
Norway	~	~	~	~
Philippines	Y	Y	Y	Y(Δ ;+)
Poland	Y	~	Y(Δ ;+)	~
Portugal	Y	~	Y(Δ ;+)	Y(Δ ;+)
Rumania	~	~	Y(Δ ;+)	~
South Africa	~	~	~	~
Switzerland	~	~	~	~
Turkey	Y	Y	Y(Δ ;+)	~
USSR	Y	~	~	~
USA	~	~	~	~
Venezuela	~	~	Y	Y(Δ ;+)

Y = Right mentioned.

~ = Right not mentioned.

Δ = Change in right(s) identified.

+ or - = Direction of change.

M = Multiple changes identified.

First, I use country dummies to control for case specific variance. Second, I employ the use of a lagged dependent variable to control for the presence of a classic AR(1).²⁴ This strategy has been recommended by numerous authors (Beck 1992; Harvey 1990; Burkhart and Lewis-Beck 1994). The incorporation of this variable also meets certain theoretical expectations that previous uses of repression directly influence future applications (Muller 1985; Gurr 1986a; Poe and Tate 1994).

To gauge the effectiveness of these remedial strategies, post correction diagnostics are also provided. These include: (1) plotting the estimated squared residuals against the estimated dependent variable obtained from the equations in order to identify the impact of the country dummies (Gujarati 1978), (2) reporting results from a robust standard error (RSE) model to further gauge the appropriateness of the methodological strategy in curtailing heteroscedasticity,²⁵ and (3) calculating a Durbin *h*-statistic to assess the effectiveness of using a lagged dependent variable to control for autocorrelation (Beck 1992, 56; Burkhart and Lewis-Beck 1994). This should adequately address the question of whether or not the particular methodological strategy is appropriate.

EMPIRICAL FINDINGS

Performing the three post correction diagnostics, I do not find that the model is adversely affected by either heteroscedasticity or autocorrelation. Plotting the estimated squared residuals does not reveal any influential cases and the results of the RSE model reveal direct similarities to the basic model. Autocorrelation is also not identified as a problem because the Durbin-*h* statistic is not found to be significant in any of the equations investigated. Since these diagnostics consistently manifest themselves throughout the different equations examined, I will forgo any discussion of them and move directly to the discussion of the results.

The first equation (equation 1, table 3a) replicates the findings of previous research quite well. Explaining 60% of the variance, democracy is found to negatively affect repressive behavior, while political conflict and lagged repression are found to increase its application. The impact of economic development, while statistically significant (at the .05 level), is almost nonexistent and in the opposite direction of prior research. Given the minimal effect of this variable in previous studies (Poe and Tate 1994; Davenport 1995a; 1995b)²⁶ as well as within this one, I do not believe that this is much of a difficulty.

²⁴Previous research has identified this particular variant of autocorrelation within the data (Davenport 1995a; 1995b).

²⁵The white technique was adapted to the pooled cross-sectional time-series design by Beck et al. (1993). Principally, as quoted in Poe and Tate (1994)

the equation represents the estimated covariance matrix of the country errors used in feasible generalized least squares analyses of pooled cross-sectional time-series data sets. This procedure does not effect the OLS coefficients, but it does estimate more consistent standard errors. (870)

²⁶The effect identified within these studies never exceeds .00 and thus the effect is substantively unimportant.

TABLE 3A

BASIC EXPLANATORY MODEL INVESTIGATING “CONSTITUTIONAL PROMISES”

Independent Variables	Political Repression			
	Equation 1	(RSE) Equation 2	Equation 3	(RSE) Equation 4
Constant	5.87(.76)**	5.87(1.13)**	7.72(1.38)**	7.72(1.79)**
Democracy	-.38(.10)**	-.38(.11)**	-.32(.12)**	-.32(.13)**
Conflict	.15(.03)**	.15(.05)**	.16(.03)**	.16(.05)**
Economic development	.00(.00)*	.00(.00)	.00(.00)	.00(.00)
Lagged repression	.62(.01)**	.63(.03)**	.61(.02)**	.61(.03)**
Freedom of expression (FOE)	~	~	.20(.94)	.20(.85)
Restriction on FOE	~	~	-2.06(2.01)	-2.06(1.63)
Freedom of speech	~	~	-.35(1.04)	-.35(.93)
Restriction on freedom of speech	~	~	-2.17(2.47)	-2.17(1.80)
Freedom to strike	~	~	-2.07(1.51)	-2.07(1.46)
Restriction on freedom to strike	~	~	2.93(3.31)	2.93(2.42)
Freedom to unionize	~	~	.85(1.35)	.85(1.36)
Restriction on freedom to unionize	~	~	.95(2.26)	.95(2.87)
Freedom of the press	~	~	-2.43(1.21)*	-2.43(1.02)**
Restriction on freedom of the press	~	~	3.20(1.30)**	3.20(.96)**
Martial law	~	~	2.20(1.28)	2.20(1.34)
Restriction on martial law	~	~	.02(1.59)	.02(1.47)
State of emergency	~	~	-2.39(1.19)*	-2.39(1.08)**
Restriction on state of emergency	~	~	1.01(1.58)	1.01(1.06)
<i>R</i> ²	.60	.60	.60	.60
Durbin h-statistic (<i>N</i> = 1,365)	-.02(.02)		-.01(.02)	

p* < .05; *p* < .01.

() = Unstandardized parameter estimates.

RSE = Robust standard error model.

Adding the constitutional variables to the equation (equation 3, table 3a) proves to be quite interesting. Within the full model, 60% of the variance is still accounted for. Additionally, three constitutional variables are found to be statistically significant in their effects on political repression (mentioning freedom of the press, restrictions on freedom of the press, and mentioning of states of emergency), and

TABLE 3B

REDUCED MODEL INVESTIGATING “CONSTITUTIONAL PROMISES”

Independent Variables	Political Repression			
	Equation 5	(RSE) Equation 6	Equation 7	(RSE) Equation 8
Constant	8.11(1.32)**	8.95(1.65)**	9.28(1.16)**	8.91(1.65)**
Democracy	-.36(.11)**	-.43(.11)**	-.40(.10)**	-.42(.12)**
Conflict	.16(.03)**	.15(.04)**	.16(.03)**	.15(.05)**
Lagged repression	.61(.02)**	.61(.03)**	.62(.01)**	.62(.03)**
Freedom of the press	-2.79(1.05)**	-2.67(1.18)**	-2.28(.98)*	-2.15(1.15)**
Restriction on freedom of the press	-1.37(.95)	1.42(.78)	~	~
State of emergency	-2.09(.91)*	-1.87(.85)**	-2.06(.86)**	-1.83(.86)**
<i>R</i> ²	.60	.60	.60	.60
Durbin h-statistic (<i>N</i> = 1,365)	-.02(.02)	-.02(.02)		

p* < .05; *p* < .01.

() = Unstandardized parameter estimates.

RSE = Robust standard error model.

three out of the four control variables are significant as well as in the expected direction.²⁷ Deleting the insignificant variables and re-running the equation (equation 5, table 3b), the *R*² stays the same and two of the three constitutional variables retain their previously identified effects. Restrictions on the freedom of the press no longer retains statistical significance. To account for this change, I estimate one more equation (equation 7, table 3b).

Within this model, the three control variables are statistically significant, they perform as expected, and they are comparable in effect to the other equations. Repression is thus decreased within more democratic regimes and increased when domestic unrest is present as well as when repressive behavior has been used before. Most importantly for this study, however, I find that two “constitutional promises” are statistically significant in their effects on repressive behavior. These include: explicit mention of freedom of the press and states of emergency.²⁸

What do the findings suggest relative to the expectations identified earlier? Principally, they show that mentioning press freedom within national constitutions

²⁷Economic development fails to achieve statistical significance.

²⁸These results hold while using a joint-F test to examine the possibility that the inclusion of these variables does not add anything to the basic model. As found, the derived value of 5.3 exceeds the critical value of 4.61 at the .01 level. This allows me to sustain a significant amount of confidence in the results.

represents some kind of a “promissory note” to citizens that identifies a government’s general commitment to political and civil rights. That the acknowledgment of this factor decreases the use of censorship (limitations on the media) and political restrictions (limitations on individuals and organizations) is a strong indication that “constitutional promises” can provide some insight into actual governmental practices viewed over time—regardless of political context.

States of emergency clauses are also deemed important because they stipulate that circumstances arise where citizens’ rights might be forfeit. As found, this constitutional provision gives us another clue as to how governments will behave. Specifically, it is found that by “paying lip service” to when violations of political and civil rights are legitimate, the regime binds itself to the rule of law and actually reduces its use of political repression. This is not to say that the regime does not employ repressive methods to establish order, but rather it suggests that states will do so at a reduced rate.

The results identified above, however, provide only a preliminary investigation into the relationship between national constitutions and political repression. It is possible that within certain contexts “constitutional promises” are more likely kept and within others they are more likely forfeit. For example, Finn (1991) states that

(a)s a matter of political prudence . . . governments are seldom willing to risk their survival by respecting a generous conception of individual liberties in times of crisis. Whatever the logic of the political theories to which governments subscribe (therefore), the harsh realities of necessity typically trump individual liberties and rights.²⁹ (15)

This passage is important for two reasons. First, it alludes to the fact that some political systems (democracies) might be more likely to follow “constitutional promises” and respect their commitment to their stipulated “guiding principles” regardless of the particular political-economic situation confronted. This point has been made by several others as well (Lipson 1964; Cea 1987; Kent 1991; Blasi 1994). Second, the passage suggests that when political conflict takes place any “promises” about rights that were made might be rendered irrelevant. In other words, when regimes are threatened “all bets might be off.”

Considering these two possibilities, I include four interactive variables into the model (provided in table 4). Two variables consider the level of democracy as it interacts with freedom of the press and states of emergency. The other two variables consider the interaction of political conflict with the same two constitutional provisions (i.e., freedom of the press and states of emergency).

²⁹On this point acting Prime Minister of Israel, Moshe Sharett (in the 1950s), was quite clear (Sharfman 1993)

(w)e will never be able to carry out these tasks (defense of democracy, development of the economy, etc.) if we don’t have suitable emergency powers and if the government does not possess emergency powers that can be activated the moment the need arises, as well as emergency powers utilized on a daily basis.

TABLE 4
 INTERACTIVE RELATIONSHIPS BETWEEN “CONSTITUTIONAL PROMISES”
 AND POLITICAL CONTEXT (DEMOCRACY AND CONFLICT)

Independent Variables	Political Repression			
	Equation 9	(RSE) Equation 10	Equation 11	(RSE) Equation 12
Constant	6.43(1.55)**	6.46(2.15)**	7.06(.70)**	7.84(1.55)*
Democracy	-.18(.21)**	-.18(.21)**	-.42(.09)**	-.44(.12)**
Conflict	.15(.04)**	.15(.01)**	.15(.03)**	.15(.02)**
Lagged repression	.59(.08)**	.59(.01)**	.62(.01)**	.60(.03)**
Freedom of the press	-1.75(1.66)	-1.75(1.66)	~	~
State of emergency	-1.55(1.29)	-1.50(1.29)	~	~
Freedom of the press × Democracy	-.38(.23)	-.38(.23)	~	~
Freedom of the press × Conflict	-.59(.09)**	-.59(.08)**	-.62(.08)**	-.59(.14)**
State of emergency × Democracy	.11(.21)	.11(.21)	~	~
State of emergency × Conflict	-.51(.09)**	-.51(.09)**	-.55(.09)**	-.53(.13)**
<i>R</i> ²	.60	.61	.61	.61
Durbin h-statistic	-.00(.02)		-.01(.02)	

p* < .05; *p* < .01.

() = Unstandardized parameter estimates.

RSE = Robust standard error model.

Incorporation of these four interactions is found to provide crucial information about the relationship of “constitutional promises” to repression for the results are changed when they are considered across different political contexts. In equation 9 (and the reduced model, equation 11),³⁰ press freedom and states of emergency clauses are no longer found to be relevant, and the two interactions concerning democracy also fail to achieve statistical significance. The two interactions of press freedom and states of emergency with political conflict are significant, however, and both negatively affect political repression.³¹

³⁰ Although the democracy variable is statistically insignificant, I retain the variable because of its previous significance. Correlations between this variable and the two interactions are significant (.7 for the interaction with freedom of the press and .3 for the interaction with states of emergency), but since both are rather small I do not consider this to be the reason for the insignificance.

³¹ A joint F-test again reveals that inclusion of these variables is statistically significant in its effect (at the .01 level) on the dependent variable relative to the basic model.

One can conclude from this that when national constitutions explicitly mention press freedom and political conflict takes place, there is a lower rate at which censorship and political restrictions are imposed. Even when directly challenged, therefore, “constitutional promises” made by the government to protect political and civil rights still hold. The second interactive variable, that between the states of emergency clause and political conflict, also provides support for this claim. In this case, it is found that when the regime confronts domestic unrest and it has explicitly identified its own rights to suspend certain “constitutional promises,” the use of political repression is generally reduced. As stated earlier, this is not to say that when confronted with conflict behavior the regime does not employ repressive methods to establish political quiescence. Rather, it means that the regime that meets the stipulated criteria of the interactive term (i.e., where states of emergency are mentioned and political conflict exists) will apply repression at a reduced rate. Once again, therefore, it is found that constitutions do provide some insight into how governments will behave, even within situations that we might not expect.

CONCLUSION

The results of the present analysis bode well for those currently involved in creating/modifying their national constitutions as well as for those concerned with limiting state uses of political repression. I find that explicit mention of the right to press freedom and the right to declare states of emergency decreases the use of censorship and political restrictions, while controlling for system type, political conflict and prior use of repressive behavior. Quite simply, constitutions do matter in that they provide a clear indication of government willingness to follow “guiding principles” across time, space, and context.

Further investigation into the subject found that important interactive relationships also played a role. For example, when national constitutions mention the right to press freedom and political conflict takes place, the regime is less likely to use repressive measures. Correspondingly, when national constitutions explicitly mention states of emergency and political conflict takes place, the regime is again less likely to use censorship and political restrictions. This latter relationship suggests that even amidst challenges from the populace, the regime that has made a “constitutional promise” is more likely to stay to that commitment (and use less repression) than one that has not.

One clear and important implication of this study is that all the time spent on national constitutions currently undertaken is not made in vain. Indeed, this effort appears to allow the regime to “hash out” important matters and establish binding commitments for specific government practices that are influential in guiding future behavior. Moreover “constitutional promises” are not found to exist in a vacuum. Significant interactive effects revealed that even amidst domestic challenges the regime was still able to maintain its commitments. Interestingly, it was found

that the level of democracy was irrelevant to the manner in which governments followed their “promises.” This is important, for it reveals that national constitutions can be equally binding documents regardless of whether the regime is “open” (i.e., must concern itself with interest aggregation and articulation) or “closed.”

Having said this, I must state very clearly that the current research effort is only an initial step on the way to understanding the relationship between legal structure and political repression. There are several suggestions that I have for additional research, improving upon what has been done here.

First, more countries should be added to the analysis. This is by far the most significant limitation of the present research effort. By considering a larger sample we could more adequately assess the relationship, without having concerns for the appropriateness of the sample.³² Second, consideration should be given to the conditions under which the constitution in question came into being. It is possible that one that emerged from a coup, a revolution or is imposed from abroad would be less binding on a particular government than one that emerged from a peaceful transition and was endogenously developed (Hermet 1988). Third, changes in constitutions short of totally new constitutions should be considered. Lutz (1994), for example, has shown very clearly that the amendment process is important to identifying changes in governmental priorities. Although repression is not specifically referenced by this study, I see no reason why this particular possibility could not be explored.

Fourth, the importance of other factors often mentioned in constitutions should be addressed (i.e., questions of family structure, the importance of community, freedom of religion, freedom of language). These factors might provide additional information about the degree to which the government generally attempts to direct and control society. One would expect that a more “restrictive” national constitution, one where numerous restrictions on different types of rights existed simultaneously, would tend to correspond with a more restrictive political system. This should increase the use of political repression as a mechanism of rule. I found no

³²I did compare the sample used here to a larger sample of countries for which data were available. Observing Gurr’s democracy variable for 137 countries (discussed further below) and energy consumption for various countries (between 86 and 110 dependent upon the year) over the same time period, the following characteristics were obtained:

- Democracy (Larger Sample) Observations: 3,959; Mean: 3.83; Standard deviation 3.95;
- Democracy (My Sample) Observations: 1,365; Mean 4.94; Standard deviation 4.08.
- Energy consumption (Larger Sample) Observations: Varied; Mean 1,284; Standard deviation 2148;
- Energy consumption (My Sample) Observations: 1,365; Mean 1885; Standard deviation 2267.

As found, the level of democracy is somewhat higher within the sample employed here as compared to that obtained from a more comprehensive list of nation-states. With regard to economic development, a similar finding was also obtained. Issues of sample selection should thus be considered further. The results here must be considered exploratory.

such relationship between the various rights discussed in this article,³³ but it is possible that by considering this contextual factor in greater detail the relevance might be revealed.³⁴

Finally, it might be the case that constitutions are rendered irrelevant only when governments are “truly threatened.” This would draw upon the fact that not all instances of political conflict are threatening to regimes (Sorokin 1957; Ziegenhagen 1986; Franks 1989; Davenport 1995b) and that only “unprecedented” or “credible threats” would lead the government to disregard its “constitutional promises.”³⁵

Perhaps after these issues have been addressed, the tentative conclusions put forth here can be more effectively supported or refuted. It is hoped that the optimism revealed within the findings, for those of us who are concerned with controlling state violations of political, civil and human rights, will bear the test of further analysis. Only time and additional research, however, will reveal this adequately.

Manuscript submitted 26 June 1995

Final manuscript received 12 December 1995

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³³Pearson correlations revealed no substantively important correlations between the various rights identified. There were significant relationships, but none that exceeded .40.

³⁴The consideration of other contextual factors (i.e., the total number of articles within the constitution, or the number of articles relevant to a specific right) might also prove to be important.

³⁵This perhaps accounts for the insignificance of the martial law clause as this would perhaps only be invoked within this context.

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