

Refereed article

Unwritten Constitutions of Political Rule: Conceptual Approaches to Comparative Area Studies of Asia, the Middle East & North Africa, and Europe

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Summary

This article discusses conceptual considerations regarding the constituting and structuring of political governance in Asia, MENA (the Middle East and North Africa), and Europe. It investigates how formal and informal institutions combine with politics and unwritten political rules to form an “unwritten constitution” that acts as a *de facto* constitution for political governance. Particular emphasis is placed on interrelationships in the development of political governance, since influences between the world’s regions are not unidirectional, but interdependent and reciprocal.

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Introduction

According to Thomas Ellwein and Jens Joachim, the “history of political rule always includes the history of exploiting political rule” (1977, cited by Greven 2009: 131). To put it rather more bluntly, people who preach the common good also have their own interests in mind (Greven 2009). This not only applies to actors in autocratic and hybrid political systems, but also to those in today’s established (liberal) democracies. Most countries in Asia, the Middle East and North Africa (MENA), and Europe are now constitutional states. Their systems of government, including their administrative and leadership functions, are therefore arranged according to a constitutional legal framework. These systems often include liberal democratic mechanisms, or at least formally democratic ones, with which to legitimize political rule. However, these written constitutions and formal mechanisms tell us little about what actually happens in practice, or about the real-world exercise of power and recruitment of elites, the role of repression and inequality, or about the effectiveness of and interrelationships between institutions, politics, and the rules of the political (regardless of whether they take on a formal or informal shape). Furthermore, the

question of which actors will ultimately possess which political powers can only be answered by the constitutional reality in a country and not by the ostensible constitutional norm. The fact that private entities — such as businesses, patrimonial privilege holders, oligarchs, and religious leaders — can also attain political power without even holding a public office or mandate shows that the goal of maintaining separation in political rule structures (i.e., separating public and political matters from private ones) is untenable. This also applies to other ostensibly “private” power structures, such as those found in hierarchical gender relations, and how these are inscribed in the state arena and in the spheres of the political (Sauer 2011: 133).

This paper will attempt to outline a conceptual approach for analyzing how political rule has been constituted and structured in different areas of the world. It will start from a theory-based approach that examines how an “unwritten constitution,” or a quasi-constitution of political rule, can coalesce out of a society’s formal and informal institutions (Lauth 2004), politics, and rules of the political. In this context, it is not only relevant if “unwritten constitutions” of political rule are similar or different in compared societies and/or areas. The interest in knowledge being sought here has a further aspect in terms of the relationality of phenomena and developments. In transformation studies, it has been argued, that the third wave of democratization is finished and so the processes of democratization are temporarily halted. (O’Donnell 2010; Schmitter 2010) In the field of democracy studies, it has been observed that consolidated democracies are subject to a process of creeping deformation and erosion (Offe 2003). In the past, informal institutions, politics, and rules of the political were discussed as phenomena of illiberal political systems — especially in Latin America, Eastern Europe, and East Asia (Croissant and Merkel 2010: 322). Current research articles refer to informal political practices and forms of “soft governance structures” (Sauer 2013) in liberal democracies in Central Europe and North America, too, which are exempt from democratic control (Birsl and Derichs 2013). So far, there has not been a very broad research debate on whether these observed phenomena relating to different types of political ruling orders could be a result of relational or entangled development paths. A debate has been taking place in Western (social) science, at least, but not universally. In scientific debates in China, for example, a controversial legal discussion exists on the relationship between a written and unwritten constitution. Essentially, it is a controversy about what characterizes a modern state (cf. Jiang 2010; Holbig in this volume).

This article presents a theoretical approach to analysis processes, structures, and actors in “unwritten constitutions” of political rule in the MENA region, Asia, and Europe. These three regions of the world were chosen because of their specific historical interactions, which are characterized not only by their colonial and post-colonial relationships, but also by connections that extend far back into medieval and ancient times, to an age when the “Old World” stretched from the MENA region to Europe and East Asia. Within this constellation, Europe was still on the outer margins, not at the center (Hobson 2004; Delanty 2006; Wendt 2007). Our investi-

gative goal here is to highlight the interactions that affected the development of political rule in an analysis in which Europe — or more precisely, Western Europe — is not assumed to be the normative and empirical reference point. Or to quote Shalini Randeria: “It seems [...] to be an irony of history that contrary to Marx’s predictions, the former colonies [meaning the colonies in Asia, ed.] are a reflection of Europe’s future” (2006: 232). Thus these three areas are particularly suitable for investigating entangled development paths in political rule relationships.

The approach we take is from the viewpoint of political science. In her research note in this volume, Claudia Derichs discusses the relationship between a disciplinary approach like this one and other approaches used in area studies. She builds a bridge between both of these research orientations and creates room for empirical research designs. In this case, Derichs’ article and our own paper should be understood as two sides of the same coin, which are bound together conceptually.

Political rule as a field of inquiry in comparative area studies

How political rule is constituted and structured in constitutional reality is a topic that has hardly been addressed so far in current social science research and theory (Greven 2009: 122ff.). There have been a few exceptions in German-language research, however, including contributions from feminist democracy theory and state theory (cf. esp. Biester et al. 1994; Ruppert 1997; Sauer 2001, 2011); post-colonial studies (cf. esp. Castro Varela and Dhawan 2004; Randeria 2006; Dhawan 2013; Kerner 2012); and, in the context of recent autocracy research, politico-sociological debates concerning manifestations of modern neopatrimonialism (cf. esp. Timm 2010; Kreile 2012).¹ On the other hand, questions of political rule have been indirectly addressed in the fields of area studies and transformation research, in looking at the constituting of the state and potential flaws of democracy (cf. esp. O’Donnell 1994; Croissant 2000/2001; Puhle 2013), or at the interplay between formal and informal institutions and politics (cf. esp. Lauth 2004; Köllner 2005). This research has generally focused on state structures and actors while explicitly excluding Europe — or more precisely, Western Europe — and North America.

Shalini Randeria is quite correct when she says: “It would be premature to ring the death knell of the state, even though we do need to relativize the state as the primary site of power and sovereignty” (2006: 253). In other words, taking the state as a specific entity and level for analysis does not necessarily mean becoming beholden to a methodological nationalism. Comparative studies do need to take into account the centrality of the state as the final political authority for decision-making and the common frame of reference for political processes and international relations, especially when one considers that the category of the state still remains

¹ It is notable that most of these studies have used a feminist or feminist-materialist approach in analyzing inequality-based systems of power and rule.

indispensable for the analysis of political rule. Theoretical considerations revolve around this seismographic epicenter. Every major system of values and norms employed today is oriented around the state, which is practically the only model that can transform the universal promise of individual freedom into a realistic prospect, even (and especially) beyond the “Western” world:

In various research studies on the topic, the general tenor has been that even though politics and circumstances have changed, the essential characteristics of the (Western) state have remained the same, even after the end of its “Golden Age”. In this analysis, it is still capable of asserting itself as a territorial state and an intervention state, is still committed to the normative common goods of physical security, democratic self-determination and social welfare, and is still actively involved in guaranteeing each of these common goods. However, the new aspect is that the state is no longer the sole guarantor of these common goods, [which] in the long run could endanger the continued development of not only the state itself, but also of the international order and its institutions if these do not become more effective in fulfilling their responsibilities as guarantors of normative common goods. (Krell 2009: 99)

This still applies even if one assumes an “erosion” of statehood (Genschel and Zangl 2007), or a relatively weak state. Nonetheless, one must also consider that the framework of the state is not the only place where political rule and power are constituted. These can also be constituted within more localized political spaces and (as emphasized by Randeria) on a transnational political level, too, such as within the UN, ASEAN, and the EU, and also through “soft” governance structures, meaning informal reciprocal relationships between national elites (both political and economic ones) and between social actors² (cf. Rother 2009; Rüländ and Bechle 2011). This means that questions of political rule must also include these levels of action and interpretation in order to grasp the power asymmetries — and the mechanisms of repression and inequality — that exist within a political society.

There is no longer any justification for the fact that Europe and North America are still excluded from comparative area studies. A post-colonial (and normatively framed) argument against including these two regions would be that the Eurocentric (and North American) worldview is shaped too much by theories of “modernization” and invested in dichotomies of “developed” vs. “underdeveloped” and “modern” vs. “traditional” (critically addressed in Knöbl 2007: 25). However, this ignores two arguments that speak in favor of including North America and Europe in comparative area studies. Firstly, area studies actually originated in the USA during the last great wave of decolonization that began in the 1940s. For politics, and for political science, the countries and regions striving for independence were still basically blank spots on the map of the world (Berg-Schlosser 2012: 2). In other words, despite every attempt (also by post-colonialism) to get away from such (super-)powers, one of them is still the home of area studies. Secondly, if these two

2 For example, migration movements as transnational carriers of democratization.

regions remain excluded, then they will automatically continue to stand unchallenged as a baseline reference point:

Area studies investigations into informal political rule and relationships have been an enrichment for comparative political science, in empirical, conceptual and sometimes even theoretical respects. [...] However, it must be noted that the insights from area studies have not been systematically integrated into foundational works that [allow] a comparative analysis of political systems. Here, the liberal democracies of Europe and North America still represent the normative and empirical benchmark. Although this focus may be understandable in light of the significance of these two regions in terms of politics, economics and the history of ideas, it still stands in clear contrast to the need for an internationally and universally applied comparative analysis of political systems. (Köllner 2005: 9)

The historically longstanding, primarily politico-economic entanglements between the MENA region, Europe, and Asia have had particularly wide-ranging cultural consequences in the evolution of societies, including the evolution of their legal cultures. The power dynamics between these regions have swung back and forth throughout history. Along with India and China, the rising “tiger economies” of South Korea, Hong Kong, Taiwan, and Singapore are now challenging the supremacy of the USA, the European countries, and the EU in the world economy while also reorienting the MENA states. Furthermore, as Göran Therborn has stated (2006: 24), the end of the Cold War and the collapse of Europe’s communist states means that the dualistic perception and contrasting of the Occident vs. the Orient, i.e., West vs. East, is no longer justifiable (also cf. Simpfendorfer 2009; Birsl and Derichs 2013: 188).

With the implosion of communist social orders, it seemed that a new wave of democratization had begun — and in Asia, too, such as in South Korea. However, looking at Latin America, the Argentine political scientist Guillermo O’Donnell (1994) found that this region was not establishing liberal models of democracy, but non-liberal ones, or more precisely, “delegative democracies” — a distinctly separate type. Globally speaking, this transformational phase saw the emergence of types of regimes that could not be measured against the normative reference models of North American and Western European liberal democracies. Political rule could now be backed by new sources of legitimation (cf. Zürn 2012) that were not democratic, but not exactly autocratic either. Or regimes could remain in a transformational “twilight zone,” as seen in Tunisia, Egypt, and the western Balkan countries. At the same time, a transformation has also begun in liberal democracies that were previously considered stable, which is something that transformation research has barely addressed in any systematic way. Democracy research into Western Europe and North America has been looking at the neoliberal restructuring of society, democracy, politics, and the economy while also problematizing new forms of policy-making in “soft” governance structures where non-democratic types of rule

are solidified or retrenched in accordance with a masculine ethic.³ Up to now, these changes have been happening rather less conspicuously than in many younger transformational societies, but their contours are gradually becoming recognizable (Birl and Derichs 2013: 190). Some representatives of democracy studies have expressed their concern that the historical epoch of democracy and democratization could be over — in “Western” countries, too.⁴ This also means that their political rule systems are not useful as an empirical reference point for comparative area studies.

Therefore, instead of starting from a classification of political regimes and social orders in terms of autocratic, hybrid, or democratic typologies, comparative area studies should turn its investigative focus to political rule and how it is constituted, along with its structures and actors,⁵ and with the inclusion of Europe. This ultimately goes back to the classic question of *how* political rule is exercised by *whom* and *with what goals*, and how it is *legitimized*. The question of legitimation considers not only whether those who are “ruled” accept this system as a justified one, but also the ways in which the “rulers” try to justify and consolidate their positions of power. The central focus is therefore on the relationship between “rulers” and “the ruled,” which may find its formal underpinnings in constitutional law, but in constitutional reality is founded on inequality and furthermore allows for positions of “private” rule (Greven 2009: 138). Still open for discussion are the arenas and political spaces in which political rule operates. Even in constitutional states, these are not necessarily identical with constitutional bodies or with the spheres defined as public. They can only be empirically delimited with great difficulty and often defy empirical analysis altogether.

Unwritten constitutions of political rule from the perspective of institutions (the institutional dimension)

The relationship between rulers and the ruled is a reciprocal one, potentially including both stabilizing and destabilizing aspects, and is also an area for negotiating questions of legality and legitimacy. Questions of this kind are thus always questions of political rule as well, which can be negotiated within formal and/or informal political institutions as well as through formal and/or informal politics, and according to formally and/or informally codified rules.

3 Cf. recent work in this area by scholars like Streeck (2013) and Sauer (2013). Eva Kreisky (2001) was one of the first to problematize this neoliberal restructuring from the viewpoint of democracy theory and feminism.

4 Cf. to the debate about post democracy or the loss of democracy Kreisky and Löffler (2010).

5 Holger Albrecht and Rolf Frankenberger (2010: 52, 59) have proposed a system theory approach borrowing from Talcott Parsons in order to facilitate investigation of the time–space dimension of autocratic and democratic political systems. This approach also refrains from using the “Western” liberal democracy model as a normative and empirical reference point. However, such an investigation would still start from a categorization of political rule systems. This approach would address political systems on the macro level while ignoring the actors and spaces of the local and transnational levels, which are of particular relevance here.

According to German political scientist Gerhard Göhler (1994), political institutions are a special case among social institutions, serving to make and implement decisions that are widely binding. On the one hand, they are the product of social interactions and political decisions that have become “institutionalized,” and in their totality they represent a political system’s institutional structure. On the other hand, they constitute a space where social interactions and political decisions can play off one another, for example in setting norms and codes of conduct. In general, these are *formally* constituted institutions and thus “legally codified as an expression of rational political rule” in terms of Max Weber’s interpretation (Lauth 2004: 126). In contrast,

informal institutions operate [...] outside of this codification. The latter are not fixed by formalized agreements, and in establishing their character as entities capable of influencing and structuring conduct, they consequently exercise — having become political institutions — their own influence on the structure and functioning of the political process. However, although they are active operators within the political system, they are not put on the same footing as a formal institution. (Lauth 2004: 126)

Furthermore, it should be noted that informal institutions exist not only on the level of a political system, but also on non-central, local, and/or transnational levels, and in some cases may disavow the political level of the state’s institutions and its monopoly on authority. This situation particularly applies (but is not limited) to states that, due to a lack of internal sovereignty stemming from their foundational histories, are generally regarded as weak or somewhat weak. For example, Randeria has described India as a “guileful state” that has been weakened by overlapping sovereignty claims — local or transnational, or due to global governance and legal pluralism — and which tries to compensate for these weaknesses through the use of guile. This guile

refers neither to a structural feature nor to the state’s performance, but instead characterizes the ever-shifting character of the relationships that exist between national elites (often in cooperation with international institutions) and citizens. The concept of the guileful state thereby encompasses a whole range of pragmatic tactics that are employed in various negotiation arenas where responsibilities and sovereignties become shifted around. (Randeria 2006: 231)⁶

This overlapping of competing authorities and political powers arises from the emergence of informal institutions and their reciprocal interactions with formal ones, leading to many questions about the legality and legitimacy of an ostensibly rational system of political rule.⁷ When professed central authorities are overlapped

⁶ It is notable that the characteristics of Randeria’s “guileful state” bear some similarities to those of European states. This is particularly apparent in the cases of Greece, Spain, and Portugal, which along with Ireland have experienced a major economic crisis resulting from the 2008 financial meltdown and the subsequent demands of the EU and IMF. However, other countries like Italy and Turkey also display comparable characteristics, albeit with differing underlying factors.

⁷ This system of political rule is only “ostensibly” rational, because it is actually structured according to patrimony (as described by Weber), and thus according to gender hierarchy. As noted by Greven

by actors that are non-central, uncoordinated, mutually unaccountable, and in fact obstructive to the formal rule of law, then the real-world system of political rule becomes detached from societal control.

In China, highly important scholars in the academic law debate — Jiang labels them “the revisionists” (2010: 15) — argue in this context that the political spirit and reality of China would be specific and require a different interpretation of the rule of law and the role of written constitutions compared with the Western view (cf. Jiang 2010: 15).⁸ With this argumentation they legitimate the absence of societal control of political rule and classify the Western interpretation as ideological. As Holbig has said, it means that

the gap between the written text of the constitution and the unwritten constitution [...] is framed not as a home-made problem, but as a result of ideological pressure from the West, including the former Soviet Union. Thus, the fragility of the repeatedly revised written constitution and the hypocrisy surrounding its implementation, which notoriously invite foreign criticism, are interpreted as resulting from the historical dilemma between forced adaptation to Western ideology on the one hand and assertion of China’s indigenous and cultural traditions and political realities on the other. (Holbig in this volume)

Formal political institutions mark out the framework or playing field in which formal politics can be formulated and implemented according to formal norms. In contrast, the concept of informal politics signifies “a pattern of relationships, conducts and procedures that is not structured or shaped by fixed rules, as practiced by individuals and groups within a particular society or state — however, these informal structures and processes (similarly to their formal counterparts) still remain somewhat organized and predictable. Therefore, ‘informal’ in this context does not in fact mean ‘a lack of regularity’” (Köllner 2005: 15). This regularity is thus an unwritten norm, or an expression of the unwritten rules of the political sphere, which have developed historically and culturally from the social interactions and dominance relationships that have existed between the genders and between social groups of unequal status, such as in a caste system. Although these norms are not specified by constitutions or legislation, they may certainly be facilitated by them.⁹

Informal institutions and politics can coalesce into an unwritten constitution of political rule (see overview), and in their unwritten rules of the political sphere, they reflect three different modes of relating:

(2009) and Sauer (2011), the ideological rationality of political rule by bureaucratic institutions needs to be critically questioned.

- 8 Jiang names three schools in the constitutional debate in China. The first one is “based on the idea of [a] ‘normative constitution’” serving as a “universal standard,” while the second one means that “political reality should conform to the constitutional text,” and the third one is represented by “the revisionists.” In Jiang’s opinion, the last school of thought dominates the mainstream (2010: 15).
- 9 Using the example of legal reforms to protect women from sexual violence in India, Dhawan (2013) shows how these can actually be turned *against* the legal freedoms of women, thus reinforcing hierarchical gender relations and the asymmetrical rule system between the genders.

- A society's unwritten rules of political processes are (mostly) identical to — or at least do not conflict with — its formal rules and institutions. The constitutional reality thus reinforces the written constitutional norm, with the unwritten rules leading to a stable constitutional order (also cf. Lauth 2004: 127).
- There is a conflict between the unwritten constitution(s) and the written one, resulting in a state of tension between constitutional reality and the constitutional norm. The former wants to change the latter, with the possibility of both constructive and destructive changes, in terms of (more) democratization or (more) autocratization (Lauth 2004: 127).
- The unwritten rules of political processes encourage political apathy, which also leads to stability, since the apathetic do not pursue social or political activism. For some time now, there has been a discussion of disenchantment with politics and political parties in liberal democracies, referring to people who have no desire to participate and thus are apathetic in the classical sense described by Gabriel Almond and Sidney Verba (1963), both U.S. scholars of political culture.

The concept of the unwritten constitution being highlighted here is founded on a long history of constitutional law discussions, which developed a conceptual distinction (as used here and still commonly applied in legal scholarship today) between the written “constitutional norm” and “constitutional reality,” as defined by Canadian scientist Kenneth Clinton Wheare in 1951 (cited by Jiang 2010: 18):

We are thinking of the distinction between those rules regulating a government — mostly rules of law — which are written down either in a Constitution or in some act of parliament or other legal document, and those other rules, mainly the customs and convention and usages regulating the government, which have usually not been precisely formulated and put in writing.

However, since this discussion is not limited to political rule on the level of the political system, but also addresses unwritten power relationships on local and transnational levels, along with regionally and locally overlapping practices of political rule, the term “unwritten constitution” will be used here in the plural.

The setting of “soft governance” is found in the field of informal institutions and politics:

While “government” is understood to mean the procedures and institutions of a nation-state that is a representative democracy, “governance” refers to new modes of political control such as those used in networks of governmental and civil-society representatives, to new methods of decision-making like negotiation, but also to competition and benchmarking. [...] Unlike those who understand “governance” as a “reinvention” of democracy, I interpret the structures of “governance” as a neoliberal form of statehood [...]. (Sauer 2013: 175)

The conflict between constitutional norms and constitutional realities (a central topic in legal scholarship), and thus between written and unwritten constitution(s), touches upon a line of inquiry that has recently been discussed in (primarily English-

language) political culture research as well as in debates encountered in democracy and democratization research with the investigative focus of measuring the quality of democracies, for example. According to recent research, the political culture of a society or its aggregates can be understood as a field of action and interpretation framed by unwritten constitutions within which political and social actors operate (Rohe 1996, Pelinka 2006, Schuppert 2008). In this case, the institution-oriented analysis of political rule can also be extended to an actor-oriented perspective.

Table 1: The institutional setting of written and unwritten constitutions of political rule

Categories	Formal institutions and politics (written constitution)		Informal institutions and politics (unwritten constitution)	
	Institutions	Politics	Institutions	Politics
Public codification	Yes	Yes	No, but possible in a semi-public space	No, but possible through cultural practices in a semi-public space
State and/or public sanctioning	Yes	Yes	No, but social sanctioning possible	No, but social sanctioning possible
Legality basis	Constitution, rule of law	Constitution, norm-based rules	None; may be acceptable or else illegal	None; may be acceptable or else illegal
Legitimacy basis	Constitution, constitutional organs	Public sphere with societal input and/or output	Self-legitimized through broad acceptance	Acceptance through cultural practices in a semi-public space
Regularity through ...	Legal norms	Legal norms	The practice of social interactions with <i>de facto</i> norms, but no legal codification	Cultural practice in a semi-public space with <i>de facto</i> norms
Changeability	Through constitutional organs	By legitimized political actors	By actors or counter-movements that are accepted as legitimate	By actors or counter-movements that are accepted as legitimate
Speed of change	Shorter term	Shorter term	Longer term	Longer term
Guiding entities	Yes, the state	Yes, constitutional organs and legitimized political elites	Yes, actors who have been accepted as legitimate	Yes, actors who have been accepted as legitimate
Political rule	With inequality-based power asymmetries, formation of elites			

Source: modeled on Lauth (2004: 128) and Köllner (2005) with our own additions and modifications.

This allows one to conceptualize *the extent to which* and *the means by which* political actors utilize the space for action and agency — or as described by Gunnar Folke Schuppert (2008), the framework for action and interpretation — that is made available by the written constitution. Do they adhere to a complementary conceptual horizon or to one that diverges? In any case, written and unwritten constitutions are both of central importance for the polity, as actions in political space rely on a foundation built not only on the system of institutions and laws, but also on the political culture (cf. Meyer 2006).

Cultural and spatial dimensions of unwritten constitutions and political rule

The concept of “political space” generates the spatial dimension of unwritten constitutions and of political rule. According to social scientist Michael T. Greven (1998: 262), political space is “not the same as a polity’s territory, nor its institutionalized public sphere, but is instead their prerequisite. It is part of a society’s more generalized conceptual horizon, and cannot always be easily differentiated from it. In any case, it is only within this virtual space that the meaning of real-world communications in the political process can be negotiated and interpreted.”

Thus, it is in the relationship between a society’s political space and its social space that the opportunities emerge that a society provides to all individuals, enabling them to develop their own social and political interests and to gain access to real-world communications processes, to the institutionalized public sphere’s representation system, and to political participation and representation. Therefore, what matters is the room for maneuver in the real world, along with structural opportunities for participation and for achieving positions of power. This does not primarily emerge from the institutions of a written political system, however, but rather from the field for action and interpretation framed by unwritten constitutions, regardless of the political system (Birsl 2009).

This understanding calls attention to non-space-bounded structure(s) and space-bounded system(s) as well as “structuration” in the sense of a duality of structures in the relationship between structure and culture, as described by Anthony Giddens (1988: 67–81), and how this is hierarchized by political rule relationships. Furthermore, in conceptualizing political culture, Schuppert (2008: 57) draws upon the “search for its cultural substance,” which in turn facilitates a cultural sociology inquiry into the social reproduction and cultural production of political rule in political cultures.

The cultural dimension points to the historical and cultural context of political rule and thus to the behavior of actors — including those from social and religious groups — as well as the practice of building institutions (see overview), and how these become sites where sexual/social inequality and oppression coalesce and

political rule intertwines with the exploitation of rule. From this historical-cultural context and cultural practice of institution-building emerge not only the structural variants of (un)accountable political rule, which are anchored in constitutions, but also the fields/systems for action and interpretation framed by the rules of an unwritten constitution. Accordingly, a political space is not only constituted on the level of a political system or nation-state polity, but can also arise on a local level as well as on a transnational one through reciprocal relationships between actors in the context of (soft) governance or intergovernmental structures. One relevant factor here is the existence of a common framework for action and interpretation.

Conclusion

In terms of a theory-based approach to unwritten constitutions of political rule as a field of inquiry in comparative area studies, our paper has presented three dimensions that (hopefully) not only could assist in conceptualizing potential research project designs, but also help the discussion about practices of power and rule in “soft governance.” To briefly recap, the three dimensions were (1) the institutional setting of written and unwritten constitutions as well as political rule, along with their constituting conditions and reciprocal interactions (the institutional dimension); (2) the framework for action and interpretation by political and social actors and the available room for action and agency in appropriating and exploiting political rule (the cultural and actor-oriented dimension); and (3) political space as a “virtual space” containing real-world communications processes and opportunities that allow some actors to participate in power and rule while excluding others through sexual/social inequality and repression (the spatial dimension). Political spaces and political cultures delineate the shared conceptual horizon of actors (including both rulers and the ruled) as well as the relationships between them, in local, national, and transnational arenas of negotiation with their building of formal and informal institutions and their respective regularity aspects. While the legality of a political rule system is a function of its written constitution and lawmaking, its legitimacy depends more on the political culture and the political space in which it is negotiated.

This theoretical approach eschews two common preconditions: firstly, the classification of political systems according to typology, meaning (liberal) democracies, hybrid systems, and autocracies; and secondly, the use of the “Western” world (meaning North America and Western Europe) as a normative and empirical reference point. Instead, we argue in favor of the systematic inclusion of North America and Europe in comparative area studies. It is only then that one would be able to recognize similarities in the structuring and constituting of political rule despite all the structural variations, which might also indicate developmental interrelationships — which would then require an explanation, too. A comparison of the political rule systems in Asia, MENA, and Europe would be particularly fruitful,

not only because the histories of these three regions have been intertwined since antiquity, but also because questions of global power are still being constantly renegotiated between them.

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