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Dealing with Dictators: Negotiated Democratization and the Fate of Outgoing Autocrats

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This paper examines how the circumstances of democratic transition affect the consequences of losing office for outgoing dictators. Using data on constitutional origins and democratization from 1875 to 2004, we find that outgoing dictators who are able to impose a holdover constitution during democratization and beyond are less likely to face severe punishment upon relinquishing their rule. These results hold after accounting for alternative explanations of autocrats' post-tenure fate and after using instrumental variables to adjust for potential endogeneity. We also document several mechanisms by which this occurs: proportional representation, the election of right-wing executives, post-transition military influence, and elite control over local politics. The findings suggest that for dictators who fear their ousting in the face of domestic unrest or potential instability, democracy can provide a plausible avenue for protecting their most basic interests.

What explains why some dictators step down peacefully, sometimes allowing for the possibility of significant political reform and even democratic transition, while others cling to power at all costs—even if it often means losing their own life as a result? And what determines the post-transition fate these leaders experience under the subsequent regime?

Recent events, particularly the Arab Spring, throw these questions into high relief. For example, despite repeated entreaties by Libya's neighbors and Western powers for Muammar Gaddafi to step down peacefully and seek political asylum, he was toppled by Western military intervention and killed by his own people in September of 2011. Ex post, Gaddafi's unwillingness to accede to asylum seems like a grave mistake. If some deal could have been struck with Gaddafi to step down peacefully, it seems that such a deal would have been preferred by him over death and preferred by Western powers over the 30,000 casualties that occurred during the civil war in the run-up to Gaddafi's death. Similarly, in Syria, Bashar al-Assad resisted similar invitations to seek asylum and instead decided to double down on a brutal crackdown in an effort to remain in power.

To explain the puzzle of why many dictators die in power rather than step down and seek asylum or strike a deal that can save their lives in exchange for political reform, we argue that a fundamental commitment problem undermines the deals. Gaddafi and al-Assad are not irrational in eschewing entreaties by their enemies and Western nations to step down peacefully and seek asylum. To the contrary, opposition figures that seek political change have every incentive to promise they will not harm outgoing elites in exchange for them to step down but later renege on their promise and punish former elites once a political transition has occurred (Sutter 1995; Acemoglu, Johnson, and Robinson 2005). This is especially true in light of the increasing prevalence of human rights prosecutions of former autocratic elites (Kim and Sikkink 2010).

This commitment problem is exacerbated by the fact that democratization may introduce dramatic institutional and political changes. These are problematic for outgoing elites for two reasons. The first is that the opposition that negotiates the transition may face strong political incentives ex post to renege on the terms of the deal that ushers in democracy. The second is that democracy may empower new actors that did not participate in the transition pact itself and have an even weaker incentive to abide by the original pact. With the transition episode receding into the backdrop, it is these actors, especially, that would face the strongest incentives to prosecute former regime officials—which may therefore deter democratization in the first place (Huntington 1991:231).

The insight that democratic transitions pose grave dangers for outgoing dictators explains in part why many researchers are skeptical that former dictators can influence politics post-democratization, and in particular, avoid being stripped of their rights or punished. Geddes (1999), for example, in evaluating the causes and consequences of democratization during the Third Wave of democracy, asserts that transition pacts or constitutions were ineffective in explaining most transitions because they are not enforceable after democratization. This pessimistic diagnosis is analogous to Fearon's (1998) argument that minority groups who anticipate their power will wane under an altered future political landscape are better off fighting to retain political autonomy today rather than concede to a consociational constitution that cannot offer them a credible

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commitment to respect their rights for the indefinite future.[1]

This paper challenges conventional wisdom. We argue that the commitment problem faced by dictators who might consider exiting office instead of risk having to fight to the death is not intractable. In fact, it can and has been solved in many democratic transitions.

Outgoing elites are acutely aware of the incentives new actors face to renege on a regime transition pact and it therefore dominates their terms of extrication, and even the actual design of a new democracy's institutions. Indeed, O'Donnell and Schmitter (1986) and Przeworski (1991) illustrate how militaries that support autocratic rule manipulate the terms of transition in their favor and then maintain resources and autonomy post-transition to protect their interests—a key tactic employed by Turkey's National Security Council and Egypt's military following the fall of Mubarak. Sutter (1995:110) indicates one way these interests can be enforced: "The possibility of reintervention allows the military to ensure compliance by other parties and overcome the punishment dilemma." Another way outgoing elites can protect their interests after transition is through the endurance of dominant parties that survive the transition and afford them a greater likelihood of recapturing office after democratization (Wright and Escribà-Folch 2012).

While the literature outlined above focuses on the ways in which former autocratic elites use their de facto power to protect themselves after democratization, they may also rely on de jure protections and institutions as well. As the types of de facto power that elites possessed upon transition—such as the threat of launching a coup—fade over time, former elites need to replicate their de facto strength in new ways that derive explicitly from de jure protections. As the democratic transitions in Chile, El Salvador, and South Africa illustrate, transition is more likely if elites manage to negotiate a constitutional framework that can increase the odds that they will hold power under democracy by being elected to office (Wood 2000; Alexander 2002a; Negretto 2006). Similarly, Albertus and Menaldo (2013) theorize that outgoing elites favor democratization when they can use holdover constitutions to exercise veto power over policies that threaten their political and economic interests.

Using data on constitutional origins and the fate of outgoing autocratic leaders from 1875 to 2004, this paper demonstrates that former dictators are considerably less likely to be punished under democracies that inherit constitutions from the previous regime. These results are robust to alternative explanations and an instrumental variables approach in which we instrument constitutions imposed by outgoing dictators before democratic transition with measures of state capacity as well as the strength of legislative institutions before democratization.

We argue that outgoing dictators can successfully marshal state strength and legislative institutions under autocracy to impose constitutions that will stick after democratic transition and choose to do so to avoid punishment and death after democratization. While other researchers note that maintaining disproportionate influence over democratic institutions is crucial to consolidation (for example, Acemoglu and Robinson 2006), we follow Ziblatt's (2006) call to actually specify and test the mechanisms whereby former elites can protect their interests after leaving power. Constitutions under democracy that are inherited from dictatorship shape the rules of the political game in such a way that rightwing parties are likely to be more represented, the political system is more prone to gridlock, the military is more powerful, and local governments lack autonomy. The veracity of these mechanisms in protecting outgoing dictators from punishment echoes the findings in Albertus and Menaldo (2013), who demonstrate their broader impact for the economic interests of elites beyond simply avoiding punishment.

The paper continues as follows. In the second section, we develop a theoretical framework that outlines why some autocratic leaders are more likely to face punishment following democratic transitions than others. Dictators and their elite allies who are able to impose constitutions on an incoming democratic regime will be more likely to escape punishment at the outset of that regime due to the institutional restraints that these constitutions codify. The third section describes the research design and data, which are constructed at the leader-year level for the period 1875–2004. The fourth section provides an empirical analysis of the relationship between autocratic constitutions inherited under democracy and the punishment of outgoing dictators, demonstrating that former dictators are far less likely to be punished upon democratization when their interests are vouchsafed by an autocratic constitution. This section also demonstrates the mechanisms whereby this relationship operates.

Theoretical Framework

While this paper is the first to highlight the role of constitutions in the post-tenure fate of outgoing autocratic leaders after democratization, we build from several recent empirical contributions on the relationship between regime type and the post-tenure fate of former leaders. Debs and Goemans (2010) find that autocratic leaders are more likely to face punishment than democrats after leaving office. Escribà-Folch (2013) demonstrates that this punishment falls disproportionately on personalist and military regimes. Indeed, military dictators may strategically democratize in order to ameliorate the punishment they would otherwise face under dictatorship (Debs 2012). Yet this may not be a foolproof way to avoid punishment. Although democracy is, on average, safer than dictatorship, on average, safer than dictatorship, there is nonetheless significant variation in executive punishment under democracy. While some democracies refrain from punishing former dictators and even guard their status as elites, others seek vengeance for past crimes committed, attempting to jail, exile, and even put to death former autocratic leaders. We therefore seek to explain variation *among democracies* in how they treat outgoing dictators.

Critical to understanding the dynamics of punishing former autocratic elites under democracy is the commitment problem that arises during the time of democratic transition. Rather than explicate the reasons why a particular regime may reach a transition moment in the first place, we restrict attention to this commitment problem. One possible transition scenario is that a strong opposition is credibly pushing for democratization, whether strengthened by grass-roots organization and recruitment (Wood 2000), an exogenous shock such as economic crisis (Acemoglu and Robinson 2006), or demonstration

[1] Fearon nonetheless notes that, theoretically, an arrangement might exist that would make power-sharing credible by limiting the ability of the majority to take advantage of its position of greater de facto power, a point we develop in depth below.

effects or public revelations that catalyze the capacity to act collectively (Kuran 1991). Another possibility is that elites themselves may choose to initiate exit negotiations from a position of relative strength (O'Donnell and Schmitter 1986).

Whether the source of democratization is from below or from above, elites face an opposition that has incentives to promise they will not harm outgoing elites in exchange for their exit but then renege on their promise once a political transition has occurred and the opposition can convert their de facto power into de jure power. This time inconsistency dilemma is exacerbated by the fact that "political power is the source of the incomes, rents, and privileges of the elite. If their political power were eroded, their rents would decline" (Acemoglu et al. 2005:432).

Autocratic incumbents, however, may hand over power in a democratic transition if they are able to successfully bargain for transition on favorable terms that provide a credible commitment to their post-transition interests. One key way they can do this is to codify their outsized influence in a constitution prior to transition that is subsequently bequeathed to a new democracy. By designing a favorable constitution that is adopted by the new democratic regime as part of a transition pact, former autocratic leaders increase the likelihood that the representatives of the new political order will not implement harmful policies. These include the seizure of their assets or prosecuting former autocratic incumbents.

Of course, crafting and introducing a constitution used to guide the democratic transition is a delicate process. Constituent assemblies, which can either be elected or appointed, are organized and controlled by the ruling party or the military (Negretto 2006). They often include a mix of both regime insiders and members of opposition selected by incumbent elites. Radical groups or the most fervent opposition are frequently excluded from the formal process. For example, the exclusion of Communists, who threatened to expropriate former autocratic elites, from the left-wing alliance of Christian Democratic, Social Democratic, and Socialist party leaders in Portugal in 1975 was the key to convincing the military to give democratization a green light. This brought an end to a year and a half of political turmoil following President Antonio Salazar's ouster. It also reduced the likelihood of elites having a reason to topple democracy to protect their interests later down the line. This transition served as a model for future transitions in Spain and across Latin America.

Following bargaining between incumbents and key opposition leaders, the former wield disproportionate influence over voting rules within constituent assemblies to assure favorable content. The constitution is then typically put to a popular vote via a plebiscite or referendum. The opposition, however, is not completely powerless. To the contrary, the opposition will often attempt to mobilize support via popular protests or general strikes to try to get a better bargain (as occurred in Peru in 1979), but can also be co-opted.

What is the incentive for the opposition leadership and their supporters to play by the autocratic regime's rules rather than attempt to upend a process stacked against them? Having a seat at the table, even with a flawed constitution, is better than being excluded completely. As Mandela said himself during his presidential campaign in the run-up to South Africa's first democratic election: "Just as we told the people what we would do, I felt we must also tell them what we could not do. Many people felt life would change overnight after a free and democratic election, but that would be far from the case. Often, I said to crowds…[l]ife will not change dramatically, except that you will have increased your self esteem and become a citizen in your land. You must have patience" (Mandela 1995:447).

Once a constitution is promulgated, the commitment to former elites' interests can be ensured through several channels: over-representing holdover elites in political institutions (Horiuchi 2004), inducing political gridlock (Boix 2010), imposing military veto power over policy (Negretto 2006), and enshrining elite dominance over local politics (Baland and Robinson 2008). Holdover elites can continue to exert de jure power after democratic transition. Several examples illustrate the viability of these arrangements. In 1990, Chile's democratic transition was shepherded by General Pinochet's constitution, which provided a host of safeguards for the military and key elites incorporated in the regime. These included the appointment of autocratic elites as senators for life, a binomial electoral system tilted in former elites' favor, and allowing the military to choose the head of armed forces.

South Africa's 1994 transition also demonstrates the key role a constitution can play in the incumbent elite extrication process. The 1993 Constitution defined a transitional power-sharing agreement from 1994 to 1999, called the Government of National Unity, in which the opposition ANC agreed that the NP, the ruling party, would be part of the government during this period (Wood 2000:187). Moreover, provinces were allowed to adopt their own constitutions. Cabinets were to make consensus decisions. Minority groups were awarded a veto in local governments over policies that affected them. A sunset clause protected military, police, and civil service members from replacement once the new government was in power. The NP understood that "negotiating a transition always means that it is a very different process than revolution; you retain a veto over the form of the new society" (Sisk 1995:84). The federal structure created a "hostage" game between elite-run provinces such as the Western Cape and the majority-controlled government that enabled elites to block redistribution (Inman and Rubinfeld 2008). The result was that "[o]wnership and control of the commanding heights of the economy, the repressive apparatuses of the state…the judiciary, the top echelons of the civil service, of tertiary education and strategic research and development, have remained substantially in the same hands as during the heyday of Apartheid" (Alexander 2002b:64).

How Are Holdover Constitutions Enforced?

Why would a democracy that inherits such a constitution maintain it? Many of these bargains, although sometimes patently one-sided, endure in the long run. There are several reasons such constitutions are self-enforcing. First, the transaction and collective action costs required to cobble together a broad coalition of those who oppose the constitution and the immunity clauses contained therein may be prohibitive. Second, the constitution is a focal point that the military or other former autocratic elites can use to coordinate to oppose any threats to their interests and likelihood they will be punished. Third, if a democratic government selectively enforces laws it opposes, it risks undermining its own authority and legitimacy. Ignoring proscriptions against punishing former elites, even if it would prove politically popular, raises the

specter that other laws unrelated to immunity clauses for former elites may be transgressed down the line—a precedent that could risk backlash from a range of different groups.

Lastly, former autocratic elites can prevent constitutional safeguards from being eroded under democracy by steadfastly exploiting the power afforded by the constitution to further cement their political advantages. For example, elites can gerrymander electoral districts in a way that produces even more skewed malapportionment to their advantage. Also, former political elites can push early on for public policies that widen inequality, giving them an advantage in terms of collective action, resources, and de facto power over the less well-off. Former autocratic elites can then gain favorable policies, either via legal means, such as lobbying and financing campaigns, or illegally, via corruption. Moreover, if former autocratic elites can finance and support political parties and social actors such as the media, they can mobilize coalitions around issues that benefit them economically and politically.

Hypotheses

The discussion above yields several testable hypotheses that will be examined empirically below. First, if elites are relatively strong on the eve of transition, they should be able to impose constitutions that were created under autocracy and which protect their interests after transition. Whereas democracies that inherit constitutions from their autocratic predecessors should witness a decreased propensity to punish outgoing dictators because elites have been able to safeguard their interests, democracies that adopt new constitutions can create new rules for the political game that will favor punishing dictators. Therefore, outgoing dictators should avoid punishment in democracies that inherit constitutions from autocracies and protract their longevity vis-à-vis democracies that adopt their own constitutions upon transition.

There are several mechanisms linking constitutions inherited from autocracies by democracies to the security of dictators who exit office before transition. These constitutions should be associated with the over-representation of elite interests, leading to a greater probability of rightwing executives. They should also be associated with proportional representation, in a bid to make it more likely that small conservative parties will gain a political toehold and induce gridlock. Moreover, they should favor larger militaries that may act as a deterrent against violations of elite rights and interests. Finally, elite-biased constitutions should favor institutions and electoral rules that make it easier for powerful interests to assert their control over local politics.

Data on Outgoing Autocratic Leaders

To test the hypotheses outlined above, we construct a global cross-section of dictators who were in power before democratic transitions and were eligible to be punished under democracy after the transition.[2] On the one hand, this allows us to measure what former dictators' post-tenure fate is after democratization. On the other hand, it allows us to estimate the probability of former dictators' punishment under democracy as a function of both leader and country attributes pertaining to dictators during the time in which they were still in power. These include traits such as how the dictator took office, their age upon rising to power, the country's per capita income, and whether a country was involved in civil war the last year in which the dictator was observed in power.

The first dictator in the data set is observed as far back as 1885 (Gladstone, from the United Kingdom) and the last nondemocratic leader is observed in 2004 (Burdjanadze, from Georgia). Table 1 reports all outgoing dictators prior to democratization that are observed in the data set, as well as the year they left office, the duration of their rule, whether they were transitional leaders, their post-tenure fate within a year of leaving office, whether their punishment was meted out during a transitional period or after democratization, and whether the incoming democracy inherited an autocratic constitution.

Dependent Variable

The dependent variable in the first part of the analysis measures whether a leader is punished upon relinquishing office, with data taken from Archigos (Goemans, Gleditsch, and Chiozza 2009). Following the logic outlined by Goemans (2008), the post-exit fate of leaders is only recorded up to 1 year after they lost office to obviate the possibility that the leader's behavior after losing office is responsible for any type of punishment instead of his behavior in office. The original version of this variable records three different punishments: exile, imprisonment, and death. We collapse these into a binary variable given the sparseness of data in some categories (for example, death).[3]

Although prior work on the post-tenure fate of leaders has demonstrated that the rate of punishment is higher under dictatorship than under democracy (Debs and Goemans 2010; Debs 2012), democracy is certainly no guarantee of an outgoing dictator's security. The last outgoing leaders prior to democracy were severely punished in a total of 19 of 113 cases, or 17%. If we consider all dictators that held power within 1 year of the transition to democracy, a total of 34 of 145 leaders (23%) were punished. If instead we exclude transitional leaders that served in office less than 1 year and managed a transition to democracy, there were 21 of 99 leaders (21%) that were punished.

Key Independent Variable

The key independent variable in the analyses, Democracy with Autocratic Constitution, is a dummy variable that captures the type of constitution a democracy has upon transition. A country is coded as having a democratic constitution if it creates a new constitution upon transition, operates according to a prior democratic constitution that was in place before the previous period of dictatorship,

[2] We follow Cheibub, Gandhi, and Vreeland (2009) and define democracy if the chief executive and legislature is elected, there is more than one political party, and alternation in power occurs. We use the data from Boix, Miller and Rosato (2013) for the period 1800–1945, who follow this coding scheme, and the data from Cheibub et al. (2009) for 1946–2004. Following Debs and Goemans (2010), we adjust the country-year data to the leader-year level.

[3] In three cases (Betancourt in Venezuela, Velasco Ibarra in Ecuador, and Ershad in Bangladesh), leaders who came to power under dictatorship were subsequently elected and became democratic leaders. Because their fate under democracy following the transition was a byproduct of their behavior and legacy as democrats, not outgoing autocrats, we code their fate within 1 year of transition.

TABLE 1. Democracy and the Punishment of Outgoing Autocrats, 1875–2004

Country	*Leader*	*Year of Exit*	*Days in Office*	*Transitional*	*Autocratic Constitution*	*Post-tenure Fate*	*Punished under Transitional Leader*
Cuba	Palma	1906	1593	No	No	OK	No
Cuba	Laredo Bru	1940	1383	No	No	OK	No
Dominican Republic	Berreras	1965	116	No	No	OK	No
Dominican Republic	Godoy	1966	302	Yes	No	OK	No
Mexico	Zedillo	2000	2192	No	Yes	OK	No
Guatemala	Ubico Castaneda	1944	4886	No	No	Exile	Yes
Guatemala	Ponce Valdez	1944	113	No	No	Exile	Yes
Guatemala	Arbenz Guzman	1945	146	Yes	No	OK	No
Guatemala	Castillo Armas	1957	1109	No	No	Death	Yes
Guatemala	Mendoza Azurdia	1957	4	No	No	OK	No
Guatemala	Flores Avendano	1958	126	Yes	Yes	OK	No
Guatemala	Peralta Azurdia	1966	1189	No	Yes	OK	No
Guatemala	Mejia Victores	1986	891	No	Yes	OK	No
Honduras	Hector Caraccioli	1957	427	No	No	OK	No
Honduras	Lopez Arellano	1971	2804	No	Yes	OK	No
Honduras	Paz Garcia	1982	1270	No	No	OK	No
El Salvador	Magana Borjo	1984	762	No	Yes	OK	No
Nicaragua	Daniel Ortega	1983	1628	No	No	OK	No
Costa Rica	Picado Michalski	1945	603	No	No	Exile	No
Costa Rica	Leon Herrera	1949	384	No	No	OK	No
Panama	Diaz Arosemena	1949	301	No	Yes	Natural death	No
Panama	Arosemena, A.	1952	511	No	Yes	OK	No
Panama	Noriega	1988	1966	No	No	Imprisonment	No
Colombia	Lopez Pumarejo	1936	878	No	No	OK	No
Colombia	Paris	1958	455	No	Yes	OK	No
Venezuela	Medina Angarita	1945	1628	No	No	Exile	Yes
Venezuela	Betancourt	1945	75	Yes	No	Exile	No
Venezuela	Larrazabal	1958	296	Yes	No	OK	No
Venezuela	Sanabria	1959	92	Yes	Yes	OK	No
Ecuador	Velasco Ibarra	1945	580	No	No	Exile	No
Ecuador	Mancheno	1947	11	No	No	Exile	No
Ecuador	Suarez	1947	15	Yes	No	OK	No
Ecuador	Arosemena Tola	1948	340	Yes	No	OK	No
Ecuador	Poveda Burbano	1979	1308	No	Yes	OK	No
Ecuador	Gustavo Noboa	2002	1075	No	No	Exile	No
Peru	Ugarteche	1945	2060	No	No	OK	No
Peru	Odria	1956	2193	No	Yes	Exile	No
Peru	Perez Godoy	1963	228	No	Yes	Imprisonment	Yes
Peru	Lindley Lopez	1963	148	Yes	Yes	OK	No
Peru	Morales Bermudez	1980	1795	No	Yes	OK	No
Peru	Fujimori	2000	3771	No	No	Exile	Yes
Peru	Valentin Paniagua	2001	248	Yes	Yes	OK	No
Brazil	Vargas	1945	5485	No	No	OK	No
Brazil	Linhares	1946	94	Yes	No	OK	No
Brazil	Figueiredo	1985	2199	No	Yes	OK	No
Bolivia	Pereda Asbun	1978	127	No	No	Exile	Yes
Bolivia	Padilla Aranciba	1979	258	No	Yes	OK	No
Bolivia	Guevara Arze	1979	86	No	Yes	OK	No
Bolivia	Natusch Busch	1979	16	No	Yes	Exile	No
Bolivia	Torrelio Villa	1982	349	No	Yes	Exile	No
Bolivia	Vildoso Calderon	1982	82	Yes	Yes	OK	No
Paraguay	Stroessner	1989	12627	No	Yes	Exile	No
Chile	P. Montt	1908	836	No	No	Natural death	No
Chile	Alessandri y Palma	1933	372	No	No	Exile	No
Chile	Pinochet	1990	6026	No	Yes	OK	No
Argentina	R.S. Pena	1911	446	No	No	OK	No
Argentina	Farrell	1946	817	No	Yes	OK	No
Argentina	Aramburu	1958	901	No	Yes	OK	No
Argentina	Guido	1963	563	No	Yes	OK	No
Argentina	Lanusse	1973	793	No	Yes	OK	No
Argentina	Bignone	1983	528	No	No	Imprisonment	No
Uruguay	Feliciano Viera	1919	1462	No	Yes	OK	No
Uruguay	Baldomir	1941	1292	No	No	OK	No
Uruguay	Alvarez Armalino	1985	1278	No	No	OK	No
United Kingdom	Gladstone	1885	1869	No	No	OK	No

Table 1. (Continued)

Country	*Leader*	*Year of Exit*	*Days in Office*	*Transitional*	*Autocratic Constitution*	*Post-tenure Fate*	*Punished under Transitional Leader*
Ireland	de Valera	1921	980	No	No	OK	No
Ireland	Griffith	1922	215	No	No	Natural death	No
Ireland	Collins	1922	11	Yes	No	Death	Yes
Netherlands	Roell	1897	1176	No	Yes	OK	No
Belgium	Beernaert	1894	3439	No	Yes	OK	No
Spain	Berenguer	1931	381	No	No	Imprisonment	No
Spain	Arias Navarro	1976	236	No	No	OK	No
Spain	Suarez Gonzalez	1976	184	Yes	No	OK	No
Portugal	Costa Gomes	1976	663	No	No	OK	No
Poland	Jaruzelski	1988	2632	No	No	OK	No
Hungary	Grosz	1989	504	No	No	OK	No
Hungary	Szuros	1990	197	Yes	Yes	OK	No
Czechoslovakia	Husak	1989	7782	No	Yes	OK	No
Italy	Orlando	1919	598	No	Yes	OK	No
Italy	Bonomi	1945	377	Yes	No	OK	No
Italy	Parri	1945	160	Yes	No	OK	No
Albania	Alia	1990	2089	No	No	Imprisonment	No
Serbia RB	Milosevic	2000	4164	No	Yes	Imprisonment	No
Greece	Pangalos	1926	423	No	No	Imprisonment	No
Greece	Kondilis	1926	104	Yes	No	OK	No
Greece	Ionannides	1974	242	No	No	Imprisonment	No
Cyprus	Kyprianou	1982	1977	No	No	OK	No
Bulgaria	Lukanov	1990	155	No	Yes	OK	No
Romania	Ceausescu	1989	9045	No	No	Death	No
Georgia	Shevardnadze	2003	4276	No	No	OK	No
Georgia	Burdjanadze	2004	64	Yes	Yes	OK	No
Sweden	Lindman	1911	1951	No	Yes	OK	No
Denmark	Sehested	1901	457	No	Yes	OK	No
Guinea-Bissau	Vieira	1999	6749	No	No	Exile	Yes
Guinea-Bissau	Mane	1999	8	Yes	No	OK	No
Guinea-Bissau	Sanha	2000	280	Yes	Yes	OK	No
Guinea-Bissau	Correia Seabra	2003	15	Yes	No	OK	No
Guinea-Bissau	Henrique P. Rosa	2003	95	Yes	No	OK	No
Mali	Amadou Toure	1992	439	No	No	OK	No
Senegal	Diouf	2000	7031	No	Yes	OK	No
Benin	Kerekou	1991	6734	No	Yes	OK	No
Niger	Seibou	1993	1985	No	Yes	OK	No
Niger	Wanke	1999	256	Yes	No	OK	No
Sierra Leone	Strasser	1996	1357	No	No	Exile	Yes
Sierra Leone	Bio	1996	73	Yes	No	OK	No
Sierra Leone	Koroma	1998	264	Yes	No	OK	No
Ghana	Afrifa	1969	154	Yes	No	OK	No
Ghana	Akuffo	1979	335	No	No	Death	Yes
Ghana	Rawlings	1979	112	Yes	No	OK	No
Ghana	Rawlings	1992	4019	No	No	OK	No
Nigeria	Obasanjo	1979	1327	No	Yes	OK	No
Nigeria	Abubakar	1999	355	Yes	No	OK	No
Central African Rep.	Kolingba	1993	4435	No	Yes	OK	No
Congo	Nguesso	1992	4943	No	No	OK	No
Uganda	Banaisa	1980	328	No	No	Exile	Yes
Uganda	Paulo Muwanga	1980	214	Yes	No	OK	No
Kenya	Moi	1997	7072	No	No	OK	No
Burundi	Buyoya	1993	2138	No	Yes	OK	No
Burundi	Ngueze	1993	7	No	Yes	Imprisonment	No
Malawi	Banda	1994	10912	No	No	Imprisonment	No
Madagascar	Ratsiraka	1993	6496	No	Yes	OK	No
Comoros	Bob Denard	1989	4238	No	No	Exile	No
Comoros	Azali Assoumani	2003	584	No	No	OK	No
Sudan	Abboud	1964	2176	No	No	OK	No
Sudan	al-Khalifa	1965	226	Yes	Yes	OK	No
Sudan	Swaredahab	1986	396	No	Yes	OK	No
Turkey	Gursel	1961	533	No	No	OK	No
Turkey	Evren	1983	1160	No	Yes	OK	No
Lebanon	El Khoury	1945	771	No	No	OK	No
Mongolia	Batmonh	1990	2028	No	No	OK	No

TABLE 1. (Continued)

Country	Leader	Year of Exit	Days in Office	Transitional	Autocratic Constitution	Post-tenure Fate	Punished under Transitional Leader
Taiwan	Lee Teng-Hui	1995	2910	No	No	OK	No
South Korea	Rhee	1960	4274	No	Yes	Exile	Yes
South Korea	Ho Chong	1960	108	Yes	Yes	OK	No
South Korea	Chun Doo Hwan	1988	2739	No	Yes	OK	No
Pakistan	Yahya Khan	1971	995	No	No	Imprisonment	No
Pakistan	Zia	1988	4062	No	Yes	Death	No
Pakistan	Ishaq Khan	1988	108	Yes	Yes	OK	No
Bangladesh	Ershad	1985	1376	No	No	Imprisonment	No
Myanmar	Ne Win	1960	504	No	No	OK	No
Sri Lanka	Jayewardene	1989	4363	No	Yes	OK	No
Nepal	Birendra	1990	6858	No	No	OK	No
Thailand	Sanya	1975	496	No	Yes	OK	No
Thailand	Kriangsak	1978	415	No	No	OK	No
Thailand	Panyarachun	1992	395	No	Yes	OK	No
Thailand	Kraprayoon	1992	50	No	Yes	OK	No
Thailand	Panyarachun	1992	106	Yes	Yes	OK	No
Philippines	Marcos	1986	7363	No	No	Exile	No
Indonesia	Habibie	1999	518	No	Yes	OK	No
Fiji	Mara	1992	1642	No	Yes	OK	No

Note. Data on leaders, tenure in office, and manner of exit are from Archigos (Goemans et al. 2009). Constitutions are coded by Elkins et al. (2010) and adjusted to leader years by the authors.

or passes a new constitution sometime after democratization. A country is coded as inheriting an autocratic constitution if it operates with a constitution created under dictatorship. Data on the origins of constitutions are taken from the Comparative Constitutions Project, which codes the formal characteristics of written constitutions for nearly all independent states since 1789.[4]

The information on former dictators and their fate after democratic transition in Table 1 provides cursory support for the contention that holdover constitutions inherited by democracies from autocracies may shield these dictators from punishment. Of the 113 democratic transitions during the period, 54 new democracies operated under an autocratic constitution upon transition. Of these, the last outgoing leaders prior to a democracy were punished in five cases (4%). In no cases were these leaders put to death. By contrast, of the outgoing leaders that turned over power to a democracy without an autocratic constitution, a total of 14 leaders (12%) were punished. If we instead consider all dictators that held office within 1 year of democratization, only 8 (6%) were punished when the new democracy inherited an autocratic constitution, while 26 (18%) were punished when democracies adopted their own new constitution.

Statistical Analysis

Building upon the insights highlighted in the descriptive statistics above and Table 1, we now turn to a formal statistical analysis of the relationship between democracies with autocratic constitutions and the probability that former dictators will be punished upon democratization. We begin with the sample of the 113 last outgoing dictators prior to democracy and estimate simple probit regressions. We first estimate a bivariate regression experiment with different sets of control variables, and control for region dummies. We then widen the window of time before democratization and experiment with different samples of former dictators that go beyond the set of the 113 last outgoing dictators. Finally, to ensure that the regressions are properly identified, we estimate a series of instrumental variables (IV) regressions in which we isolate the exogenous variation in Democracy with Autocratic Constitution by instrumenting it with measures of state capacity as well as the strength of legislative institutions before democratization. We find that regardless of the control variables we introduce, how we define entry into the set of former dictators that could be conceivably punished upon democratization, or whether we estimate regular or IV regressions, former dictators have much better outcomes under new democracies when they inherit their constitutions from autocratic regimes.

In Table 2, Column 1, we report the results of a simple, restricted probit regression.[5] The results conform to our theoretical expectations. Former dictators observed in new democracies upon transition are less likely to suffer from exile, imprisonment, or death if the democracy inherits a constitution from the previous dictatorship. This result is statistically significant as well as substantively significant: An autocratic constitution reduces the probability that a former dictator will be punished by 15%.

Robustness to Control Variables

We now turn to a series of regressions that include several control variables that may also affect the likelihood of leader punishment. We divide these controls into three types. The first are former dictators' individual characteristics. The second are country-level covariates observed on the eve of democratic transition. The third are factors that tap how international conflict impacts the likelihood that outgoing autocrats will be punished under a new democracy. The logic of these controls largely follows Debs and Goemans (2010), who explore the determinants of the manner in which leaders exit office.

[4] See Elkins, Ginsburg, and Melton (2010).

[5] Because there are some countries in which several former dictators are observed (see Table 1), we cluster the standard errors by country.

Table 2. Determinants of Outgoing Dictators' Punishment After Democratization (1875–2004)
(Probit Regressions)

	1	2	3	4	5	6	7	8
Democracy with Autocratic Constitution	−0.61 (2.15)**	−0.744 (2.34)**	−0.697 (2.29)**	−0.89 (2.43)**	−1.163 (2.85)***	−1.102 (2.55)**	−1.457 (2.35)**	−1.539 (2.58)***
Dictator Manner of Entry		0.08 (0.25)			0.25 (0.73)	0.312 (0.89)	0.262 (0.54)	0.083 (0.19)
Dictator's log (Time in Office)		0.119 (0.86)			0.102 (0.63)	0.155 (0.81)	0.162 (0.61)	0.285 (1.10)
Dictator's Age at Entry into Office		−0.001 (0.07)			0.005 (0.22)	0.007 (0.32)	0.012 (0.34)	0.001 (0.03)
Previous Times in Office		0.327 (0.75)			0.629 (1.25)	0.651 (1.19)	−5.31 (6.31)***	0.576 (0.69)
log (Population)			−0.113 (1.23)	−0.155 (1.47)	−0.118 (1.07)	−0.143 (0.96)	−0.308 (1.46)	−0.201 (1.09)
Civil War			0.831 (2.00)**	1.049 (2.50)**	0.831 (2.03)**	0.757 (1.87)*	0.395 (0.73)	0.142 (0.30)
log (Per Capita Income)			0.291 (1.65)*	0.384 (1.97)**	0.463 (2.26)**	0.166 (0.44)	0.464 (0.73)	−0.005 (0.01)
Economic Growth Rate			0.926 (0.48)	1.024 (0.52)	1.83 (0.99)	1.472 (0.74)	1.82 (0.65)	0.614 (0.19)
Inflation Rate							0.002 (0.66)	
Trade Openness								0.002 (0.28)
Conflict Participation Controls	No	No	No	Yes	Yes	Yes	Yes	Yes
Region Fixed Effects	No	No	No	No	No	Yes	Yes	Yes
Observations	113	112	110	103	102	102	70	80

Notes. Robust *z* statistics in brackets; intercept estimated, but not reported across models; conflict participation controls estimated, but not reported; region dummies estimated, but not reported. Because no dictator in sample observed as inheriting war, variable not added to equation; because no dictator victorious in war, this variable not added to equation.
*Significant at 10%; **significant at 5%; ***significant at 1%.

In Column 2, we control for a host of leader-specific characteristics that are taken from Archigos. We control for the manner of leader entry—regular, irregular, or via foreign imposition—since leaders who force their way into power through coups and conflict may be more likely to face punishment upon democratization than leaders who are elected through regular, albeit illegitimate, elections. We control for the log of leader tenure because it is possible that long-lived dictators with a stronger reputation for iron-fisted rule will be more likely to face retribution than short-lived leaders. We also include a variable for the number of previous times in office since dictators who come and go from office may be perceived as a greater threat to democracy and therefore elicit punishment. Finally, we control for a leader's age upon entry into office since older leaders may be perceived as weaker or more easily punished since their contemporaries are less likely to hold the reins of critical coercive institutions such as the military.

The results are robust to the inclusion of these variables. Democracy with Autocratic Constitution remains negative. Both its statistical and substantive significance is improved. This is despite the fact that the control variables in this model are neither individually nor collectively statistically significant.

In Column 3, we remove the variables that capture how former dictators entered office and operated during their tenure and control for several country-level factors. We include a variable for log GDP per capita from Haber and Menaldo (2011), since wealthier countries may have a greater capacity to punish former leaders. We control for the economic growth rate (of Per Capita Income) because outgoing autocrats who deliver more desirable public policies such as economic growth may face a lower incidence of post-transition punishment. We also control for the presence of civil war and the log of population size—both from Haber and Menaldo (2011). The coefficient on Democracy with Autocratic Constitution is nearly identical. Out of the country-level covariates, only Civil War and GDP per capita are statistically significant at conventional levels.

In Column 4, we introduce variables that operationalize leaders' experience with international conflict and war. The data are from the ICB (International Crisis Behavior Project 2007, version 7). They capture whether, during ongoing crises and war, the leader was a challenger, a defender, or inherits a conflict from a previous leader. We also include measures of whether a leader wins, loses, or draws in a crisis or a war. The main result strengthens considerably. The probability that a former dictator will be punished upon democratization is reduced by 19% if the new democracy inherits a constitution from the previous autocracy (p-value = .01). Similar to the results reported in Debs and Goemans (2010), the international conflict variables are all highly statistically significant. While both dictators who start wars and are the target of war are less likely to be punished upon democratic transition, those who win conflicts/wars are more likely to be punished, those who draw conflicts/wars are less likely to be punished, and those who lose conflicts/wars are more likely to be punished.

Columns 5 through 8 report several additional robustness tests. In Column 5, we reintroduce the covariates that measure individual leader characteristics. Column 6 is similar, in that all of the control variables are included, but also includes region fixed effects. Because they are

always jointly significant, we continue to control for region fixed effects in the regressions that follow. In Column 7, we control for the Inflation Rate from the WBDI, which when high taps the possibility of economic crisis during transition. This may undermine the bargaining power of dictatorial elites at the time of exit. Because this variable only has coverage beginning in 1961, the observations are reduced by 32 percent. In Column 8, we drop Inflation Rate, which was not significant and did not affect our other results, and follow Debs and Goemans (2010) and control for Trade Openness from version 6.2 of the Penn World Tables. Because this variable only has coverage between 1952 and 2004, the observations are again considerably reduced. The results are robust across these experiments.

Finally, we estimate several regressions that we do not report for reasons of space. First, we control for the Cold War. Second, we control for the year in which democratization occurred. The main results are again robust. Lastly, we re-specify the dependent variable across all of the regressions in Table 2 as the number of years a dictator survived after giving up office from Archigos (Goemans et al. 2009) and estimate a series of Poisson and negative binomial regressions. Because we drop right-censored data on outgoing dictators that were still alive when the data set ends, the analogous model represented by Columns 5 and 6 contains only 71 observations.[6] Nonetheless, the results of these alternative specifications confirm that, ceteris paribus, former dictators live significantly longer under democracies that inherit constitutions from the preceding autocracy than those that adopt their own upon transition.

Robustness to Different Dictator Samples and Autocratic Regime Types

In Table 3, Column 1, although the regression is estimated on the same subsample of last outgoing dictators prior to democracy as included in the regressions reported in Table 2, we now identify whether these leaders were tasked with shepherding the transition process. We code the dummy variable Transitional Leader as a "1" if two conditions are met: (i) The former dictator lasted in power less than 1 year and (ii) their stated goal was to call elections and step aside once this task was completed. We identify 29 of those leaders, 12 of which were involved in a transition process guided by an autocratic constitution and 17 of which were not. As expected, transitional leaders are less likely to be punished upon democratization than non-transitional leaders at a high level of statistical significance. Meanwhile, Democracy with Autocratic Constitution is now much stronger both substantively and statistically.

In Column 2, we widen the window of time before democratization and include all dictators that were in power at some point during one full year before democratic transition. This allows us to include multiple dictators that occupied power in a country during the same year leading up to the regime change. This addresses two issues. First, in some countries, such as the Dominican Republic in the aftermath of the assassination of Trujillo in 1961, the democratization process was quite volatile and characterized by several leaders who replaced each other before yielding to democracy. Second, in some

[6] Post-tenure lifespan varied from 0 to 44 years, with a mean of 16.2 years and a standard deviation of 10.9 years.

TABLE 3. Determinants of Outgoing Dictators' Punishment After Democratization (1875–2004)
(Probit Regressions)

Sample	1 Only Last Dictator in Power	2 All within 1 Year	3 All within 1 Year†	4 All within 1 Year Exclude P.D.T.	5 Only Last Dictator >1 Year	6 Only Last Dictator >1 Year Exclude P.D.T.	7 Only Last Dictator >1 Year	8 Only Last Dictator >1 Year Exclude P.D.T.
Democracy with Autocratic Constitution	−1.316 (2.77)***	−1.132 (3.36)***	−0.999 (3.00)***	−1.034 (2.12)**	−1.439 (3.37)***	−1.246 (2.52)**	−1.341 (2.74)***	−1.324 (2.28)**
Transitional Leader	−1.758 (2.44)**	−2.059 (4.50)***	−1.154 (2.33)**	−5.435 (9.00)***				
Dictator Manner of Entry	0.312 (0.83)	0.067 (0.22)	−0.069 (0.22)	0.512 (1.41)	0.319 (0.77)	0.43 (1.04)	0.314 (0.57)	0.431 (0.79)
Dictator's log (Time in Office)	−0.078 (0.32)	−0.001 (0.01)	0.128 (1.22)	0.08 (0.56)	0.132 (0.52)	0.043 (0.17)	−0.348 (1.38)	−0.374 (1.41)
Dictator's Age at Entry into Office	−0.013 (0.50)	−0.013 (0.69)	−0.007 (0.45)	0.003 (0.13)	−0.005 (0.21)	0.004 (0.15)	0.004 (0.18)	0.023 (0.80)
Previous Times in Office	0.483 (0.75)	0.148 (0.29)	0.227 (0.50)	0.448 (0.70)	0.317 (0.50)	0.503 (0.76)	−0.12 (0.17)	0.004 (0.01)
log (Population)	−0.049 (0.30)	−0.053 (0.37)	−0.09 (0.66)	−0.132 (0.81)	−0.121 (0.70)	−0.126 (0.75)	−0.052 (0.31)	−0.084 (0.47)
Civil War	0.823 (1.80)*	0.411 (0.89)	0.451 (1.11)	0.372 (0.78)	0.665 (1.35)	0.68 (1.44)	0.768 (1.28)	0.64 (1.08)
log (Per Capita Income)	0.09 (0.23)	−0.343 (1.12)	−0.263 (0.93)	0.05 (0.15)	−0.258 (0.72)	0.151 (0.44)	0.102 (0.26)	0.392 (0.83)
Economic Growth Rate	2.682 (1.07)	1.26 (0.68)	0.867 (0.57)	3.09 (1.03)	0.836 (0.35)	2.863 (0.90)	4.052 (1.37)	6.879 (1.99)**
Single Party Regime							0.805 (1.25)	0.98 (1.43)
Military Regime							−0.456 (0.80)	−0.194 (0.32)
Personalist Regime							2.094 (4.96)***	2.05 (4.60)***
Conflict Participation Controls	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Region Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Observations	102	133	133	120	87	80	87	80

Notes. Robust *z* statistics in brackets; intercept estimated, but not reported; crisis participation controls estimated, but not reported; region dummies estimated, but not reported.
Exclude P.D.T. = excluding dictators punished during transitional period. Exclude Trans. = excluding transitional leaders. Because no dictator in sample observed as inheriting war, variable not added to equation; because no dictator victorious in war, this variable not added to equation.
*Significant at 10%; **significant at 5%; ***significant at 1%.
†Transitional Leader coded only as those leaders who enter power via regular means.

countries, there were long-lived dictators who could be subject to punishment upon democratization but were replaced shortly before the transition. This model includes these leaders despite the fact that they were not the last dictator that held office. By contrast, in the regressions reported in Table 2 and in Table 3, Column 1, such dictators are excluded because they were not the last dictator observed before democratic transition. While including all leaders who held power in the run-up to democracy boosts the observations by 30 percent, the results are largely unchanged.[7]

Column 3 reports the results of a regression similar to Column 2, except that we recode transitional leaders to only include those that obtained power via regular means. That is to say, the transition leader dummy variable is only coded as a "1" if a dictator lasts in power less than one calendar year, his stated objective is to transition the country to democracy, and he achieved office via regular means (for example, election or appointment) instead of via a coup or revolution. The results are robust to this modification.

In Column 4, we return to the original coding of transitional leaders, continue to include all dictators who held power 365 days in the run-up to democratic transition, and now drop dictators who were punished during the transitional period instead of after democratization. This accounts for the fact that some dictators were punished during the transition process itself within one calendar year of the establishment of full democracy. There are 13 dictators who meet these criteria, and out of these 13, only two were punished during the transitional period while operating under an autocratic constitution that would be passed on to the new democracy. The results are again robust to this procedure.

In Columns 5–6, we conduct a set of similar experiments. In Column 5, we exclude both transitional leaders and non-transitional dictators who lasted less than 1 year. In Column 6, we exclude transitional leaders, non-transitional dictators who lasted less than 1 year, and those dictators punished during the transitional period. The Column 6 regression includes only longer-lived dictators who were not punished during the transitional period. The basic results are robust across each of these robustness checks even though the observations are reduced.

In Columns 7–8, we now include autocratic regime types on the eve of democratization as control variables. Because very short-lived and transitional leaders do not have sufficient time to develop established institutions that make up a full-fledged regime, we restrict attention to the sample from Columns 5–6 that excludes these leaders, although we note that the results across the paper are robust to their inclusion. We include variables for whether the leader evidences a single party, military, personalist, or "oligarchic" component, though the results are also robust to using pure regime types.[8] This taps the bargaining power of outgoing regimes before transition (for example, Wright and Escribà-Folch 2012). Consistent with these authors' findings, personalist leaders are more likely to be punished than both military regimes ($p < .01$) and single party regimes ($p < .06$) in Column 7. Our main results consistently hold. The results are also robust to controlling for the number of de facto parties on the eve of democratization, an alternative way to operationalize this concept. Because this variable was never significant, we do not report the result.

Robustness to Endogeneity Bias

Could there be endogeneity bias running from a dictator's ability to elide punishment after democratization and the imposition of a constitution that endures beyond the transition? Perhaps it is not the constitution inherited by a new democracy from its autocratic predecessor that affects an outgoing dictator's post-tenure fate. Rather, it may be that only the strongest, most capable dictators are able to thrust favorable institutions upon the next regime before exiting power—even if their successors are ultimately selected via free and fair elections. It would not be surprising, therefore, if such intrepid dictators were also able to avoid exile, imprisonment, or execution after democratization. Moreover, because the presence of holdover constitutions in new democracies may be collinear with unobserved variables that may also impact former dictators' post-tenure fate, such as a country's history or culture, the omission of such variables may confound the results.

To address these concerns, we turn to an instrumental variable (IV) approach designed to capture the exogenous variation in constitutions inherited by democracies from autocracies. A valid instrumental variable must satisfy the exclusion restriction: Its effect on the dependent variable of interest should work exclusively through the potentially endogenous right-hand-side variable. In this case, the instrument must be correlated with the dependent variable in a first-stage regression, Democracy with Autocratic Constitution, but not correlated with the error term of a second-stage regression, where former dictators' post-tenure fate upon democratization is the dependent variable. Below, we identify two instrumental variables that, from a theoretical perspective, should only affect former dictators' post-tenure fate in this indirect manner. From a statistical perspective, these instruments satisfy the exclusion restriction and are therefore valid ways of capturing the exogenous variation in constitutions inherited by democracies from their autocratic predecessors.

The first way in which we capture the exogenous variation in Democracy with Autocratic Constitution is state capacity. Dictators who head states that cannot project power into the periphery, administer censuses, collect taxes, and provide public goods should have a hard time imposing constitutions relative to dictators who preside over strong states. Indeed, constitutions intended to manage a political transition structured to protect outgoing dictators' personal well-being and interests are quite costly and risky, and presuppose considerable administrative and political wherewithal. The history of striking constitutional failures under authoritarian regimes bears this claim out (see Albertus and Menaldo 2012). For example, in 1953, Colombian dictator Laureano Gómez proposed a new constitution designed to install a fascist regime

[7] Given the larger sample size, we were also able to estimate a similarly specified conditional logit model to control for country fixed effects (after removing the region dummies). Although this yields similar results, we do not report this regression here given that roughly half the sample is dropped due to the lack of within-country variance on post-transition punishment.

[8] See Appendix for coding and sources. Several autocratic regimes in the pre-WWII era (for example, the UK prior to 1885) are characterized by multiparty competition among civilian politicians amidst restricted franchise. These cases therefore do not fit into Geddes' regime typology. We code these cases as "oligarchy" (which is the baseline category). Recoding these leaders as personalist or single party rulers—the most plausible alternatives—does not alter the results.

mimicking Francisco Franco's in Spain. Because it was intended to consolidate the political power of business interests and the Catholic Church over the Liberal Party and popular sectors, it was vehemently opposed. Ultimately, the military overthrew Gómez before the constitution could be promulgated. It was ultimately Gómez's inability to consolidate his authority beyond Bogotá and into Colombia's hinterlands that spelled his defeat. Even constitutional successes can carry costs that imply state capacity. The process of constitutional adoption by a dictator often calls for controlling and manipulating constitutional delegates to prevent them from shirking and creating a document that challenges or embarrasses the regime.

We follow Bockstette, Chanda, and Putterman (2002) and measure state capacity as the State Antiquity Index, a proxy for the longevity of a state's infrastructure and bureaucratic culture. These researchers argue that countries with longer political legacies have had a greater chance to develop state capacity tied to the development of intensive agriculture, urbanization, and the use of money. In other words, the longer a state has existed as an organized and coherent political unit, the greater its ability to penetrate the hinterlands, establish a monopoly on violence, and tax and regulate the economy.[9]

The second way in which we capture the exogenous variation in Democracy with Autocratic Constitution is the strength of legislative institutions before democratization. Dictators can rely upon legislative institutions under autocracy to impose constitutions that will stick after democratic transition if their legislatures are relatively strong and autonomous. The reason for this is that new constitutions most often call upon elections for a constituent assembly, and dictators are able to more smoothly call, operate, and control such an assembly when it is rooted in an existing and well-functioning legislature. When constituent assemblies are called for in the absence of an effective legislature, it is more difficult for dictators to impose resilient constitutions. Consider Venezuela's 1952 constituent assembly elections. That year a military junta that had been in power for 3 years held elections for a constituent assembly that was charged with drafting a new constitution and choosing a provisional president. Lacking the ability to identify and co-opt the opposition via a legislature (see Gandhi and Przeworski 2006), the military assassinated dissident army officers and others opposed to military rule. Two million votes were cast in the presidential election that followed and it was won by the leader of an opposition party, Jovita Villalba of the Union Republicana Democrática (URD). The result was unexpected and proved intolerable to the regime. The head of the junta, Pérez Jiménez, ignored the results of the election and proclaimed himself president. He then banned opposition parties. Although the constituent assembly finally met in 1953 and ultimately ratified Jiménez's presidency, it was unable to agree upon a stable succession mechanism that could protect the military elite beyond the medium term. Jiménez remained in power another six turbulent years before being ousted in a coup.

We follow Henisz (2000) and measure legislative strength and autonomy as Legislative Effectiveness. This is a dummy variable that is coded as a "1" when the legislature exercises power over the executive branch. We choose this measure of legislative efficacy over others, such as Gandhi's (2008), because it is coded since the nineteenth century and up until 2004. It therefore provides the most coverage.

Do the instruments described above really satisfy the exclusion restriction? Or could it be the case that state capacity and/or legislative effectiveness proxy for an unidentified factor that influences a former dictator's post-tenure fate—implying that, beyond working through a constitution hoisted upon a new democracy by an outgoing dictator, these variables exert a direct effect on what happens to dictators after democratization? Perhaps, for example, state capacity and legislative effectiveness may proxy for individual leader strength as manifested by the ability to repress opponents, greater incumbent bargaining power, or denser political networks forged while in power, that separately increase the odds of avoiding punishment. A second possibility is that these instruments proxy for political stability.

It is doubtful that state and legislative capacity operate as alternative channels linking our instruments to post-tenure fate. First, not all strong leaders, even if they want to, can impose constitutions because many lack the state and legislative capacity to do so. Examples of powerful dictators that consolidated authority but were nonetheless punished upon transition absent an imposed constitution include Marcos in the Philippines, Castillo Armas in Guatemala, and Banda in Malawi. De facto power therefore does not perfectly predict avoiding punishment. By the same token, not all weak leaders fail to impose constitutions because, despite their weakness, they or key players in their coalition can make use of pre-existing institutional and political tools associated with strong state and legislative capacity. Examples of weak leaders that were nonetheless able to retain a holdover constitution through democratization and avoid punishment include Habibie in Indonesia, Szuros in Hungary, and Krapayoon in Thailand. Therefore, state and legislative capacity can be considered exogenous to the particular leader's strength.

Besides the theoretical rationale detailed above, we perform statistical tests of the overidentifying restrictions and *never fail to reject* the hypothesis that the instruments are valid—orthogonal to the error term in the second-stage equation. This suggests that these variables are indeed effective at isolating the exogenous variation in Democracy with Autocratic Constitution. Furthermore, we emphasize that we continue to control for a host of leader characteristics that may capture leader strength such as time in office, manner of entry, age at entry, and previous times in office. We also directly control for political stability.

The primary IV estimation approach we employ is via generalized method of moments (GMM) with robust standard errors clustered by country to address heteroskedasticity and the arbitrary correlation of errors within countries. This approach allows us to estimate heteroskedastic robust tests of the overidentifying restrictions. Because the dependent variable is binary, however—implying that the GMM regressions are linear probability

[9] Bockstette et al. (2002) discount the influence of the past for each half-century at various rates. We employ, as recommended by them, the 5% discount rate. We also use the version of the index normalized to run from 0 to 1, where the sum of the discounted series is divided by the maximum possible value the series could take given the same discount rate. We also adjust this variable by the Migration Index. See Appendix on the logic.

models—we also estimate an IV Probit model via maximum likelihood (ML).[10] We give preference to the IV GMM approach for two reasons, however. First, there is no consistent IV estimator available for a dichotomous dependent variable when the error term is non-spherical. Second, reliable statistical tests for the validity of instrumental variables in the face of heteroskedasticity have yet to be developed for ML estimation.

For the IV GMM estimation, the first-stage model estimates the determinants of Democracy with Autocratic Constitution. The second-stage model estimates the determinants of punishment—and, most importantly, whether the predicted value of Democracy with Autocratic Constitution calculated from the first stage explains the variation in punishment. The first-stage model, which is reported in the "a" columns in Table 4, can be expressed as:

$$\begin{aligned}&\text{Democracy with Autocratic Constitution} = \alpha \\ &+ b_1 \text{ State Antiquity Index} + b_2 \text{ Legislative Effectiveness} \\ &+ \beta\text{Controls} + e\end{aligned} \tag{1}$$

The second-stage model, which is reported in the "b" columns, can be expressed as:

$$\begin{aligned}&\text{Punishment} = \alpha \\ &+ b_3 \text{ Democracy with Autocratic Constitution} \\ &+ \beta\text{Controls} + e\end{aligned} \tag{2}$$

where α is a common intercept, b is the parameter of interest to be estimated, and e is a disturbance term that is possibly heteroskedastic and correlated within countries.

Table 4 reports the results of a series of IV regressions. In Columns 1 and 2, as in Table 3, Columns 2 and 3, we include all former dictators who were in power at some point within a calendar year of the transition to democracy. This means that we include transitional leaders, non-transitional dictators who were short-lived (survived in power less than a year), and longer-lived dictators who survived up until the transitional period. Column 1a reports the coefficients calculated from the first stage, where the dependent variable is Democracy with Autocratic Constitution and the independent variables of interest are the State Antiquity Index and Effective Legislature. While moving from the lowest level of state capacity to the highest level of state capacity increases the probability of a democracy being observed with an autocratic constitution by 65%, if the previous dictatorship had an effective legislature this increases the probability of a democracy with an autocratic constitution by 21%. The results from this regression also suggest that these variables are good instruments. While the r-squared is 0.25, the F-statistic is 16.77—above the threshold separating weak from strong instruments.[11] Column 1b reports the coefficients calculated from the second stage, where Democracy with Autocratic Constitution is the predicted value of this variable estimated from the first stage. The sign is, as expected, negative, and the estimated coefficient is highly statistically significant. Importantly, a heteroskedasticity and autocorrelation-consistent Hansen J test of the overidentifying restrictions returns a chi-square of 0.186 with a p-value of 0.67; we therefore fail to reject the hypothesis that these instrumental variables are exogenous.

Several robustness tests confirm the results. Column 2a and 2b repeats the same operations as described above for Column 1a and 1b, except that the model is estimated via an IV Probit specification. The results of interest strengthen considerably in both the first- and second-stage regressions. In Column 3, we examine whether the instruments perhaps proxy for some unobserved "political stability," and that this political stability directly impacts dictator fate independent of any constitution. This column controls for Banks' (2009) composite measure of political instability (the Conflict Index).[12] While the coefficient on the Conflict Index is insignificant, the main results hold. This bolsters our confidence that we have satisfied the exclusion restriction.

In Columns 4–6, the sample is restricted only to dictators who are longer-lived and survive into the transitional year. For reasons of space, we omit the first-stage results. It excludes dictators who survive less than 1 year in the run-up to democracy and transitional leaders who survive for less than one year and hand over the political reins to an elected government. The Columns 4–6 regressions are estimated via IV GMM. Although the Column 4 specification reduces the observations by 36% over Columns 1–2, the second-stage results strengthen considerably in terms of substantive significance over Column 1. In Column 5, since the sample excludes short-lived and transitional leaders, we re-introduce autocratic regime types upon transition and again find that personalist dictators are more likely to be punished while confirming our basic results. In Column 6, we add the Conflict Index again, and the main results still hold. Finally, we note that across Columns 3–6, the tests of the overidentifying restrictions continue to reject the hypothesis that the instruments are invalid.

In short, we are confident that we have uncovered a causal relationship running from democracies inheriting autocratic constitutions to former dictators securing their personal safety after democratization. We now turn to the reasons *why* this is the case.

Evidence for Conservative Bias Induced by Constitutions Inherited from Autocracy

How do former autocratic incumbents and their elite allies actually enshrine their interests in a constitution that is then adhered to upon democratization? While Tables 2–4 provide evidence that outgoing autocratic leaders are less likely to face punishment under democracy if that democracy adopts an autocratic constitution crafted by outgoing elites, this begs two questions. What is the transmission channel connecting an autocratic

[10] Because there is no IV estimator for a dichotomous dependent variable in the first stage—in this case, Democracy with Autocratic Constitution—when the error term is heteroskedastic, we estimate all the first-stage models, either in the IV GMM or in IV Probit approach, via OLS. This is despite the fact that this variable is binary. Therefore, while the second-stage regressions are linear probability models when we employ the IV GMM approach, the first-stage regressions are linear probability models when we employ either the IV GMM or IV Probit approach. The implication is that the parameter estimates for these linear probability models cannot be interpreted in terms of log odds or probabilities. Finally, we note that while the IV Probit models are estimated via Newey's two-step technique, they are robust to the conditional ML approach.

[11] Staiger and Stock (1997) argue that F-tests from the first stage should be greater than 10.

[12] The results also hold if we separately introduce each of the eight components of the Conflict Index.

TABLE 4. Determinants of Outgoing Dictators' Punishment After Democratization (1875–2004)
(Instrumental Variables (IV) Regressions)

	1a	*1b*	*2a*	*2b*	*3a*	*3b*	*4b*	*5b*	*6b*
Sample	*All within 1 Year*	*All within 1 Year*	*All within 1 Year*	*All within 1 Year*	*All within 1 Year*	*All within 1 Year*	*Only Last Dictator > 1 Year*	*Only Last Dictator > 1 Year*	*Only Last Dictator > 1 Year*
Dependent Variable	*Dem w. Aut. Const.*	*Punished*	*Dem w. Aut. Const.*	*Punished*	*Conflict Index*	*Punished*	*Punished*	*Punished*	*Punished*
IV Approach	*IV GMM LPM*	*IV GMM LPM*	*IV Probit*	*IV Probit*	*IV GMM LPM*	*IV GMM LPM*	*IV GMM LPM*	*IV GMM LPM*	*IV GMM LPM*
State Antiquity Index (Migration Adjusted)	0.652 (1.82)*		0.652 (2.06)**		0.681 (1.62)				
Effective Lower House Under Dictatorship	0.205 (1.63)		0.205 (2.15)**		0.172 (1.24)				
Democracy with Autocratic Constitution		−0.914 (2.72)***		−4.405 (2.24)**		−0.927 (2.41)**	−1.392 (2.45)**	−1.226 (1.88)*	−1.438 (2.24)**
Transitional Leader	0.013 (0.13)	−0.4 (2.95)***	0.013 (0.10)	−2.393 (2.81)***	0.017 (0.17)	−0.319 (2.13)**			
Dictator Manner of Entry	0.141 (1.40)	0.021 (0.20)	0.141 (1.38)	0.153 (0.27)	0.11 (0.95)	0.031 (0.27)	−0.058 (0.33)	−0.107 (0.60)	−0.106 (0.58)
Dictator's log (Time in Office)	0.011 (0.34)	0 (0.00)	0.011 (0.30)	0.044 (0.26)	0.024 (0.79)	0.034 (0.67)	0.005 (0.04)	−0.065 (0.60)	−0.012 (0.10)
Dictator's Age at Entry into Office	0.009 (2.09)**	0.005 (0.79)	0.001 (1.88)*	0.017 (0.48)	0.009 (1.90)*	0.007 (1.00)	0.007 (0.64)	0.007 (0.80)	0.013 (1.26)
Previous Times in Office	−0.113 (1.10)	0.057 (0.43)	−0.113 (0.74)	0.11 (0.13)	−0.08 (0.51)	0.215 (1.67)*	0.002 (0.01)	0.015 (0.07)	0.097 (0.55)
log (Population)	0.034 (0.83)	0.022 (0.36)	0.034 (0.74)	0.151 (0.60)	0.021 (0.51)	0.027 (0.55)	0.09 (0.94)	0.087 (0.93)	0.088 (1.24)
Civil War	0.041 (0.33)	0.133 (0.25)	0.041 (0.29)	0.864 (0.30)	0.023 (0.18)	−0.541 (0.82)	−0.444 (0.46)	0.123 (0.13)	−1.003 (1.05)
log (Per Capita Income)	0.178 (1.89)*	0.048 (0.40)	0.178 (2.01)**	0.281 (0.48)	0.118 (1.11)	−0.037 (0.33)	−0.001 (0.00)	−0.019 (0.11)	−0.15 (1.00)
Economic Growth Rate	−0.413 (0.62)	0.052 (0.50)	−0.413 (0.74)	0.137 (0.19)	−0.609 (0.69)	−0.038 (0.35)	0.127 (0.76)	0.081 (0.54)	−0.144 (0.86)
Conflict Index					−0.016 (0.73)	0.004 (0.25)			0.044 (1.33)
Single Party Regime								0.314 (1.26)	0.307 (1.17)
Military Regime								0.199 (0.71)	0.172 (0.70)
Personalist Regime								0.393 (2.40)**	0.44 (2.43)**
Conflict Participation Controls	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Region Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Observations	128	128	128	128	116	116	82	82	75

Notes. Robust z/t statistics in brackets; constant estimated, but not reported; conflict participation controls estimated, but not reported; region dummies estimated, but not reported. GMM LPM = generalized method of moments linear probability model. Because no dictator in sample observed as inheriting war, variable not added to equation. Because no dictator victorious in war, this variable not added to equation. Columns labeled "a" are first-stage regressions; columns labeled "b" are second-stage regressions; first-stage results omitted for Models 4–6.
*Significant at 10%; **significant at 5%; ***significant at 1%.

constitution inherited by a new democracy to a former dictators' personal welfare and how may these constitutions benefit outgoing autocratic elites in other ways under democracy?

There are several channels. First, these constitutions may usher in proportional representation, in a bid to make it more likely that small conservative parties gain a political foothold and induce gridlock. As research on the strategic election of electoral rules has argued (for example, Rokkan 1970; Boix 2010), PR is a heads-I-win, tails-you-lose bet. In the best-case scenario, candidates with preference close to that of the former dictator win and are able to implement their preferred policy agenda and table the possibility punishment. In the worst-case scenario, former regime elements and sympathizers will at least gain a toehold in government that likely affords them veto power over major issues such as punishment of the outgoing regime. Bulgaria after communist rule is one case that exemplifies this: When the former dictator, Lukanov, was charged with corruption under democracy, the minority communists in parliament (the Bulgarian Socialist Party) were able to successfully push the government to drop the charges against him, despite the fact that they only controlled 44% of the seats. Second, constitutions inherited from autocracy may institutionalize the over-representation of economic elites, leading to a greater probability of rightwing executives. Third, these constitutions may be associated with larger militaries, which can act as a deterrent against violations of elite property rights and interests. Finally, democracies that inherit autocratic constitutions should exhibit electoral rules and institutions that make it easier for powerful interests to assert their control over local politics by depriving localities of electoral voice and autonomy.

To test these hypotheses, we construct a country-year data set of democracies using the same coding rules for regime type outlined above. The variables used to operationalize these hypotheses are taken from Beck, Clarke, Groff, Keefer, and Walsh (2001), with the exception of military size, which is taken from the Correlates of War project. To operationalize whether constitutions inherited from autocracy are associated with proportional representation, we use *PR*, which is coded as "1" if proportional representation is used as an electoral rule in any legislative chamber. To operationalize the propensity of rightwing parties controlling the executive branch, we use ERLC, which is coded as a "1" if the executive is from a rightwing party, "2" if the executive is from a leftwing party, and "3" if the executive is from a centrist party. To operationalize local autonomy, we use MUNI, which indicates whether municipal governments are locally elected. It is coded "0" if neither the local executive nor the local legislature is directly elected by the local population that they govern; (1) if either is directly elected and the other is indirectly elected or appointed; and (2) if they are both directly and locally elected.

Table 5 reports a series of static panel models that use constitutions inherited from an autocracy as the key independent variable. Several control variables are also included. These are the log of Real Per Capita Income, the log of Total Resources Income Per Capita (in thousands) taken from Haber and Menaldo (2011), the Manufacturing Share (value added as % of GDP) taken from the World Bank's WDI, log (Population), Trade Openness, and the Old Age Ratio, measured as the percentage of the population above 65 years of age and taken from

Table 5. Panel Estimation of Determinants of Elite-biased Measures under Democracy (Dependent Variables are Institutions and Outcomes under Democracy)

Dependent Variable Specification	(1) PR Probit	(2a) ERLC-Right Multinomial logit	(2b) ERLC-Center	(3) Military Size OLS	(4) MUNI Ordered logit	(5) PR Probit	(6a) ERLC-Right Multinomial logit	(6b) ERLC-Center	(7) Military Size OLS	(8) MUNI Ordered logit
Democracy with Autocratic Constitution	0.634 (7.64)***	0.415 (2.35)**	−0.227 (1.05)	0.332 (4.84)***	−1.561 (8.10)***	0.603 (7.76)***	0.219 (1.29)	−0.328 (1.57)	0.291 (3.99)***	−1.121 (7.45)***
Revolution	0.201 (1.30)	−0.894 (3.16)***	−1.343 (4.04)***	0.065 (1.03)	0.624 (3.23)***	0.232 (1.50)	−0.879 (3.17)***	−1.415 (4.65)***	0.134 (1.70)*	0.724 (3.92)***
log (Per Capita Income) t-1	−0.108 (1.64)	0.238 (1.31)	−0.439 (1.73)*	−0.107 (2.56)**	0.589 (4.27)***	0.135 (2.18)**	0.391 (2.53)**	−0.313 (1.63)*	−0.021 (0.42)	0.21 (1.98)**
log (Natural Resources Income PC) t-1	−0.207 (6.94)***	0.082 (1.29)	0.141 (1.77)*	0.091 (6.51)***	−0.05 (1.28)	−0.207 (9.09)***	−0.01 (0.18)	0.017 (0.24)	0.084 (5.85)***	0.048 (1.27)
Manufacturing Value Added t-1	0.033 (2.67)***	−0.13 (6.77)***	−0.091 (6.03)***	0.029 (5.55)***	0.022 (1.45)	0.036 (4.34)***	−0.132 (7.50)***	−0.084 (5.53)***	0.033 (6.35)***	0.074 (6.75)***
log (Population) t-1	0.011 (0.40)	0.076 (0.56)	−0.003 (0.03)	−0.121 (5.61)***	−0.374 (5.65)***	−0.027 (1.10)	0.046 (0.49)	0.016 (0.20)	−0.106 (4.65)***	−0.527 (7.19)***
Trade Openness t-1	−0.003 (3.47)***	0.004 (1.05)	0 (0.05)	−0.001 (1.43)	−0.005 (1.81)*	−0.004 (4.89)***	0.003 (0.95)	−0.003 (0.76)	−0.001 (0.91)	−0.007 (2.74)***
Old Age Ratio t-1	0.248 (28.37)***	0.02 (0.52)	−0.094 (2.24)**	0.099 (10.05)***	0.059 (2.03)**	0.178 (16.94)***	0.022 (0.61)	0.123 (3.78)***	0.081 (7.39)***	0.083 (4.15)***
log (Wheat Sugar Ratio)	−0.135 (9.31)***	0.002 (0.05)	−0.109 (2.70)***	0.054 (3.92)***	−0.04 (1.06)	−0.045 (3.03)***	0.106 (2.09)**	−0.056 (1.24)	0.079 (6.37)***	−0.116 (3.55)***
Single Party Legacy	1.398 (16.73)***	1.685 (3.66)***	1.834 (3.71)***	0.496 (11.36)***	1.65 (5.13)***					
Military Legacy	−0.519 (7.25)***	0.276 (0.97)	−1.113 (3.58)***	0.055 (1.34)	−0.48 (4.99)***					
Personalist Legacy	1.097 (18.29)***	−1.304 (4.51)***	−2.278 (7.03)***	0.56 (12.84)***	0.215 (1.42)					
Transition Legacy	1.437 (10.95)***	−1.184 (7.23)***	−1.698 (8.10)***	0.505 (7.75)***	0.644 (3.21)***					
Multiple Parties Legacy						0.411 (17.51)***	0.291 (2.76)***	−0.372 (3.09)***	0.309 (10.93)***	−0.321 (2.98)***
Nonlinear time trends	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Conflict History Controls	No	No	No	Yes	No	No	No	No	Yes	No
Observations	1505	1227	1227	1220	1092	1406	1128	1128	1134	1038

Notes. Robust t statistics in brackets; intercept estimated, but not reported; controls for conflict history estimated, but not reported; linear, quadratic, and cubic time trends estimated, but not reported. Regressions estimated via maximum likelihood: standard errors clustered by year; OLS regressions estimated using Driscoll–Kraay robust standard errors with a Newey West correction for serial correlation. Sample consists of post–World War II democracies.

*Significant at 10%; **significant at 5%; ***significant at 1%.

the World Bank's WDI, and Revolution, taken from Banks (2009), following (Albertus and Menaldo 2013). We lag all of these controls by one period.[13]

We also follow Sokoloff and Engerman (2000) and Easterly (2007) and control for persistent structural inequality as log (%Land Suitable for Wheat to %Land Suitable for Sugar Cane), because this is an alternative explanation for conservative bias.[14] These authors argue that, across the world, those places with a history of wheat grown on family farms have had persistent egalitarian institutions and places with a history of sugar cane grown on large plantations have had persistent inegalitarian institutions and policies. In the regression where the size of the military is the dependent variable, we also control for a running count of Militarized Interstate Disputes and a running count of International Wars from the Correlates of War.

Because the presence of an autocratic constitution and post-transition institutions beneficial to former elites could both be jointly determined by a favorable de facto balance of power, we include several additional controls to address this possibility. These controls capture the legacy values of de facto power upon the eve of transition—that is, the observed values just prior to democratization. The first set of controls, consistent with Tables 3–4, measures the autocratic regime type of the last leader in power under the previous episode of autocracy. Alternatively, we also include an ordinal measure of the number of de facto parties observed at the end of the previous autocratic episode, since these may enable the outgoing autocratic regime a venue with which to keep winning in elections after transition and thereby protect their interests under democracy (Wright and Escribà-Folch 2012).[15]

To control for temporal dependence in the probit, multinomial logit, and ordered logit models, we follow the literature by including linear, quadratic, and cubic terms for years. In those models, contemporaneous correlation and heteroskedasticity are addressed by estimating robust clustered errors clustered by year. In the model where the size of the military is the dependent variable, we estimate an OLS model with Driscoll–Kraay standard errors.

The dependent variable is a binary measure of PR in Column 1 of Table 5. We therefore estimate a probit model. Constitutions inherited from autocracy are positively associated with PR. These constitutions raise the probability of observing PR in a democracy by 22%.[16] In Column 2a-2b, the dependent variable is *ERLC*. Because this is a nominal variable with three categories, we estimate a multinomial logit model with leftist party as the baseline category. Autocratic constitutions raise the probability of observing a rightwing party by 15%. In Column 3, the dependent variable is log (Military Size per 100 People). A constitution inherited from a dictatorship increases the size of the military by 33%. In Column 4, the dependent variable is *MUNI*. While a constitution inherited from a dictatorship raises the probability that either the local executive or local legislature is indirectly elected by 17%, it lowers the probability that both are directly and locally elected by 34%.

Might the legacy of the previous autocratic regime, that is, whether it is personalist versus single party versus military, inadequately capture the balance of power possessed by outgoing dictators on the eve of democratization? Columns 5–8 of Table 5 replicate Columns 1–4, but substitute the number of de facto parties for autocratic regime types. The main results remain robust to this experiment, with the exception of Column 6, where the coefficient on autocratic constitutions is just shy of statistical significance at conventional levels. The marginal effect calculated from Column 6, however, is statistically and substantively significant: Rightwing parties are 13% more likely to be observed in democracies with autocratic constitutions ($p < .01$).

Conclusion

How do the circumstances of democratization and the institutions that are created at the dawn of democracy affect the likelihood that outgoing dictators are punished under the new order? This paper examines whether dictators who are able to impose a constitution on a nascent democratic regime are less likely to face punishment upon relinquishing their rule. We find strong evidence in favor of this hypothesis using data on constitutional origins and democratization from 1875 to 2004. The results are robust to accounting for alternative explanations of leader welfare, excluding transitional leaders, and using instrumental variables to adjust for potential endogeneity.

The findings suggest that for dictators who fear their ousting in the face of domestic unrest or potential instability, democracy "gamed" with an autocratic constitution provides a plausible avenue for protecting their most basic interests. Yet this raises the question: Why don't all dictators transition to democracy? Several reasons work against such a scenario. First, the rents that leaders accrue under dictatorship are valuable, so that the value of a marginal year in office can entice a dictator to remain in office if it is unlikely to affect their post-tenure fate. Second, orchestrating an orderly democratic transition in which the outgoing dictator can impose their institutional preferences can be rife with difficulties. Caretaker governments tasked with overseeing a transition may in some cases abrogate an exit pact and seek justice for an autocrat's misdeeds—and even if doing so brings their downfall. Or defections by lower-level elites may lead to a counter-coup that reverses the transition and punishes the outgoing dictator for risking the welfare of other regime elements. Alternatively, the first steps toward a transition may embolden the democratic opposition to go to the streets to push for a better deal—one that the autocratic incumbents are unwilling to accept.

Nonetheless, when these obstacles can be overcome, it is possible for dictators to negotiate a democratic transition that can insulate them from severe punishment. This suggests that if the "right" institutional framework can be constructed, and short-term threats to a transition deal mitigated, it may be possible to coax some dictators from power.

However, has the ability of former dictators to protect their interests under democracy via a constitution been rendered obsolete in an era in which an aggressive ICC increasingly threatens to prosecute human rights abuses? Several pieces of evidence suggest that the power of constitutions as an insurance mechanism will endure. First, autocrats continue to rely on constitutions when orchestrating political transitions. Second, leaders in autocracies

[13] The results are robust to controlling for urbanization and the inflation rate. These variables are never statistically significant.

[14] See appendix for coding details.

[15] The appendix lists sources and methods used.

[16] To compute this and other marginal effects, we set all dummy variables to "0" and other controls to their means.

that are not State Parties to the Rome Statute must be targeted for prosecution by the UN Security Council rather than by domestic prosecutors. Yet prosecuting incumbents for previous abuses forecloses one of the few carrots that the international community has at its disposal to try to coax problematic autocrats from power. Consider Myanmar, where permanent Security Council members such as the United States are reluctant to refer ruling generals to the ICC provided they continue to take steps toward liberalization.

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Supporting Information

Additional Supporting Information may be found in the online version of this article:

Appendix. Supplementary Appendix for "Dealing with Dictators: Negotiated Democratization and the Fate of Outgoing Autocrats"