

# **Reorganizing Constitutional Power in Indonesia: The Politics of Reform**

## **Abstract**

The proposal of constitutional reforms and the establishment of effective constitutional change are two distinct matters. Translating proposals into accepted practice is an invariably fraught process. The following paper examines the constitutional reforms that took place in Indonesia from 1999-2002. It asks how we go about understanding and interpreting the outcomes of that process. By combining a constitutional history with a consideration of the legacies of Suharto's authoritarian rule, the paper further situates previous qualitative assessments of the post-1999 constitutional reforms. Drawing on the work of the likes of Asshidiqie, Horowitz, Indrayana and Mietzner, the paper argues that, despite a less than ideal process, Indonesia's gradualist approach facilitated acceptance and paved the way for a meaningful level of constitutionalism from a troubled past.

**Keywords:** Constitutional Reform; Constitutionalism; Indonesia; Authoritarian legacies

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## Introduction

In countries transitioning from authoritarian rule, a key step towards more democratic politics is often constitutional reform. The reform or establishment of constitutionally mandated institutions can have important implications for the future accumulation, exercise and limits of political authority (Horowitz, 2000). There is an opportunity to introduce safeguards that limit executive power, restrain tyranny of the majority rule and give previously marginalized segments of society greater recognition. In short, constitutional reform can lay foundations for more effective inclusion and representation.

Nonetheless, there is a significant difference between proposing a constitutional framework and the process of establishing it. There are no guarantees that a legitimate or stable form of constitutionalism will emerge from that process (Chen, 2015; Dressel & Bünte, 2014; Horowitz 2006a). Normative ideas about constitutions may inform what policy makers and politicians seek to establish but how and why a country ends up with the constitutional framework it does is a different matter. Pre-existing political cultures, configurations of politico-business elites, patterns of civil-military relations, underlying societal conventions and cultural practices can directly or indirectly restrict or predispose specific options (Carnegie, 2014; Elster 1995; Linz & Stepan, 1996; Munck, 1994). This is not to mention issues around the timing of reforms and respective positions within the international system of power and privilege. All of which can generate distinct trade-offs and unexpected patterns of transformation (Carnegie, 2012; Pridham, 2000).

It is with these considerations in mind that the following paper examines the constitutional reforms that took place in Indonesia. After the downfall of Suharto's authoritarian New Order regime in May 1998 and against the odds, Indonesia managed to complete four rounds of constitutional amendments from 1999 to 2002 during sessions of *Majelis Permusyawaratan Rakyat*<sup>1</sup> (MPR,

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<sup>1</sup> The MPR is the legislative branch of the Indonesia political system made up of representatives from the two national legislative assemblies *Dewan Perwakilan Rakyat* (DPR, People's Representative Council) and *Dewan Perwakilan Daerah* (DPD, Regional Representatives Council) with a combined total 692 members. Prior to 2004, it was the highest governing institution in Indonesia. Constitutional reform now means that in a formal institutional sense, it is on a co-equal footing with DPR, the State Audit Board (BPK), the Supreme Court and the Constitutional Court.

People's Consultative Assembly) (Indrayana, 2005; Sherlock, 2010; Horowitz, 2013). How do we account for this outcome? Before responding to that question, there is a minor caveat to mention. The way constitutional amendments were carried out in Indonesia is not being held up as an ideal of democratic constitution-making. With qualifier in place, the paper argues that a gradualist approach to reform can facilitate acceptance amongst major political actors and the routinization of constitutionally mandated politics. To build the argument and situate more fully the significance of Indonesia's constitutional reforms, the paper proceeds by charting Indonesia's constitutional history and the legacies of Suharto's authoritarian rule. It then combines that with primary document analysis and work by the likes of Asshidique, Horowitz, Indrayana and Mietzner to underscore the way a gradualist approach to reform can establish a meaningful level of constitutionalism from a troubled past.

### **A Constitutional Journey**

In the immediate aftermath of World War II and the retreat of the Japanese-occupying forces, Indonesia's former Dutch colonial masters sought to regain control over parts of the archipelago and isolate nationalist forces. The Acting Governor General Hubertus (Huib) van Mook was keen to revive the Visman Commission's plan for the constitutional future of the Dutch East Indies but his plans would ultimately flounder in the face of determined nationalist resistance (Carnegie, 2019).

The nationalist leaders moved to declare independence. The proclamation (*Proklamasi*) came on 17 August 1945. It states that 'matters relating to the transfer of power etc. will be carried out carefully and in a timely manner' [*Hal-hal jang mengenai pemindahan kekoesaan d.l.l., diselenggarakan dengan tjara seksama dan dalam tempo jang sesingkat-singkatnja*] (Line 3-5, Proklamasi Kemerdekaan Indonesia, 1945).<sup>2</sup> It could be argued that Indonesia has been working on that 'etc.' ever since (Pisani, 2015). But given the intense pressure Sukarno and Mohammad Hatta were under to enact a new constitution, it is hardly surprising that the 1945 Constitution of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, UUD'45) is relatively short and vague (Indrayana, 2005). It was intended as a makeshift measure and contains a mere 37

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<sup>2</sup> Author's translation from original text as with new articles in the amended constitution later in the paper.

articles that were written and reviewed during July and August 1945 by the Committee for Examination of Indonesian Independence (*Badan Penyelidik Usaha-usaha Persiapan Kemerdekaan Indonesia*, BPUPKI) and enacted on 18 August 1945 by the Preparatory Committee for Indonesia's Independence (*Panitia Persiapan Kemerdekaan Indonesia*, PPKI), the day after the proclamation of independence.

The proclamation of independence in 1945 was resisted by the Netherlands and Indonesia would struggle against Dutch intransigence until 1949. Under UN Security Council censure and pressure to recognize Indonesia as an independent state, the Dutch abrogated UUD'45 and declared the United States of Indonesia (RUSI) under a new Federal Constitution (*Konstitusi Republik Indonesia Serikat*). There was wide spread rejection of this move by the Indonesian people. In accordance with Article 43 of the Federal Constitution, which gave the freedom to States to choose for themselves, 13 of the 16 States of the putative United States of Indonesia chose to return to the Republic of Indonesia. The other three remaining states followed suit and President Sukarno declared the Republic of Indonesia on 15 August 1949. The Federal Constitution was formally enacted on 27 December 1949 when sovereignty officially transferred from the Netherlands to Indonesia. It only lasted a matter of months to be replaced by the Provisional Constitution 1950 (*Undang-Undang Dasar Sementara Republik Indonesia 1950*, UUDS) promulgated on 17 August 1950 pending the appointment of a constitutional assembly for a new constitution. When this did not eventuate, Sukarno abrogated the Provisional Constitution and decreed a return to the original 1945 Constitution on 5 July 1959 (Presidential Decree No. 150, 1959). UUD'45 established the basic foundations of an independent Indonesian state but its brevity and vagueness would leave it open to future political exploitation (Butt & Lindsey, 2012).

Arguably, the three most important components of the 1945 Constitution are the preamble (containing Pancasila)<sup>3</sup> and both the establishment of the unitary state of the Republic of Indonesia and a presidential system (Ellis, 2005). They have major symbolic value and resonance as the founding expression of Indonesia as an independent sovereign state. As Benedict Anderson (1991) once noted, people who perceive themselves as part of a political community ultimately imagine

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<sup>3</sup> The official state ideology of Indonesia has five interrelated principles: a belief in one God, compassionate humanity, the unity of Indonesia, consensus democracy, and social justice. This loosely reflects traditional Javanese values and traditions including notions of *musyawarah* (deliberation), *mufakat* (consensus), *kekeluargaan* (family), *manunggaling kawula* (unity of the ruler and ruled), and *gotong royong* (mutual cooperation).

it. You cannot meet or know everyone in that community but you do believe that you have things in common that bind you. In this respect, the nation-state as a social construct relies on the active re-production and performativity of institutions that narrate and structure that imagining (Philpott 2002). For political gatekeepers of the Republic's inheritance, this narrative basis and the upholding of the state ideology (Pancasila) was and is viewed as non-negotiable (Carnegie, 2019). They would not countenance the prospect of opening up the Constitution to change that might jeopardize these pillars (Indrayana, 2005).

Given the above context and an original 1945 Constitution consisting of a mere 71 points formulated in 37 articles, the extent of the reform from 1999-2002 is substantial by any measure. The first, second, third and fourth rounds of amendment from 1999-2002 covered an extensive range of matters totalling 199 provisions. Only 25 points from the 1945 Constitution remained without amendment. In short, the contents of the 1945 constitution were expanded by approximately 300% (Asshiddiqie, 2005). How was this feat possible?

### **Getting past the past**

As mentioned, to understand the significance of what occurred from 1999-2002, we need to acknowledge what preceded it. A major issue in the Indonesian case was how to loosen and dismantle the most repressive governance structures of the preceding authoritarian rule without shredding beyond recognition the symbolic and substantive constitutional foundations of the republic.

To elaborate, since Sukarno's Guided Democracy in the late 1950s, the rhetoric of upholding the constitutional integrity of the republic (and by extension the nation-building project) became key political narratives in legitimizing state rule and action (Feith, 1962). Although not without opposition, it was used as a grammar of action to centralize rule and authority (Weatherbee, 1987; Carnegie et al, 2016). This governance trend gathered apace under Suharto (Feith, 1980). He manipulated foundational narratives about the constitution to prohibit amendments to it. This was clearly in his own interests. There was no term limit on the Presidency in the 1945 Constitution and he was only ever the sole candidate. Suharto also set about restructuring the political system to coopt or neutralize potential opposition within his ruling coalition. Local elites became firmly

attached by patronage networks to a hierarchical state power-base in Jakarta (Antlov, 1995). He did so through a mixture of 'fear and reward' across and between the state bureaucracy, business, and the military (Carnegie, 2010).

As Harold Crouch (1979, p. 578) once noted, "the New Order bore a strong resemblance to the patrimonial model...political competition among the elite did not involve policy, but power and the distribution of spoils." The regime was such a major socio-economic and political agent that a pattern of economic growth beset by patrimonial rent-seeking took a firm grip. It allowed power and resources to become ever more concentrated around Suharto's personal rule (MacIntyre, 1991; 2000). He ended up sitting at the apex of not just a political structure but also "a system akin to business franchising" that allowed him "to bestow privileges on selected firms." (McLeod, 2000, p. 101). Suharto's hold over this elaborate patronage structure ensured that important economic and political players, particularly the military, were dependent on state patronage. Its reach extended through Golkar across the archipelago. Personal favors and 'franchises' were exchanged between state officials, business interests, and community elites. As Richard Robison (1986, p. 105) noted candidly, it was in effect an "entrenchment and centralization of authoritarian rule by the military, the appropriation of the state by its officials, and the exclusion of political parties from effective participation in the decision-making process."

The New Order was essentially, "a self-perpetuating patronage system from top to bottom, rewarding those...in it and penalizing all those...excluded" (MacIntyre, 1991, p. 45). For those on the 'inside' there was little incentive or desire to challenge the system. Newly emerging middle-class beneficiaries saw themselves as 'in' and were subsequently ambivalent toward overturning the status quo irrespective of its repressive downsides. Demands against the state for greater political freedoms were swapped for the stability of authoritarian corporatism. This provisional support did, however, depend largely on Suharto's ability to keep the economic benefits coming in. Entrepreneurial cronies of Suharto such as Liem Sioe Liong (Sudono Salim) and The Kian Seng (Mohammad "Bob" Hasan) became some of the richest men in Asia with the help of regime patronage (Robison, 1986). He had cultivated these so-called *cukong* (financier/boss) relationships with his select group of friends, particularly over rounds at the Jakarta Golf Club. State-owned industries were run with the financial backing of these cronies behind the scenes. This allowed high-ranking military officers to play the role of 'old-time' Javanese rulers and aristocrats in a

contemporary industrial-scale patron-client setup. Mutually beneficial economic joint ventures formed between prominent ethnic-Chinese businessmen. The latter acted as the ‘masters’ of capital to the military’s ‘masters’ of politics (MacIntyre, 2000).

But his over-reliance on personal ‘cronyism’ was a boomerang in motion. While it brought vast benefit for those involved and levels of development, a dependence on personal cronyism and resource revenues meant that his ‘repressive developmentalism’ was ill equipped to weather external economic shocks. The regime was trapped in a pattern of development yoked to the demands and vagaries of international capital and hollowed out from the inside by excessive levels of cronyism. Indonesia was not only internally dependent on the export of raw materials and externally dependent upon international markets and overseas finance but riddled with corruption and abuses of office. In hindsight, a loss of confidence in the Indonesian economy on world markets was an accident waiting to happen. Suharto’s increasingly tenuous economic credibility along with his bankrupt political legitimacy disintegrated in the wake of the 1997 Asian Financial Crisis.

What he left behind was a highly personalized and centralized legacy of patronage embedded into the structures of state governance (Carnegie, 2010; Lanti, 2001; Stockmann 2004). In the wake of Suharto’s downfall, constitutional reformers in Indonesia were faced with the thorny problem of trying to dismantle the most authoritarian and personalized aspects of the previous regime’s rule without destabilizing the founding pillars of the republic.

### **Renegotiating the Present**

This meant that constitutional reform had to guard against authoritarian reversion without jeopardizing the symbolic underpinnings of the republic’s identity (Yusuf & Basalim, 2000). It was a dialectic that would occasion a reform process best characterized as cautious, protracted and uneven. Popular distrust and skepticism about the MPR’s ability to function as an effective constitutional reform body remained high. Although there were public attempts to engage parliamentarians especially in Jakarta, the little that did occur was fairly poorly received (Ellis, 2002). As mentioned, the MPR’s decision to take responsibility for constitutional amendment as an ‘insider job’ rather than ‘outsourcing’ it to some external body was viewed with suspicion.

From a normative standpoint, there was a tangible lack of strategic planning on how vital components of the process would proceed in terms of conduct and proposed outcomes that led to drawn out deliberation sessions. The political convention of achieving some form of consensus (*musyawarah dan mufakat*) made deliberations of the MPR often long and arduous (King, 2001). Many campaigners lost patience and became frustrated. This did not exactly augur well for a positive outcome.

Yet, after 4 rounds of amendment, the original 1945 Constitution grew from 37 articles to 73, of which only 11% remain unchanged from the original constitution. There were changes to the system of presidential elections, term limits and the composition of legislatures. The Supreme Advisory Council was abolished. A constitutional mandate was given to allocate a specified amount from the national budget to education. The Constitutional Court was approved and established. And there was a phased removal of the military's pre-allocated seats in Parliament (Ellis, 2005).

As Horowitz (2013, p. 262) argues, rather than pushing through contentious and sweeping reforms, Indonesia's adoption of a "gradual, insider-dominated, elections-first [approach to] constitution making" helped steer it away from potentially damaging polarization and intergroup violence. It may seem counterintuitive but, in an Aristotelean way, what Horowitz is alluding to is that steady pragmatic compromises helped elicit acceptance for courses being charted. Parliamentarians were in a position where they had to negotiate and compromise in order to find acceptable consensus. A significant step in this process saw the MPR taking responsibility for reducing its own power (Lindsey, 2002). After 2004, it relinquished its status as the highest governing body in Indonesia and instead, stood (formally at least) on a comparable footing with *Dewan Perwakilan Rakyat* (DPR, People's Representative Council), the State Audit Board (BPK), the Supreme Court and the Constitutional Court. The restructured MPR now consists entirely of popularly elected members of the DPR and the second legislative assembly, *Dewan Perwakilan Daerah* (DPD, Regional Representatives Council). Constitutional limitations on the power of the executive also meant that the DPR gained more formal say in the legislative process through joint approval. The DPR "shall hold the authority to establish laws" (Article 20 (1) of the 1945 Constitution, First Amendment).

Furthermore, the Constitutional Court “shall possess the authority to try a case at the first and final level and shall have the final power of decision in reviewing laws against the Constitution, determining disputes over the authorities of state institutions whose powers are given by this Constitution” (Article 24C (1) of the 1945 Constitution, Third Amendment). In addition, it “shall possess the authority to issue a decision over an opinion of the DPR concerning alleged violations by the President and /or Vice-President of this Constitution” (Article 24C (2) of the 1945 Constitution, Third Amendment).

*Komisi Pemilihan Umum* (KPU, General Election Commission) was given “a national, permanent, and independent character” (Article 22E (5) of the 1945 Constitution, Third Amendment). And *Badan Pemeriksa Keuangan Republik Indonesia* (BPK, State Audit Board) was given power to “investigate the management and accountability of state finances” and “shall be free and independent” (Article 23E (1) of the 1945 Constitution, Third Amendment).

What this indicates is a restructuring of the state away from a single integral political sovereignty (previously embodied by the MPR) to a state structure of institutional checks and balances (Liddle 2002; Asshiddiqie, 2009). Sovereignty now resides “in the hands of the people and is implemented according to this Constitution” (Article 1(2) of the 1945 Constitution, Third Amendment). And the State “shall be a state based on the rule of law” (Article 1(3) of the 1945 Constitution, Third Amendment). The adoption of a non-majoritarian list-PR electoral system was also an attempt to give greater recognition and representation to Indonesia’s diverse socio-cultural and ethnic makeup, i.e. if a party gets 7% of the vote that should translate broadly to 7% of the seats in parliament. Such an electoral design is meant to prevent any one party gaining an outright majority and political dominance. Increasing competition for office, logistically at least, allows a potential way to dilute a system previously characterized by top-down executive appointments and vote manipulation (Carnegie, 2008). Whether or not there has been a dramatic change in new incumbents’ representational priorities is harder to gauge (Stockmann, 2004).

The DPD was also empowered to propose to the DPR and participate in discussion of “Bills related to regional autonomy, the relationship of central and local government, formation, expansion and merger of regions, management of natural resources and other economic resources, and Bills related to the financial balance between the centre and the regions” (Articles 22D (1) and 22D (2)

of the 1945 Constitution, Third Amendment). It also has a limited oversight role on implementation (22D (3) of the 1945 Constitution, Third Amendment). The increase in contestation and competition for office was supposed to improve representation and legitimacy but it has also been accompanied by new emergent layers of corruption. Personality and money politics continues to inhabit the body politic (Johnson Tan, 2006). New provincial political elites still rent-seek to establish patronage links with the center (Carnegie, 2008). In many cases, community interests remain marginalized and relatively subordinate to the interests of local patrons of national parties.

At the highest executive level, the president and vice-president are now “elected as a pair directly by the people” (Article 6A (1) of the 1945 Constitution, Third Amendment). Since 2004, the president is directly elected and can only serve one renewable five-year term. A qualified majority voting formula was implemented for presidential elections. It requires the president elect to gain over half the total country wide vote in addition to over 20% of the vote in half of the Indonesian provinces. This is supposed to encourage more moderate candidates; ones who can appeal to different interests and form alliances across party lines and maintain broad support across the country (Liddle and Mujani, 2006). The report card is mixed on that front (NDI, 2001; Sukma, 2009).

Evidently, problems and flaws do persist. Indeed, the process has been rather more fraught than advocates of institutional re-design might imply. Indonesia continues to struggle with issues of corruption, policy ineffectiveness, judicial impartiality, institutional frictions, and personality politics (Butt 2012). Yet, despite ongoing issues and constraining legacies, as this article argues, the outcome of constitutional reform was not negative. The intervening years have witnessed a transition, if not always without difficulty, from authoritarian rule to functioning multi-party democracy with all its benefits and shortcomings (Carnegie, 2014). There has been a routinization of democratic institutionalism. As Horowitz (2006, p.135) surmises “in law, as in life, what is routine is often more important than what is exceptional.”

According to Mietzner (2010), as worries over creeping democratic stagnation spread, many Indonesians have been grateful for the existence of institutions like the Constitutional Court and *Komisi Pemberantasan Korupsi* (KPK, Corruption Eradication Commission) and their ability to largely ring-fence themselves from outside interference. Since its establishment, the active role the

Constitutional Court in Indonesia has played should be welcomed. As Horowitz (2006, p.131) has cautioned, “not even the most careful design of a constitutional court can guarantee that it will become a bulwark of law and guarantor of human rights.” While the Court’s ‘judicial activism’ has created certain institutional tensions over the years, it has sought to protect and expand democratic rights and buttressed its credentials and autonomy (Butt, 2007; Mahfud, 2009). The Constitutional Court has played a significant role in Indonesia’s political transformation with its actions and decisions garnering popular support (Mietzner, 2010). In short, it has proven itself to be an agent of democratic consolidation.

The most important development in the wider scheme has been the acceptance of a constitutional framework of contestation by all major political actors. Large-scale violent conflict between major socio-political forces has decreased substantially and political rights and civil liberties are now on a much improved footing to previously (Freedom House, 2010). Given the potential for authoritarian regression and some fairly persistent obstacles, this is a significant achievement. And thankfully, after major protests, the ratification of the draft criminal code (decades in the making) has been postponed pending further input on several controversial articles. The implementation of which would have placed human rights and civil liberties on a backward footing in the country.

### ***Trouble on the Horizon?***

Several scholars have recently flagged signs of fragility and illiberal regression in Indonesia’s democracy (Aspinall et al., 2020; Diprose et al., 2019; Warburton and Aspinall, 2019; Power, 2018). Varying tropes about Indonesia’s disintegrative illiberal tendencies, democratic decline and protracted un-consolidation should be nothing new for Indonesia watchers.

There has been concerted pressure from well-funded illiberal forces and actors and their threat to further democratic consolidation is real. Of late, the prime examples of this trend are the populist and polarizing alliance between Prabowo Subianto and a cadre of vocal hardline Islamist groups, in particular Islamic Defender’s Front (*Front Pembela Islam*, FPI) alongside the so-called ‘212 protests’ instigated by people like Buni Yani that demanded the prosecution for blasphemy of ex-Jakarta Governor Basuki ‘Ahok’ Tjahaja Purnama. Having said this, without wanting to misplace expectations on the substantive quality of Indonesian democracy, its constitutional framework has

shown, shall we say, not quite robust but decent resilience in the face of these stress tests especially since 2014. The results of the 2019 elections largely back up that diagnosis. This is despite concerns over various decisions of President Joko Widodo of late and PDI-P (Indonesian Democratic Party of Struggle) plans to reinstitute the MPR as the highest governing body responsible for determining State Policy Guidelines.

However, religiously infused intolerance and militancy is a complex issue in Indonesia. This is especially the case with the rise of hard-line religious views bolstered by a proliferation of Salafi-oriented *pesantren* (Islamic boarding schools) primarily funded from Saudi Arabia in recent decades (Thayer, 2008; Savirani, 2020). It is an issue that requires not only constitutional remedies but political will to address effectively. In a de jure sense, the constitution does provide legal-rational provision to combat intolerance, “every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law...[and] the right to the freedom to believe his/her faith (*kepercayaan*), and to express his/her views and thoughts, in accordance with his/her conscience” (28D (1) and 28E (2) of the 1945 Constitution, Second Amendment). But there is often a reticence on the part of elements within Indonesia’s police and security apparatus tackle the grey area between expressing extreme views and outright militancy (Carnegie, 2015; Kurniawan 2018). The limited consequences for those promoting intolerance and inciting sectarian persecution serves to further embolden extremist thought and action.

In terms of electoral forewarning, the prospects of Prabowo’s wealthy and much younger running mate, Sandiagio Uno, (now firmly embedded in the populace’s electoral consciousness) might also give us pause. Jokowi can no longer run in the next election. Political and societal moderates will have to coalesce to prevent such a well-funded and divisively populist candidate leveraging the issue of religion for plutocratic ends. Prabowo is on the wane, Uno’s run in 2024 is where the real game is afoot.

## **Learning by Doing**

What lessons can we draw from Indonesia’s constitutional reform process? Firstly, as detailed, constitutional reform does not derive exclusively from a free play of unconstrained choice; legacies

inherited from the past condition the process. Second, establishing an organizational context with the potential to cultivate a qualitatively different type of governance requires negotiation and compromise. Third, routinization of constitutionally mandated politics is more about acceptance than achieving normative ideals. Relevant political actors must accept (and consequently be contained) within the new 'rules of the game'.

The likelihood of democratic consolidation increases when they are willing to contest their agendas within the constitutional rules of checks, balances, contestation and procedure being established (Przeworski, 1991). Gradual constitutional reform can assist in that task, albeit by degrees. In sum, what the Indonesia's reform process does illustrate well is that for function to follow form (which is never guaranteed) takes negotiation, compromise and acceptance.

The legal-institutional structure of the Indonesia state is now more democratic in form than previously but problems do persist. A more formal separation of powers has emerged between the executive, legislature and judicial branches of government but not always in practice. Human rights protections are now more delineated as norms but their upholding by the institutions of the state is uneven at best. It goes without saying that reorienting habituated patterns of political power takes time. There is, however, to coin Linz and Stepan (1996), a platform to promote broader norms of political behaviour and democratic consolidation.

## **Conclusion**

A country's past is unavoidable but how it negotiates past that past is what matters. As the Indonesian experience demonstrates, a gradualist approach can assist in that endeavor. The country's reforms followed an unusual path but with the advantage of opportunity, timing and momentum the approach created enough time and space to de-compress tensions amongst major political actors and promote acceptance. Looking back, despite its normative shortcomings, Indonesia's reform process has managed to translate into a meaningful level of democratic constitutionalism.

This tells us that constitutional reform does not have to follow or reflect western norms. What emerges might not meet an abstract western liberal definition of constitutional democracy but in

the real world there is no one-size-fits-all definition, rather many variations. Merely stating this does, however, raise difficult questions of interpretation. Coming to grips with relationships between political agency and narratives of history, culture, and identity in the study of constitutional reform is not straightforward. Complex local terrains with multiple conditioning factors affect decisions and strategies of reform in different ways.

Nonetheless, it seems fair to state that constitutional templates transferred from one setting and adopted (often under external pressure) into another setting deserve to be treated with caution. The terms they set are not necessarily appropriate for countries with specific patterns of socio-economic arrangements, religious tensions and ethno-cultural cleavages. It is unreasonable to assume that countries with different political institutionalization, socio-cultural heritage, or economic fundamentals to achieve a readymade sense of constitutionalism overnight in a manner that fully conforms to abstract constitutional norms.

If the goal of a reform process is to constitute a stable future from a troubled past, hopefully, this paper has illustrated the importance of gradualism, political compromise and negotiation. These are the ingredients that improve the chances of reproducing accepted and localized constitutional politics overtime. Lastly, to paraphrase Clifford Geertz, ‘we must leave those who find pleasure in passing sweeping censures on whole nations, to do so as they like... [*Indonesia will*] live on with or without their approval.’

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