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## Repressive-Responsive Parameters of Autocracies in Asia: Vietnam and China Compared

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## **Repressive-Responsive Parameters of Autocracies in Asia**

Vietnam and China Compared

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### **Abstract**

Moving beyond crude dichotomies of regime types, this article examines how state strategies of repression and responsiveness vary across autocracies in Asia. Specifically, Vietnam and China show significant variance on the reactive-institutionalized spectrum when it comes to land expropriation. Whereas Vietnam has systematically strengthened mechanisms against arbitrary land seizures, China has reactively opted for sketchy and ad-hoc reforms to curtail land conflicts. The article thus discloses the repressive-responsive parameters of autocracies in Asia through an original framework that allows for sharper analytical differentiation of how autocracies differ.

*“Dictatorships can differ from each other as much as they differ from democracies.”*  
– Barbara Geddes, *Paradigms and Sand Castles*

## **Repressive-Responsive Parameters of Autocracies in Asia** Vietnam and China Compared

### **I. Introduction**

Paradigmatic shifts from studies of democratic transitions to studies of authoritarianism denote the recognition that democracy is simply not the only game in town.<sup>1</sup> Recent tides of democratic backsliding, erosion, and regression have further spurred interests in a so-called “third wave of autocratization.”<sup>2</sup> This turn in comparative studies, however, remains bounded by the dichotomy of democracy-autocracy that perceives political regimes to unceasingly oscillate between becoming either more or less “democratic” or more or less “authoritarian.” In this taxonomy, to be democratic has been synonymous with to be responsive, and to be authoritarian with to be repressive. A crucial point of departure in this article is that accounting for the contrasting ways in which states manage social unrest requires moving beyond these crude binaries based on regime types.

Rather, this article develops a nuanced framework within which to consider how state strategies of repression and responsiveness significantly vary in degrees of institutionalization. The institutionalization of repression or responsiveness means greater systematization, stability, calculability, and predictability. Reactiveness means precisely the opposite. Whereas institutionalized repression-responsiveness entails programmatic, complex, durable, and coherent efforts undertaken by a government to negatively suppress or to positively address social unrest, reactive responsiveness is more ad-hoc, piecemeal, provisional, variable, and unpredictable. Importantly, the reactive-institutionalized framework provides the analytical lexicon for constructing and comparing a moving target. This framework thereby illuminates the dialogical relationship between state and society, and the established patterns across time that is central to the conception of a state’s repressive-responsive repertoires.

How Vietnam and China have managed social tensions caused by government land expropriation and public demands for strengthened protection for citizens’ right to land represent a significant variance on this repressive-responsive and reactive-institutionalized spectrum. Compared to China, Vietnam has been more institutionalized responsive and reactively repressive. Whereas Vietnam has strengthened mechanisms against arbitrary land seizures in the 2013 Land Law, China has adopted piecemeal and localized experimentation over programmatic reforms of the country’s land expropriation system.

To evaluate the outcome of interest, I employ process-tracing methods to collect evidence of the direct links between a state’s actions and the contentious claims that a state intended to address. Data to corroborate the wide-ranging repressive-responsive parameters of the three autocracies draw from primary government documents, legislative transcriptions, as well as

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<sup>1</sup> Art 2012, 351.

<sup>2</sup> Lührmann and Lindberg, “A Third Wave of Autocratization Is Here”; Cassani and Tomini, “Reversing Regimes and Concepts: From Democratization to Autocratization.”

interviews of government officials, civil society activists, and affected citizens at both national and subnational levels. Participant observations of government and civil society workshops, training sessions, and activities related to the two issues of land and freedom of association offered added insight into the process and pathways from civil society input to government policy output. Fieldworks were conducted in China and Vietnam between May 2016 and December 2017, and in China from March to May 2019.

In the sections below, I first situate the repressive-responsive framework within the relevant literature on how democracies and autocracies approach social unrest. Next, I elaborate on the conceptual and analytical values of the proposed framework. In the remaining sections, I substantiate this framework through a comparative analysis of Vietnam and China's divergent approaches to social demands. Lastly, the conclusion considers an extension of the proposed framework to Cambodia. Despite its nominal multi-party elections, Cambodia has been strongly reactively responsive, even more than China. This variance in the repression and responsiveness of the three communist and post-communist systems underscore the imperative for rigorous differentiation of authoritarian regimes.<sup>3</sup>

## **II. Social Unrest Under Democracy and Autocracy**

Whereas democracy has conventionally been associated with being responsive to public demands, autocracy has conventionally been synonymous with repression. A causal model of “democratic responsiveness” typically starts with the transmission of citizen preferences and the aggregation of these signals. This then results in policy adoptions that reflect citizen inputs.<sup>4</sup> Wherein democratic participation and contestation mechanisms would relieve social pressure and make it costly for elected officials to deploy coercion, autocracies lacking these features are instead expected to suppress rather than to be responsive to public demands.<sup>5</sup>

Advances in existing scholarship have brought important nuance to the above claims. First, studies of the relationship between democracy and repression have yielded mixed findings,<sup>6</sup> which suggest that the so-called “domestic democratic peace” is not bulletproof.<sup>7</sup> Second, evidence attests that autocracies also positively respond to, rather than solely suppress, social discontent.<sup>8</sup> This has given rise to new research agendas on the distinctive phenomenon of “authoritarian responsiveness.” In fact, elements of repression and responsiveness can be found in both democracies and autocracies, and states can be repressive and responsive at the same time.<sup>9</sup>

However, the existing literature has yet to provide a cogent framework that can enable a comparative and summative assessment of repressive-responsive states. For starters, in a vast literature on state handlings of social unrest, repression and responsiveness have often been studied

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<sup>3</sup> Geddes 2003.

<sup>4</sup> Manin, et al. 1999; Powell 2004.

<sup>5</sup> Davenport 2007b.

<sup>6</sup> Gibson 1988; Regan and Henderson 2002; De Mesquita, et al. 2005.

<sup>7</sup> Davenport 2007a, 14.

<sup>8</sup> Kerkvliet 2005; Miller 2015; Heurlin 2016; Todd, et al. 2021.

<sup>9</sup> Crouch 1996; Kerkvliet 2010, 2019; Elfstrom 2021.

separately.<sup>10</sup> Importantly, absent a systematic framework that captures linkages among variable combinations of repressive and responsive elements constitutive of the state, the view of the state that consequently arises remains partial.

At one end of the spectrum, state repression has been associated with the potential or actual employment of brute force,<sup>11</sup> invoking memorable events like the 1989 Tiananmen massacre, the 1980 Gwangju crackdown, or the 1973 Chilean coup d'état. With the aim of suppressing dissent, states may buttress public security organizations,<sup>12</sup> outsource repression,<sup>13</sup> legalize social control,<sup>14</sup> and militarize public policy.<sup>15</sup> Beyond these coercive tactics, states may also deploy “soft repression” through relational pressure,<sup>16</sup> decentralization, improvisation, and fragmentation.<sup>17</sup> There have been various attempts at conceptualizing variation in forms of state repression. Della Porta and Reiter, for instance, identified nine variables as a basis for classification.<sup>18</sup> In another typology, Earl focused instead on the agents executing the repression, the character of their action, and whether said action was observable.<sup>19</sup> Yet, these studies do not open onto a parsimonious framework that considers different forms of repression in relation to each other.

At the other end of the spectrum, the absence of such a framework has exacerbated the conceptual pitfall of stretching any behavior short of coercion under authoritarianism to automatically indicate actual responsiveness. For this reason, the concept of “authoritarian responsiveness” has sometimes been rightly criticized for being hollow and elusive. Scholars have described marginal government responses to dissent, including tolerance,<sup>20</sup> “blind-eye governance,”<sup>21</sup> and replies to citizen inquiries,<sup>22</sup> as well as substantive government concessions, including material payoffs and rights provisions,<sup>23</sup> facilitation of protests,<sup>24</sup> and policy change.<sup>25</sup> But written replies to citizen inquiries, blind-eye governance, and partial tolerance, or temporary concessions are not commensurable to institutionalized and systemic change.

Furthermore, a framework for differentiating the parameters of state conduct must incorporate crucial dimensions of time. Boudreau's study of repressive strategies by the Burmese, Indonesian, and Philippine states have examined how different modes of state repression emerge

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<sup>10</sup> There are notable exceptions, including Crouch (1996)'s study of Malaysia, Kerkvliet (2019)'s examination of Vietnam, and Elfstrom (2021)'s account on Chinese labor politics. Despite their contributions, these single-country studies have yet to provide a rigorous framework of how states differ in their repressive and responsive nature.

<sup>11</sup> Policzer 2009.

<sup>12</sup> Guo 2012; Wang and Minzner 2015.

<sup>13</sup> Ong 2018.

<sup>14</sup> Wang and Truong 2020.

<sup>15</sup> Russo 2018.

<sup>16</sup> Ferree 2005; Deng and O'Brien 2013.

<sup>17</sup> Fu 2017.

<sup>18</sup> Della Porta and Reiter 1998.

<sup>19</sup> Earl 2003.

<sup>20</sup> Cai 2004; Stockmann 2012.

<sup>21</sup> Weller 2012.

<sup>22</sup> Chen, et al. 2016; Su and Meng 2016.

<sup>23</sup> Conrad 2011; Zhan 2021.

<sup>24</sup> Tilly 1978, 99-142; Weiss 2014.

<sup>25</sup> Bernstein and Lü 2003; Mertha 2008; Reilly 2011; Kuhonta 2016.

through path-dependent sequences.<sup>26</sup> Perry, for instance, has also directed attention to patterns of “emotion work” that have historically cemented through mass mobilization during the Chinese Communist revolution.<sup>27</sup> Other comparative historical studies further have shown how state engagements with society, and public goods provisions in response to societal demands unfold over time.<sup>28</sup> As these studies attest, the repressive-responsive repertoires of the state reflect deeper cumulative processes that can only be properly understood through the significance of time as an embedded element within the analytical framework.<sup>29</sup>

### III. Reactive-Institutionalized Parameters of Repressive-Responsive Regimes

A parsimonious and synthetic framework is imperative for mitigating the deficiency in the existing scholarship in order to capture the dynamic and diverse ways that a government simultaneously represses and responsively addresses social unrest. The essential aim of conceptual innovations is conceptual validity and analytical differentiation.<sup>30</sup> Building on prior work,<sup>31</sup> I develop an original framework that places regime approaches to social unrest on a continuum of two central axes: (a) repressive-responsive; and, (b) institutionalized-reactive. Variance on these axes is one of relative difference, not binary and exclusive categories.

The repressive-responsive axis specifically distinguishes actions taken by authorities based on the aim and the form of their actions. Repression is herein defined as “the actual or threatened use of physical sanctions” for the purpose of deterring, stifling, and suppressing behaviors and/or beliefs perceived to be challenging and/or objectionable to authorities.<sup>32</sup> In contrast, responsiveness is defined as distinct actions by authorities aimed to address societal claims, that is, to accommodate, incorporate, and advance the preferences expressed by societal actors. It is important to not conflate responsiveness with its requisites, which consist in a willingness to listen, consider, and be receptive to public demands.<sup>33</sup> Responsiveness can be distinguished from repression insofar as a government responds positively rather than negatively to societal claims. Both are to be distinguished from tolerance as inaction that can move in either direction. Pertaining to the above definitions, authorities may choose various forms of repression-responsiveness, including formal or informal, legal or illegal, and overt or covert measures.

States vary significantly in the character and the degree to which they institutionalize repression and responsiveness. Based on Huntington’s seminal definition, institutionalization is “the process by which organizations and procedures acquire value and stability,” marked by their adaptability, complexity, autonomy, and coherence.<sup>34</sup> First, the adaptability of an organization refers to its ability to adjust to challenges that can be approximated by the organization’s age.<sup>35</sup> Likewise, a highly adaptable and institutionalized response is marked by its durability or length of

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<sup>26</sup> Boudreau 2004.

<sup>27</sup> Perry 2002.

<sup>28</sup> Callahan 2003; Kuhonta 2011.

<sup>29</sup> Parallel to the argument that societal repertoires of resistance and opposition derive from accumulative processes over time (Truong 2021.), a state’s repression-responsiveness of social unrest also constitute a distinct repertoire that moves and must be properly placed in time.

<sup>30</sup> Collier and Levitsky 1997.

<sup>31</sup> Truong 2020.

<sup>32</sup> Goldstein 1978; Davenport 2007a.

<sup>33</sup> Esaiasson and Wlezien 2016; Meng, et al. 2017.

<sup>34</sup> Huntington 1968, 12.

<sup>35</sup> Huntington 1968, 13-17.

existence. Second, a complex response that is distinguished by a greater degree of multiplication, diversification, organization, and preparation to execute is more institutionalized than a simplistic and short-lived response. Third, Huntington was preoccupied with the degree to which political organizations and procedures are insulated from the corrupt influence of particularistic interests. In a closely related sense, a response is autonomous to the extent that authorities apply the same measures to those affected in a comprehensive and impartial rather than selective and biased manner. Fourth, the more systematic, consistent, and cohesive the response undertaken by authorities is, the more coherent and highly institutionalized it is. These attributes provide the necessary criteria for operationalizing, evaluating, and comparing the degree to which and how states widely differ in their repression of and responsiveness to social unrest.

Under the reactive-institutionalized framework, the sum effect of a highly institutionalized repressive or responsive regime resides in the rationalization of the regime's approach to popular pressure.<sup>36</sup> Being more institutionalized means that government responses are conducted with greater stability, calculability, predictability, and systematization as opposed to with greater uncertainty, variability, and non-systematization. Being more or less repressive and more or less responsive are inextricably tied to how institutionalized and reactive a government is in its responses. Naturally, a government that demonstrates a higher level of institutionalized responsiveness is one that does so with more programmatic, comprehensive, and sustained efforts than one that is reactively responsive. In contrast, a government that executes repression on an institutionalized level produces far more damage than one that reactively represses public demands and dissent.

Underscoring the proposed framework is a central argument advanced in this article that repression and responsiveness must be understood in their temporal dimensions.<sup>37</sup> Induced by a dialogical relationship between state and society, the temporal framework of the repressive-responsive spectrum is embedded in chains of causally connected events. There must be a trail that links the social phenomena to the sequential actions taken by the government. At one end, being reactive can be identified by the fact that governments only take steps in the shorter term during the period proximate to conflicts with societal actors. It also means that the reactive responses are not durable and sustained over time to the greater extent of institutionalized conduct. At the other end, the temporality of institutionalization extends beyond specific incidents, and is thereby distinguished by extensiveness beyond the limited time horizon of reactive measures. This macro perspective on time places the repressive or responsive behavior of governments in relation to temporally ordered processes and established patterns of state-society interactions that span and accumulate over time.

Finally, it is important to stress that the difference between being reactive and institutionalized does not reduce to whether or not a policy or law is adopted as a response. Rather, it hinges on the response's degree of institutionalization. The adoption of formal laws and policies may generally suggest greater institutionalization and may be commonly assumed as synonymous with institutionalized repression or responsiveness. Yet, as part of the arsenal of authoritarian rule, laws and policies can also be deployed reactively. In other words, the distinction between reactive

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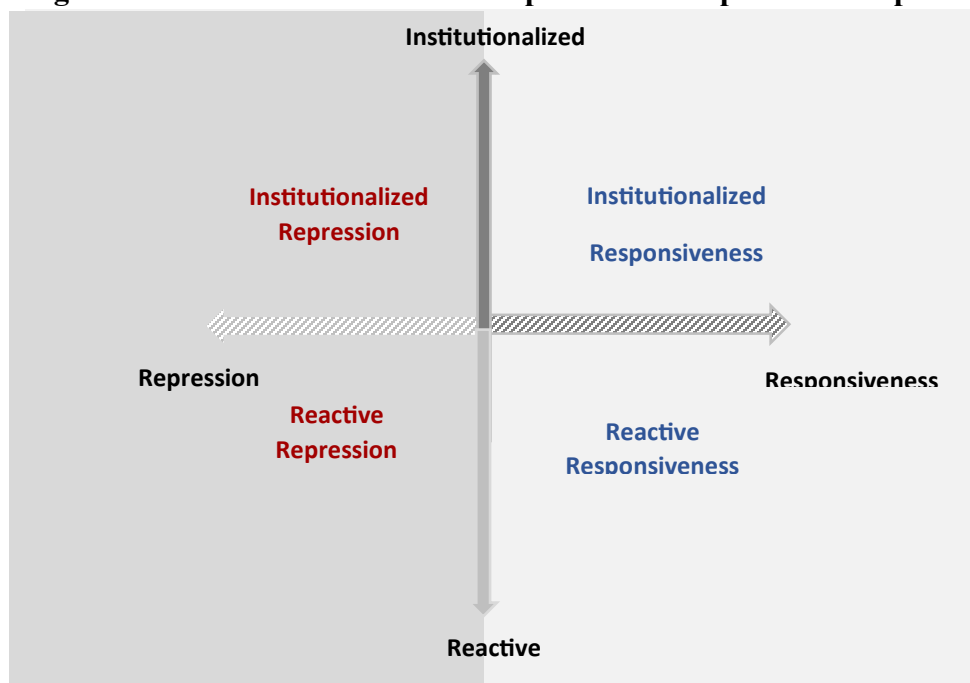
<sup>36</sup> In fact, Huntington's concept of institutionalization and Weber's concept of rationalization strongly complement one another (Levine 2015, 152-157.; Hutchcroft and Kuhonta 2018.).

<sup>37</sup> The conception of time incorporated within the reactive-institutionalized framework has a strong affinity with the underlying ontology of the comparative-historical tradition.

and institutionalized responsiveness or repression is thus concerned with the substantive nature and not merely the procedural form of the response.

Variance in the reactive and institutionalized parameters of the Vietnamese Communist Party (VCP) and the Chinese Communist Party (CCP) show how state strategies of repression and responsiveness crosscut crude regime-type categories. Of the two, Vietnam has been most institutionalized responsive and reactively repressive when it comes to societal push for land rights against government expropriation. Specifically, Vietnam has systematically strengthened mechanisms against arbitrary land seizures, whereas China has reactively opted for sketchy and ad-hoc reforms to curtail land conflicts.

**Figure 1 Reactive-Institutionalized Spectrum of Repression-Responsiveness**



#### **IV. Vietnam: Authoritarian Expropriation and the 2013 Revised Land Law**

After the 1980 Constitution, Vietnamese citizens could only possess use rights of land, which was subject to state management and “recovery.” Not long after the country embarked on Renovation in 1986, the Politburo sought to streamline and mitigate “insufficiencies in existing law to serve the demands of a period of strengthening industrialization, modernization of the country.”<sup>38</sup> In line with this directive, under the 2003 Land Law, the state could expropriate land not only for “national and public interests” but also for “economic development.”<sup>39</sup> As an official from the Ministry of Natural Resources and Environment (MoNRE) explains, “[T]hese types of economic development projects are for private investors, but that the state can still intervene by administrative decisions to recover land.”<sup>40</sup>

<sup>38</sup> Bo Chinh Tri [Politburo of the Vietnamese Communist Party] 2003, 7.

<sup>39</sup> 2003 Land Law, art. 40.

<sup>40</sup> Interview VNHN 1013. Hanoi, Vietnam. October 13, 2016.



Under this broad provision, land expropriation increased exponentially. Between 2004 and 2009, 750,000 hectares were expropriated for 29,000 investment projects across 49 provinces and municipalities.<sup>41</sup> More than 80 percent of land lost to expropriation was agricultural land.<sup>42</sup> This problem was particularly acute in provinces with higher economic growth.<sup>43</sup> During this time, citizen petitions received by MoNRE increased from 5,211 in 2003 to 10,650 in 2006.<sup>44</sup> From 2008 to 2011, 70 percent of 672,990 petitions received by the Government Inspectorate were also attributed to land, particularly government seizures.<sup>45</sup> Hundreds of protests occurred across Vietnam, often involving hundreds of villagers, and sometimes over a thousand.<sup>46</sup>

Public clamor from heightened protests, rising petitions, and clashes between citizens and authorities caused by land expropriation did not go unnoted by the VCP. In a 2005 report, the Party Secretariat viewed land disputes and court cases as “latent dangers to explode” that would “affect political security, order, and social safety.”<sup>47</sup> The report stressed, “land is a basic necessity of the people that has been impacted by a history of revolution and resistance, and the process of urbanization, industrialization; but management mechanisms and the policy of the State are still in progress of being perfected.”<sup>48</sup> In 2007, the Politburo again stated that, “the situation of collective litigations, the majority of which are related to compensation, requisitions of farmers, was becoming more complex,” and that it was necessary to “effectively address pressing social problems . . . especially [the problem of] dispossessed farmers losing [their] land.”<sup>49</sup>

The receptivity of the VCP to societal grievances materialized in a substantive revision of the 2003 Land Law to restrict government expropriation. In 2012, the VCP Central Committee mandated that the revision must “stipulate more clearly and specifically situations in which the State can recover land.”<sup>50</sup> With this aim, the revised Land Law intentionally narrowed leeway for arbitrary regulations and practices. In short, as Bui Sy Loi, Vice-Chairman of the VNA Committee for Social Affairs, stated, “The revised Land Law this time needs to avoid those provisions which can be interpreted in other directions or that expand its interpretive scope, [and] continue to give rise to social confrontations in the land issue.”<sup>51</sup>

This intention is reflected in the overall design of the legislation. Consisting of 14 chapters and 212 articles, the 2013 Land Law is the most detailed to date. Whereas provisions in the 2003 Land Law consisted of undefined terms and catch-all clauses that provided leeway for indiscriminate land seizures, the revisions aimed to rectify this. Rather than authorize the Government<sup>52</sup> to interpret the law under sub-law decrees, circulars, and administrative regulations,

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<sup>41</sup> General Department of Land Administration 2014.

<sup>42</sup> Ibid.

<sup>43</sup> Mai Thanh 2009.

<sup>44</sup> The Inspection Department of the Ministry of Natural Resources and Environment (MoNRE).

<sup>45</sup> Bao cao Thanh tra Chinh Phu so 1198/BC-TTCTP, 2012.

<sup>46</sup> Kerkvliet 2019, 36-54.

<sup>47</sup> Ban Bi Thu [Party Secretariat] 2005, 380-381.

<sup>48</sup> Ban Bi Thu [Party Secretariat] 2005, 380-381.

<sup>49</sup> Bo Chinh Tri [Politburo of the Vietnamese Communist Party] 2008, 760, 769.

<sup>50</sup> Ban Chap hanh Trung uong Dang Cong san Viet Nam [Central Committee of the Vietnamese Communist Party] 2012.

<sup>51</sup> Bui 2013.

<sup>52</sup> The Government (*Chinh phu*) refers to the executive apparatus of the Vietnamese state, which is the equivalent of the State Council of China.

legislators deliberately stipulated the scope of permitted land requisitions in concrete terms. At the level of the subnational legislative body, a representative on the People’s Council similarly stressed the specificity in the new law, “The 2013 Land Law is more open for the people, and more specific on situations when land requisitions are permissible . . . The more specific the law the better. . . Sure, the law is only a legal frame, but within that frame, the more specific that it can be, all the better.”<sup>53</sup>

The 2013 Land Law incorporated input from civil society groups to stipulate that the state can recover land only for national and public benefit.<sup>54</sup> Between 2012 and 2013, citizen opinions were surveyed and input from government and non-governmental sectors were solicited in Vietnam. At the time, a coalition of 18 local NGOs, media, and individual experts was formed with support from Oxfam’s Coalition Support Program. Along with others, this Land Alliance (LANDA) actively pressed for and participated in the revision process.<sup>55</sup> Nearly 20 delegates who commented in the legislative sessions in November 2013, expressed opinions reflecting recommendations presented by LANDA.<sup>56</sup> As an advocate in LANDA assessed, “On the problem of land requisitions, our recommendation was accepted (*tiếp thu*), and [the law] was changed to what we wanted.”<sup>57</sup>

Specifically, the 2013 Land Law incorporated input from civil society groups to stipulate that the state can recover land only for national and public benefit.<sup>58</sup> Nearly 20 delegates who commented in the legislative sessions in November 2013, expressed opinions reflecting LANDA’s recommendations.<sup>59</sup> A LANDA member shared, “The wording was changed from [state land requisitions] ‘for the purposes of economic development’ to ‘socio-economic development in the national or public interest’.”<sup>60</sup> This wording was used to prevent for-profit and private investment projects, businesses, and commercial projects from relying on state expropriation for land acquisitions. Under the new provision, the revised law further enumerated the types of projects that would qualify as “socio-economic development for national, public interests.”

Reforms also strengthened legislative oversight over the scope of land requisitions. During the legislative deliberation, VNA Deputy Bui Manh Hung specifically stressed that the revision “must stipulate that all situations of land requisitions . . . need to be approved by the National Assembly or the People’s Council at the provincial level in order to evaluate the necessity [of the land requisitions].” In prior drafts, this feature was stipulated in some clauses but not others, which required only the approval of the Government. “Stipulations [like these],” Hung asserted, “are not sufficient, [because they] still carry the subjective characteristics of the drafting committee without a basis in any theories or realities.”<sup>61</sup> Consistent with this logic, the revised Land Law confers the VNA and the provincial People’s Councils with the important role of determining and monitoring land use management and expropriation decisions at the national and local levels.<sup>62</sup>

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<sup>53</sup> Interview VNQT 135337. Quang Tri Province, Vietnam. February 17, 2017.

<sup>54</sup> 2013 Land Law, art. 16.

<sup>55</sup> Land Alliance 2013.

<sup>56</sup> Pham 2016.

<sup>57</sup> Interview VNHN 094531. Hanoi, Vietnam. September 21, 2016.

<sup>58</sup> 2013 Land Law, art. 16.

<sup>59</sup> Pham 2016.

<sup>60</sup> Interview VNHN 094530. Hanoi, Vietnam. September 21, 2016.

<sup>61</sup> “Ky hop thu 6, Quoc hoi Khoa XIII: Y kien ĐBQH-du thao luat dat dai 2013,” *Du Thao Online-Luat Dat Dai*.

<sup>62</sup> 2013 Land Law, art. 21.

Finally, the 2013 Land Law standardizes public consultation and procedural safeguards for citizens procedures. People’s opinion on land use planning must first be collected at national and district levels through consultation with local communities.<sup>63</sup> Before issuing a land requisition decision, citizens must be notified by state agencies at least 90 days before the requisition of agricultural land or 180 days for non-agricultural land.<sup>64</sup> The notification must include detailed plans and subsequent steps, including survey, measurement, inventory, and plans for compensation, support, and resettlement. Once a land requisition decision is issued, the notification must be sent to every affected citizen, as well as to the media. It must also be made public in meetings with those affected, at the People’s Committee office, and other public venues.<sup>65</sup> While revisions did not specify a majority percentage for approval, the law establishes that consultation meetings must be conducted with land users on plans for compensation, support and resettlement. Results specifying the number of opinions for and against the plans must be recorded, and if there are objections, dialogues must be organized. Compensation plans must then be publicly posted at the local People’s Committee’s office and in other public areas.<sup>66</sup>

While outcomes of government policy do not necessarily and squarely adhere to the policy design in the implementation process,<sup>67</sup> the 2013 Land Law has established more systematic procedures and a legal basis for villagers to assert their demands. Since the revised Land Law went into effect, there has been an overall decline in government land seizures across the country.<sup>68</sup> The tighter restrictions have also made collusion between government authorities and investors less expedient. Businesses have reportedly found it more difficult to acquire land under the more demanding legal framework of the revised Land Law.<sup>69</sup>

## **V. China: Deliberate Reactiveness and Ambiguity in Rural Land Expropriation**

Despite their similarities, China and Vietnam have responded very differently to social unrest. China has addressed the issue in a more reactive manner by endorsing episodic trials and limited reforms with deliberate ambiguity that prioritizes leeway for authorities in the use and control of rural land for construction. In this manner, China’s responsiveness resembles “guerilla-style policy-making” that prioritizes discretion, sketchy oversight, and deliberate ambiguity.<sup>70</sup> This characterization is the opposite of institutionalization, which is distinguished by routinization, stability, consistency, and predictability.<sup>71</sup>

Like Vietnam, the Chinese state has retained its right to seize rural land. Together with the 1982 Constitution, the 1986 Land Administration Law established a system that designated urban land as state-owned, and rural land as owned by collectives.<sup>72</sup> To prevent rural collectives from

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<sup>63</sup> 2013 Land Law, art. 43.

<sup>64</sup> 2013 Land Law, art. 67.

<sup>65</sup> 2013 Land Law, art. 69.

<sup>66</sup> 2013 Land Law, art. 69.

<sup>67</sup> Manin, Przeworski and Stokes (1999.) make this crucial point in their distinction of government outputs in response to citizen preferences from their resulting outcomes in the subsequent implement process.

<sup>68</sup> Centre for Community Support and Development Studies (CECODES), et al. 2021.

<sup>69</sup> Malesky, et al. 2018..

<sup>70</sup> Heilmann and Perry 2011.

<sup>71</sup> Huntington 1968, 12.

<sup>72</sup> 1982 Constitution, art. 10, and 1986 Land Administration Law, art. 8.

“rip[ing] off the state,”<sup>73</sup> the 1982 Regulation on Land Requisition for State-led Construction addressed the “problem of state construction land” and “lawlessness” in land expropriation.<sup>74</sup> The regulation reiterated the principle of “state land expropriation by law,” and forbade purchases, rentals, and shareholding of collectively owned rural land.<sup>75</sup> Rural land, henceforth, was prohibited from market transactions but remained subject to state discretion. Later, in the 1998 Land Administration Law, the Chinese state stipulated that land used for construction purposes must be state-owned land.<sup>76</sup> Collectively-owned rural land must first be expropriated by the state, then converted to state-ownership for non-agricultural and construction purposes, making the state the sole authority to control rural land.

With this institutional framework in place, the Chinese state has used land accumulation as an instrument to attain developmental goals, boosting economic growth, real estate investments, and urbanization.<sup>77</sup> Local governments are equally incentivized to “legitimize themselves as urban promoters and builders,” relentlessly necessitating rural land expropriation.<sup>78</sup> Between 2004 and 2016, the Chinese state expropriated 4.98 million hectares (12.31 million acres) in total, and 70 to 80 percent of the annual total land area requisitioned was agricultural land.<sup>79</sup>

At the peak of China’s land seizures, the number of petitions received by the Ministry of Land Resources (MLR) more than tripled from 4,448 in 1998 to 14,148 in 2004.<sup>80</sup> In-person petitions spiked from 3,530 in 1998 to 31,528 in 2004.<sup>81</sup> Calling the phenomenon a “serious political problem,” Yu Jianrong stressed that land disputes, and especially those related to rural land expropriation, constituted 65 percent of “rights defense cases.”<sup>82</sup> In 2013, the Deputy Director of the National Bureau of Letters and Visits acknowledged that land acquisitions and urban housing demolitions were the leading causes of petitions in China.<sup>83</sup> Between 2003 and 2010, over 88 large-scale protests with hundreds or more participants occurred in China.<sup>84</sup> Between 2009 and 2012 in Wukan, Guangdong Province, for instance, a collective petition campaign escalated into recurring protests that lasted more than three years and finally erupted in violent clashes between public security and 13,000 to 15,000 villagers.<sup>85</sup>

Unrelenting protests, demonstrations, petitions, and other signs of social unrest caused by land seizures have evidently drawn the attention of the Chinese Communist Party (CCP). In the 2004 Central Document No. 1, the CCP Central Committee and the State Council stressed the need for a “sober awareness” of “many contradictions and problems” in China’s agricultural and rural

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<sup>73</sup> Xu 2005, 644-645.

<sup>74</sup> Lü 1982, 444-445.

<sup>75</sup> 2004 LAL, art. 63.

<sup>76</sup> 1998 Land Administration Law, art. 43. For exceptions, see 2004 LAL, art. 43.

<sup>77</sup> Rithmire 2017.

<sup>78</sup> Hsing 2010, 6.

<sup>79</sup> China Land and Natural Resources Statistical Yearbook, 2005-2017.

<sup>80</sup> *Zhongguo Guotu Ziyuan Tongji Nianqian* 中国国土资源统计年鉴 [China Land Resources Statistical Yearbook].

<sup>81</sup> *Zhongguo Guotu Ziyuan Tongji Nianqian* 中国国土资源统计年鉴 [China Land Resources Statistical Yearbook].

<sup>82</sup> Yu 2004, 2009.

<sup>83</sup> “Xinfang ju: Qun zhong lai xin lai fang fanying tuchu zai zhengdi chaiqian deng wenti 信访局：群众来信来访反映突出在征地拆迁等问题 [National Bureau of Letters and Visits: Most Reported Issues from the People’s Letters and Visits are about Expropriation and Demolition]” 2013.

<sup>84</sup> Tong and Lei 2017.

<sup>85</sup> Fu 2014; “Wukan, a Chinese Village, Erupts in Unrest Over Activists’ Arrests” 2016; Tomba 2020..

development.<sup>86</sup> In the same year, the State Council issued the Decision on Deepening Reforms and Intensifying Strict Land Management.<sup>87</sup> For the next 12 consecutive years, the phrase “accelerate the promotion of rural land expropriation system reforms” continued to appear in the Central Document No. 1.

In contrast to Vietnam, responses by the Chinese state took the form of piecemeal, intermittent, ambiguous, non-statutory mandates or policy signals issued by the CCP Central Committee and the State Council. First, the central government partially relaxed statutory restrictions to allow a small and narrow category of collectively-owned rural land to enter the market.<sup>88</sup> In the 2003 Opinions on Improving Work of Agriculture and Countryside, the CCP Central Committee and State Council encouraged localities to facilitate the concentration of township and village enterprises using “collective construction land transfer.”<sup>89</sup> The State Council elaborated on this mandate in the 2004 Decision on Deepening Reform and Enhancing Land Administration, observing that, “the right to use construction land collectively owned by farmers . . . can be transferred in accordance with the law,” that is, insofar as it conformed with the annual land use plan.<sup>90</sup> In effect, the mandate issued by the Central Committee and the State Council permitted large variation of local policies. For instance, local governments in Suzhou, Guangdong, Jiangsu, Anhui, and Hainan Province adopted their own experiments and different methods of transferring rural construction land into the market.<sup>91</sup>

In allowing rural collective construction land to enter the market provisionally in some places but not others, and at different times, the central government was most concerned with the potential decrease in the construction land supply that would result from the contraction of rural land expropriation. In Meitan County, Guizhou Province, one of the sites where the experimental policy was run, an official in the Bureau of Land and Resources explained, “Since the early beginning of reforms, the development of our country has needed to rely on land expropriation . . . The most important aspect about land expropriation reforms is its expropriation scope . . . If the scope is reduced, from what will you satisfy the construction demands? [Rural collective construction land] market entry is one. You advance, I retreat. Reducing on this side [sic], possessing [land] on the other.”<sup>92</sup> Based off this understanding, local authorities assumed that the policy signals from central authorities permitted market transactions of rural construction land. But they were not given any further concrete provisions or detailed instructions — statutory or non-statutory — on how to do so.

Second, with the construction land supply tightly controlled by the state, authorities could invoke an ambiguous and undefined “public interest” clause under the 1998 Land Administration

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<sup>86</sup> 2004 Central Document No. 1.

<sup>87</sup> State Council 2004.

<sup>88</sup> Under China’s Constitution and Land Administration Law, the use of collective rural land for nonagricultural purposes outside of the village’s collective requires that it is first be converted into state-owned land through state expropriation. It is also prohibited from being leased or transferred outside of the village and on the market. Only members of the village collectives are permitted to use rural land for construction without first having to undergo the expropriation process under five exceptions specified in the law.

<sup>89</sup> Central Committee of the Communist Party of China and State Council 2003, point 9.

<sup>90</sup> State Council 2004, point 10..

<sup>91</sup> Yuen 2014, 63-64..

<sup>92</sup> Interview CNGZ 150729. Guizhou Province, China. April 11, 2019.

Law to expropriate land. As of 2017, not only did the meaning of “public interest” remain undefined by the NPC, it had also never been interpreted by the local People’s Congress.<sup>93</sup> Under the status quo, You-tien Hsing observes, “The lack of definition of ‘public interest’ has been taken not as a constraint, but as an excuse for land grabs.”<sup>94</sup>

Civil society groups in China, like Vietnam, advocated for a clearer definition of “public interest” by legally enumerating situations that would qualify under this clause. This discussion gained wider attention around the time China introduced the Property Law in 2007.<sup>95</sup> Jialong Lao from the Research Office of the Legal Affairs Committee of the NPC Standing Committee proposed an enumerative list based on a comparison of how “public interest” had been defined in Germany, Japan, Taiwan, and Hongkong.<sup>96</sup> Huixing Liang, a civil law scholar of the Chinese Academy of Social Sciences, also drafted a list.<sup>97</sup> Unlike Vietnam, however, neither proposal was incorporated in the 2007 Property Law. At the time, Chen Xiwen, former Deputy Director of the CCP Central Rural Work Leading Group explained, “Speaking from a perspective of our phase of development, if we delimit public interest, this would be a trial at best as far as we are concerned. Right now, many experts hope to put forth a catalogue of public interest, but I personally think this is very difficult, very difficult.”<sup>98</sup>

In an episodic manner that prioritizes government discretion and developmental interests over programmatic reforms, MLR permitted seven cities to formulate their own trial policies in 2010.<sup>99</sup> This non-institutionalized response again yielded significant variation and inconsistent application of laws, specifically among Tianjin, Chongqing, Wuhan, Chengdu, Changsha, Shenyang, and Foshan. Some drew up their own catalogues of public interest. Others bypassed the requirement altogether, and shortened the process by directly transferring collectively-owned rural land to private developers. Likewise, in 2004, the State Council stated that consultations with dispossessed individuals must be conducted as part of the pre-application process to be submitted to higher-level authorities before a land expropriation can be approved.<sup>100</sup> One month after this decision, the MLR issued an opinion stating that individuals had the right to request a hearing at the pre-application stage if they objected to the proposed compensation and resettlement arrangements.<sup>101</sup> In 2013 and 2014, the MLR also re-stipulated that procedures of notification, confirmation, and public hearing must be an integral part of the expropriation process.<sup>102</sup> On the one hand, these ministerial rules and administrative regulations were an improvement. On the other hand, as an official tasked with the responsibilities of establishing these procedures in a later trial in Meitan County noted, “Evaluation, notification, announcement, democratic consultation,

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<sup>93</sup> Chun 2015, 176.

<sup>94</sup> Hsing 2010, 95.

<sup>95</sup> Wang 2005.

<sup>96</sup> Liao 2006.

<sup>97</sup> Liang 2010, 69.

<sup>98</sup> Song 2017.

<sup>99</sup> Ye 2014.

<sup>100</sup> Decision on Deepening Reforms and Intensifying Strict Land Management, State Council 2004, point 14.

<sup>101</sup> Guiding Opinion on Improving Compensation and Resettlement System in Land Expropriation, MLR 2004

<sup>102</sup> Notice on Publicizing Land Expropriation Information, MLR 2013; Notice on Further Improving Land Expropriation Information Publication by Municipalities and Counties, MLR 2014

correction, decision-making, formulating a plan, and then publishing the plan, agreement, and report. These kind of procedures [sic], some places have, some places do not.”<sup>103</sup>

Starting in 2015, the CCP and State Council authorized policy experiments in 33 select counties, including Daxing District of Beijing.<sup>104</sup> Initially, these trial reforms were set to end on December 31, 2017, but they were extended to 2018, and again to 2019. The three designated areas of reform, namely, rural land expropriation, peasant household residential land, and rural for-profit construction land, were dubbed as “reforms of three pieces of land” (*san kuai di gaige*).<sup>105</sup> As one official from Meitan Bureau of Land and Resources described the practice of these reforms at the local level, “at the very beginning of our [*san kuai di*] reform related to construction land, in 2015, lots of our print documents has two words ‘strictly confidential’ (*juemi*) . . . those documents handed to us from the center related to the reforms were kept airtight (*mibi*). . . no copying, no taking photos, only for reading. That is, the state strictly controls the scope of the reforms, basically not permitting any announcements outside of what it stipulates.”<sup>106</sup> The deliberate opaqueness of the reform process in China’s reactive approach to responsiveness mirrors Maria Repnikova’s characterization of China as a “regime of uncertainty” that epitomizes “ambivalent governance” over determinate institutionalization.<sup>107</sup> This sharply contrasts with the deliberate unambiguity codified in Vietnam’s 2013 Land Law.

## VI. Conclusions and Extensions

This article has addressed a notable gap in the existing scholarship on the repressive and responsive strategies of states in managing social unrest. Specifically, I develop a distinct framework that introduces the spectrum of reactivity and institutionalization within which to differentiate the variable elements of repression and responsiveness. Importantly, this reactive-institutionalized framework can enable a comparative and summative analysis of the dynamic ways in which political systems address pressure from society that are more suitably characterized within a repressive-responsive spectrum, rather than being crudely democratic or authoritarian. In so doing, it advances a rigorous scaffolding for the development of a distinct comparative research agenda that accounts for how and why governments differ in their repression of and responsiveness to social unrest, which are not deterministically contingent on regime types.

The divergence in the responsiveness demonstrated by the Vietnamese and Chinese states is an exemplary case in point. Despite their many similarities, Vietnam has institutionalized responsiveness to societal calls for strengthened programmatic mechanisms against arbitrary land seizures, whereas China has not to. To a lesser degree of institutionalization, China has instead opted for a reactive responsiveness to land expropriation. Through ad-hoc reforms and trials with deliberate ambiguity, the Chinese government has prioritized leeway for authorities in government seizures of rural land. This sharp divergence in the responsiveness of the two single-party and

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<sup>103</sup> Interview CNGZ 153933. Guizhou Province, China. April 11, 2019.

<sup>104</sup> General Office of the Central Committee of the Communist Party of China and State Council 2014. Jiang 2015)

<sup>105</sup> Jiang 2015.

<sup>106</sup> Interview CNGZ 150729. Guizhou Province, China. April 11, 2019.

<sup>107</sup> Repnikova 2017, 32.

communist regimes of China and Vietnam underscores the imperative for sharper and fine-grained differentiation between authoritarian regimes.<sup>108</sup>

22 years after the 1998 Land Administration Law opened the gate for government expropriation of rural land, fomenting widespread unrest in China's countryside, its amendment in 2019 was heralded as a long-awaited corrective resolution. At the NPC press conference, the Director of MLR Department of Regulations Wei Lihua stressed: (a) an enumerated definition of public interest;<sup>109</sup> (b) a procedural requirement for the pre-approval announcement of land expropriation decisions;<sup>110</sup> and (c) the entry of collectively-operated construction land into the market. These amendments embody the Chinese state's piecemeal, elastic, selective, and variable responses to societal conflicts under the weight of government land acquisitions. From this viewpoint, it would not be accurate to dismiss China as a sheer case of unresponsiveness.

Yet, as I have underscored, rather than assigning binary categories to regime types, the reactive-institutionalized framework enables fine-grained comparative analytical differentiation. Structurally, China's 2019 Land Administration Law fell short of the specification and standardization embodied in Vietnam's 2013 Land Law. Whereas Vietnam's comprehensive revision expanded the Land Law from seven chapters and 146 articles to 14 chapters and 212 articles in 2013, the 2019 amendments in China did little to change the structure of its 1998 Land Administration Law, whose original 8 chapters and 86 articles were maintained.

China's 2019 Land Administration Law continues to permit leeway for government discretion, which favors state interests over those of the public. The bulleted catalogue of public interests coded in Article 45 of the revised law expressly preserves the permissible scope for expropriation of "land required for development and construction." It also preserves open-ended clauses — like "other circumstances stipulated by law" — that require only the approval of the State Council or the people's government. While Vietnam's 2013 Land Law buttressed legislative oversight mechanisms at the national and local levels, China's National People's Congress and its equivalent at the local level have not been granted any direct authority in the amended Land Administration Law. As Hui Wang and Ran Tao have noted of previous draft laws, the discretion enjoyed by local land authorities in land expropriation is comparable to permitting them to be both the "athlete and the referee" (*dang yundong yuan, you dang panduan yuan*).<sup>111</sup>

Allowing for a rural construction land market to take shape offers marginal wiggle room for authorities to relieve societal pressures without reducing construction land supply, but it does not penetrate the heart of the issue. The response, Chun Peng argues, has been far from a "meaningful solution" because it only applies to for-profit rural construction land. This category consists of collectively-owned rural land already being used for non-agricultural purposes such as township and village enterprises or joint ventures. In 2017, it accounted for only 13.5 percent of rural construction land supply.<sup>112</sup> This meant that more than 90 percent of rural collective land was

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<sup>108</sup> Geddes 2003. By the same token, it is necessary to differentiate systematically between democracies.

<sup>109</sup> 2019 Land Administration Law, Art. 45.

<sup>110</sup> 2019 Land Administration Law, Art. 47.

<sup>111</sup> Wang and Tao 2009.

<sup>112</sup> Chun 2018, 59.



still subject to state expropriation as the only means to convert rural collective land into land for nonagricultural purposes.<sup>113</sup>

There is evidence that Vietnam has also demonstrated more institutionalized responsiveness than China in other salient social aspects. For instance, Vietnam has fared significantly better than China in reducing income inequality,<sup>114</sup> recognized workers' right to strike, and reformed the Labor Code to allow for independent trade unions, whereas China has not.<sup>115</sup>

Finally, an extension of the Vietnam-China comparison to Cambodia further shows the spectrum of reactive-institutionalized repression and responsiveness of autocracies in Asia. Categorically, Vietnam and China are single-party and communist states in contrast to Cambodia's multi-party system with regular elections. In practice, democracy in Cambodia has been underpinned by the CPP dominance and Prime Minister Hun Sen for over three decades. Since the 2017 dissolution of the Cambodia National Rescue Party (CNRP), the only viable opposition against the CPP, the country's political system has increasingly approximated the political dynamics of a single-party regime.

Although Cambodia recognizes private land ownership unlike Vietnam and China, government land seizures have also heightened social unrest and discontent. Government land seizures, particularly large-scale land acquisitions associated with economic land concessions, have adversely affected many citizens. There have been two major land laws in Cambodia. The first was adopted from 1979 to 1987. Between that period, people were not allowed to own private property. Only in 1987 that there was a new law whereby all communal lands could be redistributed to citizens without land titles or registration. Only in 1992 that Cambodia has a law that allowed people to own land. In 2001, a new Land Law entered into legal force and permitted economic land concessions.

Responsiveness by the Cambodian People's Party-led regime has been strongly reactive, ad hoc, intermittent, and volatile compared to Vietnam and China. Leading up to the 2013 election PM Hun Sen announced a provisional moratorium on the issuance of new economic land concessions that became widely known as Order No. 01. The timing of the order in 2012 was significant. As a civil society activist explained, "At the time, a lot of people and movements against the government about land because you can see like everywhere [sic], almost around the country, people stand up and fighting with the land issue [sic] [ . . . ] The government doesn't conduct impact assessments, so they don't know where people live, like indigenous people. So when they grant the land to companies and then people living inside, you know, so a lot of human rights issues and people lost land, impacting their livelihoods."<sup>116</sup>

The order, however, failed to mitigate the causes of social unrest in areas with existing land conflicts.<sup>117</sup> The flurry of land surveys and titling following the Prime Minister's announcement

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<sup>113</sup> Chun 2018, 62.

<sup>114</sup> Malesky, et al. 2011..

<sup>115</sup> Chan 2020.

<sup>116</sup> Interview CAMPNH 2022061717. Phnom Penh, Cambodia. 17 June 2022.

<sup>117</sup> Grimsditch and Schoenberger 2015.

of the order in 2012 was also short-lived, and did not recommence after the June 2013 election.<sup>118</sup> Jovially but tellingly, a member of a civil society group commented:

You know, in Cambodia, there are dry and rainy seasons. There are also other seasons, election seasons. Every year, every election season, they promise and resolve a little bit, but still, you know, they not resolve all [sic]. One term to another term, very small. That's my perspective, I work with the commune [level]. That's why the election coming, we always talk to people [sic]. That's our opportunity to seek support from the government to solve the problems for the people. For example, now the commune election was already done. And next year, the national election so people can do more, you know [sic]. The government promises them to solve the problem.<sup>119</sup>

A member from another civil society organization similarly observed:

In that period, you see a lot of protests on a large scale, very very large scale [sic], to the point where [the government] was worried about a land revolution. The two reasons why Order No. 001 order was introduced because the prime minister back then warned that there might be a land revolution coming because of land conflicts. Because back then, there were many people from many provinces every day, or almost every day, very frequently [sic], they would come to Phnom Penh. And all the national roads and all the road leading to the provinces would be blocked and closed because people were protesting. Protesting because people were evicted from their lands and basically, [the Prime Minister] said that if the problem is kept for longer, it could be a revolution. That was the first reason. And the second reason is a political reason. It is because if the problem persisted, then it might affect the popularity of the ruling party, and that is why, in June of 2012, the land Order No. 001 was introduced.<sup>120</sup>

Indicative of this electoral logic, after the 2013 election, no other comprehensive reforms to systematically resolve the problem of economic land concessions have been adopted to date. Protests against land concessions have not abated in Cambodia. In September 2020, instance, nearly 1,000 villagers across three provinces assembled in front of the Ministry of Land Management, Urban Planning, and Construction in Phnom Penh to decry the government's expropriation of their farmland.<sup>121</sup>

Recognizing how authoritarian regimes in Asia differ has important policy implications. Many countries in the region fall in the vast gray zone between liberal democracy and autocracy with varied characteristics of both. Others tend to oscillate, like Thailand and Myanmar's on-and-off democracies. Asia also contains immense institutional diversities and capacities that do not fit squarely with typical associations of authoritarianism with repressive and failed states in the Middle East or Africa. In contrast, states with authoritarian characteristics like Singapore have been responsive and effective on many development and governance issues, whereas democracies like the Philippines have been hollowed out by defective institutions. A new pivot to Asia by the

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<sup>118</sup> Schoenberger 2017.

<sup>119</sup> Interview CAMPNH 2022061717. Phnom Penh, Cambodia. 17 June 2022.

<sup>120</sup> Interview CAMPNH 2022062819. Phnom Penh, Cambodia 28 June 2022.

<sup>121</sup> Finney 2020.

U.S. based solely on conventional paradigms rigidly tied to regime types is thus limiting and problematic.

My research argues instead for a recalibration of U.S. policy in Asia to be based on a rigorous analytical differentiation of the parameters of repression-responsiveness of political regimes toward societal interests. Centered empirically on Vietnam, China, and Cambodia, this article looks closely at how these authoritarian regimes differ in their ways of addressing vocal public demands for protection against arbitrary land expropriation. Some have done so in a more institutionalized manner, while others have been more reactive. As Barbara Geddes notes, “Dictatorships can differ from each other as much as they differ from democracy.”<sup>122</sup> Understanding these significant differences in the repressive and responsive elements within authoritarianism will allow the U.S. to better navigate its engagements in Asia, and to fortify strategic areas of support for good governance, institution-building, and civil society.

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<sup>122</sup> Geddes 2003, 48.

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