The University of Chicago

Democratic backsliding as a function of transition mode: The cases of Guatemala and El Salvador

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August 2022

A paper submitted in fulfillment of the requirements for the Master of Arts degree in the Committee on International Relations

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Introduction

What explains differences in democratic backsliding? As transitions from authoritarianism to democracy follow different paths, so do regressions from democracy towards authoritarianism. However, existing literature seems to assume that theses paths always go through the executive branch. I contend that backsliding can occur even when the executive is weak and when heads of government or state are unable or unwilling to concentrate power. Elites, I propose, can be the agents through which backsliding occurs in democracies with weaker executives. This mechanism is enabled by the persistence of elite influence during democratic spell, a result of the position held by elites during transition. While some democracies will backslide driven by an executive agent interested in expanding and preserving their power, others will backslide when elite interests and wellbeing are affected by democratic norms and policies. The latter is only possible when elites can exert sufficient influence such as to trigger shifts in the political regime. I thus argue that transition mode affects the path that a democracy takes when backsliding.

This paper begins by reviewing the contemporary literature on backsliding to show that it focuses on the executive's actions. The next section considers descriptive data that suggests that, in some cases, backsliding can occur even when the executive is effectively constrained by the legislature and the judiciary, and that this phenomenon is more frequent in cases where the government's support comes from elite actors. Afterwards, I consider the cases of two polities that have followed a similar trajectory across multiple regime changes since the late 19th century -El Salvador and Guatemala-, but whose regime characteristics have diverged after their respective transitions to democracy in 1984 and 1985, and whose democracies are rapidly eroding into authoritarianism through distinct paths: While El Salvador's path away from democracy fits the literature quite well, the Guatemalan relapse does not. I conclude by suggesting that elite involvement in the

current ruling coalition, a result from each polity's transition mode, is the defining trait that explains those different pathways.

Democratic Backsliding: An Imprecise Concept

The appearance of authoritarian traits in otherwise democratic regimes is a matter of concern for political science in the last few years. There seems to be no scholarly consensus as to the point in which this phenomenon signals a change in political regime, from democracy to authoritarianism. There also does not seem to be a consensus as to what concept is best when describing this process. The term *democratic backsliding* implies that democratic regimes should move *upwards* in a regime scale, from an authoritarian bottom to a perfectly democratic top. From Robert Dahl's conceptual development, we know that there is no such thing as a full democracy, but "backsliding" is still the term used to describe the emergence of authoritarian practices in both consolidated democracies and democracies which have recently transitioned from authoritarian regimes.

Nancy Bermeo (2016) has perhaps the most descriptive development of the concept. In her words, the secular meaning of *backsliding* denotes *a willful turning away from an ideal*. Referring specifically to political regimes, backsliding can refer to both *a rapid and radical change across a broad range of institutions* and *gradual changes across a more circumscribed set of institutions*. These, in turn, can either lead to a *democratic breakdown* or the *weakening of existing democratic institutions* (Bermeo 2016, 6). She further develops the concept to include a wide range of actions: classic coups d'état, executive coups, and election day fraud, which in modern democracies have given way to promissory coups, executive aggrandizement, and strategic election manipulation (Bermeo 2016, 6-14). All these actions center in the executive branch: presidents rig presidential

elections or aggrandize their power, presumably to remain in office. Promissory coups remove a sitting president with the promise of replacing them in a future democratic election.

Adam Przeworski (2018) points to the apparent ambiguity of the term *backsliding*, by using it analogously with *democratic deconsolidation* and *authoritarian retrogression* and defines it as the process through which *the opposition becomes unable to win election or assume office if it wins, established institutions lose the capacity to control the executive, and manifestations of popular protest are repressed by force. This process is propelled by the desire of a government to monopolize power and to remove obstacles to realize its ideal policies* (Pzerworski 2018, 172-173). Przeworski's concept also centers around the executive, as the object of electoral competition or the subject of horizontal accountability. He goes on to describe how stealth is a key condition for backsliding: a government's steps towards preserving power need not be blatantly unconstitutional or explicitly unpopular, yet they are frequently effective.

Milan Svolik brings two key insights into this discussion: First, in his 2008 piece addressing the subject matter, he does not use the term *backsliding*, but employs *authoritarian reversals* instead. This may be related to the fact that his findings hint at a process that is exclusive to unconsolidated democracies. If a democracy reverts to authoritarianism, it is assumed to not have been consolidated; likewise, by his definition, consolidated democracies do not face reversals (Svolik 2008, 154). Second, Svolik provides a broad classification of authoritarian reversals or democratic backsliding: On the one hand, there are military coups, which are sudden. On the other, executive takeovers are gradual, and happen at the hands of initially democratic incumbents who exploit vulnerabilities within the democratic process. He then points to cases in which democratically elected heads of State have remained in power through some of the various strategies described by

Bermeo. Again, the concept is centered around the executive and an individual attempting to remain in power.

Finally, Dan Slater (2013) proposes a non-linear view of the observed behavior that others have called *backsliding*. Slater chooses the term *democratic careening*, to describe a sort of horizontal sliding in which partisan actors deploy competing visions of democratic accountability. While one set of actors may prioritize the inclusive requirements of democracy, an opposing set may be keener on constraining the executive and preventing concentrations of power. This produces a tension between horizontal and vertical accountability, with no one party seeking the restoration of authoritarian or non-democratic rule (Slater 2013, 730-31). Implicit in Slater's proposal is a critique of a strict binary distinction between regime types: unconsolidated democracies careen between different forms of accountability without reversing into authoritarianism, while their behavior may seem authoritarian to observers.

Why do Democracies Backslide?

Existing explanations of democratic backsliding focus on institutions, norms or structural conditions that would enable, allow, or acquiesce an aspiring autocrat seeking to increase or consolidate his power. Svolik (2020), for example, uses political polarization as an explanation of democratic backsliding. In polarized societies, he argues, voters are willing to trade off democratic principles for partisan interests, thus electing aspiring autocrats or acquiescing in their power grabs. Przeworski (2019) understands backsliding as the result of political conflicts where the stakes are too high or not high enough, commonly a product of institutional designs that are not conducive to effective government by the majority. Levitsky and Ziblatt (2018) argue that backsliding is the result of elite abandonment of democratic norms -forbearance and mutual tolerance- which serve as guardrails against aspiring autocrats.

All these explanations seem to consider the limited pathways described by Bermeo (2019): Promissory coups, electoral manipulation, or executive aggrandizement. But can democracies backslide without an autocrat, or during the tenure of an unpopular or weak leader? In the same way that political regimes change from authoritarianism to democracy following different paths, democracies may devolve into authoritarianism through varied roads. A brief review of the literature on transitions is helpful in illustrating this point.

Lessons From Transitions

The literature on democratic transitions can be summed up in two families of explanations: A corpus of research highlight structural factors, while another one emphasizes explanations based on the role of societal actors, principally elites.

Literature on structural factors tends to focus on issues of distribution and economic development. O'Donnell and Schmitter (1986), Mainwaring and Pérez-Liñán (2013), and Ames and Mamone (2020) have shown the relevance of elite agency in bringing about regime change. Mainwaring and Pérez-Liñán found that the prevalence of radical preferences among relevant political and social actors has a negative effect on democratic survival. Also, that actors' normative preferences track closely with regime outcomes, so that a democratic leaning elites would favor regime survival, while the prevalence of authoritarian preferences would correspond with democratic breakdowns.

Acemoglu and Robinson (2001) is helpful in that it combines structural factors with the relevance of elite choices in democratic transitions and survival. Similarly, Wood (2000) refers to four routes from authoritarianism to democracy: Defeat in a war followed by the imposition of democracy by occupying forces; the emergence of a faction of moderate elements within an authoritarian regime and the subsequent initiation of a period of political liberalization, which may be followed by

democratization impelled by an upsurge in contentious politics or an inter-elite pact; successful political mobilization by a cross-class alliance of those excluded from power; or sustained mobilization from below by working-class actors that forces regime elites to negotiate a transition to democracy. Wood's work is extremely relevant to this discussion, as it pertains both structural factors -economic regime and constraints- and elite choices in transitions.

The literature on democratic transitions blends almost seamlessly into explanations of democratic backsliding, sometimes without attention to conceptual definition. However, it is noteworthy that elites are present in almost all explanations of regime change, in the democratic direction. Should they not appear in explanations of regressions into authoritarianism as well?

Albertus and Menaldo (2018) proposed a categorization of two types of democracies, based on the mode of transition: "popular democracies", where regime change was led by incoming or challenger elites and the masses, and "elite biased" democracies, where incumbent elites whose power influenced the democratic transition have rigged the regime traits to preserve and protect their interests, or at least have a foot in the door when they become threatened. This theory is a congruent complement to Shugart's (1998) finding that transition mode -decompressive or provisionary – and whether outsider or insider politicians control the drafting of the new constitution affects institutional design: While provisionary transitions will result in stronger parties and weaker executives, decompressive transitions would result in stronger executives when insider elites are dominant. The role of authoritarian or incumbent elites throughout regime change, as well as their persistence after democratic transitions has been subjected to expansive analysis. Mark Deming's work on authoritarian successor parties shows that elites are likely to coordinate when they perceive a credible threat to their person, property, and privilege under democracy (Deming, 2018: 213). Deming suggests that elite persistence has a *destabilizing* effect in

democracy (215). Loxton (2016) explains how the persistence of authoritarian elites via authoritarian successor parties may trigger authoritarian regressions, prop up authoritarian vestiges or hinder processes of transitional justice (31-34). Albertus and Deming (2018) show that former authoritarian elites do not need authoritarian successor parties to coalesce and coordinate to preserve their influence after the transition by occupying a wide range of government positions, and that this may have an effect in the quality of democracy.

Backsliding with a weak executive?

In *How Democracies Die* (2018), Steven Levitsky and Daniel Zibblat provide a standard pathway for modern democratic backsliding: A would be autocrat is elected and consolidates power by capturing institutions that are hold them accountable (*capture the referee*), sideline political and civic opposition through cooptation or repression, and changing the rules of contention to their advantage (78-96). This recipe, centered around the head of the executive, presumes that the executive is powerful enough such as to perform these actions. Only a powerful executive could pack the courts, disobey the constitution, ignore legislative controls, or secure a majority for electoral reform. Figure 1 shows that this is true in a majority of cases.

Whether a specific democratic regime is backsliding in a given year is determined using the ERT Dataset's (Edgell 2022) *Autocratization episode* (*aut_ep*) variable. The dataset attempts to reconcile incrementalist and transitologist approaches to understanding regime change. Understanding the inherent uncertainty of regime transformation processes, a regime is said to have an autocratization episode in a given year when it is going through *a period of substantial decreases on V-Dem's Electoral Democracy Index (EDI)* . Autocratization episodes substantially transform a regime in such a way that, if continued over time, may drive the regime past a *transitological* threshold from a liberal democracy to an electoral democracy, to an electoral

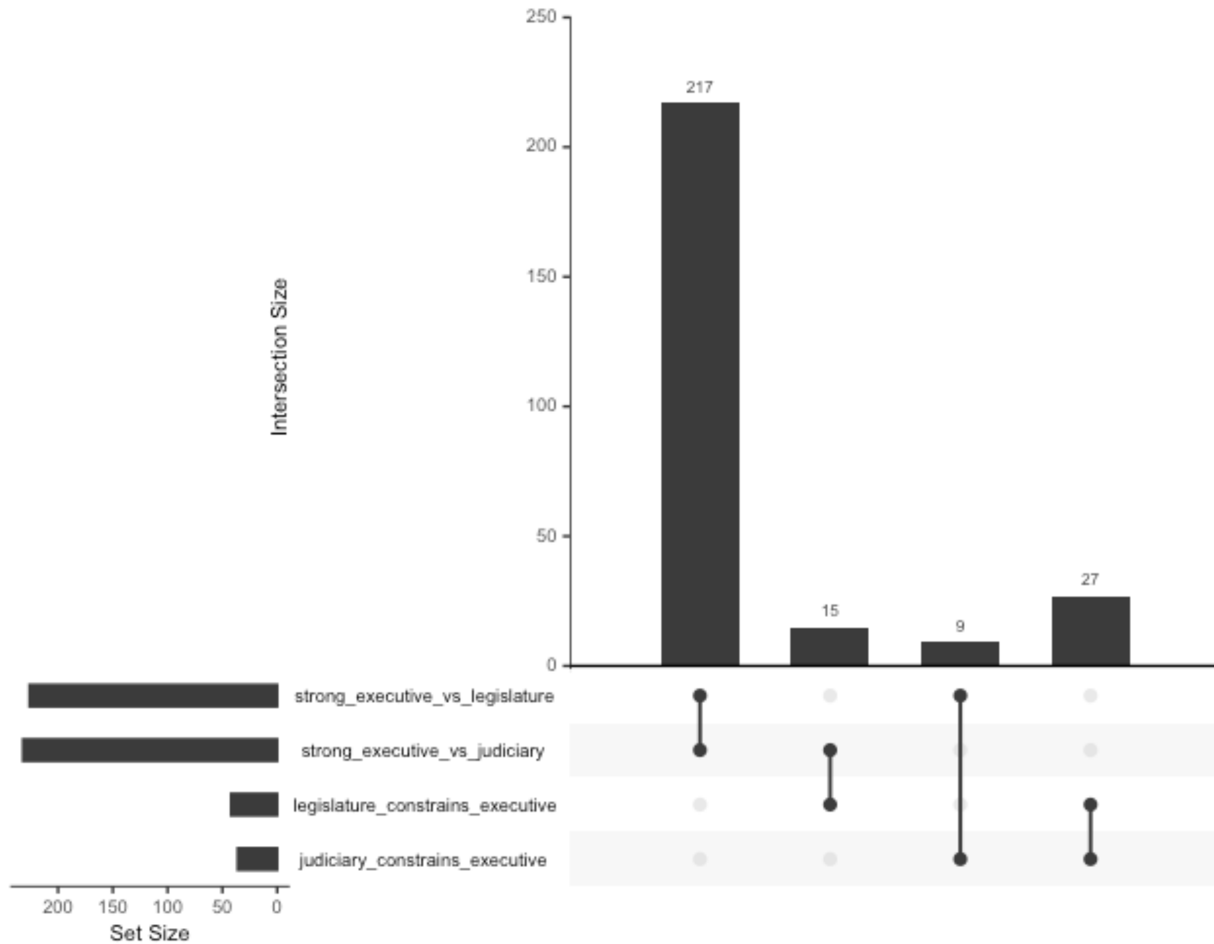
autocracy or a closed autocracy (6, 7, 18). All observations included in this Figure refer to democracies according to the Regimes of the World democracy index in years in which they are coded as going through an autocratization episode. As such, they fall under what the ERT literature refers to as *democratic regression* (7). A regime is said to be in an episode of democratic regression as long as, starting out as a democracy, it has an initial EDI change of -0.01, followed by an overall change of at least 0.10 over the duration of the episode. The episode is considered ongoing as long as it has an annual change in at least one of every 5 consecutive years, does not have a reverse annual change of 0.03 or greater, and does not experience a cumulative reverse change of 0.10 over a five-year period (Edgell 2022, 9).

Most of the observations of backsliding in democracies in the V-Dem Dataset (Coppedge, et al 2022) and the Episodes of Regime Transformation Dataset (Edgell, et al 2022) occur in polities and years where executives are stronger than their corresponding judicial and legislative branches. The variable *strong_executive_vs_legislature* is a binary categorized version of the V-Dem Datasets *Legislative constraints on the executive index* (*v2xlg_legcon*), which seeks to measure the extent to which the legislature and government agencies are capable of *questioning, investigating, and exercising oversight over the* executive. Meanwhile, *strong_executive_vs_judiciary* is a categorized version of the *Judicial constraints on the executive* (*v2x_jucon*), which measures the extent to which the executive respects the constitution and complies with court rulings, and the extent to which the judiciary can *act in an independent fashion* (Coppedge 2022b, 50).

Notice that most democracies backslide in moments when the executive is strong enough to resist, prevent or be impervious to judicial and legislative constraints. However, there are 15 observations of backsliding with an executive that is constrained by legislature and not the judiciary, and 9 observations of backsliding with effective judicial constraints but not legislative constraints.

Furthermore, in 27 observations, democracies are backsliding while both effective judicial and legislative constraints are in place.

Figure 1 - Set Analysis of Backsliding Democracies by Executive Strength

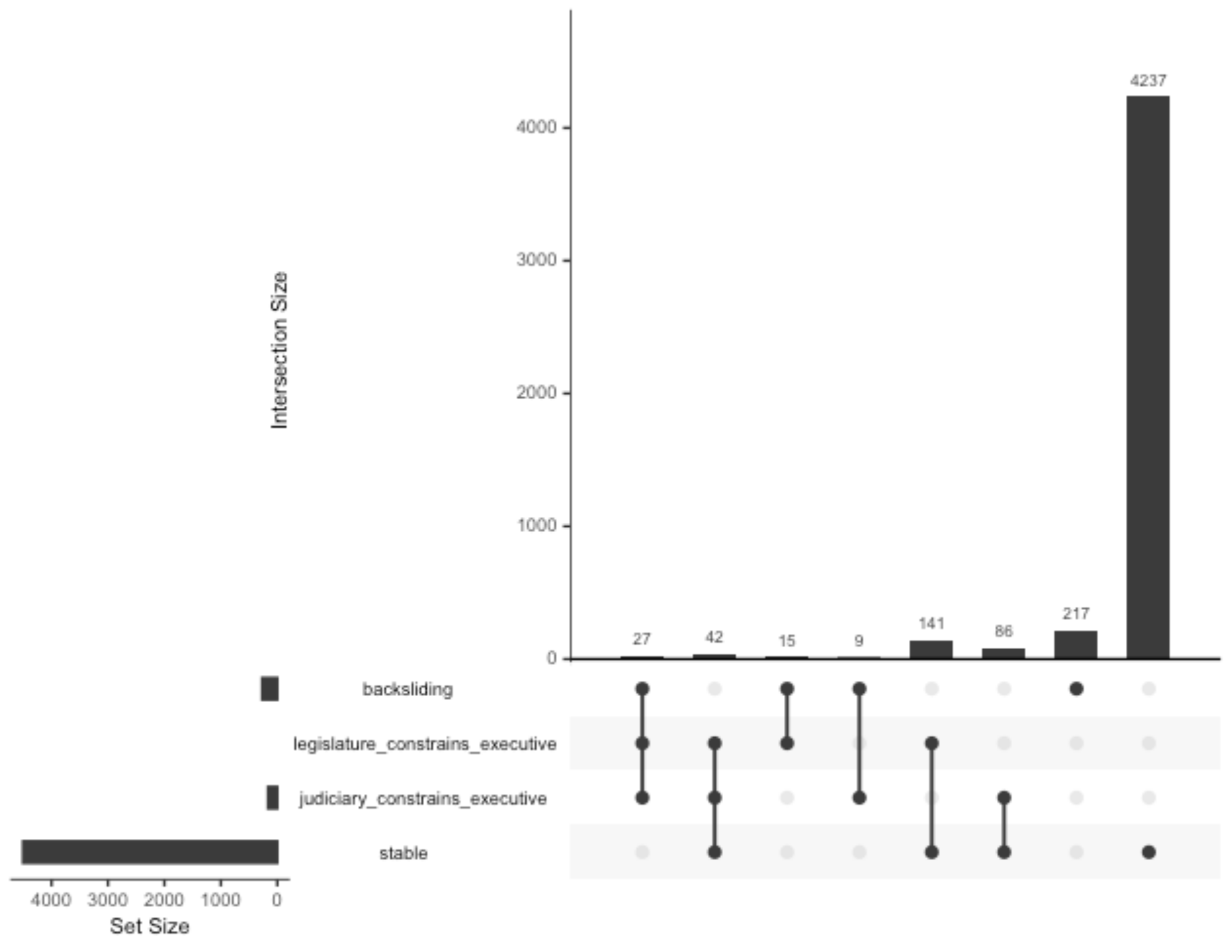


Original dataset developed using the V-Dem Dataset (Coppedge, et al 2022) and the Episodes of Regime Transformation Dataset (Edgell, et al 2022)

A strong or unconstrained executive is then not a necessary condition for backsliding. In 61 out of 265 observations of democratic regression, the executive has been effectively constrained by at least one other branch of government, while in 27 observations it has been constrained by both. But if a strong executive is not a necessary condition for backsliding, is it sufficient? That is, will a strong executive always result in a regression?

In most years, for most countries, a democratic regime will be stable. Even those with seemingly unconstrained executives. In sum, a strong executive, while frequent amongst backsliding democracies, is not a sufficient nor a necessary condition for backsliding.

Figure 2 – Set Analysis of Democracies by Stability and Executive strength



Original dataset developed using the V-Dem Dataset (Coppedge, et al 2022) and the Episodes of Regime Transformation Dataset (Edgell, et al 2022)

In democracies, different actors may have varying levels of influence over public decisions, policy making, legislation and their outcomes. The V-Dem Dataset (Coppedge 2022) documents the most relevant group in each regime in the variable *Regime most important support group* (*v2regimpgroup*), which seeks to determine which actor would most endanger the regime if it were

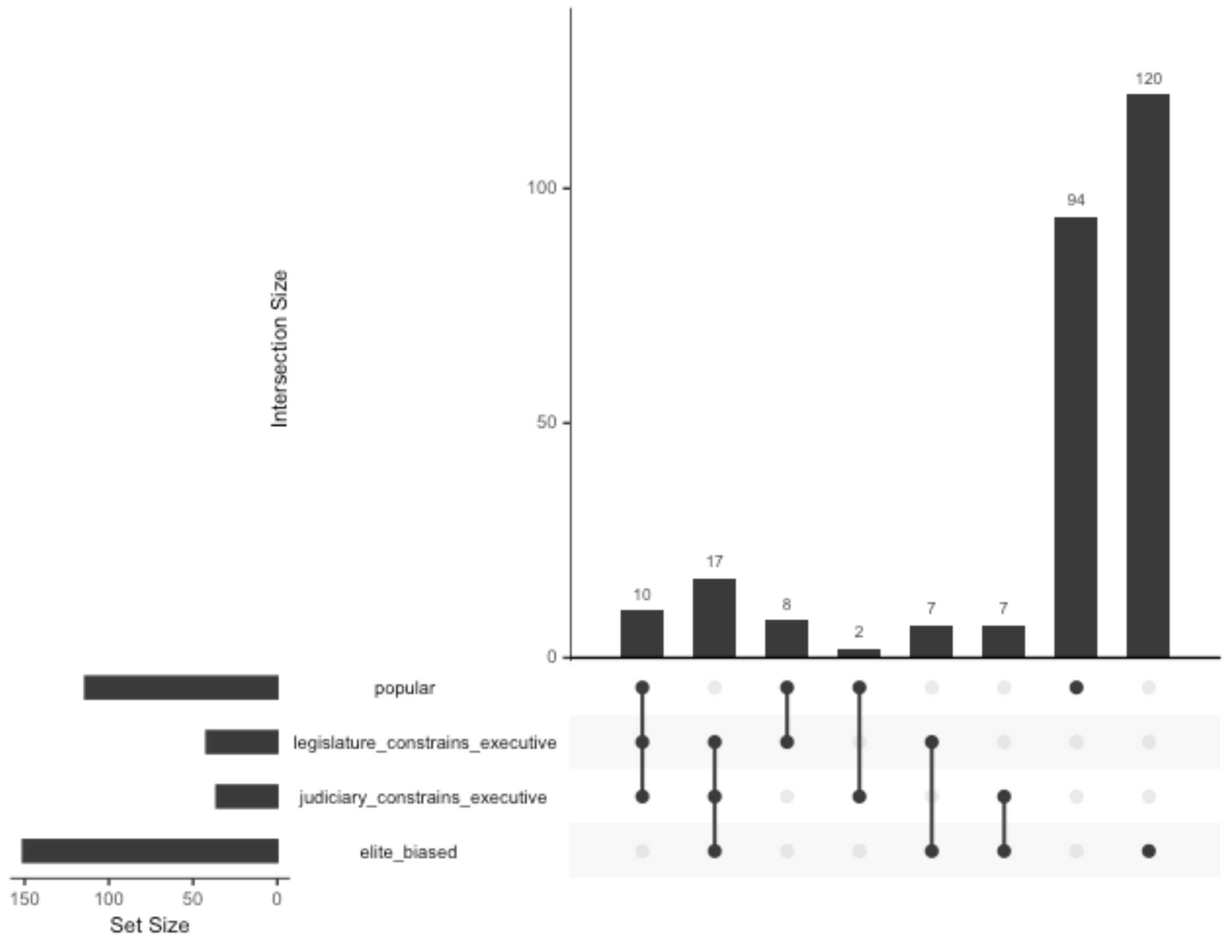
to retract its support (Coppedge 2022b, 139). This actor can be the aristocracy, agrarian elites, party elites, business elites, civil servants, or the military -which I have collapsed into a single *Elite* category – , an ethnic or racial group, a religious group, local elites, urban working classes, urban middle classes, rural working classes, or rural middle classes, -which I have collapsed into a single *Popular* category-, or a foreign government or colonial power, which I have excluded from this analysis. An elite-biased democracy is therefore one in which one of the elite actors is dominant, and a popular democracy is dominated by one of the popular actors.

Table 1 – Set Analysis of Backsliding Democracies by Horizontal Constraints

Democracy type	**No legislative and no judiciary constraint**	**Legislative constraint only**	**Judiciary constraint only**	**Judiciary and legislative constraint**
Elite-biased	120	7	7	17
Popular	94	8	2	10

17 episodes of backsliding with executives constrained by the legislature and judiciary correspond to elite-biased democracies, while 10 correspond to popular democracies. Popular democracies account for 8 observations of backsliding with legislative constraint and 2 with judiciary constraint. Elite democracies account for 7 observations of backsliding with legislative constraint and 7 with judiciary constraint. Overall, while elite-biased democracies are generally more common, backsliding with a constrained executive occurs more frequently in elite-biased democracies than in popular ones. While backsliding with weaker executives is not a frequent occurrence, it is significant in light of the assumptions made by the current literature.

Figure 3 -Set Analysis of Backsliding Democracies by Executive Strength and Regime Support Group



Original dataset developed using the V-Dem Dataset (Coppedge, et al 2022) and the Episodes of Regime Transformation Dataset (Edgell, et al 2022)

A Tale of Two Regimes

James Mahoney (2001) describes the paths taken by Central American polities during the 19th and 20th centuries, noting the parallel roads driven by El Salvador and Guatemala. Following Central America's independence from Spain in 1821, a regime type deemed *radical liberalism* developed in El Salvador and Guatemala during the late 19th century, distinct from others in the region in that

it fostered the emergence of polarized rural class structures and a powerful military coercive apparatus (122). Elite-led reformist attempts in the 1920s were crushed in both countries by authoritarian presidents that ruled from 1931 to 1944: Jorge Ubico Castañeda in Guatemala and Maximiliano Hernández Martínez in El Salvador (Mahoney 2001b, 199-200). *In both Guatemala and El Salvador, the military overthrew the reformist governments, assumed full control of the state, and began to govern autonomously from all major societal groups* (Mahoney 2001 b, 199). In 1944, simultaneous with the initiation of a democratic episode in Costa Rica led by Rafael Angel Calderón, El Salvador saw a period of high instability where urban middle classes demanded democratic reform, and Guatemala had an urban revolution that instated a 10-year democratic regime. Democracy expanded its roots in Costa Rica following a revolution in 1948. A key difference between both episodes was that the military allied with revolutionary groups in Guatemala and not in El Salvador (Mahoney 2001b , 211). By 1950, El Salvador was under a stringent military rule, and in 1954 the Guatemalan democratic experience ended. The military regimes in Guatemala (1954-1986) and El Salvador (1950-1979) were notably amongst the most repressive in the continent's history (Mahoney 2001, 128). Violent civil wars were waged after the fact in El Salvador (1979-1992) and during this period in Guatemala (1960-1996). By 1983, El Salvador had drafted a new constitution that would usher in democracy after the end of the civil war. A democratic constitution was also drafted in Guatemala in 1984 and enacted in 1985. Transition dates in both countries vary according to conceptual understandings of what constitutes the beginning of democracy, but they still trace close by.

Table 2 – Transitions to current democratic regime in El Salvador and Guatemala

Country	**Constitution**	**First election with new constitution**	**End of civil war**	**First election after the end of civil war**
El Salvador	1983	1984	1992	1994
Guatemala	1985	1986	1996	1999

The similarities between El Salvador and Guatemala allow for a controlled comparison following the *most similar cases* strategy. Mahoney's work has established that both countries followed similar paths from antecedent conditions that resulted in surprisingly similar political regimes, to the point that critical junctures and impactful political events occur in both countries almost simultaneously.

In their defense of controlled comparison, Slater and Ziblatt (2013) propose that controlled comparisons in small-n studies can provide external validity when findings are expressed in terms of general variables or mechanisms, when research captures representative variation, and when case selection maximizes control over alternative explanations. While a small-n study does not produce external validity by itself, it may confirm it (1314), when accompanied by a solid theoretical and conceptual foundation.

Guatemala and El Salvador present an opportunity to test and expand on Albertus and Menaldo's (2018) thesis that transition modes affect the quality of democracy, and that the manner of elite involvement in the transition is a key explanatory variable. However, two clarifications are in order as to the selection of these two cases.

First, both El Salvador and Guatemala are, in Albertus and Menaldo's conceptualization, elite-biased democracies: Both their inaugural constitutions are autocratic, being drafted prior to the transition whether marked by the first democratic election or the end of the civil war. As such, they contain provisions that, in Albertus and Menaldos's view, protect outgoing elites from the perils of democracy.

Both countries are historically unitarian and have a unicameral legislative system, as is common in polities with small territories and populations. Both, however, chose proportional representation with extreme variations in district magnitude. In El Salvador, districts vary from 3 to 25 representatives, and in Guatemala, district magnitude ranges from 1 to 32. Both constitutions banned parties with extreme left-wing ideologies and prohibit retroactive application of penal law, except when it favors offenders. Property rights are protected in both constitutions, but the Salvadorean constitution acknowledges the "social function" of public property, a term not included in Guatemala. One key difference is that the constitution's flexibility.

The Guatemalan Constitution establishes different tiers for reform: Some provisions can be reformed by a two thirds majority of legislators and a favorable opinion of the Constitutional Court, then ratified by a referendum. Others can only be reformed by an elected constitutional assembly, which would require a two-thirds majority of Congress for its convocation. And other articles are not to be reformed at all, per the constitution's own text. The text has only been reformed once, in 1993. Meanwhile, the Salvadorean constitution can be reformed by a two thirds majority of the legislature, and reforms should be ratified by the subsequent legislature, having been reformed in 1991, 2001 and 2009.

Table 3 – Elite-biased provisions in the Salvadorean (1984) and Guatemalan (1985) constitutions

Elite-biased provision	El Salvador	Guatemala
Federalism	Unitarian	Unitarian
Bicameralism	Unicameral	Unicameral
Proportional representation	Proportional representation	Proportional representation
Banning of left-wing parties	Banned	Banned
Prohibiting Retroactive Criminal Punishment	Prohibited	Prohibited
Popular initiation of legislation limited	Not permitted	Permitted
Protection of property rights	Protected	Protected
Constitutional stability	Flexible	Rigid

Source: Albertus and Menaldo (2018) and Political Database of the Americas (PDBA)

The second clarification Is that both regimes have comparatively strong executives, as is common in Latin American political regimes. Executive and legislative constraints on the executive branch are substantially lower than the mean for world democracies. Legislative constraints in Guatemala are close to the mean value for Latin American democracies, and judicial constraints are substantially higher. In El Salvador, the presidency is substantially stronger than average Latin American democracies when placed before the legislature, but weaker vis-à-vis the judiciary.

Table 4 – Executive Strength in El Salvador and Guatemala (1984-2020)

	Legislative constraints on the executive	**Judicial constraints on the executive**
El Salvador	0.473	0.541
Guatemala	0.682	0.635
Latin America	0.688	0.337
World democracies	0.831	0.849

All values are mean.

Computed from V-Dem Dataset (Coppedge, 2022)

However, what makes this comparison useful is precisely that, while both regimes are similar when compared to their ecology, they are substantially different when compared amongst each other. The Salvadorean presidency after transition is much stronger than the Guatemalan executive. As I will discuss below, differences in transition modes may have influenced the way the executive interacts with elites and resulted in a divergence between Guatemala and El Salvador's regimes. Divergent transition modes have split historically similar countries and set them in divergent trajectories: while both are backsliding, they are doing so through different paths and, possibly, in different distributive directions.

An Insurgent Transition and a Dictated Transition

An Insurgent Transition

The Frente Farabundo Martí para la Liberación Nacional (FMLN) was founded on October 10, 1981, culminating a long process began in Cuba in 1979, coordinated by the head of state Fidel Castro. Initially, the FMLN incorporated four guerrilla factions that had been fighting in several territories, at different times and with varying intensity since at least 1970. Throughout the decade, the military regime, standing since 1932, had forcefully repressed civil dissent. 1980 may mark

the beginning of the Salvadoran civil war, while the beginning of the transition could be placed in 1979: A military coup by junior officers took power and installed a ruling coalition comprised of the army and progressive politicians, including the Christian Democratic Party (Partido Demócrata Cristiano, PDC) and the Salvadorean Communist Party (Partido Comunista Salvadoreño, PCS). The army held control of security affairs and continued violent repression, prompting progressives to leave the coalition and sometimes join the armed revolutionary groups, giving way to an alliance between the PDC civilian politicians and the army (Álvarez 2011, 210-219). This alliance would implement a series of reforms aimed at undermining the social legitimacy of the insurgency (Wood 2001, 870). Most importantly, an extensive agrarian reform, initiated in 1980, and the drafting of a new constitution by an elected assembly in 1982. The majority in said assembly was held by ARENA, which had just been formed in 1981, under the leadership of mayor Roberto D'Aubisson, who coordinated death squad activities from Guatemala, under the advice of Guatemalan politician Mario Sandoval Alarcón (Wood 2000, 69), a death squad and party leader himself. ARENA was designed from the beginning as a political instrument to represent economic elite interests (Wood 2000, 69). Political liberalization led by the PDC and the army resulted in reasonably competitive elections, where ARENA won a plurality that would enable them and the elite interests they represented to instill a conservative seal in the Constitution that resulted in the rolling back of the agrarian reform. However, the PDC candidate, José Napoléon Duarte, would win the presidency in the 1984 elections (Wood 2000, 71).

Throughout the Duarte administration, ARENA underwent relevant changes: D'Aubissson left the party presidency and was substituted by businessman Alfredo Cristiani, who moderated the party's rhetoric and ideology. A think-tank, the Fundación Salvadoreña para el Desarrollo Económico y Social (FUSADES) strongly supported by US aid and modernizing business elites was formed and

became instrumental in the adoption of a neoliberal program in ARENA. Cristiani won the presidency in 1989 (Wood 2000, 72).

All the while, the FMLN developed an effective mobilization strategy in the countryside. Fueled by new access to resources through Cuban support, the insurgency's strategy may have, in a way, benefitted from the army's fierce repression: The dismantling of their largest military units resulted in the spreading of smaller units across 10 of the 14 departments of El Salvador. By the end of 1980s, the FMLN impeded the establishment of official local authorities in 33 municipalities and controlled 25% of El Salvador's territory. The new constitution and the ascension of Duarte and the PDC facilitated the Frente's collaboration with civil society organizations. This process not only potentiated the organization's military capability, but also facilitated the constitution of the FMLN as an *insurgent counter-elite*, that would be a necessary participant in the peace negotiations and subsequent implementation of the accords. By 1988, the FMLN had embraced the possibility of supporting a democratic system rather than installing a socialist revolutionary government. In 1989, the rebels displayed the extent of their military power by besieging San Salvador for three days, to the point of occupying elite neighborhoods. Some FMLN leaders hoped this would spark a popular insurrection that would secure the revolution's triumph; this did not happen, but the showcase of military capability improved the FMLN's position in peace negotiations. (Álvarez 2011, 221-228). The main argument that Wood makes is that three processes that resulted from insurgency transformed elite interests, identity, and political representation: counter-insurgent reforms by the 1979-1984 administration undercut the economic and political power of agrarian elites. First, the FMLN's sustained military capability despite forceful repression created uncertainty about the war's outcome for elites. Second and third, military and economic aid from the US, as well as an important increase in the influx of remittances

from Salvadorean nationals who fled to the US as a consequence of the war presented new economic opportunities (Wood 2000, 63).

A Dictated Transition

In 1981, a crisis was unraveling in the Guatemalan military regime. Corruption, ineffective combat of the left-wing insurgency, and poor relations with business elites caused unrest within the army. On March 23, 1982, a long and uncertain period of democratic transition began, with a military coup led by general Efraín Ríos Montt and a group of junior military officers. The new government made the military defeat of the guerrilla movement its stated priority, followed by an agenda of economic reform and political liberalization. By December of that year, the *Unidad Revolucionaria Nacional Guatemalteca* (URNG) had been pushed away from towns close to Guatemala city, into the northern hinterlands. A new and independent electoral organ was created and tasked with organizing the election of an assembly that would draft the new constitution, sometime in the future. And the government had initiated economic reforms, in tense conversations with the *Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras* (CACIF), the country's umbrella business organization. The latter being unresolved, Ríos Montt stated an intention to remain in power for at least seven years, to complete economic modernization prior to political liberalization. During the first half of 1983, while the government implemented a tax reform in agreement with CACIF, it began developing an agrarian reform policy, alienating the private sector. His decision to remain in power motivated discontent within army ranks, and on August 8, 1983, he was removed by a coup led by his defense minister, Oscar Humberto Mejía Víctores. Mejía declared his administration a *provisional government* and quickly asked the TSE to organize the constituent assembly election, which was held in 1984[1].

[1] A detailed account of this process is provided by McLeary (1999, 50-60).

After decades of military rule, Guatemala held its first free and fair general election in 1985, under a constitution drafted by an assembly that resulted from a more restrictive election in 1984. Vinicio Cerezo was elected president for a five-year term on the Christian Democracy (Democracia Cristiana, DC) ticket, along with Jorge Carpio Nicolle as vice-president. The Christian Democrats also obtained a plurality in the Congreso de la República.

Christian Democrats in Latin America were, during the cold war years, mainly regarded as center-left parties (clear examples of Christian Democratic parties taking part in left-wing coalitions can be found in Chile and Uruguay). Cerezo was certainly not the preferred candidate of Guatemala's business elite, and the fact that he was the first civilian chief of state sin 1970 garnered distrust amongst large portions of the army corps. Overcoming the insurgency was the army's top priority. Schirmer (1998) provides evidence as to the Army's views on democratic transition as a step in a broader strategy to defeat the insurgency, as part of what made the rebellion legitimate in the eyes of its supporters was the absence of democratic participation options. Dosal (1994) describes how economic elites' interests were mostly protected by military rulers, and how they were not reflected in Cerezo's policy preferences. Also, how Cerezo moderated his own policy stance such as not to stoke discontent amongst army ranks (p. 260). McLeary's (1999) view is that military rule was an obstacle for economic development, implicitly distancing economic elites from the army. Wood (2000, p. 202) describes economic elites' reluctance to relevant democratizing features. In any case, there should no objection to the idea that Cerezo was not supported by business elites. Also, both McLeary and Dosal coincide in describing a rift within economic elites -a modernizing faction, more prone to supporting democracy, led by industrial businesspeople, and a more conservative faction, dominated by the agricultural sector and more prone to preserving authoritarian rule.

Cerezo designated General Héctor Gramajo as Minister of Defense, the top position in the Guatemalan Army, second only to its General Commander, the President. Gramajo is described by Schirmer (1998) and McLeary (1999) as a reformer, the leader of a modernizing faction within the army, and the chief strategist of the Army's support for democracy. Cerezo's government survived two known and relevant coup attempts. The first, on May 11, 1988, was led by officers in charge of military bases in the coastal departments of Jutiapa and Retalhuleu. This coup attempt was supported by Mario David García, a far-right media commentator and Gustavo Anzueto Vielman, a former president of Guatemala's top agricultural business lobby, the Cámara del Agro, one of CACIF's most influential member organizations. It was common knowledge that certain business elites provided logistical and financial support for this coup[2]. Motivating factors behind the coup were perceptions of a lack of support for counterinsurgency and a warming towards communist nations such as the Soviet Union and Cuba[3]. A second coup was attempted on May 9, 1988. A group of air force officials attempted to start a widespread rebellion within the army but were quickly overrun by forces loyal to the government. Media reports suggest Anzueto Vielman is again a coconspirator[4], and a US intelligence report speculates that someone in the private sector provided vehicles to participating officers. This coup attempt was motivated by discontent with Gramajo's decisions on promotions and discipline, as well as alleged corruption in the government.[5]

The 1990 election went to Jorge Serrano Elías, an evangelical businessman who ran with the Movimiento de Acción Solidaria (MAS) party, an organization he led since its inception. Serrano

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[2] (1988). UN GENERALPARA LA DEMOCRACIA. Crónica, año I (25). Página 11. http://cronica.ufm.edu/index.php/DOC40.pdf. Pp. 12-13.
[3] United States Defense, Intelligence Agency. *Guatemala: Coup Aborted* 1988..
[4] Anahté. (1989). EL GOLPE DEL ANIVERSARIO. Crónica, año II (74). http://cronica.ufm.edu/index.php/DOC51.pdf, p. 12
[5] United States Defense, Intelligence Agency. *Post-Coup Conversation Reveals Officer Opinions* 1989.

came in second in the first round but won a majority of the vote in the second round. His party won less than one third of seats in the legislature, a situation that made his government and, especially, its relationship with Congress, highly unstable. On May 25, 1993, President Serrano announced that he had dissolved the Supreme Court and the Legislature and suspended several articles in the constitution. He did this aided by close military officials who mobilized troops to prevent Congress and the court from convening. Serrano argued that Congress and the Supreme Court were corrupt and mentioned that many were involved in drug trafficking. By the beginning of June, the president had lost support from economic elites, a large portion of the military, and virtually all political parties but his own. The crisis that this power grab initiated concluded with a large coalition within the military corps persuading Serrano and his vice-president to resign, having been instructed by the Constitutional Court to do so. Throughout this process, CACIF leaders were key in coordinating Serrano's isolation and securing civil society and public opinion's support for democracy.

Serrano's resignation was followed by the appointment of a new president and the resignation of several highly questioned members of Congress. This process is best described by McLeary (1999) and is the main subject of that work. Congress elected Ramiro De León Carpio, the country's progressive ombudsman, as Serrano's successor for the remainder of his truncated term. In the aftermath of the crisis, Congress approved -and the electorate ratified- a constitutional reform which was supported by CACIF. Amendments included a reduction in presidential and congressional terms, a reduction in the size of Congress, a limitation on the legislature's power over judicial selection, an electoral reform that made it less likely for the president to hold a majority or plurality in the legislature, an increase in the size of the judiciary and, seemingly

unrelated to the ongoing political crisis, a provision forbidding the central bank from lending to any state institution[6].

Economist and former Finance minister Juan Alberto Fuentes Knight describes it as follows:

> *The initiative to prohibit the credit granted by the Banco de Guatemala was supported by power brokers, including the Bosch-Gutiérrez family, which had played a prominent role during the crisis caused by President Serrano (...). The prohibition for the Banco de Guatemala to grant financing to the government meant that the only option for the latter to obtain internal credit was to sell bonds to the banks. For banks, it became more profitable and safer to invest in bonds issued by the State than to finance small and medium-sized companies. Large companies were not affected since, as we will see, they had guaranteed access to bank credit because they controlled the banks.*
>
> (Fuentes-Knight 2022, 78)

Álvaro Arzú, leader of the Partido de Avanzada Nacional (PAN) and a member of some of Guatemala's most prominent oligarchic families (see Casaus Arzú 1992) was elected in 1995, and took office in 1996.,with a controlling majority in the legislature. By December of 1996, his administration had successfully negotiated and end to the Guatemalan civil war.

Two Diverging Transitions

Elisabeth Wood (2000), when studying insurgent transitions in South Africa and El Salvador, cautions against applying the same logic to understand the Guatemalan transition: While both civil wars were ended by *negotiations between a guerilla insurgency and a government led by a party*

[6] Literature on this reform is scarce. A full comparison of the original and reformed texts is available in DIGICI (2016) *Informe final. Reformas constitucionales de 1993 y cambios en el diseño institucional del Estado guatemalteco.* Universidad de San Carlos. Guatemala. Available at https://digi.usac.edu.gt/bvirtual/informes/cultura/INF-2015-10.pdf

representing a modernizing faction of the economic elites, Wood points out three important differences. First, Guatemalan guerillas were much weaker, unable to force the military into making concessions. Pressure from the international community and domestic actors motivated certain democratizing provisions, *including the recognition of indigenous languages and rights, a limited degree of land transfer, and a narrowing of the military's mandate* (202). Not all were implemented, and some were outright discarded in a failed constitutional reform attempt, an illustration of elite-biased constitutional rigidity at work. Second, Guatemala's 36-year long conflict failed to transform elite interests in the same way as the Salvadorean 12-year war, precisely because of the guerrilla's weakness. Third, the Partido de Avanzada Nacional (PAN) that negotiated the end of the war was not a hegemonic party of the center-right like the Alianza Republicana Nacionalista (ARENA) in El Salvador (Wood 2000, 203).

For McLeary, the Guatemalan transition is the result of *an elite settlement* [which] *took place among the organized private sector, the military, and the leaders of some popular organizations.* This settlement was incomplete, as it did not include *guerrilla umbrella organization Unidad Revolucionaria Nacional Guatemalteca (URNG)* (McLeary 1999 , 3). An important feature of elite relations during the Guatemalan transition was that elites were able to impose their agenda on to the military government. The private sector remained unified throughout the last years of the military regime, placing themselves in *an optimal position to oppose and bring into question the military regime's authority over policy*. El Salvador's organized private sector was weakened by their own self-imposed exile. Also, ANEP had decidedly supported president Carlos Romero, and his removal by the 1979 placed ANEP in a weak position, hence partially explaining the need to conform ARENA (Mc Leary 1999, 121). The private sector, through CACIF, effectively confronted the military regime on economic policy, regulating their own

activities and expatriating their capital (or keeping it from returning) to slow down revenue-generating for the government and using this as a means to force the military into considering their interests in policy-making (McLeary 1999, 64-65). Meanwhile, the Salvadorean elites had to confront an agrarian reform, an effective insurgency, and a general transformation of economic relations, opportunities, and risks.

McLeary (1999) describes business leaders' influence on the course of democratic transition in Guatemala. She clearly depicts the Guatemalan transition as guided "from above" and concludes that it did not affect relevant change in economic or political relations, except for an elite agreement to abandon violence as a means of resolving political disputes. This influence is also acknowledged in Paul Dosal's (1994) review of Guatemalan industrialization. Dosal (1994) concludes that during the transition, elites viewed democracy as a means to advance a neoliberal economic program. Both McLeary and Dosal describe a cleavage within the Guatemalan elite, separating business leaders into a younger, industrial, and modernizing fraction, and an older, agrarian conservative group, but note that family and business networks prevent relevant ruptures within the elite to occur.

An important difference which should be restated is the role of political parties during the transition and onwards: The constitution of the FMLN as a counter-elite, with explicit linkage to popular non-combatant organizations, is paralleled by ARENA's relationship to economic elites and FUSADES. In Guatemala, however, PAN did not organically represent elite interests, and the URNG may not have been powerful enough to take advantage of their own links to civilian organizations. A closer look at both peace processes may show elements of the transition that are often overlooked by the literature. In Guatemala, in particular, ethnic politics are closely intertwined with distributive issues. Conflict on issues related to indigenous rights were a

particularly contentious issue during peace talks between the government and URNG. While the Guatemalan insurgency's base was mostly indigenous, especially after 1970 and during the more violent years of the civil war, its leadership was most often *ladino* or *mestizo*. URNG leaders saw indigenous demands as strategically important for the organization's future as a political party. However, whether because of their unfavorable negotiating position or because of their identity distance from their base, significant indigenous movement demands such as political and administrative autonomy were excluded from the peace accords. While the 1995 accord on indigenous peoples' identity and rights was hailed as an important breakthrough in peace negotiations, its implementation was weakened by the failure of a constitutional reform proposal in 1999 (Van Cott 2001, 37-38). Parallel to this shortcoming, the accord on agrarian situation and land possession prompted a failed *market-assisted agrarian reform*, with a limited or even counterproductive redistributive capacity (Gauster and Isakson 2007). Meanwhile, in El Salvador, while ethnic rifts were certainly not salient (if they existed at all), the FMLN's position allowed for a limited distribution of land to combatants on both the insurgency and the military, as well as FMLN supporters, and the recognition of tenancy in conflicted areas. Wood describes the shortcomings of these provisions (Wood 2000, 85-101). However, the agrarian reform had already been implemented, the constitution had established a limit con property size, and the economic transformation that resulted from the war, as well as ARENA's economic program that sought to move the country away from agriculture, contributed to this being a much less salient issue than in Guatemala.

El Salvador and Guatemala are elite-biased democracies. However, elites were at different positions during their respective transitions. As a consequence, the role they assumed was

different, and their regimes developed different characteristics. These differences set them in divergent starting points and subsequent paths for democratic erosion, three decades years later.

Restraining Democracy

Both the Salvadorean and the Guatemalan constitution display elite-biased traits, such as proportional representation the initial banning of left-wing parties, the prohibition from punishing past human rights violations. However, one key trait sets both of them apart: rigidity. The Salvadorean constitution can be reformed by a simple majority in two consecutive 3-year legislatures, while the Guatemalan constitution can only be reformed by a two-thirds majority with judicial review, followed by a referendum. The result is that constitutional provisions that stemmed from the peace negotiations and were key in the implementation of the accords were passed and ratified in El Salvador in 1991 and 1992. In Guatemala, the executive compiled the constitutional reform provisions derived from the peace accords into a 10-article constitutional reform proposal which was presented to the Legislature in 1998. The referendum was convened by the TSE for May 16, 1999. After a long process to secure enough votes in Congress, the original 10 amendments proposed by the Executive were now only a fraction of a 50-article reform proposal. All 50 articles were grouped into 4 reform packages, and each of these packages would be presented as a question on a separate ballot. This grouping resulted in fiscal provisions being attached to amendments pertaining the armed forces' role in internal security, or the approval of a provision mandating consultation to indigenous peoples to be contingent on the approval of standardized pensions and severance packages for public workers (Ríos de Rodríguez, 1999).

Business elites and military veteran organizations ardently campaigned against the proposed reform package (Ríos de Rodríguez, 1999). An analysis of voting data shows that rural, indigenous

and poor communities were far more likely to vote for the reforms than urban, ladino and higher income communities (Azpuru, 1999).

In Guatemala, the appointment of Supreme Court judges has been a subject of two more failed constitutional reform attempts, in 2012 and 2016. The 2012 attempt included, like the 1999 proposal, the acknowledgement of Guatemala as a multi-ethnic nation and the 2016 attempt included a provision that would strengthen local indigenous authorities' role in justice administration and conflict resolution. The Pérez Molina government circulated the 2012 proposal in the media and amongst key stakeholders, without it never becoming a bill. The 2016 proposal failed to obtain a two-thirds majority in Congress.

Meanwhile, Constitutional amendments ratified in El Salvador have included the recognition of indigenous peoples (2012), limits on government intervention in personal communications (2009), making public education free of charge (2009), limitations on public employee's rights to organize and strike (2006), the creation of a regulatory institution for public health (2003), allowing members of the Central American Parliament to initiate legislation on a issues related to Central American integration (2003), regulation of extradition (2000), an indirect prohibition of abortion (1999), environmental provisions related to toxic waste (1997), and regulation of executive-legislative relations and executive legislative power (1997)[7].

Another key provision in the Guatemalan constitution is, as described by former Finance minister, economist Juan Alberto Fuentes Knight, the inclusion of principles that regulate fiscal policy:

> *It was done through the inclusion in the Constitution of a series of principles that taxes had to comply with before being established: legality, ability to pay, fairness and justice, non-confiscation and no double or multiple taxation (…). In practice, it meant that most of*

[7] Asamblea Legislativa. *Acuerdos de Reforma a la Constitución*. Available at https://www.asamblea.gob.sv/leyes-y-decretos/acuerdos-de-reforma-a-la-constitucion

> *the tax reforms would have to be approved not only by Congress but also by the Constitutional Court so that they could enter into force (...) For a long time, it was the mechanism of last resort to which* [industrial sector business elites] *resorted to block tax reforms approved by Congress. The CC allowed them to exercise a veto power in full democratic regime, similar to what they had had in previous periods.*
>
> (Fuentes-Knight 2022, 73).

Fuentes Knight details at least two cases of the Constitutional Court striking down fiscal reforms, and two other cases in which reforms were weakened by rulings or consultations with the Court.

Diverging Regimes

At the onset of democracy and the end of civil war Guatemala and El Salvador set themselves on diverging democratic paths. While Salvadorean politics became progressively more polarized between two ideologically opposed parties, in Guatemala most relevant parties gravitated towards the center. A flexible constitution in El Salvador has been reformed several times, while only one reform was possible in Guatemala, and it may have deepened the constitution's elite bias. While in El Salvador political parties became the most relevant political actors and conformed an institutionalized system, the Guatemalan party-system became volatile, and actors outside of it preserved or gained influence in decision-making. To use Adam Przeworski's approach, Guatemala became a democracy where nothing was at stake in elections (except, as we will see, for elites), and El Salvador became democracy where everything was at stake. These differences would eventually place both countries in different backsliding paths.

The Ruling Party Dimension Index (RDI, v2x_ex_party) in the V-Dem Dataset (Coppedge 2022) seeks to measure the extent to which the power base of the president lies in their party, as opposed to the military, hereditary succession, direct election, or the legislature's confidence. Figure 1

shoes stark differences between both countries for most years. Except for the government of Francisco Flores (1999-2004), all presidents have strongly relied on their political party as a power base, even throughout successive changes in the legislature (renovated every 3 years while the president is elected for a 5-year mandate). The election of Nayib Bukele with a new party that had not competed in legislative elections in 2019 is the second exception. Meanwhile, in Guatemala, the last party to be an effective support base for the president was the Guatemalan Christian Democracy (DCG), during Cerezo's tenure. After the election of Serrano with a small party bloc came the purging of Congress after his self-coup, as well as electoral reforms aimed at separating the election of the president and the legislature[8].

Congruently, political party elites have always been the single most important actor for sustaining the regime (the actor whose withdrawal of support could mean an end to the regime), coded in the V-Dem variable *v2regimpgroup* in El Salvador. Figure 4 illustrates this fact, in clear contrast with the Guatemalan case. Both the military and the aristocracy (presumably an actor confounded with traditional business elites) have remained influential, according to V-Demo coders. While El Salvador is often thought of as country with strong linkage to the United States, coders do not seem to have considered foreign powers as such a relevant source of support as in Guatemala during the Portillo and Morales presidencies. Furthermore, in El Salvador business elites were the most relevant group throughout the authoritarian regime (presumably aside from the military) and ceded influence to party elites in 1979. No such change appears to have happened in Guatemala.

Furthermore, the Guatemalan party-system seemed somewhat more stable than the Salvadorean system up until the transition. Three of the most relevant parties that drafted the 1985 constitution were, in a way, heirs to the revolution and counter revolution process of 1944-1954: The Partido

[8] Before the reform, 25% of Congress was elected on the basis of the president's ballot. A separate election for a national constituency is held as of 1994.

Revolucionario (PR), evolved from the parties that supported the Arévalo and Árbenz presidencies in that democratic spell; the Movimiento de Libearción Nacional (MLN) was founded on the basis of the US-backed insurrection that overthrew Árbenz; and the Democracia Cristiana Guatemalteca (DCG) was founded in 1955 as a progressive alternative for anti-communist Catholics. However, the party system crumbled after the Cerezo presidency, the Serrano self-coup and the legislative purge that resulted from it.

Polarization was an important element of Salvadorean party-system institutionalization. Meanwhile, the erosion of the Guatemalan party-system seems to have produced a mush where one party is indistinguishable from the next. Figure 6 shows the V-Dem variable v2cacamps, At the beginning of their respective transitions, amid civil war, both countries were highly polarized. The end of the Salvadorean war and the incorporation of the FMLN to legal political life in the party system preserved some of this polarization at a stable level. Polarization in Guatemala collapsed after the end of the civil war and remains at extremely low levels. Coming back to Przeworski's argument, in Salvadorean politics the stakes are very high: the party that wins elections will be the most important supporter of a powerful president; in Guatemala, whoever wins elections would most likely cede control to one of an array of actors. While Salvadorean presidents find support in their legislative blocs, in Guatemala legislative constraints on the executive are higher. In both countries legislatures have an important influence in the integration of the judiciary, but in Guatemala judicial constraints on the executive are higher (Figures 7 and 8).

The V-Dem dataset provides a more comprehensive measure of the power of the president: the *Presidentialism Index* (v2xnp_pres) attempts to measure the *systematic concentration of power in the hands of one individual who resists delegating all but the most trivial decision making-tasks*

(Coppedge 2022b, 295). While in all years but the first half of the Funes presidency El Salvador has outperformed Guatemala in this index (Figure 10), both countries show a systematic decline from the onset of democracy until the beginning of backsliding, marked at 2017, where they show a steep rise. This sudden spike constitutes backsliding in and of itself, and it would be a mistake to understand it at the cause of backsliding.

Figure 4 – Ruling Party Dimension Index in Guatemala and El Salvador (1984-2020)

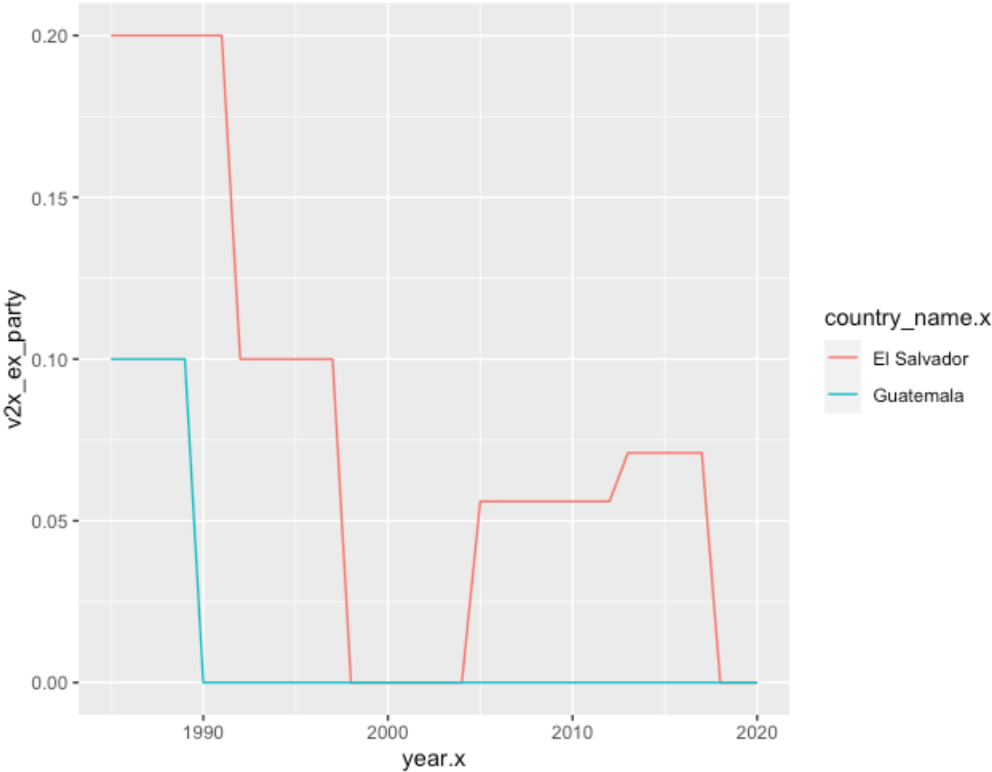


Figure 5 -Party institutionalization index (*v2xps_party)* in Guatemala and El Salvador (1900-2020)

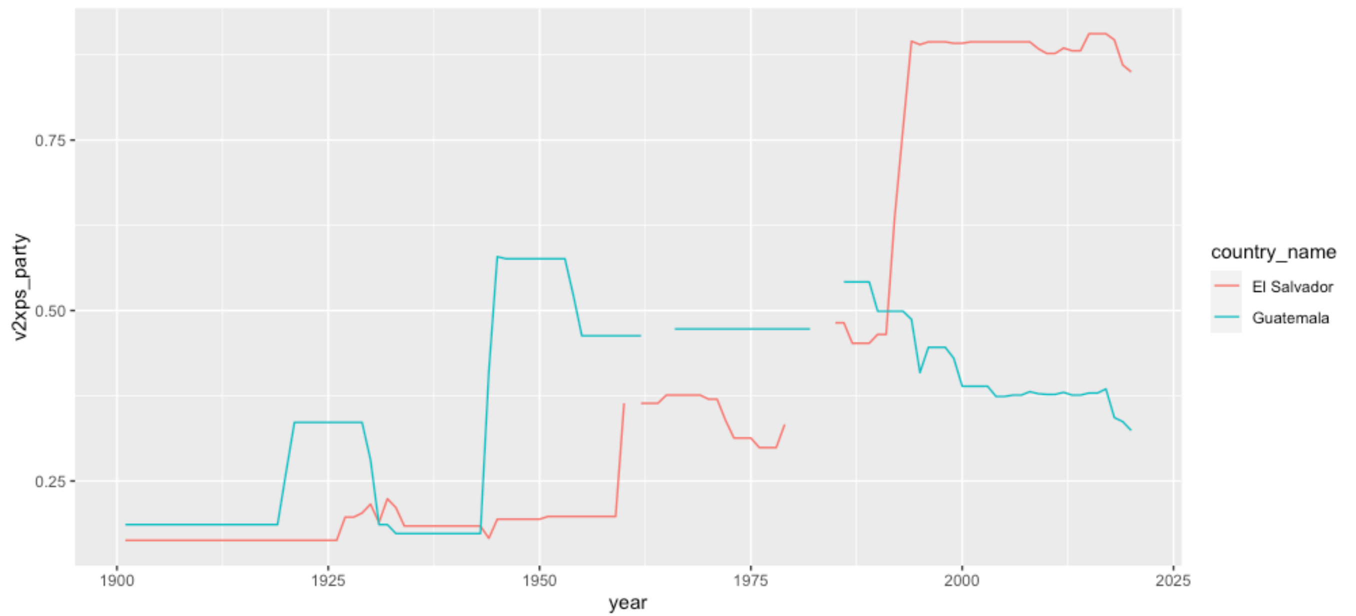


Figure 6 - Political polarization in Guatemala and El Salvador (1984-2020)

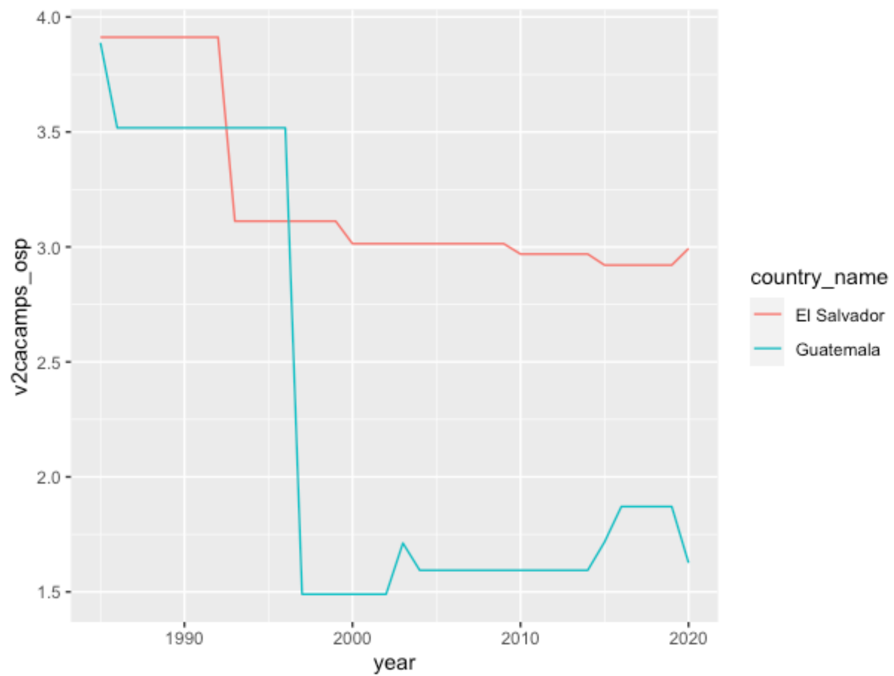


Figure 7 – Legislative constraints on the executive index in Guatemala and El Salvador (1984-2020) (v2xlg_legcon)

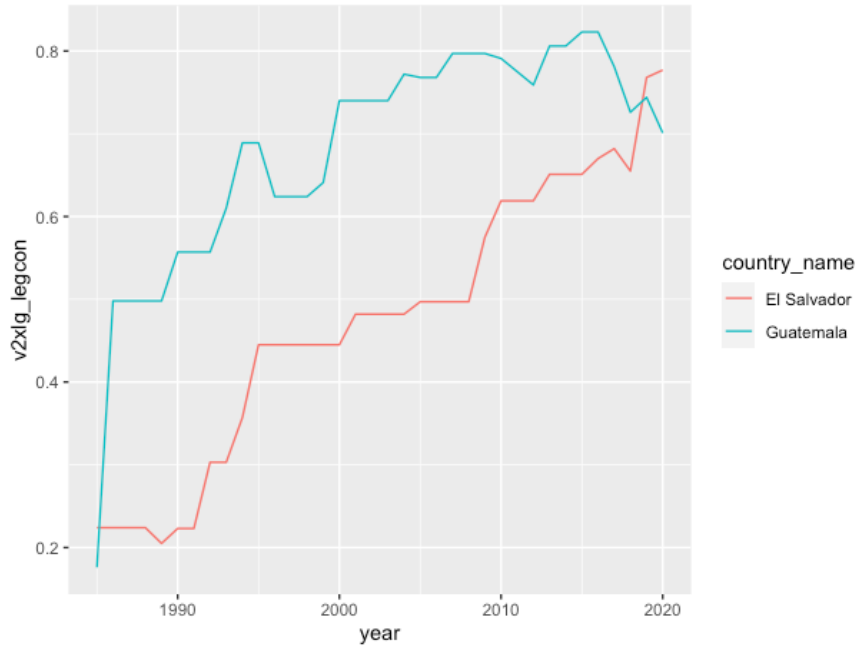


Figure 8 – Judicial constraints on the executive index in Guatemala and El Salvador (1984-2020)

(v2x_jucon)

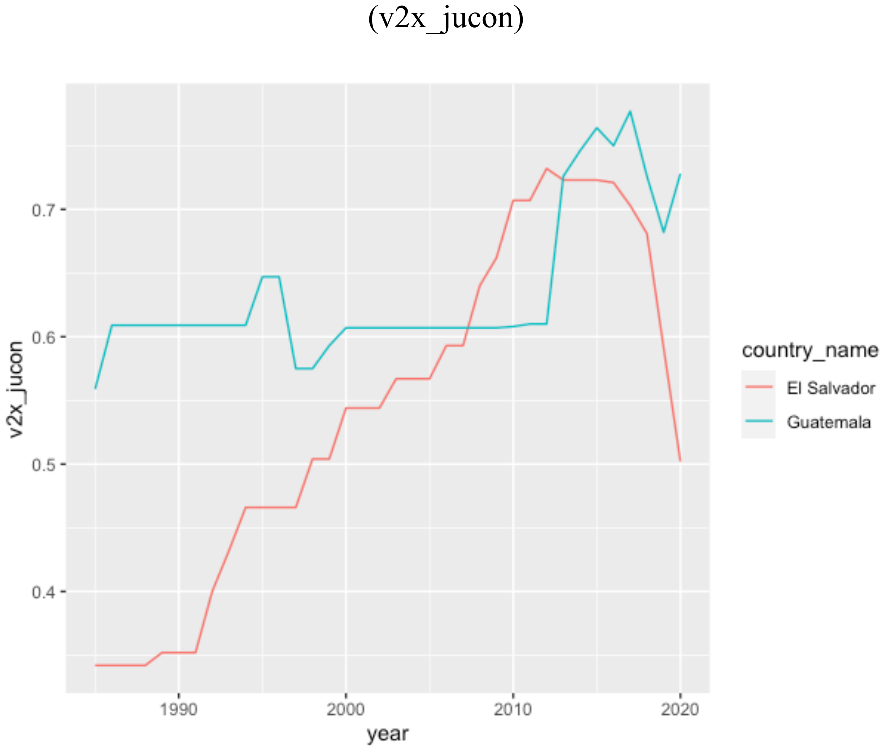


Figure 9 – Regime Most Important Support Group in Guatemala and El Salvador (1900-2020)

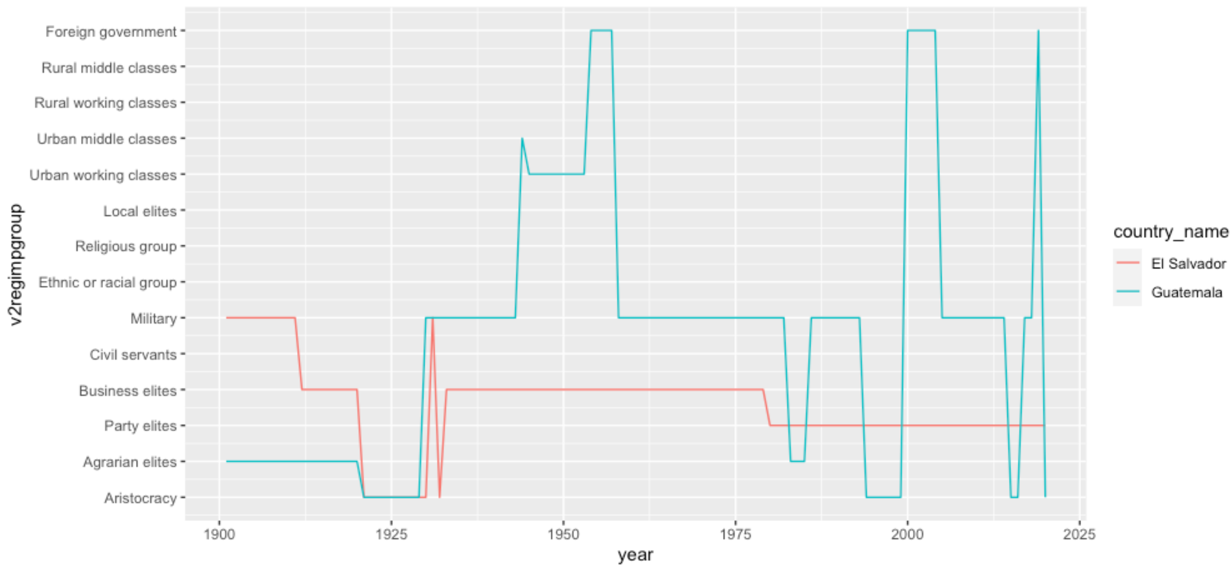
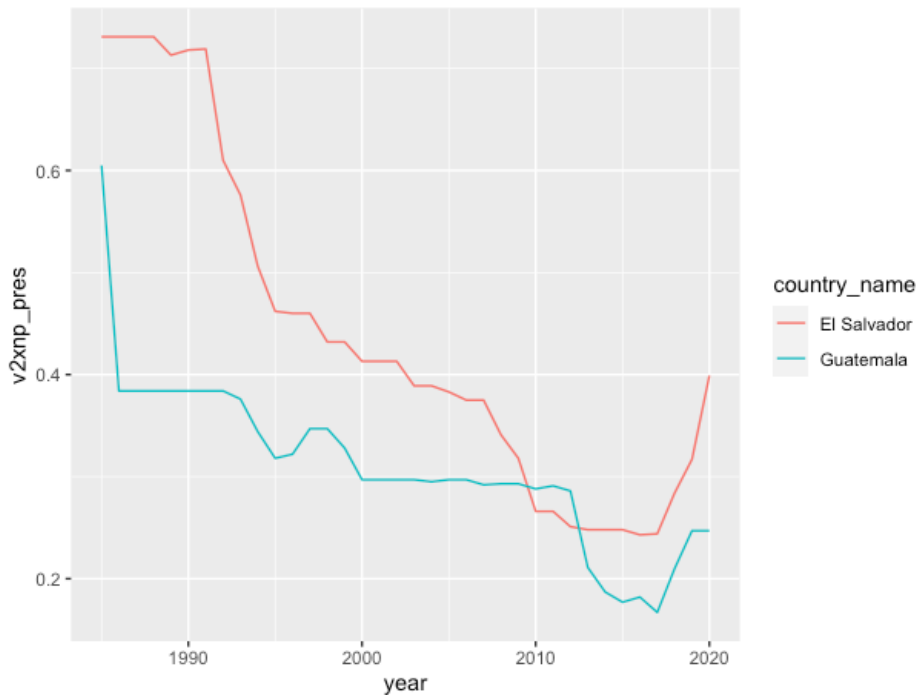


Figure 10 -Presidentialism index in Guatemala and El Salvador (1984-2020) (v2xnp_pres)



Elites in Democracy

At the onset of democracy, business elites in El Salvador and Guatemala found themselves in favorable positions. However, important differences should be noted. In Guatemala, business elites had successfully kept military governments' economic policy in check, and a young, modernizing faction of the oligarchy saw in democracy an opportunity to expand their economic opportunities through trade and international cooperation. Their remaining in Guatemala throughout the worst years of the war paid off. Salvadorean economic elites had suffered an agrarian reform, the siege of their homes and businesses by a persistent and capable insurrection and witnessed how the economic system that had benefitted them was transformed. Much of their leadership self-exiled in the United States. However, in negotiating the transition to democracy,

they were able to negotiate favorable conditions. A pragmatic insurgency accepted the tradeoff of achieving political liberalization in exchange for ceding on significant economic reforms (Wood 2000). Wood and Segovia (1995) point out that the peace accords did not include a redistributive agenda. A favorable macroeconomic environment, an international context favorable to austerity and fiscal responsibility, FUSADES' close ties to the ARENA government resulted in business elites being favored and somewhat protected after the storm that had shaken them in the last decade. On the other hand, business elites and the military had ceded control of the regime to political parties, one of which represented business elite interests, and were, in a way, sidelined from politics. ANEP became a part of a three-pronged strategy that included FUSADES and ARENA as well. Meanwhile, CACIF in Guatemala remained the country's monolithic speaker for business interests, and no hegemonic (or even stable) party emerged that could be a political instrument to them or dispute their hegemony on policy issues that interest them. The Fundación para el Desarrollo e Guatemala (FUNDESA), thought of as an equivalent of FUSADES has not gained enough relevance to be mentioned in publications about the transition.

A Note on Guatemalan Elites

Guatemalan elites and their influence in the country's politics have been researched in the past. Casaús Arzú (1992), and ethnographic study of the Guatemalan oligarchy that focuses on its ideology and political views. Casaús surveyed members of 22 elite families or family networks. concluding that racism is a cohesive ideological element that, in the minds of elite families, justifies social order and the status quo. Here work is relevant for this proposal in that it illustrates how race and racism are important elements when considering elites' understanding of their role and position in society. Dosal (1994) reviews Guatemalan industrialization through following the historical trajectory of industrial elites, concluding that during the transition, elites viewed

democracy as a means to advance a neoliberal economic program. In line with Casaús, Dosal highlights the relevance of family networks in defining political views and shaping political mobilization. Dosal's work is also relevant to this proposal in that it describes elites' relationship to the state throughout the authoritarian period and the early years following the democratic transition.

More recently, Bull and Aguilar (2019) have analyzed elite discourse in recent years, to show how the aforementioned corruption prosecution scheme have shaped elite views on their relationship with the state. Their work, based on interviews with peripheral or dissident elites describes a perceived loss of control over the justice system to non-elite actors, which serves as a starting point for the *rolling back* of democracy which I propose is currently happening in Guatemala.

Fuentes-Kinght (2022) describes four categories of economic actors, as a function of whether they are exporters or tend to the domestic market, and whether they operate in in concentrated, highly-regulated markets which produce greate profits or in competitive markets. *Rentiers* are exporters in highly concentrated and regulated markets, such as sugar producers. *Magicians* are non-traditional exporters that operate in highly competitive markets. *Powerbrokers* operate in the domestic, highly regulated market, and include construction materials and food and beverage producers. *Workhorses* supply the domestic market in a highly competitive setting (Fuentes-Knight 2022, 54).

The following table illustrates an interpretation of Fuentes-Knight's framework as applied to Guatemalan business elites. Family names and industries are illustrative examples and not comprehensive.

Table 5 – Business Elite Grouping in Guatemala

Category	Product	Families or notorious leaders	Chamber in CACIF
Powerbrokers	Cement, food and beverage, energy, steel	Novella, Bosch-Gutiérrez, Castillo	Chamber of Industry
Rentiers	Sugar	Vila, Herrera, Campollo	Sugar producer association (ASAZGUA)
Magicians	Vegetables, textiles	Antonio Malouf	Exporters Association (AGEXPORT)
Workhorses	Services, retail	Jorge Briz, Guillermo Castillo	Chamber of Commerce (Cámara de Comercio)

Fuentes-Knight's categorization contributes to understanding elite relationships: Rentiers and Powerbrokers will be the most influential actors in monetary policy, and will be shown as being the most directly involved in backsliding. An example of CACIF's policy influence after transition is the fact that members of CACIF have regularly held cabinet positions.

Roman Krznaric interviewed a series of Guatemalan oligarchs for a study on elite attitudes towards society and the state. These conversations reveal a mechanism of elite influence:

> *The Ministry of Economy has traditionally -in the second half of the twentieth century- been an office controlled by Guatemala's industrial sector. So, when they name a minister of economy, in reality he is named by the Chamber of Industry (...) [the] Minister of*

Agriculture is traditionally named by the Chamber of Agriculture. In the Central Bank there is normally someone nominated by the general association of bankers (…) What the business groups do is they subsidize their salaries so that they can get paid [at private sector] level.

Former director of the Chamber of Industry quoted by Krznaric (2022, 163).

Throughout all presidencies except for Portillo (2000-2004) and Morales (2015-2019), at least one private sector director has occupied a cabinet position. All positions are strategic and have an impact in distributive policy[9].

The relative position of business and party elites in each country may be an explanation of their respective fiscal evolution. While El Salvador had 148 changes in fiscal policy during the 1984-2014 period, with an average of 7.4 reforms per year (Schneider 2014, 230), Guatemala has had 133, averaging 6.65 (383). However, state revenue outcomes have been radically different: While between 1992 and 2007 El Salvador had a 40.55% increase in tax revenue as a percentage of GDP (from 9.64 to 14.92), Guatemala's tax revenue only increased in 25.55% (from 9.44 to 11.85). Between 1990 and 2005, El Salvador increased its direct tax revenue as a percentage of GDP from 2.53 to 4.68, an 84.98% increase. Meanwhile, in Guatemala, the increase was only 21.13%, from 2.13% of GDP to 2.58 (Schneider 2014, 184).

[9] I was unable to secure a similar list for El Salvador. However, we can presume this list to be much shorter for two reasons: Party institutionalization and a higher presidential dependance on parties would result in cabinet positions being filled by party operatives, not by members of non-state actors; also, ANEP direct collaboration in the FMLN administrations (2009-2014, 2014-2019) is unlikely in a polarized context.

Challenges to Guatemalan Elites

While there are surely multiple challenges to the hegemony of Guatemalan business elites coming from political elites -as exemplified by several unsuccessful fiscal reform attempts), two episodes are relevant to this study.

The first challenge is relevant because it illustrates a mechanism by which business elites hold on to their influence and it contrasts with recent developments during the Bukele government. The 1985 constitution secured a seat for business organizations in Guatemala's *Junta Monetaria*, the central bank's governing board, alongside with other 57 decentralized public institutions. The JM is key in defining monetary policy and, by extension, fiscal and macroeconomic policy. Combined with CACIF's influence in government through the Ministry of the Economy, this seat is a highly strategic position. In 2010, during the administration of center-left president Álvaro Colom, a group of the largest cooperatives in the country, who control private participation in the partially state-owned Banco de Desarrollo Rural, the third largest in the country, attempted to wrest this seat from CACIF. A legal battle ensued that was eventually resolved by a legal opinion from the Constitutional Court, solicited by Colom. The Court ruled that cooperatives are not businesses, but a hybrid with features of non-profit organizations. To this day, CACIF still holds an undisputed seat in the Junta Monetaria (Rodríguez Quiroa 2018).

Table 5 - Business Chamber Directors Who Have Held Cabinet Positions In Guatemala (1990-2022)

Name	Chamber	Ministry	Administration
Ricardo Castillo Sinibaldi	Industry	Development	Serrano
Jorge Franco Suchini	Construction	Communications and Infrastructure	Arzú
Eduardo Castillo	Construction	Communications and Infrastructure	Berger
Carlos Vielmann Montes	Industry	Interior (Security)	Berger
Jorge Eduardo Briz Abularach	Commerce	Foreign Affairs	Berger
Marcio Cuevas Quezada	Services	Economy	Berger
Guillermo Castillo Villacorta	Industry	Communications and Infrastructure	Colom
Sergio De La Torre	Industry	Economy	Pérez
Antonio Malouf Gabriel	Export	Economy	Giammattei
Guillermo Castillo Reyes	Commerce	Vicepresident	Giammattei

Data compiled through secondary sources, including a chamber membership database by Plaza Pública (2022)

The second challenge is relevant because it connects business elite attempts at preserving their influence and well-being to the rolling-back of democracy in Guatemala.

In 2007, the International Commission Against Impunity in Guatemala (CICIG), a UN-sponsored institution began their work, meant to assist the Attorney General's office in investigating, prosecuting, and dismantling post-conflict criminal networks, while building institutional and technical capacities in the process. The CICIG was requested by the Guatemalan government (WOLA, 2019). Throughout the following year, CICIG brought about accusations against former presidents and ministers, for crimes ranging from graft an embezzlement to extra-judicial killings. However, it gained unequivocal notoriety when, in March 2015, it assisted Attorney General Thelma Aldana's office in indicting then Vice President Roxana Baldetti, accusing her of grifting through a complex scheme involving Guatemala's tax collection agency. Massive protests followed, demanding the vice-president's resignation. Demands eventually morphed into all-out

discontent with the government, as protests continued weekly for several months. By April 2015, Sergio de la Torre, a former director of the Chamber of Industry and Pérez Molina's Economy minister resigned his post. CACIF signaled support for the protestors and some of their demands. In August, Pérez Molina was accused of being involved in corruption as well, and on September 3 he resigned as well, just three days before a scheduled general election. An outsider candidate, comedian Jimmy Morales came in first place in the presidential election and would go on to defeat former first-lady and leader of Guatemala's oldest and largest party Sandra Torres in the runoff held on October 26.

The initial investigation against Baldetti tapped into an extensive corruption network involving politicians, public officials and businessmen, that snowballed into new cases against even more elites. From 2007 to April 2015, CICIG had initiated prosecutions on 59 investigations; from April 2015 to 2018, it initiated 65 (CICIG, 2022). While before 2015 CICIG's accusations had been almost exclusively directed towards public officials and politicians, in 2015 investigations began involving prominent businesspeople. These processes involve over 600 accused individuals, but a few illustrative examples show how relevant it may have been for Guatemalan business elites. On February 2, 2016, accusations were presented against 14 public officials and businesspeople, including the attorney of Aceros de Guatemala, Central America's largest steel product manufacturer. Aceros de Guatemala would eventually pay the equivalent of nearly $100 million in disputed taxes and fines (Gamarro and Muñoz, 2016). On June 2, 2016, an accusation was brought upon 52 individuals, including politicians, business owners, board directors and senior-level managers in different companies involved in illegal financing of the Pérez Molina 2015 campaign (CICIG, 2016). Among these 52 people were Flavio Rodolfo Montenegro Castillo, general manager of a major bank and a member of the elite industrial Castillo family, and Álvaro

Mayorga, former director of the Chamber of Construction. Mayorga would later be accused alongside his fellow chamber director José Luis Agüero Urruela and Communications minister Alejandro Sinibaldi, himself a member of an elite agro exporter and industrial family, amongst 25 other people in a case involving corruption in public infrastructure contracts (CICIG, 2018b). Perhaps the most notorious case of the challenge that CICIG's actions represented to business elites was revealed on May 16, 2018, with the indictment of José Fraterno Vila Girón, Salvador Paiz Del Carmen, José Torrebiarte Novela, José Castillo Villacorta and Felipe Bosch Gutiérrez. Vila Girón is a member of a prominent sugar producing family; Castillo is a member of the elite Castillo family, with holdings in food and beverage production as well as finance; Paiz's family owned Guatemala's largest supermarket chain; Torrebiarte was a board member in Cementos Progreso, Central America's largest construction materials producer; Bosch Gutiérrez is a director in Corporación Multinversiones, arguably Central America's largest conglomerate with holdings in food production, energy, construction, and fast food. Bosch and Paiz have also been directors in the private sector's think-tank, FUNDESA. The five of them were accused of an undisclosed contribution to President Morales' campaign, which totaled the equivalent of around $1,000,000. They eventually pleaded guilty and came to an arrangement with the court, which included a public apology for their crime (CICIG, 2018b).

President Jimmy Morales began unsuccessfully attempting to have the UN replace the head of CICIG, Colombian prosecutor Iván Velásquez in March 2017. He finally declared Velásquez *persona non grata* on August 27, 2017. While 70% of Guatemalan's supported CICIG (WOLA, 2022), the commission had grown unpopular amongst elites. Morales' move was blocked by the Constitutional Court, presided by magistrate Gloria Porras. Meanwhile, Thelma Aldana, the highly popular Attorney General that had begun the corruption crackdown with CICIG's support,

criticized the decision and threatened to resign. In December 2018, the Court's ruling Morales' Foreign Affairs minister revoked the visas of 11 CICIG international prosecutors, effectively impeding the Commission's work in Guatemala and sabotaging ongoing investigations and judicial proceedings. This back and forth continued until January 2019, when Morales, still in defiance of the Constitutional Court, withdrew Guatemala from the agreement with the UN that gave legal support to CICIG.

Backsliding

On May 1, 2021, a new legislature took power in El Salvador. 56 out of 84 legislators belonged to *Nuevas Ideas*, a party led by President Nayib Bukele, elected in 2019. Allied with three smaller right-wing parties, the Government held a majority of 64 representatives, against a divided opposition of 20 legislators, most of whom were split on ideological grounds, echoing El Salvador's demising post-conflict polarized political party system. On its first day, the new assembly substituted five Supreme Court justices, all members of the Court's Constitutional Chamber, and the country's Attorney General, before their tenure expired. Two months later, they elected a whole new Supreme Court, ten members in total (BBC Mundo, 2021). Only five should have been elected, and this was not due until 2022. With this move, Bukele came to control all three branches of government in El Salvador, an unmistakable authoritarian regression.

On June 3, 2021, just over a month of securing a majority in the legislature, the Bukele administration sent a total 4 bills which would reform 23 pieces of legislation, which regulate participation in the boards of 23 decentralized institutions. In a generic manner, the text in articles which allowed business organizations to designate their representatives was substituted by a provision by which ministers or the president himself can select those representatives from an open pool of candidates, effectively securing executive control over the decision and sidelining ANEP

(Romero 2021). The reform was performed with showmanship: legislators spoke at length in between votes, which carried on until the early morning of the next day, while Bukele commented the scene from his Twitter account.

Meanwhile, in Guatemala City, a mere three-hour drive from San Salvador, the election of a new Supreme Court remained stalled. In September of 2019, human rights activists denounced that a Judicial Brach dependency, which they perceived as strongly influenced by a legislative coalition akin to then President Jimmy Morales, had failed to evaluate career judges up for Supreme Court election, thus ensuring that they remained eligible despite their less-than-ideal performance (MPJ, 2020). On February 19, 2020, a commission mandated by the Guatemalan Constitution, made up of the directors of all the country's law schools, as well as incumbent members of the Supreme Court and an elected member of the country's Bar Association finalized a list of 26 qualified law professionals, from which the Guatemalan Congress should designate 13 members of the incoming Supreme Court. That same day, a public prosecutor announced that the drafting of this list may have been rigged by politicians and business leaders who forcefully lobbied the commission (MP, 2020), initiating a process that would result in the current legislature, dominated by a multi-party alliance akin to President Alejandro Giammattei (who took office in 2019), refusing to elect a new court, almost three years later[10].

In May 2021, a new Constitutional Court[11] took possession. The whole process seemed reasonably transparent and straightforward, except for the fact that, as of March 2022, only four out of five magistrates had been allowed to assume their offices. The legislature, refused to acknowledge the designation of Gloria Porras, a supposedly progressive judge who had presided over the court in

[10] As of July 28 2022, the Supreme Court has not been elected.
[11] This is a constitutional tribunal, a separate entity from the Supreme Court.

prior periods, and whose presence in the new court would have prevented Giammattei's coalition from exercising a majority in the country's top constitutional arbiter (Menchú, 2021).

Both political regimes have followed apparently similar paths. Transitioning near the end of long civil wars, both democracies were unstable and generally weak. But they remained democracies for decades. In both countries the executive and legislative branches have rapidly concentrated power in a single actor – an individual in one case, a coalition in the other- by coopting the judicial branch in blatant disregard of norms and even the rule of law. But while considering the current literature, El Salvador seems to be unequivocally regressing into authoritarianism, Guatemala looks like the weak, low-quality democracy it has been since its transition.

El Salvador's political regime under Bukele has followed a seemingly standard path towards authoritarianism: A context of extreme polarization (Svolik, 2020), would have weakened political norms as described by Levitsky and Ziblatt (2018), and produced the election of an immensely popular autocratic leader who weakens horizontal accountability (Slater, 2013) and proceeds to concentrate power. Bukele's behavior fits Bermeo's (2016) description of executive aggrandizement, as his move against the Supreme Court was based on their refusal to accommodate Bukele's attempt at assuming special powers to address the covid crisis (Arauz, 2020). It follows then, that this is a case of democratic backsliding that can be properly addressed by the literature.

The Guatemalan case, however, is different. Guatemala does not have extremely polarized politics, nor has it had a strong president in decades. Since the 2003 election, no president has obtained a majority in Congress. The last two presidents have not even been able to secure a plurality. Yet, Morales managed to get away with disobedience of the Constitutional Court's rulings (Quintela, 2018). In 2019, seemingly autonomous institutions prevented former Attorney General Thelma

Aldana from participating in the presidential election. Aldana had previously initiated prosecution against Morales on corruption charges, and had jailed his predecessor, Otto Pérez Molina, along with a plethora of business executives and politicians (Montes, 2019)**.** Morales' party faired extremely bad in the 2019 election, yet the coalition that dominated Congress in the 2016-2020 period continued to do so during the 2020-2024 legislature. Both Morales' and Giammattei's party are part of this coalition.

What has happened in Guatemala under Giammattei and Morales fits some aspects of the definitions of democratic backsliding: The opposition has been prevented from competing in elections, horizontal accountability has been severely weakened, particularly in the justice sector. However, no autocratic leader has emerged that can concentrate power and perpetuate their mandate, and the possibility of reelection has not been discussed. As both leaders are unpopular, the weakening of horizontal accountability does not seem to relate to a prioritizing of vertical accountability. Yet, it is hard to question that whatever is happening in Guatemala is not some form of devolution from democracy into authoritarianism.

If it is not heads of state or political parties who are leading the charge against democracy in Guatemala, one may look at elites and see if their actions are somehow debilitating democratic institutions. Following Deming (2020) and Albertus and Menaldo (2018), one could inquire whether elites that survived the transition may see their interests threatened in such a way as to be motivated to attempt to *roll back* democracy. This argument looks more robust when considering that, in the 2015-2019 period, more than 650 business executives and politicians were indicted on charges of corruption, with the assistance of CICIG, dismissed by Morales in 2017. What has followed is the prosecution of attorneys and other officials involved in bringing about these corruption cases. Both Porras and Aldana are currently living in the United States, and while

Aldana has embraced her status as an exile, Porras has attributed her being abroad to academic job offerings. Francisco Sandoval, the top prosecutor of the unit in charge of corruption cases has also chosen exile, while several of his colleagues have faced seemingly spurious charges (WOLA, 2022). More recently, judge Erica Aifán, who conducted the proceedings against the elite businessmen on undisclosed constributino charges has fled Guatemala (Sanz 2022). I suppose that effective corruption, prosecution conducted by independent justice sector institutions, and its consequences, not an authoritarian preference or the aggrandized power of an individual, brought about Guatemala's current backsliding. If this were the case, it would be consistent with Adam Przeworski's explanation that democratic backsliding occurs when the stakes are too high -in this case, for elites, not for anyone else.

Conclusion and Suggestions for Further Research

The latest simultaneous Guatemalan and Salvadorean transitions produced distinct regimes, a divergence from a common path that they had set on since the mid 1800s. Guatemalan business elites remained in the country during the civil war, effectively confronted the military regime on economic policy, facilitated a transition to democracy through which they sought to expand their economic opportunities, and secured their influence through unity in a context where no other actor has been as stable and focused. Presidents are weak, legislatures are fragmented, and parties are unstable. This favorable situation was made possible by the outset of the civil war: By 1982, the insurgency was all but completely defeated, and was unable to commandeer a strong bargaining position. A rigid constitution ensured that the full compliance with their demands by the government would only be possible if a grand consensus was achieved in Guatemala. The constitution included provisions that would impede redistribution, particularly business elites' involvement in monetary policy, as well as constitutional restrictions on fiscal policy both on the

revenue and expenditure sides. The one challenge to elite hegemony came from a foreign source: CICIG provided the means for the prosecution of corruption which eventually affected key elite actors; a backlash followed that resulted in democratic backsliding.

In El Salvador, at the moment of the transition, elites were besieged by an effective insurgency which altered economic relations to the point of imposing a democratic transition as a better alternative to the continuation of repression. While the FMLN did not by any means succeed in overthrowing the government or obtaining radical economic reform through revolution, it did force the governing coalition into adopting reforms which alienated, undercut, and sidelined business elites: an agrarian reform and political liberalization. Some of these reforms were enshrined in the constitution, which was designed to be flexible and has been modified several times. However, Salvadorean business elites built an effective political party -ARENA- along with a modern think-tank, and thus were well equipped for political competition in a complex environment. The tradeoff was that they renounced attempts at hegemony and ceded control to party elites over policy. Political parties became autonomous and institutionalized a stable but polarized party-system. These autonomous and antagonistic parties eventually produced an aspiring autocrat who, in line with the current literature, when elected president, rapidly secured control over the other branches of government to rule unchecked. Certain actions that Bukele has taken suggest that he may be willing to adopt redistributive measures, which would provide a pathway for exiting elite-bias through non-democratic means.

Some questions remain unanswered: Have Guatemalan elites driven backsliding, or have they only coincidentally benefitted from it? While there is enough data to show that elites hold important influence over public affairs in Guatemala, and that backsliding happened after the justice system threatened elite interests and wellbeing, I have not produced any information that can suggest that

they have actively intervened in the justice system on their own, or through third parties. The justice system has been at the center of backsliding in Guatemala. We know that elites were put on trial and that their interests and well-being were threatened; we know that a process was initiated by President Jimmy Morales to expel CICIG, and that a backlash against CICIG's allies has ensued. We are unable un unequivocally state that they have produced that backlash. Providing evidence for this suggestion would require long-term primary source data collection unavailable at this time. Also, this study focused on business elites, but did not consider the evolution of former military officers and party elites. What role have they played? Certainly, while business elites have been relevant, they most likely are only one part of the backsliding equation.

A second question pertains to the details of elite interaction with constitutional design, and the extent to which constitutional design was a driver of differences in regime outcomes. For example, while I have mentioned the similarities between the Salvadorean and Guatemalan electoral systems, I have not made clear the extent to which their differences may have produced different outcomes in terms of party fragmentation and stability. Answering this question would require a closer look at constitutional design in both countries, and a complex comparative endeavor to isolate causes and consequences in dynamic contexts where informal rules are also important.

A third question pertains distributive politics in both countries: To what extent was the Guatemalan elite affected by CICIG's corruption crackdown? Was it relevant enough to mobilize resources against it? In the case of El Salvador, what is the true distance between Bukele and elites close to ANEP? Has his administration implemented any redistributive policies that may affect their interests in a more general or profound way? Exploring this issue would entail a deep immersion into Salvadorean contemporary policies, and a comprehension of elite key interests.

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