

Research Article

THE IMPACTS OF RESPONSIBILITY, TRANSPARENCY, AND ETHICS ON FORMATION OF THE CONSTITUTION: THE CASE OF MONGOLIA

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ABSTRACT

A constitution is important because it ensures that those who make decisions on behalf of the public fairly represent public opinion. Constitution is a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed. Also, a basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it. We hypothesized three hypotheses in this study such as responsibility, transparency and will positively relate on formation of the constitution. Two of them are positive related to the formation of the constitution, Otherwise, one of them is negative related on the formation of the constitution. There was a total of 275 people, including legal scholars, teachers, students, and industry officials, participated in our survey. The significance of this research is that the numbers and data used in this qualitative study were analysed using the Partial Least Squares (PLS-SEM) Smart PLS 3.0 program to analyse the factors and how the variables of the factors influence the formation of the Constitution.

Keywords: responsibility, transparency, ethics, and formation of the constitution.

INTRODUCTION

A constitution is a body of basic laws and principles that describes the general organization and operation of the state and contains fundamental principles and norms that underlie and guide all government action. A constitution is simultaneously a legal, political, and social instrument. Legally, it enshrines human rights and creates a predictable legal landscape. As a supreme or higher law, its provisions provide a framework under which all regulations, legislation, institutions, and procedures operate. It articulates the rights of citizens that institutions, procedures or legislation must not infringe, and which the state must strive to ensure (GluckJ., 2015). Politically, it establishes, distributes and limits governmental power and provides mechanisms for deliberating and deciding on public policy. Socially, it may reflect a shared identity or civic vision of the state, expressing commonly-held values or foundational principles. The system of fundamental principles according to which a nation, state, corporation, or the like, is governed. The constitution of a country or organization is the system of laws which formally states people's rights and duties. A constitution is the aggregate of fundamental principles or established precedents that constitute the legal basis of a polity, organisation or other type of entity and commonly determine how that entity is to be governed (McKean, 2005). The first ten amendments to the Constitution of the United States are called the Bill of Rights. The Constitution of the United States is a document that establishes the basic rules and laws of the American government. Most commonly, the term constitution refers to a set of rules and principles that define the nature and extent of government. Most constitutions seek to regulate the relationship between institutions of the state, in a basic sense the relationship between the executive, legislature and the judiciary, but also the relationship of institutions within those branches (Brandt, 2011).

Before undertaking constitutional drafting or negotiating specific constitutional changes, preliminary agreement may be sought on the basic principles or standards that the new or revised constitution will adhere to. In cases where an existing constitution is being amended, this preliminary agreement will set out the scope and limits of intended constitutional change, thus giving certain guarantees both to those who seek to protect their existing interests and those who wish to achieve reform (Van Vliet, 2011). Such a body of standards, called Constitutional Principles, was a key aspect of South Africa's Interim Constitution, which provided the main framework for drafting the permanent constitution. The draft constitution was even judicially scrutinized to affirm its conformity with the agreed-on principles and several provisions were found to be inconsistent with the principles. These provisions were then altered to align with the constitutional principles before ratification of the Constitution. Devices such as basic principles and interim constitutions serve to guide the drafting bodies and ensure adherence to key negotiated elements (institute, 2017).

THEORITICAL FRAMEWORK

The concept and principles of constitution

Most contemporary constitutions describe the basic principles of the state, the structures and processes of government and the fundamental rights of citizens in a higher law that cannot be unilaterally changed by an ordinary legislative act. This higher law is usually referred to as a constitution. As legal, political, and social documents, constitutions are at the intersection of the legal system, the political system and society.

Constitutions as legal instruments: A constitution 'marries power with justice' (Lutz 2006: 17)—it makes the operation of power procedurally predictable, upholds the rule of law, and places limits on the arbitrariness of power. It is the supreme law of the land, and it provides the standards that ordinary statutes must comply with.

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Constitutions as social declarations: Constitutions often attempt, to varying degrees, to reflect and shape society—for example, by expressing the (existing or intended) common identity and aspirations of the people, or by proclaiming shared values and ideals. These provisions are generally found in preambles and opening declarations but can also be found in oaths and mottos or on flags and other symbols that are defined by the Constitution. Other substantive provisions of the constitution, particularly those defining socio-economic rights, cultural or linguistic policy, or education, might also belong to this category (Lutz 2006: 16–7).

Constitutions as political instruments: The constitution prescribes a country's decision-making institutions: constitutions 'identify the supreme power', 'distribute power in a way that leads to effective decision making' and 'provide a framework for continuing political struggle' (Lutz 2006: 17). The political provisions show how state institutions are constituted, what powers they have and how they relate to one another. Most constitutions also attempt to define the relationship between individuals and the state, and to establish the broad rights of individual citizens. It is thus the most basic law of a territory from which all the other laws and rules are hierarchically derived; in some territories it is in fact called "Basic Law". A fundamental classification is codification or lack of codification. A codified constitution is one that is contained in a single document, which is the single source of constitutional law in a state. An uncoded constitution is one that is not contained in a single document, consisting of several different sources, which may be written or unwritten.

Codified constitution. Most states in the world have codified constitutions. Codified constitutions are often the product of some dramatic political change, such as a revolution. The process by which a country adopts a constitution is closely tied to the historical and political context driving this fundamental change. The legitimacy (and often the longevity) of codified constitutions has often been tied to the process by which they are initially adopted, and some scholars have pointed out that high constitutional turnover within a given country may itself be detrimental to separation of powers and the rule of law. States that have codified constitutions normally give the constitution supremacy over ordinary statute law. That is, if there is any conflict between a legal statute and the codified constitution, all or part of the statute can be declared *ultra vires* by a court and struck down as unconstitutional. In addition, exceptional procedures are often required to amend a constitution. These procedures may include convocation of a special constituent assembly or constitutional convention, requiring a supermajority of legislators' votes, approval in two terms of parliament, the consent of regional legislatures, a referendum process, and/or other procedures that make amending a constitution more difficult than passing a simple law. Constitutions may provide for the division of powers between the central government and the regions. Constitutions should be agreed rather than imposed to provide an acceptable framework for the settling of different political views. They help provide for a stable society by ensuring that, although everybody may not agree with the government all the time, the people accept the legitimacy of the system of choosing governments. Constitutions may also provide that their most basic principles can never be abolished, even by amendment. In case a formally valid amendment of a constitution infringes these principles protected against any amendment, it may constitute a so-called unconstitutional constitutional law.

Codified constitutions normally consist of a ceremonial preamble, which sets forth the goals of the state and the motivation for the constitution, and several articles containing the substantive provisions. The preamble, which is omitted in some constitutions, may contain a reference to God and/or to fundamental values of the

state such as liberty, democracy, or human rights. In ethnic nation-states such as Estonia, the mission of the state can be defined as preserving a specific nation, language, and culture.

Uncodified constitution. As of 2017 only two sovereign states, New Zealand and the United Kingdom, have wholly uncoded constitutions. The Basic Laws of Israel have since 1950 been intended to be the basis for a constitution, but as of 2017 it had not been drafted. The various Laws are considered to have precedence over other laws and give the procedure by which they can be amended, typically by a simple majority of members of the Knesset (parliament) (Serjeant, 2017).

Mixed constitutions. Some constitutions are largely, but not wholly, codified. For example, in the Constitution of Australia, most of its fundamental political principles and regulations concerning the relationship between branches of government and concerning the government and the individual are codified in a single document, the Constitution of the Commonwealth of Australia. However, the presence of statutes with constitutional significance, namely the Statute of Westminster, as adopted by the Commonwealth in the Statute of Westminster Adoption Act 1942, and the Australia Act 1986 means that Australia's constitution is not contained in a single constitutional document.

It means the Constitution of Australia is uncoded, it also contains constitutional conventions, thus is partially unwritten. The Constitution of Canada resulted from the passage of several British North America Acts from 1867 to the Canada Act 1982, the act that formally severed British Parliament's ability to amend the Canadian constitution. The Canadian constitution includes specific legislative acts as mentioned in section 52(2) of the Constitution Act, 1982. However, some documents not explicitly listed in section 52(2) are also considered constitutional documents in Canada, entrenched via reference, such as the Proclamation of 1763. Although Canada's constitution includes several different statutes, amendments, and references, some constitutional rules that exist in Canada is derived from unwritten sources and constitutional conventions. The terms written constitution and codified constitution are often used interchangeably, as are unwritten constitution and uncoded constitution, although this usage is technically inaccurate. A codified constitution is a single document; states that do not have such a document have uncoded, but not entirely unwritten, constitutions, since much of an uncoded constitution is usually written in laws such as the Basic Laws of Israel and the Parliament Acts of the United Kingdom. Uncoded constitutions largely lack protection against amendment by the government of the time. This change would require a constitutional amendment in most nations.

Responsibility and formation of constitution

Responsibility is task oriented. Every person on a team may be responsible for a given task that is required to complete a massive project. Accountability is what happens after a situation has occurred. It is how you respond and take ownership over the results. Even during the most uncertain times, true leaders hold themselves accountable for the results. Responsibility focuses on defined roles, job descriptions, and processes that must be in place to achieve a goal. On the contrary, accountability is committed to the successful completion of tasks assigned to you and being willing to take responsibility for everything that happens because of the actions that were taken. The quality or state of being responsible: such as a moral, legal, or mental accountability. The fact of being responsible for what you do and able to give a satisfactory reason for it, or the degree to which this happens.

Political accountability is the accountability of the government, civil servants, and politicians to the public and to legislative bodies such as a congress or a parliament. Political accountability is the vertical-downward variant of external accountability with relatively weak control. A situation in which someone is responsible for things that happen and can give a satisfactory reason for them: The organization suffers from a lack of accountability. greater/increased/more accountability The public has been demanding greater accountability from lawmakers. Then we used the main key words like responsibility and accountability.

Transparency and formation of constitution

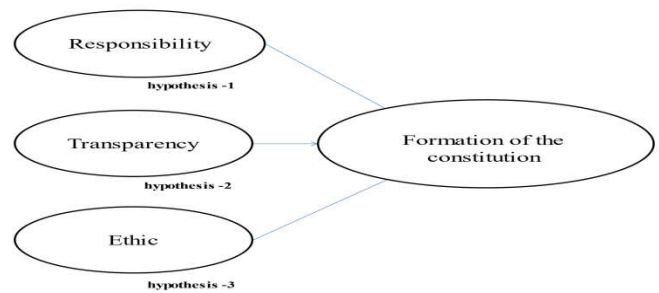
Transparency, however boosted by new technology, information systems, and public demand for electronic information, requires the effective operation of many longstanding laws, regulations, and programs governing the accountability of the federal government—“regardless of form or format.” It is difficult to disagree with the ethic of public trust in a democracy, and it may seem most evident that the blueprint for transparency we need already exists in the United States Constitution. After all, the Constitution establishes the three branches of government, serves to elect, as Abraham Lincoln described it, a “government of the people, by the people,” and amply empowers Congress with authority to provide “checks and balances,” as James Madison described it, over the executive branch. Indeed, it would also appear that the First Amendment guarantees interaction and disagreement by the governed with the governors. This is not limited to the freedoms of speech and association, but importantly includes the right to petition government for change. The latter would assume that to seek change, the citizenry must not only know what direction they would prefer the government to move towards, but also have sufficient information to understand the processes. However, while the Constitution provides an invaluable and irreplaceable governing framework, it does not prescribe the outcomes of the business of government. However, the laws alone, and the structural framework and obligations created are not always self-executing. What elected leaders and other government officials decide to do will have a critical impact on the quality of openness, transparency, and public trust among its own citizenry, and will resonate in the global community. Then we used the main key words like transparency and formation of constitution.

Ethic and formation of constitution

The term ethics refers to a set of principles that govern acceptable, proper conduct. Ethics; is a moral law of human conduct or behaviour considered from the point of view of good or evil. It is an action, which

is morally good or morally evil. If some behaviour is according to moral law, it is ethical. Every person has a right to be treated in a dignified manner at every stage of his life from conception, infancy, childhood, adolescence, adulthood and old age. Since there is no stage at which he ceases to be human, any mistreatment towards him is always a serious matter and it is considered morally bad. In the globalised world, and the myriad forces and trends within it, are putting pressure as never before on individuals, society and social structures and systems. Amongst others, educationalists worldwide are tackling the challenges of preparing the next generation for a world that is not only very different from the one they grew up in but is also in many ways less safe, secure and caring. Each day brings news of events somewhere in the world - if not in our neighbourhood - that highlight a lack of personal, moral and social values. Another approach to constitutional interpretation is based on moral or ethical reasoning—often broadly called the “ethos of the law.” Under this approach, some constitutional text employs terms that are informed by certain moral concepts or ideals, such as “equal protection” or “due process of law.” The moral or ethical arguments based on the text often pertain to the limits of government authority over the individual (i.e., individual rights). Then we used the main key words like ethics and formation of constitution. We make hypotheses such as, responsibility system, transparency, and ethics on formation of the constitution. The conceptual model of factors on formation of the constitution is drawn in Figure 1.

Figure 1. Conceptual models of factors on formation of the constitution



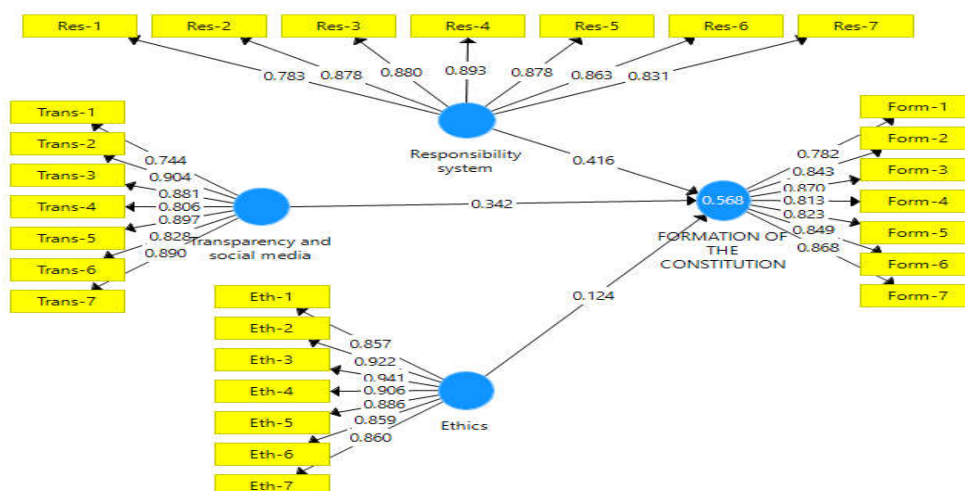
Hypothesis 1. The responsibility will positive relate on formation of the constitution

Hypothesis 2. The transparency will positive relate on formation of the constitution

Hypothesis 3. The ethics will positive relate on formation of the constitution

METHODOLOGY AND RESULTS OF THE STUDY

Figure 2. Results of Structure Analysis of formation of the constitution (algorithm)



Notes: res-responsibility system, trans-transparency and social media, eth-ethics, form-formation of the constitution

Table 1. List of items of factors for each Construct of respondents

Factor	item	Results of item	Cronbach's Alpha	Composite reliability	Average extracted	variance
Responsibility system	Res-1	0.783	0.940	0.952	0.738	
	Res -2	0.878				
	Res -3	0.880				
	Res -4	0.893				
	Res -5	0.878				
	Res -6	0.863				
	Res- 7	0.831				
Transparency and social media	Trans-1	0.744	0.936	0.949	0.726	
	Trans -2	0.904				
	Trans -3	0.881				
	Trans-4	0.806				
	Trans-5	0.897				
	Trans-6	0.828				
	Trans-7	0.890				
Ethics	Eth-1	0.857	0.957	0.964	0.793	
	Eth-2	0.922				
	Eth-3	0.941				
	Eth -4	0.906				
	Eth -5	0.886				
	Eth -6	0.859				
	Eth -7	0.860				
FORMATION OF THE CONSTITUTION	Form-1	0.782	0.928	0.942	0.699	
	Form-2	0.843				
	Form-3	0.870				
	Form-4	0.813				
	Form-5	0.823				
	Form-6	0.849				
	Form-7	0.868				

Notes: res-responsibility system, trans-transparency and social media, eth-ethics, form-formation of the constitution

In the table 1, responsibility system of 7 items measuring ranged from **0.783-0.893**, Cronbach's Alpha of **0.906**, Composite Reliability (CR) of **0.905** and Average Variance Extracted (AVE) was **0.614**.

Transparency and social media of 7 items measuring ranged from **0.744-0.904**, Cronbach's Alpha of **0.936**, Composite Reliability (CR) of **0.949** and Average Variance Extracted (AVE) was **0.726**.

Ethics of 7 items measuring ranged from **0.859-0.941**, Cronbach's Alpha of **0.957**, Composite Reliability (CR) of **0.964** and Average Variance Extracted (AVE) was **0.793**.

Formation of the constitution of 7 items measuring ranged from **0.782-0.868**, Cronbach's Alpha of **0.928**, Composite Reliability (CR) of **0.942** and Average Variance Extracted (AVE) was **0.699**.

Table 2. Estimated Path Coefficients of respondents

Hypothesis	Sample mean	Standard deviation	T statistics	P-value	result
Hypothesis 1. The responsibility will positively relate on formation of the constitution.	0.404	0.097	4.290	0.000	supported
Hypothesis 2. The transparency will positively relate on formation of the constitution.	0.353	0.131	2.621	0.009	supported
Hypothesis 3. The ethics will positively relate on formation of the constitution.	0.126	0.147	0.844	0.399	Non supported

Notes: The results of study

Hypothesis 1 asresponsibility have influence on formation of the constitution (mean 0.404), (Standard deviation 0.097), (T statistic 4.290) and (P value 0.000).Hypothesis 2 astransparency have influence on formation of the constitution (mean 0.353), (Standard deviation 0.131), (T statistic 2.621) and (P value 0.009).Hypothesis 3 asethic have no influence on formation of the constitution (mean 0.126), (Standard deviation 0.147), (T statistic 0.844) and (P value 0.399).

CONCLUSION

Most contemporary constitutions describe the basic principles of the state, the structures and processes of government and the fundamental rights of citizens in a higher law that cannot be unilaterally changed by an ordinary legislative act. This higher law is usually referred to as a constitution. As legal, political, and social documents, constitutions are at the intersection of the legal system, the political system and society. We studied in our study in the fiscal year of 2022 our paper collected and delivered online-form-questionnaire with an official inquiry that requested quantitative and qualitative surveys. There was a total of 275 people, including legal scholars, teachers, students, and industry officials, participated in our survey. The significance of this research is that the numbers and data used in this qualitative study were analyzed using the Partial Least Squares (PLS-SEM) Smart PLS 3.0 program to analyze the factors and how the variables of the factors influence the formation of the Constitution.

We are recommending our study as below:

1. To study a comparison of result for formation of the constitution in the future.
2. To study and compare with other countries formation of the constitution.
3. To study and compare with international study of the results in this study.

At finally, we will study our next paper, need to correlation other factors with labor law, civil law, constitution and etc.

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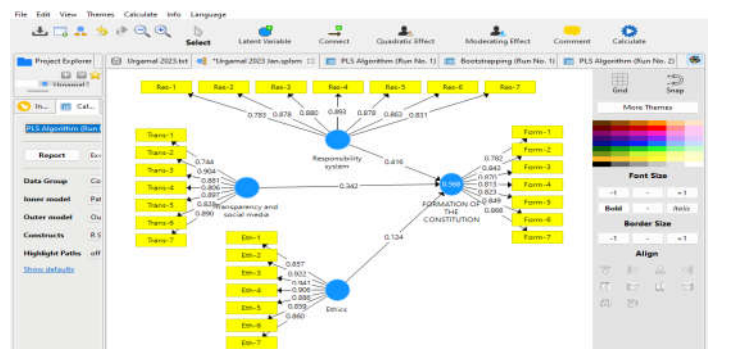
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THE EVIDENCE OF STUDY



	Original Sampl...	Sample Mean (...)	Standard Devia...	T Statistics (O/...	P Values
Ethics -> FOR...	0.124	0.126	0.147	0.844	0.399
Responsibility s...	0.416	0.404	0.097	4.290	0.000
Transparency a...	0.342	0.353	0.131	2.621	0.009

	Cronbach's Al...	rho_A	Composite Rel...	Average Varian...
Ethics	0.957	0.964	0.964	0.793
FORMATION O...	0.928	0.931	0.942	0.699
Responsibility s...	0.940	0.942	0.952	0.738
Transparency a...	0.936	0.951	0.949	0.726

	Ethics	FORMATION O...	Responsibility ...	Transparency a...
Eth-1	0.857			
Eth-2	0.922			
Eth-3	0.941			
Eth-4	0.906			
Eth-5	0.886			
Eth-6	0.859			
Eth-7	0.800			

File Edit View Themes Calculate Info Language

Save New Project New Path Model Hide Zero Values Increase Decimals Decrease Decimals Export

Project Explorer Urgamal 2023.txt *Urgamal 2023 Jan.splsm PLS Algorithm (Run No. 1) Bootstrapping (Run No. 1)

Indicators

N Indicator

1 Res-1

2 Res-2

3 Res-3

4 Res-4

5 Res-5

6 Res-6

7 Res-7

8 Form-1

9 Form-2

1 Form-3

1 Form-4

1 Form-5

1 Form-6

1 Form-7

Discriminant Validity

Fornell-Larcker Cri... Cross Loadings Heterotrait-Monotr... Heterotrait-Monotr... Copy to Clipboard

	Ethics	FORMATION O...	Responsibility ...	Transparency a...
Ethics	0.891			
FORMATION OF THE CONSTITUTION	0.604	0.836		
Responsibility system	0.548	0.656	0.859	
Transparency and social media	0.735	0.643	0.505	0.852

Final Results **Quality Criteria** **Interim Results** **Base Data**

[Path Coefficients](#) [R-Square](#) [Stop Criterion Changes](#) [Setting](#)

[Indirect Effects](#) [f-Square](#) [Inner Model](#)

[Total Effects](#) [Construct Reliability and Validity](#) [Outer Model](#)

[Outer Loadings](#) [Discriminant Validity](#) [Indicator Data \(Original\)](#)

[Outer Weights](#) [Collinearity Statistics \(VIF\)](#) [Indicator Data \(Standardized\)](#)

[Latent Variable](#) [Model Fit](#) [Indicator Data \(Correlations\)](#)

[Residuals](#) [Model Selection Criteria](#)
