This presentation tells the story of the constitutional debate in 2010 as it was reported in state-owned newspapers. This analysis takes an up-close look at a particular moment in the constitutional dialogue, and aims to make sense of contemporary ideas and arguments. It relies on John Gillespie’s discussion of the rule of law in Vietnam as the analytical framework, and on Mark Sidel’s work on the constitutional amendment process in 2001, for a better understanding of the scope of the debate. The analysis reveals three general characteristics of elite constitutional discourse in the 2010 debate. First, the discourse blended elements of both the conventional rhetoric and liberal interpretations of the concept of a ‘law-based state’. Concretely, a ‘law-based state’ would necessarily require the adoption of fundamental principles such as constitutional supremacy, a democratic popular mandate, limited state powers, and the protection of individual rights. Second, the intellectual environment of the elite in 2010, as reflected in popular media, seemed to be quite supportive of separation of state powers, with three clearly defined state organs—legislative, executive, judiciary—to balance and check one another. Third, the myth of the 1946 Constitution was revived as a significant talking point in order to justify the need for fundamental change in the structure of state powers. A close analysis of these characteristics has revealed the centrist and pragmatic nature of the constitutional discourse. Reformers within the country are clearly attempting to cope with the constraints of political boundaries while trying to push forward reform.

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The views expressed in this seminar are those of the presenter and do not necessarily represent the views of The Australian National University.