

Does a Window of Opportunity Swing Open for the Knaves When the Lords Have a Skirmish?

Notes on the Endogenous Generation of Political Competition. An attempt at a formalized description of the formation process of constitutionally limited Government when a balance of forces is preserved among the “bandits” (strongmen) competing for power. Magna Carta treaty as institution, causing (strengthening) incentive among free armed individuals to prevent strongest bandit from the treaty conditions breach and individual rights' violation, considered as a pattern of necessary preconditions' creation for system of Limited Government.

The Model developed in the paper could explain some cases of endogenous arising of politically competitive system of government and Government restricting constitutional agreements.

Few cases analysis – both historical and currently observed (Eastern Europe, Middle East) is provided for illustration of the Model. The implications for the attempts to establish or to support the new democracies in the countries with long lasted tradition of Bandits' rule proposed.

Key words Limited government, Bandit competition, stalemate, Foreign Player

JEL codes: D74, N10

History features examples in plenty of protracted civil (intra-state) wars and conflicts among coalitions of stationary and roving bandits,¹ in which no one single side managed to achieve decisive victory. (Take the Wars of the Roses in England as an example).

¹ M. Olson (Olson 2000) first introduced the terms “roving” and “stationary” bandit to describe simple models of leaders' behavior when the leader's authority is based on coercion or violence. A coercive leader permanently in control of some piece of territory (a “stationary bandit”) has reason to maximize his long-term collection of whatever dues have been imposed upon the populace. A “roving bandit” who makes short-term incursions into a land does it so as to take away everything he can lay his hands on.

Our 2006 paper on "Democracy: Conflict Extinguisher or Fuel for Terror?"² describes a number of contemporary cases in which struggle for land developed among coalitions of ruling bandits. The same paper considers a balance of forces, or a stalemate, as a possible case in point. We discuss this possibility in more detail below. It begins to take on particular interest insofar as in due course, institutions grew out of internecine friction of this kind, laying the foundations for modern rule of law democracies in a number of European countries.

Attempts to Define Democracy and the Routes Its Development Has Followed

According to the definition given in Robert Dahl (Dahl 2000), democracy is a means of government characterized by the following signs: universal "effective" participation, "understanding" based on a condition of being well informed, implementation of control of the daily agenda, and "involvement in the life of society." This complex notion, which hardly lends itself to formalization, is nonetheless extremely popular among humanities scholars and state employees in Western countries.

Charles Tilly (Tilly 2007³) uses a similar approach to arrive at a definition (by listing signs or requirements). Tilly refers to an organization which for many years running has been monitoring political regimes; the organization is Freedom House (FH, USA). In order to define a country's political system as a democracy, the organization's experts attempt to determine the availability of the following in the country in question⁴: political party competition, universal suffrage for all adult citizens, regular elections, access of the main parties to the mass media.

It should be noted that the requirement of "universal suffrage for all adult citizens" has an obvious and yet doubtful grounding. The most extended periods of democratic development and nearly all of the democratic tradition, beginning with antiquity, turns out to be as if severed from the concept of "democracy." That is, if this approach is consistently relied upon, democracy has no roots stretching back into antiquity – unlike what was believed by, for instance, the Founding Fathers of the US Constitution. Besides, these same Founding Fathers themselves then turn out to be "excommunicated from democracy," as well.

² See an updated version at SSRN: Yanovskiy, Zhavoronkov, and Zatskovetsky 2014.

³ Pp. 16-18.

⁴ <http://www.freedomhouse.org/>

True enough, R. Dahl agrees that democracy is a historically conditioned notion (thus acknowledging the US and Great Britain of the 19th century as relatively democratic countries). However, he sees it as a notion traceable to its highest forms, in which a genuine must was the availability of both universal suffrage for all adult residents of the country and – what is significant – separation of power centers, distribution of authority, or “Polyarchy.”

Dahl also notes that democracy emerges given certain conditions, posing the question about just what these conditions may be. He offers the hypothesis that a historical precondition of democracy is a split within the elite, which leads to the development of the “habit of looking for mutual guarantees” among the “bandits.” (Dahl, ... 1972)⁵ The author argues that such an evolutionary path is closed to modern states. He notes – with ample justification – that lesser opportunities for the authorities physically to destroy the opposition stimulate coerced toleration of the existence of opposition as such.

At the same time, Dahl claims that property relations play no role in these issues. This in view of the fact that the founders and the defenders of old Rule of Law democracies (the Netherlands, Great Britain, USA,⁶ and others) were mostly people of middle or upper income class level, who were also interested in protecting property. Questions of property (concern about the king’s intention to violate the agreement with Cromwell’s generals about the restoration and about the protection and acknowledgement of property rights) played an important role in the Glorious Revolution, as well.

Dahl does not deny – but he does underestimate, and, in our view, almost ignores – the role of violence in the emergence of the first Rule of Law democracies. By contrast, Tilly directly indicates violence as a source of the “categorical inequality” which interferes with democratic progress.

A similar point of view is put forth by Roger D. Congleton (1911), who argues that the principal changes leading to the emergence of modern democracies were evolutionary in nature. Accordingly, he maintains that there is no significant connection

⁵ P.38.

⁶ See, for instance, *The Federalist* and its authors’ unambiguous position concerning the question of defending property, in №№10, 51, 52, as well as the assessment of the situation made by Beard, a historian (Beard, 1962), and by his opponent (McDonald, 1958). The leading American historian Richard Pipes (whose predictions, unlike those made by most of his colleagues, tended to come true) is of the same opinion. See Pipes 2000, pp. 49-59, 197-200.

between these changes and revolutions and wars. Then again, he does not deny the role played by the elite in the genesis of restrictions imposed on the arbitrary authority of the ruler (the “King-and-council template”).

At the same time, the genesis of many of the first Rule of Law democracies was accompanied either by national wars (for independence), or else by civil war. In addition, France went to war in order to achieve hegemony in Europe.

Problems of lack of consensus concerning basic values were resolved by means of deportation or voluntary emigration of the losers, to say nothing of death as a result of the wars occasioned by the conflict (e.g., Catholics in the Netherlands, Catholics and monarchists in England, loyalists in the US).

Douglas North is of the opinion that even Europe’s technological (military-technological) evolution was a contributing factor in the emergence of the new institutions. The growing cost of maintaining an army required expenditures unrealizable for many courts, thus conditioning the “sale” of certain rights and privileges to the representatives of well-to-do citizens. This was how new military technologies brought about the emergence of the first parliaments (North 2005, pp. 131-132).

In a paper on violence and social management (North, Wallis, Weingast 2009), North focuses in particular on the problematic role of violence in society. The paper introduces a model according to which the state assumes permanent shape as a coalition of the strongest players (military leaders, field commanders), dynamic in the long term and designed for obtaining revenue payments. Thereupon, pressured by the threat of revolution from the have-nots, the ruling coalition makes concessions to them, thus permanently legitimating the constitutional-democratic order of government formation (a similar model of the transition to democracy was first described by Acemoglu and Robertson (2006)).

In his paper North – like the authors whose scenario of the emergence of democracy he draws upon – evidently takes as his point of departure a definition of democracy close to the one in Dal’ and Tilly (he refers to democracy as “society,” and makes use of the term “Open Access Orders”). Enumerating the five features of his

“Open Access” society, he essentially reiterates the criteria cited above (Tilly 2007). Only one new feature of significance is introduced in his account: (the possibility of) non-personalized exchange obtains as a consequence of rule of law democracy.

North and his co-authors make a separate note of the monopoly maintained over violence by the state under “Open Access” conditions (the authors apparently do not see self-defense, the Second Amendment concerning the right to bear arms, “civil arrest,” and other elements crucial for the protection of the rights and dignity of the individual person as being key).

In the present paper we will attempt to bring the models and the formal analysis closer to their actual historical prototypes.

From the point of view of the authors – and, accordingly, throughout the present paper – “democracy” refers to a political arrangement involving competition among the political forces (candidates and parties) which, combined with competitive mass media⁷ and the existence of different religious and cultural groups ensures that authority will have to face certain restrictions regardless of the coalition which the regime in power represents.

We will start out by analyzing instances of competition among the “bandits” and the consequences which such competition may entail for institutions of authoritarian power. We will thus challenge the view propounded by Dal’ to the effect that the evolutionary route to forming institutions capable of restricting authority (the route of constitutional formation) has been closed, no longer an accessible option, due to a stable or repeated occurrence of splits within the elite. The splits meant here are the kind of differences which, given certain conditions, makes the players look for a negotiable way out of a situation, rather than incur the costs of indefinitely protracted conflict.

⁷ Including the press in opposition to the authorities in power; that is, the press which levels charges of immorality at the supreme leadership of the country, as well as of passivity dangerous for society; this may also include charges of misdemeanors liable to criminal prosecution, demanding that the supreme leadership of the country be replaced with a different one on this basis.

“Administrative Competition” in Russia Today

Instances of “Administrative Wars” in Different Regions in Russia

Besides competition during elections (where elections in many a region in Russia were an institution leaving a great deal to be desired even in the nineties, while starting from the middle of the first decade of the 21st century the same institution was in the process of being consistently eradicated throughout the country), in Russia there has always existed – and continues to exist to this day – a peculiar kind of administrative competition: a mutual rivalry among various administrative-financial clans. The competition comes to the fore in the struggle for control over various posts within the power system, both those bound up with elections (such as the post of city mayor, or, up until 2005, the post of governor, as well) and those without any such connection (posts of officials appointed by the federal ruling center, including heads of regional Departments of Internal Affairs, Federal Security Services, investigation committees, prosecutors, the State TV and Radio Broadcasting Company, and since 2005, also the post of governor). Control or association with active branches of the various state and quasi-state companies is also significant. Of some importance in the decision-making system is control over the regional “Yedinaya Rossiya” [“United Russia”], even though the rightful capacities allotted to the regional department are, in essence, advisory in nature vis-à-vis the all-powerful central agencies. Even so, this “advisory” voice is also important at times; treating it with disdain spells out scandalous results. Of occasional interest is control over brands of other “system parties,” such as the Communist Party of the Russian Federation, the Liberal Democratic Party of Russia, or “Spravedlivaya Rossiya” [“Just Russia”], either as a source of funding for running in elections (at least half the seats in the regional legislatures, and sometimes up to 100% of the seats in the legislatures and the municipalities may be assigned based on party lists, a point which makes it impossible to run in the elections in any way except via “system party” departments), or else as a way to prevent this funding from going to one’s rivals.

As Gaidar Institute for Economic Policy (IEP) studies of the early and mid-zero years have shown, the presence or absence of administrative competition in a region does not directly impact economic growth. However, economic growth is positively impacted by the existence of free mass media (an appreciable factor in the early years – and slightly less significant in the middle years – of the same decade).

Russian TV channels of a social-political bent and most of the socially-politically oriented printed mass media are money-losing ventures, since no tradition of watching commercial TV has evolved in the country, while printed matter in Russia is considerably cheaper than is needed for the printed mass media to break even (Russian social-political newspapers cost 50-60 cents, as compared to the developed countries, where they run a minimum of a few dollars or euros). But even had they been profitable, their content poses considerable risks for private business. In most regions where competitive mass media are in evidence, they are owned by competing administrative clans. The most common type of situation is when one media holding belongs to the city mayor and his kin, while the other is owned by the governor and his family (for instance, Yekaterinburg, Samara, Saratov, Dagestan, et al., and up to 2008 – Stavropol', up to 2009 – Chelyabinsk). Given this setup, the media holding owned by the mayor provides an opportunity for the public to read the truth about the governor, while the one owned by the governor sheds light upon the conduct of the mayor; the net total is that both the voter citizen and the investor entrepreneur can obtain all the information they need for making decisions. Less common is the situation when the mass media representing a point of view different from the governor's may turn out to be the property of a business located within the region (as, for instance, in Krasnoyarsk or Lipetsk). The likelihood of an end of public confrontation between governor and mayor has a sharp negative impact on the freedom of the mass media overall, and on the access the public then has to any kind of information (this was the upshot, for instance, when the Sverdlov Oblast' Governor E. Rossel made peace with A. Chernetzky, Mayor of Yekaterinburg, in the mid-zeroes, or following the 2008 sacking of former Stavropol Mayor D. Kuzmin's group by federal government in the Stavropol region).

Competition among different influential administrative cliques creates an atmosphere favorable for the "smaller parties" and public organizations, as well; its discontinuation has an extremely adverse effect on all sides. The 2006-07 situation arisen in the Kirov Oblast' can be cited as an example, when O. Valenchuk, a major entrepreneur, fought against Governor N. Shaklein for influence. Valenchuk managed to introduce a number of factions opposed to the governor into the regional legislature all at the same time: the Liberal Democratic Party of Russia, "Pensionery Rossii" ["Russia's Retired"], and the Agrarian Party, as well as a few independent single-seat

deputies. Valenchuk traded the influence he had enjoyed in opposition groups for the position of leader in the region's "Yedinaya Rossiya," thus putting independent public activism in the region to rest.

The Case of Chechnya

Competition has a positive significance even in that region of Russia where extreme forms of authority based on violence and coercion have been in power for two decades running: in Chechnya. In 1991, an armed uprising took place in this region, toppling the federal government, which was too weak to be able to mount a response. October 1991 saw the elections for "President of Ichkeria"⁸ and Ichkeria's "Parliament," both operating outside Russia's legal terrain. Then again, Ichkeria's Constitution was almost entirely copied from the Constitution of Russia; it proclaimed the land a secular democratic state with a division of powers, a Parliament, and a Constitutional Court. The new regime, whose leading agencies numbered quite a few undisguised criminals in their ranks, made no secret of the fact that it intended to live by robbing neighboring lands, as well as by expelling and expropriating the Russian population of the Republic. Nonetheless, even under these exotic conditions, a peculiar democratic ethnocracy subsisted for two years in "Ichkeria," a span of years which featured no violence toward the Chechen population (thus, not a single known "Ichkerian politician" was killed during this time, a summary statement impossible to make about the period which followed). In June 1993, in a move which ran counter to the Ichkerian Constitution, "President of Ichkeria" D. Dudaev disbanded the Parliament and the Constitutional Court, thus usurping power. A drastic rise in the wild propensities of the "Ichkerian" regime followed: terror was now resorted to against the Chechen population, as well as against the non-Chechens. This was the period when public beheadings and other events of the same sort began to take place in the squares of Grozny. Combat operations by Russian federal troops against "Ichkeria" began in late 1994, but in August 1996, after the fall of Grozny and after the federal troops units were routed from the city, authority in the Republic effectively returned into the separatists' hands.

January-February 1997 saw yet another elections process for President and Parliament of "Ichkeria." Aslan Maskhadov, head of the General Staff of Ichkeria,

⁸ As Chechnya was referred to by the separatists throughout 1991-2006.

was elected President of Chechnya in January 1997, after amassing 59.3% of the vote. His leading rivals, Shamil Basaev and acting President of Ichkeria Zelimkhan Yandarbiev, got 23.5% and 10.1% of the vote, respectively. But Maskhadov's government did not manage to centralize power: real power locally was still in the hands of the field commanders, most of whom had no intention of disarming or obeying the government. Fighters' units preserved power infrastructures of their own in practically every region of the Republic; they maintained their own headquarters, military bases, security services, prisons, and "jaamat." It became obvious that the position of President meant little in "Ichkeria," and that real authority remained in the hands of the armed groups in control of particular regions. Nonetheless, diversity of political opinion was still encouraged: most armed groups' leaders set up cable TV channels of their own.

In August 1999, "Ichkeria"'s leaders invaded Dagestan, a piece of land under Russian government control. The move provoked a retaliating strike on the part of the Russians, thus recommencing the war. By February 2000, all populated areas in Chechnya had been taken and were under the control of Russian troops. Some of the separatist leaders, headed by Chechen Mufti A. Kadyrov, switched to the Russian side. (Fall 2000 saw Kadyrov's appointment as "Head of the Chechen Republic's Administration" by order of V. Putin). Meanwhile, the Republic's infrastructure had in effect been entirely destroyed.

Pre-elections to the State Duma in Chechnya took place in the summer of 2000. (They had originally been supposed to take place in December 1999, but fighting was in full swing at that time). It turned out that the utterly destroyed infrastructure posed no obstacle to conducting essentially free elections: 30% of the voters cast their ballots in favor of the former RSFSR National Deputy A. Aslakhonov, 20% voted for Shamal Deniev, leader of a religious clan, and three more contenders – the then Rector of the Chechen Teachers' Institute B. Khasbulatov; L. Magomadov, leader of the Republican "Yedinstvo" ["Unity"] and friend of the then Grozny Mayor B. Gantamirov; and H. A. Arsanov, Chairman of the Committee for Youth Affairs, each garnered some 7-10% of the vote. There were no complaints reported concerning the results of the elections; voting procedures with results running at approximately 90-100% would begin a bare few years down the road.

During 2000-2003, prior to the essentially choice-free elections conducted by the head of Chechnya, Kadyrov (the results allegedly ran at about 80% in favor, with voter turnout supposedly at 86.8%), Chechnya was controlled by a polyarchic regime. The regime's principal centerpieces, besides Kadyrov himself, were individually appointed by Moscow as the Prime Minister of Chechnya, the Mayor of Grozny and the city's heads of administration divided by district, as well as the leaders of the various agencies based on rule by coercion (the Chechen Ministry of the Interior, the Federal Security Service, Special Investigative Bureau 2 of the Ministry of the Interior, and the "Unified Groups of Armed Troops," a designation primarily for the 58th Army of the Defense Ministry. There were also the private armies of the Yamadaev family, and those of S. M. Kakiev, M. Baysarov, and others, which had been legalized disguised as units of the Defense Ministry and the Federal Security Service (Federalnaya Sluzhba Bezopasnosti - FSB).

Every single one of these organizations had had charges of human rights violations leveled against it; but even so, Chechen residents could make a choice of their own as to whose jurisdiction to submit to by choosing the area where they lived. The Republic was home to some mass media independent of Kadyrov's control. Mass protest events took place quite often (as a rule, devoted to demanding that kidnapped or disappeared persons be released and returned to their homes).

By 2003, A. Kadyrov had removed practically all legal opponents to his rule from the Republic. He had concentrated all rights of financial empowerment and authority to make appointments within Chechnya. Grozny television channels and newspapers which had expressed support of B. Gantamirov were shut down while the elections campaign was in process.

An authoritarian regime took shape, buttressed by the Russian troops on the one hand, and relying on its own armed units, on the other. After the death of A. Kadyrov in 2004, power shifted into the hands of his son, R. Kadyrov. The latter not only extended his regime de facto throughout Chechen territory, but also began to claim control over the totality of the Chechen diaspora scattered throughout Russia. Federal elections conducted in 2007-2008 proved an untrammelled farce in Chechnya, with Soviet-style results along the lines of "99.9% in favor."

By 2006, R. Kadyrov had managed to get rid of all political opponents to his rule in Chechnya, with the exception of the Yamadaev family, who continued to operate through late 2008, designating themselves as “the Vostok [East] Battalion of the RF Defense Ministry.” Beginning that same year, 2006, killings of R. Kadyrov’s critics began both in Russia and abroad. The most influential members of the Yamadaev family, the brothers Ruslan and Sulim, were killed during 2008-2009. Incidentally, they had been the ones in control of the last private cable channel to have remained independent of Kadyrov’s authority. (The last newspaper to maintain a status independent of Kadyrov’s control had closed down with the departure of token “President of Chechnya 2004-2006” A. Alkhanov, back in 2006. Alkhanov had considered the option of an independent political career, but in the end never mustered the resolve for the undertaking). Also in 2009, following the murder of N. Estemirova, the last independent public organization in Chechnya, “Memorial,” discontinued its functions. Ironically, the Chechen “Memorial” had aimed to concentrate its efforts on criticizing human rights violations perpetrated by the Russian military and by Kadyrov’s rivals (the Yamadaev family), but its work came to an end when Kadyrov eliminated all legal opposition to his own rule in Chechnya.

The Russian authorities like to refer to there being no alternative to the totalitarian Kadyrov regime in Chechnya. It should be pointed out, incidentally, that during the years of this regime’s existence, the problem of terrorism has not only failed to see a solution, but has also spread to neighboring regions. But it is also worth noting that in the last two decades – both during the “Ichkeria” period and during the years of Russian control – a type of administrative competition was to be observed in Chechnya which had a beneficial impact on the region’s institutions. At certain isolated moments in time (take the summer of 2000), this state of affairs would even take on the essential features of civilized political competition.

The Rise and Fall of USSR Totalitarian Economy

M. Olson offers the following explanation for the relative efficiency of the Stalinist economic model.⁹ Regular mass repressions weakened special interest

⁹ M. Olson, *Power and Prosperity* (New York: Basic Books, 2000), pp. 100, 129.

groups, thus ensuring the transparency of the management system for the dictator. The USSR thus functioned as an enormous private enterprise with one single owner.

But Olson leaves one question unanswered: Why did the dictator's successors give up such an effective model?

Most probably, the Stalinist elite put forth a very strong demand for personal security and individual immunity; this would explain the rapid departure from Stalin's model later. Following Stalin's death, most members of the communist leadership quickly grouped around the figure which seemed to them to be the most obvious bearer of a personal threat against all the others. That is, most Stalinists united so as to eliminate the likelihood of a continued use of Stalin's efficient methods. None of the power conflicts ensuing in the party elite after L. P. Beria's demotion concluded with the physical destroying of the loser. Apparently, the winners were afraid of provoking the players who had remained uninvolved in the conflict to group into a new coalition for purposes of self-defense.

But we need to return to the classic cases of direct armed conflict among coalitions formed by bandits. The Middle Ages, the Renaissance, and the early Modern Period were all times when it was commonplace to struggle against a single bandit's unconditional domination of a coalition of rich and powerful players who had been mistreated at his hands. Could such a struggle bring about the emergence of institutions which universally and permanently restrict authority in favor of the individual person? The paper cited above (Yanovski, Zhavoronkov, and Zatkovetsky 2014/2006) studies a model and strategies of "bandits" given changing correlations of forces. For the various cases of imbalance which it considers, the paper demonstrates that the bandits may themselves be interested in applying democratic mechanisms in order to reinforce their control of the local population. This is accompanied by a rise in the level of violence, while the level of measures taken legally goes down. However, the same paper notes that in case of a balance of forces, the bandits may actually have reasons to negotiate ways to restrict violence.

Model for Generating “Public Agreement”

To sum up: earlier we considered the case of a balance of forces between rival Olsonian “bandits” (or their coalitions).

Along with these two players, each of them a possessor of considerable resources, add to the model a crowd of other potential coalition members. The resources at the disposal of each one are incommensurably smaller as compared with the resources of the two principal contenders for authority. Yet the sum total of their resources is greater than what the two main contenders taken together can marshal.¹⁰

If it somehow happens that only one of the two principal players remains, these “third” players do not spend any significant amounts of money on self-defense. Each of them is too weak alone, while the cost of coordinating (C) may prove comparable to the sum total of all their property.

Trying to limit their conflict spending, the two principal players (the two bandit coalitions in Olson) conclude an agreement which endows all parties, including third players, with certain privileges (rights), motivating them to act in defense of the agreement against any violators. The terms of the agreement de facto impose significant restrictions on any functional authority.

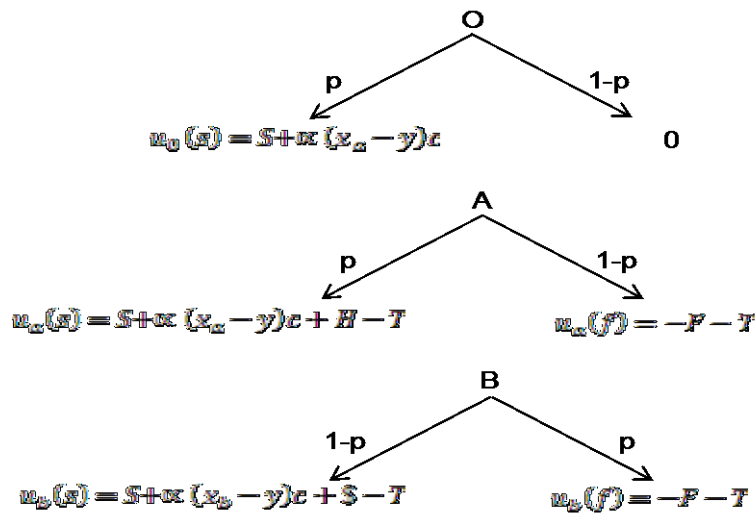
If, besides an agreement, other mechanisms are available for coordinating the steps taken by the petty players, then whenever there is a violation of the balance of forces between the two strong players, the petty players unite rapidly. Thus a third powerful player arrives on the scene, incapable of mounting an attack all on its own, but able in cooperation with either one of the two big players to make a winning coalition.

Then even if the balance must inevitably be tampered with sooner or later, it is still likely that the petty players will consolidate into an alliance incorporating the weakest player of all. An alliance of this kind will preclude the possibility of a monopoly by the strongest player – one that can attempt to violate the rights guaranteed by the agreement and thus pose a threat to the preservation of private property intact. It then becomes a sensible move on the part of the petty members of the coalition to expend part of their property’s worth on defense.

¹⁰ As used to be the case when a stratum of free, armed rural or urban resident population existed in many medieval European countries. A potential member of a third force coalition could have emerged in the person of a feudal lord not connected with the principal competing “players.”

Let us next consider the simplest case in which a “third distributed” player (a third factor) is to be observed, but unconnected to the presence or absence of an agreement.

In our model each individual has 3 alternatives: to stay at home (0), to support the "ancient liberties", AL (a) or the "convention violator" (king, dictator, stationary or Roving bandit) (b).



(f-failure, s-success)

Variables:

$u_{a,b,0}(s)$ -benefits level when the person's group succeeds.

$U_{0,a,b}$ - the expected value of the benefits at each decision.

S - Initial capital

$\$$ - benefit of joining the "dictator's" (convention which limited rulers' power violator) group.

H -the value of bonus for participation in political action on the AL side (contains honor (especially relevant for small communities), career opportunities etc.)

α - the material value which individual attaches to improvement in political regime/citizen rights.

p - Probability that group a will succeed (doesn't depend on individual's choice!)

x_a and x_b –probabilities to successfully transfer the property rights to next generations at each regime where y is the currently existing probability, serve as an indicator of regime quality.

$c=1$ +number of children.

$(x_{a,b}-y)$ - Measures the extent (may be positive or negative) of change in regime.

F- Penalty for losers. It depends on initial capital and on the number of children.

$$(F=\beta*S+\mu C)$$

T- Cost of participation in political action (time, money etc)

$$U_0 = p(S+\alpha (x_a - y)c$$

The individual that decides to stay at home doesn't pay any cost and in the case when democratic group wins (with probability p), saves his property and benefits from improvement in political regime with his children. Otherwise he has zero benefit. (In addition to the property lose, there is also may be a negative influence of regime quality deterioration)

$$U_a = p(S+\alpha (x_a - y)c + H) - (1 - p)F - T$$

The individual that takes a part in political action on AL side saves his property, benefits from political regime improvement and H with probability p . On the other hand he is paying a cost of participation (T) and may be penalized if his team will lose.

$$U_b = (1 - p)(S+\alpha (x_b - y)c + \$) - pF - T$$

The individual that acts on dictators side will save his property and benefit from $\$$ but will also have a negative influence of regime quality deterioration if his group wins. He has the same costs: cost of participation and probability to be penalized.

$$p \geq \frac{u_b(s)+F+T}{u_a(s)+u_b(s)+2(F+T)} \Rightarrow U_a \geq U_b$$

$$p \geq \frac{F+T}{F+H} \Rightarrow U_a \geq U_0 \quad (\text{If } H \leq T \quad \text{the person will decide to stay home in every case})$$

$$p \leq \frac{u_b}{u_b(s)+u_o(s)+F+T} \Rightarrow U_b \geq U_0$$

If $U_a \geq U_b$ and $U_a \geq U_0$ the risk neutral person will decide to support the A group.

If $U_b \geq U_a$ and $U_b \geq U_0$ the risk neutral person will decide to support the B group.

If $U_0 \geq U_b$ and $U_0 \geq U_a$ the risk neutral person will decide to support the 0 group.

Comments on Model Terms and Limitations

1. Many of the potential coalition members are ready to take risks¹¹ (being Risk Lovers or Risk Neutrals).

¹¹ At the present stage, treat the risk-taking tendency as a constant, taken as a share of the unemployed members of the younger generation of adults (males) in society overall. If we make an allowance for that these people will stay at home or else join the bandits in a more or less balanced fashion (or depending on information available as to the progress being made by the different sides), then this

2. There are well-known instances of the bandit's having lost (due to having underestimated the extent of enemy mobilization, or as a result of competition against the Church; vassal uprisings against Henry IV, the Holy Roman Emperor, during his conflict with Pope Gregory VII can serve as an example). That is, there is a great risk of going to war against the strongest bandit who violates convention, but the risk is not a priori tantamount to suicide. Be that as it may, notions of the likelihood of success are a key consideration in the decision-making process concerning which side to choose or concerning the issue of who will stay at home.

3. The likely members of the 3rd coalition are free men able to purchase the necessary weapons and munitions.

4. Payoffs menu: to be killed, wounded, captured; just to survive; to achieve social status advancement or promotion (if current status is not perceived as attractive = U_{current} close to 0, even a relative improvement in formal status – titles or marks of distinction, financial gain to be derived from higher status – a modest likelihood of these, coupled with disregard for risk, suffices to provide positive mathematical expectation).

Honors and high regard in case of success may be greater for a defender of ancient liberties than for a soldier of the king (the king being the chief bandit and agreement violator). Variables include the individual discounting coefficient, which determines personal usefulness of successful defense from agreement violation (long-term usefulness for children and grandchildren). Besides, in relating to risk, all other considerations being equal, the risk lover will be more likely to join a weak bandit based on the idea of “buying cheap.”

5. When making his own individual choice as to whether to be the “third player” joining the coalition against the violator of convention, we assume that a free armed player is aware that somebody has already gone on the offensive, so that the problem that needs solving is not whether to “be the first” to attack, but specifically whether to join the party which has already done this.

An individual making this decision has already also been made aware of instances where convention was violated (cases of illegal arrest or execution), and can appreciate the danger facing him and his descendants, albeit he discounts it in his

indicator can be treated as a constant in our study. Albeit when an outside force takes on the role of the coordinator bandit, the same indicator becomes important, or even decisive.

assessment. The existence of a strong player who has already gone on the offensive, along with the expectation that many of the oppressed will join him, boosts the expectation of victory for the coalition acting in defense of “ancient liberties.”

6. The individual discounting coefficient has to do with the instinct to provide for one’s children. The same coefficient is also bound up with the condition that institutions are in at a given time (with this condition either raising or lowering the likelihood of property’s being inherited without hindrance), with the condition of the economy, and with the status of the particular individual family (formal status, income, property reserve, “psychological distancing” from known victims of convention violation, and so on). If we take “instinct” to be innate and constant, and also take the intention of acting upon it by leaving an inheritance for others as dependent on the probability of being able to pass on accumulated property without interference, then this probability deserves special attention.

7. The tendency to join one of the warring sides (especially the side of the opposition) may be promoted by the hope of achieving the maximum highest stakes by making one risk-laden move. This is a tendency which tends to diminish with age.¹² But also with age (or rather, with the appearance of family and children), as well as in connection with increases in the quantity of property which may be passed on to one’s heirs, motivation becomes increasingly strong to defend one’s family and property from the arbitrary measures a convention violator may want to enact. It thus follows that *the likelihood of passing on one’s property to one’s heirs becomes a key consideration in determining the structure of the “prize” anticipated in case the coalition defending ancient liberties is victorious, or alternatively if the victorious side is the coalition of the “convention violator.”*

From among the considerations detailed above, the following should be made a special note of:

- Experience of successfully drawing up or concluding an agreement along the lines (or based on the model) of the Magna Carta or a similar document;

¹² The consideration of “age” proper is something we are leaving outside the limits of the model at this stage of the study.

- Experience of successfully administering punishment to the powerful violator of convention in the past;
- Finally, free citizens' accumulation of sizable quantities of property to be passed on to their heirs (historical statistics);

Provided an agreement is in effect and provided especially that it has a “solid core” of committed adherents who go on the offensive and who de facto become the coordinator of collective action, these items make it seem reasonably likely that the coalition acting “in defense of ancient liberties” will succeed.

$P_{\text{success_perception}} = P(\text{Magna Carta-type convention experience; Convention violator defeat experience; Assets ready for inheriting})$

Situations describable by this model really developed and were even repeated in England, Sweden, Denmark, and partly in Switzerland and a number of other cases.

The “distributed third player” (the nobility, the merchants, the town dwellers) in Netherlands lent their support to William the Silent (of Orange), an a priori weak challenger, against the powerful King of Spain. Their armed struggle led to the emergence of the first – in terms of historical chronology – regime which imposed stable constitutional restrictions on authority. This development later also had an impact on the emergence of a similar regime in England (the “Glorious Revolution” of 1688 and the invitation extended to William of Orange, alias William III).

Historical Statistics Test Case for the Hypothesis?

Data

The hypothesis concerns the positive impact which a split and conflict within the elite have on the likelihood that eventually a rule of law democracy will emerge; the conflict meant here is resolvable by means of an agreement which guarantees certain rights to both members and a more extended group of freemen (in the past). To test the hypothesis, we use our evaluations of the condition that political institutions in different countries were in during the period 1811-2011.

The evaluations are based on expert historians' confirming the existence – or the absence – of freely operating opposition mass media, of authorities who lost in court

and then complied with court decisions, or of cases when the ruling group went into the opposition based on election results. Provided existence of the first is confirmed, indicate this as “1.”

The two other factors are assessments of the existence of an opposition press and instances of independent courts operating such that even after losing a politically significant and widely publicized case, the executive authority complied with decisions issued by the judges.

The fact that in the past, conflicts developed between the king and his barons (measured by "Civil wars before 1910" variable), and were resolved by means of an agreement similar to the Magna Carta (as well as countries inherited similar institutions as USA and Canada), is an independent variable of key significance.

Table 1. Descriptive statistics:

Variables	Observations	Min	Max
Rule of Law Democracy duration by 2010	161	0	195
Limited Government Duration by 2010	161	0	200
Civil War before 1910	161	0	1
Western offshoots	161	0	1
Historically new Entities	161	0	1
Subsaharan Africa	161	0	1
Islam	161	0	1

Table 2. Rule of Law Democracy preconditions

Dependent variable: Rule of Law Democracy duration by 2010	(1)	(2)	(3)	(4)	(5)	(6)
Magna Carta	50.24*** (12.8)	35.6** (14.1)	30.5** (12.9)	26.7** (12.6)	30.1** (12.5)	32.3** (12.6)
Civil War before 1910		29.8** (12.6)	27.6** (11.5)	22.5** (11.4)	19.0* (11.5)	22.0* (11.4)
Western (MC) offshoots			95.3*** (16.9)	90.7*** (16.6)	92.0*** (16.4)	90.9*** (16.6)
Islam				-18.7** (6.5)		
African						-19.1** (6.8)
Historically new Entities					-19.8*** (6.0)	
Constant	16.3*** (3.35)	14.7*** (3.4)	12.3*** (3.1)	18.1*** (3.6)	21.3*** (4.0)	17.4*** (3.5)
Observations	161	161	161	161	161	161
R-squared Adjusted	0.09	0.11	0.25	0.36	0.36	0.36

Robust standard errors in parentheses; *** p<0.01, ** p<0.05, * p<0.1

Table 3 Limited Government preconditions

Dependent variable: Limited Government Duration by 2010	(1)	(2)	(3)	(4)	(5)	(6)
Magna Carta	55.8 ^{***} (18.0)	10.7 (18.4)	5.7 (17.6)	3.7 (16.4)	4.9 (16.5)	9.4 (16.7)
Civil War before 1910		91.8 ^{***} (16.5)	89.6 ^{***} (15.8)	78.1 ^{***} (14.9)	73.5 ^{***} (15.1)	77.9 ^{***} (15.1)
Western (MC) offshoots			94.0 ^{***} (23.1)	83.6 ^{***} (21.6)	87.9 ^{***} (21.7)	84.9 ^{***} (21.9)
Islam				-42.8 ^{***} (8.5)		
African						-40.0 ^{***} (9.0)
Historically new Entities					-37.3 ^{***} (7.9)	
Constant	44.8 ^{***} (4.7)	39.9 ^{***} (4.4)	37.5 ^{***} (4.3)	50.7 ^{***} (4.7)	54.4 ^{***} (5.4)	48.2 ^{***} (4.7)
Observations	161	161	161	161	161	161
R-squared		0.20	0.27	0.37	0.36	0.35

Robust standard errors in parentheses; *** p<0.01, ** p<0.05, * p<0.1

Player Replacement

Let us consider a situation quite common in backward countries. A small number of competing “bandit” armies controls the lion’s share of the resources. This means that chances of solidifying a powerful third player capable of preventing a disruption of the balance are nil.

An alternative scenario: there exists a stratum of free property owners who are capable of arming themselves. However, for one reason or another, no coalition has emerged of rebellious barons acting “in defense of ancient liberties.” This automatically makes the costs a priori prohibitively high for coordinating the actions

of a sizable group of enlisted supporters (the “distributed third player”). That is, if no coalition of rebellious aristocrats takes shape, one that has moderate collective action organizing costs, an offensive move from the lower tiers becomes extremely unlikely.

But there is, in recompense, a reason for foreign interference: preventing a terrorist threat from the “collapsed states” whose territory has been taken over by bandits of the kind we have described (Somali, Eritrea, Afghanistan, and in part, Yemen). The arrival of a financially powerful foreign army, or “gang,” in these areas may be welcomed by one of the “big bandit” coalitions and a considerable part of the individual armed “players”.

The threat of forming a coalition against an outsider is quite real, especially if the outsider does not appear to be strong and decided. If officers continue to face punishment for “excessive use of force,” if mutual tattling is encouraged as a means of career promoting leverage, and the like (see Yanovskiy, Zatskovetsky 2013), then an option of this kind becomes genuinely impossible to put through.

If all the players are aware that the outside force will not be swayed but is ready of acting practically at any time, the motivation for opposing it will be undermined. Besides, we are dealing with a case in which no stratum of “petty free armed property owners” exists. As for the views held by “field commanders,” the experience in Afghanistan,¹³ including that of 2001, demonstrates that these views are extremely flexible; they are arrived at as a function of the might and decisiveness of the invading forces.

The “divide and conquer” approach – a ploy based on taking advantage of disagreements among the players – was in practice up to the 20th century in the British Empire. But the English authorities never seriously set themselves the objective of preparing local populations for self-government, taking an undefined period of time (albeit a finite one in principle) as a framework for this preparation process. The local population would either be ready for self-government (as per the model in Acemoglu... 2001: thanks to the absence of diseases capable of wiping out populations of European origin, which would be more or less capable of self-government without special additional measures needing to be taken); or else it would not be ready for this.

¹³ Prior to the invasion, as well as during the period following it, many field commanders would join that side which seemed to them to be winning.

The mandates issued by the League of Nations¹⁴ in some cases directly spelled out the requirement that a state granted a mandate over some designated area would have to prepare the local population for self-government.¹⁵ But the results proved more than modest, hardly differing from standard cases of colonization. If we compare the quality of self-government in lands under mandate rule with those subject to English dominion in the 19th century, the outcome will clearly not be to the advantage of the former. Generally, authority was simply transferred into the hands of local leaders capable of keeping the area under control. In places where the population was ready for some form of self-government, self-government did in fact make its appearance. (Consider the birth of the State of Israel in the part of Mandate Palestine taken over by the Jews). The instance closest to the model of generating rule of law democracies based on long-term competition among the “bandits” hails from Lebanon. The country was governed by the French Mandate. The population and the elite were split along religious lines into a number of large Christian communities, with the Moslems divided into the Sunnis and the Shiites. There was also a sizable Druze community. But in trying to explain the success with which self-government in Lebanon met for a time, we cannot simply discard the view that the Christian population was ready for self-rule to begin with. The French administration took advantage of the support of the largest of the Christian communities – the Maronites. But the land was plunged into chaos as soon as independent Lebanon saw the disappearance of its Christian majority,¹⁶ along with the resolve this community had demonstrated to defend its status, and to do it by force, if need be.

Ultimately, the upshot of the conflict in Lebanon was bound up with the Israeli government’s unilateral rejection of its obligations to its Christian partners in 2000. The existence of an outside arbitrator capable of interfering in the conflict by means of superior military force and at minimal cost had apparently been sufficient to stabilize the situation again and again in the past. However, it seems an extended period is required historically in order for such a balance to “generate” institutions

¹⁴ Colonies formerly belonging to Germany, after it lost WWI, and part of the land lost by the Turkish Empire were made subject to British and French control. See, for instance, Chapter XIII, “The System of Mandates,” in Lansing... 2003.

¹⁵ See, for instance, Article 2 of the League of Nations Mandate for Palestine, at: <http://unispal.un.org/UNISPAL.NSF/0/2FCA2C68106F11AB05256BCF007BF3CB>

¹⁶ From 54.7% in 1956 to 43.8% in 1995. See Pacini..... 1998, p. 59, Table 2.1, and p. 61, Table 2.2.

capable of stability without outside support. The view can also not be dismissed that a free country can, pursuing its own security as a goal, interfere in the goings on in another country whose state organization has collapsed; the interfering country would thus be acting in support of a balance of forces which may be acceptable to both the local residents and the interfering foreign power until institutions of limited, constitutional authority should be entrenched in the land. But the high costs of such interference explain – in part – the lack of interest in implementing projects of this kind.

In support of the same view, note the case when a strong impact on the Soviet authorities' internal policies was achieved by the leading Western powers serving as credit guarantors for the USSR in 1986-91 [Gaidar 2007]. Moderate pressure proved sufficient to prevent the use of force by the last Soviet government against the opposition within the Soviet state and in the Soviet Bloc countries. That is, given certain conditions (such as deep economic crisis), outside pressure proves effective in balancing the forces even within the militarily mightiest of empires.

Conclusions

We have no reliable proof that the hypothesis is correct in proposing that the construction of a constitutional agreement may be a result of long-term (or reproducible) conflict within the elite in our time. But the view that motivation for restricting power is real and significant appears to be well grounded. In our days, at least some isolated expressions of political and legal restrictions imposed on authority can be observed (such as a competitive media market, or genuine political competition during elections) as a result of the kind of conflict we have described. Even in situations in the past when no deep split could be documented in the elite, the colonial (in India) or the occupying authorities (in Japan and in Germany) managed to foist certain institutions on the countries subjected to their control, including institutions which ensure the replacement of rulers based on elections and competition among the media.

It would appear that the following hypotheses cannot be dismissed:

- Exporting rule of law democratic institutions becomes easier when a long-term split obtains within the elite;

- When coalitions pitted against each other are each other's equals in strength and struggle – including the use of force – for monopolizing rule, the “germination” of such rule of law democratic institutions becomes possible as a stable balanced solution to the conflict (albeit in the rather long term), even when no purposeful exporting efforts are made. The likelihood of such a scenario increases substantially if at least a potential “third” side is in evidence, one that is not involved in the conflict and is interested in preserving the balance, as well as capable of altering the correlation of forces accordingly in case the balance is disrupted.

It appears that such a long-term approach to the question of support which can be lent by old democracies to democratic institutions in Iraq¹⁷ would be much less artificial than the strategy actually opted for by the US leadership.

English by Elen Rochlin

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¹⁷ All in all, provided that both resources and political will are in evidence, an approach along these lines could restrict violence in other countries, as well, where a deep split exists between the population and the elite. Of lands making up the Former Soviet Union, Kirghizia seems to be the most obvious instance.

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