

## **Becoming Denmark: Historical Paths to Control of Corruption**

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This paper conceptualizes public corruption as part of a broader social order context. It argues that corruption should not be conceived of as a social ‘malady’ to be eradicated, but rather as a default governance regime. People naturally favor their own, be it family, clan, race or ethnic group: treating the rest of the world fairly seems to be a matter of extensive social evolution and sufficient resources. Very few societies have evolved from this natural state of affairs to produce a state which can be expected to treat everyone equally and fairly, and to put public above private interest, when entrusted with the management of common affairs and resources. The paper surveys the approaches to anticorruption of three distinct political regimes, monarchy, medieval republic and modern democracy to conclude that current anticorruption should be conceptualized as solving collective action problems rather than as repression of deviance.

Keywords: corruption, universalism, patrimonialism, collective action, modernization, favoritism, principal agent.

### *The norm of ethical universalism in governance*

Why do some societies manage to control corruption, so it manifests itself only occasionally, as an exception, while other societies do not and remain systemically corrupt? And is the superior performance of this first group of countries a result of what they *do*, or of who they *are*? Most current anticorruption strategies presume the former, which is why institutions from developed and well-governed countries are currently being copied all around the world. At least on paper, there are few states left which are missing a constitutional court, some form of checks and balances or an Ombudsman (47 in 1990, 100 in 2003 and 135 by 2008). Skeptics, on the other hand, endorse the latter view, believing in the cultural determinism of corruption and good governance. More recently, following the failure of the first generation of anticorruption reforms, a middle-

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ground position has begun to emerge: that the most relevant lessons lie not in what developed countries are currently doing to control corruption, but rather in what they have done in the past, when their societies more strongly resembled the conditions in today's developing world (Andrews 2008). However as this subject area is largely unknown to governance scholars and practitioners alike, it is difficult even to estimate the potential value of such historical lessons. I plan to address this gap by asking not how corruption is eradicated, but rather how societies have built – over time – systems to protect their common resources from being spoiled by individuals or groups.

The main research question addressed in this paper is how control of corruption has been built historically and what lessons we can derive from this for current anticorruption policies. Corruption is defined here not at the individual level – undue profit from abuse of public authority – but at the societal level, as a governance regime. A governance regime is a salient and stable set of institutions (rules of the game) determining who gets what in a given society. In the modern world we consider as corrupt a governance regime which deviates significantly from the norm of ethical universalism, where similar rules apply to everyone (Parsons 1997: 80-82) resulting in an allocation of public resources which is partial and unfair, due to the presence of ties of a personal and particular nature between office holders and certain individuals or groups. This definition of corruption thus includes other forms of favoritism beyond those motivated by bribes, reflecting both the current global perception of corruption as it is reflected in surveys (where large majorities across countries claim that they live under corrupt governments, although only a minority have experienced bribing in some form or another) and the broad approach of the United Nations Convention against Corruption (UNCAC), whose ratifying states pledge themselves to governance excluding any favoritism.

The UNCAC marks the end of cultural relativism in governance: it is a global endorsement of a specific European idea and evolution of state-society relations. The alternative – particularism – in which people are treated by virtue of group membership rather than on the basis of their individual and universal citizenship, is no longer legitimate (Mungiu-Pippidi 2006). This rules out privilege, favor, personalized treatment, gifts to public officials and basically any discretion related to the *process* of governing, regardless of the *outcomes* of governance. Apartheid South Africa and some late colonial sub-Saharan African states may have scored better on control of corruption

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than their successor regimes, yet within a system of institutionalized inequality which is no longer acceptable to anybody.

While universalism and particularism are at the opposite ends of a continuum defining exchange relations both between individuals, on one hand, and between individuals and the state on another, the related notion of patrimonialism was originally described by Weber as a form of political domination (Weber 1922 (1968)). In this governance regime the state is 'appropriated' by a ruler who has near total discretion in the exercise of power at the expense of traditional limitations on authority. Power is indeed the main determinant configuring how social exchanges are organized (Eisenstadt and Roniger 1984).

Most states around the world, both new and old, have come to subscribe presently to a norm based on the classical European intellectual heritage: the *doctrine of ethical universalism in public life*. This evolution should not be taken for granted; indeed, as James Q. Wilson argues, universalism and individualism, which spread in the West after the Enlightenment to become generally held norms, are neither natural, nor necessarily and invariably good principles (Wilson 1993). The resulting ideology of equal treatment by the government of all its subjects runs from the Stoics (doctrine of natural law) to Cicero (106 BC – 43 BC), Saint Isidore of Seville (c. 560 – 636), John of Salisbury (c. 1120 – 1180), Aquinas (1225 – 1274), Brunetto Latini (1220–1294), and Marsilio of Padua (1275 – c. 1342), to cite only a few essential landmarks. With the Renaissance it then spread in several directions to become internalized in modern state-building doctrine in the work of Montesquieu and the American Federalists. The legal philosophy of Cicero seems to have been the most influential early source (Carlyle 1903; Neumann 1986; Skinner 1989) – it can be traced directly through Aquinas and Florentine Renaissance authors to the desk of Thomas Jefferson, where a bust of Cicero is still standing.

Thus far, Europeans have enjoyed the most success in containing corruption, alongside a group of former colonies populated mostly by Europeans (e.g. the United States, Commonwealth countries) and a handful of other countries (Japan, Chile, Singapore, a couple of tiny Asian monarchies) whose designs are mostly of European inspiration. European control of corruption can be regarded as the only historically successful process of state building in which a long transition to ethical universalism has resulted in an equilibrium where opportunities for corruption are largely checked

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by control of society over rulers and a reasonable reciprocal control by the government. This evolution cannot easily be separated from the general European advancement to accountability in government and rule of law. It is of interest for the current anticorruption community of scholars and practitioners to understand why, how and when ethical universalism as a governance norm and good governance as its practical application managed to take root in European history.

The appropriateness of imposing this European governance standard on everyone else – what does this European intellectual tradition have to do with India, for instance? – is no longer questioned. As systemic corruption is a major source of discrimination (Khan and Petrusek 2009; Rothstein and Uslaner 2011), anticorruption and the ethical universalism revolution have entered the global stage as legitimate successors to the human rights campaign from after the war. UNCAC's implementation gap is therefore everyone's business: five years after the adoption of the convention, the countries which had ratified it had not made more progress controlling corruption than the countries which had not. This has made the question of successful transitions to ethical universalism a central policy issue (Mungiu-Pippidi 2011).

#### *Pre-modern arrangements*

The challenge of protecting public resources from spoiling by private interests and employing them for the greatest social benefit is as old as government itself. There have been significant differences in this respect between countries ruled by one individual and his family as opposed to those with more inclusive forms of government. Under patrimonial regimes, which are autocratic, the ruler is not accountable to either people or the law. In fact, the situation is reversed: the ruler is the principal who must monitor his unruly agents to ensure that he is not cheated. As discipline and personal loyalty almost always override the issue of integrity, there is little true anticorruption in such settings. When agents violate the leader's trust in relation to other issues, they are dramatically repudiated and condemned, often for corrupt practices they have indulged in for years (for example, the abuse of their privileged access to the ruler for more profit than that bestowed by patronage).

This depiction by a historian of a twelfth century corruption scandal is paradigmatic:

“He has always been surrounded by temptation, as all suits and petitions to the Emperor came to him, plus he was also the intermediate of all princes and other who wanted favors of Federico. He was the chief controller of all administration, he left a huge fortune and the Emperor was best placed to know if he could account for it... In a time of such insecurity, such fraudulent behavior could in fact have disastrous consequences and thus being equated with treason (Kantorowicz 1939, 259-260).

Autocratic anticorruption is always repressive and discriminative. It manifests itself only occasionally and unpredictably, and always with harsh violence. Corruption among the ruler's family is allowed; corruption of the patrimonial court is tolerated and could be used against any of its members when an occasion (of another nature) presents itself or when security is threatened by a corrupt act, as in the case of Pier Delle Vigne, the chancellor of Frederic II Hohenstaufen, cited above (Kantorowicz 1939, 259-260). Corruption and embezzlement are always invoked when a favorite falls from grace. The list is long, from Enguerrand of Marigny and Pier Delle Vigne in early medieval Europe to Antonio Perez, Rodrigo Calderon and Nicolas Fouquet during the late absolute monarchies (Parker 1978). Anticorruption is thus an altar where sacrifices to absolute royalty and power discretion must sometimes be made, with the result of diffusing popular discontent away from the ruler towards some scapegoat person or category. Apart from the royal household, there cannot be any other 'public' corruption, as nobody else shares in any public authority.

Patrimonial monarchs often passed exhaustive anticorruption regulations which applied primarily to lower-level clerks. But because the rule of patrimonial monarchs is based on patronage and favor, the boundary between corruption and integrity is fuzzy. Patronage is an intrinsic part of feudal relations and medieval society and can play a positive role even in government: Elizabeth I rewarded her successful captains and ministers. Favoritism, on the other hand, is highly subversive as it is purely discretionary and not merit based. Bestowing favors on successful warriors is acceptable as it can be seen to be in the public interest, but bestowing favors on worthless favorites (for instance, for their charms, as the Stuarts did) on the basis of private sympathy was unpopular (Peck 1990).

The ancient democracies had already struggled with notions of justice, public interest and fair government as a collective action problem: individuals shared significant tasks and pooled resources to be jointly managed. We cannot find this under

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feudalism as the 'state' was little more than a trans-territorial and hierarchical connection between individuals, so it was inferior to the Roman state in many respects. The result of such a network was not a 'public' state the way we understand it today: public offices were completely patrimonial. In the same way that vassals equipped their own troops and came to fight for their overlord when summoned, judges and tax farmers (who collected taxes on behalf of government, giving the sovereign a quota and keeping the rest) were entrusted to fulfil such tasks as a feudal duty, using their own material and human resources. They were permitted to reimburse themselves from enemy plunder, fees from claimants and other means; this in itself was not dishonest, it was how the system worked. Thus, the 'corruption' which was encountered in the Middle Ages, the Roman Curia, the Stuarts' Court, and under patrimonial and feudal regimes has little in common with corruption in its modern form. It essentially consisted of different forms of dishonesty, primarily embezzlement. But since at that time no one even aspired to the norm of ethical universalism, one could hardly speak of corruption in a modern sense.

An entirely different situation could be found under the European communal system of government, which fought feudalism and escaped it to some extent, creating the governance tradition of European cities. Most prominent among this is the story of the Italian Republics, where government was not patrimonial and both public property and interest were clearly defined in reference to retrieved Roman standards. As a result of its still-existing or recovering ancient cities, Italy was one of the most urbanized parts of Europe at the beginning of the Middle Ages. City-states came to dominate the territories surrounding them, taking advantage of the competition between Pope and Emperor and the most successful became nearly colonial states, exploiting other cities in Italy or farther afield. Between the eleventh and thirteenth centuries these cities turned into self-governing 'communes' and managed to build elaborate constitutions, strong administrations and effective bureaucracies in the midst of great adversity (Jones 1997). Traders and other businesspeople needed governments to be able to effectively protect business and the prosperity of their cities against two foes: the armed noblemen who threatened to take government into their own patrimony and the danger of particularism inherent to pluralism – in other words, the horizontal threat of corruption emanating from themselves and their peers.

Venetians emerged from the Byzantine domination with a system largely free of patrimonialism: any attempts by the doges to capture the state ended dramatically and it was traditional that every new office started with an audit of the preceding one. In Tuscany, the Florentines and the Sienese, by contrast, had to fight more against local noblemen. They were innovative in adopting an anti-magnate regime which prohibited individuals and families with a long history of disproportionate power over common affairs from taking part in government. This approach prevented both the oligarchization and patrimonialization of the state. The Genoese, the third large remarkably well-governed trade city, had to fight long and hard to protect themselves from nobles and monarchs. By and large, they succeeded in this for significant periods of time, which brought them both prosperity and good government. The Bolognese had a government dominated by notaries and lawyers, reflecting the importance assigned to controlling authorities' discretionary power.

Following these early successes, however, came some warnings that it was not only the disproportionate power of a ruler, but something more intrinsic to human nature which was a threat to good government: the new communal governments had to devise instruments to prevent their own peers from abusing joint resources. This experience is of particular interest, as they developed full-fledged control of corruption systems based on collective action, not on the principal-agent model. The principal-agent model can hardly be said to work outside the patrimonial system, since there is no clear principal who defends the public patrimony (in a democracy public interest cannot be said to reside with anybody and the alleged 'principal' can himself be corrupt).

*The key concept of their institutional design for anticorruption was the idea that corruption should be prevented, rather than punished after the fact.* A certain moral realism guided commune governance: it was taken as self-evident that government was generally used as a tool for self-enrichment and self-aggrandizing, and that good institutions guarded against such corruption. Neither objectivity nor honesty are innate traits, so good behavior should not be taken for granted. If citizens are to be prevented from falling into the trap of favoring their own, institutions which work against government particularism need to be built from the onset. In the Italian city-states there was great fear of favoritism by families, clans or various factions. For the top executive position at city level, many Italian city-states opted for what we would today call a city manager, a professional hired from among a pool of top bureaucrats. It was mandatory

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for this manager, or *podestà*, to come from a different city so that no local candidates could be favoured. He brought his own staff with him, including law enforcers, clerks and magistrates. He paid a security deposit at the beginning of his term and after his final management report was accepted, he received his money back along with his fee, less any fines incurred. He was usually appointed for a one-year term, serving as an executive with a local legislative body (e.g. a council, either elected or corporatist). *Podestà*, along with governors in Mediterranean colonies, were bound by strict conflict of interest regulations: neither they nor their staff were allowed to perform any other activity than service. Short mandates for elected or conscription based public office (two months for the Council in Florence), rotation of positions by family, recruitment by a lottery system or extremely complicated electoral systems, and appointments of outsiders all point to the Italians' understanding that conflicts of interest are ubiquitous and hurt government and business alike. These measures were aimed at building an objective government and preventing its capture by particular interests. Continuous controlling and auditing were regular features of government: in order to do it professionally, when the need arose, Bologna's top families created a fund from donations and outsourced audit to an external auditor<sup>1</sup>. While one family might have to provide a tax collector, another was asked to provide an auditor. In Florence, citizens were obliged to serve periodically on committees responsible for auditing and checking the quality and value of public services.

Many services provided by the state to its citizens were funded by fees which passed directly from consumer to provider, without actually circulating in the treasury. This reduced opportunities for corruption. Tax collectors had short mandates and were strictly controlled by their peers: fines used for to help enforcement also served as sources of public income. Short-term mandates in public office were designed to prevent the exercise of a duty from turning into the exploitation of a rent. All positions were based on very short mandates and were not immediately renewable. Governors of Genoese colonies were expected to leave by the same boat that brought their appointed successor. Notables acted as financial guarantors for less-known individuals.

The good governance designs of Italian communes were based on a political regime which can be called 'republican' rather than democratic. The cities had a strong

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<sup>1</sup> Bologna, Archivio di Stato, Tesoreria e contraltatore di tesoreria, bb. 2 regg 107.



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corporate character and a social organization based on guilds, neighborhoods and families. Most bureaucratic positions were distributed according to a quota system organised by guild and clan (family), with the exception of the top executive position and the systems linked to it. This meant that many people participated in the governance of the city-state. Only clerks, however, were paid. When considered in combination with the military obligations of each clan or guild or district, the system was very participatory and inclusive, especially given that these were relatively small communities with populations under one hundred thousand people (and sometimes only in the low thousands). Each family was thus socialized into public affairs and the business of government.

A first main feature of this governance system is therefore *participation to public affairs*. Compared to any other governance regime at the time, a variable but relatively high proportion of people in Italian city-states participated in decision-making and government either directly or indirectly. In the thirteenth century, due to population growth, the main legislative body of many cities – the ‘great council’ – grew impressively: in Padua 1,000 adults out of a population of 11,000 were members at one time and in Bologna, the 50,000-person population was governed by a council which grew from 2,000 to 4,000 members (Jones 1997: 407). Frequent reselection made participation ever greater. This varied with time and place, however: some city-states had a more pronounced aristocratic character than others, some included only traders’ guilds, others included some manufacturers, and so forth. The citizenry did not include everyone, but most people had someone represent them directly or indirectly, and various categories of the population rebelled at times to gain, or improve, representation.

The second feature of republicanism was the concept that *public office was not a privilege, but a civic duty*. People were drafted to serve on an equitable basis, mostly through co-optation rather than election (which existed only for certain top positions), and for limited periods of time. This republican principle of short-term, non-professional office holding seems to have worked reasonably well. It was not based on financial motives – most office holders were not paid – but on the shared need to protect common resources pooled for governing in the joint interest and achieving public objectives, such as security. Brunetto Lattini compared Italian governments favourably with France, arguing that election of magistrates and governors on the basis of merit by the citizen

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body was infinitely better than offering offices to the highest bidder, as was the practice of the French king (Jones 1997: 458).

The third feature of these republican regimes was *equality before the law*. Without being fully democratic, they were strongly bound by law and the practice of government and economic activity being based on written contracts. There was concern that law be applied fairly and that individuals abide by it; creative designs were successfully applied to help commercial contract enforcement (Gonzales de Lara 2009). Efforts were made to ensure that the judge, like the podesta, is not bound by any conflict of interest.

Although colonial expansion is to some extent responsible for the economic success of Italian city-states, the government and the institutions which developed during this period (e.g. contract and arbitration courts, stock exchanges, public audits) were also crucial in ensuring an environment for trade to flourish (Greif 1998). Interest and ideology had to come together for this institutional development: Roman republican ideology (at the height of Florentine prosperity Cicero was the author most praised by the top businesspeople (he still looks down, alongside Scipio and Cato to visitors of the *Palazzo Pubblico* in Siena), and the merchants' need for a government able to ensure freedom of trade and peace. Between 1250 and 1350 there seemed to be more capital in Italy than in the rest of Europe, and Italian money funded crusades, princes' military conquests and colonial expansion (Jones 1997: 197). Public budgets also increased constantly from the eleventh century onward, leading to the development of city governments. Ninety-one officials sufficed to Pisa in 1162, but by the late thirteenth century Bologna needed already 1800 (Jones 1997: 410).

By and large, a governance design based on civic duty, participation, cooperation and direct and indirect elections – all in the framework of universally applied law – promoted the norm of ethical universalism. The practice was a different story: so many regulations were needed because there were constant attempts to profit or favor. Dante's *Inferno* has some notable corrupt characters who rose to eternal fame. Still, these designs worked to produce a reasonably effective, prosperous and fair government. Of course, it was not a stable government, caught between a violent external environment and domestic struggles for class supremacy. Social tension was frequent, except perhaps in Venice: the much praised government of the nine in Siena, expression of what we could call today the middle class ended when the noblemen and the lower classes united against it. But the only real failure of state building in the end is Genoa alone among city

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states- there the commune ends being appropriated by its lenders grouped in the Casa di San Giorgio, who do not act in the public interest but exploit public revenues in their own interest. *Medieval republicanism is a permanent search for objective and impartial government more than the rule of those*, but it is neither ineffective nor unjust and it cannot be blamed for the final end of these states. This is brought about, for instance, by military conquest resulting in the imposition of another government –Cosimo II de Medici, whose rule ended the Florentine extraordinary government experiment, was imposed by an international dictate over the head of the local community. Significantly, when he took over he did so physically as well, moving in the quarters of the Signoria palace where commune office holders used to reside for their two-months terms in office. He turned it into a permanent residence, which from then on become both a personal and government seat. This is how the Signoria Palace got expensively decorated by Vasari and his colleagues, after being far more modest during republican government. Venice resisted the advance of the Ottoman Empire magnificently, for centuries, despite having a small population; only Napoleon managed to put an end to this remarkable polity, trading them against another territory of interest to him at a peace conference. *Their limited size, which helped these communities to create good governanc, ultimately led them to their defeat by superior forces and a subsequent regression to patrimonialism. Local virtue alone cannot survive in a global order not based on virtue, unless it belongs to those having the largest batallions as well.* And the drawing of associations between present success and virtuous circles in government – as, for instance, Acemoglu and Robinson (2012) do in *Why Nations Fail* – risks missing all the virtuous circles which did not endure until present day and vanished for reasons unrelated to their virtue or prosperity.

#### *Transitions from patrimonialism to modernity*

Communes in Italy, the Low Countries and France were merely islands in a sea of feudal Europe where patrimonialism ruled. A true social contract based on a trust compact did not exist, only bonds between private parties based on personal loyalty in exchange for patronage: ‘corruption’ scandals were mostly about cheating and dishonesty among private parties, as the public realm was still underdeveloped. The overarching word for infringement of public contracts of any kind was ‘fraud’ (in Latin, *Fraus*) listed among bad governance practices (*malgoverno*) in the famous painted

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manifesto by Ambrogio Lorenzetti in the *Palazzo Pubblico* of Siena. The term 'corruption' in both Latin and Tuscan signified 'decay' or 'degradation' at this time.

The historical process of private-public separation was therefore lengthy because the 'public' part of the equation needed to be created from scratch. It was enacted first in the general law – even in feudal monarchies – and applied much later to other areas, such as finance and defense. The medieval kings of France financed wars from their own coffers or through loans from Italian financiers; the British ones ruined northern Italian bankers with their defaults. Only when the central power lost control over tax farming and the sale of offices something started to emerge more similar to what we call corruption today. As long as the demand for offices surpassed the supply, conditions could be placed on bidders to fulfill certain competency criteria and the funds they later collected could be regulated. When demand fell, however, criteria were relaxed and less competent or incompetent candidates began to fill these positions. They governed poorly and arbitrarily, resorting to extortion to cover their initial investments to purchase the office (Swart 1949: 92-94). It took nearly all of the west European sovereigns who used the sale of offices to finance wars time to realize that this was also a way to lose wars. In the eighteenth century, incompetent French and British officers who had bought their way into the army lost many battles in colonial territories before the practice of selling commissions was amended to involve consideration of competence. It took many private bankruptcies to promote the concept of public finance sheltered from a monarch's personal extravagance, just as it took heavy military defeat or the threat of defeat to bring about military reforms, such as merit-based promotions, in the Danish, Swedish, British, Hapsburg and Prussian armies.

Initially, however, the sale of offices was a progressive act praised by Montesquieu, Burke, and Bentham – a way to open up offices, previously held on the basis of privilege, to new classes. This created an exit path from traditional feudal society into a new one where capital began to matter more than family. It was, in fact, a way to democratize access to power. The sale of offices and the financing of government through direct fees, rather than taxes, were stages in the development of the pre-modern state; it is questionable that these could have been skipped altogether. Early modern society was very different from the feudal one, with a growing role for the state and a new ideology of government: Empress Marie-Therese and her son Joseph II had enlightened ideas, Edmund Burke advocated merit-based systems for the British abroad,

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the Federalists had read Montesquieu and Cicero, and so on. The first attempt by Louis XVI's Minister Necker to render the budget transparent was greeted with public outrage, because the Court's expenses – part of public expenditure – seemed to the public both extravagant and exaggerated. By then the concept of public resources which needed to be managed in the common interest was already enshrined; this would have been inconceivable in medieval times. The French Revolution also introduced a clear separation between public and private. *It took both a new ideology of public virtue which deemed patrimonialism obsolete and advocated for the enshrinement of ethical universalism as a norm, as well as an incontestable need to adjust the state to new challenges, to convert the European patrimonial monarchy.* It seems in retrospect that the party of virtue would have remained marginal, or in opposition, if it had not become strikingly clear that the old system was leading to security disasters of enormous proportions in challenging new circumstances.

When a European country like Denmark – today's shining example of control of corruption charts – moved decisively to implement political modernization in the second half of the nineteenth century, the fundamental elements of control of corruption were already in place by the absolute monarch (Frisk Jensen 2008). The Danish example offers the first elements of what could be called 'modern' control of corruption: a professional and decently paid bureaucracy selected by merit (e.g. law degrees from Copenhagen University even for aristocrats), which was carefully audited and regulated in order to protect public interest from undue private profit. This was done in a top-down manner in an effort to strengthen the state. The later extension of political rights and removal of old privileges (e.g. titles, sinecures, and immunities) was a gradual process which strengthened government impartiality and objectivity, increasing its legitimacy. By and large, this state-building process managed to preserve an equilibrium between the new and the old which did not grant any group enough power to become a predatory elite. Control of corruption thus evolved through a succession of equilibria which took at least a century as the modernization of the state by an enlightened despot was followed by a gradual transition to a more inclusive political society.

In Britain, the reform of sinecures and 'old corruption' started in 1780, and the process of building a more impartial civil service was nearly complete by 1840. This was followed periodically by new waves of improvements (Cohen 1965). Electoral regulation reform also evolved starting in the early 1800s, culminating between 1868 and 1883.

The main goal of these reforms was to prevent the vote from becoming a commodity and traded, as it had been in the early years of British democracy. The integrity of the electoral process was ultimately delivered through a combination of a secret ballot which extended beyond a privileged circle and very transparent and carefully audited election expenses, including spending ceilings. Unlike Denmark, where the monarch was the main principal of reforms, in Britain it was the Parliament and local civil society which debated, investigated and gradually adopted reforms to foster public integrity. An examination of records on electoral corruption in Britain in conjunction with reform proposals in the Parliament from 1868 to 1911 shows how the system shifted itself from generalized corruption to integrity and how central this debate was during the nineteenth century (O'Leary 1962; Moore and Smith 2007). Magistrates only accepted late, and with great reluctance, to become involved in solving electoral fraud claims, as they considered the issue to be far too political and as a burden on the Courts which had other primary duties. Thus, bilateral parliamentary committees investigated electoral fraud and reforms were passed in agreement with parts of the opposition. State autonomy towards private interests was therefore reinforced, instead of challenged, during the process of political modernization, although the extension of the franchise and the development of city governments brought about new opportunities for corruption.

There was also a Western revolutionary path, in which fairness of government was a central issue. The French Revolution was, to a large extent, an anti-favoritism revolution, directed more against *privilege* than against property, as later Marxist revolutions were. The French Constitution of 1791 clearly stated that sovereignty "belongs to the nation. No segment of the people and no individual can appropriate it." Revolutionaries endorsed the principle of state impartiality in order to prevent a new capture by the absolute monarchy, yet the succession of regimes following the Revolution brought about anything but impartiality. In the nineteenth century, administrative 'cleansing' (*épuration*) initiated by the Revolution became the rule of the game in the relationship between political power and administration. Changes of regime were followed by a complete sweep of the previous administration in 1815, 1830, 1838, 1852, the great political turmoil of 1877-79, and 1883 (Rosanvallon 1992: 77-79). Only a few technocrats emerged unscathed from these administrative overhauls. Appointing partisans to administrative positions assured that administrators would be loyal to the

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policies of leaders, whether elected or not. Civil servants did not swear an oath to the public interest, but to the party in power – a habit which persisted long into the twentieth century. While the nineteenth century saw a strong shift in public opinion against favoritism and particularism in general, the revolutionary path based on power and administrative overhauls did not prove conducive for the development of ethical universalism: patronage and political clientelism became resilient features. Rosanvallon (1990) cautiously saluted the arrival of the first impartial institutions beginning in the last quarter of the twentieth century. Politicization also became a motor of expansion for a public sector not driven by policy needs. The number of French civil servants has grown from 150,000 in 1815 to some three million today.

The emergence of grassroots political parties had a negative impact on the private-public separation in public affairs. In the era of small government in the United States, party machines provided services for the poor, the unemployed and new immigrants. In such a way, party patronage allowed for the construction of mass-based parties; once responsibility for social services passed from parties to local governments, political participation declined steadily (Arnold 2003). The passage of the Pendleton Act of 1883, which introduced the merit-based system, was triggered by the assassination of President Garfield at the hands of one of his electoral campaign workers who was upset not to be appointed ambassador as a reward for his services. The Act specified for the first time that ‘no person in the public service is . . . under any obligation to contribute to any political fund’, and ‘no person in said service has any right to use his official authority or influence to coerce the political action of any person...’. The Act also gave presidents the authority to expand the number of positions covered by the merit system. Over the next two decades, presidents routinely expanded coverage, although under Lincoln nearly all positions were filled by political appointees. Had the law required from the beginning that *all* civil servants be tenured, it would have only provided incentives for infringements by the incoming party in power: this is the case in many countries today which have adopted instant ‘depoliticization’. It took decades for the Americans to arrive at a merit-based non-politicized civil service, although they did succeed in doing this before the French. Both the French and the American routes to universalism in governance, though fairly specific, were democratic from very early on, so they involved phases of intense politicization, public resources spoiling and favoritism – challenges very similar to those facing today’s middle-income developing

countries. Why a few countries have managed to leave clientelism behind while many others have not is still a debated question (Piattoni 2001).

If modernization is the solution to favoritism in government, why is public corruption still so widespread? And how do we explain the paradox of modernization actually *increasing corruption*, as Samuel Huntington noted (Huntington 1968), when we credit modernization with creating an impersonal Weberian bureaucracy and a state autonomous from private interest? There seem to be two main reasons. The first relates to political development: throughout history it has been difficult to create a European-style situation in which the rule of law, autonomous bureaucracy and political socialization of new groups are achieved *prior* to universal enfranchisement. Many countries today had free elections *before* they achieved the rule of law and political accountability. Although a few enlightened monarchs do seem to exist, they are not easy to find. The second reason relates to the economy of public resources: compared to traditional communities, the modern state is entrusted with more management responsibilities and more public resources to achieve the nation's common goals. It may be freer of traditional privilege, more merit-oriented and more objective, but it also has far more tasks to perform than people or traditional communities used to undertake before by themselves and far more resources as well. This creates numerous opportunities for those in power to use resources to favor particular interests – whether by legislation (Kaufman and Vicente (2011) have written about 'legal corruption') or administration (e.g. preferential allocation of transfers, subsidies, concessions, government contracts, etc). There is no instrument or policy tool at the disposal of modern governments which cannot be used in a corrupt way, even without breaking formal legislation. And the more instruments a government has, the more citizens entrust the government to manage their common welfare, the greater the harm which can be done if the state is captured by private interests. As criminologists say, opportunity is the initial reason for a crime to take place (Felson and Boba 2009).

*The road to the contemporary state should not be seen as a linear progression towards less patrimonialism, on the one hand, and more democracy and accountability on the other. Rather, we can understand it as a curve in the opposite sense: as welfare and development tasks shift from the community to government, there is an accompanying increase in corruption opportunities and a loss of traditional systems of self-control over the common goods. This increase in opportunity subverts the control of society over its*



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trustees, and can result in defective state building. For instance, if new, non-traditional rulers prove unworthy of trust and divert resources entrusted to them for the common good, a regime based on competitive corruption results (Golden and Chang 2001) and people may respond by holding back the entrusted resources. The trust compact does not take hold and the society retreats into informality, not paying taxes to predatory elites who collect from the many to redistribute to the few.

*In lieu of a conclusion: three anticorruption orders*

I have described in this paper three different ways to control corruption, each from a specific society and distribution of power. Under authoritarian regimes anticorruption is largely based on selective repression. The breach of trust is towards one principal (whose interest might, but is not necessarily be equivalent to that of the 'public') and is repressed arbitrarily and violently. Anticorruption is used as a deterrent for other deviant individuals and as an instrument of political repression and to enforce loyalty. It seldom works, because under such regimes favor is officially allowed – it is granted discretionarily – and the incentive thereby created is to keep on the right side of those in power, not of the law. This, of course, does not result in the rule of law per se. When Marshall Concini, the favorite of Queen Marie de Medicis of France, was assassinated, credit letters were found in his pockets, the value of which surpassed his official sources of income. The surplus was simply passed on to the assassins by King Louis XIII to reward them for removing his mother's favorite and thus consolidating his own power. There was no attempt to investigate Concini's extortions or to return the funds to their rightful source<sup>2</sup>.

Nevertheless, as European absolute monarchs needed to develop central, effective, rule-bound bureaucracies – we see this in the European Middle Ages as early as the 1100s with the Hohenstaufen – they contributed this one feature of modernity. In the case of those that survived the conversion to constitutional monarchies (which, notably, was *not* the case for Italian, Greek and Russian monarchies), the successful transition from patrimonialism was then completed. The forecast is not similar if the authoritarian regime is not a traditional monarchy, and the autocrat is a self-appointed

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<sup>2</sup> Archivio di stato di Ferrara, Manoscritti, Corrispondenza Bentivoglio-D'Aragona

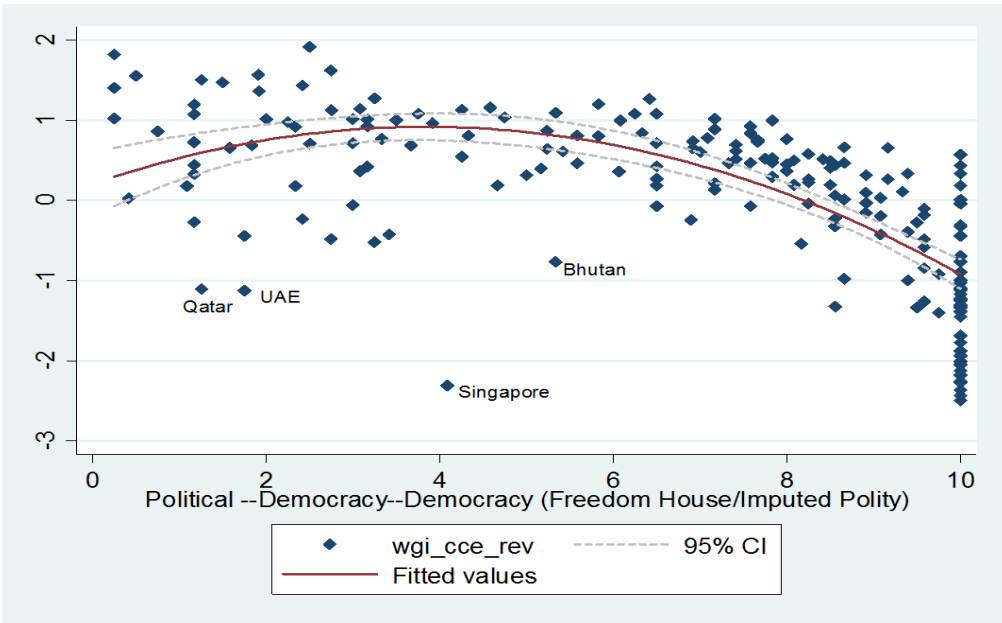
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ruler. Such rulers need to build loyalty and to find the resources to support them in power (and get rich) in the course of just one generation. Judging by World Bank good governance charts, enlightened despots still emerge with far greater frequency from traditional monarchies (e.g. Brunei, Bhutan, United Arab Emirates and Qatar are among the countries who perform best in terms of control of corruption) than from directly elected presidents (e.g. the Central Asian countries, Venezuela, Russia and Colombia have all very poor ratings). A third of the world's best governed countries are traditional monarchies – mostly constitutional but not only – and two thirds of present monarchies rank in the top category of good governance. However, 'Getting to Denmark' the same way Denmark got there – enlightened despotism followed by constitutionalism – is a minority option today, accessible perhaps only to a few MENA and Asian monarchies. The rest of the world needs to struggle with a far greater collective problem than Denmark had to when building its control of corruption.

The next historical anticorruption arrangement, republicanism, has the elite as the principal. Under republican regimes, the breach of trust is already defined as being in relation to the public interest: emphasis is therefore on preventing particular interests from appropriating the state. All faction- and power-related privileges are repressed and sophisticated community-based designs need to be created to prevent particular interests from taking more than their due. The collective action problem is successfully managed due to the limited size of the population and the corporate character of these societies, where everybody belongs clearly with some civil society group, ensuring the permanent surveillance of temporary governors. The elite is the trustee of public interest, but its interests in fact represent those of the broader society which is organized, in many respects, in support of them (Renouard 1968). The values that this elite builds upon, despite many Christian and humanistic touches, are in essence capitalistic values: the need to regulate human interaction through contracts and universal rules, and to have a state able to enforce such contracts so to allow for the pursuit of joint development.

Under the third order, representative democracy, where the size of both government and the citizenry increases exponentially, the solution chosen is the modern state and the presumption often unchecked is that a modern society also exists. The state is entrusted to bureaucrats to manage in the public interest, and to magistrates to repress

deviance, but neither impersonal bureaucracy nor independent judiciary are easy to bring into being once political parties have power and create a *partitocrazia* (Sartori 1976), a highly politicized society ruled by political clientelism. Politicians seem the least suitable trustees for building control of corruption, as Renaissance anti-factionalist authors have always warned. Parties are factions and organized interests are supposed to be checked by one another and the state apparatus. However, when they do not encounter sufficient constraints from the side of civil society, they become chronic state spoilers (Scott 1972; Johnston 2006). The ratio between democratic countries where corruption is prevalent and autocratic countries with comparable governance is now three to one and growing larger.<sup>3</sup> Given this, it is clear that democracy is not performing so well on control of corruption in less-developed societies. Democracy and control of corruption are positively associated (Treisman 2000), mostly on behalf of older democracies, so the statistical relationship is not linear. The association between Freedom House-Polity 2 measure (pluralism, scale from 1 to 10 with ten more democratic) and the World Bank Control of Corruption index is highly significant, as shown in Figure 1: moderate pluralism lowers control of corruption, although not by a great margin and only countries with advanced democracy (scores over 6) start being increasingly associated with more control of corruption (Montinola & Jackman 2002; Sung 2004). Monarchies like Qatar, Bhutan and UAE are shining outliers.



<sup>3</sup> Cross-tabulation of Freedom House Freedom score with Control of Corruption World Bank Institute score (an aggregate of all existing country scores for corruption).

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Legend: Evolution of corruption (Control of Corruption recoded, with 2.5 most corruption) and pluralism (10 maximum pluralism). Curve estimation regression (quadratic).

Most current anticorruption strategies are based on the presumption that modernization succeeded in every society and that a good principal exists on top of the pyramid, who will enforce public interest impartially and punish the defective agents. This presumption is inaccurate, when not plainly wrong. States are in different stages of state building, and the construction of a benevolent power elite acting in the public interest has not always succeeded. Independent anticorruption agencies, heavily recommended by UNCAC, need this impartial principal – in other words, independent and accountable judiciaries – or they will promote selective repression. This warning has already been sounded by quite a few authors who tried to explain both the ineffectiveness of such agencies and the political risk that they pose (Meagher 2005; Doig, Watt & Williams 2005; Mungiu-Pippidi and all 2011). The same applies to government oversight bodies, which work only if the government itself is not an extractive pyramid surviving on the spoliation of public resources – in other words, if control of corruption is already built. At the other extreme we find the instruments built to counteract the effects of official “factionalization” inherent to democracy and to prevent political parties from rewarding members and sponsors with more public resources than they are due. But even in the most advanced democracies where corruption controls generally work, as in Germany or France, scandals related to political financing are persistent. Evidence also shows that voters as ‘principals’ are not very effective. They seldom succeed in voting out corrupt politicians, except where strong media and civil societies are present (Chang and all 2010).

From this perspective, pre-modern governance arrangements can provide us with many lessons, and they are the least followed up upon today when we are so intent on modernizing states. But wouldn't an anticorruption strategy in Afghanistan which builds on traditional structures rather than alongside them be more sustainable in the short and medium term? Success examples such as Estonia and Uruguay, the world's two recent achievers in building control of corruption are not easy to follow, as they are both very small and cohesive societies which managed to elect exceptionally clean politicians following swift transitions from authoritarianism. Next to these tiny successes we find that nearly half of the world's reasonably governed countries are islands, and among all island-states two thirds are on top of control of corruption. These are highly significant figures. It seems that it is far easier to build control of corruption if the body politic is limited, clearly bounded and internally well organized in cohesive groups- all, conditions of the republican model.

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But perhaps this problem can be circumvented or – better said – manipulated. The global anticorruption community has not managed to find miraculous solutions for controlling corruption at country level, as demonstrated by the fact that we cannot point to a single success story after fifteen years of global anticorruption campaigning. Yet could we imagine strategies which drill down to lower levels? Corruption surveillance arrangements based on stakeholder participation could be organized for communities, public services, special funds, or special public budgets in the same way we organize neighbourhood watches when police are too corrupt or demoralised. Could we downsize, as well as set borders, in order to *create* ‘islands’ where corruption control could be built? The society part of this equation cannot be skipped. *Good governance designs should develop the state by involving society, and develop society by pushing it to protect its joint interests from capture. Both state and society need to develop towards this end, as ultimately control of corruption is an essential component of the greater social contract based on reciprocal accountability.*

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