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The Challenge of Achieving a Liberal Order

In order to have the rule of law, a society must have cultural institutions that promote rules and norms that cannot be overturned by autocrats.

By [Arnold Kling](#) Monday, April 2, 2012



Image by Darren Wamboldt / Bergman Group

In the United States we take peaceful, democratic elections for granted. Because we think of our form of government as clearly superior, we expect that other countries will be able to readily adopt it.

Two recent books by social scientists raise questions about the ease of the transition to democratic institutions. Both *Violence and Social Orders*, by Douglass North, Barry Weingast, and John Wallis, and *The Origins of Political Order*, by Francis Fukuyama, suggest that natural patterns of human organization must be overcome in order to create a modern liberal democracy.

The basic problem, as *Violence and Social Orders* points out, is that humans evolved to reward close relatives, to appreciate exchanges of favors with friends, and to compete

within tribal hierarchies. We did not evolve to share power with and confer equal status upon strangers.

The solution that emerges, according to *Violence and Social Orders*, is for leaders of tribal organizations to form a ruling coalition, in what the book calls a "natural state." The warlords who participate in the governing coalition are able to peacefully divide up wealth, or economic rents, which takes away their incentive to use violence to capture resources. The book refers to this as a limited-access order. Political power and economic power are held by narrow elites. By modern Western standards, such a state is corrupt, because political power is blatantly used to extract wealth for the ruling parties. However, what we fail to see is that eliminating corruption would be destabilizing: Absent the economic bribery, strong leaders would defect from the coalition, leading to civil war. The ability to extract wealth is what binds the elites to the government.

In *Violence and Social Orders*, a Western-style democracy is called an "open-access order." The opportunity to gain economic or political power is open to everyone. This is a different sort of equilibrium, one which is not easily arrived at. Countries that are in the "natural state" are not likely to move toward an open-access order. If the natural state breaks down, a country is more likely to fall into civil war or authoritarianism.

There are important preconditions for a successful transition from a limited-access order to an open-access order. These include having civilian control over all military forces, developing long-lived institutions (such as corporations) so that society is less dependent on key individual leaders, and having the rule of law apply to elites. Once elites enjoy the rule of law, moving to an open-access order involves extending the benefits of legal protection to other members of society.

Fukuyama also emphasizes the rule of law. He says that a liberal democracy consists of three elements: A strong central state, the rule of law, and accountable government, meaning institutional checks on the power of the ruler.

Concerning the need for a strong central state, Fukuyama writes (p.280),

But a fair normative order also requires power. If the king was unwilling to enforce the law against the country's elites, or lacked the capacity to do so, the law's legitimacy would be compromised no matter what its source in religion, tradition, or custom. This is a point that Hayek and his libertarian followers fail to see: the

Common Law may be the work of dispersed judges, but it would not have come into being in the first place, or been enforced, without a strong centralized state.

Fukuyama's three elements of liberal democracy are not unlike the theory of the three branches of government. For Fukuyama, the rule of law means a force that is higher than the personal dictates of rulers. In the United States, this is reflected in the ideal of an independent judiciary. However, the rule of law is not self-enforcing. Fukuyama argues that enforcement requires a strong central state, which corresponds to the executive branch. This executive must nonetheless be held accountable, which requires having the government's budget controlled by a legislature that is elected by the people.

In order to have the rule of law, a society must have cultural institutions that promote rules and norms that cannot be overturned by autocrats. Fukuyama argues that the Catholic Church (and the later Protestant religions) helped promote the idea of a higher law in the West. In contrast, Chinese rulers were never subject to any higher law. They could always remake the law at will.

What China did have was a strong central state. Fukuyama argues that this is because administrators were chosen on the basis of merit, through the examination system. In societies where administrators are selected on the basis of kinship, the central state tends to be weaker. Where the state is weak, it can be undermined from within by crime bosses and warlords, or it can be invaded from outside.

Along these lines, Fukuyama offers an interesting discussion of the role of slave administrators in sustaining the Islamic empires. He suggests that the success of this system was due to the fact that the slaves had no kinship ties to detract from their loyalty to the state.

Fukuyama sees the Catholic Church as helping to break kinship bonds in the West. It did so by prohibiting cousin marriages. While this allowed the Church to benefit from more inheritances, it also benefited Western societies because the marriage restrictions promoted individual rights and property ownership, rather than kinship groups and collective ownership.

The two books have a number of points of agreement. Both say that the political importance of kinship ties must be broken in order to have a liberal democracy. Both say that leaders do not necessarily obey constitutions; instead, in order to be effective, constitutional principles must align with cultural norms and be widely regarded as sacred.

Both agree that the state must be able to remove the threat of organized violence, and that this is often difficult to accomplish. Both agree that elections are insufficient for establishing liberal democracy, and that in fact liberal democracy is a social arrangement that is very difficult to establish.

Nonetheless, the two books disagree on a number of points. *Violence and Social Orders* offers an explanation of political order that is rooted entirely in rational economic behavior. The natural state is in equilibrium because it is in the interest of elites to remain in a coalition that narrowly restricts political and economic power in what by modern Western standards is a corrupt regime. A transition to an open-access order takes place rarely, and only after the limited-access order has been stabilized by long-lived institutions and elite groups have grown accustomed to the rule of law. It is the gradual extension of the rule of law to more and more elements of society that constitutes the transition to an open-access order.

For Fukuyama, political order is grounded more in cultural and historical factors. For example, he argues that liberal democracy arose in the West rather than in the Arab world in part because of differences between the role of the Catholic Church and the role of Islam. The Catholic Church remained apart from kings, and this created a cultural separation between the higher law and the dictates of rulers. Also, the Church's rules concerning marriage effectively broke up the extended-kin clans that remained dominant in the areas ruled by Islam.

Fukuyama sees governmental forms as rooted deeply in cultural history. He sees China today as similar in important respects to that country 2000 years ago—an authoritarian state that is based on effective bureaucracy. He sees England and its descendants as shaped by a long history of individual rights grounded in common law.

Violence and Social Orders sees the "natural state" as an equilibrium that is difficult to change. As long as there are groups that can threaten violence, a governing coalition must remain narrow in order to be able to provide elites with enough economic advantages that they have a stake in maintaining peace.

Neither book makes one optimistic about the near-term prospects for seeing liberal democracies emerge out of the "Arab Spring." Instead, they suggest that sudden revolution from below is not the route to liberal democracy. First, elites must develop institutions that separate power from kinship. These institutions need to include the rule

of law. Once the elites have rights that are embedded in law, then attaining liberal democracy is a matter of extending these rights to the rest of society.

Arnold Kling is an adjunct scholar with the Cato Institute and a member of the Financial Markets Working Group of George Mason University's Mercatus Center.

FURTHER READING: *Kling also writes "Economics: A Million Mutinies Now," "The Case for an Executive Re-Organization," and "The Political Implications of Ignoring Our Own Ignorance." Dan Blumenthal discusses "Misunderstanding Fukuyama." Michael Barone says "Obama Skirts Rule of Law to Reward Pals, Punish Foes."*