Why Elites Sometimes Undo Their Own Constitutional Privileges

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Motivation

- Most new democracies begin operating under an authoritarian constitution from the past that favors elites connected to the previous era. (Albertus & Menaldo 2018, 2020)

- While there were 122 democratic transitions between 1800 and 2006, 80 of these (66%) inherited a constitution from authoritarian predecessors.

- Since World War II, over two-thirds of transitions to democracy have been guided by authoritarian constitutions. (e.g., Turkey, Chile)

Motivation

- Since 1950, 31% of democracies that inherited elite-biased constitutions replaced them, including countries such as Brazil, Madagascar, Poland, and Thailand; 15.4% of all democracy years from 1950 to 2006 are democracies with autocratic constitutions that were amended.

- Conditions favoring reforms: Economic crises, shifts in the balance of power associated with globalization, and the death of former dictators.

Motivation

- However, major reforms to elite-biased constitutions are sometimes ushered in by the very political parties and leaders tied to the privileged actors from the authoritarian past.

- Question: Why would elites support changes to constitutions that were meant to favor them?

The Model

We set a dynamic model of the lawmaking process that considers a body of Legislators $i \in \{1, ..., N\}$ in the National Legislature and the President, v, at the Executive Branch.

A lawmaking system is defined as a triplet of integers (N, M, v).

Bill proposal is exogenously given by a radical fringe.

Each player has an action $a_{it} = 1$ as approving the bill proposal (supporting coalition) at time t, and $a_{it} = 0$ if rejecting the bill (opposing coalition).

The Model

Opportunities to announce the vote are drawn randomly at a constant Poisson rate. Once a legislator votes in favor of the proposal, her support stays on record until the end of the process.

The vote share of approve ($a_i = 1 = A$) after $k < N$ votes have been cast is given by,

$$S_k(A) = \frac{1}{k} \sum_{i=1}^{k} 1_{\{a_i=1\}}$$

Thus,

$$\vartheta = A(approve) \; if \; S_k(A) > M$$
$$\vartheta = R(reject) \; if \; S_k(A) < M$$

The Model

Legislators if approve,

$$u_i(1, \overline{a}_{-i}, x) = \begin{cases} \beta_i - \mathcal{L}(x - x_i) + \gamma & if & \sum_{j \neq i} \overline{a}_j \geq (M-1) \\ \\ -c & if & \sum_{j \neq i} \overline{a}_j \leq (M-2) \end{cases}$$

Legislators if reject,

$$u_i(0, \overline{a}_{-i}, x) = \begin{cases} -c - \mathcal{L}(x - x_i) & if & \sum_{j \neq i} \overline{a}_j \geq M \\ \\ \beta_i + \gamma & if & \sum_{j \neq i} \overline{a}_j \leq (M-1) \end{cases}$$

The Model

The President,

$$u_v(x) = \begin{cases} \beta_v - \mathcal{L}(x - x_v) + \gamma & if & x \neq x_{sq} \ and \ no \ veto \\ -c & if & x \neq x_{sq} \ and \ veto \\ \beta_v & if & x = x_{sq} \end{cases}$$

A history is $h_i = (a_1, a_2, \ldots, a_{i-1})$. Each legislator receives an independent, private signal, s_i, about the true state of the world. A strategy for legislator i is then defined by a map $\sigma_i : (h_i, s_i) \rightarrow [0, 1]$.

Proposition 1. *For a lawmaking system (N, M, v), depending on policy preferences, beliefs and the conformity parameter the following holds:*

i. The game admits equilibria that are informational efficient and of the bandwagon type.

ii. Every equilibrium is either an informational equilibrium or a bandwagon equilibrium.

Historical Background

- Chile's transition to democracy in 1989 was guided by a revised version of Pinochet's 1980 constitution, and embedded provisions favoring regime allies (e.g., military autonomy, a strong constitutional court, bicameralism, dedicated senate seats for regime allies, immunities from prosecution, and a favorable electoral system known as the binomial system

- The constitution embedded strong obstacles to change, but change did occur, with big ones in 2005 and 2015
  - The 2015 reforms to the Constitution switched the binomial system for PR using the D'Hondt method.

Chile's Pension System

- Chile's current defined contribution pension system was established during Augusto **Pinochet's dictatorship**.

- Individual retirement accounts managed by **private institutions** known as Pension Fund Managers.

- Workers are obligated to contribute 10 percent of their monthly earnings. Workers in the informal labor market do not contribute.

- Retirement pensions are low and do not fulfill the promise done.

Chilean Pension System Reforms

- The Chilean pension system is woven into the 1980 Constitution and, therefore, require a qualified majority to pass.

- As a result of several years of academic studies and policy papers, discussions, and consensus-building among various groups who sought to improve the system's sustainability and fairness, several technocratic reforms occurred in 2008.

- Despite their early advocacy for pension reform, it was only during the 2009 legislative elections that three PCCh legislators were elected to Congress, all to the Lower House. For the first time since the reintroduction of democracy, there was a radical left faction in Congress.

Chilean Pension System Reforms

- The presence of PCCh legislators began to pull the center-left Concertación coalition to the left in these years, the shift became definitive in 2013 as the Communists won six representatives.

- In 2017 with the change in the electoral system, the Frente Amplio, which includes several leftist and progressive parties, made pension reform a central part of its platform as the Communists did.

- Chilean society exploded in mid-October 2019. Beginning in October of 2019, immediately after the first episodes of unrest, there were several very large No Más AFP-sponsored protests that called for the elimination of the pension system.

Chilean Pension System Reforms

- The government's announcement in December 2019 that it would increase the minimum pension by 50% signaled a growing recognition of the need to do more.
  - In January 2020, Piñera proposed a modest pension reform bill that relied mainly on increasing employer contributions.

- The Covid-19 pandemic presented an opening for groups that had long sought to change Chile's pension system.

- Opposition senators introduced a constitutional amendment in June 2020 to authorize pension withdrawal. (2/3 vs 3/5 quorum).
  - First withdrawal, July 2020
  - Second withdrawal, November 2020
  - Third withdrawal, April 2021

- The bandwagon dynamics was observed and there is public record of it.

Conclusion

- Chile's authoritarian-era constitution. New constitution in a national referendum in September 2022 (rejected). But major changes had already been set in motion on the country's pension system that could not be so easily reversed. Additional changes are currently being debated.

- Important revisions occurred with origins as fringe projects.

- Bandwagoning dynamics often begin when those who are sincerely opposed to change begin to realize that it would be political suicide if they do not reverse their positions.

- Further research might fruitfully apply the bandwagoning model we develop here to the constitutional convention itself.