Closing lecture: The fundamental problem of governance

Human populations larger than very small, face-to-face communities require institutions that can make and enforce decisions for society as a whole. In other words, they require *states*.

- States are necessary to solve large-scale coordination problems, such external defense, the maintenance of public order, the administration of justice, and the operation of critical infrastructures (such as water systems).
- They are also necessary for large-scale redistribution (such as land reform, the abolition of debts, or wealth taxes), which may be required to ensure social justice. Even if you don't believe in social justice, redistribution may be needed for social cohesion.
- State may also be the most *efficient* way to solve many social problems (such as the provision of certain public services or policies to promote economic growth), and thus the best way to ensure economic development, even if such state action is not strictly necessary for societal survival.

The more interconnected human societies are, the more society-wide coordination problems there are to address.

Large, complex societies stuck with the state.

And not just any state. For governments to resolve disputes justly -- treating like cases alike – decision-making must be routinized. In order to solve complicated problems, states must also develop in-house knowledge (for instance, how to manage critical infrastructures). And in order to regularly enforce societal decisions fairly, states must have standing law enforcement bodies that follow standard operating procedures (e.g., rules of evidence in court proceedings).

States thus tend to become formal institutions with organizational repertoires for collecting taxes, recruiting peace officers, fighting wars, etc., as well as resident expertise on specific areas (e.g., management of critical infrastructures or regulation of financial markets). This tendency is so pronounced that many observers tend to regard states as more or less synonymous with relatively large, standing bureaucracies.

In other words, modern countries may be stuck with a capacious, bureaucratized state, whether they like it or not.

Unfortunately, the organizational repertoires and capabilities that states must possess to enforce binding decisions upon all members of society can be put to nefarious use. Historically, states have been the instruments of predation or plunder by rulers. They have also served to maintain inequalities (like slavery or caste or status hierarchies) and impose cultural orthodoxies (like forced conversion or banning of disfavored languages). In fact, many states were originally created for precisely these purposes, as with those imposed by colonial powers – from the Conquest in Latin America by Spain and Portugal to the annexation of Taiwan or Korea by Imperial Japan.

Occasionally, states have even sought to eliminate whole portion of their own population, through ethnic cleansing or genocide
- from expulsion of the Jews from Spain in 1492
- to the massacre of Chinese-Malays by Japanese occupiers in 1942
- to what happened in the former Yugoslavia in 1992
- with the Armenian genocide and the killings fields of Cambodia along the way
- and the Rwandan genocide to follow.

Even states that were not *originally* created to exploit and control particular populations have often become abusive. Others have proven simply incompetent or corrupt, from oligarchs at the top all the way to "street-level bureaucrats" (Lipsky 1969). By now you can imagine many examples:
- officials who award sweetheart construction contracts to cronies,
- city councilmen who approve poorly-crafted monopoly contracts that result in windfall profits for local cable providers,
- health inspectors who take bribes to overlook violations, etc.

In addition, states can simply be bad at providing the public goods and services they are supposed to deliver.
- government employees who decline to show up to work or spend their time shuffling paper,
- RMV workers who evince complete ignorance of a customer service mentality,
- and so forth.

The bottom line: states are rarely pretty, and interactions with the state often unsatisfying at best.

The principal challenge of governance in the 21st century, then, is how to make states actually do what is in the best interests of their societies. Can the state be fully tamed – made to do what citizens want, as efficiently and effectively as possible?

Historically, humans have tried a variety of approaches to address this challenge:
- Shrinking the state;
- Constraining the state;
- Decentralizing decision-making (and participatory government), and other institutional design;
- Making the state responsive
  - Selecting good leaders;
  - Constraining bad leaders;
  - Making leaders accountable
- Monitoring officials more effectively.

Whether these strategies will prove sufficient is still an open question.

So, what other options are there? I will discuss in turn each of the things mentioned above.

Shrinking the state
Is it possible to shrink the scope of the state, or to radically reorient it in ways that make the fundamental problem of governance less vexing?

Historically, some states have been much "lighter touch" and smaller than others.

One area in which states can be made to feel "smaller" concerns foreign defense, a prominent and longstanding justification for the state (Hobbes 1651).
- For most countries today, international norms of sovereignty have dramatically reduced the danger of foreign predation and annexation, allowing nations to reduce the size of their militaries if they wish.
- In fact, global spending on the military has decreased from 6.2% in 1960 to 2.1% in 2018 (World Bank 2020). In Latin America, about half of countries spend less than one percent of Gross Domestic Product on national defense; Japan and the European Union average only a bit over that. A few countries

have even foregone large standing armies in favor of citizen-militias (Switzerland, early USA) or constabulary forces (Panama, Costa Rica).

- Finally, some states might also use nuclear weapons to deter foreign enemies, thus potentially obviating the need for large standing military forces.

Perennial debates have also erupted about the role of the state in various aspects of economic regulation. How big a role the state should play in the economy – redistributing resources, promoting economic growth through "industrial policy", regulating the labor market, and so forth? Those most concerned about the potential for lack of responsiveness and abuse by the state will find promising targets in many examples of industrial policy (including state-owned companies, trade restrictions, managed exchange rate regimes, packaging and labeling requirements, etc.).

Another possible opportunity for streamlining the state concerns public services. Education, in particular, has often been coordinated by civil society organizations and religious groups, including both the Catholic Church and Protestant missionaries in Christian countries. In the late 20th century, many countries have also privatized certain functions traditionally provided by the state directly, such as infrastructure (dams, highways, etc.), electricity, water, sewage, trash collection, etc. These services might instead be provided by private firms or charitable organizations (e.g., waqfs in the Muslim world). Of course, each of these decisions involves potentially serious tradeoffs, especially in the case of education.

However, the notion that these proposals reduce the "size" of the state can be a bit misleading: often, the state still assumes responsibility for ensuring that a service is provided, even if it outsources delivery. For instance, the fact that electricity companies themselves are privately owned doesn't take the government out of the business of ensuring that there is a functioning electricity grid. They change the shape of the state, they make it feel less bureaucratic and oppressive, and arguably more efficient.

Ultimately, however, even the most streamlined modern state is likely to be quite capacious. It will have broad authorities and consume a significant portion of national income.

Constraining the state
Another way to imagine "shrinking the state" would be to simply forbit is from doing things?

- assigning specific "inalienable" or "natural" rights to citizens
    - to worship as they please,
    - to express their opinions,
    - to speak whatever language they wish at home,
    - to have some sphere of privacy,
    - to own personal property.
- This is the essence of liberalism
- It is also the basis for debates over the notion of a "private sphere" free from intrusion by the state – even if that private sphere is as small as what goes on inside the brains of ordinary citizens.
- However, respecting many of these rights can involve significant <u>tradeoffs</u>.
    - Protecting private property from the state prevents redistribution from rich to poor
    - Freedoms related to religion and language can weaken national identity
    - Privacy protections can make law enforcement and control of pandemics much more difficult

Another problem concerns the boundaries of these rights. How far do they extend?

And more importantly, who decides when they should be extended? Judges? Legislators? The people? A supermajority of the people? Here is a fundamental tension between liberalism and democracy.

Decentralization
A related set of proposals aims to reduce the scope of the *national* state by assigning binding authority for certain decisions to subnational governments (states, regions, counties, towns, villages, etc.). Decentralizing decision-making and enforcement do not reduce the scope of political authority overall; rather, they alter the locus of decision-making.

The intelligent way to think about decentralization, then, is not whether it means a bigger or smaller state overall but whether it makes the fundamental problem of governance easier or harder to solve.

In theory, decentralization brings decision-making closer to the people, thus making it easier for citizens to participate directly in government, observe the policy-making process, and monitor representative more closely.

In addition, if the decisions that local governments make are confined to a narrower slice of policies than the national state (for instance, if they do not have to concern themselves with national defense), citizens may more readily agree on the criteria for judging officials. In ethnically divided societies, there may be a greater chance that community boundaries and political boundaries overlap at the local level, thus making it easier for citizens to agree on what government should do.

- Elementary school education is a classic example of a policy area that is frequently decentralized.
- Local utility services (city streets, sewage, trash collection, etc.) are also frequently decentralized.

In practice, however, decentralization may make the fundamental problem of governance worse. If power structures are more unequal in local communities than they are at the national level, decisions made locally will prove less responsiveness to the demands of ordinary citizens (Rao et al. 2017). In other words, elites may dominate decision-making more effectively. Likewise, if local leaders are less competent than national ones, decentralization may result in poorer quality decision-making. Finally, if locally selected officials are less expert, less competent, or less honest than those appointed by the center, the quality of public service delivery will suffer.

A completely different set of strategies does not seek to shrink the state but rather to make it more responsive and competent.

<u>Selecting good leaders</u>
If rulers are competent and have the best interests of their society at heart, they will direct the state toward socially beneficial goals. In theory, having wise and well-meaning leaders should obviate the need to constrain the state at all. In the hands of the right people, its power will be used prudently and for the social good.

How to select the best leaders has been a subject of discussion since classical Greece, ancient Rome, pre-modern China, and elsewhere.

One common mechanism – now largely dominant around the globe – has been to require that rulers be chosen and subject to removal by the citizenry. In other words, leadership selection is based on free, fair, and regular elections (i.e., representative democracy).

Nevertheless, elections often fail to ensure that the state operates as citizens wish it to do, for a number of reasons:
a) Electoral mechanisms are frequently subject to manipulation, which insulate office-holders from the threat of removal even if they fail to deliver decent governance. Well-known examples include electoral rules or restrictions that advantage incumbent leaders, manipulation of the electoral process by the incumbent to prevent certain opposition figures from contesting power, manipulation of the information on which voters judge the performance of the incumbent, clientelism (using state resources to bribe voters), and cartelization of the electoral arena by political parties. Ultimately, what citizens are offered at the ballot box may not afford them the opportunity to replace "bad" leaders with "good" ones.
b) Ordinary voters may not behave as expected when asked to pick a leader: they may be ignorant of their own best interests, swayed by traits that have little to do with good governance (such as leaders' personalities or appearance), or too liable to privilege short-term considerations over the long-term well-being of society.
c) Votes may not aggregate into something that corresponds with the larger public interest. Different electoral systems (including how executive officers are chosen and how votes are translated into seats in decision-making bodies) may facilitate such a correspondence to a greater or lesser degree. But even if electoral institutions and constitutional arrangements are an optimal fit for each society, the larger problem of aggregation remains. One version of this problem is the way an electoral regime balances "numbers" (i.e., whether a simple majority of people feel one way or the other about a candidate or issue) against "intensity" (how strongly the minority feels about something). This problem is compounded if one group is a more or less permanent majority and another group a more or less permanent minority.

d) The selection of high-level officials constitutes just one link in a chain of delegation from citizens to officials, which runs from leadership selection, through the appointment of subordinate officials and thence to policy-making, and ultimately to policy implementation. Elections are simply too blunt an instrument to ensure that lower-level government officials will actually do what is good for society. Will citizens change their voting behavior based on a single instance of bureaucrat malfeasance? A pattern of abuse, but confined to just one sphere of policy? Small departures from their preferences, or modest inefficiencies in government services? If not, what can the citizenry do to make government officials accountable? The electoral instrument thus encourages but not guarantee responsive government. Furthermore, it only encourages responsive government on issues that are sufficiently visible and comprehensible to voters.

Two variants on the electoral instrument are recall votes and public referenda (Sun 1905). Recall procedures allow voters to remove officials who have discharged their duties in a particularly obnoxious or incompetent way before they would normally come up for reelection or reappointment. This mechanism was widely used in classical Athens, both for high-level and petty officials, and it exists (usually for elected officials) in some democracies. Ultimately, however, recalls are subject to the same concerns that apply to regular elections.

At least in theory, though, popular elections are not the only way to select "good" rulers. From ancient Israel to medieval Venice to the "vanguard parties" of 20th century Bolshevism to the post-revolutionary Iran, some movements have advocated that society would be best served by the government of benevolent autocrats. If such "guardians" (Dahl 1998) are better rulers than are elected representatives, then democracy is not necessarily a sound approach to the fundamental challenge of government.

Empirically, with the notable exception of Singapore, most experiments in guardianship have not fared well. Indeed, some of the most famous examples – such as Bolshevism, subsequent Communist governments, and the Islamic Republic of Iran – have led to highly abusive and brutal regimes. Why?

One possibility is that, in the absence of some mechanisms to hold the rulers accountable to the broad mass of the population and remove unacceptable

leaders, governance tends to deteriorate. There is, as noted above, considerable empirical evidence to suggest that depriving the population of the ability to eject abusive or incompetent leaders produces many pathologies of its own. A very different possibility is that most systems of "guardianship" were never put in place to ensure governmental responsiveness to the population but rather to preserve the interests of the ruling elite or the victors in a revolution; therefore, it is unsurprising that they have failed to produce good government. From this perspective, the current scholarly consensus about the necessity of democracy for good government should not be the end of the debate; scholars should accept Plato's invitation to imagine other systems for selecting and training officials.

In fact, many democracies have pockets of "undemocratic liberalism" (Mounk 2019), such as regulatory commissions and courts, that privilege expert knowledge over popular preferences. In some cases, these entities effectively exercise veto power over democratically elected representatives. For instance, the U.S. Supreme Court, whose members are selected for life and whose decisions are wide-ranging, sometimes has this flavor. The existence of such entities highlights the continuing challenge posed by the fundamental problem of governance, even within democratic systems: placing decision-making in the hands of undemocratic but expert bodies tends to constrain (elected) leaders, and may lead to technically more efficient politics, but it also makes government less responsive to popular wishes.

Given the danger of predation, many countries have developed mechanisms to prevent abuses by the specific individuals who hold public office. Usually, this approach involves fragmenting authority across multiple decision-makers or decision-making bodies – such as different branches of government (the famous separation of powers), different executive agencies (plural or collective executives), and national versus subnational governments (federalism). These limitations were commonly devised to rein in predatory states that were originally created through conquest and, in states with more benign origins, to prevent tyranny.

Unfortunately, constraints designed explicitly to limit the discretionary power of rulers can also reduce their ability to do good. Benevolent political leaders will be less able to effect beneficial reforms; bureaucracies carefully insulated from potentially predatory office-holders will also be more resistant to change from

good ones; and civil servants granted protection from dismissal in order to prevent rulers from exploiting their executive powers may prove difficult to motivate or discipline. In short, constraints on political leaders limit the worst abuses and protect certain constituencies. However, they provide no positive assurances that the state will actually be responsive to the citizenry. In fact, they may make it less responsive in some ways.

At the other end of the spectrum is the notion of selecting leaders by lottery. Presumably, lotteries ensure that government bodies are highly representative of the citizenry and aligned with popular wishes and intuitions. In classical Athens, government ran efficiently and effectively for many generations with decision-making bodies whose representatives were chosen mainly by lottery.

The most obvious drawback to this system is that leaders chosen through sortition might be far less competent than those chosen by other means. This problem would be at least partly resolved if decision-making bodies were composed of many individuals, who had access to highly trained staff (as do most modern legislators). Bodies chosen through lottery could also be used a consultative mechanisms or counterweights to bodies chosen through election, rather than pure replacements for them. Lotteries have occasionally been used to create consultative bodies (as in Ireland with Brexit). However, with rare exceptions (e.g., selection of community leaders among the Amish in the United States), sortition has not been popular mechanism to choose decision-makers in the modern era.

Lotteries could also face some of the same problems that afflict electoral systems. For instance, decision-making bodies composed of a representative sample of the population could end up being just as "tribal" or riven by faction as elected legislatures. Again, however, the rarity of lottery-based systems makes it impossible to judge how they would actually work in practice.

Direct democracy and participatory governance
Another mechanism for making the state responsive is to largely do away with representatives and simply have the population as a whole vote on policy.

Referenda and "public questions" allow citizens to vote directly on specific matters of policy, which in theory serves to align government decisions with

popular wishes. (Such referenda may be binding on decision-makers, binding unless explicitly repealed by legislation, or simply advisory to legislative and policy-making bodies.) Referenda too are susceptible to the many of the same limitations as regular elections – in particular, to the fact that citizens' lack of information about the desirability of different choices grows in proportion to the number of public questions put directly to the people. Even more importantly, referenda only address the problem that elected officials may be out of step with the citizenry on specific policies; they do not address the fact that policy implementation may depart significantly from what legislation says it should be, nor the fact that bureaucratic implementation may be of poor quality. Referenda thus supplement other mechanisms designed to enhance responsiveness but do not ensure it.

Recent innovations to increase the responsiveness of the state have introduced greater citizen participation and direct decision-making into government at all levels – that is, well below the level of the elected (or otherwise selected) officials who run the state. One well-known example is participatory budgeting (Abers 2000, Fung and Wright 2003). Others include community policing, health care delivery, and the like (Fung and Wright 2003). In these cases, ordinary citizens do not simply observe and judge officials but actually make the decisions themselves. In this sense, citizen-juries (for both civil and criminal matters) are a way of injecting participation into the administration of justice.

With the exception of juries, experiments in participatory government remain relatively restricted. There are clearly many opportunities for expanding this strategy: to new spheres of policy, higher levels of government, and the like. Participatory strategies could also complement the selection of citizen-representatives that would engage with the middle levels of the bureaucracy (as with citizen-ombudsmen, civilian review boards, and the like).

However, participatory governance involves many potential limitations and tradeoffs?
- Is there a loss of expert knowledge?
- Does it require too much information of citizens?
- Does it scale?

Again, the right question to ask is whether more participation will ameliorate or exacerbate the fundamental problem of governance.

Selecting and monitoring bureaucrats
We are left with a large bureaucracy operating according to rules made far away from ordinary citizens.

One way to tighten the link between citizens and leaders to ensure that malfeasance by government officials comes to light. If the top leadership of the state is naturally benevolent or has an electoral incentive to be responsive to society, then publicizing maladministration will encourage it to rectify such malfeasance. Techniques for improving monitoring of the state can occur at all levels and take many forms: the requirement that votes and deliberations by decision-making bodies be public (sunshine laws), widespread access to information about government operations (including spending), ombudsmen and oversight boards (Inspectors General, Comptrollers, civilian review boards for police, etc.), provisions for whistleblowers, audits, and so forth.

Measures to ensure transparency are likely to be much more effective under three circumstances: if they provide clear and credible signals to political principals or voters, if there are civic or advocacy groups that can spend the time identifying malfeasance, and if systems of mass communication are organized in such a way as to disseminate the information effectively. In these cases, an "accountability triangle" of activists, journalists, and whistleblowers or reformers within the government can counter the classic "iron triangle" of legislators, senior bureaucrats, and lobbies.

Monitoring can also be applied to lower levels of government to reduce corruption, absenteeism, bias, and the like. (See *inter alia* Davis 2003 and Lewis 2006.) Some proposals focus on formal mechanisms of identifying and punishing good behavior, such as cameras that record what officials do (as with South Africa's strategy to reduce corruption in drivers' tests), double-entry ledgers to guard against financial malfeasance, audits, and dozens of other familiar techniques. However, monitoring and sanctioning of street-level bureaucrats can also be informal, especially if officials reside in the same communities they are supposed to serve. Some examples include teachers who send their own children to the local school, water treatment plant operators whose families must use the

same supply as everyone else, workers at local health clinics whose neighbors will know whether they have pilfered medications, city planners whose kids play in the same parks and playgrounds, or police who must live in the town they patrol.

When it comes to the ordinary operations of bureaucracy, having talented and public-spirited officials is presumably crucial to the operation of the state. In spheres like law enforcement, education, and public health, it may also be important for officials themselves to be representative of the communities they serve. A related strategy for enhancing government responsiveness involves motivating bureaucrats themselves. Rather than monitoring and formally sanctioning bad performance, it emphasizes incentivizing public-spirited behavior (Tendler 1997). Such practices include awards and recognition for especially dedicated behavior and building up morale and *esprit de corps* within public agencies.

Can the state be tamed?
Across a wide range of countries, problems of corruption and unresponsiveness in government loom large. In most countries, citizens do not believe that the state works for their benefit. Even in established democracies where citizens endorse the political system as a whole, they often express dissatisfaction with the ordinary operation of government.

For human experience to date, we can make two informed guesses:
1. Representative liberal democracy, at least on average, is much more likely to result in better governance over the long run. Governance often improves when autocratic regimes give way to stable democracies, and governance tends to decline in quality when democracy collapses. Furthermore, most of the solutions to problems within liberal democracy involve more democracy.
    o Not necessarily more participation
    o But rather institutional reform to make rulers more accountable to the ruled and defense of the public sphere
   This fact suggests the importance of fighting for democracy where it already exists and encouraging its emergence where it does not.

2. Representative liberal democracy, by itself, is entirely insufficient to tame the state. New strategies and techniques are still desperately needed.

Good states do what citizens want them to do, competently – "aligned expertise". The approaches devised thus far to tame the state do not seem to have solved this fundamental challenge of governance, at least not fully. In some cases, they provide greater alignment but less expertise (as with lottery systems for choosing decision-making bodies). In other cases, they provide expertise without alignment (as with undemocratic but liberal institutions). Measures designed to make some things better often have the inadvertent effect of making other things worse. For instance, measures to monitor bureaucrats' behavior and ensure compliance with pre-set rules are often at odds with measures designed to motivate bureaucrats. Measures designed to limit the scope of the state and the power of its leaders make it hard to effect manifestly needed reforms.

And yet, if the fundamental challenge of government is not resolved satisfactorily, human society will stagnate or collapse.

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