

THE POLITICAL ECONOMIST

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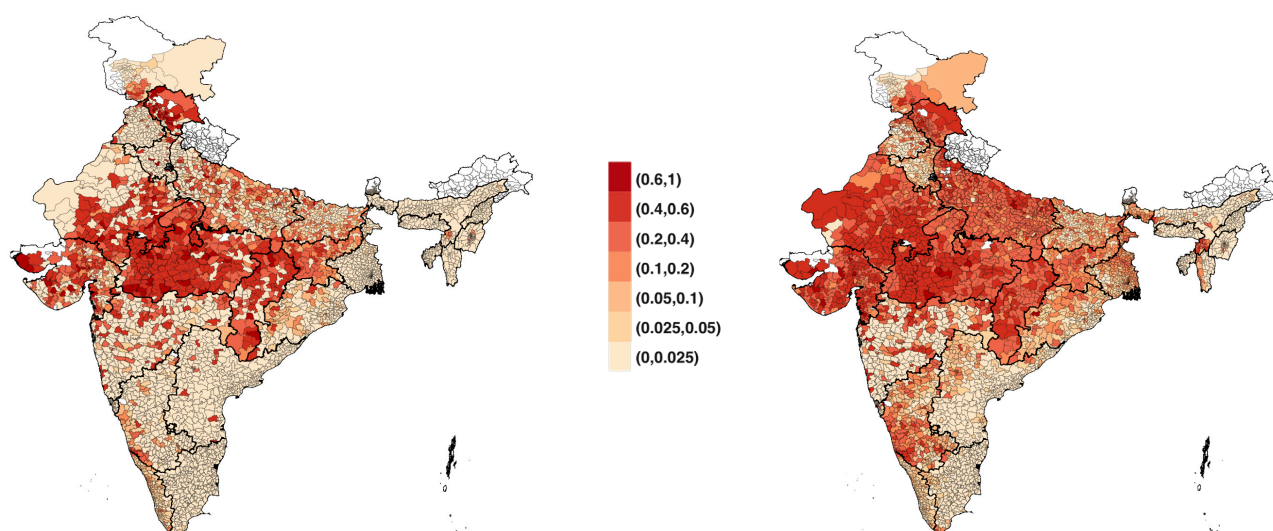
"Worth a Thousand Words"

When do the poor vote for right-wing parties and why?

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Figure 1: Right-wing vote share before and after Mandal



Notes: Figure 1 shows a dramatic rise in the vote-share for the right-wing Bharatiya Janata Party (BJP) before and after an announcement by the Prime Minister of India in 1990 to introduce affirmative action to lower castes in central government jobs and higher education - domains that had long been dominated by upper-caste Brahmins.¹ Right-wing vote share was calculated using the vote for the Bharatiya Janata Party (BJP) in state assembly elections in each period. To calculate the BJP vote share I focused on the votes received by the top 15 candidates/parties in an electoral constituency. I thank Francesca Jensenius for providing me with the state-level elections data. The source data is available at www.eci.nic.in.

1 The announcement was popularly known as "Mandal" as it was based on the recommendations of a report by the "Mandal Commission" in 1980 on how quotas and reservations could be used to redress caste inequalities.

WHAT'S INSIDE THIS ISSUE

"WORTH A THOUSAND WORDS".....1

SECTION ORGANIZATION.....2

FROM THE CHAIR.....3
ISABELA MARES

FROM THE EDITORS.....4

JOHN AHLQUIST, MECUMI NAOI, &
CHRISTINA SCHNEIDER

FEATURE ESSAY5
DAVID SKARBK

FEATURE ESSAY.....8
MELANI CAMMETT

FEATURE ESSAY.....12
STANISLAV MARKUS

GENERAL ANNOUNCEMENTS.....16

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FEATURE ESSAY

Varieties of Prison Social Order: Extra-legal Governance Behind Bars

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How do communities devise and maintain institutions that facilitate peaceful, social cooperation? The state often provides these crucial functions, but that is not always the case. Nearly half of the world's countries fail to provide the basic institutions of governance (Leeson and Williamson 2009). About half of the world's workers are in the informal economy and cannot rely on government regulation (Neuwirth 2011, 27). At a global level, commerce and conflict between countries cannot rely on the decisions of a higher-level, third party to resolve disputes. Nevertheless, there is a high volume of economic and social activity taking place in these arenas. In the absence of credible and effective government, people often find alternative ways to govern themselves.

Prison, despite the common impression that they are places where the state surveils and controls nearly everything, are actually inundated with pockets of state absence. One common reason for this is that officials will not govern the underground economy for drugs, alcohol, and sex. Another reason is that there are simply too few staff members and too many prisoners to watch. The result is that much of life behind bars is self-governed by the prisoners.

Prison is a useful context to study the general question of the emergence of institutions of social order. Prisoners tend to be less cooperative, less patient, and more violent than the average population outside of prison. This is a tough case for self-governance institutions to emerge. Second, prisoners typically live in poverty. They cannot rely on significant financial resources to solve the problem of order. Third, prisoners have no exit options to flee bad actors or to discourage opportunism. Given each of these characteristics, one might assume that self-governance would fail, but my work finds that extralegal governance in prison is often quite robust.

Governance in prison takes several forms. Formal, government institutions often play an important role. Officials provide governance through staff members, rules and regulations, and a bureaucracy. However, prisoners can also create extralegal governance institutions that they organize and operate. Extralegal governance can be highly decentralized and informal, as in the case when gossip, shaming, and ostracism regulate social interactions. It can also be highly centralized and formalized, as it is with prison gangs. Prison gangs are prison-based groups with a corporate entity, that exist into perpetuity, and whose membership is restrictive, mutually-exclusive, and permanent. Prison gangs are extralegal groups, but they often have highly organized and formalized internal structures, such as written constitutions, detailed hierarchies, and their own bureaucratic procedures.

Empirically, there is substantial variation in how these different types of official governance and extralegal governance institutions manifest within prisons historically and across countries. For example, in some places, highly organized and racially-segregated prison gangs are a dominant influence on the prisoner society. In other prisons, they do not exist. In some facilities, prisoners have a substantial influence on the everyday life of their peers, and in others, very little. My research on prison social order argues that the scope and organization of extralegal institutions vary depending on (1) the quality of official governance, administrative effectiveness, and the resources provided by prison officials and (2) on the size and diversity of the prisoner community (Skarbek 2014; Skarbek 2016). The former explains whether prisoners require extralegal governance and the latter explains what form extralegal governance will take.

When officials govern prisons well, they are characterized by order and safety, suitable amenities (such as good food and clean cells), and services (such as educational opportunities and vocational training) (DiIulio 1987, 11-12). In prisons where officials provide these in abundance, prisoners have few reasons to duplicate these services. However, when officials fail to govern, prisoners often do. They do so because ungoverned prisons are chaotic, dangerous places, and prisoners can make themselves safer and more comfortable if they can overcome the collective action problem of producing social order.

Consider, for example, life in many Latin American prisons. It is common for facilities to be both overcrowded by prisoners and understaffed by poorly trained officers. These prisons are often in disrepair, with few amenities, unhygienic and dangerous living conditions, and mired in poverty. In the face of this state failure, prisoner efforts often play a significant role in the administration of the facility. Criminologist Sacha Darke (2013a; 2013b; 2014) documents the extensive role that prisoners play in organizing their own confinement. Not only do they carry out simple tasks like cleaning and repairing the facility and distributing meals, but they are also in charge of crucial security duties, including conducting searches for contraband, searching visitors, and completing the evening prisoner count. Prisoners rely on democratic elections to choose these prisoner leaders. In one Bolivian prison, there are no officials present within the prison. Instead, residents buy their own cells from each other, create democratic committees of governance, and participate in a thriving *laissez-faire* economy behind prison walls.

By contrast, the extralegal influence of prisons is extremely limited in facilities that provide significant material resources, are run by a high number of well-trained staff, and who have a credible and effective role in governing prison life. This is true of many prisons across Western Europe, and it is certainly true in the more extreme examples found in the Nordic countries (Pratt 2008). Scandinavian prisons are not overcrowded and usually have more staff than prisoners. While prisoners still complain about amenities, such as food (Ugelvik 2014, 134-7), they have access to far more material resources than prisoners in Latin America, including safe and clean living conditions and access to substantial educational, recreational, and vocational programs. Given the high-quality of state-provided

continued on page 6

THE POLITICAL ECONOMIST

Skarbek Feature Essay...continued from page 5

governance, prisoners have few reasons for creating extensive or elaborate extralegal institutions of governance.

While the *scope* of extralegal governance varies, so also does the *organization* of extralegal institutions. When prison populations are small, prisoners rely on decentralized mechanisms to facilitate order. When one's social status is known by others, the threat of gossip, shaming, ostracism, and disorganized violence is sufficient to promote compliance with prisoner norms. However, when populations grow too large, it is too costly for prisoners to know most people. The result is that reputation effects carry little influence and prisoners act opportunistically. With the failure of decentralized mechanisms, prisoners turn to more deliberate and organized extralegal institutions, such as prison gangs.

The history of the California prison system provides a useful test of this claim. Prison gangs are currently a dominant influence on the everyday life of prisoners, but they have not always existed. From the prison system's founding in 1851 through 1956, there were no prison gangs. Prior to gang emergence in the late 1950s, the total size of the prison population and the typical size of prisons were sufficiently small to allow decentralized governance by norms to work well. A set of norms emerged within the prisoner population that they called the "Convict Code." To the prisoners, it outlined what constituted good behavior, including prohibiting theft, dishonesty, betrayal, and failure to repay debts. A prisoner who followed the Code would have a respected reputation and be in good standing with his peers. Being a "stand-up convict" offered safety through mutual support. A prisoner who violated the Convict Code had low status, and he would be isolated, unprotected, and often subject to violence. This extralegal governance regime was decentralized. It lacked clear leaders, written rules or protocols, and a person or group given responsibility to monitor for and punish deviations from the norms.

While this decentralized regime worked well, in the late 1950s and 1960s, the Code began to fail because of demographic changes (Irwin 1980; Skarbek 2014). The state prison population increased eight-fold between 1920 and 1970. By the late 2000s, California incarcerated more than 170,000 prisoners. Prison size also increased, growing from an average of 1,500 prisoners per prison in 1920 to more than 5,000 in the 2000s.

Larger populations undermined the ability for decentralized governance to work because people's reputations were too costly to learn and ostracism was ineffective. As a result, the late 1950s and 1960s saw increases in violence and rioting. Based on first-hand accounts of prisoners and prison staff at that time, the increasing levels of instability led prisoners to create the first prison gangs – groups like the Aryan Brotherhood and the Mexican Mafia – which served as sources of protection in a deadly environment.

Prison gangs are extralegal – yet centralized – sources of governance. They rely on written rules to inform new prisoners about what behavior is acceptable. Their internal organization is often based on written constitutions and by-laws, which detail systems of checks and balances, complaints procedures, impeachment procedures, and elections (Skarbek 2010). Many gangs issue questionnaires to new prisoners to learn their identity, criminal past, and how they can best serve the gang. Gangs maintain lists of prisoners who have violated gang rules in the past and deserve punishment. These procedures provide effective methods for collecting information and enforcing rules in large communities of strangers.

A key difference with the Convict Code era is that now the reputation of the group matters more than the individual's reputation. Gangs operate as a community responsibility system where each member of the gang is responsible for all of the other gang members' actions and obligations. For example, the gang is responsible for drug debts incurred by one of its members. The burden of monitoring prisoners' actions falls on those who can do so at lowest cost: one's fellow gang members. This system of gang-based governance facilitates social and economic interaction between groups.

The crucial role of the size of the prisoner community also seems to explain well variation elsewhere. First, it helps explain why the states with the biggest prison populations, California and Texas, have the most entrenched prison gang activity, while gangs are nonexistent or of less importance in states with smaller populations, such as Alabama or Vermont. Second, it seems to explain some of the variation across countries. For example, there are no prison gangs in England like those that exist in California (Phillips 2012). Instead, prisoners rely on decentralized governance mechanisms that resemble the Convict Code. The reason for this is that prisons in England and Wales are far smaller than in California. In 2015, the typical population per prison in England is only about 700 prisoners, compared to about 3,500 in California. In smaller communities, decentralized governance can be implemented at low-cost and is effective. In larger communities, these mechanisms fail, so prisoners invest in more centralized, and more costly, extralegal institutions to create order.

By identifying the importance of extralegal governance institutions, this work offers several broader lessons. First, for scholars studying prison, it offers a theoretical framework that is sufficiently analytical to explain temporal and spatial variation, rather than describing prisoner society at a single point in time. For scholars of mafias, it offers a new way of conceptualizing the subject. It changes the focus from the "business of organized crime" that emphasizes a firm-like structure and profit motive to a focus on collective action problems in producing local public goods. The resulting emphasis is then on the problem of governance and politics within and between cooperatives.

Finally, the study of prison social order contributes to three empirical debates. First, it supports North's hypothesis that growing populations are one of the causes of state formation and the centralization of political institutions (North 1987). Second, it provides

continued on page 7

THE POLITICAL ECONOMIST

Skarbek Feature Essay...continued from page 6

an explanation for the historical and contemporary importance of clan-based societies. Like prison gangs, clans rely on community responsibility systems when living in large populations that cannot rely on strong, effective governments. They, too, wield tremendous in-group pressure – manifesting in part through restrictions of women’s liberties and honor killings – because the reputation of the group is considered more important than the individual. Third, it offers evidence on the effectiveness and robustness of self-governance. Many of the empirical cases focus on the rich and elite in life and business (Greif 1993; Ellickson 1991; Stringham 2015; Richman 2017). By contrast, prisoners are less cooperative, less trusting, and more dangerous. Nevertheless, in both decentralized and centralized forms, extralegal governance institutions are successful in promoting social order and economic activity.

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