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The myth of ‘secure property rights’: Good economics as bad history and its impact on international development

Max Everest-Phillips

SPIRU Working Paper 23

May 2008



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**Overseas Development Institute
London**

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Abstract

The concept of secure property rights, supposedly an essential governance requirement for economic growth in developing countries, perpetuates a myth that emerged from ‘Whig’ political propaganda justifying the ‘Glorious Revolution’ of 1688. The Whig argument made famous by John Locke, that 1688 had made property rights ‘secure’, became central to the ‘Whig interpretation of history’ which portrayed the Dutch coup d’état of 1688 as ‘progress’. This Whig interpretation was exported to the political philosophy of the United States (US) where the justification for 1688, although long rejected by serious historians, became an article of faith in economics and through that, in development.

Secure property rights is no more than shorthand for the political, social and legal underpinnings needed for economic activity. Advocacy of secure property rights as a condition for economic growth is therefore tautological – since an economy depends on its political, social and legal underpinnings – and ignores the historical evolution of economic growth with the political authority needed for investor confidence. This highlights an important limitation of current development thinking which fails to reflect the relationship between politics and economic growth. That ‘property right institutions’ were secure in England long before the late 17th Century also casts doubt on the ahistorical concept of ‘institutions’ for economic growth.

The political history of property rights underlines the challenge in international development that, while a wide variety of possible routes exist to improving economic growth outcomes, all depend on constructing the political legitimacy in developing countries without which property rights are never secure. The concept of secure property rights overlooks the constant political tension around economic activity that makes property rights at best stable not secure, and indicates the need to pay greater attention to the political history underlying the governance of economic growth.

Chapter 1: Introduction

Machiavelli observed that:

A Prince . . . sooner becomes more hated by being rapacious and by interfering with the property . . . of his subjects, than in any other way. From these actions, therefore, he should abstain. For so long as neither their property nor their honour is touched, the mass of mankind live contentedly, and the Prince has only to cope with the ambition of a few, which can in many ways and easily be kept within bounds.¹

Economic growth in developing countries is too important to be left to economics. The lesson of the last two decades is that economic growth depends on a supporting political governance context, which is shaped by history. Governance reform to deliver better economic growth is the central challenge in international development. Secure property rights are invariably asserted to be one essential governance attribute a country requires for economic growth. Yet a coherent theory of how property rights evolve and become secure, and the historical evidence to support it, is still lacking (Firmin-Sellers, 1995; Grossman and Kim, 1995; Firmin-Sellers, 1996; Sened, 1997; Barzel, 2000; Frye, 2004; Greif, 2006; Hafer, 2006). This is not surprising, since the concept secure property rights is profoundly ahistorical.

The generalisation that secure property rights are essential for investment and growth ignores the disturbing fact that the manner in which recognition of asset possession or ownership is created, transferred, altered, challenged and gradually consolidated is poorly understood. Broad assertions obscure the contested detail of the emergence and constantly shifting relationship between political power, legal process and economic assets. This paper suggests that the simplifications implied by the concept of secure property rights highlight a disturbing weakness in current development thinking: a poor grasp of history. To understand the importance of the disconnect between economic development and historical complexity, instituting secure property rights – one of economists' main articles of faith for delivering economic growth in developing countries – is examined. Better growth rates require a better grasp of history.

¹ The Prince. 1513/1992. Dover Publications. p. 47.

Chapter 2: Property rights, economic growth and political authority

Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties or his possessions.²

Development economics is littered with assertions about the primacy of secure property rights as a prerequisite for economic growth. Adam Smith wrote that ‘Commerce and manufactures can seldom flourish long in any state ... in which the people do not feel themselves secure in the possession of their property’³. Smith rightly suggests that it is the sentiment of security that matters. As with all investor confidence, secure property rights if it has a useful meaning, it is as the belief that there is enough political stability to maintain a positive perception of risk while allowing property rights to adjust to innovation and technological change.

Political instability generally has a highly negative effect on investment because it increases the likelihood of predatory politics.⁴ Investment depends on the ‘credible commitment’ that governments will not negate entrepreneurial risk-taking and effort by seizing assets and rewards of effort – the importance of ‘protection by the government, and protection against the government’⁵; so that economic growth is attributed to characteristics like ‘rule of law’ that appear to constrain arbitrary government. But rule of law in turn, like secure property rights, implies the broad sweep of the political, social and legal underpinnings required to put the law into effect. Yet overly constrained government authority creates political instability that undermines investor confidence and property rights by undermining state legitimacy. Effective political support for economic growth, through political leadership, vision and sense of national purpose, has always been the critical factor in development. Assertions about the primacy of secure property rights arise from a limited grasp of the complex history of how property rights develop in the many ‘varieties of capitalism’. The relationship between the ‘security’ of property rights and economic growth outcomes emerges as little more than tautology: economic activity requires political, social and legal underpinnings, and the political, social and legal meanings to the security of property rights are the pillars of the economy.

The confusion over secure property rights stems from the supposed impact of the Glorious Revolution of 1688 on property rights in England. The claims for 1688, that it made property rights secure, has become the justification for the assertion of secure property rights as a prerequisite for sustainable economic growth. Olson (2000: 38) summed up the impact of 1688:

‘With a carefully constrained monarchy, an independent judiciary, a more secure common law, and a Bill of Rights, people in England in due course came to have a relatively high degree of confidence that any contracts they entered into would be impartially enforced and that private property rights, even for critics of the government, were *relatively* secure.’ [italics added]

² James Madison, Federalist Papers.

³ Wealth of Nations, Book 2, pp. 9–10.

⁴ For example. political instability contributed significantly to the history of macroeconomic instability in Ghana: Aryeetey, E. and A. Fosu .2002: Explaining African Economic Growth Performance: The Case of Ghana: the African Economic Research Consortium, Kenya.

⁵ John Stuart Mill: Principles of Political Economy London 1848, vol.1, p.70.

Olson carefully, and rightly, slipped in the qualification: ‘relatively’. All property rights are constantly subject to political contestation. The concept of the ‘eminent domain’ recognises the state’s ultimate political authority to alter property rights according to the political judgment of the ‘common interest’. After 1688 the same Parliamentary authority in England that supposedly limited crown arbitrary power and so made property rights secure after the Glorious Revolution, consistently overturned collective property rights through the Acts of Enclosure, on which the sustained economic growth of the Industrial Revolution – and the eventual resulting poverty reduction – was built.

Chapter 3: 1688 as the creation of the concept of secure property rights myth

The misleading modern concept of secure property rights can be traced to the political propaganda of John Locke, Oxford tutor and confidante to Lord Ashley, first earl of Shaftesbury. In the latter years of Charles II's reign, Shaftesbury had loosely gathered under his leadership the political interests that would later evolve into the Whig political party. This grouping had its origin in the Exclusion Crisis of 1678–81⁶ when it had formed with the political aims of toleration of Protestant religious dissent and the 'exclusion' of Charles II's Catholic brother and heir James Duke of York from the succession to the throne. Shaftesbury and his supporters feared that James who did become king in 1685 and his 'Tory' political allies would renew the instability of the Charles I era. The religious and political contestation in England of the previous sixty years over the relative authority of the monarchy in relation to political interests in and outside parliament had plunged the British Isles into bloody civil war in the 1640s and the political confusion during Oliver Cromwell's inter-regnum of the 1650s. Smoothed over in 1660 with the restoration of the monarchy, tensions over religious and political authority were buried but not resolved. The birth in 1688 of a son to James II threatened to consolidate Catholic power: protestant property rights would not be secure (Cranston, 1985). Shaftesbury and the Whig nobility claiming that established liberties were under threat, responded swiftly and in a carefully orchestrated *coup d'état* installed James's protestant daughter Mary and her husband William of Orange. James II was sent into exile and the Whigs declared their triumph to be the Glorious Revolution (Claydon, 1996). To justify their actions, the 'triumph' of Parliament was consolidated by formal institutional 'constraints' on the monarchs' executive authority.

Locke appears to have started writing 'Two Treatises of Government' as a political 'manifesto' and vindication for Shaftesbury during the late 1670s and then, called on to provide an intellectual justification for the Glorious Revolution of 1688, quickly completed the work and published it in 1690. Locke's challenge, to legitimise the overthrow of a divinely appointed sovereign, was to refute Sir Robert Filmer's *Patriarcha*,⁷ the main intellectual justification of the Stuarts's 'divine right of kings'. Filmer, concerned with the threat from 'democratic anarchy',⁸ had traced the origins of government to biblical authority in the monarch's mandate to protect his subjects.⁹ If the relation between King and subject was the same as that between father and child, individual property could be granted only by the crown.

⁶ The attempt to exclude James Duke of York, Charles II's brother and later James II, from the succession because he was Roman Catholic, building on fears that any restoration of Catholicism would undermine the political settlement and with that therefore various economic vested interests.

⁷ Written during the political upheavals of the reign of Charles I but finally published around fifty years later in 1680: the dating of the work is contested: see e.g. J. Wallace: The Date of Sir Robert Filmer's *Patriarcha*: *The Historical Journal*, Vol. 23, No. 1 (1980), pp. 155–165

⁸ *Patriarcha*, ch.1, section 3: 'That God hath given or ordained power, is evident by Scripture; but God hath given it to no particular person, because by nature all men are equal, therefore he hath given power to the people or multitude.'

⁹ *Patriarcha*, ch.3, section 1: as replicating the natural authority of parents over children: 'Honour thy Father and Mother'. Democracy was unnatural and illegitimate in God's eyes because children could not bestow authority to their parents: the 'natural institution of regal authority' was not subject to 'an arbitrary election of the people' since 'the father of a family governs by no other law than by his own will, not by the laws and wills of his sons or servants'

In countering this argument, Locke suggested that ‘nobody can transfer to another more power than he has in himself; and no Body has an absolute Arbitrary Power.’¹⁰ Each person, being ‘naturally free’, only joins society and accepts government authority by consent.¹¹ Private property was already in existence previous to any government, created instead as a natural right. To enforce those rights people came together to form a government the legitimacy of which lies solely in enforcing secure property rights:¹² government exists only ‘for the mutual preservation of their lives, liberties, and estates, which I call by the general name, property.’

Locke’s argument prefigured modern economics in asserting that the individual rationally chooses to join society governed by agreed rules because it is, in essence, economically efficient. Locke’s role as the intellectual father of modern liberal capitalism arose from his assertion of private property rights as ‘natural’ and therefore secure, being the basis on which government was constructed (Henry, 1999). Locke’s radicalism in redefining property as the ‘right’ that justified the state foreshadowed the economic justification for the state as a means for promoting efficiency through public goods. Individuals abandoned ‘the state of nature’ not because life in it was ‘solitary, poor, nasty, brutish, and short’, but because it was economically inefficient in limiting profits, ‘the fruits of labour’. All people are born potential entrepreneurs, having a natural property at least in their own labour, and entitled to an equal share of liberty, a ‘level playing field’. But inequalities in private property arise: first ‘naturally’ from different natural endowments of individuals’ rationality, energy and intellect, and then from the invention of money that had ended the natural limit on physical control over perishable natural assets.

By this analysis Locke structured the political tensions of modern liberal democracy and market capitalism, in the relationship of private property not just to governance but also to ‘natural’ equality and equity. It was the Law of Nature that mankind ‘being all equal and independent, no one ought to harm another in his life, health, liberty or possessions’.¹³ Political equality lay in the ‘equal Right that every Man hath, to his Natural Freedom, without being subjected to the Will or Authority of any other Man’¹⁴ but equity lay in initial endowments not necessarily in opportunity.

Locke’s claim was revolutionary. If government was bound by the Law of Nature, then failure by rulers to uphold this law was sufficient grounds for their overthrow.¹⁵ Many of Shaftesbury’s political allies worried that Locke’s justification of the 1688 Revolution was too radical in ignoring the ‘Ancient Constitution’ of England as parliamentary grounds

¹⁰ Locke: Second Treatise para. 135.

¹¹ Locke Second Treatise: para. 34: ‘God gave the world to men in common; but ... it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational’

¹² Locke’s legacy is disputed over his view of democratic principle of the equity of all mankind, but Locke is the function of the legislature where, rejecting democratic argument, he seems to accept the natural dominance of property owners. But in parallel with Locke came Montesquieu who pointed out that mobile assets (i.e. commerce) created a different power-base that spread power more widely because commercial credit power being mobile could not be contained or criminalised as with labour; and then industrialisation gave new economic and political power to labour which was slowly decriminalised and embraced through gradual electoral reform towards genuine democracy from the early 20th Century onwards.

¹³ Second Treatise, para 6.

¹⁴ Second Treatise, para 54.

¹⁵ Biblical Scripture had ordered rulers not only to be just and wise, but also to deliver prosperity to their population [2 Samuel 23, pp. 3–4].

rather than natural law grounds to justify the removal of James II from power.¹⁶ Locke's argument made the legitimacy of William of Orange highly conditional, for 'The great and chief end of Men's uniting into Commonwealths and putting themselves under Government is 'the Preservation of their Property'.¹⁷ Locke's formal 'contractual' view of government was one that, as much as absolutism, could threaten the unwritten constitution as an organic informal arrangement of overlapping ancient liberties.¹⁸ Contemporaries were far from convinced that the creation of formal parliamentary checks and balances was 'progress', and the Bill of Rights of 1689 declared its aim was 'the vindicating and asserting [of] ancient rights and liberties.'

Locke's views on the concept of property and ownership reflected a shift in the 17th Century towards 'individualism' reflecting the political upheavals of the previous half-century. (Reeve, 1980 and Shrader-Frechette, 1993). 'Property' became the symbol of liberty and political rights against 'arbitrary rule': but the assertion of secure property rights failed to resolve the practical problem that government needed to be effective to be able to uphold property rights. What constraints would work to maintain the balance between the interests of the individual and the broader needs of the state? Even Locke had doubts as to the extent to which property was a right of the individual against the community represented by the state:

'For this labour being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joyned to, *at least where there is enough, and as good left in common for others*' [italics added].¹⁹

This significantly qualified secure property rights, since the right created by one person could interfere with the liberty of others. How property rights actually *emerge*, rather than why property rights should exist, is far from clear. Achieving this politically negotiated process for establishing property rights still remains a practical challenge for international development.

¹⁶ Throughout the Civil War advocates of Parliamentary authority had argued not for more formal institutional constraints on the monarchy but in defence of the informal traditions that they claimed Charles I's 'radical absolutism' had imperilled. Just before the outbreak of the Civil War, Charles I had issued *His Majesty's Answer to the Nineteen Propositions of Parliament*, which stated that 'There being three kinds of government among men, absolute monarchy, aristocracy and democracy, and all these having their particular conveniences and inconveniences, the experience and wisdom of your ancestors hath so molded this out of a mixture of these as to give to this kingdom (as far as human prudence can provide) the conveniences of all three, without the inconveniences of any one, as long as the balance hangs even between the three estates...': J.P. Kenyon ed., *The Stuart Constitution, 1603-1688* (Cambridge: 1966), p. 21.

¹⁷ Locke: *Second Treatise* para. 124; and see also paras 94, 95, 116, 127, and 131.

¹⁸ J.L. Duncan: *Juristic Theories of the British Revolution of 1688: The Juridical Review* 44, no. 1 (1932): 35.

¹⁹ *Second Treatise*, para 27.

Chapter 4: The ‘Whig interpretation of history’

The Whig political party that emerged from the late 17th Century had much to gain from advocating that British and British colonial prosperity lay in the political triumph of their ideas and actions during the Glorious Revolution of 1688. The Whig case brilliantly made by Locke recast partisan views into high principles – linking ‘secure property’, limitations on government and personal religious and political freedom. This political propaganda strongly influenced the intellectual origins and underlying political ethos of the US, and has done much to shape thinking on political economy in the US-dominated economics profession and, as a result, affected international development.

The Whig interpretation of history of 1688 as the onward march of progress to the Anglo-American capitalist triumph found its finest expression in the self-confidence of mid-19th Century Victorian England, exemplified by Thomas Macaulay’s *History of England from the Accession of James II*, the first two volumes of which appeared in 1848. The book opens with a clear synopsis of Whig determinism on 1688 and it is worth quoting in full [italics added] since new institutional economics is unconsciously living in its shadow:

‘I purpose to write the history of England from the accession of King James the Second down to a time which is within the memory of men still living. I shall recount the errors which, in a few months, alienated a loyal gentry and priesthood from the House of Stuart. I shall trace the course of that revolution which terminated the long struggle between our sovereigns and their parliaments, and bound up together the rights of the people and the title of the reigning dynasty. I shall relate how the new settlement was, during many troubled years, successfully defended against foreign and domestic enemies; how, under that settlement, the authority of law and the *security of property were found to be compatible with a liberty of discussion and of individual action never before known; how, from the auspicious union of order and freedom, sprang a prosperity of which the annals of human affairs had furnished no example;* how our country, from a state of ignominious vassalage, rapidly rose to the place of umpire among European powers; how her opulence and her martial glory grew together; how, by wise and resolute good faith, was gradually established a public credit fruitful of marvels which to the statesmen of any former age would have seemed incredible; how a gigantic commerce gave birth to a maritime power, compared with which every other maritime power, ancient or modern, sinks into insignificance; how Scotland, after ages of enmity, was at length united to England, not merely by legal bonds, but by indissoluble ties of interest and affection; how, in America, the British colonies rapidly became far mightier and wealthier than the realms which Cortes and Pizarro had added to the dominions of Charles the Fifth; how in Asia, British adventurers founded an empire not less splendid and more durable than that of Alexander.’

So to the Whig historians, the origins of freedom and prosperity lay in effective states built on secure property rights from limitation to authority guaranteed through formal political representation for the propertied classes. By this narrative, the Magna Carta in 1215 was the first document to limit the king’s powers by law and thus establish the first steps towards freedom and economic growth; the Protestant Reformation of the 16th Century created the triumph of individual liberty against the priestly despotism of the Catholic Church; the English Civil War of the 1640s initiated the struggle to prevent an ‘absolutist’ monarchy reversing the onward march of progress by seeking to sabotage the increasing authority of Parliament, the home of democracy and liberty. British history then came to an ‘end’ (for the first time, prefiguring the ‘end of history’ prematurely trumpeted the West’s

triumph in the ‘Cold War’)²⁰ in the Glorious Revolution of 1688, when the king’s political opponents, later to emerge as the Whig ‘Party’, rescued English ‘liberties’ by consolidating the powers of Parliament against an ‘autocratic’ king and church. Freed from the constraints of absolutism, Englishmen (and wealthy women, to a lesser extent) now had secure property rights and political liberty under the rule of law, the essential freedoms that delivered unprecedented economic growth, through the agricultural revolution, the industrial revolution and booming international trade.

The destruction of the First and Second World Wars, and the ideological struggle of the Cold War in the shadow of a nuclear holocaust, made this quasi-religious belief in the onward march of progress seem laughable, absurd or offensive at least in Britain (although the messianic belief in national history as ‘progress’ was taken up in the US through the Whig Party of mid-19th Century US politics and then subconsciously absorbed in to the US-dominated field of economics). This was pointedly noted by Herbert Butterfield whose *The Whig Interpretation of History* (1931) criticised many traditional assumptions of the Whig history that liberal parliamentary democracy was the best form of government to which all people should aspire. Whig history had interpreted British economic prosperity as built on the progress of liberty and democracy ‘won’ by the triumphant struggle against tyrannical oppression, in which secure property rights was a rallying cry against an authoritarian, ‘Popish’ monarchy. But was it? Butterfield began the re-examination of this ‘state-building myth’. He noted that the opposing political faction (the ‘Tories’) which emerged as the counterforce to the Whig political grouping clearly did not want any authoritarian rule from Rome subverting their political and economic rights or making their property rights ‘insecure’; rather they were concerned in maintaining what they saw as the effective political rights of ‘the old constitution’, upholding existing political traditions of the monarchy and the Anglican church, while avoiding the risk of reopening the political confrontation of the previous decades.

Butterfield observed:

‘a common feature of Whig historians ... is the hint that for all this desire to pass moral judgements on various things in the past, it is really something in the present that the historian is most anxious about’ (1931: 121).

Good triumphs over evil; liberty, democracy and market forces walk hand in hand through such articles of the economics catechism as secure property rights and the rule of law. To paint this moral picture, the stylized facts and cross-country regressions of the new wave of economists dabbling in history offer the latest twist in the ‘end of history’ and ‘progress’. Poor quality econometric data and ambiguous cross-country regressions support the enduring simplification of the interpretation of history in the interests of economic theory. Economic theory has but poorly reflected the economic history of growth; while the recent upsurge in research into ‘institutions and growth’ is struggling to improve the oversimplified models of historical change that too often seem to mix ‘1066 And All That’ with Marxist determinism: ‘good’ institutions deliver growth, while ‘bad’ institutions condemn millions to poverty, disease and hardship. 1688 becomes the archetype for the creation of ‘good institutional environment’. But quite why rulers needlessly choose ‘bad’ institutions is never adequately explained; yet all countries that achieved high economic growth over the last forty years succeeded by following unorthodox strategies; and on closer inspection 1688 turns out to be rather less orthodox than it appears. Indeed the use of institutions as the formal and informal ‘rules of the game’ is at best unhelpful in lacking

²⁰ Fukuyama, F. 1992. *End of History*: Cambridge.

clarity and meaning, in offering a limited and static view, and especially in limiting understanding of both history and politics.

Chapter 5: Economists adopt ‘the Whig interpretation of history’ as ‘institutions’

To translate uncertainty into risk it is necessary to identify patterns in the chaos of events; to justify those patterns, we turn to past experience, in the records of history. Historians from classical times to Gibbon in the 18th Century or Toynbee in the early 20th Century, were inspired to present sweeping narrative explanations of grand patterns of human endeavour against a broad canvas of social, economic and political change. But professional historians in recent generations have largely abandoned grand narrative as well as broad theories of historical change. Many factors have caused this, from increasing academic specialisation to the collapse of the concept of progress, with the First World War and Cold War distrust of Marxist and other overarching determinist theories of history.

In the last decade or so an increasing number of professional economists have found that political institutions and history ‘matter’ and spotting a business opportunity in the intellectual marketplace have charged in to fill the void of broad theories of historical change, under the guise of a thriving literature on theories of ‘institutions and growth’. The institutions approach appears increasingly unfruitful on several fronts. Although the ambition remains for political and economic institutional change to explain all ‘recorded history’ (North et al., 2006), it is far from clear how institutions affect growth, or what the *political* basis is for effective institutions.

The lasting influence of Locke on economics can be seen in the perception of the state as a ‘contract’, a market contractual solution to market failure and the collective action problem of providing security of private property for markets to function (Nozick, 1974). This view of the state, although at odds with all the historical evidence, was supported by the Whig interpretation of history popularised by Locke’s success in justifying 1688 that James II had broken his contract with the people. This view of the role of the state – as a system for enforcing contract and property rights – became the basis for new institutional economics: that the economic rise of the West was the result of the security of property rights making 1688 the beginning of the triumph of the Anglo-American model of capitalism (North and Thomas, 1973).²¹ North (1981) argued that property rights, increasingly secure after 1688 were the institutional foundations for economic growth.²² North and Weingast (1989) and Weingast (1997) expanded on the importance of the Glorious Revolutions’ creation of secure property rights by asserting that the adoption of a ‘constitution’ in 1688 had solved the problem of credible commitment as self-enforcing constraints. The checks and balances established ‘the credible commitment by the government to honour its financial agreement [that] was part of a larger commitment to secure private rights’ (1989: 802). Parliamentary constraints on the executive translated into lower risk premium, enabling the government to borrow at improved rates, and as a positive externality for the whole debt market triggered sustained economic growth. The evidence for this lay in the decline in interest rates on British government debt in the late 17th Century that led to an increase in the volume of its debt; and the beginnings of the London Stock Exchange in the early 18th Century.

²¹ This contrasted with 18th Century France where: ‘The failure of the French economy to exhibit long-run sustained economic growth was a failure of the French state to develop an efficient set of property rights.’ p.127.

²² Douglass North has continued to develop the idea that: ‘contrary to both the economic history literature and the economic growth literature --old and new-- the primary source of economic growth is the institutional/organizational structure of a political-economy and until we focus on that subject we shall not advance knowledge on economic growth.’ (North, 1997).

A long line of economic research (De Long and Shleifer, 1993 and Acemoglu, Johnson and Robinson, 2001, 2002a, 2002b, 2004) has continued both directly and indirectly to develop the Whig interpretation, offering econometric evidence that the increased security of private property rights due to constraints on the executive is correlated with higher growth. Where North (1981) argued that both property rights institutions and contracting institutions were central to economic development, Acemoglu and Johnson (2005) find that it is property rights institutions alone that are of primary importance to growth. Although this is no more than the discovery that political order is more fundamental than the rule of law that depends on it, this argument also replays Locke on the 'natural state' that an individual has the right to the property with which he has mixed his own labour: colonial seizing of land and the variety of colonial experience are reduced to simple 'extractive' or secure property rights institutions. Such burgeoning institutions and growth literature is all directly or indirectly premised on the interpretation of the Glorious Revolution as pivotal to the transformation to modern economy by providing secure property rights. Unfortunately for neat economic textbook theory however, history turns out to be rather more complex.

Chapter 6: Did 1688 really matter? Economic history disproves economics

While New Institutional Economics was making sweeping claims for 1688, detailed historical evidence was leading to considerable doubt being cast on the relative importance of the Glorious Revolution in generating long-term economic growth versus the broader incremental changes in the protection of property rights which began during the medieval period. Carruthers (1990) examined the effect of institutional changes on property rights and found the impact was much slower and far more spread out than the North and Weingast view of 1688 as a key turning-point had suggested. Clark (1996) argued that security of property rights had existed in England well before 1688 through a sophisticated system which made and enforced legal agreements in the form of charters and deeds on property transactions:

‘England achieved stable property rights at least 200 years before the first stirrings of the Industrial Revolution. For most of this period there was little economic growth. Stable institutions may be a necessary condition for economic growth, but English history shows they are not sufficient.’ (568)

The Glorious Revolution had no significant impact on either capital markets or private investment. Political events had little effect on land prices in England through the whole period from 1600 to 1749, and in particular the rate of increase of land values was the same in the decades after as before the Glorious Revolution, while rents on agricultural land were not affected by declining interest rates on government debt. Clark concluded that it was broad political trust among the elites, rather than the institutional design of the political system itself, that had shaped government interest rates and so economic growth.

In line with the long but inconclusive debate about whether strong autocratic states were better at ‘changing the rules of the game’ for establishing competitive markets, Epstein (2000) argued that 1688 could if anything have harmed the prospects for economic growth in England: divided sovereignty could restrict the government ability to coordinate or curtail competing political and economic claims. The post-1688 English economy flourished not because of constitutional restrictions on the power of the state, but more simply because of England’s ‘belated catch up’ with Continental Europe’s financial system: ‘the result of the country’s financial revolution rather than a revolution in political freedom and rights’ (Epstein, 2000: 211).

1688 fell in the middle of this ‘financial revolution’, from 1660 when Parliament gained effective control of taxation, through 1671 and 1683 when the state took control of Customs and Excise, to the establishment of the Bank of England in 1694 and the Treasury in 1714. 1688 promoted Dutch government bond techniques in England and developed London’s access to Amsterdam finance (Dickson, 1967). Epstein concluded that ‘constitutional constraints on state power to influence private property do not account for variations in growth and prosperity.’ (Epstein, 2000: 213). Hoppit (2000) noted that even if the property rights of the landed classes might have increased, the property rights of the broad population were not improved. The property rights of the poor and ‘disorderly’ which lay mainly in their own labour, the origins of property rights according to Locke, were increasingly circumscribed by criminal statutes.

Stasavage (2001; 2003; 2006) produced detailed econometric data which suggested that it was not the immediate constitutional changes of 1688 that were significant for growth dynamics but rather how they gradually evolved thereafter, especially during the Whig party's hold on power from 1715 onwards. The Glorious Revolution created British financial credibility not through the supremacy of parliament, but because it led to a stable political system. While the Tories rejected 1688 and the Whigs promoted it, the political settlement was consolidated by the large group of independent Members of Parliament (MPs) who, both as investors in government bonds and non-dogmatic members of the Church of England, were primarily concerned about sound management of the public debt and the promotion of religious tolerance for protestant dissenters. These MPs viewed the Tory position as divisive on both issues as political instability and interest rates rose when Tories were in power, and fell during the longer periods of state consolidation under Whig rule. Only from the 1720s, as religion became less of an issue in British politics, was the Whig coalition under Robert Walpole 'increasingly held together by patronage, though patronage alone never sufficed for Walpole to maintain a majority.' (Stasavage, 2003: 10). Jha (2006) however finds that landowner investment in joint-stock corporations by the time of the Civil War half a century earlier had aligned landowners' incentives with those of the city merchant class, building a broad political coalition that was already helping shape democratic development.

Wells and Wills (2000) found that stock prices declined after the Glorious Revolution in periods of political uncertainty such as the Jacobite rebellions, casting doubt on institutions based on 1688 constitutional reform as the main cause of interest rate fluctuations in 18th Century Britain. Quinn (2001) also found no detailed evidence for the North and Weingast sweeping assertion that private interest rates declined in response to the decline in the government cost of capital, and suggested the decline in interest rates in 1716 and 1749 followed a period of high interest rates caused by the instability of the Glorious Revolution not because of the autocratic tendencies of Charles II or James II. Ferguson (2001) confirms that long-run fluctuations in British interest rates were most affected by political events. Sussman and Yafeh (2000; 2004) confirm that interest rate fluctuations in 18th Century Britain were as a result of threats from wars and political instability, rather than the 1688 constitution creating credible commitment: the establishment of the 'right' institutions was not 'rewarded' by a reduction in the cost of capital. Interest rates in 18th Century Britain moved in tandem with Dutch interest rates, suggesting 1688 made no observable difference. Flandreau et al. (2006) expand on this to show that interest rates in the century after 1688 in Holland, England and France were similar, despite the very different constitutional arrangements shaping the of property rights in those countries. Sussman and Yafeh (2004) note that war in America after 1776 reversed in Britain the long-run trend of falling interest rates, casting doubt on the credibility and stability of the 1688 reforms and institutions as economically significant. They suggest that if political institutions matter for long run growth, the mechanism is not through financial markets and a reduction in the cost of capital. By contrast however, financial markets do respond immediately to politics – domestic political instability and to major wars. They rightly conclude that: 'Britain's ascendancy to a position of supremacy in Europe and in the world was a likely outcome of very long processes, perhaps related to the development of the legal system, science, and government tax collection.' (2004: 22).

While the historical origins of economic growth were therefore pointing to 'very long processes', other research was starting to show that 1688, far from reducing insecurity in property rights, actually increased it. Bogart and Richardson (2006) noted that while Parliament passed 715 Acts between 1660 and 1690, in the following thirty years the pace of legislation not only greatly increased but also significantly changed property rights.

Private Acts of Parliament empowered individuals to sell land that had previously been held under ancient constraints; the Enclosure Acts eliminated common property rights; and Statutory Authority Acts created new property rights through the creation of toll-roads restricting access to infrastructure by charging user-fees. The king and Parliament acting in concert could rewrite property rights: the judiciary was not an effective constraint. Stasavage (2001, 2003) stressed that the secure property rights interpretation of 1688 simply failed to explain this increased post-1688 political interference with property rights: for example ‘the creation of the South Sea Company in 1711 represented a unilateral renegotiation by the government on short-term debts, and it remains to be explained why Parliament would agree to an Act which infringed upon the property rights of government creditors’ (2001: 17).

1688 therefore illustrated that promoting growth and the political development that facilitates that growth process may first require adjustment in property rights before or at least in parallel with their consolidation. Schmid (2006) suggests a certain degree of insecurity of rights (as uncompensated change in economic opportunities) is actually essential for economic growth and development. Entrepreneurs can tolerate some uncompensated change in rights as essential for innovation, whereas excessively secure property rights threaten innovation if entrepreneurs must compensate those affected. Certain property rights also generate ‘hold-up problems’ or ‘the tragedy of the anti-commons’ where many people through the possession of exclusion rights to an asset can each in effect veto the decisions of all others. Without some form of eminent domain authority to override this each has veto power of ‘hold-up’ over any development, coordination problems make it likely that resources remain idle and economic growth is curtailed. 1688 altered as much as consolidated property rights, and created a ‘growth-enhancing level of insecurity’. Heller (1998) noted that technology change usually requires the development of new forms of property rights: for example, the development of the railways could have been halted in its tracks if Parliament had not allowed eminent domain authority to alter property rights through compulsory purchase by due process for railway companies to buy land at market rates; while the airline industry would never have got off the ground without altering the previous legal doctrine in secure property rights of *cuius est solum, eius est usque ad coelum et ad inferos* (for whomsoever owns the soil, it is theirs up to the sky and down to the depths).²³

Property rights require legal-political management: the power of the state through eminent domain. The evidence from 1688 therefore far from settles the debate on the balance between state capability and restraints on state power to generate long-term economic growth. Brewer (1990) showed that Britain’s economic and military success can be traced back to the emergence of effective rather than constrained government, certainly not one restricted by the formal constitutional provisions of checks and balances stemming from 1688 (Brewer, 1990). Hoppit (1996) noted that the increased power of Parliament after 1688 threatened the security of property rights because the increasing size of government required higher levels of taxation; he suggests that ‘Property rights were at least as secure in France as in England’ (1996: 17). O’Brien (2001) argued that it was Britain’s success in the administrative rather than political foundations of an effective fiscal state, gradually put in place in the 17th Century both before and after 1688, that made the British government’s

²³ The government acts as a country’s ultimate owner of property, because it is the entity vested with the monopoly of force that constitutes sovereign authority. In the US, while private property has restrictions imposed on it by government so as anywhere else ownership does not give absolute rights, nevertheless there is a strong ideology around ownership of property as protected by the constitution from official seizure without due reason, due process and compensation. The use of ‘eminent domain’ depends on the political (including Supreme Court) assessment of ‘due reason’ and then ‘due process’.

ability to collect taxes much better than its European counterparts (O'Brien, 2001). The post-1688 regime ushered in a host of administrative changes that were at least as important as political reforms in the state-building prerequisites for property rights. The creation in 1694 of the Bank of England as the principal lender to the government established sound public financial management. O'Brien (2003) suggests that in reality long after 1688, British society actually relied predominantly on social networks to enforce property rights and contracts. Political power in an era before ideology continued to lie in the ownership of property.

Chapter 7: State-building: Political consensus for economic growth

So 1688 was not the start of secure property rights – there is no evidence that property rights were any less secure before 1688 than afterwards. Neither did 1688 herald the start of economic transformation. Nef (1932, 1934) established that by 1640 England was already in the throes of the ‘first industrial revolution’; and agricultural productivity was rising. If 1688 ‘mattered’ it was as a symbolic turning point, the beginning of a political settlement that ended the 150 years of political battles brought about by the English Reformation.

More important however was the evolution of constitutional changes built upon broad acceptance of the political settlement of the main area of political contention, which in the 17th and 18th Centuries was religion.

The Toleration Act of 1689 was more significant for its impact on economic growth than the 1688 formal strengthening of Parliament (Coffey, 2000 and Walsham, 2006). The Act created the credible commitment that any further change in religion would be incremental not revolutionary, and so began the process of political settlement of religion for healing of the polity after over a century and a half of bitter civil strife over the constitutional position of the Church of England. Locke’s ‘Letter Concerning Toleration’ of 1689 was perhaps more important for state-building and therefore sustainable economic growth in England than his ‘Two Treatises’ of 1690. It argues that:

‘because the care of souls is not committed to the civil magistrate, any more than to other men. It is not committed unto him, I say, by God; because it appears not that God has ever given any such authority to one man over another as to compel anyone to his religion. Nor can any such power be vested in the magistrate by the consent of the people, because no man can so far abandon the care of his own salvation as blindly to leave to the choice of any other, whether prince or subject, to prescribe to him what faith or worship he shall embrace.’

The formal constitutional changes of the Glorious Revolution reinforced this message but were not fundamental to it.²⁴ O’Brien (2003) concludes that post-1688 economic growth in England was a by-product of other political aims. Mercantilism, later much derided by Adam Smith, gave economic growth in England the same nationalist ideology that inspired all other successful high-growth development, from 18th Century Prussia to East Asia in the 1960s and 1970s.

²⁴ There were different strands to this development from 1689 in the English Bill of Rights, the Toleration Act, the Mutiny Act and, the Triennial Act of 1694 that collectively committed the monarchs to respect Parliamentary tradition; tighter Parliamentary control over taxes and auditing public expenditure; and other factors that created consolidation of its power – not least that William III was a foreigner who had to rely for authority on the leading aristocrats especially once Mary died in 1694. The political success of 1688 was in doubt until the peace treaty of Ryswick with France in 1697. William had accepted the crown in part because of the Dutch need for a protestant strategic alliance with England against catholic France, leading England into war both on the continent and in Ireland and Scotland from 1688 to 1695. The war was more important than 1688 for developing the political settlement, by strengthening the national consensus around religion and behind the war, the cost of which made the king dependent on taxes, and led to administrative reforms such as the creation of the Bank of England in 1694.

Chapter 8: Property rights as a slow complex process of building state effectiveness, not a quick institutional fix

The historical evidence suggests that beneath the level of personal political competition, the political settlement around property rights in England was a gradual process. Maine (1901) pointed out long ago, and subsequent detailed historical research has confirmed, that secure private ownership had become institutionalised in the England by the later 12th and 13th Centuries.²⁵ Pollock and Maitland (1898) suggested medieval England already had developed check and balances institutions, reflected not least by the strong respect for due process of the rule of law.

Perhaps the most important development of the 1688 era for property rights was the process of separating property rights from authority to govern, which still prevailed in the early 17th Century.²⁶ After 1688, property had conferred not just use of land but also control of its inhabitants and was the foundation of liberty against a foreign king La Porta et al. (1997) renewed another Whig argument: that the British common law legal system provides a more adequate environment for financial and economic activity than continental European civil law traditions. This literature claims that English common law tradition offers greater judicial protection of private property rights against state predation than the French civil code, but this literature does not adequately address why government would respect or over-ride the legal systems that ultimately it funds and enforces. This Whig mindset generates such research findings as ‘countries that are poor, close to the equator, ethnolinguistically heterogeneous, use French or socialist laws, or have high proportions of Catholics or Muslims exhibit inferior government performance’ (La Porta et al., 1999). It also fails to note the complications if the origin of this difference dates back hundreds of years before the institutional changes of 1688 set up greater separation of powers between the executive, legislative and judiciary (Glaeser and Shleifer, 2002). Montesquieu’s *Spirit of the Laws* (1748) had argued that only in England had the separation of powers of legislature, executive, and judiciary emerged to provide adequate checks upon each other to guarantee political liberty and economic prosperity.²⁷ Yet assertions for the legal origin of economic growth fail to explain the economic implications of the historical process by which the UK even today only has a partial separation of the executive from the legislature. The legislature has limited capacity to hold the executive to account and the judiciary is not fully independent. Moreover, Keefer (2007) suggests that legal origin is no more than a proxy for the political context that structures the power of the judiciary.

The adoption of the Whig interpretation of history in mainstream economic understanding of institutions has promoted the ‘universal quick fix’ model of reform, supposedly justified by 1688. This focuses on constraints on politics, the need for a set of checks and balances

²⁵ e.g. through Norman reliance on inherited Anglo-Saxon property patterns along with political changes that resulted in the extension of the principle of primogeniture from nobility to the broader population, the result of the economic transformation caused by the rise of the wool industry, cattle herding and a growing population combining to trigger an increase in the value of land (1901: 346 ff.). Maine had also observed that: ‘it is one of the facts with which the Western world will some day assuredly have to reckon, that the political ideas of so large a portion of the human race, and its ideas of property also, are inextricably bound up with the notions of family interdependency, of collective ownership, and of natural subjection to patriarchal power.’ (op cit., p.121).

²⁶ e.g. the opinion of the leading jurist Sir Edward Coke, preface, 10 *Coke’s Reports* xxviii.

²⁷ Montesquieu, *Spirit of the Laws*, pp. 155-66.

arrangements to be universally applied, rather than acceptance of the more complex variety of historical patterns of development (Everest-Phillips, 2007). This ‘political constraints for economic growth’ reflects the questionable interpretation of 1688 – a static, ahistoric view of the growth of governance offering both political legitimacy and administrative capability merely by adopting the formal structures of checks and balances of democracy, such as holding elections to hold the executive to account – and makes no overall difference to growth dynamics (Przeworski et al., 2000 and World Bank, 2005).

The same error is reflected in the US tradition of interpreting ‘property as freedom’. Pipes (1999) for instance, ignores this when he observes that ‘Eighteenth century America has been described as a ‘middle-class world’ (p. 240) in which the protection of property was accepted as the main function of government. Yet he also notes that stable property rights can exist under authoritarian rule; and in highly unequal societies such as Russia or Latin America he does not explain how either the democratic process or property rights can become secure without reforms that make their societies more equal. The restructuring of property rights through enforced land reforms has often proved essential to achieving stability of both property rights and democracy. Pipes concludes that:

‘The right to property in and of itself does not guarantee civil rights and liberties. But historically speaking, it has been the single most effective devise for securing both, because it creates an autonomous sphere in which, by mutual consent, neither state nor society can encroach’. (op cit., p.281).

This overstates the importance of property as an inviolate right, and ignores the importance of other elements of the Anglo-Saxon tradition. These include common law respect for personal liberty (Wormald, 1999), a balance of political power (not least the importance of the city of London from the early middle ages), and a sense of individualism (Macfarlane, 1978).

Chapter 9: ‘Secure’ property rights as governance for economic growth

The economic case for secure property rights is that growth depends on investment, but investors do not invest if there is a risk of government or private expropriation. Property rights are both public and private goods and the concept needs to explain initial formulation, allocation (the political settlement), acquisition, transfer and ‘*security*’, all of which depend on the political process, from outright expropriation, tax changes, to re-interpretations of existing regulation. Acemoglu et al. (2001, 2002a, 2002b) argue that where European colonisers widely settled, they brought with them institutions of secure property rights, yet ignore that this colonisation involved mass expropriation of existing property rights (Kurtz and Shrank, 2006). Private, informal arrangements based on social networks are often more important than formal legal systems for upholding property rights (Platteau, 1994 and Kleinfeld, 2006). Indeed formal property rights often weaken the rights of the more vulnerable – land grabs by the powerful (Altenburg and von Drachenfels, 2006). Barro (1991) looked at the relationship between growth and regime instability (civil wars, coups, strikes and political assassinations) as a proxy for the security of property rights, and found these to be significantly and negatively related to growth rates. Alesina et al. (1996), using similar variables to Barro, however finds political instability and growth are correlated. Yet since political instability and unstable property rights are synonymous, that econometric studies have found this link is hardly surprising.

The connection therefore between secure property rights and economic growth may be causality running in either or both directions, or the security of property rights and economic growth are both determined simultaneously by other omitted factors. Insecurity of property rights due to social inequalities generates the political instability that explains both insecure property rights and slow economic growth. Keefer (2004: 19) argues that: ‘If political instability or social polarization matter for growth, it is most reasonable to assume that they matter exactly because they drive down the security of property rights’ (Acemoglu and Robinson, 2001; Keefer and Knack, 2002a; and Svensson, 1998). Keefer and Knack (2002b) argue that property rights insecurity is the product of a general level of insecurity in a society that makes it costly for governments to protect property rights, or as the product of the particularly short horizons of government leaders that make it more likely for them to prefer expropriation over growth. Property rights are expensive to create and secure, so richer countries by definition have more secure property rights. What is in question is the process or processes by which this takes place. As assets increase in value, it is essential to spend time and resources defining ownership rights carefully; as economies become more complex and require more complex organisational structures for stable property rights.

Property rights are a reflection of the political power structure of the state. They reflect an ill-defined set of legal, social and political dimensions of different possible aspects of ownership over tangible or intangible assets. These emerge slowly: in Japan under the feudal Tokugawa regime rural farmers were given what were legally ‘user rights’ but ‘in actual practice they amounted to a close equivalent of what we would style ownership rights’ (Hall, 1991: 124) through an effective state with an effective balance of interests and power. The Tokugawa regime avoided absolutism through the division between the ritual ruler (emperor) and the secular authority (shogun), and through the informal constraints imposed on the shogun by the leading aristocracy (daimyo) who in turn were reliant on Osaka finance mirroring the key political significance in England of the city of London. This led to a genuine civil society of the social ‘balance of power within the political

structure – the remarkable network of checks and balances at almost every level’ (Hall 1991: 23). Property rights therefore cannot be distinguished from the governance context: the many research findings that declare better governance contexts enjoy better property rights are simply tautological: both concepts, of ‘governance’ and ‘property rights’, are synonymous with underlying structures of state power and its legal and other manifestations. Property rights require the formal and informal components of state-society relations. Economic growth comes from political trust or credible commitment to overcome risk and uncertainty, through a shared vision and national purpose.

The challenge of instituting secure property rights therefore raises the most significant but least addressed question in the governance challenge for developing countries: how to ensure that the state has a political interest in promoting shared economic growth. This credible commitment requires more than just constraints that prevent abuse of state authority for private gain. It requires effective and legitimate coercive power to enforce property rights, and the most important but least addressed challenge in international development: the political incentive to use that authority to support economic growth for the long-term benefit of the whole population.

The unprecedented economic growth in China since 1978 has highlighted that formal constraints are not essential for economic growth. Rodrik (2004), Svensson (2005) and Khan (2006a) have shown that ‘good governance’ at least as currently measured has no general impact on economic growth outcomes. Whether secure property rights are explained by political institutions, legal origins or the characteristics of political competition (e.g. Keefer 2005) is an argument structured by Locke about 1688. In reality property rights are a mixture of private as well as public goods (Haber 2003) and depend not just on governance structures but on the societal trust underpinning property rights – as much before 1688 as afterwards. Khan (2004, 2005, 2006a, and 2006b) points out that good governance including secure property rights, has not been translated into higher economic growth in developing countries. If poor countries cannot by definition afford the high costs of property rights as a public good, the strategic restructuring and transfer of property rights may be a pre-requisite for growth by passing assets into productive use, rather than the blanket property rights stability that Acemoglu et al. (2004) presume to be at the root of divergent growth experiences. So generalisations about secure property rights turn out to be inadequate: as Bates (2004) noted:

‘In the midst of political chaos – indeed, in response to political chaos – political entrepreneurs will strive to provide property rights. In doing so, they target particular people, firms, or industries, not the entire economy. They do so in order to reward their friends, to build and consolidate a constituency, and to generate financing for their political machines.’ (Bates, 2004: 496–7).

Few doubt that property rights, not as absolutely secure but adequately stable, are essential for economic productivity (Bruce and Migot-Adholla, 1994, Khan, 2006a). Hernando de Soto (2000) has revived the claim that formalising property rights promotes poverty reduction by releasing the capital potential of assets held usually informally by poor people in developing countries. But de Soto’s argument is based on the mid-19th Century US experience with the Homestead Act legitimising peopling the ‘Wild West’ (Allen, 1991) mixed with the political philosophy of Locke’s justification of 1688 applied to late 20th Century Lima. He does not address the complexity of politically contested property rights for informal settlements in the context of the high inequalities that exists in most developing countries. Since property rights are shorthand for the historical context of the political and social development of the underpinnings of the economy, the complexity of the past leaves many developing countries with a multiplicity of competing legal systems

(colonial and post independence, statutory, customary and religious), as well as a rich mix of informal or extra-legal systems of owning, possessing, managing or developing land. US judges in the 19th Century actively reshaped the of property rights to favour economic development by allowing property owners who invested in efficiency-enhancing improvements to avoid the potential costs of possible resultant harms such as land submerged by reservoirs or fires ignited by sparks from passing locomotives (Horowitz, 1977). Mexico under the Porfirio Diaz dictatorship of 1876 to 1911 delivered effective economic growth through selective property rights for politically important allies (Haber et al., 2003). Formal legality may have little social meaning and even less political traction where historically governance is weak (Nyamu-Musembi, 2006). Different historical legacies do not permit the abstract notion of ‘property rights’ to translate directly into a specific property rights regime. There are bundles of inter-related property rights – rights to use, sell, transfer, permit use by others, restrict use by others – rather than a single ‘right’, and these rights are inevitably qualified and contested: the right of any person to do something with a property necessarily impinges on others’ potential rights. Unstable property rights exist in developing countries where by definition limited public resources are available to adequately define and protect property rights. Constructing a functioning property rights system is extremely expensive. Kim (2004) for example shows how property rights in Vietnam’s Ho Chi Minh City depend on the competing strengths of different layers of government. Clarke (2003) shows the same issues arise in China, and suggests the focus on property rights has diverted attention from the more important principle for investors, of predictability.

Khan points out that ‘advanced countries only achieved significant stability in their property rights at a relatively late stage of their development when most assets had achieved high levels of productivity’ (2006a: 31), and that ‘dynamic states have the capacity to alter property rights in the interest of growth.’ (2002: 16) Khan suggests that securing property rights would hinder or frustrate capitalist development and that it risks holding back capitalist development in today’s poor countries.

‘While stable property rights ... are an important characteristic of an advanced capitalist economy, creating a capitalist economy always requires substantial restructuring of pre-existing property rights’ (Khan 2005: 77).

Establishing stable property rights before achieving a more productive form of capitalism is almost impossible. Instead, the governance challenge for developing countries is the politics of managing non-market asset transfers in ways that create incentives for productive investment and allow stable expectations of future rewards, as well as maximise social justice:

‘how in specific contexts, the management of political stability is being achieved using the historical endowments of institutions and power structures, and whether feasible changes in political institutions and political organizations can assist in strengthening political stabilization.’ (Khan, 2006: 53).

The challenge is to find ‘the minimal property rights required for growth’ (Eggertsson, 2005: 183).

That ‘politics matters’ is starting to enter economic theory and international development discourse; the implication in turn is the need for a thorough understanding of history as a

complex processes of change and not simplified variables of econometrics.²⁸ If economic theory does not survive contact with the reality of local historical and political contexts, then a much better grasp of both politics and history is essential. Aid donors and the international financial institutions have slowly woken up to the importance of politics within the broad governance agenda: the World Bank's seminal publication 'Economic Growth in the 1990s: Learning from a Decade of Reform' demonstrates that the key to economic growth is getting right the politics that lies behind it.²⁹ The influence of the false dichotomy between secure and insecure property rights (Lamoreaux, 2006) risks turning the state into a 'contract' solution to the collective action problem of providing the public good of law and order for the security of private property needed for markets to function. The state's existence becomes merely the answer to market failure. That this explanation is totally at odds with the historical evidence highlights the anti-historical nature of the economics of international development. 'Secure property rights' has been transformed into a universal principle of economic development, 'that single universalistic, diffuse set of property power relations we know as capitalism' (Baechler et al., 1988: 18). Haber et al. (2003) suggest that the evolution and continuity of property rights depends on the stability and continuity of political coalitions, which will vary according to the different interests in different economic sectors. Riker et al. (1991) earlier note that a right in itself had no value unless government officials perceive some benefit in enforcing that right; and Grossman et al. (1995) indicate that an insurrection would only take place once an assessment had been made of the likelihood of it influencing property rights positively? The World Bank (van den Brink et al., 2006) has recently rightly noted that secure property rights should not be confused with full private ownership and that in developing countries the issue tends to confuse land tenure reform (the establishment of secure and formalised property rights in land) and land redistribution (the transfer of land from large to small farmers). The paper highlights the confusion around the term:

'title deeds in themselves do not create secure property rights from an insecure situation. Creating secure and formalized rights can be a formidable task, involving major political, legal, and social reform. In many African countries title deeds create room for opportunistic behavior. Political and economic elites can use their influence with the land administration agencies to acquire title deeds in a non-transparent manner, confiscating existing informal property rights of local communities or unregistered state lands.'

²⁸ For example, the disturbingly poor grasp of history in Rajan, R. and L. Zingales. 2003: The Emergence of Strong Property Rights: Speculations from History: NBER Working Paper no.9478: their argument is based entirely on claims for the 16th and 17th Century 'rise of the gentry' in England. The evidence, put forward by Tawney and Laurence Stone, who they do cite, was subject to immediate fierce criticism (that Rajan et al. ignore) most famously by Hugh Trevor-Roper and has been questioned ever since. As a result, who were the 'gentry' and did they matter has been one of the defining debates of the last half century in British history for the complexity of historical causality. Coss (2003: The Origins of the English Gentry: Cambridge) for instance has argued that the English gentry was established from the mid-13th to mid-14th Century, with 1258 as the watershed that led to the emergence of the gentry as major political and administrative power at the local level. Where does this leave secure property rights – as a creation of Edward III, Henry VIII or 1688? Acemoglu et al. (2001; 2002a; 2002b; 2004) also illustrate Hodgson's (2001) point on the general problem of ahistoricism in economics.

²⁹ The World Bank has generally started to understand that politics and history do matter: 'There is a much stronger recognition today that property rights are social constructs and not merely technical attributes of 'things'. 'Property rights should be clearly defined, well understood, and accepted by those who must abide by them. However, secure property rights should *not* be confused with full private 'ownership.' Under certain economic conditions, property rights tend to become more individualised and formalised. However, the introduction of private title in situations where such economic conditions do not exist can be a wasted effort. Moreover, the emergence of certain property rights regimes is not just a matter of shifting relative prices and changing transactions costs, but can be profoundly influenced by the political dynamics of power relations.' R van den Brink et al. 2006. p.47.

Conversely, some property rights which are only informally agreed on and enforced, can be very secure.’ (van den Brink et al., 2006: 12).

Determinist, simplistic explanations of history would do no harm if they remained in the undergraduate classroom for economics theory courses. Unfortunately these ideas reinforced the mindset in development of simple certainties around policy prescriptions that deliver economic growth: introduce constraints and development will happen. Such ‘necessary conditions’ for economic growth ignore the historical evidence which suggests that the detailed process of the politics of economic growth is more complicated than merely installing the correct institutions. The concept of secure property rights therefore, because it ignores influences on different patterns of politics and history, hinders understanding of why many varieties of governance shape economic growth in developing countries.

‘Only societies capable of continually renewing their property rights structures and adjusting them to new technologies, external shocks and internal dynamics are able to sustain growth indefinitely’ (Eggertsson, 2005:184).

Chapter 10: Conclusion

The secure property rights myth originated in 17th Century political propaganda, from the party struggle over the political, religious and social turmoil in England surrounding the Glorious Revolution. The concept gave expression to a deeper philosophical debate about equality and freedom: the 'natural' right of property was central to rejection of absolute authority. Redefining property is one important way in which political philosophies turn into policy action. Secure property rights is shorthand for the role of political power, authority and legitimacy that delivers and alters all political rights of citizens and creates the 'sense of national purpose' – the positive ambition to improve and strengthen society not least by delivering economic growth. The danger of the concept is that it ignores the real challenge of development, the political settlement and contestation creating the adequate societal consensus on which sustainable development really happens. Ironically but not surprisingly, it closely mirrors the views of British colonial authorities on 'progress': Sir Frederick Lugard, as governor of Nigeria, for example, asserted: 'conceptions as to the tenure of land are subject to a steady evolution, side by side with the evolution of social progress, from the most primitive stages to the organization of the modern state... These processes of natural evolution, leading up to individual ownership, may, I believe, be traced in every civilization known to history.'³⁰

Property rights reflect shifting political balance over long-term economic outcomes with social stability. Effective governance requires both a strong citizenry that grants legitimacy to the state and receives in return an independent judiciary to uphold its interests; and a strong state with the capacities to drive forward broad social needs, such as economic growth and human development. The development community and the institutions and growth literature being too focused on Locke, has often failed to reflect other strands of political philosophy, especially Aristotle's concern for the common good, with Hobbes's insistence on the state's necessary authority to impose its will. A selective interpretation of the past, such as the significance and impact of 1688, distorts our understanding of how development happens. Before development economists refer again to secure property rights as a prerequisite for economic growth, they should heed the warning that 'a country without a memory is a country of madmen.'³¹

³⁰ Lugard, F. 1922: *The Dual Mandate in British Tropical Africa*: London: p.280.

³¹ George Santayana.

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