

How Democracy Works

9.1 Conflicts and Institutions

The point of departure must be that at every moment in every society, some people – individuals, groups, or organizations – conflict over something. Often this something comprises various kinds of scarce goods, such as income, property, places at university, replacement organs, or access to public services. Many antagonisms, however, concern issues other than distribution. Some arise because some people have strong, often religiously motivated views about how others should act. Some are driven by a sheer desire for power, ambition, or vanity. Symbolic issues also evoke passions: in Weimar one government coalition broke over the issue of the colors of the German flag.

Not all antagonisms become political. Some of us are intensely divided by loyalty to different sport clubs, without such divisions becoming politicized. One woman may want to wear a burka on the beach and another nothing at all, but such discords may remain private. Even if some people have views about what others should or should not do, these are still private opinions. Antagonisms turn into political conflicts when they entail views about the policies governments should pursue and the laws they should adopt, most importantly about what governments should coerce all of us to do or not to

do,¹ or when some groups attempt to impose their will over others by force, say in physically blocking access to abortion clinics or occupying someone else's property.

Conflicts may be easier or harder to resolve peacefully. They differ in several aspects:

1. How divided are people about what they want most to occur with regard to a particular issue? The answers to this question describe distributions of "ideal points": the policies or laws people see as best. One way to characterize such distributions is to ask whether there is some outcome that is preferred by more people than any other outcome and whether the proportion of people who like all other outcomes falls as the distance from the option preferred by most people increases. Distributions which satisfy both conditions are "unimodal." For example, the current distribution of attitudes toward abortion in the United States is unimodal, with more people opting for it being legal in most cases than in all cases, and more people opting for it being legal in most cases than illegal in most or all cases (Pew Research Center 2018). Yet it may well be that people's peak preferences concentrate around different outcomes. Some years ago in France, for example, a large segment of the population opposed same-sex marriage, fewer people wanted to allow it without the right to adopt, and another large segment supported it without

¹ Regulation of what women can or cannot wear on beaches has been in fact the subject of political conflicts in France. One long-standing conflict is whether people should be allowed to be nude on public beaches; the new one is whether they should be allowed to be clad from toe to head.

restrictions on adoption. This distribution was bimodal, as is the current United States distribution of postures on the general liberal–conservative dimension, shown in Figure 6.11. Interestingly, Medina (2015: figure 1) shows that voters’ positions on the left–right dimension in twenty European countries tend to be trimodal (as Downs (1957) predicted), with a big mode at the center and smaller modes to the left and right of it.

2. How much do individuals care when outcomes deviate from their ideal preference? Clearly, people dislike more outcomes that are more distant from what they want most. But the intensity of their loss varies across issues as well as among individuals. Say that someone wants the top marginal tax rate to be 40 percent and the actual rate is 30 or 50 percent. This person views such tax rates as too low or too high, but this dissatisfaction is unlikely to be very intense. Yet for people who think that abortion should not be allowed under any circumstances, even legalizing the “morning-after” pill is anathema to them: their utility falls sharply when this is the law. Hence, even when the distribution of ideal points is unimodal, conflicts can be intense if people experience a sharp loss of utility when outcomes deviate even minimally from their peak preferences.

3. How closely related are positions on different issues? Are people who want abortion laws to be more restrictive the same as those who oppose immigration? Are people who oppose immigration the same as those who want more redistribution of income? If answers to these questions are positive, cleavages are superimposed; if they are

negative, cleavages are cross-cutting. For example, negative postures about immigration correlate with homophobia and sexism across the OECD countries. Cleavages tend to be superimposed when preferences are associated with some other characteristics, say religion, income, or education. According to the Pew survey cited above, for example, only 25 percent of white Evangelicals agree to abortion being legal under some circumstances, while more than 50 percent of Catholics, about 70 percent of traditional Protestants, and 75 percent of people unaffiliated with any religion do so. Because these groups differ on other moral issues as well, cleavages are superimposed. In turn, other cleavages may be cross-cutting: Lipset (1960) has argued that the postures toward democracy versus authoritarianism divide the working class, and we have already examined the division between the SPD and KPD in Weimar Germany.

It is reasonable to expect that conflicts are more difficult to resolve peacefully when people's peak preferences differ more, when the loss of utility associated with deviations from these ideal preferences is more intense, and when cleavages are superimposed, clearly separating otherwise identifiable groups (Coser 1964). This is not to say that governments are passive when confronting conflicts that are difficult to manage. A natural strategy of governments is to try to persuade people that whatever divides them is less important than what unites them. "Unity," as in "united we stand," "harmony," and "cooperation" are incessantly propagated by appeals to nationalism, evocations of common roots even

in the face of divergent origins, celebrations of national holidays, anthems, and flags, expressions of pride in the national army or in the national performance in the Olympics – the list goes on. Even intensely divisive elections are always followed by a “unity” speech. To the best of my knowledge, Donald Trump was the first US president not to call for unity in his inaugural speech. Salvador Allende’s declaration, “No soy Presidente de todos los Chilenos” (I am not the president of all the Chileans), was an enormous blunder.

It is hard to tell whether such exhortations have much effect, but the fact is that conflicts often persist in spite of them. Just for heuristic purposes, imagine that preferences can be placed on a single (utility) line, with a mass of people at points marked as A and B:

-- A ----- x ----- B --

Point x is a potential solution to the conflict. Say that point A represents the preference for a path to citizenship being open to all immigrants, illegal and legal; point B is the preference for deporting all illegal immigrants regardless of family considerations; and point x the preference for some intermediate solution, such as legalizing the status of parents whose children were born in the country. If A and B are sufficiently distant from each other on the utility scale, the conflict may have no solution. Say point x is unacceptable for people located at B and nothing farther from A than x is acceptable to people at A. Then the conflict has no solution acceptable to both groups. Think of the Chilean situation: not being able to nationalize some large firms in one stroke was unacceptable for the government coalition, only nationalizing

firms one at a time was acceptable to the opposition. The Chilean conflict did not have a peaceful solution.

The same extends to more than one dimension. Remember that one large German party, the SPD, was socialist on the economic dimension and democratic on the political dimension, while another party, the DNVP, was capitalist and authoritarian. Because any majority coalition had to include both, the set of compromises that would be supported by a majority in the parliament was empty.

How, then, do we manage to process such conflicts in order and peace, without curtailing political freedom, relying on procedures and rules that indicate whose interests, values, or ambitions should prevail at a particular moment?

Political institutions orderly manage conflicts by (1) structuring conflicts, (2) absorbing conflicts, and (3) regulating them according to rules. An institutional order prevails if only those political forces that have institutionally constituted access to the representative system engage in political activities, and if these organizations have incentives to pursue their interests through the institutions and incentives to tolerate unfavorable outcomes. Specifically, conflicts are orderly if all political forces expect that they may achieve something, at the present or at least in some not too distant future, by processing their interests within this framework, while they see little to be gained by actions outside the institutional realm.

Note that thinking in strategic terms assumes that organizations can discipline the actions of their followers. As Maurice Thorez famously remarked in 1936, "One has to know how to end a strike." Organization, Pizzorno (1964) observed, is a capacity for strategy. Organizations can act

strategically only if they can activate and deactivate their followers according to strategic considerations. When they do not have this capacity, political conflicts can assume the form of unorganized, “spontaneous” outbursts.

1. Political institutions structure conflicts. Institutions define the actions that particular actors can adopt, they provide incentives associated with each course of action, and constraints to the possible outcomes. As a result, they structure the actions which all actors would pursue given their interests or values and shape the collective outcomes, resulting in equilibria. Obviously, no one competes to conquer the office of the president in systems that have no such position: parliamentary monarchies. Only slightly less obvious is that the competition for the office of the president is more intense in systems where the president is the chief executive than in those in which he or she is only the ceremonial head of state. A more complicated example is the effect of electoral systems on electoral competition. With a single-district/single-member (SMD) system, and two parties, both parties have incentives to move toward the center of voters’ preferences; with a high degree of proportionality, parties want to maximize their niche, which may lead some of them to maintain extreme postures. Such examples are endless.

Every political system molds the ways in which social forces organize as political actors, regulates the actions they can undertake, and constrains the policy outcomes that are subject to institutional competition. For example, rules according to which votes become transformed into legislative

seats – electoral systems – influence the number of parties that participate in electoral competition and the interests they represent: functional, regional, religious, ethnic, etc. Rules concerning unionization affect the number of trade union associations, their sectorial organization, and the extent of their centralization. Rules with regard to class actions determine whether only individuals or groups sharing the same grievance can address themselves to courts. Other rules define the actions that can be followed within the institutional framework. Most countries, for example, have laws regulating whether business lobbies and trade unions can financially support political parties. Most countries have laws defining which strikes are legal and which are not. Finally, constitutional courts or equivalent bodies can invalidate those outcomes that are inconsistent with some basic principles that stand above pluralistic competition, principles that are often but need not be enshrined in constitutions.

Political parties mold public opinion, compete in elections, and occupy executive and legislative offices. Parties became at one point the main form for organizing interests. They were a mechanism for articulating and aggregating interests, vertical organizations that integrated individuals into the representative institutions. For reasons that remain obscure, however, they transformed over time into organizations that function intermittently only at times of elections. They lost their socially integrative function: no one could say today with Michael Ostrogorski (1981), “Do not convince them, take them in socially.” Any kind of a daily, permanent connection is gone. And when parties do not have a day-to-day vertical connection with the people

who end up supporting them at the time of elections, they cannot discipline their political actions.

Interest groups, whether lobbies of businesses, religious groups, or voluntary associations, seek to influence political parties as well as advance their interests by addressing themselves directly to the executive, including the lower echelons of the bureaucracy. One important difference in structuring conflicts lies in the area of regulation of functionally defined interests. Unions were banned in all European countries until the middle of the nineteenth century. Even when they were finally legalized, in all democracies the state tightly regulates the conditions under which they can be formed, whether one or multiple organizations can exist within a sector of industry or a particular workplace, whether collective agreements have the force of law, whether agreements concluded by unions apply to non-union members, etc. Note that, as shown in Figure 6.10, average union density declined sharply after about 1980, so that the power of union organizations over workers eroded similarly to that of political parties over their sympathizers. Lobbies of businesses are not equally tightly regulated, with only a few countries requiring that they register as such and make their activities transparent. Voluntary associations are regulated mainly through tax laws whenever they seek a not-for-profit status.

Civil law and its adjudication by courts individualize conflicts. Without recourse to courts many conflicts assume a form of spontaneous collective protests, as in China. But when individuals can direct their claims to courts, conflicts between them and the state become decentralized: in Argentina, for example, individuals sue the state in courts

for not delivering services guaranteed in the constitution (Smulovitz 2003). Courts are a channel for processing conflicts without collective organization by the claimants.

In sum, states shape the organization of political forces that can appear on the terrain of political institutions. Other forms of political activity are either uneasily tolerated or actively repressed.

2. Institutions absorb political conflicts when those political forces which can potentially engage in other ways of promoting their interests or values have incentives to direct their actions within the institutional framework. What matters is not only whether they win or lose, but what can they win or lose: how much is at stake. A conflict over wages, for example, entails lower stakes than a strike over layoffs. The stakes in a conflict over dumping toxic waste into rivers may be low for industry, just involving somewhat lower or higher profits, and very high for those potentially exposed to the poison. The stakes in a decision to go to war may be enormous for everyone. Note that in many conflicts, the benefits of government decisions are concentrated, while the costs are diffuse: think of a tariff on toothpaste that significantly increases the profits of the producers and is almost imperceptible to the consumers. Conflicts that entail future political power entail high stakes because their outcomes are difficult to reverse. “Flexible labor market” policies, for example, may or may not reduce unemployment, but they undermine the organizational power of the unions and, thus, their chances to influence policies in the future.

Schematically, think about the fact that each organized political force expects to gain something by processing its interests within an institutional framework and has some idea about how reversible the outcome would be if it happens to lose, so that it has some notion of the expected value of participating in the institutional interplay of interests. The alternative that each political force faces is to use its resources outside the institutional framework, using violence or other inefficient forms of conflict processing (see below). This choice was starkly stated by John McGurk, chairman of the UK Labour Party in 1919: “We are either constitutionalists or we are not constitutionalists. If we are constitutionalists, if we believe in the efficacy of the political weapon (and we do, or why do we have a Labour Party?) then it is both unwise and undemocratic because we fail to get a majority at the polls to turn around and demand that we should substitute industrial action” (quoted in Miliband 1975: 69). His view, however, is not always shared: for example, the leader of a new left-wing political party in France, Jean-Luc Mélenchon, announced in the aftermath of his electoral defeat that he would lead his supporters to the streets. Moreover, one should not go too far in assuming that all such choices are dictated by strategic considerations. Each society has a fringe of fanatics, people who act without considering the consequences.

Both the resources that particular groups bring to the institutional interplay of interests and those they can mobilize for actions outside the institutional framework are group-specific. Multinational corporations have an effective lobbying power but no capacity to bring people to the streets. Unions may have less political influence but a damaging power to

strike. The military are not supposed to have any institutional power but they are the ones who have arms. To be effective in absorbing conflicts, the power of particular actors within the institutional framework cannot diverge too much from their capacity to realize their objectives outside of it. Institutions function under the shadow of non-institutional power.

3. Institutions regulate conflicts if the losers accept outcomes determined by applying institutional rules. Political actors may use political institutions and still reject an unfavorable outcome. One may think, and some theorists do, that such situations are not possible. The argument is that if one group would adopt a strategy of “I will try within the institutions and if I fail I will go outside the institutions,” then the group(s) with which it is in conflict would not direct their actions within the institutions, knowing that their institutional victory would be hollow. Hence, the argument goes, “if actors agree to some rules, they will obey them” or “if they do not intend to obey them, actors will not agree to the rules” (Buchanan and Tullock 1962, Calvert 1994). Yet we do witness situations in which a conflict should have been terminated according to some rules and still the losers do not accept the outcome, reverting to non-institutional actions. Collective agreements concluded by union organizations are sometimes rejected by rank-and-file workers, who engage in wildcat strikes. A legislature may pass a law that brings people to the streets in protest: educational reforms in France routinely mobilize massive opposition. Even election results are not always accepted by the losers: among democracies that fell,

this was the case in Honduras in 1932 and Costa Rica in 1958. The answer lies in uncertainty: outcomes of institutional interplay cannot be predicted exactly. Hence, a group may calculate *ex ante* that it would get something by directing its activities within the institutional framework, only to discover that it has lost, and that the resulting status quo is worse than what it can expect to get by going outside the institutional channels. In turn, the other group(s) may believe *ex ante* that a loss would be tolerable for their opponents, only to discover *ex post* that it is not.

One important aspect of institutions is whether they provide determinate rules according to which conflicts should be terminated. We have seen in the Chilean case, for example, that the legal framework contained two contradictory rules for treating the state monopoly of arms: on the one hand, the Congress passed the law giving jurisdiction over this monopoly to the military, empowering them to search for arms in government buildings; on the other hand, the law gave the president the authority not to allow the military to enter public buildings. Hence, the constitutional status of the search for arms became indeterminate, which undermined the posture of those generals who adhered to the principle of non-intervention as long as the president did not violate the constitution. Perhaps the most flagrant example of constitutional indeterminacy occurred in Ecuador in 1977, when three persons could claim with some justification that they were the president and the Supreme Court refused to arbitrate the conflict (Sanchez-Cuenca 2003: 78–9). Examples are many, but the general point is that sometimes constitutions and laws do not provide clear guidance for

solving particular conflicts, and then the very distinction between institutional and non-institutional breaks down.

Given this characterization of conflicts and institutions, a question that naturally arises is whether all institutions can manage all conflicts in an orderly way. For example, some scholars think that a less proportional electoral system would have generated stable governments in Weimar Germany. Others, in turn, see the institutional culprit of Weimar in Article 48 of the constitution that allowed a president to appoint a government without the support of parliament and even in opposition to it (Bracher 1966: 119). Conversely, some scholars think that had Chile had a parliamentary instead of a presidential system, a center-right majority coalition would have been formed and democracy would have survived. One may also wonder what would have happened to democracy in France had the Fourth Republic continued rather than being replaced by a presidential system. Unfortunately, such claims must invoke counterfactuals, so they are inevitably speculative. We know enough about institutions to understand that, given the structure of political cleavages, some institutions could generate effective and stable governments while other institutions could not. Whether, however, a different institutional framework would have prevented the advent of Hitler to power or the fall of democracy in Chile is impossible to tell: too many contingencies are entailed.

The most important institution by which conflicts are processed in democracies are elections. Elections, however, are a peculiar way of processing conflicts, in that they occur on particular dates, are fixed independently of the current political situation in most countries,

and are supposed to determine the relations of political power for some definite future. Political life, however, never stops. For one, the day an election is over, parties already begin to campaign for the next election. But politics between elections is not limited to electoral politics. The policies of governments elected by a majority may meet with opposition from groups that feel intensely about particular issues. Moreover, even if governments are elected by a majority, not all of the policies they propose need to enjoy majority support. Hence, we need to examine separately what happens in elections and what happens during the periods between elections.

9.2 Elections as a Method of Processing Conflicts

We select our governments through elections. Parties propose policies and present candidates, we vote, someone is declared to be winner according to pre-established rules, the winner moves into the government office, and the loser goes home. Glitches do sometimes occur, but mostly the process works smoothly. We are governed for a few years and then have a chance to decide whether to retain the incumbents or throw the rascals out. All of this is so routine that we take it for granted. What makes it possible?

Here is the puzzle stripped to its bare bones. Suppose that I want something that someone else wants as well; sometimes I want what is not mine. An application of some rule indicates that someone else should get it. Why would I obey this rule?

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The very prospect that governments may change can result in a peaceful regulation of conflicts. To see this argument in its starkest form, imagine that governments are selected by a toss of a, not necessarily fair, coin: “heads” mean that the incumbents should remain in office, “tails” that they should leave. Thus, a reading of the toss designates “winners” and “losers.” This designation is an instruction regarding what the winners and the losers should and should not do: the winners should move into a White, Blue, or Pink House or perhaps even a palace; while there they can take everything up to the constitutional constraint for themselves and their supporters; and they should toss the same coin again when their term is up. The losers should not move into the House and should accept not getting more than whatever they are given.

When the authorization to rule is determined by a lottery, citizens have no electoral sanction, prospective or retrospective, and incumbents have no electoral incentives to behave well while in office. Because electing governments through a lottery makes their chances of survival independent of their conduct, there are no reasons to expect that governments would act in a representative fashion because they want to earn re-election: any link between elections and representation is severed. Yet the very prospect that governments would alternate may induce the conflicting political forces to comply with the rules rather than engage in violence. Although the losers suffer temporarily by accepting the outcome of the current round, if they have a sufficient chance to win in future rounds they may prefer to comply with the verdict of the coin toss rather than revert to violence in the

quest for power. Similarly, while the winners would prefer not to toss the coin again, they may be better off peacefully leaving office rather than provoking violent resistance to their usurpation of power. Examine the situation from the point of view of the losers in a particular election. They face the choice of either reverting to violence in order to grab power by force or accepting the cost of having lost and waiting to win the coin toss the next time around. What they will do depends on their chances of prevailing by force, on the cost of fighting, on the loss entailed by being governed against their will, and on their chances of winning the next time. This calculus may go either way, but they will wait so long as the policies imposed by the winners are not too extreme or so long as their chance to win at the next opportunity is sufficiently high. In turn, the winners know that to prevent the losers from rising in arms they have to moderate their policies or not abuse their incumbent advantage to deny the current losers the chance to win in the future. Regulating conflicts by a coin toss generates a situation in which peacefully waiting for one's chance may be best for each party given that the other party does the same. Bloodshed is avoided by the mere fact that the political forces expect to take turns.

Yet we do not use random devices; we vote. Voting is an imposition of a will over a will. When a decision is reached by voting, some people must submit to an opinion different from theirs or to a decision contrary to their interest. Voting generates winners and losers, and it authorizes the winners to impose their will, even if within constraints, on the losers. What difference does it make that we vote? One answer to this question is that the right to vote imposes an obligation to

respect the results of voting. In this view, losers obey because they see it as their duty to obey outcomes resulting from a decision process in which they voluntarily participated. Outcomes of elections are “legitimate” in the sense that people are ready to accept the decisions of as-yet undetermined content so long as they can participate in the making of those decisions. I do not find this view persuasive, yet I think that voting does induce compliance, through a different mechanism. Voting constitutes “flexing muscles”: a reading of chances in the eventual conflict. If all men are equally strong (or armed) then the distribution of votes is a proxy for the outcome of war. Clearly, once physical force diverges from sheer numbers, when the ability to wage war becomes professionalized and technical, voting no longer provides a reading of chances in a violent conflict. But voting does reveal information about passions, values, and interests. If elections are a peaceful substitute for rebellion, it is because they inform everyone who would mutiny and against what. They inform the losers – “Here is the distribution of force: if you disobey the instructions conveyed by the results of the election, I will be more likely to beat you than you will be able to beat me in a violent confrontation” – and the winners – “If you do not hold elections again or if you grab too much, I will be able to put up a forbidding resistance.” Elections, even those in which incumbents enjoy an overwhelming advantage, provide some information about the chances of conflicting political forces in an eventual violent resistance. They reduce political violence by revealing the limits to rule.

In the end, elections induce peace because they enable intertemporal horizons. Even if one thinks that people care

about outcomes rather than procedures, the prospect that parties sympathetic to their interests may gain the reins of government induces hope and generates patience. For many, the United States election of 2000 was a disaster, but we knew that there would be another one in 2004. When the 2004 election ended up even worse, we still hoped for 2008. And, as unbelievable as it still appears, the country that elected and re-elected Bush and Cheney, voted for Obama. Those who voted against Trump now hope he will be defeated in 2020. Elections are the siren of democracy. They incessantly rekindle our hopes. We are repeatedly eager to be lured by promises, to put our stakes on electoral bets. Hence, we obey and wait. The miracle of democracy is that conflicting political forces obey the results of voting. People who have guns obey those without them. Incumbents risk their control of governmental offices by holding elections. Losers wait for their chance to win office. Conflicts are regulated, processed according to rules, and thus limited. This is not consensus, yet not mayhem either. Just regulated conflict; conflict without killing. Ballots are “paper stones.”

Yet this mechanism does not always work. Elections peacefully process conflicts if something is at stake in their outcomes, but not too much (Przeworski, Rivero, and Xi 2015). If nothing is at stake, if policies remain the same regardless of who wins, people observe that they voted in election after election, governments changed, and their lives remained the same. They may conclude that elections have no consequences and lose incentives to participate. The mirror danger occurs when too much is at stake, when having been on the losing side is highly costly to some groups and their

prospects to be on the winning side in the future are dim, so that they see their losses as permanent or at least long-lasting. When incumbent governments make it next to impossible for the opposition to win elections, the opposition has no choice but to turn away from elections.

9.3 Government and Opposition Between Elections

An argument can be made that maintaining public order between competitive elections should not be problematic, precisely because the prospect of being able to win future elections is sufficient to induce the current losers to suffer in silence between elections. While O'Donnell (1994) diagnosed the reduction of politics to elections as a Latin American pathology, "delegative democracy," for James Madison this was how representative government should function: the people should elect governments but then have no role in governing. Lippman (1956) insisted that the duty of citizens, "is to fill the office and not to direct the office-holder." Schumpeter (1942) admonished voters that they "must understand that, once they elected an individual, political action is his business not theirs. This means that they must refrain from instructing him what he is to do."

As a description, this picture is obviously inaccurate (Manin 1997, 2017). Conflicts over policies are the bread and butter of everyday politics. Political activities are not limited to elections, nor even to efforts oriented toward influencing the outcomes of future elections. Moreover, while opposition

to government policies can be limited to the institutional framework, under some conditions it spills outside of it.

The parliamentary opposition can stop or modify some actions of the government. If a policy proposed by the government is subject to legislative approval, the government may fail in parliament. Opposition parties may persuade government supporters to modify their views; they can exercise its institutional prerogatives to block some legislation (in Germany presidencies of parliamentary committees are distributed proportionately to party strength; in the United Kingdom the Committee of Public Accounts is by convention controlled by the opposition; in Argentina passing legislation requires a supermajoritarian quorum); they can threaten with obstructive tactics (a government proposal to privatize an electric utility company was met with thousands of amendments in France; filibustering in the United States Senate); they can threaten non-cooperation at the lower levels of governments they control. Note that if elections are expected to be competitive, the opposition faces a strategic choice of either accepting concessions from the government or going for broke with the hope of unseating the government in the next election. For example, in Brazil under the presidency of Fernando Henrique Cardoso, most parties were willing to support the government in exchange for pork barrel spending, but the Workers' Party (PT) invariably voted against the government and won the subsequent presidential election.

The opposition may also seek recourse to constitutional courts in order to restrict the actions of the government. Note that the logic of the role of elections in peacefully processing conflicts extends to the courts. Conflicting sides

are willing to respect the verdicts of constitutional tribunals when they believe in their impartiality, specifically, that the tribunal considers each case on its merits. The losing side obeys the courts when it believes that in some future cases it may find itself to be the winner. When courts are blatantly partisan, this belief is eroded, and addressing conflicting issues to constitutional tribunals becomes futile.

Opposition, however, need not be limited to legislatures and courts. It can take place on the streets, in factories, or in offices. Street demonstrations are a standard repertoire of democratic opposition, as are strikes. As long as they are orderly and peaceful, they are just a routine tactic by which some groups signal their opposition to particular policies or their general dissatisfaction with the government. But demonstrations are not always peaceful: sometimes they are gratuitously repressed, sometimes they deteriorate into violence by marginal groups of demonstrators (they are called *casseurs*, “breakers” in France). The line between legal and illegal is thin. Hofstadter’s (1969: 7) observation that “The normal view of governments about organized opposition is that it is intrinsically subversive and illegitimate” continues to be haunting. The idea that opposition to government policies does not need to signify treason or obstruction was first recognized in Great Britain in a parliamentary speech of 1828. But what kind of opposition is loyal and what kind subversive? Must opposition to government policies be channeled through the framework of representative institutions, or can people act in any way they please? Babasaheb Ambedkar, the father of the Indian constitution, thought that while civil disobedience was appropriate under colonial rule, it is

“nothing but the Grammar of Anarchy” under democracy. In the words of David Cameron, the former British prime minister, demonstrations by students against raising tuition fees “were a part of democracy but violence and law-breaking was not” (BBC News). Actions such as blocking roads and bridges, occupying buildings, lock-outs, civil disobedience, rioting, and in the extreme terrorism, are intended to undermine the government by undermining public order. Moreover, violence is not always directed against governments. We have seen that in many instances private groups, sometimes organized as paramilitary organizations but sometimes just forming spontaneously, engage in violence against each other: this was the case in Weimar Germany and Chile, as well as in the United States during the 1960s.

Demonstrations that end in violence, violent labor conflicts, blockages of roads and bridges, occupations of buildings, lock-outs, civil disobedience, street fights, riots, and terrorism are what I mean by conflicts spilling outside the institutional boundaries. They constitute breakdowns of public order. They are costly to the perpetrators, to the government, and often to third parties. They may occur as a result of strategic decisions of some groups but they may also erupt spontaneously.

Consider a situation in which a government has the monopoly of legislative initiative and is assured of the support of a majority in the legislature. All bills are initiated by the executive and all the bills become laws. Moreover, the government acts with full legality or the courts are partisan, so any recourse to the judicial system would be futile. Examine this situation from the point of view of a social group opposed to

a particular policy. This group has no chance of influencing government policy within the institutional system: the government wants to adopt the policy, the legislature is just a rubber stamp and offers no recourse. The most this group can expect of the system of representative institutions is that if the policy turns out to be sufficiently unpopular, the government would lose the next election and the policy would be reversed. But suppose that in addition, the government has a good chance of being re-elected. Then this group has nothing to gain by acting within the institutional framework. Under such conditions it may be sufficiently desperate to try stopping the policy by acting outside the institutional channels.

Saiegh generated interesting information relating the rate at which bills proposed by the executive are approved as laws by legislatures (“Box score” in Figure 9.1) and the incidence of riots. Governments do not always get what they want in the legislatures: according to Saiegh (2009), democratic legislatures approved only 76 percent of bills proposed by the executive during the 783 country years for which these data are available. In turn, under democracy (Saiegh’s regime classification is based on Alvarez et al. 1996), riots are more frequent when the executive is either not at all effective or when the legislature is just a rubber stamp.

I interpret these patterns as saying that institutions are successful in regulating conflicts when the government is sufficiently able to govern but the opposition has an important voice in policy making. Politics spills out of institutional bounds either when governments are too weak to be able to pass legislation or so strong that they do not need to

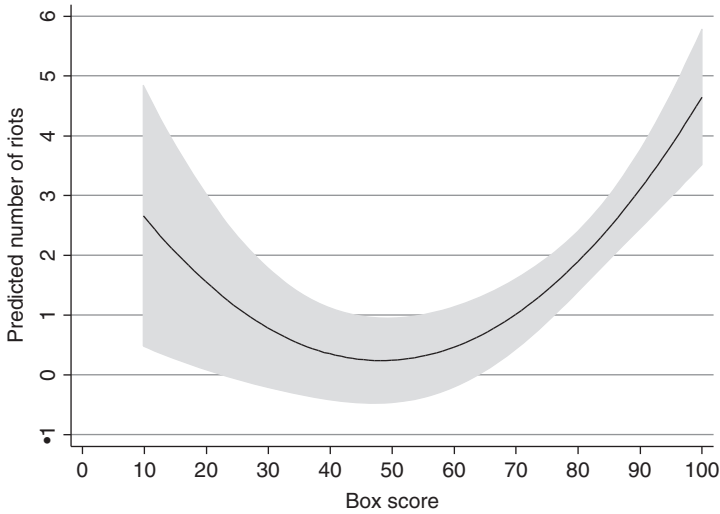


Figure 9.1. Proportion of bills passed and riots
 Source: Saiegh (2009)

accommodate legislative opposition. As several French politicians commented in the aftermath of President Macron’s massive legislative victory, “if the debate does not take place in the parliament, it will occur on the streets.”

Breakdowns of public order tend to spiral. Historical experience suggests that when conflicts spill onto the streets, public support for authoritarian measures designed to maintain public order tends to increase, even when protests are targeted precisely against the authoritarian tendencies of governments. People do expect governments to maintain order; indeed, no society can tolerate permanent disorder. Protracted public transportation strikes or strikes causing shortages, road blockages, or

other actions that paralyze everyday life provoke a backlash even among the people who are sympathetic to the cause of strikers. Repeated street fights induce the atmosphere of disorder and insecurity. Hence, governments are always tempted to portray actions against them as illegal. Particularly dangerous are “situations in which the authorities, the police, and the judiciary, even if disapproving of violent political acts, dealt leniently with them because they felt sympathetic to the motives of those engaging in them or hostile to their victims” (Linz 1978: 57). In turn, in such political climates the repressive forces, whether ordinary or riot police, feel authorized to use violence even in the face of peaceful protests: think of the “police riot” during the 1968 Chicago Democratic Party convention. When these forces are not well trained and disciplined, tragic accidents are almost inevitable: think of the massacre of students at Kent State University on May 4, 1970. And when peaceful actions are brutally repressed, some people conclude that they are being pushed out of the institutional framework and revert to terrorism, as in the United States, Germany, and Italy in the 1960s–1970s.

I do not claim that these are regular patterns: we know little that is systematic about dynamics of disorder and repression. The only conclusion one can draw from these examples is that breakdown of public order is something which all governments must fear. Faced with demonstrations that turn violent, road blockages, protracted transportation strikes, or fights between private groups, governments have only two choices: either to persevere with their policies while reverting to repression or to abandon their policies in order to

placate the opposition. Neither alternative is attractive. The spirals of unrest and repression undermine public order, while repeated concessions render governments unable to implement any stable policies.

9.4 How Democracies Fail

Democracy works well when representative institutions structure conflicts, absorb them, and regulate them according to rules. Elections fail as a mechanism for processing conflicts either when their outcomes have no consequences for people's lives or when incumbents abuse their advantage to the point of making them non-competitive. Once elected, governments must be able to govern, but they cannot ignore the views of intense minorities. When conflicts are intense and a society is highly polarized, finding policies acceptable to all major political forces is difficult and may be impossible. Miscalculations, whether by governments or different groups opposing them, lead to institutional breakdowns. When governments ignore all opposition to their policies, when they interpret all opposition as subversive, when they engage in gratuitous repression, they push the opposing groups out of the institutional framework: opposition turns into resistance. When some groups of the opposition refuse to accept policies resulting from applying the institutional rules, governments may have no choice but to engage in repression to maintain public order. Finding the right balance between concession and repression is a subtle choice. Failures are inevitable.