Democracy: Public Contracting in Open Societies

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What is true information in today’s world? The hunt for information is not only in the private sector—market trends and enterprise data, but also on the public sector. Information is strongly linked with incentives; leaking news and you have an extra rent. This paper tries to model the crucial role of information and its incentives in government and it started in the public sector.

*Keywords:* opportunism, shirking, pretending, asymmetrical knowledge, Hobbes, Montesquieu

**Introduction**

To approach government or the polity in terms of the concept of a contract has a long standing in the history of philosophers. One thinks about the Epicureans, Hobbes, Rousseau, and Kant as well as Rawls. What is at stake is to interpret the relationships between the ruler and the ruled. Various kinds of contract have been proposed: one-sided, two-sided, realistic, romantic, historical, imagined, normative, fictional, etc. Here we explore the democratic regime as contracting between government and the demos.

What is crucial in a contract is the reciprocity between the parties: One party pays another party and expects to receive a good or service. This is consideration or quid pro quo.

If government power is guided by a contract between rulers and the ruled, the democratic regime starts from an election and runs typically for four years with an evaluation and a new election. Thus, there is a gap in time between contact-making and performance. The actors involved in governance pursue their goals with opportunities and guile.

The argument below focuses upon information and political regime. The first is a short comment on information in the opposite regime dictatorship.

**Stalingrad**

A dictatorship manipulates first and foremost information. Millions of young men are sent to die for “Lebensraum”—What is it? Where is it? Barbarossa is “Blizkrieg” to be over in a few months. But the generations of generations of Germans starving and Austrians as well as others had to walk besides the 700,000 horses pulling materials and artillery. What could they do in Soviet Union? Creating “Lebensraum”? The loss in German soldiers was staggering and bad management.

No information about the “Untergang” of whole armies by simple Soviet “Kessels” at Moscow and Stalingrad. German took same strategy twice and got same outcome. We sometimes said Germany could defeat Soviet Union. No, the German tactics were driven by “Vernichtung”, not liberation.
Information spurred the Russians and others to heroic resistance against a Wehrmacht that lacked vital resources.

Information: Barbarossa was a sham from the beginning in June 41 to the end in “Citadel” in 43 with incredible losses in youth. Why? How could Germany run a defeated Soviet Union? Let us try to imagine:

(1) If Hitler had decided to concentrate the fall attack 41 on Moscow with all three armies, Germany had won.

(2) If Hitler had decided, according to (1), Germany had still lost.

Both (1) and (2) are true—How to decide between them? In reality, Hitler kept sacrificing Germans in wars he was incompetent to conduct. A former corporal steered millions to death, moving divisions and their generals around in a meaningless manner.

Did Germany need or deserve this catastrophe? Could a democracy do this to its own people? No, conferring the Vietnam War and student protests to fight the war. What a demo needs?

The leaders in a non-democratic state tend to demand sacrificing in war by the families for metaphysical entities, such as the nation, the proletariat, or the leader himself. Take the example of Italian aggression onto Ethiopia resulting in the death of many young people. Political myths are quickly exposed and demolished in an open society. In an open society, criticism of the politics and policies of the governmental agents is ongoing concern by a wealth of interested parties including the political opposition. A necessary condition for the democratic regime is an open society.

The Bergson’s (1932) category—closed society—is to find with fanatics, religious, or secular. Popper’s (1945) quest for a fallible society can only be realised in a democracy. What would the people want in an open society? Not Plato’s ideal-type state that Popper argued in his unusual attack on Socrates’ pupil.

It says something about human history that it was until the 1950s that the concept of an open society became much talked with Popper. It does occur with the great English tradition from Hobbes to Austin, nor with the major continental philosophers from Spinoza to Marx or Kierkegaard and Nietzsche. An open society is intimately linked with democracy that emerged with the Great War.

The Needs of People

At the end of the Second World War, a few major books appeared debating the consequences of the defeat of right wing authoritarianism; one may mention books, such as books by Danish Alf Ross, Swedish Herbert Tingsten as well as Italian Giovanni Sartori and Dutch Arene Lijphart. They all focused on the value of democracy as a method for collective decision-making, i.e., for a nation or country. They approached democracy as a political regime, based upon the consent of a majority of voters. And they saw a necessary condition for democratic stability in the endorsement of democratic election outcomes by a substantial part of the electorate.

The first scholar to look at the democratic regime economically was Anthony Downs’ Economic Theory of Democracy from 1957, modeller of two parties’ competition as a marker game over vest winning position in space of voters’ attitudes, the median voter theorem of location. However, there is nothing here about the gains from democracy.

Why set up parties in the first place?

A democratic regime would find its rationale ultimately with the people of the country.
Their needs of government would be decisive for the means and ends of the state. But in political philosophy, WWE found theorized and other ultimate objectives. If the state is the political organisation of the country, all kinds of goals may be mentioned: national power or aggrandisement, economic development, equality, rule of law, dictatorship of the proletariat or of the superior race, etc. Here I focus upon the demos as the principal, and the needs of government with the population.

Who are the people? A democratic vision of the state presumes a positive attitude to single individuals and his or her capacity to instruct a set of agents in the branches of government. Democracy may not be ideal, but a platonic view is not recommendable. Neither Plato philosophers nor Nietzsche Zoroaster would provide the demos with task of giving instructions to government and hold these agents responsible.

The demos are the electorate, as it provides instructions to government agents along various channels. If you distrust the people to give instructions for policy-making, you can deny their knowledge competence like Plato or dispose their trivial needs and projects, like Nietzsche, and you will not support the idea of democratic process. One cannot help wondering why such a sick man, like Nietzsche, in Engadin was admired so intensifying the “great men”, like Caesar and Napoleon. They were in reality his opposite and he ridiculously declares himself the greatest of philosophers in his autobiography.

Democracy is government of the people; the electorates instruct political agents about the policies they want to be implemented. What, then, would be the best policies for the people? Many have thought about the real needs of the demos, but I will favour peace and lack of starvation as well as a safe environment. Let me discuss two other theories:

1) Primary goods: Rawls came up with this concept in order to identify what must be rendered to people in a well-ordered society: Basic mental and bodily abilities, liberty and opportunity, income and wealth, and basic self-respect, because they are desirable for every human being, and useful. When these needs of ordinary man and women are met, justice deliberations may begin.

This amounts to a too abstract approach to the question of what a well-ordered society is.

Rights require an independent judiciary that exists in a minority of countries. What is more “primary” for people is survival, i.e., to live in peace and be able to feed oneself and breed in safety in the environment.

A majority of the population of the world does not possess several of these Rawlsian primary goods. Are they really their primary or most important objectives?

2) Capability: Sen has launched a different approach underlining each individual’s need for well-being: “Poverty is not just a lack of money; it is not having the capability to realize one’s full potential as a human being”; each person’s capability, that is, what is capacity? A bad or evil person has also capabilities to well-being, right?

I believe Thomas Hobbes (1651) was on the correct line of thought when focusing on civil war:

Whatever therefore is consequent to a time of war, where every man is enemy to every man, the same consequent to the time wherein men live without other security than what their own strength and their own invention shall furnish them withal. In such condition there is no place for industry...no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.

A country or society in a Hobbesian predicament is hardly worth living in. But it occurs from time to time. Periods of internal warfare or external aggression, famines or ecological disasters result in enormous suffering for citizens. Lack of violence, access to food and safe shelter are the key “primary goods”.

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Hobbes saw a great authority as the mechanism to stop or prevent the “omnium bellum contract omnes” monarchy. Hobbes suggested that a monarch would be more trustworthy in keeping peace, law, and order than Parliament. Strange! Sed quid custody ipso custos? Hobbes argued simplistically that it is more likely that a group of people start quarreling and fighting between each other than a single individual would do that, so he outlined an authoritarian regime as the best. Hobbes failed to anticipate the principal-agent nature of political authority.

Spinoza did not. His Political Treatise was written a couple of years after Leviathan (1651) and offered a deep analysis of which regime would be the best given the egoism and aggressive behaviour of ordinary people. Although left unfinished, Spinoza seems to have preferred democracy before monarchy and oligarchy on the basis of his assumption of selfishness of people: If each and every one puts his/her interests first, then the people would carry less risk than monarchy or oligarchy!

What would happen when the “people” are divided and cannot speak with one voice—Rousseau’s ideal of a unanimous “people” with one Volkgeist? Rousseau refused to accept the practical necessity of representation, allowing only administrators to implement the will of the people.

In this romantic talk of “volume generale” as well as the so-called enemies of the people, we have a principal-agent model that restraints the political agents as much as possible. In public finance literature, economics rendered a logical account of the needs of people from public goods to private goods, passing over semi-public and semi-private (R. Musgrave & P. Musgrave, 1973). The more public a good or service is, the more rational for democracy it is to allocate it. The demos may also want so-called merit goods, i.e., redistribution in kind or in money in order to promote, e.g., equality. However, the demos cannot allocate these services or redistribute money by itself. As the principal of government needs various agents to do the job, thus crucial problems about information arise, ex ante and ex post. The demos need agents: the executive and public administration, the legislature and oversight bodies as well as the judiciary and law enforcement agencies—Sed quis custodiet ipsos custodes?

**Democracy Without Agents: Transaction Costs**

Swiss economists often claim that their country has a superb constitutional set of arrangement, via direct democracy at all levels of government in a genuine federation. The argument is linked nor to Rousseau and his General Will but to Swedish world-renowned Wicksell.

Wicksell (1967) searched for Pareto effective allocation of local public goods that benefitted each and every one. Since the good is lumpy, individual charges will not work. Somehow there must be an aggregation of the individual willingness to pay such that the entire cost of the public good is covered. Since the “people” may be divided in two groups—one very eager minority and a lukewarm majority, the collective should reflect this fact, which is what unanimity does, forcing a common negotiated outcome.

However, Wicksell’s theory falters on two grounds:

(A) Opportunism, the group of people less willing to pay can hold out forcing the other stakeholder to pay much more, which could result in endless negotiations;

(B) It violates the rule of equality between YES and NO, favouring the status quo. What is unanimity concretely—cf. the General Will?

Democratic decision-making is simple majority with equal chance for YES or NO. However, Wicksell (1967) clearly foresaw that more costly decisions could require qualified majority. This amounts to an insight...
into the economic search of inertia rules in constitution.

The logic of Swiss democracy is not Wicksellian. It follows more political opportunity where small group use Volksinitiative to overturn a law of Parliament as fewer than half of the electorate participates.

**Democracy and Party: Agency Costs**

Principal-agent modeling of political parties could adduce numerous attempts to capture a political “rent”. The information asymmetrical advantages are all on the side of the party. We have in the large literature the following:

(a) Promise without intension to deliver;
(b) False accusations or explanations of policy;
(c) Denials of failure;
(d) Use of public purse to pay for parties;
(e) Internal operation secrecy;
(f) External animosity towards other parties and at times internal quarreling.

Yet, despite these misgivings, political parties are dominant players in many countries be they well-ordered or not. Partitocrazia may temper by direct democracy with few or many referenda. The evaluation of parties varies from one extreme—rip off agency to another—cost effective transmission of signals from electorate to Parliament. Parties exist over the whole world, openly or clandestinely.

The logic is economies of collaboration: Only highly charismatic politicians can handle all costs and burdens of an election. Ordinary politicians organise to share these efforts and divide the spoils afterwards. The party is keen about its reputation for honesty, cohesion, and closeness to voters, fearing deviant behaviour of party members as much as voter volatile downside.

The legislature and the population at large engage in principal-agent gaming continuously under each election period of four or five years. Legislative agents play with asymmetrical knowledge advantages saying that:

- policy errors are abundant or just exaggerated;
- rules have been broken or they are denied;
- the economy goes well or faces imminent disaster;
- the environmental is threatened or just a little damaged;
- new legislation is urgently needed but we are looking into the matter;
- too many foreigners arrive and yet we need more labour.

The legislature organises itself into political parties who confront each other with ideology, blame game, and opportunistic behaviour with guile. Coalitions are created ad hoc in order to meet the 51 percent requirement.

**Democracy as Sovereignty of Parliament**

The principal-agent interactions inherent in the regime of a Parliament suzerain are shaped by the parties to a large extent. It so to speak unfetters the partitocrazia. This is British constitutional legacy from Cromwell, to be found in a few countries with historic ties to England.

Tactics as well as strategy on a Parliament suzerain fulfils all the implications of the theory of asymmetrical information in the relationship between principal and agents. Politics and policy-making are in
effect delegated to Parliament alone to be dominated by the premier with no countervailing powers except a coming new election.

Minister Caesarism is an extreme principal-agent model mitigated only by Common Law and a few other legal documents. This is British constitutional practice, never codified. It plays out differently in Westminster and Singapore, being merely contingency political theory, only theorised by Bagshot stressing its Hobbesian tendencies when compared with the US constitutional outcome 1860 to 1865.

The “living” British constitutional framework includes no legal review: How could Parliament be wrong? It could never enact rules that constrain its power tomorrow. This is the outcome of the often-present feudal struggle, which in very few countries ended in Parliament victory over the King.

British constitutionalism is changing with devolution, human rights, law lords, referendum, etc. Drawing upon recent events around so-called Brexit, one can say that the British people or electorate would benefit from judicial codification, as present confusion about minister Caesarism would subside.

When Parliament is incapable of designing a majority premier, the so-called Committee Parliamentary Government or simply an intermediary solution with caretaker neither promotes the principal’s interests generally.

**Democracy as Checks and Balances**

Information about politically relevant events and circumstances is much sought after. The mass media turns it out all day long. Political agents strive to be the first to know but also the population often follows the stream of research on a daily basis. Montesquieu’s separation of powers entails stating that there are three kinds of expertise—executive, legislative, and judicial, and they are to be separated on the personal level.

Access to information as well as control of information is central in day-to-day political competition. New information alters the behaviour in principal-agent interactions. The dynamics of politics and policy are to a large degree influenced or even shaped by the flow of new information. The arrival of new domestic or international news may have profound impact on the principal and the political agents: government and its bureaucracy, legislative, and the judiciary. In the search for correct information, the principal may draw upon the separation of powers to reduce the asymmetric information advantage of agents, for instance, by one agent engaging in oversight of another agent.

Modern constitutional democracy comes two ideal-type: American presidentialism and constitutional monarchy or weak presidentialism. Both follow Montesquieu’s separation of powers stating that the principal would be best off when government is divided onto three branches. In reality, there are some institutional variations of the framing of these key powers. What benefits the principal here or the population/electorate? Let me point out:

1. Judicial autonomy: In general, the principal welcome judicial integrity and the option to test public decision-making before the judiciary. More contested is the structure of legal review. Is it at all necessary for democratic decision-making?

2. Judicial oversight: Enquiries into policy implementation by national government bureaux, agencies, boards, or regional and local authorities are essential for reducing the information advantage of politicians and political parties. These enquiries may be recurring or special ones. The structure of judicial overview varies much from ordinary courts to special tribunals. Some countries have administrative courts as well as the Ombudsman—the Swedish, Danish, or Swiss type.
(3) Complaint and redress: The position of the single individual is much better when the practice of public administration can be challenged in some court somehow. The possibility of appeal has enormous impact, especially on anticipations or expectations on the bureaucracy. The Scandinavian contribution to constitutionalism—Ombudsman—is important for ordinary citizens.

Judicial enquiries can be done in several forms where for instance judges collaborate with legislators or experts from public administration.

(4) Legislation: Politicians in the legislature or groups of them like parties have a strong wish to get re-elected for various reasons, like position, income, prestige, or good work. At elections, one expects that falsity occurs as lying or exaggerations could pay off.

Peltzman (1980) modeled the strategy of rational politicians to present a policy mix maximizing the probability of electoral victory.

In order to reduce their information gap in relation to the executive and public administration, the legislature engages in oversight of public programs and the use of public money. A variety of oversight committees and boards are available for legislatures to make enquiries into program performance, both legality and efficiency. Not only the US and other presidentialisms have procedures for disclosure of executive malpractice, but also parliamentary regimes—large institutional variation.

To be a legislator earns you prestige and, in several countries, good money, as in the EU Parliament. The American system with political action committees (PACs) leads to huge budgets for legislators seeking election or re-election. However, legislative oversight is hampered by the influence of organized interests, lobbying both policy-making and policy implementation—the capture theory.

Premier, President and Public Administration

The executive has a range of agencies at its command. Can they be trusted? As responsible for the performance in almost all public programs, the executive depends upon the flow of information. How can the executive control for asymmetrical information—the basic incentives problematic in public administration?

The amount of resources controlled by the executive as well as the bureaucracy and public enterprise sector under its wings is normally overwhelming. The public sector comprises public resource allocation and transfer payment, making up between 20 and 55 percent of GDP, depending on the political-economy regime of the country. How are these resources to be used, ideally as well as employed reality?

(1) Classic public finance models.

A penetrative attempt to derive a rational and just public sector for an advanced economy was made in the so-called public finance approach. The lessons of this exercise were also relevant for the Third World countries. Using criteria on rationality in resource allocation as well as some criterion on justice in social security, the public sector would remove market failures of various kinds.

The successful public finance models were to be found in the analysis essay of efficiency, micro or macro. But the concept of income and wealth redistribution towards more of social justice proved very contested among social scientists and economists as well as philosophers. How much and in what forms?

Consider, please, the difference between ultra liberal Nozick (1974)—no redistribution and socialist Barry (1995)—equalise until impartiality. In any case, the book by the Musgraves from 1980 is still instructive—Public Finance in Theory and Practice.

(2) Politics and administration.
In most European countries, there is somehow a separation between the recruitment of public employees on the one hand and politicians on the other hand. Thus, when there is a change of government in the UK, France, and Germany, the bureaucracy remains the same. This pattern may also be found in regional and local governments. The argument is that the bureaucracy is merely a machine to be employed by the master or politicians in power. The higher echelons are neutral and may serve any political party ruling. Matters are different in the USA.

In American public administration, the distinction between politics and administration is accepted in neither theory nor practice. In practice, the so-called spoils system applies; the incoming president may recruit a large number of public officials rewarding his/her team in the election. Theoretically, Appelby rejected any separation in Policy and Administration from 1949—policy-making is always political just as well as judicial review.

Weber believed that policy and implementation had two distinct components: ends and means. To deliberate upon and decide about goals and their priority is the key task of politicians whereas the considerations of the efficacy of the means or tools of policy belong to the experts in the bureaucracy. By offering bureaucrats and professionals, a secure position in the bureau, the political elite would guarantee access to expertise knowledge.

If means-end relationships are crucial in policy and implementation, then the choice between alternative means is value ingrained. Some countries have put in politically recruited personal at the apex of hierarchy of each bureaucracy but not on the scale of what is Washington practice. In policy implementation, public employees are generally seen as under obligation to implemented objectives—ends and means—even though they would wish to engage in resistance to change. Should there be much resistance to change by old and large bureaucracy, the government as principal may decide to cut it up into smaller bureaux—agencification or even a sharper reply with outsourcing.

(3) Asymmetrical information.

Recognising the information advantage of the executive and her/his agents forces one to acknowledge the role of opportunism with guile in political affairs. Enter things into the public sector like:

- insincere voting;
- vote trading or cycling;
- embezzlement;
- bribery;
- kickback;
- conflict of interest;
- mishandling of emails;
- unlawful threat;
- favouritism or patronage;
- tribalism;
- inefficiency;
- deliberate misinformation;
- dishonesty;
- negligence or intended lack of competence;
- misuse of competence, power, and office;
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- prebendalization;
- vote fraud.

The difference between constitutional democracy and other regimes is merely the comprehensive occurrence of these selfish tactics as well as the systematic absence of corrections and disclosure. The people as the ultimate principal of the polity can only be vigilant as electorate as well as instruct legislative and judicial agents to check and balance the executive and public administration. At the end of the line, the firing option must be employed.

The quality of the public sector can only be protected by countervailing powers. Countries that are ill-fated drown in government mismanagement. A country where an elite rule unhindered allows the capture of a huge rent for politicians.

Conclusion

The postmodern society is information writ large: quantity, speedy access, control, etc. When a person is more informed, he or she sees the opportunities that come with it and tries to capitalise upon it. In public sector, information asymmetry is a most important source of power and perhaps rent.

In the history of political thought, we encounter two philosophers who are especially relaxant for the principal-agent framework, viz. Hobbes and Montesquieu. The first recognised the close link between anarchy and politics whereas the second understood the link between separation of powers and political order and freedom.

Is a new theory of politics possible on the basis of how information is handled tactically and strategically? What is now played out in Washington and Westminster suggests so. Politics focuses on how to tell false information from true as well as how to spread it. Democracy is the ideal-type regime for these games, as it pits the public at large against three different agents: executives, legislators, and judges. Shirking and pretending will sooner or later be confronted with true information, which is why democracy is superior.

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