

# Griliches Lecture 2: The Islamic Tradition (and a bit of the Chinese too..)

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October 20, 2020

# Introduction

- ▶ Yesterday I began with the political economy “tradition” stemming from Hobbes and Locke.
- ▶ U.S. constitutionalism is the paradigmatic case.
- ▶ But Colombian constitutionalism does not fit this paradigm fundamentally because while Locke, Hamilton and Madison might have believed that people would abide by rules they found legitimate, Colombians did not.
- ▶ The constitution had to be designed in the anticipation that people would ignore the rules.
- ▶ This meant that the Colombian constitutions did not eliminate Hobbesian “Warre” they were designed to anticipate it as inevitable.
- ▶ Though I will not elaborate on this here, in my view this was a fundamental reason for the long persistence of disorder in Colombia.

# Locke Redux

- ▶ But now I want to question more implicit assumptions in this tradition, and things much more profound than whether people will stick to the rules (though I'll come back to that tomorrow).
- ▶ Locke's discussion I reproduced yesterday mentioned.
  - ▶ The rule of law - "rules, indifferent and the same to all parties"
  - ▶ Democratic participation and preference aggregation in the form of legislation - "every single person become subject, equally with the meanest men, to those laws which he himself, as part of the legislature, had established."
  - ▶ Separation of powers - "And thus the legislative and executive power come often to be separated".
  - ▶ Anxiety about concentrated power - "the violence and oppression of the absolutist ruler."

# Why Nations Fail?

- ▶ It is a cornerstone of political economy that many societies do not satisfy Locke's desiderata for what the state should look like.
  - ▶ The rule of law is missing or the law does not reflect peoples' interests.
  - ▶ Democracy is scarce.
  - ▶ There are no effective separation of powers.
  - ▶ There are "absolutist rulers".
- ▶ The typical response would be to see these as faults, bugs which need to be corrected to build a better society.
- ▶ But let me question this by discussing Islamic constitutionalism which I shall argue has a completely different perspective on how society should be organized.
- ▶ The nature of "the problem" to be solved is quite distinct from that fixated on by Hobbes, Locke or Madison.
- ▶ Let me start with an example.

# The Constitutional thought of the Taliban

- ▶ Begun by religious scholars and students (*Talib*) in the early 1990s in southern Afghanistan. Mobilized during the civil war when warlordism and Warre flourished following the 1989 withdrawal of the Soviet Union.
- ▶ Mullah Mohammad Omar emerged as the leader in 1994. According to the account of Abdul Salam Zaeef *Each person swore on the Qur'an to stand by him ... No written articles of association, no logo and no name for the movement was agreed on or established during the meeting. The Shari'a would be our guiding law and would be implemented by us. We would prosecute vice and foster virtue. (My Life with the Taliban p. 65).*
- ▶ Later Omar took up a cloak supposedly belonging to Prophet held in the Shrine of the Cloak in Kandahar and assumed the title Amir al-Mu'minin (Commander of the Faithful).

## Choosing the Caliph

- ▶ A Taliban newspaper of June 1995 states  
*There are two ways a new caliph can be elected and installed. He can either be elected by a joint decision by the religious scholars of the time. This decision can be taken by men who are known to be just and honest. The election of Abu Bakr took place in this way. Another way to elect a new caliph is when the previous or ongoing caliph puts his hand on someone and chooses him as his successor. The election of Umar took place in this way.*
- ▶ Abu Bakr and Umar were the first two of the initial four ('rightly guided') caliphs (literally "successor") who succeeded the Prophet Muhammed.

# The Taliban's Constitution

- ▶ They never actually promulgated one, but there was a draft under consideration at the time of 9/11. It had a few details.
- ▶ Article 53. The Amir al-Mu'minin has to be a Muslim who follows the Hanafi denomination, possesses Afghan nationality, and his parents have to be of Afghan descent.
- ▶ Article 54. The Amir al-Mu'minin is the first decision maker in the state within his legal authorities.

## “the violence and oppression of the absolutist ruler.”

- ▶ The Taliban seem to have been little concerned about this. Indeed, after the fall of Kabul, Mullah Omar only visited the capital twice and lived quietly in Kandahar issuing orders and fatwas.
- ▶ In a widely distributed book *Obedience to the Amir* it is stated *If a decision of your amir seems unpleasant, then show patience ... If some action provokes such suspicion, then recite three times ‘God protect me from Satan’, turn to your left and say ‘thoo, thoo’ and believe that this action has been undertaken in good faith based on authority. Tell yourself that at the most this is an error of the amir in his striving, which will not be considered a sin for him, rather he will be rewarded.*
- ▶ Amirs get the benefit of the doubt. As the book puts it “God has linked obedience to the amir to obedience to God and his prophet.”



# Basic Principles of (Sunni) Islamic Constitutionalism

- ▶ (Shias have another model and there are further differences).
- ▶ The state does not legislate or aggregate preferences. God revealed the basics of the law to Muhammed. It was elaborated by religious scholars into the Shari'a by interpretation of the Qura'n, the Sunna (the traditions and practices) of the Prophet, the Hadith and a few judicial techniques.
- ▶ The role of the state is to implement the Shari'a.
- ▶ No focus on potential miss-behavior of leaders, rather the issue was to identify the most holy and learned in the scriptures. As the Qur'an says "the noblest among you in the sight of God is the most godfearing of you" (Q 49:13).
- ▶ No checks and balances. Neither Muhammad nor the Rightly Guided Caliphs were checked and balanced.

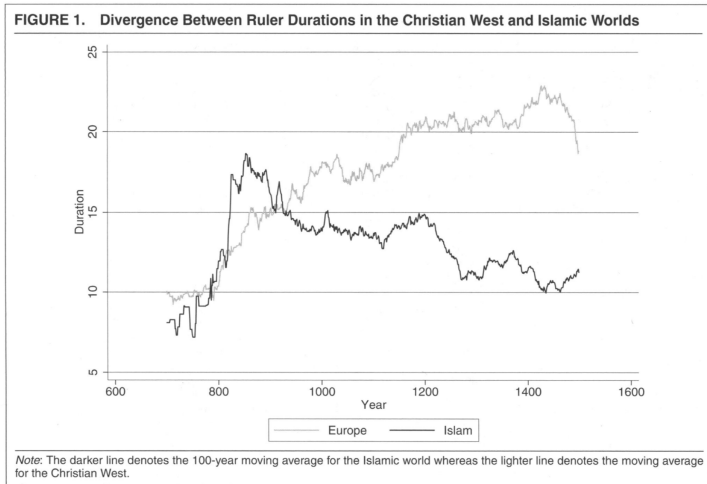
# Islam and Democracy

- ▶ No emphasis on democratic institutions. (The Qur'an does emphasize consultation between believers and there is some evidence for the existence of a regular shura (council) during Umar's caliphate).
- ▶ The Qur'an says "O ye Faithful, obey God and the Apostle and those set in command amongst you" (Q. IV, 62) suggesting that the caliph is chosen by God, not the people. Moreover "O God, the possessor of the kingly rule, Thou givest the rule to whom Thou wilt and withdrawest the rule from whom Thou wilt" (Q. III, 25-27).
- ▶ It is clear that if democracy is adopted, its tasks are different from the institutions proposed by Locke.

# The History of the Islamic State

- ▶ There was quite a lot of autocracy and miss-use of power after the Rightly Guided Caliphs with the Ummayyad and particularly the Abbasid Caliphates and successor states.
- ▶ Michael Cook (*Forbidding Wrong in Islam*, p. 161) notes  
*In no other civilization was rebellion for conscience sake so widespread as it was in the early centuries of Islamic history.*
- ▶ By the Middle Ages scholars like al-Gazzali could write  
*An evil doing and barbarous sultan, so long as he is supported by military force, so that he can only with difficulty be deposed and that the attempt to depose him would create unendurable civil strife, must of necessity be left in possession and obedience must be rendered to him, exactly as obedience is required to be rendered to those who are placed in command.*
- ▶ What is remarkable however is the persistence of the ideals of the early Islamic state as manifested in the Taliban's state.

# Islamic Political Instability



Lisa Blaydes and Eric Chaney (2013) "The Feudal Revolution and Europe's Rise: Political Divergence of the Christian West and the Muslim World before 1500 CE," *American Political Science Review*.

## An Example of Restrictions in the *Shari'a*

- ▶ Did the *Shari'a* really constrain rulers?
- ▶ Timur Kuran has emphasized the important role of Islamic property rights, especially the *waqf*.
- ▶ The *Shari'a* mentions four types of taxes. *Zakat* which is income that every Muslim must give to the poor; *Jizya* which is a poll tax on non-Muslims; two types of taxes that fell on land *Kharaj* and *'Ushr*.
- ▶ Though the extent to which the *Shari'a* actually restricted policy is contested, for example the Ottoman's also issued state laws, known as the *kanun*, these mostly covered areas which the *Shari'a* could not be interpreted to cover.
- ▶ Interesting evidence of the importance of the restrictions comes from Halil Inalcik and Sevket Pamuk's reconstructions of Ottoman fiscal revenues.

# The Dominance of Shari'a Taxes in Ottoman Finances

Table 1:9. Poll-tax and principal *mukataas*, 1475 (in thousands of gold ducats)

Rumeli		Anadolu	
Poll-tax	850	Tolls and revenue from salt works, western Anatolia	32
Tolls at Gelibolu and İstanbul	50	Tolls and tithes, Alaiye (Canderone)	12
Customs dues, İstanbul	70	Old and new Foça (Phocaea) poll-tax and alum revenue	20
Customs dues, Gelibolu	9	Tolls ( <i>bac</i> ) and customs dues from silk, Bursa	50
Salt works	92	Revenue of Kastamonu, in particular copper mines	150
Mints (silver coins)	120	Trabzon, Amasra and Samsun, customs dues	10
Mints (gold coins)	3	Revenue, Caffa	10
Mines	120	Revenue, Karaman	35
Poll-tax and salt works, Enez	11	Salt works	12
Salt works, Salonica	2.5		
Revenue, Euboea	12.5		
Revenue, Morea	31.5		
Revenue, Avlona	1.5		
Grain tax	20		
Revenue, Sofia	1		
Revenue, Edirne	12		
Gypsies	9		
Bathhouses	8		
Rice cultivation	15		
Total	1,438	Total	331

Source: Babinger (1957), pp. 62-72.

# Per-capita Real Tax Revenues of the Ottoman State

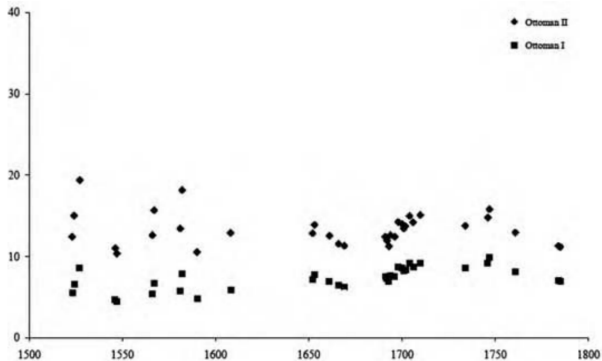


FIGURE 2  
REVENUES PER CAPITA OF THE OTTOMAN CENTRAL ADMINISTRATION  
(in grams of silver)

Kevenç Karaman and Sevket Pamuk (2010) "Ottoman State Finances in European Perspective," 1500–1914" *Journal of Economic History*.

# A Comparative Perspective

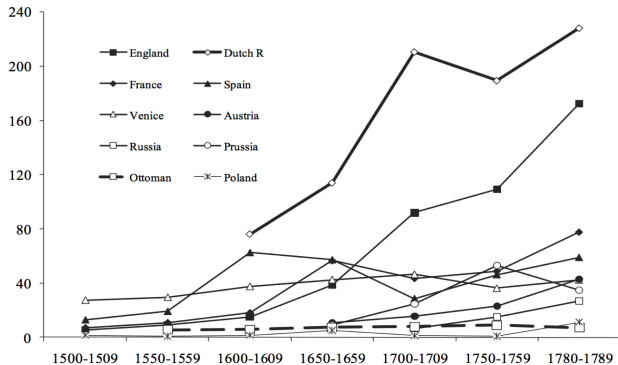


FIGURE 5  
ANNUAL REVENUES PER CAPITA  
(10-year averages in grams of silver)

Kevenç Karaman and Sevket Pamuk (2010) "Ottoman State Finances in European Perspective," 1500–1914" *Journal of Economic History*.



# How does the Islamic State fit together? 1

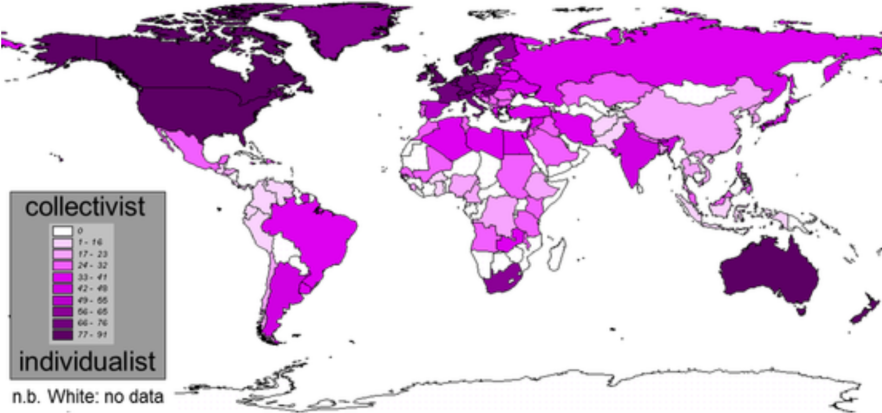
- ▶ Let me focus on one aspect. Why the lack of checks and balances, or concern for what Madison called in Federalist 51 “auxiliary precautions”?
- ▶ There appear to be three important reasons for this:
- ▶ **First:** The fact that the ‘policy’ was determined by the Shari’a made it both well known to citizens and much easier to identify deviations by rulers.
- ▶ Michael Cook comments (*Ancient Religions, Modern Politics*).  
*It is their knowledge of this law that enables the believers at large to judge the rectitude of the caliph and take action where necessary. (p. 321)*
- ▶ In his exhaustive study of the Ottoman legal system (*State, Society and Law in Islam*) Haim Gerber remarks  
*I find it most remarkable that even in the most remote corners of this huge empire villagers knew what was legal and what was not, [and] understood the mechanism for lodging a complaint. (p. 162)*

## How does the Islamic State fit together? 2

- ▶ **Second:** There is less obsession with the “original sin” (no such concept in Islam) of rulers.
- ▶ **Third:** Islamic society had what Ibn Khaldun called *Asabiyya*, or group solidarity, making it easier to solve the collective action problem. This went along with social norms, like the one that said it was the duty of Muslim’s to “Command right and forbid wrong” (compare to “no sea sapo”!) that Abdul Salam Zaeef mentions in recounting the story of how Mullah Omar became the leader of the Taliban.
- ▶ Let me see how these ideas fit together in a simple model.

# Microfoundations of Asabiyya?

## Collectivism – Individualism World map



# A Simple Model

- ▶ There is a ruler and a representative citizen, interacting sequentially. The ruler moves first, making a binary policy decision  $a \in \{0, 1\}$ .
- ▶ The citizen observes the ruler's action, and will have an opportunity to act with probability  $\gamma_1 \in [0, 1]$ .
- ▶ If the does not get an opportunity to act, the game ends. If the citizen gets an opportunity to act, he has a binary action to do nothing, or to revolt, remove the ruler, and reverse the ruler's decision.
- ▶ There is a binary state of the world  $s \in \{0, 1\}$ .
- ▶ The citizen prefers the policy decision to match the state, but the ruler's preferences depend on his type.

## The Ruler's Type

- ▶ The ruler has two possible types  $t \in \{g, b\}$ , where  $g$  stands for “good” and  $b$  stands for “bad”.
- ▶ The good ruler always wants to match the state. In contrast, the bad ruler prefers action 1 regardless of the state. In addition, the bad ruler receives private benefits from being in charge.
- ▶ The ruler observes the state before deciding which action to take. The citizen does not observe the ruler's type or the state, but received a signal  $x$  of the state, after the ruler's decision.
- ▶ If the citizen does not revolt, the bad ruler gets  $\delta \in (0, 1)$  if he takes action 0, and he gets 1 if he takes action 1. The citizen receives 1 if the final policy matches the state and 0 otherwise. Moreover, if the citizen revolts, he pays a fraction  $c \in [0, 1]$  of his payoff.
- ▶ Players share a prior that  $Pr(s = 1) = 1/2$ , and that  $Pr(t = b) = q \in (0, 1)$ . Assume that the citizen observes the state or observes nothing:  $x = s$  with probability  $p \in [0, 1]$ ,

# Timing of the Game

- ▶ First, nature chooses the state  $s \in \{0, 1\}$  and the ruler's type  $t \in \{g, b\}$ .
- ▶ Next, the ruler observes the state, and then takes an action  $a \in \{0, 1\}$ .
- ▶ Then, the citizen observes the ruler's action and receives a signal  $x$  about the state  $s$ .
- ▶ Next, the nature chooses whether the citizen has an opportunity to act.
- ▶ If he does not, the game ends.
- ▶ If the citizen gets an opportunity to act, then he decides whether to revolt, remove the ruler, and reverse the ruler's action.

# Analysis

- ▶ First, consider the citizen's decision when he has the opportunity to act.
- ▶ If he observes the state and the state matches the ruler's action, then the citizen does nothing. If he observes the state and the state does not match the ruler's action, then the citizen revolts.
- ▶ Now, suppose the citizen does not observe the state. He revolts if and only if:

$$\Pr(s = a|a) < \Pr(s \neq a|a)(1 - c), \text{ i.e., } \frac{\Pr(s = a|a)}{\Pr(s \neq a|a)} < 1 - c.$$

But the left hand side is always strictly larger than  $q$ , and hence the citizen never revolts.

- ▶ Thus, when the state is 1, the bad ruler takes 1. When the state is 0, the bad ruler takes action 1 if and only if  $1 - p\gamma_1 > \delta$ , i.e.,  $p < (1 - \delta)/\gamma_1$ .

# Payoffs

- ▶ Thus, the citizen's expected payoff is:

$$U_1 = \begin{cases} (1 - q) + q \frac{1 + p\gamma_1(1 - c)}{2} & ; p < \frac{1 - \delta}{\gamma_1} \\ 1 & ; p > \frac{1 - \delta}{\gamma_1}. \end{cases}$$

Note that when  $p > \frac{1 - \delta}{\gamma_1}$ , even the bad ruler always matches the state, and hence the citizen always received 1. In contrast, when  $p < \frac{1 - \delta}{\gamma_1}$ , if the ruler is bad (which happens with probability  $q$ ), he always takes action 1. The citizen observes this misconduct with probability  $p$  and gets an opportunity to revolt and correct policy with probability  $\gamma_1$ , so that his expected payoff is  $p\gamma_1(1 - c)$ . Re-arranging

$$U_1 = \begin{cases} 1 - q \frac{1 - p\gamma_1(1 - c)}{2} & ; p < \frac{1 - \delta}{\gamma_1} \\ 1 & ; p > \frac{1 - \delta}{\gamma_1}. \end{cases}$$



## Introducing the Separation of Powers

- ▶ Now, consider an alternative institutional arrangement in which two rulers, indexed by  $i \in \{1, 2\}$ , are jointly in charge of the government.
- ▶ The rulers' types are iid, and as before  $t_i \in \{g, b\}$ . The rulers know each other's types and the state of the world, but the citizen does not observe the rulers' types or the state.
- ▶ The rulers move first, simultaneously deciding which action to take, with  $a_i \in \{0, 1\}$ . The policy outcome, absent citizen revolt, is the maximum action  $\max\{a_1, a_2\}$ .
- ▶ The citizen observes the rulers' actions, and will have an opportunity to act with probability  $\gamma_2 \in [0, 1]$ .
- ▶ If the does not get an opportunity to act, the game ends. If the citizen gets an opportunity to act, he has a binary action to do nothing, or to revolt, remove either or both rulers, and reverse the action(s) of the removed ruler(s) decision. We assume  $\gamma_2 \geq \gamma_1$ , so that dividing power improves the citizens' chances of resolving their collective action problem.

## Some Assumptions

- ▶ As before, a good ruler always takes the action that matches the state.
- ▶ A bad ruler's payoff is normalized to 0 if the citizen revolt and reverses his action. If the citizen does not revolt, the bad ruler gets  $\delta \in (0, 1)$  if he takes action 0, and he gets 1 if he takes action 1.
- ▶ The citizen receives  $1 - \mu$  if the final policy matches the state and 0 otherwise, where  $\mu \in [0, 1]$  is the deadweight loss associated with complicating the decision making process. Moreover, if the citizen revolts, he pays a fraction  $c \in [0, 1]$ .
- ▶ Priors and the signal structure is identical to the Benchmark.

# Timing of the New Game

- ▶ First, nature chooses the state  $s \in \{0, 1\}$  and the rulers' types  $(t_1, t_2) \in \{g, b\}^2$ .
- ▶ Next, each ruler  $i$  observes  $s$ ,  $t_1$ , and  $t_2$ , and then takes an action  $a_i \in \{0, 1\}$ .
- ▶ Then, the citizen observes the rulers actions,  $(a_1, a_2) \in \{0, 1\}^2$ , and receives the signal  $x$  as before.
- ▶ Next, the nature chooses whether the citizen have an opportunity to act.
- ▶ If he does not, the game ends. If he does, the citizen decides whether to revolt. If he does revolt, he can change the action of either or both rulers.

# Analysis of the Separation of Powers

- ▶ If the citizen observes the state, he revolts and remove the ruler whose action does not match the state: if he does not act, he gets 0; If he does act, he gets  $(1 - \mu)(1 - c)$ .
- ▶ Knowing this, a bad ruler matches the state when his co-ruler is good if and only if the state is 1 or  $1 - \gamma_2 < \delta$ .
- ▶ Now, suppose that both rulers are bad. We focus on symmetric strategies. As before, when the state is 1, they both take action 1. When the state is 0, they both take action 1 if and only if  $1 - p\gamma_2 > \delta$ , i.e.,  $p < (1 - \delta)/\gamma_2$ .

# Payoffs

Thus, the citizen's expected payoff is:  $\frac{U_2}{1-\mu} =$

$$\begin{cases} (1-q)^2 + 2q(1-q) \frac{1+\gamma_2(1-c)}{2} + q^2 \frac{1+p\gamma_2(1-c)}{2} & ; \gamma_2 < 1 - \delta \\ (1-q^2) + q^2 \frac{1+p\gamma_2(1-c)}{2} & ; 1 - \delta < \gamma_2 < \frac{1-\delta}{p} \\ 1 & ; \frac{1-\delta}{p} < \gamma_2. \end{cases}$$

The citizen's expected payoff in the case where  $\gamma_2 = 1$  simplifies to:

$$U_2 = \begin{cases} (1-\mu) \left( 1 - q^2 \frac{1-p(1-c)}{2} \right) & ; p < 1 - \delta \\ 1 - \mu & ; p > 1 - \delta. \end{cases}$$

# Comparison of Institutional Trade-offs

- ▶ Comparing the expected payoffs under the two institutions ( $U_1$  vs.  $U_2$ ) shows the tradeoffs. We do this for the simplified case of  $\gamma_2 = 1$ .
  - ▶ First, rulers check each other's actions: when one of the two rulers is good, the other always matches the state, because he knows that his misconduct will be revealed.
  - ▶ Second, it will be (weakly) easier for the citizenry to solve its collective action problem, so that  $\gamma_2 \geq \gamma_1$ . This directly improves expected payoffs, because citizens can correct the wrongs more frequently. It also improves payoffs indirectly, because anticipating the citizen's action, the bad ruler reduces his misconduct. However, there is a deadweight loss associated with dividing and complicating the policy making process, reducing the payoff by a fraction  $\mu$ .

## Comparison of Payoffs

- ▶ Thus, when  $p > 1 - \delta$ , a one-ruler institutional arrangement is preferable:  $U_1 > U_2$ . By contrast, when  $p < 1 - \delta$ , then

$$U_1 < U_2 \text{ if and only if } \frac{1 - q \frac{1-p(1-c)}{2}}{1 - q^2 \frac{1-p(1-c)}{2}} < 1 - \mu.$$

- ▶ Thus,  $U_1 > U_2$  in the polar cases when citizens believe that the ruler is very likely to be good or very bad  $q \approx 0$  or  $1$ . In contrast, the rulers' types are more uncertain,  $U_2 > U_1$  when deadweight loss  $\mu$  is small and citizens are not too likely to learn the state (i.e., when  $p < \delta$ ).

## Critical Value of Observability

- ▶ Writing the constraint in terms of  $p$ , we have

$$U_1 < U_2 \text{ if and only if } p < \bar{p}(\mu, c, q) \equiv \frac{q - (1 - \mu)q^2 - 2\mu}{q(1 - c)(1 - q(1 - \mu))}.$$

- ▶ The easier it is to observe the state, the more likely that  $U_1 > U_2$ . The Shari'a makes  $p$  high.
- ▶ Moreover,  $\bar{p}$  is increasing in  $c$ : when the cost of revolt increases, dividing the power tends to be better. This is because when the power is divided rulers act as checks on each other's actions: a bad ruler with a good co-ruler strategically reduces his misconduct, thereby saving the potential cost of revolt for the citizens.
- ▶ Societies in which citizens assign a lower cost to revolt (e.g., because they see it as their religious duty to "Command right and forbid wrong", or because they can easily solve the collective action problem) also have less tendency to divide power.



# Economic Consequences

- ▶ One of the reason Lockean institutions are so popular in political economy is because they are associated theoretically and empirically with public good provision and economic growth.
- ▶ These implications are not the focus of these lectures. The work of Karaman and Pamuk emphasizes that the lack of resources of the Ottoman state had seriously negative effects for public good provision.
- ▶ The research of Timur Kuran and Jared Rubin has emphasized other channels via which the Shari'a restricted the development of economic institutions (for example the absence of the notion of a corporation).

# Reflection

- ▶ The Islamic tradition deviates from the western one in some fundamental ways.
- ▶ Most obviously the law comes from God (modulo the traditions of “interpreting” the Qur’an, Sunna, Hadith etc. - but this is done outside the state).
- ▶ The problem is different - how to implement the Shari’a, and so is the solution - the model clarifies why checks and balances may not have been part of the solution.
- ▶ The assumptions about human nature are also different - far more trust in the good intentions of leaders and emphasis on the need to choose the person most knowledgeable (like Mullah Omah).

## Scepticism Towards Authority? Not in China ...

- ▶ Compared to Locke and his followers, the Islamic tradition has a more Hobbesian like belief that rulers will do what you want them to do.
- ▶ This attitude is shared by the Confucian tradition. The *Analects* of Confucius, his sayings collected after his death by his students, reports

*The Master said, "One who rules through the power of Virtue is analogous to the Pole Star: it simply remains in its place and receives the homage of the myriad lesser stars. (2.2.1)"*
- ▶ Rather than laws and punishments the way to deal with the common people was to

*guide them with Virtue, and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves.*

## A Little Background on Confucianism

- ▶ Confucius argued that everyone is morally perfectible and they should engage in a process of self-improvement to find “The Way” (*Dao*) - basically becoming virtuous or good.
- ▶ This starts in the family, respecting its hierarchy and practicing ritual.
- ▶ Once established here it spreads throughout society (“Virtue is never solitary; it always has neighbors” (4.25, p. 37)) right the way up to the state which has to be run by virtue, not rules.
- ▶ A key element of Confucianism was that ethical principles were context dependent and relative.

## The Importance of *shu*

- ▶ Perhaps the most important aphorism in the *Analects*, is *Zigong* asked: “Is there one word that one can practise throughout one’s life?” That Master said: “Is it not *shu*? What you yourself do not desire, do not do to others.” (15.24 p. 183)
- ▶ *shu* can be translated as ‘understanding’ (Slingerland, 2003, p. 183) or ‘reciprocity’ (Goldin, 2011, p. 15). This version of the Golden Rule is at the heart of Confucius’ philosophy, but Goldin (2011, p. 16) adds it has to be interpreted as *doing unto others as you would have others do unto you if you had the same social role as them.*

## “Heaven is High and the Emperor is far away” -Chinese proverb from the Yuan Dynasty

- ▶ It's important to understand what the Confucian model of society was to understand the attitudes towards rulers.
- ▶ It is well described in the *The Great Learning* one of the four Confucian classics (one of the books that everyone who took the Imperial exams were quizzed about).

*Wishing to order their states, they first regulated their families. Wishing to regulate their families, they first cultivated their own self. Their self being cultivated, their families were regulated; their families being regulated, their states were correctly governed. Their states being well governed, the whole empire was made tranquil and peaceful.*

# A Rule of Law?

- ▶ The *Analects* records  
*The Duke of She said to Confucius, “Among my people there is one we call ‘Upright Gong.’ When his father stole a sheep, he reported him to the authorities.” Confucius replied, “Among my people, those who we consider ‘upright’ are different from this: fathers cover up for their sons, and sons cover up for their fathers. ‘Uprightness’ is to be found in this.”*
- ▶ One’s first loyalty is to one’s family not abstract laws.

# The Chinese Constitution

- ▶ What are the implications of Confucianism for political institutions?
- ▶ With the focus on ruler's attaining *The Way* no need for checks and balances.
- ▶ Democracy? A famous passage in the *Analects* observes  
*When the Way prevails in the world, commoners do not debate matters of government. (16.2 p.193)*
- ▶ There were of course law codes, even as far back as the first dynasty, the Qin. These were inspired more by the Legalist tradition than Confucianism.



## The Perspective of the Enlightenment

- ▶ It's interesting to contrast the Confucian view with that emanating from the Enlightenment, of which Locke was such a part.
- ▶ In his essay "On the Supposed Right to Lie From Benevolent Motives" Immanuel Kant asks, following some comments by Benjamin Constant, is it right  
*to tell a falsehood to a murderer who asked us whether our friend, of whom he was in pursuit, had not taken refuge in our house, would be a crime.*
- ▶ Kant's answer is no, it is not right.
- ▶ Kant finishes his essay with the statement  
*To be truthful (honest) in all declarations is therefore a sacred unconditional command of reason, and not to be limited by any expediency.*
- ▶ Worth observing the depth of the western tradition here. Jesus experienced a virgin birth, so he was not connected to a kinship group!

# Conclusions

- ▶ Today I emphasized that the Islamic constitutional tradition diverges radically from the western one. While it is based on the rule of law
  - ▶ There is no room for legislation because God determined the law. (To the extent this notion is idealistic, because of the role of interpretation, this interpretation was outside the control of the state).
  - ▶ The state did not feature representation nor separation of powers.
- ▶ The model I developed was supposed to clarify how some of these features hang together
  - ▶ Because the law was revealed and fused with religion, people were well informed about what it was and knew when rulers were deviating from it.
  - ▶ “Auxiliary precautions” less necessary when there was less scepticism about the character of rulers (no concept of “original sin” in Islam).
  - ▶ Role of solidarity/asabiyya and commanding right and forbidding wrong.

# Conclusions

- ▶ The Chinese tradition shares a belief in the perfectability of rulers.
- ▶ But it does not share the same obsession with the rule of law which is perhaps why there is so much corruption in China today and the use of *Guanxi* “networks” or “connections” .
- ▶ But this is interestingly combined with other sociological Confucian principles. As the *Analects* has it  
*promote those who are worthy and talented (13.2)*