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**Article (Accepted version)
(Refereed)**

Original citation:

Gray, Hazel (2015) *Access orders and the 'new' new institutional economics of development*. *Development and Change*, 47 (1). pp. 51-75. ISSN 0012-155X

DOI: [10.1111/dech.12211](https://doi.org/10.1111/dech.12211)

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This version available at: <http://eprints.lse.ac.uk/62142/>

Available in LSE Research Online: November 2016

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Access Orders and the 'New' New Institutional Economics of Development

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ABSTRACT

This article examines the Access Order theories of development that have emerged as the latest reformulation of New Institutional Economics by Douglass North and his associates. They claim that Access Order theory represents a radical break from previous models of institutional change in developing countries. They argue that at the heart of development is the problem of controlling organized violence. Two distinct social orders, the Limited Access Order and the Open Access Order, have emerged as solutions to the problem of endemic violence. This article traces the evolution of these new ideas within North's institutional theory and examines how violence is treated within their framework. The article evaluates the underlying economic model on which the theory is based and argues that the conceptual device of the Open Access Order preserves key features of the neoclassical approach within North's work. The article contrasts the Access Order approach to the political settlements framework. To conclude the article argues that the Access Order approach serves to strip the progressive potential out of development by ignoring how controlling violence may affect capabilities, rights and freedom.

Key Words: Violence, Limited Access Orders, Rents, New Institutional Economics, Neoclassical Economics, Political Settlements, the Good Governance Agenda

INTRODUCTION

Good governance has been the dominant theme in the discourse on politics and economic performance in developing countries for international development institutions and large parts of academia for more than two decades. Although sections of academia have always been sceptical of the good governance agenda and its theoretical underpinnings in new institutional economics, its hegemonic position is now also increasingly questioned by the mainstream. The search for new theoretical directions on governance pre-dates the recent re-examination of received economic wisdom triggered by the global financial crisis (Hodgson 2009). Rather, its roots lie in a slow build up of evidence and experience that have challenged the axioms of good governance in a number of ways. The growing critique has focussed on the problems of measuring institutions and institutional quality, the validity of econometric data on governance, the (im)-possibility of importing institutions from the West, particularly in the light of experience in Iraq and Afghanistan, and the rise of alternative models of governance and good economic performance from Asia (Glaeser et al 2004, Gray 2007, Khan 2002, Knack 2006, Rodrik 2008).

The challenge of these 'anomalies', in Kuhnian terms, have generated a number of responses, most of which focus on the pace and form of institutional change while sustaining important underlying aspects of the good governance paradigm. Dani Rodrik's influential work (2008)

provides a good measure of the parameters of the mainstream in this regard. He argues that there is a distinction between the function and form of institutions, thus maintaining the view that the main elements of good governance – secure generalized property rights and accountable transparent political systems – are the critical ingredients for improved economic performance in developing countries, while taking on various forms depending on the specific context (Rodrik 2004). A similar approach is found in the ‘good enough’ governance agenda (Grindle 2004, 2007) that calls for a staged implementation of good governance reforms recognizing the unique characteristics of state capacities and political constraints. Over time, these criticisms have filtered through to the policy sphere, as is evident, for example, in a number of World Development Reports (World Bank 2007, 2011) that have distanced themselves from some of the earlier claims of the good governance agenda typified by the 2002 World Development Report *Building Institutions for Markets*.

Within these competing claims to theoretical innovation, North’s new work on violence and social order merits particular examination. The corpus of North’s co-authored work on this topic, which is made up of two books and numerous working papers and articles (2006, 2007, 2008, 2009, 2012)¹, aims ‘to provide a new framework for interpreting the course of human history over the past ten thousand years, and to open new ways of thinking about the pressing problems of political and economic development facing the world today’ (xiii, 2008). In this article, I refer to North et al’s new work as a theory of Access Orders. Their main critique of the prevailing thinking on governance starts from the observation that institutions work in strikingly different ways in developing and developed countries. This observation, they argue, is shared by a number of contemporary social scientists, including those most associated with the mainstream cannon on development and institutions – for example, Daron Acemoglu and James Robinson, Paul Collier and William Easterly (North et al 2012, 2). However, they argue that the distinctiveness of their approach is in providing a systematic explanation for these differences by placing the problem of organized violence at the heart of development.

According to their theory, two fundamentally different types of social order exist in the contemporary world which control violence in unique ways: the Limited Access Order, encompassing all contemporary developing countries and past societies with settled agriculture, and the Open Access Order, that is found only in the handful of rich countries that are members of the OECD. In Limited Access Orders violence is controlled by limiting access to economic and political organizations and thus creating rents. These rents are then distributed to powerful groups to incentivize their peaceful co-operation within the existing order. In contrast, a virtuous cycle in Open Access Orders ensures that competition, open access to organizations and the generalized rule of law minimizes violence, promotes stability and generates economic growth. Thus, they propose that ‘development tools based on first world experiences are ill-suited to the development goals in third world countries’ (2007; 1). Development policy, therefore, needs to focus on how the state can solidify itself and maintain or strengthen its control over violence and, eventually, how to support a legal framework for non-state organizations to exist and proliferate in order to eventually develop into an Open Access Order.

The importance of critically engaging with the newest of North’s new institutional theories is threefold. First, North is widely recognized as the key intellectual figure within new institutional economics and his work was arguably the most important contribution to the theoretical

¹ The new framework was initially set out in a joint paper by Douglass North, John Joseph Wallis, and Barry Weingast (2006) and in *Violence and Social Orders* (2009). Stephen Webb has also been associated with the development of these theories and was a co-author of *In The Shadow of Violence* (2012), an edited collection of essays that applies the Access Order theories to a set of countries.

framework of the good governance agenda². The Access Order theories are presented as breaking with a number of his long held theoretical assumptions. Nevertheless, these new theories also appear to reassert important features of his underlying analytical framework which is rooted in neoclassical economics. The claim that these theories are new, therefore, needs to be critically evaluated. Second, North's work is generally characterized as a theory of history, but the Access Order theories are explicitly presented as a theory of contemporary development with important implications for development policy. The Access Order theories have already found themselves in wide circulation in academia and in policy discussion. This is evident, for example, from the 2011 World Development Report that draws heavily on the Access Order framework. As yet, however, very little analysis of the implications of these new theories for development policy has been undertaken. The article contributes to this end by examining the extent to which the Access Order theories sustain or challenge core elements of the existing good governance paradigm. Third, although North and his associates present their ideas as a distinctively new theory of social and economic change, the article examines the extent to which the emergence and content of these theories also reflects changes within the broader framing of international development over the past decade, in particular the rise of the idea of development-as-security.

This article proceeds through five sections. I first explain the main theoretical logic of the Access Order theory of development. The second section sets out the trajectory of North's intellectual journey. It traces the development of the concepts within the Access Order framework from his earlier work arguing that while he has modified many of his initial neoclassical assumptions his understanding of society is still attached to an underlying set of assumptions about rationality, optimization and the primacy of the free market. In the third section I examine the characterization of violence by North and his associates as the key problem of development and situate their approach within other theoretical approaches to violence and development. The article then turns to the economic theory embedded in the model and sets out the limitations of their approach to understanding economic transformation and the relationship between violence and economic change. I argue that their division of the world into Limited and Open Access systems allows them to preserve the primacy of competitive rent-free markets as the counterfactual against which the real world should be judged. Finally the article contrasts the Access Order approach to the political settlements theory of development. To conclude, I argue that the Access Order theories present an important challenge to the existing dominant paradigm of good governance. However, while North et al identify the right concepts to place at the heart of the study of development – conflict, power, organization, institutions, economic change and ideas – these can only be partially understood within the a-historical logic of individual maximization on which their framework rests.

THE LOGIC OF ACCESS ORDERS

North et al argue that their new work on Access Orders presents a radical departure from previous theories that explain the relationship between politics, economics and development. Their claim to originality rests on their understanding of the role of violence and their rejection of the Weberian idea that the most important characteristic of modern states where political order prevails over civil war is a collective agreement that the state alone holds the legitimate control over violence. In contrast, the theoretical starting point for the Access Order theory of development is the assertion that no single organization, institution or individual ever holds a monopoly on violence; instead, the capacity for violence between different groups is an

² Governance is a broad term that draws on a number of different schools of thought but the influence of new institutional economics is particularly important within the donor policy-oriented engagement with the concept where governance is understood as primarily concerning the state structures that support accountability. As Doornbush points out, there has been a much wider engagement with the concept of governance in academic approaches that are not restricted to the theoretical framework of new institutional economics.

inevitable feature of both ordered and disordered societies. The solution to the problem of the inherent and diffuse capacity for violence within all human societies, they argue, is to be found in the structure of institutions and the material incentives that institutions create. Thus, at the heart of their new approach is the argument that for humans to live in viable social groups, institutions that create constraints and incentive mechanisms to control the inherent potential for violence between members of the group are needed.

The ability of individuals ‘to control the violence of others depends on the structure and maintenance of relationships amongst powerful individuals’ (2009, 18). What they mean by relationships is the institutionalized mechanisms through which people can bargain over material rewards and punishments. The powerful individuals of Access Orders belong to elites, which become the principle political actors because of their advantages in leadership, whether material or other, that allow them to mobilize group violence to achieve their own material objectives. Despite their claims to theoretical originality, their understanding of development draws heavily on the widely used neo-patrimonial approach to politics in developing countries³, which argues that elites maintain control over their clients through personal ties. Thus, the power of any organization in a developing country depends on the personal identity of the organization’s leadership and the ability of elites to distribute material rewards to their clients in return for support. The reason why elites wish to control the violence of other elites, according to their theory, is that violence creates uncertainty and destroys production; hence, there is a trade-off between the level of violence and the rate of economic development. Elites wish to maximize their returns but they can only do this if they can successfully constrain the potential violence of other elites. Acemoglu and Robinson (2005) also characterize politics as being a process of elite bargaining but in their approach elites are driven by their desire to maximize profits alone, not under the threat of potential violence by other elites.

In *Violence and Social Order*, they define a social order as ‘the way societies craft institutions that support the existence of specific forms of human organization, the way societies limit or open access to those organizations, and through the incentives created by the pattern of organization’ (2009 1). They argue that over the entirety of human history there have been three different social orders that have emerged each with distinct mechanisms for controlling violence: the Foraging Order, the Limited Access Order and the Open Access Order. In the Foraging Order, consisting of ‘small social groups characteristic of hunter-gatherer societies’ (2009, 2), levels of violence were very high and were only controlled through repeated personal contacts within small groups. In societies based on larger groups such personal connections are no longer viable and two distinct patterns of social institution – rules and organizations supported by distinct belief systems – developed over time to control violence. The Limited Access Order and the Open Access Order both generate lower levels of violence than the Foraging Order. However, the role formal and informal institutions play in constraining violence varies in fundamental ways between the two orders due to different underlying incentives systems created by the structure of competition between elites.

In Limited Access Orders, violence is contained by setting limits on rights to form organizations. Organizations, according to North’s long-standing definition, include firms, political parties, trade unions, religious congregations and universities, where individuals are bound together by a common purpose. Restricting access to the establishment of organizations generates rents for those who have the right to be part of an organization. The rights to these augmented income flows that are generated by limiting the supply of organizations are then distributed to powerful

³ Building on Weber’s ideal types, the neo-patrimonial approach as exemplified in the work of Bates (1983), Chabal and Daloz (1989) and Kang (2003) argues that politics operates through patron-client relations rather than the legal and formal structure of the state because of underlying socio-cultural features of developing countries.

individuals to incentivize co-operation between different elites. When elites are able to reach an agreement about how rents should be distributed between each other they are able to form a ruling coalition that can dominate the formal institutions of the state and maintain control over the distribution of rights to rents. If the flow of incomes generated by control of rents is not in line with the violence capacity of different elites, powerful factions of the ruling elite will resort to violence until their demands for a redistribution of rights within the ruling coalition are met. A successful distribution of rents between elites that generates stability does not depend on the extent to which the distribution of rents is aligned with formal rules but on the extent to which the distribution of rents matches the relative strength (the capacity for violence) of different groups controlled by the elites concerned. This means that politics in Limited Access Order is often unstable and individuals and organizations cannot credibly commit to observing formal rules. Nor is the pursuance of reforms that enforce more transparent systems of resource allocation within the state necessarily the best option for preserving stability within a ruling coalition.

Nevertheless, even where formal rules are not observed, political stability can be achieved which can facilitate economic growth and development. Development progresses within the Limited Access Order as countries move from being a 'fragile LAO' with high levels of violence, to becoming what they define as a 'basic LAO' where government is fairly well established and violence is often latent and managed. In the final stage, a 'mature LAO' achieves less violence and more diverse and longer lasting organizations. These organizations start to have a vested interest in maintaining impersonal rules governing the relations between elites, establishing the foundation of the Open Access system. The direction and pace of this process is determined by the changes in the relative balance of power within the ruling coalition.

Transition from a Limited to an Open Access system involves attaining a set of 'doorstep conditions'. These are the rule of law for elites, perpetually lived organizations in the public and private spheres, and consolidated control over the military. However, even with these conditions in place, the shift to a self-sustaining Open Access system is not guaranteed. North et al argue that 'open access is not just around the corner, and modern democracy and economic development are not likely outcomes of a revolutionary struggle' p (2012, 349). The transition between the two orders depends on a tipping point being reached in the number of independent organizations that have an interest in maintaining impersonal rules that restrict violence. In Open Access Orders, violence is minimized by a completely different institutionalized incentive mechanism. Rather than elites benefitting from the creation of rents, in Open Access Orders elites maximize their own self interest by adherence to formal impersonal rules that set limits on organized violence and centralize the legal use of violence within the state. The Open Access Order relies on competition, open access to organizations and the rule of law to hold society together and to limit violence. This system depends on the emergence of a critical number of organizations that have an interest in maintaining impersonal relations; but, once in place, the Open Access Order generates a self-enforcing mechanism that ensures adherence to social norms and formal rules that limit violence and encourage competition. According to North et al, Open Access Orders are, therefore, more peaceful and also generate higher and more stable economic growth through economic competition.

While, ultimately, the emergence of an Open Access system provides a lasting solution to the problem of violence, very few contemporary countries are on the threshold of this transition. Instead, North et al argue that the most important problem within contemporary development is how to reduce violence within the political logic of the Limited Access Order. The standard governance reform agenda in developing countries that has focussed on strengthening the rule of law, liberalizing markets and improving accountability and transparency within the state cannot achieve these ends, according to North et al. Instead, governance reform in developing countries

needs to focus on how to support stable elite pacts. This would involve the acceptance of different types of formal and informal mechanisms that distribute rents to powerful elites. By generating stability, higher levels of investment will ensue and lead to an eventual transition to the Open Access system with higher rates of competition and lower levels of violence. North et al argue that the implications of the Access Order theory of development are profound. They suggest that the commitment to enhancing the formal mechanisms of governance in developing countries through the ‘good governance’ approach of strengthen the rule of law, improving democratic accountability and liberalizing markets have been fundamentally mistaken. Instead, development partners need to focus on the political implications of these reforms for the stability of the ruling coalition and the eventual emergence of enough organizations to create a new equilibrium that can sustain an Open Access Order.

NORTH’S INTELLECTUAL JOURNEY

The main theoretical content of Douglass North’s newest work on institutions is, on first assessment, both familiar and surprising. North argues that his latest work breaks from his existing opus in important ways. Nevertheless, the motivations and underlying questions that are addressed in *Violence and Social Orders* are very much consistent with his long term interests. These have been in explaining divergent economic performance across time and in the desire to improve and enrich the basic neo-classical model that he used in his early work to explain historical change with insights from a range of other disciplinary approaches. His expanding intellectual ambitions are reflected in the growing scope of his analysis, starting initially with a study of economic growth in the United States over a hundred year period (1961), to explaining the rise of the western world (1990) and finally to the formidable task of providing ‘a conceptual framework for interpreting recorded human history’ (2008).

As the historical scope of his work has grown, his core theoretical concepts have also expanded beyond the initial confines of the neo-classical model, where changing economic performance was explained as a process of individuals responding to relative price changes. His early and most important theoretical innovation was, of course, the inclusion of transaction costs to explain the existence and persistence of institutions. North argued that the inclusion of transaction costs within his theoretical framework represents a break with his previous commitment to the neoclassical model. Nevertheless, a set of assumptions around methodological individualism, methodological optimization⁴ and the primacy of liberalized markets that derive from neoclassical principles have remained core to North’s understanding of society and the economy.

North’s early inclusion of transaction costs within his framework produced a set of functionalist models of historical change, for example, in North and Thomas (1973) economic development occurs as individuals respond to changes in relative prices and engage in a voluntary bargaining process over institutional change to lower transaction costs. These models are functionalist in the sense that they explain institutional change as being a result of their effects, as institutional change will only occur if it is value enhancing. This is because self-interested individuals will only engage in voluntary bargaining to change institutions if the gainers can compensate losers at an agreed price that leaves them both better off. The path of institutional change will be, by definition, Pareto enhancing because only institutions that result in Pareto improvements can emerge.

North’s later models (1987, 1990, 1995) provide a richer account of political processes by bringing in the concept of the polity, organizations and belief systems to address issues of

⁴ Thank you to the anonymous reviewer who pointed out that in *Understanding the Process of Economic Change* North acknowledges the importance of non-ergodicity and Knight-Keynes, the presence of which makes optimization difficult to operationalize.

collective action that he recognized as lacking within his earlier assumptions about the behavioural mechanisms that drive institutional change. His early work on the polity starts with the assumption that the state can be modelled as an individual ruler whose aim is to maximize his returns. North (1987) argues that the political process can be likened to a political market where political transaction costs can hinder the emergence of more efficient institutional arrangements. In *Institutions, Institutional Change and Economic Performance* (1990), he no longer presents the extractive state as the main agent of economic change. Instead, a central role is given to organizations that he defines as groups of individuals bound together by a common purpose. Organizations, therefore, become actors that behave like individuals and aim to maximize their benefits within the broader institutional framework⁵. In the process of furthering their own objectives within the given institutional framework, organizations cause incremental institutional change which in turn shapes the path of economic development. Again, however, actual institutional change is a function of the level of political and economic transaction costs. In turn, the level of transaction cost depends on the types of institutional structure within which organizations operate. North remained committed to the idea that low transaction costs institutions are ones that facilitate political and economic exchange through Western style democracy and liberalized market systems. Questions of power were unimportant within this approach as all institutional changes involve voluntary agreement on the price of compensation for losses incurred as institutions are modified and the full payment to the losers once institutions are changed.

The problem with all of these earlier models is that they could not adequately explain why the introduction of low transaction cost institutions in developing countries through governance reforms, democratization and market liberalization produced such variable economic results. Beyond formal institutions, North had always argued that informal institutions, such as social conventions, norms and beliefs were also important in explaining economic change. From the 1990s, North increasingly argued that ideology and belief systems were more important to explaining divergent economic performance than formal institutions. The recognition of ideology opens up an opportunity for new institutional approaches to adopt a more rounded conception of human motivations. North remained committed to the idea that humans are acquisitive and constantly seek to maximize their utility; however, he no longer assumed that utilities were determined by fixed preference functions. Ideological commitments were recognized as creating distinct subjectivities that shaped human motivations. Nevertheless, while recognizing a plurality of human motivations, North maintains a commitment to the idea of rational optimization, albeit bounded within particular ideological parameters.

The reason for this is that he uses the concept of ideology primarily as a form of informational constraint that affects the costs of transacting. For example, Denzau and North (1994) argue that certain forms of belief serve to lower transaction costs, while other belief systems make social interactions more costly and thus constrain economic development. Thus, they argue that poor economic performance and high levels of poverty are a result of the dominant belief systems prevalent in a country. North remains committed to the idea that, over time, incremental change to lower transaction costs will emerge as 'individuals alter their ideological perspectives when their experiences are inconsistent with their ideology' (1981, 49). However, he does not seek to explain how, or why, certain ideologies and belief systems emerge in the first place. As Rutherford (1994) argues, North leaves ideology as exogenous to his model of historical change. He does not seek to provide an historical context to the emergence of particular ideas. In his

⁵ Hodgson (2006) argues that North was wrong to distinguish between organizations and institutions. Rather than playing the role of actors within an institutional framework, organizations depend on internal institutional rules and mechanisms to ensure compliance of members through coercion and persuasion. Organizations should therefore be considered as a specific type of institution rather than as a separate conceptual entity.

work from this same period, North also begins to discuss the role of violence in economic development as he attempts to deal with a more complex social reality than could be captured in the simple neo-classical model of his early work. At this stage in his work, however, the prevalence of violence in certain societies is explained as an outcome of particular belief systems and is thus treated as an exogenous constraint on economic performance.

A striking feature of North's theories of economic development, and one of the most important reasons for the enormous appeal of his work across the social sciences, was that he presented his conceptual building blocks – institutions, organizations, beliefs – as universal categories (Fine and Milonakis 2007), not delimited by time or space. The universal benefit of these institutions to economic development was, of course, the theoretical bedrock of the good governance agenda. The Access Order theories conspicuously reject this previous commitment by arguing that the implications of particular institutional forms for economic development cannot be generalized but depend on the underlying social order. The idea of social order, originating in the work of Hobbes, has been central to political economy but, as a means of understanding economic performance in developing countries, it is perhaps most associated with the work of Samuel Huntington whose book *Political Order in Changing Societies* (1968) made the ethically dubious justification for authoritarian rule in developing countries.

In more recent years, a number of influential theorists such as Bates (2001) and Fukuyama (2005) have returned to framing economic development around the concept of social order. Building on Olson (1993), Bates argues that order is a necessary, but not sufficient, condition for long-run economic growth and social transformation. North's joint work on order in the early 2000s⁶ was similar to Bates' in that they were both primarily concerned with the conditions under which order prevails over disorder rather than with how distinct social orders may affect patterns of economic development. North did, however, argue that stable orders can be either authoritarian or consensual but he did not, at this stage, articulate the difference between these systems as unique social orders under which institutions, organizations and beliefs operate in distinct ways to limit collective violence⁷.

The concept of social orders as representing unique and distinct types of societies only comes to the fore within North's work after 2005. What is different in North's use of the concept of social orders in his work after 2005 is that he assumes that the common analytical categories that have been the hallmark of his previous work on economic development – institutions, organizations and beliefs – have different economic and political implications in the three social orders that he argues cover the entirety of human history. While this may initially appear to be a break from the a-historical nature of his conceptual framework, the three orders do not refer to historically delimited periods of time. For example, the Limited Access Order includes the Aztec Empire as well as contemporary developing countries from Somalia to Brazil. Instead, each Order represents a unique incentive system with an internal logic that determines the impact of institutions, organizations and beliefs on socioeconomic change. North is certainly not arguing

⁶ North's engagement with the concept of order can be traced to a joint article with Barry Weingast et al in 2000 and a subsequent chapter by North entitled 'Order and Disorder' (North 2005) however from 2007 they distinguish between order and social order as two distinct concepts.

⁷ Instead North argues that the features which distinguish these two systems are the extent to which decision makers are influenced by the formal and particularly the informal constraints of the system. Disorder in both authoritarian and consensual systems comes from either economic crises or incremental changes that reduce the effectiveness of the coercive enforcement of rules or norms of cooperation and, therefore, induce organizations to attempt to implement radical institutional change (North, 2005).

that these concepts can only be properly understood within specific historical contexts. Despite his expanding conceptual lexicon, his work exhibits consistency in terms of its most important features. Over time, North's work has continued to explore complex social phenomenon but within an a-historical model where social change is driven by individual optimizing strategies and the pursuit of self-interest.

VIOLENCE AND THE PROBLEM OF DEVELOPMENT

While the basic conceptual elements of North's previous work remain central to the Access Order theory of development, the main claim to theoretical innovation comes from the role given to violence in explaining social order and the path of economic transformation. North et al. go so far as to claim that the inclusion of violence within their framework achieves the elusive goal of integrating political and economic theory into a united analytical model of development (2009, xi). Social theories that explore the links between violence and development abound, but North et al explicitly position themselves as different from other contemporary approaches to the political economy of violence. Charles Tilly (1992), Geoffrey Parker (1996) and Robert Bates (2001) all argue, in various different ways, that military competition drove the emergence and consolidation of power the state. North et al argue that these approaches are flawed as they start from the assumption that the state is a single actor with an existing monopoly over violence. Tilly's work, for example, focuses on how the capacity for violence of different states shaped societies and how relations between military and business were forged. Besley and Persson (2007) build on Tilly's argument to show how investment in collective public goods linked to war helped to consolidate state building.

In contrast, the Access Order theories start from the assumption that the capacity for violence is disbursed across different organizations in society rather than being held by a unified state entity. In the Access Order theories the state is treated as a coalition of organizations defined as the 'dominant coalition', as it reflects the ability of particular groups of elites to coordinate with each other in the distribution of rents while excluding other less powerful elites. This frames the study of violence and development around how a particular dominant coalition sustains itself, rather than examining the impact of war on the capacities of the state. In the Open Access Order, the state does hold a monopoly on the use of violence but this is because elites have voluntarily decided to give up their capacities for violence to the state. The war and development theses place the experience of war, the deals forged between military and business groups and the material demands of war-making as central to explaining different trajectories of economic transformation. The Access Order theories, however, continue with North's long term focus on the way that organizations and institutions affect the internal dynamics of collective action between groups who now need to find solutions to maximize their returns in the face of the inherent violence of other collective action groups.

Previously, the understanding of human motivations within new institutional economics was based on the idea that individuals are driven to maximise self interest - although perceptions of self interest would be shaped by (unexplained) ideological commitments. In the new model, however, violence becomes central to their framework because humans do not simply seek to maximize their material position but also are genetically programmed to act in violent ways. Their framing of violence as a universal human characteristic with implications for various social phenomena has echoes of Hobbes (1651, 2008) and North et al emphasise this intellectual lineage by using the term the 'natural state' to refer to Limited Access Orders (2009). The idea that social order and a universal human propensity for violence are inextricably linked is also

prevalent in popular evolutionary psychology. For example Steven Pinker (2011) argues in a similar way to North et al, that Western societies constrain human beings' natural inclination for violence. The simplistic agonistic notion of human nature in these approaches leaves no room for exploring the inherent tensions that exist within humans between our ability to be violent and our ability for nurture, protection and cooperation that are equally natural and important in shaping social institutions⁸.

In terms of the relationship between North's previous work and the Access Order approach, the inclusion of violence as an overarching constraint on group behaviour modifies the logic of collective action in important ways. The concept of violence is of importance to understanding development within the Open Access framework primarily because of its impact on the material interests of elites and its effects on the calculation of relative prices attached to different courses of action. The decision by elites to be violent depends on calculations as to whether the returns from their violent acts, in terms of their ability to control rents, outweigh the benefits of peaceful production in the absence of violence. The control of violence in any social order is important, according to their approach, because it creates uncertainty and destroys production; hence, there is a negative trade-off between the level of violence and the rate of economic development.

Economic gains from violence do not result from the fact that violence itself can be a strategy of accumulation, as argued by Cramer (2006). Instead the economic benefits of violence relate to the redistributive impact on the distribution of rents. Similarly to the role of ideology in North's earlier work, violence becomes a form of transaction cost within a model of society as a market where individuals bargain over courses of action to maximize profits. Violence acts as a fundamental constraint on optimization but unfettered optimization remains the correct counterfactual against which to assess human behaviour. North et al argue that once violence has been reduced through the incentive mechanisms of the Open Access Order, individuals are able to benefit from the unconstrained pursuit of individual optimization.

Given that the claims to theoretical innovation hinge on the importance given to the concept of violence within their framework, a striking feature of the Access Order approach is how little insight we gain into the experience of violence in developing countries or across history from the theory. Indeed, description and analysis of war and violent conflicts are notably absent from their 2009 book. Violent political upheavals such as the French revolution, colonial conquests and the great wars of the 20th century play no part in their account of the transition between social orders or in their understanding of contemporary development. They argue that such violent events are unimportant in explaining social order as they often fail to lead to a fundamental change in the distribution of power between elites and do not change the underlying logic of competition within the order. In *Violence and Social Orders* they explain that this is because the latent capacities for violence affect politics just as much as actual violence. In developing countries, group violence is frequently latent but it still shapes the way that the dominant elite distributes rents and controls the economy. This raises obvious problems in terms of gauging levels of violence occurring in developing countries.

The fact that North et al treat the threat of organized violence and actual violence as synonymous means that their framework is of little use in terms of exploring the phenomenon of violence itself. Their main focus is on the importance of collective violence but within that category the theory is blind to the distinction between forms of collective violence such as ritualistic violence, group hostility, broken negotiations or opportunistic brawls (Tilly 2003). The theory is silent on the consequences of violence for people's lived experiences. Further, a proper examination of the motivations behind collective violence is precluded by their assumption that

⁸ Hobbes is often wrongly characterized as arguing that our social orientation is unnatural. While he argued that humans exhibit egoism, they also strive to create the conditions for social harmony (Amato 2002).

the type of collective violence that is important for explaining social phenomena emerges from the accumulation strategies of elites. The relationship between elite accumulation strategies and violence is mediated through patron-client networks that they argue are the basis of politics in Limited Access Orders. Non-elites have little direct political agency in this model except as a rent-a-mob for elites. Interestingly, however, they argue that violence operates both within and across patron-client networks, moving away from the assumption that such networks are maintained by material interest alone. They argue that elites call on other elites to maintain discipline of non-elite groups as well as to suppress the emergence of other organizations that may threaten their control over rents. This opens the theory to a much more explicit engagement with the role of power in the dynamic relationships between elites and non-elites that was absent from North's earlier work. But the idea also privileges reduction in some forms of violence over other forms as using violence to control non-elites can be justified on the basis of needing to achieve stability between elites.

Ultimately, collective violence occurs when the distribution of rents is out of line with the violence capacity of different elite groups. This misalignment of the distribution of rents between elites can occur for a number of reasons that are endogenous to their model - such as economic performance, changes in the nature of rents and changes in the membership or balance of power within the dominant coalition as well as the nature of public policy. However, North et al explicitly exclude the international political and economic system from their analysis. The processes of change that the model does not seek to explain include changing relative prices, climatic events and technological change. More importantly, perhaps, the threats of violence from neighbours and the impact of geopolitical struggles remain outside their explanatory framework. Violence within OECD countries and the role of war-making by the rich countries of the world plays little role in their analysis as violence is assumed to play a minimal role within the politics of the Open Access Order. This means that the linkages and interplay between the apparent non-violent politics that generally characterises Open Access Orders and the violent politics of Limited Access Orders are ignored. The fundamental weakness in their conception of violence stems from their inadequate engagement with the role of violence as an instrument of power. On questions such as the historically rooted and variable relationship between violence and power, as well as the geopolitical context of war and violence in developing countries, the Access Order theory is worryingly silent.

North et al argue that the most pressing issue in contemporary development is not how developing countries can transition to become Open Access Orders but how to reduce violence within the logic of the Limited Access Order. This implies a very different idea about the meaning of development from his earlier implicit association of development as a process of introducing and solidifying liberal political and economic institutions, in particular through liberalizing markets. In contrast, embedded within the Access Order theories is a conceptualization of development as a process of reducing violence. This chimes with the broader shift over the past decade towards a framing of development by international development institutions around the issues of security (Kaplan 1994, Hettne 2010). The implications for development policy of this shift in the definition of development are important. The types of institutions that promote economic efficiency and growth may be very different from the types of institutions that promote security in developing countries, as recognized by North et al. However, the institutions that constrain violence may also be very different from the institutions that best promote other aspects of human wellbeing, or indeed human freedom. A broader conception of development is necessary to examine the relationship between economic change, political order and human wellbeing. The Access Order theory does not provide this.

THE PERFECT MARKET PRESERVED?

While the Access Order theory is an approach to development that appears to privilege economics by emphasizing the transactional nature of politics in developing countries, the model is surprisingly silent about the economic sphere; production, distribution, accumulation and economic growth are left largely unexplained within the framework. The reason for this lies in the continued dependence on a set of neo-classical economic assumptions about economic processes. Establishing the boundaries of a neoclassical approach is complicated by the fact that the field and practice of neoclassical economics has expanded and mutated over time since North's earliest work. North's institutional economics has reflected and has also, arguably, influenced the path of intellectual developments within mainstream economics over the past fifty years. Mainstream economics has moved away from some of the very restrictive assumptions around equilibrium, rationality, perfect information and marginal pricing towards a focus on complexity, experimentation and multiple equilibria⁹. Nevertheless, the Access Orders continue to be attached to a set of neoclassical assumptions about methodological individualism, methodological optimization (albeit subject to the constraint of violence) and the primacy of liberalized markets for promoting economic growth.

Despite these aspects of continuity, the Access Order theories also reflect a shift in the understanding of the potential role for rents in economic development that is emerging amongst mainstream policy makers and academics. In classical political economy a rent was defined as the return to the ownership of an asset rather than to productive activity but in modern economics rents are defined as a return generated by political intervention to restrict the free market. North et al explicitly reject the understanding of rents associated with Krueger (1974) and Bhagwati (1982) who argue that rents are unproductive and lead to a deadweight loss to the economy. Instead North et al adopt a loser definition of rent as a return to an asset or action higher than the return to the next best opportunity that has been foregone. In North's previous models, individuals were motivated to maximise rents but rent creation and attendant rent-seeking had a negative impact on economic performance (North 1990). However, in *Violence and Social Order* North et al explicitly reject this assumption. North et al recognize a variety of positive economic purposes of rent creation, from Schumpeterian rents to promote innovation to the role of rents in overcoming market failure (Schumpeter 1961, Stiglitz 1989).

The potential positive role for rents that are generated by state interventions in markets has become much more widely accepted within development policy in recent years as the market fundamentalism of economic development policy under structural adjustment has given way to a broader acceptance of the potential role of the state in fostering economic development. This change reflects research into the experience of East Asian countries that achieved rapid rates of economic growth with significant support from the state in the form of technology and industrial policies (Amsden 1989, Wade 1990). The current economic consensus has therefore shifted towards an understanding that the state can play a positive role in economic development not only through the provision of stable market institutions but also through specific interventions to create rents and modify market prices (Lin 2012). The most important modification in the economic assumptions of the Access Order theories compared to earlier New Institutional models is in the understanding of the implication of rents for economic development. The primary function of rent creation within LAOs is to constrain violence. Individuals within the Access Order framework are still assumed to be driven by the basic desire to maximize rents; however, they argue that the dynamics of rent allocation within the dominant

coalition is crucial for controlling violence. Rent creation therefore gains a functionality that was absent in previous new institutional economic models. This has important implications for the policy advice that comes out of this framework: International development policy advice should move away from the ‘good governance’ recommendations on reducing rents and rent seeking, and instead should focus on finding the best way to distribute rents to reduce violence. In a break from previous NIE models they also recognize that rent creation can have a positive function within economic development, however this is only the case within Limited Access Orders.

While opening the possibility for growth-enhancing rent creation by states, North et al maintain that economies of Open Access systems are more dynamic because of low and time-bound rent creation while rents created by states in developing countries tend to be driven by redistributive demands that hamper economic development. The actual examples of productive and unproductive rent creation that they use to illustrate the different economic implications of rents in Open and Limited Access Orders however suggest a conventional set of recommendations about economic and social policies in developing countries. For example, they argue that the free trade policies implemented under NAFTA helped to improve economic growth while trade union lobbying for increased wages led to unproductive rents that diminished economic growth. Hence the idea that moving to more competitive markets facilitates economic growth remains core to their underlying economic model. Further, they distinguish between social policies that create negative rents that involve ‘direct transfers, such as those to government employees, teachers, and guarantees to labour’ compared to social policies in Open Access Orders which involve public good provision that generates positive economic returns.’ (2009, 143).

Rents have very different implications and functions in Open Access Orders. Rents exist in open Access Orders, they argue but they are not distorted by the need to mitigate the potential for organized violence of powerful groups. Their explanation for the dynamism of the economy in Open Access Orders comes from the higher level of competition that is generated by open access to create organizations and low transaction costs where unproductive rents are minimized. The Open Access Order is characterized as idealized system of competition where economic power has little influence over political decisions. The redistributive aspects of rent creation within Open Access Orders, such as protection of intellectual property rights or the protection given to companies through limited liability legislation remains unexplored. While power has a role in explaining the creation and distribution of rents within the Limited Access Order, the role of economic power of multinational companies and of monopolies is not considered to be an important factor within the political and economic decision making of Open Access systems. They argue that ‘In natural states, all big economic organizations are necessarily also political ones.

In Open Access Orders, ‘big economic organizations typically concentrate far more on markets and are only tangentially involved in politics’ (269). This assumption means that the processes through which multinationals and powerful firms at a national level consolidate economic and political power within industrialized countries and use this influence to affect rent creation in developing countries through international trade and investment policies falls outside their explanatory framework. Thus, while recognizing the potential importance and implications of the concentration of economic power for the functioning of markets in Limited Access Orders, economic power is assumed to be unimportant for explaining economic outcomes in the Open Access Order due to open competition. In fact, the economic model of the Open Access system assumes an idealized form of competition between economic organizations in that mimics the perfect market counterfactual of neoclassical economics. Thus, the conceptual device of the Open Access Order allows a number of key features of the underlying neoclassical economic model to be preserved. The implications of this for development policy is to maintain the basic

hierarchy of institutional forms that was at the heart of the good governance agenda, while simultaneously avoiding the exploration the interconnections between the politics and economics of developed and developing countries.

ACCESS ORDERS AND CAPITALIST TRANSITION

On one level, the model of societal evolution within this framework appears to be the antithesis of the Marxist approach to explaining historical change as a process of transition between distinct modes of production driven by the contradictions that arise within the sphere of production. The concept of capitalism is notably absent from the Access Order framework. Nevertheless, in other respects there are 'intriguing echoes of Marx as the back cover of *Violence and Social Orders* states (North et al 2009). This is perhaps not surprising as North was a self-proclaimed Marxist before his conversion to neoclassical economics (Klein and Daza 2013). As with the Access Order theories, Marxist theory places conflict as central to explaining historical change. The nature of these conflicts, however, is determined by the social structure of production. This means that Marx does not restrict his analysis to class conflict alone but also discusses the historical role of intra-elite conflict, particularly between the emerging bourgeoisie (Marx 1978). The role of horizontal conflicts within a Marxist framework is taken further by Robert Brenner, whose work North praises (North 1986). For Brenner the transition to capitalism depended on the emergence of a free labour force which created the conditions for productivity increasing competition between capitalists. However, Brenner argues that this process was the unintended consequence of conflict over property rights that occurred between producers themselves rather than between vertical classes (Brenner 1985).

Another recent approach to development that is also inspired, in part, by Brenner's analysis of the original transition to capitalism in Europe, can be found in Mushtaq Khan's work on political settlements and development (1995, 2004, 2010). Khan's political settlement approach predates the Access Order theories and North et al. acknowledge the influence of his ideas on the development of their analytical framework (2009, xvi). Khan writes that '[a] political settlement is a combination of power and institutions that is mutually compatible and also sustainable in terms of economic and political viability' (2010, 4). Similarly to the Access Order theories, Khan argues that the distribution of power across a broad range of developing countries lies significantly out of alignment with their formal institutions. The consequence of this is that powerful groups operate through informal routes, primarily through patron-client networks, to protect their political power and rights over income flows, including state generated rents. Where the distribution of these income flows is not in alignment with the underlying distribution of power, the stable clientelist political settlement will break down as powerful groups increasingly exercise their power through collective violence. Both theories, therefore, place patron-client networks and the distribution of rents as central to explaining political stability in developing countries. This generates the common conclusion that good governance reforms to institutions may directly hinder processes of political stabilization and constrain rather than promote economic development.

While their insights into the determinants of political stability in developing countries are similar, other important aspects of their frameworks, namely, the drivers of transition and the underlying social and economic model in which they are based are different in important ways. The conceptual framework of the political settlements theory draws from historical materialism while the Open Access concepts are rooted in neoclassical economics and Weberian sociology. For example the Access Order theories use Weber's concept of the power of personal charisma of leaders to explain the logic of patron-client politics in developing countries. In contrast, Political Settlements explains the dominance of neo-patrimonial forms of political power as the result of economic structure. Thus, in countries with a small capitalist sector few profits are generated and

states in developing countries lack sufficient resources to cover the high costs of maintaining effective formal institutions. The consequence of this is that powerful groups operate through informal routes to protect and generate income flows and to sustain their power, drawing on a range of socioeconomic factors including ideas, traditional hierarchies, force, institutions and the historical experience of organizing politically.

The Access Order theories place the rise of impersonal relations as the key to explaining the effectiveness of formal institutions in OECD countries. In contrast, Khan explains the stability of these countries as a result of the capitalist structure of the economy (2010). Thus, the capitalist political settlement involves a distribution of power that is dominated by the high levels of profits generated by capitalists. Formal institutions, the most important of which are the protection of private capitalist property rights, are broadly aligned with and sustained by the social, economic and political power that capitalists have, based on capitalist profits. Although there may be significant forms of struggle between competing groups, redistribution occurs mainly through formal institutions. There is a re-enforcing relationship between the generation of profits from formal capitalist property rights and the availability of resources to sustain those rights. Formal institutions and rights dominate in that they underpin nearly all output and incomes and the distribution of power is therefore determined by the incomes generated by these formal institutions.

The drivers of transition in the Political Settlements are also significantly different from the doorstep conditions of the Access Order outlined above. This is because Khan's economic model draws from a conception of capitalism that is absent from the Limited Access framework. For Khan, the drivers of development depend not only the ways that political stability is attained but also relate to particular features of economic growth in the contemporary capitalist world. Technology acquisition becomes central to explaining the relative pace and direction of economic transition in the context of a global economic order where the scale and complexity of the industrial production process necessitates a period of learning and catch up. Further, economic development in Khan's model requires the accumulation of capital and in developing countries this often occurs through processes of primitive accumulation, defined as the process of accumulation outside the formal market process where political power is used to privilege the accumulation activities of particular individuals. In contrast, the underlying economic model used in the Access Order theory remains tied to an essentially neo-classical model where economic development occurs through the gradual accumulation of factors of production primarily through formal market processes. A political settlements approach allows for a much more nuanced engagement with the relationship between political order and economic transformation.

CONCLUSION

Open Access theories are an influential and important new approach to examining contemporary processes of development. By examining the underlying reasons why institutions have very different implications for economic development in developed compared to developing countries, the Access Order theories serve to challenge many of the previous assumptions about institutions that were embedded within the dominant good governance agenda. In an intellectual career that spans over half a century, North has consistently argued that to enhance economic performance, countries should adopt low transaction costs institutions, organizations and belief systems that he identifies as the Western liberal political and economic model. In this sense, the Access Order theories do present an important break from North's previous commitments to a particular path of institutional reform in developing countries.

The expanding engagement with a range of social phenomenon, most importantly violence and conflict, pushes new institutionalism further away from many of the basic assumptions of the neoclassical model. The theories, therefore, present an opportunity for expanding debate within both policy and academic circles on the role of institutions and economic development. In terms of North's own intellectual journey, these theories appear to represent a continued move away from his neoclassical roots. Yet the framework is remarkably silent on the sphere of the economy itself. This is because North et al. remain committed to an essentially a-historical conceptual framework where individual maximization through market-like transactions is assumed to be the main explanation for economic processes and human motivation. In this way, Access Order theories actually serve to re-articulate important underlying aspects of the neoclassical model. Through the conceptual device of the Open Access Order, the theory is able to re-assert the primacy of the neoclassical market model. Despite framing development around the concept of violence, the theory has very little to say about violence itself. Violence is reduced to a form of transaction cost that limits individual optimization strategies. These conceptual weaknesses mean that Access Order theories cannot adequately address the variety of, and difference between, societies: It is worth being cautious of the analytical value of a framework that explicitly places Tanzania in the 1970s in the same analytical category as Nazi Germany (see North et al, 2009).

The emergence and appeal of the Access Order theory of development reflects the broader shift within the framing of development from a concern with the integration of countries within the process of economic globalization towards a narrative of controlling violence in developing countries. North's earlier preoccupation with efficiency and economic growth as the important outcomes of development is replaced by an implicit definition of development as the control of violence. Development, therefore, becomes synonymous with security, with little consideration to the socioeconomic implications of achieving this. Policy interventions and institutional reform in developing countries that promote elite stability may be incompatible with other and, arguably, equally important aspects of development. Indeed, the Access Order approach could justify the support for repressive and anti-democratic elites on the assumption that such support is necessary to achieve long term developmental outcomes. The theory therefore serves to strip the progressive and transformatory potential out of development by ignoring accumulation and income distribution, by limiting politics to elite self-interest, by neglecting non-elite struggles and by remaining silent on how controlling violence may affect human capabilities, rights and freedom.

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