The Tragedy of Exclusion

Katharina Pistor & Sai Balakrishnan

The tragedy of exclusion represents a state of the world where individual and entire social groups are excluded from access to resources, goods or services that are essential for their survival, such as water, food and shelter. There is broad normative consensus that all humans should have access to essential resources irrespective of wealth, power or status, but this normative goal is far from being realized within many countries or at the global level.

Existing analytical frameworks tend to side step this existential problem. Hardin's "tragedy of the commons" is a much more familiar and oft cited concept than the tragedy of exclusion. It asserts that in the absence of enclosure and property rights that incentivize owners to internalize the costs of their resource extraction, over-fishing, over-grazing and over-use will ensue with the ultimate depletion of a critical resource. However, the framework says nothing about how those excluded from a common resource will meet their own basic needs. Elinor Ostrom has demonstrated that under certain conditions societies are quite capable of governing "common pool resources". This is true in particular in small homogenous groups with shared social norms and long-term horizons. Scaling these solutions to more complex, heterogeneous settings has proven to be quite intractable. Neither does this literature have much to say about intra-group distribution of access to essential resources.

The current project seeks to understand the processes that lead to or exacerbate the tragedy of exclusion. We recognize at the outset that any governance regime is inherently exclusionary as it draws boundaries around communities or assets subject to the regime. The normative claim we make is that when it comes to resources that are essential for survival, governance must err on the side of inclusion and make more porous the boundaries drawn to protect individual or collective claims against outsiders. We also recognize the importance of sustainability – the need to protect not only essential resources against depletion, but also ecological diversity in its own right. This, however, should not give rise to selective exclusion.

We posit that there is no single solution for addressing the tragedy of exclusion. Rather, solutions must be derived from social ordering, agency and dynamics of change that offer clues about how to mitigate the effects of exclusion and grant access to meet minimum needs. In short, we need a political economy of exclusion. This project seeks to develop such a political economy by engaging with academics, activists and policy makers in different countries.

In what follows we take a first step in mapping the elements for a political economy of exclusion by unpacking forms of human agency, major trajectories of change and their effect of different forms of social ordering .

Mapping Human Agency

Humans have agency but agency can take different forms and different modes of social ordering give preference to some forms of agency over others. We begin our classification with Hirschman's classic distinction of exit and voice (skipping loyalty, i.e. the absence of exit and voice) but add subversion.

- *Individual Voice* stands for active participation in decision-making processes. Voice is most effective in small settings. In larger settings voice takes the form of preference aggregation by soliciting choice among limited, pre-determined options. Examples include the election of representatives for local or national parliaments, directors for company boards or other organizations.

- *Collective Voice* is the voice expressed by voluntary organizations and associations that lend a single voice to their members or affiliates. Membership can amplify the voice of a few but can also signify conformity with preferences expressed by existing members.

- *Exit* is the power to opt out of existing modes of governance; the mere threat of exercising an exit option can exert governance effects. Where individuals have not voice, not even as part of a collective, and exit is ruled out by formal rules or lack of opportunities 'loyalty' is the only option.[1]

- *Subversion* is goal pursuance by sidestepping recognized forms of agency. It is often used as agency of last resort by those excluded or marginalized by formal electoral processes, membership based preference formation and whose exit cannot be converted into bargaining power.

Trajectories of Change

Social orders constantly involve internally and in response to external change or interactions with other modes of social ordering. In addition to continuous incremental change we can identify trajectories of change that affect different social orders. We identify three such trajectories, which, depending on circumstances and direction of change can shift social ordering towards greater inclusion or exclusion.

- De- and Re- Politicization
- Re- Scaling
- Financialization (De- and Re-Materialization)

In what follows, we elaborate on and develop propositions for each of these trajectories that may be used for selecting comparative case studies to explore their effects.

[1] See Hirschman's famous notion that in organizations one has three options: exit, voice and loyalty.

De-Politicization & Re-Politicization

Politicization is the degree to which certain issues politically contestable or instead designated to specialized institutions, interest groups, or elites. In addition to issues different branches of government and agencies can be more ore less politicized.

In authoritarian regimes the military/executive reserves the right to preclude the public from politicizing issues it deems critical for retaining power. Democracies are built around electoral systems that give citizens the right to participate in decision-making or elect those who will. Universal suffrage is of relative recent vintage and was not part of an earlier, Athenian, conception of democracy. In our own times, some hail the advantages of "deliberative" democracy as distinct from the mere formalities of elections and votes. Still, most countries that call themselves democracies today have introduced universal suffrage over the past 100 years. Perhaps paradoxically, democratization has gone hand in hand with the proliferation and increasing power of 'independent' institutions including courts with the power to exercise judicial review of legislative acts and independent supervisory and monitoring institutions for a host of policy arenas, all the way to central banking. These institutions were often designed to protect fledging democracies or control excesses of majoritarian decisionmaking. Indeed, they are often weak in authoritarian regimes. Yet, they can also use their independence and autonomy to substitute for or even subvert pluralist, democratic political processes.

Counter-democratic trends are particularly pronounced in the transnational realm, where transnational treaties (Bilateral Investment Treaties with investor-state arbitration), conditionalities imposed by international lending organizations, and private rule makers are used to bind the hands of elected politicians and create space for non-political power wielders.

Exclusive modes of political ordering are not necessarily stable. They can trigger reactions that disrupt them. It may very well be the case that explicit exclusion may engender greater inclusion down the line as it creates a focal point for the formation of new coalitions willing to disrupt and challenge exclusion. Whether this is indeed the case depends on three factors: the visibility of exclusive practices; the legitimacy of the institutions pronouncing them in the eyes of their constituencies, and the extent to which their legitimacy is ultimately challenged by disruptive practices.

Visibility of exclusion increases the propensity for disruption. Large infrastructure projects that are highly visible and create manifest distributional outcomes, for example, tend to be highly prone to disruption and challenge. In contrast, final rulings by the highest court in a country that bring closure to a case are more difficult to disrupt as long as the court's legitimacy is not fundamentally questioned.

Re-Scaling

Re-scaling stands for the expansion or contraction of activities by way of replication or extension of operations along different measures of scale: territory, access, activities. Re-scaling is determined in part by physical and technological factors. The distribution of water places different demands on infrastructure than the distribution of land; the choice of electricity production (nuclear power, coal, solar) has different scale effects. There are limits to the size of dams or the width of bridges – whereas information technology has become scalable into a world-wide-web.

Equally important are social technologies of scale, including the legal system. Governance exclusively by social norms tends to be limited to relatively small, homogenous groups.[2] Governance by law is scalable to diverse actors a nation state and its legal system. Economic integration involves the scaling of economic activities (trade, investment, production, financing, infrastructure) beyond existing spheres of exchange and law has played a critical role in making this possible by facilitating choice of law and choice of forum, lending the state's coercive powers to the enforcement of (private) arbitral award, committing sovereign states to accept dispute resolution with private investors in international arbitral tribunals, etc.

Globalization poses new challenges to scalability because of the absence of a global coordinator. At its place a multiplicity of national and international, public and private agents and organizations coordinate select economic and social relations. Fragmented scaling of some activities but not others (free flow of goods, services and capital, but not people) around actors who control scaling-technologies creates an unleveled playing field for globalization. [3]

Greater inclusiveness can be achieved by broadening access to technologies of scaling. Examples include virtual social networks to mobilize social protests (Arab Spring) or grant access to financial intermediation (e-banking) or governance (e-governance). Much depends on control over and access to scaling technologies, both physical and social.

Differential scalability and/or access to scaling technologies create exclusive effects.

Those with access to scaling technology – expansion of infrastructure, law or the outsourcing of legal autonomy or control over market access – benefit while others are left out and/or may participate only on terms set by those who control the scaling process.

Broad access to scaling technologies can produce greater inclusion provided scaling translates into material outcomes.

States are rescaling their activities in different directions. In some respects, states have scaled up operations or presence (public expenditure as share of GDP, control over scaling technologies), with regards to others they have scaled back (predominantly on aspects of social and welfare policies), in yet others they have used their control of law as a scaling device to create autonomous zones of ordering (Special economic zones, private property, private arbitration).

<u>Financialization (De-Materialization and Re-materialization)</u>

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[2] With new forms of social media social norms can become powerful agents of change in more heterogeneous settings.

[3] See the literature on transnational private regulation, including Buethe and Mattli, The New Global Rulers.

Financialization is closely related to the de-materialization of relations. It includes but is not limited to introducing the pricing mechanism to new activities or assets. Privatization and liberalization typically entails shifting certain assets from administrative to exchange based governance, the expansion of the pricing mechanism and the commodification of goods and resources. Financialization goes yet a step further. It does not stop at making assets tradable but involves the transformation of illiquid assets into liquid assets; the shift from trading real assets to trading their financialized representation (derivatives); the standardization of financial products and their integration into global financial exchanges; the use of mechanisms that transform long term investments in real and predominantly illiquid assets into short term, liquid, and tradable asset (i.e. loans into diversified, rated and tradable bonds).

Financialization privileges those with capital (assets that can generate financial returns without labor) and especially those who control the production of new capital assets or the transformation of illiquid into liquid ones, i.e. actors and entities with the capacity to create, issue, or deal with financial instruments.

Financialization can also promote inclusion – up to a point. The securitization of mortgages and other assets and the (seeming) diversification of risk that goes along with it has broadened access to credit during upturns. During downturns when liquidity dries up those on the periphery of a financialized system are the first to confront the material effects of their financial follies: they will no longer be able to refinance their debt and therefore confront bankruptcy and eviction. In contrast, those who have access to a lender of last resort or are otherwise deemed to be essential to the system, will receive new liquidity.

Financialization leads to the de-materialization of economic and social relations.

In periods of financial expansion wealth accumulation financialization delinks the expansion of capital assets from the operation of the real economy: the share of finance in the economy increases over time.

In contrast, during times of financial contraction the real economy bears substantial adjustment costs as easy options for refinancing evaporate for all but those closets to the apex of the financial system.

Financialization thus creates structural distributional effects that tend to re-enforce themselves over time. Once a system has been highly financialized, a reversal can prove much more costly for the periphery than the core.

Re-materialization requires structural change to re-align financial investments to real assets and actual returns.

<u>Effects on different Forms of Social Ordering</u>

Every social system comprises multiple forms of social orders. We identify seven: Infrastructure, administration, the legal system, social norms, exchange, production, and political ordering. We consciously avoid using aggregate categories of state, markets, or civil society, as these categories frequently lump together different modes of social ordering and agency. By disentangling them we hope to get a better understanding of how different forms of social ordering in isolation or working together contribute to the exclusion of individuals or collectives from essential resources.

- *Politics* is the organized deliberation over matters deemed to be of general, social importance. Polities exist at different scale (local, national, international) with different scope of jurisdiction. They are often linked to other polities into multi-level forms of governance, such as municipalities in a nation state, states of a federation, or sovereign states in regional or international arrangements. Politics is frequently privileged in debates about social organization, mostly because of its deliberative nature, but it coexists with and weans and wanes in relation to other forms of social ordering.

- *Infrastructure* stands for the technological mediations of social life in the form of transportation networks (rail, roads, air traffic), electricity, power grids, water reservoirs and plumbing, and information technologies. It is often perceived as an outcome of other social orders (law, politics, etc.); but infrastructure itself forms social, economic and political life. Though intended to integrate space, provide connectivity and "annihilate" distance, infrastructure also selectively fragments and splinters localities by the sheer size of dams, highways or bridges that cut across existing polities, by the exclusionary effects of water or cable networks or the privileged access to certain modes of transportation (air vs. rail).

- The *legal system* can be described as "soft" infrastructure in contrast to the hard physical nature of transport or power infrastructures. Law is a mode of state ordering as well as of self-ordering by private agents who enter into contractual relations, defend their property rights against one another and against the state, set up corporate entities or non-profits by relying explicitly or implicitly on the "shadow" of the law. Law can also be used to delineate spheres of authority (i.e. different polities) and to delegate and protect spheres of legal autonomy (corporate entities, property rights etc.).

- *Social norms* operate alongside law, inform and sustain its authority, but at times stand in opposition to them. Social norms derive from repeat interaction and internalization of social practices. They are highly path dependent, but not immune to change. Social norms can turn into formal law by way of codification, their recognition by courts as practices that determine expectations, or other forms of state sanction. Not infrequently they deviate from formal law, especially in contexts where formal law has been imposed from the outside or where social change is more rapid than legal change.

- E*xchange* is associated with markets and the trading of goods and services based on the pricing mechanism. However, exchange of gifts, hostages, or attributes of authority are also common in social and political life. The norms that govern exchange relations can be formal or informal. Market expansion and the scaling of economic relations typically entails the breaching of traditional spheres of exchange and thus greater reliance on formal legal institutions.

- Adam Smith[4] lumped infrastructure and administration into a single category of "policing"; we separate the two. *Administration* as used here stands for organizing the production and delivery of goods and services not based on price or exchange, but on other criteria such as merits, needs, or rights.[5] It entails the organization of information, decision-making and implementation processes as well as mechanisms of redress.

- *Production* captures the combination of inputs – capital and labor – to produce a commodity for exchange. It is the core function of any economy, but often subsumed by "markets" or "firms". Yet, production is not necessarily limited to a single firm, nor are commodities necessarily sold on a single market. Consider global supply chains that link firms and markets across many countries and markets.

None of the identified modes of social organization is complete. There are limits to scale and scope for each. The 'in between' space is fertile ground for alternative modes of ordering with their own properties of inclusion and exclusion. They range from self-governance to mafia style organizations and include well institutionalized as well as ad hoc arrangements that may disrupt or challenge the dominant modes of social ordering.

The seven modes of social ordering are also highly inter-dependent. Infrastructure consists not only of material inputs but also of rules, administration, and price-based access and allocation. Administration is based predominantly on rule-bound actions based on merit rather than price. Still, price mechanisms are often incorporated either explicitly (fee based services) or by reverting to corruption.[6] Legal systems may have some properties of emergent, autopoeitic systems,[7] but they also frame administration and set the ground rules for markets and infrastructure. In addition, legal systems can help outsource activities beyond the reach of the polities that originally sanctioned them. Examples include the privatization of dispute resolution in the form of arbitration, or the empowering of independent legal persons, such as corporations or non-profit entities. They thereby engender new modes of social ordering more akin to clubs reserved for select members than social ordering. Social norms may support such arrangements; but they may also disrupt them by galvanizing voice for broad based access. Lastly, laws and social norms also frame exchange relations, which in turn interact with administration and the contractual design of infrastructure projects.

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[4] Lectures on Jurisprudence
[5] Note that Susan Rose-Ackermann has defined corruption as the use of the pricing mechanism in areas where allocative decisions are made on different grounds
[6] Note that Susan Rose-Ackermann has defined corruption as the use of the pricing mechanisms in domains governed by rule-bound or merit-based conduct.
[7] Teubner following Luhmann.

Power

Power is central to any theory on political economy. We define power as the *differential relation* to any mode of social ordering or mechanism for aggregating individual preferences, where differential relation captures the ability to influence frame debates or directly influence outcomes: Some are at the table when infrastructure projects are planned and mapped, while others are not; some can influence administrative outcome either legally or illegally, while other can't; some are rule or norm setters others are rule takers, some are price makers and others are price takers; and so forth.

The differential relation to each mode of social ordering may well map into established categories of social and economic power relations, such as class, cast, or race. Whether this is indeed the case is an empirical question and may vary from setting to setting.