

“On the Governance of ‘Not Being Governed’”

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ABSTRACT

The Art of Not Being Governed illustrates that the people of highland South East Asia were not primitive people ‘left behind’ but instead chose their lifestyles in order to avoid the predation of lowland states. This raises the question of how these people who are ungoverned by nation states provide governance for themselves. We explore this question with two related case studies. One examines a 19th century Southern Indian banking caste that provided self-governance. The other examines modern day stateless Somalia.

Key Words: Statelessness; Anarchy; Polycentric Governance

JEL Codes: P4; O1

1. Introduction

James Scott's *The Art of Not Being Governed* is an illuminating look into the lives and history of the people residing in the highlands region in South East Asia that he calls 'Zomia.' Zomia is comprised of parts of India, Burma, China, Vietnam, Laos, Thailand and Cambodia that remained beyond the reach of state control for most of their existence. Rather than following official State history and viewing the people as primitive pre-state barbarians Scott writes, "Far from being 'left behind' by the progress of civilisation in the valleys, they have, over long periods of time, chosen to place themselves out of the reach of the state" (2009: 22).

They place themselves beyond the reach of the state because, as Scott puts it, "Living within the state meant, virtually by definition, taxes, conscription, corvee labor, and for most, a condition of servitude" (2009: 7) Rothbard, although writing about states more generally, didn't put it much differently, "The State habitually commits mass murder, which it calls 'war,'... the State engages in enslavement into its military forces, which it calls 'conscription'; and it lives and has its being in the practice of forcible theft, which it calls 'taxation'" (1978: 24). It is no wonder why some people might choose to live beyond the State's grasp.

Public Choice and Austrian economists have long been interested in the study of the transition from anarchy to states and the governance of stateless orders.¹ Scott's book is a valuable contribution to this literature. He illustrates a case where, for hundreds of years, people found it in their interest to avoid states that desired to include them. However, his book raises many questions about Zomia that were left unanswered.

Scott notes that, "Virtually everything about these people's livelihoods, social

1. See Powell and Stringham (2009) for a survey of this literature.

organization, ideologies, and (more controversially) even their largely oral cultures, can be read as strategic positioning designed to keep the state at arm's length" (2009: x). Yet, while he does write a little about their social organization, he does little to tell us how their internal governance functioned. He specifically notes that they were not in an anarchy which was synonymous with chaos. When describing their political order Scott writes,

I emphasize the term *political order* to avoid conveying the mistaken impression that outside the realm of the state lay mere disorder. Depending on the location and date, such units might range from nuclear families to segmentary lineages, bilateral kindreds, hamlets, larger villages, towns and their immediate hinterlands, and confederations of such towns (emphasis his, 2009: 36).

Yet little to nothing is written about the mechanisms that these social structures used to provide internal governance in Zomia. Other stateless groups or groups operating within states but in areas outside of state enforcement have used reputation (Ellickson 1991), exclusion (Stringham 2003), trading coalitions (Greif 1989), the costly adoption of customs or gift giving (Leeson 2008), religious homogeneity (Bernstein 1992), and a host of other mechanisms (see Stringham and Powell 2009 for a survey) to enforce contracts and customary legal systems.

After reading *The Art of Not Being Governed* we are left with two major questions. First, how was governance provided in Zomia absent a State monopoly government? Second, what was the effect of this system of governance on the well-being of the residents of Zomia compared to those who were in nearby low-land states?

We follow up these questions with two brief case studies. The first is a study of a banking caste in nearby Southern India that operated without state enforcement of its contracts during 19th and early 20th century. Second, we study modern day

Somalia which shares many characteristics with Zomia including being totally stateless. In Somalia we describe how governance is provided and the effect becoming stateless has had on the standard of living for the Somali people. Our final section concludes with reflections for future work on Zomia.

2. The Case of South India

The Chettiar were a large banking caste in nineteenth century South India that operated outside of formal state enforcement.² Instead they relied on caste ties and kinship in matters of governance.³ They originated in the South Indian state of Tamil Nadu, but they were highly successful commercially and their businesses eventually spread into the Sri Lanka, Burma, and Malaysia. The caste played a crucial role in conflict resolution and social coherence that provided internal governance.

The important similarity between these people and those of Zomia is the near complete absence of government involvement in all matters pertaining to issues within the group. Unlike the people of Zomia, the Chettiars always lived and worked within the territory of a state. The region of Tamil Nadu was ruled over by several monarchies until 1800, which is when the British set up rule over the area. Despite this difference, we know that the government played no role in the internal matters of the caste at least until 1930 (Nair 2010a, 2010b). Post 1930, their business started to decline and dramatically change form as a result of multi-faceted government involvement among other factors (Nair 2010a, 2010b).

Historically, the Chettiars had started out as salt traders in the seventeenth century and established themselves as a full-fledged banking system by the nineteenth century. Each family acted as a bank, taking deposits and making loans as well as issuing bills of exchange. Altogether they formed an interdependent banking system.

2. This section draws on the work of Nair 2010a and 2010b.
3. Numbering 40,000 people in 1920 (Nair 2010a).

Although the government did not enforce contracts or adjudicate disputes, there still was governance of the system. A panel of elders would adjudicate the resolution of conflicts, both personal as well as commercial. Since the Chettiars were important sources of credit for each other and were involved in the communal setting of interest rates, potential conflict over business matters arose. All such intra-group conflict would be brought before a panel of elders, who in turn had been accorded that position on the basis of respect and reputation. The potential loss of reputation for ignoring a decision by the elders served as the enforcement mechanisms. If a party refused to respect a decision made by a panel of elders, they would be deemed untrustworthy, their fellows would deny them access to credit. Without the backing of their caste members and access to credit offenders would soon lose their business.

Another important characteristic that kept the caste together was the role played by the parent bankers or ‘adathi’ bankers (Nair 2010a, 2010b). These parent bankers owned a more extensive network of banking branches and played the role of clearinghouses for the banking system as a whole. They also had a larger say in the communal setting of interest rates. Their higher status in society was granted to them voluntarily by other fellow caste members and was based on trustworthiness and reputation. Religious donations were often made by these parent bankers in order to signal their trustworthiness and build the social capital necessary to obtain and maintain their privileged position. (Nair 2010a).

The Chettiars used the caste system, reputation, and signals of trustworthiness in order to self-regulate and enforce contracts in their banking system absent any state enforcement. Though the topography of where they operated is different than Zomia, they did operate at the same time and in the same overall region. We wonder what

similar mechanisms might have provided governance absent state enforcement in Zomia.

3. The Case of Somalia

Though it is far removed in time and space from Zomia, modern day Somalia has many of the attributes Scott describes in Zomia. Most importantly, it has been stateless since 1991.⁴ A large portion of the population are rural nomadic pastoralists and it is a segmentary clan based society. As Scott describes, “Pastoralism, foraging, shifting cultivations, and segmentary lineage systems are often a ‘secondary adaptations,’ a kind of ‘self-barbarianization’ adopted by peoples whose locations, subsistence, and social structure are adapted to state evasion” (2009: x). The Somali have used this lifestyle to minimize state exploitation under colonialism and Siad Barre’s dictatorship and have also used it to successfully resist the re-establishment of a state since 1991.

Uninformed observers often believe that Somalia is in a chaotic state of anarchy. Instead, Somalia has a complex system of customary governance that provides legal order.

Somali law is based on custom, and decentralized clan networks interpret and enforce it.⁵ The Somali customary law, Xeer, has existed since pre-colonial times, and it continued to operate under colonial rule. The Somali nation state tried to replace the Xeer with government legislation and enforcement. However, in rural areas and border regions where the Somali government lacked firm control, people continued to apply the common law. When the Somali state collapsed, much of the population

4. Many attempts to install a government have failed. There have been weak governments that have controlled portions of Mogadishu but have not expanded their control outside the city. Somaliland and Puntland in the north are not functioning governments but mostly exist on paper. See Powell et al (2009) for a discussion of this.

5. Our discussion of Somali law draws on the work of Van Notten (2005).

returned to their traditional legal system. Since the collapse of the Somali government the return to their customary legal system has improved economic performance in Somalia. Below we briefly describe their legal system and the growth that has been achieved since the collapse of the government.

The Xeer outlaws homicide, assault, torture, battery, rape, accidental wounding, kidnapping, abduction, robbery, burglary, theft, arson, extortion, fraud, and property damage. The legal system focuses on the restitution of victims, not the punishment of criminals. For violations of the law, maximum payments to compensate victims are specified in camels (payment can be made in equivalent monetary value). Typical compensation to the family of a murder victim is 100 camels for a man and 50 for a woman; an animal thief usually must return two animals for every one he stole.

Clan elders, who judge cases, are chosen on the basis of their knowledge of the law. The elders cannot create the law. They only interpret the community customs. Elders who make decisions that deviate from community norms are not consulted in future cases. When a dispute arises between two members of different clans, their clan elders must reach a compromise. If they are unable to do so, they appoint an elder from another clan to settle the dispute.

After a verdict is reached, the criminal must compensate his victim the appropriate amount. If he is unable or unwilling, his extended family must pay the compensation. Every Somali is born into an insurance group based on their lineage to a common great-grandfather. Out of their own self-interest these insurance groups help enforce the judgment on wrongdoers. When an individual becomes particularly troublesome, a family can publicly declare that the person is no longer a member of their group, effectively making the person an outlaw. Outlaws must find another

insurance group willing to sponsor them, or they are expelled from the larger clan. In cases in which more formal enforcement of the law is necessary, clan elders can call for all clansmen to form a posse to enforce the verdict; clansmen are obligated to answer the call.

Since each Somali court is independent of the others, they often interpret customary law differently. Within clans, differences of interpretation are usually quickly resolved, but this process can take much longer on the national level. Ultimately, through the resolution of disputes the law is discovered and conflicts in interpretation are resolved. Although the interpretation of the law stems from clan elders, the clans are not de facto governments.

Throughout all of Somalia upon becoming an adult, individuals are free to choose new insurance groups and elders. They are allowed to either form a new insurance group with themselves as head or they may join an already established group provided it will accept the person. Movement between clans is particularly widespread in southern Somalia. Some clans have more members who were adopted than who were born into it.

The individual clans and insurance groups are not geographic monopolies. Geographic distribution of clans does not match territorial boundaries. As pastoral Somali move throughout their country their legal system moves with them. So in any given area multiple clan governance systems can exist.

The Xeer shares common attributes focusing on restitution and the protection of life and property with English common law and other polycentric systems.⁶

There is no doubt that Somalia remains extremely poor today. However, as far as living standards can be assessed, they appear to be improving since the collapse of

6. See Benson (1990) and Friedman (1979).

Somalia's national government. In fact, standards are improving relatively faster in Somalia than in most of sub-Saharan Africa.

In Powell et al (2008) my co-authors and I used the *World Development Indicators* to compare Somalia's performance with 41 other sub-Saharan African countries in both the current period and, when data allows, Somalia's relative performance over time. All data from Africa, and perhaps Somalia in particular, should be treated with caution. But our findings are broadly consistent with the improvements other ethnographic and anthropological studies have found.⁷

Unfortunately, using a broad cross section of countries over a 20 year time period for a region with often unreliable (or uncollected) data limited our metrics of comparison. We examined 13 measures: the death rate, infant mortality, life expectancy, child malnutrition, telephone mainlines, mobile phones, Internet users per 1000 population, households with television, DPT immunization, measles immunization, percent of the population with access to sanitation and an improved water source, and cases of tuberculosis.

Although Somalia's 2005 standards of living are low by western standards, they compare fairly favorably with other African nations. Of our 13 measures, Somalia ranked in the top 50 percent of nations in five of them and only ranked near the bottom in infant mortality, immunization rates, and access to improved water sources. Although in 2005 the nation ranked in the bottom 50 percent of countries on seven measures, it has actually improved performance relative to other countries since the collapse of the Somali state. Somalia ranked in the bottom 50 percent of all seven variables for which we had 1985-1990 data. In the last years of the Somali nation state (1985-1990), its performance relative to other African countries deteriorated from the

⁷For instance, See Little (2003).

early 1980s, with Somalia losing ground in life expectancy, death rate, and infant mortality as well as DPT and measles immunization.

Life expectancy in Somalia fell by two years from 1985 to 1990, but it has increased by five years since becoming stateless. Only three of the other 41 countries improved life expectancy as much since 1990.

While Somalia's infant mortality ranking has continued to slide, its death rate improved, jumping from 37th to 17th since 1990. While still in the bottom 50% in cases of tuberculosis, Somalia's relative rank has improved from 40th to 31st since the collapse of the government. Although Somalia's immunization rates for measles and DPT are among the lowest in Africa, its problems in this area existed before the collapse of the state. During the last five years of government rule Somalia's immunization rankings fell from 19th and 21st, respectively, to next to last in both categories. While the country has stayed near the bottom of this ranking, the percentage of children immunized has improved. .

Telecommunications is a major area of success in Somalia. The one measure for which we had complete data, main lines per 1,000 of population, showed dramatic relative improvement since Somalia became stateless, moving from 29th to 8th among the African countries included in our survey. We only had data since the collapse of the state for mobile phone, Internet usage, and households with televisions. Somalia ranked highly in mobile phones (16th) and Internet users (11th), while it ranks 27th in households with televisions.

The experience of Somalia relates directly to Scott's (2009) book. Many have equated the "anarchy" after the collapse of the Somali government with chaos. Somalia's anarchy is not chaos. Somalia has governance without government. Many rural pastoralists have evaded effective government control for years. Since the

collapse of Barre's government in 1991 most of the country has successfully avoided the establishment of another predatory state. Numerous internationally backed attempts to establish a government have been successfully resisted by the people. The result has been an improvement in Somali civilization.

The case of Somalia also raises important questions for further research on Zomia that weren't addressed in Scott's book. What were the internal legal systems in Zomia? How was governance provided without government? Also, how did living standards differ in Zomia from the "civilized" areas under the governments around Zomia? How about differences in the growth of these standards? Obviously these latter questions will be difficult ones to answer because of data limitations some anthropological evidence on these questions would be interesting.

4. Conclusion

The Art of Being Ungoverned is an important book that will be of interest to Austrian economists who study self-governance. Most will be unaware that Zomia remained outside of state control for so long. However, much research on Zomia's statelessness remains to be done. We see two key questions about Zomia that remain to be explored that would be of interest to readers of this journal.

First, how did being stateless affect the standard of living of the people of Zomia? Scott's contribution shows that living in statelessness was a choice rather than simply the result of not being exposed to civilization. Hence there is prima facie evidence that people found the living standards better in Zomia than in the lowland civilizations. However, it would still be interesting to probe this question more deeply. How did their standards evolve over time? Did their living standards improve at a rate faster, slower, or the same as the lowland nation states? Is there evidence of net out migration or net in migration over time? How did the presence of

nearby states impact their ability to improve living standards? Scott notes that, “State-accessible product and gross domestic product are not simply different; they are, in many respects, at odds with each other” (2009: 73). Was the lack of living standards improvement because of internal governance problems in Zomia or more due to the presence of nearby predatory states?

Second, what were the internal governance mechanisms of Zomia and how successful were they in promoting ordered anarchy? Did the groups in Zomia have customary legal systems? If so, what mechanisms enforced them? Were there major differences between the customary legal systems in different regions and groups? What mechanisms allowed for trade between the heterogeneous groups in these regions? All of these questions have been addressed by scholars studying other instances of statelessness. How governance was provided in Zomia would be another interesting case study.

Our contribution has been to highlight these two questions that Scott’s book raises and to briefly summarize the answer to these questions in two case studies related to Zomia, 19th century Southern India and modern day Somalia. We hope that we will encourage Scott and others to continue studying Zomia and to explain how governance was provided while the people practiced the ‘art of not being governed.’

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