

UNDERSTANDING POLITICAL SYSTEMS: A COMMENT ON METHODS OF COMPARATIVE RESEARCH

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There is little reliable knowledge of the world's political systems because most observers share the views, assumptions, and prejudices of the actors: United States political scientists write about the American system, English and Scottish lawyers about the government of the United Kingdom, and Frenchmen about France. When these learned authors write about a system which is foreign to them, they normally fail to understand it because they fail to discover the different assumptions underlying that foreign system.

This is true even though many authors writing about political systems illustrate their arguments by pointing to events occurring in foreign states. Machiavelli, generally considered the first empirical political scientist, made use of this method in the early 16th century. The first paragraph of his famous booklet "Il Principe" (The Prince),¹ defines the concepts to be used, giving examples from Milan under Francesco Sforza and Naples under the King of Spain. Chapters two and three continue in the same fashion, referring to the dukes of Ferrara, the popes and Louis XIII of France, the Turkish reign over Greece, and the administration of the provinces in the Roman Empire. Machiavelli's "Discorsi" (Discourses)² go even further. Utilizing Livy's histories, they deal exclusively with the history of ancient Rome. Every chapter, however, is concerned with developing a general standard for political behavior regardless of age or time.

A similar work was done on a much larger scale more than two centuries later by Montesquieu. Montesquieu devoted one of his minor works to the greatness of the Roman Empire and its decline ("Considerations sur Les causes de la grandeur des Romains et de Leur decadence"),³ the purpose of which was to draw some lessons from

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¹ N. MACHIAVELLI, *THE PRINCE* (P. Bondanella & M. Musa trans. reprint 1984).

² N. MACHIAVELLI, *THE DISCOURSES OF NICCOLO MACHIAVELLI* (L. Walker trans. 1975).

³ C. MONTESQUIEU, *CONSIDERATIONS ON THE CAUSES OF THE GREATNESS OF THE ROMANS AND THEIR DECLINE* (D. Lowenthal trans. 1965).

the Roman experience for the future of pre-revolutionary France. In addition, Montesquieu travelled widely, making many notes when visiting foreign countries; notes which he later used in his book on "the spirit of the laws" ("L'esprit des lois").⁴ Notwithstanding his extensive coverage of foreign countries, Montesquieu remained conscious of the risk incurred by utilizing this method: could one ever know so much about a foreign country that one could draw the correct conclusions? As he noted: "Many things rule the behavior of men - the climate, the religion, the laws, the maxims of government, the examples of things past, the morals, the manners; and therefrom results a general spirit which is thus formed."⁵

Montesquieu's statement embodies the problem which remains unsolved more than two centuries later: how can one understand a political system without having fully grasped the general spirit of that system? Additionally, how can one assess the general spirit without a complete knowledge of the many different elements which compose that system?

Much comparative work is done by lawyers and political scientists. Despite their differences in approach, the two share the common characteristic of trying to isolate one particular element of the political system they are studying. Some examples of these elements include judicial review, local self-government, electoral behavior, or decision-making in foreign affairs. This approach, however, raises many problems. For example, it may not be possible to understand one element in isolation from the other components of the system. If the answer to this problem is that the comparative student has no choice but to start somewhere, that answer raises a further question: why not take first an element which is highly characteristic of the system concerned, as compared to other systems. Admittedly, one must know something of "the general spirit" before being able to discover such an element. Although mere reflection may help, one might come much closer to discovering the general spirit of a foreign system by identifying the main factors that keep the system together.

One of the factors keeping the political system together is the way in which political authority is perceived and accepted by its subjects. Existing literature on this topic is scanty, however, since authors view their own way of looking at political authority as the only possible way of doing so, failing to realize how much their own views and

⁴ C. MONTESQUIEU, *THE SPIRIT OF THE LAWS* (T. Nugent trans. 1905).

⁵ C. MONTESQUIEU, *L'ESPRIT DES LOIS* ch. XIX (translation by the author).

perceptions are framed by the legal and political culture to which they belong. To further complicate matters, acceptance of political authority may be part of the larger issue of acceptance of authority in general. In this area it is interesting to note the differences between Catholic countries in Europe with regard to acceptance of the authority of the Church. Utilizing population statistics one can see that the teachings of the Church on family planning and birth-control have had differing effects in the Catholic countries of Luxembourg and Ireland.⁶ Additional observations may be made on the different perceptions of authority held by the French and the Italians. French citizens seemingly accept authority by complying with its orders. For most Italians, however, acceptance of authority has very little to do with complying with its orders. The course of history has had an important influence on these differing perceptions of authority. France was already a kingdom in the 10th century and remains, as its constitution states, a republic which is "one and indivisible."⁷ Italian unity, on the other hand, was only accomplished in the second half of the 19th century. The Italian State remains a somewhat uneasy coalition between the Church and the secular powers, between cities and regions, between the industrial and elegant North and the rural and impoverished South, and between vociferous right-wing and left-wing parties without much of a common ground.⁸

Thus, it is difficult to assess the law-abidingness of a given society since the observer automatically applies his own standards. In my own country, the Netherlands, people usually believe that neighboring countries are distinguished by a lower degree of obedience to legal rules, whereas in the Netherlands these rules are normally respected. Foreign observers see a quite different picture. They recognize that the degree of compliance in the Netherlands is high in some areas of the law, such as compulsory military service, or quality control of commodities; but low in other areas, such as road traffic regulations or drug trafficking.

The problem is, therefore, a problem of methodology. In what way can one hope to arrive at a certain form of reliable knowledge? What sources can make a foreign political system accessible?

A first warning for lawyers is especially important. It is dangerous to rely on primary sources unless one is already thoroughly acquainted

⁶ EUROSTAT, REVIEW 1971-80 ch. 3.1 (1982).

⁷ CONSTITUTION art. 2 (Fr.) (this provision dates back to the 1791 constitution).

⁸ See L. BARZINI, THE ITALIANS (1965).

with the system in question. For example, implementing a constitution may have a completely different meaning in one country than in another. Both the constitution of the Soviet Union and that of the French Republic provide that all power in the country belongs to "the people."⁹ It is easy to see, however, that these two states show so many dissimilarities that the expression cannot have the same effect for the rights of the Soviet and French citizens to share in decision making. This caveat applies not only to texts of constitutions, but also to legislation and administrative practice. The reader will be led astray if he thinks he can benefit from these sources of information without also being acquainted with the general spirit of the system. Similarly, it is not always easy to infer general propositions from judicial decisions. Although it is true that the United States Supreme Court's case law on freedom of expression is much more prolific and interesting than that of English courts like the House of Lords or the Court of Appeal, this situation does not necessarily have any implications for the freedom of expression citizens of these two countries actually enjoy. It might well be that English society, with its love of eccentricity, is more tolerant with regard to deviant and erratic creeds or opinions.

The picture remains distorted when the observer opts for the opposite approach of turning to empirical studies of political behavior rather than looking to legal materials. While sociologists and political scientists may have charted much of the field, it will be difficult to interpret the data if the observer cannot avail himself of some prior knowledge of the political system. Thus, American political science often overestimated the degree of instability of the French political system because it concentrated on elements that were measurable, like the role of political parties, the electoral system, or voting behavior. By so doing, the American political scientists failed to consider certain constants that are less easily measurable, like the administrative tradition in France with its competent and centrally-directed bureaucracy.¹⁰

In such a case a historical approach may help to correct the picture by explaining certain characteristics of the legal or political system. One of the most obvious examples is the way in which constitution-

⁹ KONSTITUTSIYA SSSR (Constitution) art. 2, § 1 (USSR); CONSTITUTION art. 3, §§ 1-2 (Fr.).

¹⁰ Kirchheimer, *Political Parties and Political Development*, in 6 STUDIES IN POLITICAL DEVELOPMENT 177 (J. La Palombara & M. Weiner ed. 1966).

alism, with its concomitant features of judicial review of legislation and trust in courts and judges, made its way in the Federal Republic of Germany after the German legal order had been "perverted"¹¹ in the early thirties. Once the electoral process gave rise to a Nazi regime, people's confidence in the sound judgement of the voters will never again be as strong as it once was. Thus, different methods of securing the existence of democracy will be devised. It is only by studying the historical background that the foreign observer can penetrate the peculiarities of the system.

The historical approach, however, is not apt to solve the problem. "History" is not a well-ordered story, but consists of a selection of available data about the past. The foreign observer is required to select the relevant data. The question of relevance brings one back to the initial problem: how to arrive at an opinion without prior knowledge of the system? Although one might think that the study of autochthonous literature might be helpful, this literature normally is written for readers living within the system and has a tendency of assuming the very tenets which are mysterious to outsiders. An illustration of this principle may be shown by the fact that the most striking analysis of the Netherlands political system was written by an American political scientist as part of a debate among his colleagues on stability and instability of multi-party-systems.¹² Dutch political scientists had to admit that the picture showed a good resemblance to the system they knew from the inside, and that its conceptual framework provided a better tool for analysis than their own writings.¹³

Is there any solution to the problem if "local" literature fails to see the distinctive features of its own system and if the foreign observer fails to understand it? In the field of cultural anthropology, research workers have tried to evade the problem by resorting to methods of participating in the social life of the society they investigate. A Dutch anthropologist, Kobben, recommended the use of these methods to sociologists and political scientists who, according to his view, tended to neglect "life-size" techniques of research. Kobben himself gave a fascinating account of field work he did among the Djuka in Surinam.¹⁴ His account vividly describes the trouble he took to live the

¹¹ F. VON HIPPEL, *DIE PERVERSION VON RECHTSORDNUNGEN* (1955).

¹² A. LIJPHART, *THE POLITICS OF ACCOMMODATION* (2d ed. 1975).

¹³ See *ACTA POLITICA*, Jan. 1984 (discussing the theme of consociationalism, pillarization, and conflict management in the Low Countries).

¹⁴ *ANTHROPOLOGISTS IN THE FIELD* ch. 2 (D. Jongmans & P. Gutkind ed. 1967).

life of a member of this foreign society while at the same time continuing to look at the society with the eyes of an interested outsider.

Field work techniques, however, are impracticable if applied to large scale objects. Although Kobben could use this method in a small society like the Djuka tribe, it is unrealistic to believe that an advanced student of comparative politics would be able to get to know "the" British or American society by establishing himself in a London suburb, or in Denver, Colorado, and by living the life of the local inhabitants. This does not put an end to the debate, however, for it may be possible to find a small-scale object which is part of the system and which can be usefully explored by means of field work. One could imagine, for example, that a student of comparative politics would be able to enhance considerably his understanding of the way British Parliament works by being a "back bencher" for a couple of years in the House of Commons. By understanding more about the Parliament, the student might have easier access to the British political system in general. A similar observation could be made of the foreign student studying American constitutional law who would have the opportunity of acting as "clerk" to the Chief Justice for several years. By doing this type of work, the foreign observer learns to follow the discussion in the terms in which it is conducted by the participants. This represents a parallel with the work of cultural anthropologists: every political or legal institution has, in a way, something of a "tribal society", with its own language, its own manners and forms of intercourse, its own scale of values—in a word, its own "culture".

The main advantage of field work is that it enables the researcher to disregard the assumptions and prejudices he carries with him as part of his national culture and of his social surroundings. These assumptions and prejudices melt away because the observer aims at identifying entirely with the foreign culture in which he lives. The assumptions and prejudices inherent in that foreign culture remain perceptible, however, since the observer continues to be an outsider. Field work, although expensive in terms of human energy, is thus a more reliable method of comparative research than the mere study of literature or of empirical data assembled by social scientists.

To understand political systems more fully, however, one more step is needed. In every political system one can find a set of assumptions, ideas, and values which may qualify as the "national myth." In comparative studies this myth is alternately highlighted or completely forgotten. Almost every study of the Soviet system is

introduced by an explanation of the Marxist-Leninist assumptions in their post-Stalinist version.¹⁵ One would look in vain, however, for comparable introductions to the study of the British or American system. The interested outsider may be able to see the myth earlier than authors who are participants in the system. It is not a French but an English scholar who starts his considerations on French politics with a line from a poem by the 16th century French poet Bellay: "France, mere des arts, des armes et des lois" (France, mother of arts, of arms and of laws).¹⁶ It is a myth because it embodies a basic idea about French society which is believed by the participants in the French political system regardless of its truth. One may find it in the famous opening words of De Gaulle's war memoirs: "Toute ma vie, je me suis fait une certaine idee de la France" (During my whole life, I carried with me a certain idea of France).¹⁷ Similarly, it is possible to find the raw materials for the American myth in the Declaration of Independence and to track the growth of the myth down through American history; it would be particularly interesting to look for traces not only in speeches by United States presidents and other politicians, but also in the case law of the Supreme Court.

The foregoing considerations have some special implications for the study of comparative constitutional law. The object of research cannot be isolated from the environment which forms its context: the general spirit, the political system, the national culture. These elements together constitute an influence which helped shape, and still helps to develop, the law of the country. Conversely, constitutional law itself helps to shape the context of the political system. It is the uniqueness of constitutional law, as compared to other branches of the law, that it is determined by the political, cultural, and social context while at the same time helping to form that context. Both influences can be easily illustrated. The first influence - constitutional law is determined by the larger context - is shown by the role of the courts in the English and United States systems. Just as the particular contribution of United States courts to the development of American constitutional law can be explained only in terms of the particular characteristics of the United States and its society (its space, its pluralism, its many dividing lines, its struggle for consensus),

¹⁵ See K. DEUTSCH, *COMPARATIVE GOVERNMENT: POLITICS OF INDUSTRIALIZED AND DEVELOPING NATIONS* 106-14 (1981).

¹⁶ S. FINER, *COMPARATIVE GOVERNMENT* 259 (1982).

¹⁷ C. DE GAULLE, *1 MEMOIRES DE GUERRE* 1 (1954).

the influence of English judges can hardly be understood without some knowledge of the British parliamentary regime and of the traditions of central government (from William the Conqueror to Margaret Thatcher). The second influence - constitutional law helps to shape the larger context - can be seen at work where the constitutional relationship between national institutions is one of the main political issues. Thus, in France, the relation between the elected President and the elected Parliament, under constitutional rules which make the government ultimately dependent on the Parliament's confidence, constitutes one of the fundamental features of the political system. Similarly, the political position of the federal chancellor in Germany cannot be assessed independently from its constitutional background.

For the comparativist these elements achieve a particular flavor through the different ways in which they are blended with other elements. In some political systems, like the British system, legal considerations are less important in the end because guarantees against abuse of power by the rulers consists of political rather than legal remedies. In Britain the role of the opposition and of the backbenchers in Parliament, the prospect of general elections, and the fear of ferocious press reactions do more to keep rulers within bounds than the existence of the bar and bench together. The same system shows its weakness, however, when transferred to a different soil. That system did not, for example, work in the same way when it was applied in Northern Ireland, and it was a conspicuous failure when transplanted to Africa. In countries like Nigeria, Ghana, and South Africa, the system did not work because the political guarantees proved ineffective.

Institutional elements that put their faith in legal mechanisms have the effect of giving power to judges and lawyers, social groups, or elites outside the political channels. Such a system, in contrast to one relying on the sole force of free elections and open discussion, could be considered less democratic. Recognizing the political role of elites may in certain cases, however, encourage the development of the countervailing forces needed by the country. It is difficult to prevent autocratic aspirations of political rulers by the mere force of argument and the polling booth; judicial action may contribute to counterbalancing these aspirations.

What do these reflections amount to? If it is true that comparative legal research is part of comparative research in general, comparative lawyers are nonetheless not given to problems of methodology as are their colleagues in the fields of anthropology or political science.

Most comparative lawyers start their research without being duly concerned with the methods utilized. That state of affairs, which may have something to do with the characters and personalities of research workers, is not likely to change very soon.

Nevertheless, it would seem that the best way of beginning to understand political systems is to live in the country concerned and to participate in its politics in one form or another. If that should prove impossible, the observer has no choice but to resort to materials collected by others. In that case, however, he should try to have a double anchorage: the study of autochthonous materials, like primary sources, handbooks, case law, and empirical studies, is indispensable, but he can discover the biases and prejudices inherent in those materials only by relying also on observations made by outsiders.

The classical author Tacitus begins his description of the life and culture of the Germanic peoples by explaining their religion and their hunting methods.¹⁸ Indeed, it would have been hard to understand anything at all about Germanic tribes without any prior knowledge of their religion and hunting methods. This illustrates the problem facing actual comparativists. On the one hand, religions have become so diffuse or opaque that many peoples and groups do not understand or realize the very myths in which they believe; on the other hand, hunting methods and other means of supporting our existence have been raised to a fabulous degree of diversity and refinement. As one is able to know more and more, the less one is sure of knowing anything for certain. The only way of diminishing the risk is for the comparativist to foster an intense curiosity about both the object of his study and its surrounding context. As he conscientiously analyzes a foreign system, disassembling it into its different components and allotting to them their distinctive characteristics, the comparativist better learns how to analyze his own system.

¹⁸ C. TACITUS, *DIALOGUS, AGRICOLA, GERMANIA* (M. Hutton & W. Peterson trans. 1963).

