Introduction:
Organizations, Civil Society, and the Roots of Development

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All societies have organizations. Their numbers, types, and effectiveness vary considerably, however, from one place to the next. During the nineteenth century a small number of countries began to experience sustained economic growth and a movement towards more open governments that guaranteed their citizens a greater measure of civil and political rights. At the same time, these countries also began to develop rich civil societies, and the quantity and variety of their economic, social, political, religious, and educational organizations increased dramatically. In countries that underwent this transformation, organizations had more autonomy from the state than they had elsewhere and could form and dissolve freely to suit the purposes of their membership. Equally important, organizations in these countries could depend on the state to enforce their internal rules and external contractual relationships with other associations or individuals. As a result, organizations in these more open societies tended to be more effective than organizations in other places.

Although the economic and political changes of the nineteenth century have been intensely studied, both together and separately, the importance of this accompanying organizational transformation has been relatively neglected. Most scholars have simply assumed that the growth of organizations was a byproduct of economic development—an endogenous consequence of increasing incomes and rising investments in physical and human capital. Others have acknowledged that civil-society organizations were important for the development of stable democratic polities, but have said little about why the number of organizations increased so markedly in the nineteenth century. The papers in this volume remedy the lack of attention to these issues by collectively examining the circumstances under which societies first began

passively to allow and then actively to encourage their citizens to form organizations for a wide range of purposes. The papers also examine the implications of this growth in organizations for how these societies functioned.

In 2012 we brought together a group of people at the National Bureau of Economic Research (NBER) who shared an interest in organizations as well as in understanding the process by which societies grow and develop. After our initial meeting, many participants proposed to write papers that, though they came out of their own independent research agendas, addressed questions we had posed about the importance of civil-society organizations for economic and political development. Members of the group met a second time at Yale University in 2013 to discuss initial drafts of the papers that appear in this volume. New versions were then presented at a third conference at the NBER in October of 2014, and they have been revised since in light of the comments received there.

The core problem that we asked participants in these conferences to consider was how societies have made the transition from a "limited access" to an "open access" social order, to use the vocabulary that Douglass North, John Wallis, and Barry Weingast (hereafter NWW) developed for their book *Violence and Social Orders* (2009). Throughout human history, NWW argue, most societies have been (and still are) limited access social orders in the sense that the elites that dominate them strictly control who can form organizations and for what purposes. They exert this control because organizations are vital sources of rents that can be used to reward supporters and strengthen their rule, and more importantly to structure relationships between powerful organizations in ways that reduce the likelihood of violence and civil war. To the extent that organizational rents are valuable, of course, they can be an impetus for elites to rebel in order to increase their share, but in most times and places such revolts have accomplished

little more than the replacement of one limited access social order with another. In the nineteenth century, however, a small number of countries experienced a more radical transformation. Governing elites not only stopped repressing organizations formed by other groups in their societies but very consciously, very deliberately made the legal tools needed to form more effective organizations readily available to a much larger share of the population. NWW hypothesized that this transformation ushered in a new equilibrium in which the widespread ability to form organizations created the competitive conditions necessary to sustain both economic growth and democratic politics.

We did not set out to produce a book about how hard it was for societies to open access to organizations, but that was what our collective scholarly inquiry yielded. As the essays in this volume show, the most important thinkers of the eighteenth and early nineteenth centuries had only the dimmest glimmerings of the transformation that was to come and were as worried about the destabilizing implications of a broad-based civil society as they were intrigued by its promise. The United States led the shift toward open access but in a much more halting and incomplete way than contemporaries like Alexis de Tocqueville recognized. In the economic realm, powerful elites continued for more than a half century after independence to use the allocation of organizational rents (especially in the banking sector) as a tool of coalition building, opening up access only when it became clear that competitive politics was making it possible and perhaps necessary to disentangle and separate control of economic organizations from control of the government. Although American governments stopped repressing most (though not all) types of voluntary associations in the aftermath of the Revolution, for many decades they still restricted access to the corporate form (important for organizational effectiveness), allowing only associations that served conventional religious, educational, and charitable purposes to

incorporate. In France, Germany, and elsewhere on the European continent governments actively repressed all non-economic organizations that did not have the explicit approval of the state. Business people could freely form partnerships of various types, but in most places they needed government approval to form corporations. By the 1870s governments in France and Germany had passed general incorporation laws for most types of businesses, but other organizations still required state permission even to exist.

As even this brief summary suffices to indicate, there was no clear one-to-one correspondence between the level of economic development or the type of government in place and the achievement of open access. In some places, general incorporation led industrialization; in other places it lagged industrialization. In some places democratic governments repressed associational life; in other places they tolerated it or even reveled in it. Open access was never complete in the sense that some types of associations were always subject to restrictions by the state and some types of people were always at a disadvantage in forming organizations, but as barriers to forming most types of organizations fell and as legal devices like the corporate form became generally available, the dynamics of societies changed in ways that fostered economic growth and democratic politics.

We develop these arguments in greater detail later in this introduction when we explicate the contributions of the individual essays and the general findings that can be drawn from them about the relationship between civil society and economic and political development. First, however, we lay out the basic theory of limited access social orders that provided the impetus for this collective scholarly endeavor. We begin with a discussion of how organizations produce rents.

Organizations and Rents

Organizations are bundles of relationships. They coordinate human behavior and in the process they create rents that increase the well-being of their members and consequently enable them to hold themselves together. The first step in articulating a theory of what organizations do, therefore, is to be clear about what we mean by the term rent. The simplest definition of an economic rent is a return above opportunity cost. If a worker is willing to work for $10 an hour (the value of the best alternative use of his time) and receives a wage of $15 an hour, the rent for an hour's work is $5. A consumer who is willing to buy a pair of shoes for $15 but pays only $10 receives a rent of $5. A producer who is willing to sell shoes for $5 but sells a pair for $10 receives a rent of $5. These examples all involve standard economic activities such as production and consumption that can easily be valued in monetary terms, but the concept of rent applies to human choices more generally. Two individuals who like each other enjoy a rent from their relationship. The rent is the subjective value they place on their relationship compared to alternative relationships they might have with other people. The rents that organizations create are very often non-monetary. They involve value that is created by forming individuals into groups.

Rents are always relative in their magnitudes. Suppose, as above, that a consumer values shoes at $15 a pair and can buy them from a particular producer for $10. The rent the consumer receives from buying the shoes is $5, but if he can buy an identical pair of shoes from another seller for $11, then the rent he receives from buying from the first seller in particular is only $1. Rents are also multidimensional, and the magnitude of the rent on different dimensions often moves in opposite directions when circumstances change. Extending the shoe example, if the number of sellers increases, the rent the consumer gets from buying shoes may increase, even if

the price does not change, because he may enjoy increased variety or increased ease of purchasing. At the same time, the rent he gets from buying from any specific seller is likely to decrease.

Rents are important because they create incentives to perform actions (make choices), and the probability that arrangements between people will continue in the face of uncertain and changing circumstances is directly related to the size of the rents associated with the action. If a consumer agrees to buy shoes from a producer for $10, that agreement is more likely to continue if the consumer receives $5 in rents from buying each pair of shoes than if he receives a rent of only $1. The extent to which the producer believes she can count on the consumer's continued business thus depends on her perception of the rents the latter receives. More generally, parties are more likely to make investments in relationships that continue through time when each perceives that the other obtains rents from the relationship.

Organizations create rents in two basic ways. The first is characteristic of all relationships that persist over time. When two individuals come to know each other and expect to interact in the future, they have a relationship. Relationships create rents when the alternative to which they are compared is the prospect of dealing with strangers whom one expects never to meet again.[1] These rents come both from our increased knowledge of the other person and from the expectation that our interaction will continue. These elements enable us credibly to coordinate our behavior.

[1] When we get to know a person we may learn that we do not want to interact with him or her, but even that negative information produces a rent in comparison to dealing with a person whom we do not know.

The value of coordination is the second source of the rents that organizations create.[2] For many activities, people who work in teams are more productive than people who work individually. If the organization is a firm that produces goods, the gains can be measured in terms of physical output. But again, the gains from coordination are not limited to standard economic activities. Churches are organizations that coordinate behavior in ways that enhance the value of the community and the religious experience. Individual church goers receive rents from their participation in the church's activities, and it is those rents and the personal knowledge of each other that results from participation that enable church goers to coordinate.

Organizations, then, provide a framework for relationships that are more valuable to individuals than one-shot interactions with strangers. The value of relationships makes it possible for people to coordinate their actions, and that coordination in turn generates rents in the form of higher output or benefits than could be obtained by a comparable group of uncoordinated (unorganized) individuals.

What Holds Organizations Together?

Understanding how organizations work has been a major preoccupation of the social sciences.[3] Drawing together several different lines of inquiry in economics, sociology, and business, Robert Gibbons (1998, 1999, 2003) has argued that organizations can be thought of as

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[2] Organizations are not the only way in which people coordinate. In markets the price mechanism coordinates individual decisions.

[3] Economics, political science, sociology and business management all have long traditions of theoretical, empirical, and historical studies of organizations. For example, in economics, the new institutional economics, beginning with Ronald Coase's insights about the firm (1937) and continuing on through Oliver Williamson (1975 and 1985), Sanford Grossman and Oliver Hart (1985). In sociology, Weber (1968), Blau and Scott (2003) and Padgett and Powell (2012). In business, March (1962), Cyert and March (1963), March and Simon (1958).

interlaced bundles of relationships and contracts. Although some organizations can be understood as self-enforcing sets of relationships sustained by repeated interactions and the existence of rents, most rely on some form of contractual enforcement using third-parties. A robust theory of organizations should encompass both relationships and contracts, rather than relying on one or other as the "organizing" principle.

A useful starting point for a theory of organizations is the folk-theorem intuition that two individuals can maintain a relationship over time if both individuals receive a rent from the relationship. The players in the folk theorem receive rents from their specific relationship, so their individual identity and the nature of their partnership matters. The existence of the rent is what makes their relationship incentive compatible. The folk theorem partnership is what we call an *adherent* organization, an organization where both or all members have an interest in cooperating at every point in time. Adherent organizations are inherently self-sustaining or self-enforcing; they do not require the intervention of anyone outside of the organization. Mancur Olson's famous *Logic of Collective Action* (1965) essentially relies on the existence of rents enjoyed by members of the organized group, which he calls selective incentives, to explain voluntary associations. Members only cooperate if the rents are positive and, critically, if the rents are only attainable within the organization.

As in the shoe examples above, the higher the rents the more predictable is the behavior of the members of the organization. That is, partners can sustain a higher degree of cooperation when they receive higher rents on an ongoing basis from the relationship. Members who are pushed to the margin are not reliable partners: if a member receives total benefits that are just equal to the total costs of membership, then rents are zero and that member is indifferent to cooperating. Any small change in circumstances may lead him or her to defect. Organizations

want to ensure as much as possible that all members earn positive rents so that their behavior is predictable.

If the members of an adherent organization look forward into the future and anticipate that rents may not be sufficient to ensure the cooperation of every member at every point in time, then they will expect defection and cooperation may unravel. There are, however, ways for the members to protect against defection. For example, they may insist on hostages as insurance against the possibility that rents will become zero or negative at some point. The threat that a hostage will be killed imposes large penalties on defection, making possible incentive compatible and time consistent arrangements for the organization. The various folk theorems lay out how such punishments for deviators (non-cooperators) might be credibly imposed (Benoit and Krishna 1985, Fudenberg and Maskin 1986).[4]

The folk-theorem logic can explain the existence of organizations. However, organizations that depend only on the coordinated interests of their members without recourse to external enforcement are likely to remain small. Ensuring cooperation is expensive, particularly when cooperation is attained through the continual ex ante transfer of real economic assets or costly threats to destroy economic assets. *Contractual organizations*—that is, those that can appeal to an external agency, a third-party, to enforce the terms of their internal agreements—can be much more effective. In principle, anything that an adherent organization can do a contractual organization can do, but many things that contractual organizations can do are impossible to accomplish with purely adherent organizations (NWW 2009).

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[4] An historical example comes from the slave trade, where British merchants insisted that their African counterparts place relatives on slave ships in exchange for credit to use in acquiring slaves. If the African merchants failed to live up to their bargain, their relatives could be sold into slavery. See Lovejoy and Richardson 1999.

It is difficult to overstate the importance of contractual organizations. Those of us who live in societies with open access to organizational tools may have trouble appreciating just how many of the organizations we consider “voluntary” are contractual, not adherent, organizations. One of the authors was commissioner of a soccer league for six to nine year olds organized by a boys and girls club. The club, as a matter of course, obtained liability insurance for the commissioner. Even though participation was completely voluntary, it was well understood that an aggrieved or upset parent had the ability to sue the club, the coach, and the commissioner if their child was harmed through inappropriate behavior. In other words, the larger society provided this voluntary association with a set of extremely sophisticated and powerful organizational tools to structure and enforce its internal arrangements. Virtually all organizations in modern societies are contractual in this sense, no matter how informal they appear to be. They all swim in a sea of organizational tools so pervasively present that participants often do not even notice their existence.

Third Parties

We typically think of governments as providing the third-party enforcement that enables contractual organizations to flourish. But, of course, governments with the capacity to enforce rules and contracts in the larger society did not always exist. Nor were they either in theory or in fact necessary for contractual organizations to emerge. Just as individuals can create adherent organizations that are held together by the value of the relationships involved, organizations can form adherent organizations of organizations. Moreover, the value that holds these organizations of organizations together can be precisely their ability to serve as third-party enforcers for each other. This ability, it is important to underscore, by no means disappeared with the emergence of

governments. Here we focus on the pre-government case, however, because it helps explicate both the nature of governments and why most societies strictly limit their members' ability to form organizations.

NWW develop their insight about organizations and third party enforcement to explain how societies organize to limit violence. Think of two individuals, each a member of a different group. The groups to which they belong are, to begin with, egalitarian in the sense that no individual is capable of coercing the other members and economic outcomes are relatively equal. Suppose, however, that if these two individuals can cooperate and form a coalition, they can overawe the other members of their respective groups.[3] They accordingly promise not to fight each other, to recognize each other's rights to land, labor, and capital in their respective groups, and to come to each other's aid in the case of a conflict with other members of their groups. Because of their agreement to form a coalition, each partner is able to gain control over his group's resources. The land, labor, and capital each now controls are more productive under conditions of peace than of violence. If violence breaks out between the coalition partners, the rents each gets from his own domain will go down. Both partners therefore recognize that there is a range of circumstances in which each can credibly believe that the other will honor the agreement. In other words, the rents each partner receives from his respective group serve as a mechanism for limiting violence among the coalition partners. NWW call this outcome the "logic of the natural state."

Figure 1 depicts a simple version of these types of arrangements. A and B are members of different groups, which are represented by the vertical ellipses. The horizontal ellipse

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[3]The idea that a coalition of just two members will be able to overawe either of the two groups is unrealistic. But beginning with a coalition of just two members is easier to describe and visualize. Burkett, Steckel, and Wallis (2015) develop a formal model of coalitions and violence.

represents the arrangement between A and B that creates their adherent organization (in NWW's terminology the "dominant coalition"). The vertical ellipses represent the arrangements the members of the coalition have with their subjects, the a's and b's, and the labor, land, capital, and resources they control. The horizontal arrangement between the coalition partners is made credible by the rents generated in the vertical arrangements. The rents the partners, A and B, receive from controlling their client organizations enable them credibly to commit to one another, since those rents are reduced if cooperation fails and the partners fight. These rents come from control and so depend on limited access in the sense that only A and B and not the a's and b's can be members of the dominant coalition.

The coalition is not a government. It is an adherent organization, and it is the rents from the relationship between the coalition members that provide the incentives for the partners to continue to cooperate. These rents also provide the means for the vertical relationships between A, B, and their clients to become contractual organizations because A and B serve as third-party enforcers for each other's organizations. The adherent relationship between A and B makes it credible for A to serve as a third-party enforcer for B and his organization, and B to serve as a third-party enforcer for A and his organization. In other words, there is a reciprocal effect whereby the vertical arrangements depend on the horizontal arrangements and vice versa. The agreement between the coalition partners enables each of them to better structure their client organizations because they can call on each other for external support. At the same time, the additional rents that A and B derive from the greater sophistication of their client organizations make their ongoing cooperation all the more valuable.

Rules, Tools, and Hierarchies

In NWW's analysis, the coalition partners do not need to possess any special physical characteristics. If the partners can cooperate, then they can overawe the other members of their respective groups. Their strength comes from their organization, not their personal attributes. Of course, this model with just two coalition partners is a very simple and abstract representation of relationships in the actual world, but it focuses our attention on the fact that elites do not have influence in the coalition because they are powerful as individuals; they are powerful because they are integrated into the coalition. Membership in the elite group is not fixed. Just as individuals can rise or fall in organizations, so too can elites rise and fall, and they do so all the time.

Unlike a Hobbesian world, where the most powerful competitor emerges as the sovereign, in this analysis the ability to create and enforce rules is based on the relationship between A and B. Moreover, the *kinds* of rules that A and B can enforce derive from these organizational relationships. The rules that apply to A and B will depend on the nature of their relationship, and the rules that apply within A's organization, within B's organization, and between the two organizations will depend on whether the people involved are "a's" or "b's." Rules that depend upon the organization that a person belongs to, or heads, are "identity" rules. The relationship between A, B, and their organizations becomes an institutional arrangement through the creation of identity rules. The rules identify A and B, who each enjoy privileges that are individually specific to them. And the rules identify two organizations whose members, the a's and b's, have social identities that differ from those of A and B, but also from one another.

We can scale up the logic of the relationship between A and B and imagine a society formed of clusters of coalitions, as in Figure 2. The little circles within the bottom circles are

coalitions like the A/B coalition, but they are embedded in larger clusters which are themselves organizations. The identities that matter for the creation and enforcement of rules are still horizontal, and the rules that can be created and enforced internally are still identity rules. The coalitions of organizations in the figure are not "equal" in the sense that they have the same rights and privileges. They are all unique. The power and privileges of the leaders of each coalition depend on the dynamics of their interactions with each other. Some organizations and individuals are more powerful than others (have higher vertical positions in the figure's hierarchies), but their power rests on the horizontal agreements that sustain their organizations and the relationships among them.

In this kind of society, there are multiple organizations with the capacity for violence. Governments may be organizations with a superior capacity for violence (Tilly 1990), but more importantly they are organizations that coordinate the organizations within the coalitions. Wallis (2015) defines governments as organizations that publicly signify agreements among coalition partners. The agreements cover a wide range of areas, including what government organizations will exist and how functions will be divided between the government (that is, public organizations) and private organizations and individuals.

What the rules are and how the rules will be enforced is an integral part of the agreements that governments signify. All of the rules in a natural state are identity rules, if only because no rule can be enforced against a group of powerful organizations that does not wish to follow the rule, and many rules are "enforced" by the value of rents created by specific organizations. Whether the formal government is charged with enforcing a rule or it is left to private organizations is an important part of the agreement about the social order. Horizontal

relationships between organizations create the incentives that make what appear to be vertical power relationships credible. The vertical relationships are grounded in the horizontal ones.

Who can found organizations in these societies is, therefore, closely tied to both the form of and enforcement of rules. Our interest in this volume is the appearance of publicly signified credible rules governing the formation of organizations. All of the societies considered in the essays had, by 1800, reached a point where governments were able to form special organizations with unique privileges and rules, recognized by the larger society through the explicit granting of a charter delineating those privileges. But as late as 1800, in no society were those special organizations sacrosanct. Even though organizations like the British East India Company were highly privileged, their privileges were still highly contingent; they were not exempt from the identity dynamics of the natural state.[5] In such societies powerful individuals and organizations are always embedded in political coalitions dependent on the rents generated by limited access and by special privileges more generally.

Open access societies are fundamentally different. An open access society still consists of organizations, and of organizations of organizations, and horizontal identity still matters to the members of organizations. But the existence and structure of the organizations is credibly guaranteed by a public arrangement, in which the government recognizes the ability of citizens to form organizations. The rules governing the formation of organizations must be impersonal, in the sense that they must apply in a visibly unbiased manner to a large part of society, if not to absolutely everyone, and horizontal identity can no longer matter for how the rules are enforced. Once these conditions are met and citizens gain both the ability to form organizations and access to the third-party enforcement that enables their organizations to be larger and more effective,

[5] Dan Bogart's study of the British East Indies Company in this volume makes clear how contingent the privileges of the company were. Broz and Grossman (2004) show the same for the Bank of England during the eighteenth century.

society is transformed. The economy becomes more competitive and dynamic, and citizens can join together to accomplish a multitude of social ends that previously were beyond their reach.

The central question of this volume is how societies make the transition to open access. Since limiting entry is an important source of the rents that hold ruling coalitions in natural states together, the powerful organizations and individuals that dominate such societies typically block such changes out of fear that they will undermine the social order and their own positions within it. Nonetheless, a small number of western societies managed to break through these barriers during the first half of the nineteenth century. How? The essays in this volume explore this history in order better to understand the dynamics of this fundamental transformation.

The Essays

The first three essays in the volume examine developments—institutional and intellectual—in the pioneering western countries in the period before they made the transition from limited to open access. The societies that are the focus of these essays were advanced natural states (as in Figure 2) by the end of the eighteenth century. They were still governed by identity rules, but their institutions had evolved to the point where elites could conceivably find it advantageous to move toward a system of impersonal rules. In NWW's vocabulary, the societies met the three "doorstep" conditions required for the transition to open access.

1) Rule of law for elites

2) Perpetually lived organizations in the public and private sphere

3) Consolidated political control of the military

The first doorstep condition, rule of law for elites, is not the same thing as the modern rule of law, where the government impersonally enforces rules on all citizens and also on itself.

Rule of law for elites is a condition where elites have agreed to abide by a set of rules and methods of enforcement. The agreement might involve public enforcement through specific government organizations, such as courts, or it might involve private organizations, such as merchant tribunals. The rules at stake are still identity rules. But because failure to enforce them according to the agreement can lead to social disorder and the loss of valuable rents, they are applied with a great deal of uniformity and regularity. Perpetually lived organizations, the second doorstop condition, do not necessarily have an infinite life. Their defining characteristic is that they have an identity that is independent of that of their members. Perpetually lived organizations are important because rules only have the possibility of becoming impersonal when there are organizations in both the public and private sector that can credibly ensure that commitments made in the present are honored in the future. The third doorstep condition is consolidated control of the military. As we have seen, the central problem that the logic of the natural state addresses in functional terms is limiting violence. Before powerful organizations can credibly treat each other the same, they must believe that the organization with the capacity to suppress intra-elite violence is under control of a collective agreement.

Taken together, the doorstep conditions allow elites to believe that the rules they have agreed upon can be enforced (condition 1), that the rules will continue to be enforced if the members of the enforcing organization change (condition 2), and that enforcement will not depend on the current configuration of coercive power among elite organizations (condition 3). The doorstep conditions are necessary but not sufficient conditions for a transition to open access, and there is no implication that a transition will automatically follow when a society achieves them.

Corporations are today the iconic example of perpetually lived organizations, but they did not necessarily start out that way, as Dan Bogart shows in his essay. Bogart uses the case of the British East India Company to study the emergence of the first doorstep condition in Britain over the course of the seventeenth and eighteenth centuries. The British East India was originally chartered in 1600 by Queen Elizabeth, who granted it a monopoly over trade with all parts of the world between the Cape of Good Hope and the Straits of Magellan. Despite its royal charter, for the next century and a half the company had to struggle for its existence against continuous attempts by the various monarchs and Parliament to take away its charter, profit from encouraging competing ventures, extract bonus payments and loans, and otherwise expropriate its returns. Scholars often focus on the Glorious Revolution as a key turning point in the economic and political development of Great Britain, and in an important sense it was. However, as Bogart shows, the implications of the new political settlement for "monied" companies, like the East India Company, emerged only gradually and in a highly contingent way. In the years immediately following the Glorious Revolution, the company experienced the same threats to its existence and resources as it had before, but by the middle of the eighteenth century the achievement of political stability and the growing fiscal strength of the government had put a stop to this tampering. Indeed, after mid-century the company only faced such exigencies when the term of its charter formally expired, a sign of a new respect for the rule of law among elites. What happened when the charter expired, however, continued to depend on personal relationships—on the strength its members' connections with the governing coalition. When those connections were powerful, as they were when the charter was up for renewal in 1780, the exactions on the company could be relatively modest. When they were feebler, however, the negotiations could be more difficult. The new elections held in the wake of Prime

Minister Lord Perceval's assassination in 1812 did not go well for the company's supporters. Thus the company was in a weakened position when its charter came up for renewal in 1813, and it was stripped of its monopoly on trade with India. The loss of this monopoly was a step toward the achievement of open access, but it was a step that occurred within the logic of the natural state.

Barry Weingast's analysis of Adam Smith's writings provides another vantage point on the emergence of doorstep conditions in Europe. Looking back over European history from the perspective of the late eighteenth century, Smith explained in Book III of *The Wealth of Nations* how countries like Britain and France managed to escape the conflict that had kept them in poverty for centuries after the fall of the Roman Empire. As Weingast shows, Smith understood that economic development depended on making people secure in their property against the violence of the local lords. The key breakthrough, in Smith's (and Weingast's) view, was the formation of mutually beneficial (rent generating) alliances against the lords between the various European monarchs and the towns within their domains. When the kings granted towns rights of self-governance, trading, and defense in exchange for taxes and military service, they created conditions conducive to the growth of long-distance trade and the commercialization of agriculture. Translating Smith's account into the language of NWW, Weingast shows how the pacts between kings and towns also facilitated the achievement of the doorstep conditions by constituting towns as perpetual lived organizations, fostering the rule of law within them, and consolidating the control of violence. Towns were organizations of organizations that grew increasingly sophisticated over time as the means of third-party enforcement became more secure and effective.

Writing on the eve of the transition to open access, Smith could not see the change coming. He was famously critical of chartered monopolies like the East India Company and believed, as Jacob Levy shows, that the religious pluralism that would follow from disestablishment of the Church of England would be a positive development. More generally, however, the pluralism that Smith thought would preserve liberty was a pluralism based in the ancient privileges granted to towns, provinces, and even the nobility. In this way, Levy shows, Smith fit squarely in a line of thinkers stretching from Montesquieu to Tocqueville who saw the traditional *corps intermédiaires* as the main bulwark against tyranny. As Levy puts it, these writers embraced "an oppositional pluralism that drew its strength from privilege." Because the groups that constituted the *corps* had their own power bases and could rally support against infringements on their longstanding rights, they could check monarchical power before it became despotic. The pluralism that these writers embraced was fundamentally different from the pluralism of the open access state. The rights and privileges of the *corps* were not open to all but rather identified with particular families and groups. It was that specificity that gave them their legitimacy and hence their power. In the views of Montesquieu and the other writers Levy discusses, impersonal rules were a technique for clipping the power of the *corps* and as such were means of despotism rather than a doorstep condition for further progress.

As Levy's essay demonstrates, the great thinkers of the eighteenth century did not, indeed could not, envision what an open access society would be like. When they wrote about how privileged organizations ensured social order, they were articulating the logic of the natural state, which was all they had ever known. Nor could the societies they inhabited be said to be progressing gradually in the direction of open access. As Weingast points out, citing Cox, North, and Weingast (2014), the natural state is an equilibrium that when perturbed tends to reestablish

itself. Thus the transition to an open access order cannot occur through a series of small, incremental steps. The achievement of the doorstep conditions does mean, however, that under the right circumstances it is possible for elites to reconfigure relationships among themselves in a transformative way.

Qian Lu and John Wallis describe how such a reconfiguration came about in the arena of banking in Massachusetts during the early nineteenth century. Banks were important rent-generating organizations that the coalitions in control of the various state governments in the decades following the American Revolution used to solidify their political positions. As a result, charters went almost exclusively to members of the faction that controlled the government. Because those who controlled a bank had preferred access to credit in this capital scarce economy, whenever a rival political faction came to power, the first thing it did was charter new banks for its supporters. In Massachusetts, Federalists had almost a complete monopoly on banking, and so when the Republicans took control of both houses of the legislature and the governorship in 1811, they immediately chartered new banks to serve the Republican elite. More important, most of the charters of the existing Federalist banks were set to expire in 1812, and the Republican legislature threatened not to renew them. Before they could carry out their threat, however, they had to win another election. The Republicans lost control of the lower house and the governor's mansion in 1812, and the Federalists got their banks rechartered. Things could then have reverted to the status quo ante, but in the context of the increasingly competitive electoral politics of the period surrounding the War of 1812, the incident seems to have given elites in both parties pause. As Lu and Wallis acknowledge, it is difficult to know exactly what went on behind the scenes, but in the years that followed it seems that the parties agreed at least implicitly to take banking off the table and allow the legislature to grant all viable

applications for bank charters. The number of banks in the state soared, and the tremendous growth that ensued in the amount bank capital and bank money per capita helped fuel economic development.

The move toward open access in banking in Massachusetts is a good example of how, once the doorstep conditions were met, the political equilibrium could suddenly shift if circumstances were right. Massachusetts politicians lived in a world where there was rule of law and agreements were enforceable despite changes in the identity of the enforcer (the Federalists' bank charters could not be revoked until their terms actually expired). They also lived in a world where members of a political faction did not fear violence if they lost an election. When the Federalists and Republications began to charter each other's banks regardless of who was in power, they were in effect further reducing the stakes of controlling the government and ensuring that their private enterprises could flourish regardless of voters' shifting preferences. Although this resolution might seem obviously beneficial ex post, it was not easy for politicians to perceive its advantages ex ante, and there was nothing inevitable about the outcome in Massachusetts. Indeed, New York went through a similar episode of political competition around the same time, but instead Martin Van Buren's faction of the Republican party, dubbed the Albany Regency, ruthlessly used control of bank charters to reward supporters and punish opponents. When the machine finally lost power after the Panic of 1837, the opposition (by then called the Whig Party) took steps to insure that the Regency would never again be able to use bank charters for political purposes, passing New York's famous free banking law in 1838. Banking then thrived in New York as well, though New Yorkers were not able to close the gap with Massachusetts until the Civil War (Bodenhorn 2006; Hilt 2014). A number of states followed New York's example, but others were never able moved on their own toward open access in banking before it

was imposed on them by the federal government as a way of financing the Civil War (Lamoreaux and Wallis 2015).

One lesson that leaps out from the essays in this volume is that a shift to open access in one sector of the economy or society did not automatically trigger a shift in other sectors, much less an across-the-board movement in that direction. In the case of the United States, not only was there considerable heterogeneity across states in the timing of the move toward open access, but within states the shift in one sector, say banking, often occurred at a very different time than the shift in other sector, say, manufacturing. Before the passage of general incorporation laws, corporations could only be organized with the special permission of the state legislature. Charters for manufacturing ventures granted members of the business limited liability as well as giving the enterprise the benefits of legal personhood. As such they were favors that could be used to reward political supporters and denied to members of the opposition, even if they were not as valuable as bank charters.

In his essay, “Corporation Law and the Shift toward Open Access in the Antebellum United States,” Eric Hilt provides the most complete time series to date of general incorporation laws for manufacturing passed by the various U.S. states before 1860. New York was the pioneer in this case. It passed the first general incorporation statute for manufacturing in 1811, nearly three decade before the passage of its free banking law. New York’s early act did not, however, start a trend toward open access. Indeed, its statute was imitated by only three states, all of whom subsequently repealed the legislation. Three other states passed acts in the 1830s, but the big wave of adoptions started in the late 1840s and accelerated during the 18950s. By the Civil War most states and organized territories (27 out of 32) had passed general incorporation laws for manufacturing.

Even then, however, there were striking differences in the content of the various states' statutes. Corporations had been an important technique of elite control, and many opponents of the old regime worried that open access would not solve that problem but rather would give members of the elite the tools they needed to perpetuate their dominance. For example, critics of corporations worried that the standard features of the form, such as limited liability, would give business people with superior access to capital advantages that would enable them to run roughshod over competitors. They also worried that rich shareholders would seize control of otherwise innocuous corporations for this very purpose. Not surprisingly, therefore, many of the laws imposed strict limits on what corporations could do, how big they could grow, how long they could last, and what forms their internal governance could take. Not all, however. Iowa's 1847 statute imposed no restrictions whatsoever on corporations' size or internal governance, though the durations of their charters were limited to twenty years. There were not many people in Iowa in this period, and the liberal general incorporation law might have been a bid to attract settlement. But geography was not fate. Nearby Wisconsin took a very different tack and passed a remarkably restrictive general incorporation act that imposed a voting rule of one vote per shareholder, something that no other state ever did. The southern states were generally outliers in another way. Although the statutes themselves contained relatively few restrictions, they gave the governor or another official the authority to insist on modifications to charters or even to refuse to approve corporate filings. More research is needed on the implementation of these statutes before it is possible to say for certain whether the South was moving toward open access. What is abundantly clear, however, is that the internal politics of the states mattered for both the timing and content of these general incorporation statutes.

Thus far we have said very little about organizations outside the business sphere. Here it is useful to adopt the distinction that Richard Brooks and Timothy Guinnane develop for their chapter between the right *to* associate and the rights *of* associations—that is, between the right of people to come together and form relationships and the right of organizations to access the tools (for example, the corporate form) that enable their organizations to be larger and more effective (contractual rather than adherent). As Ruth Bloch and Naomi Lamoreaux note in "Voluntary Associations, Corporate Rights, and the State: Legal Constraints on the Development of American Civil Society, 1750-1900," Americans could (with a few glaring exceptions) freely form any organizations they wished. However, the states strictly controlled which types of associations could organize as corporations. The right to adopt the corporate form mattered because incorporation enabled associations to accumulate financial resources and hold property in the name of their organization, as well as to enforce their rules and agreements. Although in the late eighteenth century, states began to pass general incorporation laws that allowed first limited types of voluntary associations (churches, schools, libraries) and then increasingly other kinds of "non-profit" groups to adopt the corporate form, for the most part they systematically withheld such valuable associational rights from groups that challenged the social order in some fundamental way—for example, by opposing the institution of slavery, advocating political rights for women, or even seeking a better deal for labor. Bloch and Lamoreaux argue that the view of nineteenth-century American society that many scholars have taken from their reading of Tocqueville requires significant modification. Although Americans could form almost any kind of association they wished, they depended on government approval for the tools the needed to make those organizations more effective.

The role of the state was even more apparent in Tocqueville's France and elsewhere on the European continent, where governments actively repressed most civil-society organizations. In Prussia, as Brooks and Guinnane show, citizens organized many new types of associations beginning in the late eighteenth century, but these organizations were in an important sense extralegal and were often actively repressed. Although the legal rules varied over time, for all practical purposes Prussians lacked the right to associate for much of the nineteenth century. Fredrick the Great's 1794 Law Code ostensibly granted citizens the right to associate for socially beneficial purposes, but it also allowed the government to restrict this right in order to maintain order, which it soon did. Prussia's 1850 constitution granted citizens the right to meet together without seeking prior permission from the authorities, so long as the meetings were held indoors and the participants were not armed, but the government subsequently enacted legislation that undermined these constitutional guarantees. For example, if public affairs were to be discussed at a meeting, the police needed to be informed in an advance and had the right to send observers. These regulations would not be repealed until the creation of the Weimar Republic after World War I. Lest this history of repression seem like a peculiarly German phenomenon, Brooks and Guinnane show that French practice was remarkably similar. Beginning in 1791 with the passage of *loi Le Chapelier* and continuing until 1901 with the passage of a new law on associations, French law severely restricted citizens' ability to form organizations or even to meet without the explicit approval of the state.

In both Germany and France, the rules governing business organizations were much more lenient than the rules governing civil-society organizations more generally. Although like elsewhere in the early nineteenth century businesses could only become corporations with the special permission of the state, they could get most of the benefits of the corporate form without

charters. By a simple registration process they could freely organize limited partnerships in which all but one of the partners had limited liability. Moreover, they could make the shares of the limited partners tradable (Guinnane et al. 2006). Full general incorporation came to France in 1867 and Germany in 1870 at a time when governments in both countries were still actively interfering with citizens' right to associate. Corporate charters were in this context particularly valuable because they conveyed not just standard organizational tools but also government approval of the organization's right to exist. As Brooks and Guinnane document, fears of harassment by government officials led leaders of the cooperative movement in Germany to push (successfully) for what was in effect a general incorporation law. Thus cooperatives thrived in Germany at a time when it was difficult even to form other kinds of organizations.

Behind the repression of associational life that Brooks and Guinnane document for the case of Germany and France (and also the restrictions on the availability of the corporate form that Bloch and Lamoreaux detail in the case of the United States) was a fear of social disorder. Once elites relinquished the tight control of the organizational rents that they had previous used to bolster their social and economic dominance, they had to find new ways of maintaining order. The problem was easier in places like the U.S. where (especially after the Civil War) the stakes involved in who had control of the government were no longer very high, but there was still concern that some types of organizations could be used to foment disorder. The types of organizations that elites perceived as posing a threat grew smaller over time, and access to organizational tools consequently became more open. But some types of oppositional groups retained their disfavored status deep into the twentieth century, in part because the threat that they would use violence to pursue their aims was real. Margaret Levi, Tania Melo, Barry Weingast, and Frances Zlotnick examine the case of labor unions in the U.S. and show that they

only gained organizational legitimacy when institutions were created that enabled both unions and businesses credibly to commit to engage in good faith bargaining and not resort to violence. The government also had to be able credibly to commit to function as a neutral arbiter. These conditions were difficult to achieve. They involved both changes in the distribution of political power that only finally occurred during the Great Depression of the 1930s, as well as considerable learning about how to structure the necessary regulatory institutions in ways that were consistent with the rule of law. The Wagner Act of 1935 granted workers the right to organize, but the right was still circumscribed in a number of ways in order to maintain labor peace. Even so, there was nothing inevitable about the solution or even that that the parties involved would arrive at a solution. To the present day, of course, there are groups in the U.S. that are denied access to organizational tools or even actively repressed because they threaten (or are perceived to threaten) the social order.

Most of the papers in the volume discuss the rules and policies that affected citizens' ability to form organizations and also how the organizations they formed could be structured. Stepping back to view the consequences of opening up access to organizational tools, Victoria Johnson and Walter Powell compare two different efforts to create botanical gardens in New York City. The first effort in the 1790s failed; the second was a resounding success. Johnson and Powell frame the two efforts as a natural experiment that allows them to isolate the importance of the shift toward open access. The basic circumstances in the two cases were essentially the same. Both efforts were spearheaded by leaders with the requisite human and connections to powerful political and social elites; in both cases there were existing European models of successful gardens to imitate; in both cases there was scientific validation for the importance of the gardens as a source of knowledge and benefit to the larger population.

That the second botanical garden succeeded where the first failed owed largely to what a Johnson and Powell term the greater "poisedness" of American society in the 1870s than in the 1790s. As they define it, poisedness "refers to circumstances that are rich with potential, in which relations and trends at one level are available to be coupled with innovations at a different one," creating "a self-sustaining pool for these innovations" with "cascading effects." Translated into the terms we have laid out above, New York society had greater poisedness in the 1870s than in the 1790s because it offered entrepreneurs a much richer set of organizational tools to work with. Johnson and Powell move beyond merely documenting this change to show how the richer organizational environment that resulted facilitated innovation. Organizations, as we have argued, can readily serve as third-parties for one another. It follows, therefore, that as the environment of organizations deepens and becomes more varied, the kinds of intra-organizational outcomes that can be supported increase exponentially. Johnson and Powell identify the relative paucity of private and public organizations capable of supporting a botanical garden in 1790 and contrast that situation with the depth of organizations available for this purpose in 1870. Part of the richer environment resulted from changes in rules, like those discussed by Bloch and Lamoreaux that led to a proliferation of charitable organizations and other voluntary associations; part of the richer environment was the greater wealth produced by growth and multiplication of financial and business firms discussed by Lu and Wallis and by Hilt; and part was the result is the result of interaction of these elements.

The Difficulty of the Transition to Open Access

At the heart of this volume is the idea that the ability to establish and enforce impersonal rules for forming organizations—that is, open access—lies at the heart modern economic and

political development. The essays collectively explore the history of the transition to open access in the first societies to undergo it. They document how slow, difficult, and contingent the change was. They also show no one, not even the greatest thinkers of the late eighteenth and early nineteenth centuries, grasped the import of what was happening—that is, understood how opening-up the ability to organizations of all kinds could spark sustained economic growth and enhance the workings of democratic politics.

One might naively think that once the transition occurred in these pioneering countries, elites elsewhere would observe the economic and political benefits that open-access brought and consequently be more likely to support a similar shift in their own domains. Both the theory and empirical work in this volume suggest otherwise, however. Regardless of the magnitude of the benefits to be derived from the transition, if the dynamics of the shift threaten the existence and stability of the social hierarchy, it is unlikely to happen. The key to the development process thus goes back to the connection between organizations and rents we have laid out above. Most countries in the world today are still natural states, where identity rules that create rents that are specific to individual organizations. If opening access eliminates the rents that sustain relationships between powerful organizations, the result could well be an increase in social instability. Moreover, elites at the top of these societies must always question whether they are the ones likely to benefit from the change. Only in countries where, as in the pioneering cases, the doorstep conditions have already been met does the answer have a chance at being positive. But even there, the transition is likely to be as fraught for countries today as it was for the pioneers of the early nineteenth century.

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Figure 1

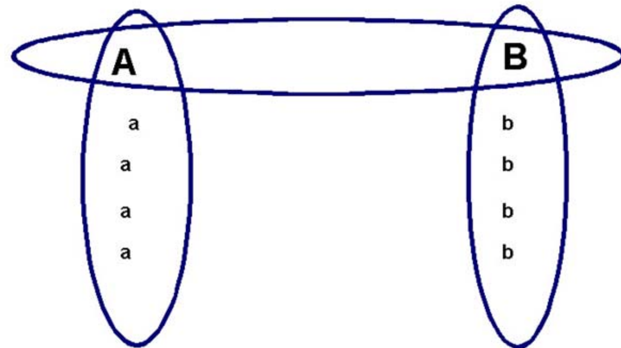

Figure 2