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GETTING TO SWEDEN:

Malfeasance and Bureaucratic Reforms, 1720-1850

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A country in love with democracy but infected by corruption[1]

When Count de Vergennes, the newly arrived French envoy to Stockholm, wrote home to Paris in the fall of 1771, he depicted the political culture of Sweden in the starkest colors. Particularly two phenomena he referred to as so serious so as to be likened with infectious diseases inflicting damage to the body polity. The first was "the love of democracy", which he called "this nation's epidemic disease". The second was "corruption", which he thought had "infected all estates of Sweden, or rather the nation's entire mass" (Skuncke 2003, 261, 274). With the hindsight of more than two centuries, we now know that whereas one of these "diseases" over time came to be seen as a sign of health and was allowed to flourish (democracy), systemic corruption was rooted out during the second half of the 19th century and left Sweden among the least corrupt countries of the world today (Andersson 2012; Rothstein 2011a, Uslaner 2008). But the details on how in particular the latter process was carried out remain largely unknown. Whereas most historians agree that by the end of the 18th century the Swedish state administration was largely patrimonial and to quite some extent corrupt with a blurred dividing line between public office and the private interests of the public officials, by the end of 19th century this was no longer the case (Heckscher 1958; Nilsson 2000; Rothstein 1998; 2011b).

How was this possible, and why did it occur? Was it the result of conscious strategic reforms, and in that case undertaken by whom and for what purpose? What triggered the reforms, and what made them successful? Are there lessons to be learnt from the Swedish historical case for how to uproot corruption in other parts of the world today?

In this paper, we address these questions by drawing on two sources. The first is an new original dataset on court hearings of cases of malfeasance among public officials in Sweden from 1720-1850. The second is the debates in the Swedish four estate Diet about issues related to corruption, clientelism and other non-Weberian traits in the civil service and military. By using the court cases as proxies for the *timing* of reform, and as a diagnostic tool for understanding the *types* of administrative dysfunctions that had to be addressed, we substantiate the claim that the Swedish state during the first half of the 19th century started the transformation from a patrimonial, and to quite some extent corrupt, organization into a professionalized and more Weberian-like bureaucracy.

[1] Acknowledgements: We would like to thank Sofia Jonsson and Dan Johansson for indispensible research assistance in preparing the empirical material for this paper. This is our second co-authored paper and we have therefore reversed the order of authorship. Our contributions are equal

Second, by analyzing the debates in the Diet of Estates (*Ståndsriksdag*), we want to shed light on how the political elites in the country came to understand corruption and corruption related problems as well as the problem of state-capacity.

Theoretically, our work contributes to the debate between leading theories of corruption. In a related piece on the failure of present-day corruption reforms around the world, we have argued that the dominant approach, known as the principal-agent theory of corruption, needs to be complemented with what we call the *collective action approach* to understanding corruption (Persson, Rothstein & Teorell 2012). In this paper, we argue that also the collective action theory of corruption has an Achilles heel: it is not well suited for explaining change. Since we view the rise of the Weberian state as a process of institutional choice (Collier 2002), what is needed is a theory that can explain how the collective actions problems were overcome and how the new rules of the game came to be enforced in practice. Drawing on Ostrom (1990), we put forward what we call an endogenous theory of institutional change, based on the idea that purposively motivated and forward-looking actors can themselves "get their act together" and come to grips with their situation. In this way, we argue, the Swedish political elite was able to replace the old order with a new one by the force of their own making.

At the same time, there were exogenous conditions in place that made the time ripe for change. We highlight three in particular. The first precondition is related to the sequence of reforms: that in order for the new system of rules to be enforceable, a relatively lean and working court system had to have been established previously. The second precondition pertains to the motivation of change. Here we argue that the traumatic loss of the was against Russia in 1808-1809, when Sweden lost Finland to its large Eastern neighbor, was a key precursor to the events that unraveled, both in terms of giving rise to the "revolution of 1809" itself and to substantiate the fiscal and military benefits of introducing a more Weberian bureaucracy.The third precondition is ideological, namely the rise of liberalism and an organized liberal opposition as a powerful political force in Swedish politics from the 1830s.

This means that the paper also attempts to make several contributions to the existing literature about state-building and state capacity. To begin with, although the comparative-historical literature on state building has used the case of Sweden to substantiate some of its core claims (Tilly 1990; Downing 1992; Ertman 1997; Glete 2002), this body of work typically ends by the late 18th century

and thus cannot account for why the Swedish state made very important and difficult to achieve reforms in the 19th century. Moreover, since Sweden has been at peace since 1814, the crucial importance attributed to war making within the comparative-historical camp does not fit easily with the Swedish 19th century trajectory. What we stress is instead the crucial importance of having *lost* a major war. Second, by introducing a longer time perspective together with the ambition to explain the trajectory of change, we go beyond the historical accounts of the Swedish state that has been produced by mostly Swedish historians (Westerhult 1965; Sunesson 1981; Gustafsson 1994; Frohnert 1993; Melkersson 1997; Nilsson 2000; Cavallin 2003).[2] Third, and finally, while Rothstein (201lb) has pointed to the introduction of more than thirty major institutional reforms pointing in the direction of increased universalism and impartiality in the Swedish state between 1850 and 1880, we attempt to deepen our knowledge on what led (or forced) the Swedish political elite to go for such a "big bang" change.

The paper is organized as follows. We first develop our theoretical model for explaining institutional change, departing from but going beyond previous theories of corruption and stats-building. We then introduce the Swedish case and discuss our empirical strategy. In two separate sections we then present our findings pertaining to (a) the court cases of malfeasance, and (b) the debates in the Swedish Diet of Estates. We then present our interpretation of what explains the Swedish transition in light of our theory. We end by some reflections on the generality of our findings.

Corruption, state-building and theories of institutional change

In order to advance our understanding of how to explain the transition from a largely patrimonial, nepotistic and corrupt to a modern, Weberian, efficient and impartial state structure, we will draw on and contribute to both the literatures of corruption and state-building. Starting with the former, two theories of corruption has hitherto dominated the field (cf. Persson, Rothstein & Teorell 2012).

The first is the so-called *principal-agent model*, popularized especially by the work of Susan Rose-Ackerman (1978) and Robert Klitgaard (1988). Consider the model of corruption developed in

[2] Sundell (2012a) provides an original approach to understanding Swedish state building in the 19th century and in many ways dovetails with our account. Whereas he concentrates on the informal payments public officials received though the so-called "sportler" system, and how that system was reformed and eventually abolished, we take a broader view of the events and incorporate data and evidence also from the 18th century.

Becker & Stigler's (1974) classical treatment. The problem is set up as how to raise the quality of law enforcement by discouraging malfeasance, such as that of taking bribes, among law enforcers. The state, being the principal in this model, cannot perfectly observe which law enforcers behave honestly. This opens the possibility for bribery. Taking bribes is of course rewarding for the agents (individual law enforcers/bureaucrats), but it is also risky: being detected means being fired and forced to take up another occupation, possibly at a lower wage rate. Although this simple setup has been elaborated in various ways (see, e.g. Van Rijckeghem & Weder 2001), it is immediately clear that the extent of corruption in this model hinges on three factors: the value of the bribe offered (the motivation), the probability of being detected when collecting bribes, and the loss incurred by being detected (in this case the wage difference, more generally in terms of the legal remedies applied as punishment).

As a way of understanding and remedying bureaucratic corruption in situations where there is a clear political will to tackle the problem, this approach certainly has its strengths (Di Tella and Schargrodsky 2003; Olken 2007). Nevertheless, a key theoretical problem with the Becker-Stigler model, severely restricting its domain of applicability, is that it presumes the existence of a benevolent principal (Aidt 2003). More specifically, it is assumed that the leaders, such as autocrats, high-level officials or elected politicians, are genuinely interested in curbing corruption. This is a fairly heroic assumption on a general scale. If the main problem concerning corruption in the world today was how to make corrupt bureaucrats respond to the cues of benevolent state leaders, we would arguably already have taken a gigantic stride towards a solution to the problem since it is well-known how to change incentives. The more pressing problem from a principle-agent perspective, then, seems to be how to control the principals, i.e. state leaders. In terms of theories of corruption, the response to this has been to develop models which instead turn these "principals" into agents. The richest set of such models, instead of assuming benevolent politicians, takes an institutional attribute for given: the presence of competitive elections. The principals in these models are the citizens-cum-voters who try to discourage malfeasance, such as corruption, by holding politicians accountable through the electoral mechanism. Given this setting, the problem becomes one of designing institutions, such as electoral systems or forms of government, so as to strengthen accountability and minimize the incidence of rent-seeking and/or corruption (see, e.g., Myerson 1993; Person & Tabellini 2000; Besley 2006). Again, however, the assumption of competitive elections severely restricts the empirical domain covered by these agency models, not the least historically. If the entire framework of analysis applied in these models is based on the assumption, in

Besley's (2007, 102) words, that "incumbents are supposed to leave office if they lose the election and to court voters fairly, i.e. avoiding bribery and intimidation", then the set of countries that qualify for these theoretical exercises by the early 19th century is probably null and zero.

Regardless of how the principal-agent relationship is modeled, in applying this perspective, analysts assume that the problem of corruption lies with the agent. More specifically, corruption is understood to be individual cases of infringement on behalf of agents. In the end, the principal-agent model thus always rests on the assumption that the principal will take on the role of controlling corruption. By implication, if there are several principals with incoherent objectives and interests involved, or if the principal(s) are also corrupt and not acting in the interest of the society but instead pursuing his, her, or their narrow self-interests, the principal-agent framework breaks down (Andvig & Fjeldstad 2001). The general problem is that theory is built on the presumption that there will be (benevolent, non-self-interested) agents that, according to theory, does not exist.

According to another family of corruption theories, no assumptions are made about the existence of a particular set of actors ("principals") whose overall goal it is to curb corruption. Rather, it is assumed that everyone has something to gain personally from a corrupt system as long as a large enough body of actors continues to play foul. In line with this argument, a large number of game-theoretic scholars have argued that the rewards of corruption should be expected to depend critically on how many other individuals in the same society that are expected to be corrupt (Andvig 1991; Bardhan 1997; Aidt 2003). Lui (1986), Cadot (1987) and Andvig and Moene (1990), for example, take into account the fundamental observation that both the profitability and costliness of corruption depend on its frequency: as more public officials become corrupt, it becomes more profitable to be corrupt at the same time as the costs for auditing corrupt officials increase (also see Sah 2005). As should be clear, this structure of incentives leads to a collective action problem: despite the fact that everyone realizes that another outcome would be preferable, if most others are expected to play foul, everyone will play foul. It is thus more expensive in the short term not to play by "the rules of the game" even if most people realize that they as a collective stand to lose from the ongoing corrupt practices and morally condemn them (Karklins 2005). This is what we in related work has termed *the collective action theory of corruption* (Persson *et al.* 2012).

The key weakness of this alternative theory of corruption, when seen from the perspective of trying to explain the rise of a clean, Weberian and non-corrupt state, is that is offers little purchase for the problem of change. If state actors are caught up in the social trap of perpetuating their corrupt

exchanges as long as they are left believing most others are being corrupt, then what might explain the route out of corruption? Collective action theorists offer little guidance on this issue. Aidt (2003, F648-9), for example, argues that "a large scale reform," or a "big push," needs to be in place "for a long time" in order for the high-corruption equilibrium to be abandoned in favor of the low-corruption one. Or as Rothstein (2011b) argues, expectations of the number of other corrupt officials needs to seriously perturbed by means of a "big bang" reform. Without denying the merit of these approaches to the understanding the persistence of corruption, however, as explanatory models they come close to the argument that what is needed for change is change itself.

In sum, the literature on corruption offers two theories of corruption, each one with its own merits and limitations. The principal agent theory has proved useful for explaining individual-level acts of corruption among public agents in low-corrupt settings with strong and benevolent principals. However, it has not presented a solution to the question how the benevolent agents should come about. The main strength of the collective action approach, by contrast, is to provide an explanation to the puzzle posed by Jain (2001, 102) of why corruption persists despite its obviously harmful consequences for the economy and society – or, in other words, why it is that corruption appears to be such a strong self-enforcing equilibrium. This theory has however not produced a solution to the question how agents can break out of such a self-reinforcing equilibrium. In sum, what neither of these theories provide is a plausible theory for explaining how the dysfunctional equilibrium could be changed.

The argument we would like to put forward in this paper is that state actors may become alert of the collection action problem they are facing, and the collective costs they bear for retaining their corrupt and dysfunctional equilibrium behavior, and thereby *themselves* work out solutions that enables them to break out of this equilibrium. We will call this the *endogeneous theory of institutional change*. The primary source of inspiration for this theory is Elinor Ostrom's (1990) seminal approach to explaining the evolution of institutions for solving collective action problems in "common pool resource" (CPR) settings. Recall the prototypical setup of the problem Ostrom tried to solve: A set of fishermen lay their nets in the same lake. Since each in the short-run profits directly in proportion to the number of fish he can catch, each has a similar incentive to lay as many nets as he can possibly afford. The net result of these individual efforts, however, is overfishing, in the long-run leading to a diminishing fish yield per fisherman. The fishermen are thus facing a collective action problem, the solution to which would be an institution, such as a collective decision-making board

that could allocate fishing ratios or efficient rotation systems that would enable everyone to make a decent and sustainable living out of the fish. But such an institution would itself constitute a public good, so its establishment is but another collective action problem, now of second-order (cf. Bates 1988).

By solely taking the pure incentive structure of collective action problems into account, it is thus hard to account for the establishment of efficient institutions to resolve them. As Ostrom (1990) shows, however, there are innumerous examples of ways in which real actors in real world situations, outside the analytical models, have resolved these issues and successfully established socially efficient institutions. By learning from these examples, she urges us to provide the building blocks of what she calls a behavioral theory of rational action (Ostrom 1998).

What we propose is thus a model where the state agents are the fishermen, and their corrupt, nepotistic or otherwise dysfunctional behavior is their laying of too many nets in the same lake, with short-term benefits reaped by each but long-term harm incurred on all. We thus wish to retain the collective action theory of corruption as the appropriate tool for diagnosing the problem. Yet we wish to supplement it with Ostrom's (1990) behavioral theory of rational action as a means of understanding how this set of state actors themselves, through endogenous mechanisms, may not only understand why change is necessary but also establish a new set of enforceable behavioral rules that restricts dysfunctional and corrupt behavior to a minimum.

In Ostrom's (1990, 42-45) view, the problem of explaining the rise of collective goods institutions can be separated into three separate puzzles: the problem of supply, the problem of credible commitments, and the problem of mutual monitoring. The first is just a reformulation of the second-order collective action problem: who will supply the new set of institutions in a setting where everyone individually benefits most from going on with business as usual? The second problem pertains to the long-term enforcement of abidance to the new rules: how can the actors credibly commit not to revert to shirking in the future. This, in turn, depends on the third problem of how to organize a system of mutual monitoring that everyone conforms to the new rules. In the case of natural resources appropriators such as herders or fishermen, Ostrom (1990, 89-100, 185-6) could show that the solution to the latter two problems was facilitated by the extent to which a group conformed to a set of "design rules", such as clearly defined boundaries of the common pool resource, attentiveness to local conditions, participation by the appropriators in collective-choice

arrangements, monitoring executed by the appropriators themselves or actors accountable to them, and that shirking was sanctioned by using graduated, not "stark" or "shock" punishment. The solution of the initial crucial problem of supply, in turn, could be explained by referring to the appropriators' information of the expected benefits of introducing the new institutional setting, the costs involved in making the transformation, the extent to which they discounted or cared about the future, and the evolution of internalized norms about appropriate behavior (Ostrom 1990, 192-207).

The possibility we propose to entertain is thus that public administrators in a patrimonial and corrupt setting face the same problems as the appropriators of a common pool resource (albeit on a somewhat larger scale). They must overcome the problems of supply, credible commitment and mutual monitoring. Moreover, their level of information of the consequences of their situation, of transformation costs, discount rates and internal norms as well as the design rules to which they abide could become cornerstones in an endogenous theory of how they solve these problems. For some diehard rational choice theorists, this might all sound like hand-waving or reliance on unwarranted assumption of benevolence and altruistic behavior. Against this it could however be argued with Medina (2007) that as long as the collective action problem involved is a coordination problem, and not a the prisoners dilemma situation,[3] rational choice is compatible with the observation that cooperation becomes more likely as the payoff of the collective god increases. However, for this to be possible, we argue that the agents must be convinced that "another world is possible", meaning that they can to some extent envision a situation in which the collective action problem is solved. This implies that new ideas and ideology should be an important ingredient in the solution for solving the collective action problem.

Yet a key limitation of the endogenous theory of institutional change, as thus conceived, is the inherently short theoretical distance between the explanans (the triggers of change) and the explanandum (the rule change to be explained). This of course follows logically from the focus on explanatory factors that are internal to the system of change. What this implies is at best a deepened understanding of the mechanisms of change once they are set in motion. However, questions such as why these mechanisms are sometimes set in motion and sometimes not, or under what conditions

[3] Prisoners dilemma-type situations are games with a single equilibrium where shirking always pays off, regardless of what others do. Coordination-type situations, by contrast, are games with multiple equilibria where the rational choice of strategy for each individual depends on his or her expectations of what all others will do (see, e.g., Medina 2007, chap. 2).

they are more likely to be triggered, cannot be answered with any precision or theoretical generality. For this we must turn to *exogenous* theories of institutional change.

The most elaborated such theories have been developed within the literature on state building. The probably most well-known is the argument by Tilly (1990) that modern states primarily grew out of historical experiences with warfare. In Tilly's (1990, 28) own words, "the central link is simple: over the long run, far more than other activities, war and preparation for war produced the major components of European states. States that lost wars commonly contracted, and often ceased to exist." A more elaborate theory along the same lines has been proffered by Ertman (1997), who modified Tilly by arguing that the impact of war on bureaucratization was conditional on time period, and that another independent force in play was that of representative institutions or parliaments. While suggesting a primary exogenous motor of change, however, what these two approaches have in common is highly abstract and aggregated concept of the outcome to be explained: the rise of the modern bureaucratic state. Ertman (1997) notably stops his elaboration of the state-building process by the end of the 18th century, the argument being that the outcome to be explained was then already established in his sample of Western proto-states, in later work arguing that "perfecting these systems" in the 19th century was a process of minor importance compared to the "crucial *qualitative* jump" that occurred earlier (Ertman 2005, 180).

Whereas "state-building" in this context largely denotes the process through which the state established monopoly in the use of violence and the capacity to raise taxes and uphold the law, we contend that the typically later process of eradicating corruption is a key phase in the trajectory of the modern state that has largely gone unnoticed in the state-building literature. For partly the same reasons, the exogenous change approach has failed to conceptualize this key process of "perfecting stats-building" as a collective action problem. The same could be said about the otherwise theoretically encompassing and historically framed theory of institutional change advanced by North, Wallis & Weingast (2009). Neither do they acknowledge the fight against corruption is a key feature in itself of the change from a "natural state" to the "open access order", nor do they conceive of the latter as a process facing collective action problems.

Having said this, we will still be drawing heavily on the state-building literature when it comes to understanding the exogenous forces that may have condition the endogenous evolution of the clean and non-corrupt state.

Situating the Swedish Case

The present day Swedish administrative system is by all empirical standards one of the cleanest and least corrupt in the world (Andersson 2012). At the same time, historical evidence shows that this has not always been the case. In a sweeping characterization, Heckscher (1958, 30) claims that "the Swedish public administration by the early 19th century was actually rather deficient [*sv. försumpad, = eng: marschy*]". Several conditions attest to the veracity of this claim for the early 19th century (Rothstein 1998). First, recruitment to higher offices was typically not based on merits but on noble birth, personal connections or seniority (Carlsson 1949/1973; Wichman 1927, Elmroth 1962; Frohnert 1993; Nilsson 2000). The low quality of university education in general, and the sloppy standards for degrees, moreover, meant that examination did not really matter even when they were demanded (Rothstein 1998). Second, the purchase and sale of office was an ingrained part of the system when a public servant was to retire through the so-called "accord system" (Myrberg 1922; Westerhult 1965; Frohnert 1993) as was the system of accumulating several positions and letting another person carry out the actual job (Rothstein 1998). Third, the typical public official did not gain his income from a regular salary but was in large parts paid in kind by being supplied with housing, a certain surplus of agricultural products from the peasantry, and an ensemble of more or less unregulated fees (*sportler*) (Westerhult 1965; Frohnert 1993; Cavallin 2003; Sundell 2012a). This of course provided fertile soil for various forms of bribery, extortion and embezzlement (Westerhult 1965; Sunesson 1981; Frohnert 1993). Finally, the legal code in place was conspicuously weak and undefined when it came to regulating malfeasance. Absenteeism was criminalized, as were embezzlement and misappropriation of public funds, but bribery was in the legal code only defined for judges. Overall, the rules for misconduct and misuse of a judiciary position was more firmly regulated than that for public officials in general (Rothstein 1998; Cavallin 2003, 94-100).

Most historically oriented research, while arguing on the details in timing, comes to the conclusion that at least toward the end of the 19th century, this state of affairs no longer applies (Heckscher 1958; Larsson 2000; Nilsson 2000; Rothstein 1998, 2011b). As stated by one contemporary observer (and professor of judicial law), by the late 1870 "the old perception and treatment of a position in civil service as property was fading away" (Hildebrand 1896, 653). Through a process of reforms, recruitment to the public administration was more firmly based on educational or other merits; the "ackord system" had been abolished; a system of regular salaries had replaced payments in kind or

through unofficial fees by the late 1850s; and a new penal code, containing an entire chapter clearly prohibiting a wide range of forms of malfeasance, was put in place from 1864 onward. It is also during the 1860s that, in practice, the advantages of belonging to the aristocracy for recruitment and promotion in the civil service is nullified (Carlsson 1949/1973). Such transitions from if not systemically corrupt so at least patrimonial, personalistic and grossly ineffective state administration to the clean, Weberian and largely non-corrupt state is a rare species in world history. North, Wallis & Weingast (2009, xii) estimate that perhaps 25 countries, or 15 percent of the world's population, today lives under what they call an "open access order", in large part defined in terms of having made the historical transition that Sweden underwent in the 19th century. Sweden is thus not a unique, but surely a rare case. This infrequency makes the Swedish case an interesting species to study in itself. We shall however also toward the end of the paper also relate the Swedish case to other instances of having made the historical transition. Even among this rare set, Sweden stands out for its early development, according to Glete (2002) by being among the first countries to develop a fiscal-military state in the 16th and 17th centuries (together with Spain and the Netherlands).

In order to deepen our historical understanding of the Swedish transition, we have assembled an original database of court hearings of cases of malfeasance in the Swedish highest court of appeal, until 1789 called the Lower Judicial Audit Office (*Nedre Justititerevisionen*), and henceforward the High Court (*Högsta Domstolen*). Brief descriptions of each case has been compiled by searches at the Swedish National Archive. Due to a stroke of luck in the history of the archive, all cases related to cases of misconduct by public officials (*ämbetsförseelser*) have been entered into a card registry for the years 1661-1789. From the year 1790, however, no other means for singling out the cases concerning crimes committed by public officials exists but to sift through the entire registry (*Registraturet*) of *all* cases heard, which could typically comprise thousands of pages for a single year. To cut the costs of data collection to manageable levels we were thus forced to make a selection of years and opted for the simple strategy of collecting decennial data, collecting all cases for each year of every new decennium in 1790-1850. Although the card registry would easily have allowed a much more comprehensive survey, we matched this strategy also in the previous time period to allow comparisons over time, starting in 1720, marking the beginning of the so-called "Age of Liberty" (Roberts 1986). Finding a peak in the number of cases in the year of 1830, finally, we complemented the more labor intensive part of the data collection with two data points in the mid-decennium right before and

after the peak.[4] We thereby ended up with a dataset of 236 court cases concerning malfeasance from 16 years in the period 1720-1850, one for each decade plus the data for 1825 and 1835.

We are by no means the originators of the method to study corruption and public misconduct by relying on court cases. In the literature on corruption, this source has been used to capture corrupt behavior among elected representatives in the US (Welch and Hibbing 1997) and Italy (Chang *et al.* 2010), as well as across American states (Goel and Nelson 1998; Schlesinger and Meier 2002). A more direct source of inspiration for our approach is the study of Danish public officials discharged on grounds of misconduct of malfeasance in 1740-1930 conducted by Frisk-Jensen (2008). We can also rely on a Swedish historical study similar to ours, drawing on the above-mentioned card registry, but limited to the time period 1750-1780 (Cavallin 2003).

This is not to say that our empirical approach is without its problems. Two potential sources of bias in particular needs to be taken into account. The first problem is that the frequency of court cases dealing with corruption could be a reflection of the (perceived or real) effectiveness of the judicial system rather than the realities on the ground pertaining to official misconduct. If the judiciary launches a strategically pursued purge of the bureaucracy, for example, this would most likely cause a surge in court hearings, in effect leading to a decrease in the level of corruption, whereas the simple trend would seem to indicate the opposite. In a sense, then, the integrity of the court system is endogenous to this very method of capturing anti-corruption reforms. This calls for a cautious approach to interpreting the data, which needs to be assessed in light of contextual knowledge of the case at hand.

The second problem, more peculiar to the Swedish case, is that we study hearings by the highest court of *appeals* at the central level, not every hearing in the entire judicial system of local and regional courts. This creates a different source of selection bias, namely that what we observe is the outcome of a decision making process by the appellant choosing whether to appeal against the ruling of the lower level court. As a rule, however, we believe that the propensity to appeal should be correlated with the severity of the punishment of those convicted, which in turn should capture the severity of the crime itself. A preliminary indication of this is the acquittal rate of the appeals cases concerning malfeasance, which across the entire time period studied is at 12 percent. The

[4] The mid-decennial data from 1825 and 1835, however, only cover every other month. To account for this we have weighted the cases from these two years by the order of 2.

chances of achieving redress from the highest court of appeals in Sweden were thus not the best. Since so few cases are acquitted, the court hearings reaching the highest level could be expected to be biased in the direction of including the most serious cases. As long as this direction of bias is known, and does not vary systematically over time in a way that contradicts the general trends, it could thus also be taken into account when interpreting the other patterns in the data.

A hundred and thirty years of malfeasance

Turning first to some descriptive findings, we start by presenting a simple frequency plot of the number of appeals cases concerning malfeasance in Figure 1, where the solid line represents the number of cases heard, the dashed line the number of cases that were acquited. As can be seen, there are two peaks in the development of court hearings on malfeasance in Sweden. The first occurs in the late 18th century, more precisely in the year of 1790. There is then a dramatic fall in the number of cases toward the turn of the century, followed by the second peak, composed of a sustained period of more frequent court hearings in 1820-1840. In 1850, however, there is another steep drop. The conviction rate, as shown in Figure 2, is at the same time on the increase throughout the entire time period.[5] What this means is that the rise in court hearings of appeals cases in the 19th century cannot be explained by an increased opportunistic behavior in behalf of the applicants. Rather the contrary: the chances of being acquitted decrease steadily over time.

[5] The court sentence in each case has been coded as (1) acquit, (2) convict, (3) referral to another court/instance, or (4) no decision (*ad acta*). In 16 cases the verdict has not been identified. The conviction rate is this the proportion of cases where the applicant was convicted out of the cases where the sentence is observed.

FIGURE 1. APPEAL CASES OF MALFEASANCE, 1720-1850

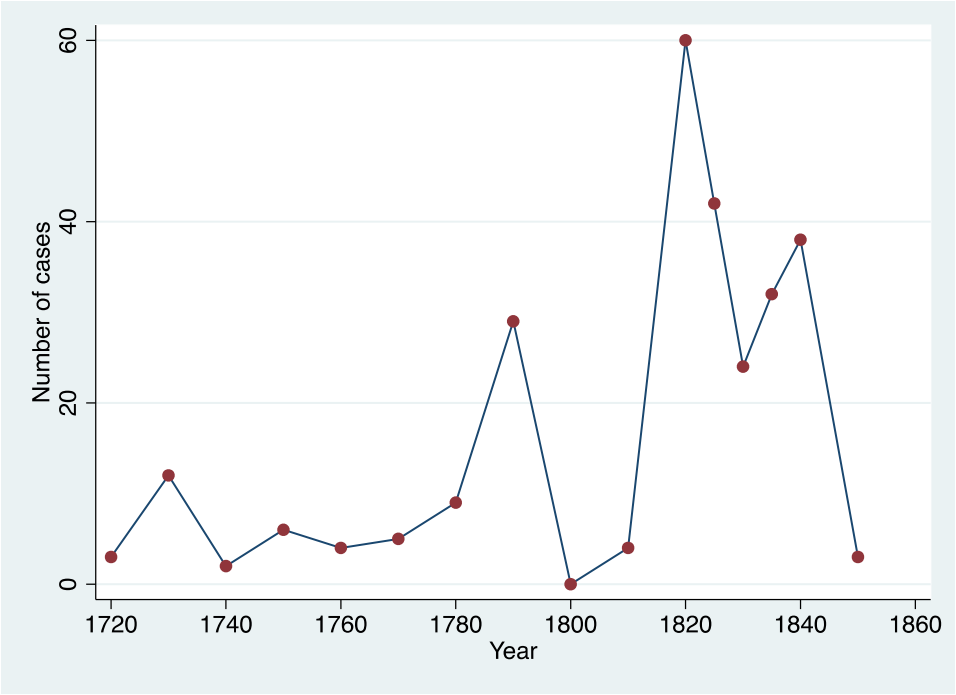
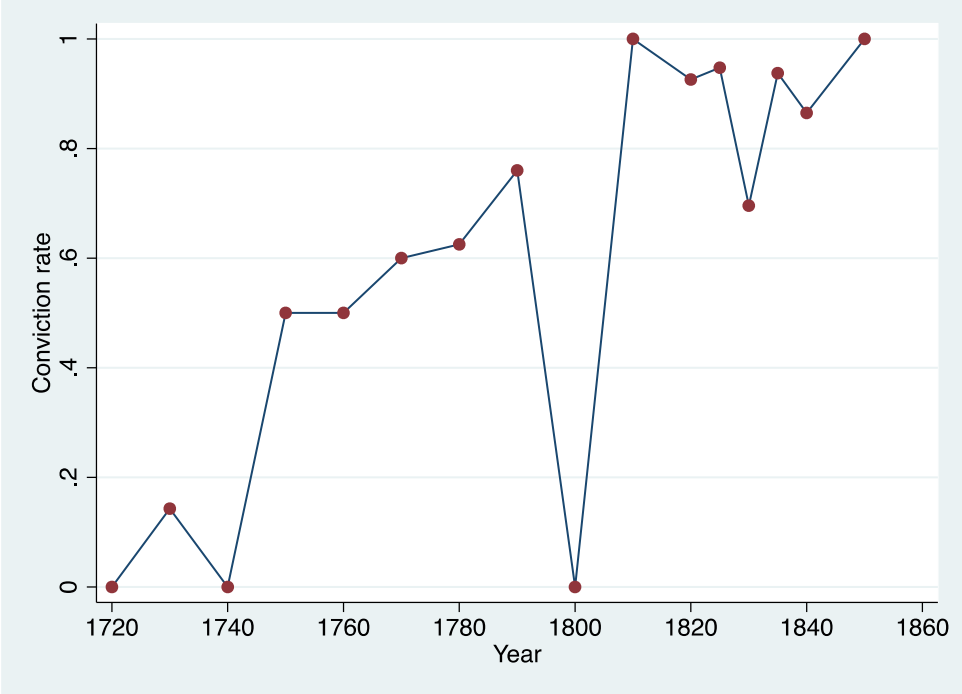


FIGURE 2. CONVICTION RATES, 1720-1850



Our interpretation of the pattern in figure 1 is not to view the number of court cases heard as a measure of prevalence of malfeasance. That is, we cannot infer from this that malfeasance was more common in the 19th than in the 18th century, or more common towards the end than in the beginning of the 18th century. What the twin peaks of malfeasance do seem to attest to, however, is an increased attention to the problem. In other words, during the two peak periods, there seems to have been an increased awareness of the problem that also led to legal action.

To put this finding into context, some basic facts about Swedish political history needs to be recounted. With the death in 1718 of absolutist King Carl XII, who left no heir, Swedish political history entered a new era, named the "Age of Liberty". The Constitution of 1719/20, which forms the beginning of our study period, brought unprecedented power to the four estates—the nobility, clerics, burghers, and peasantry—represented in the Diet of Estates (*Ståndsriksdagen*). The parliament had to be summoned at least every third year, and by approval of three of the four estates controlled the setting of taxes, the promulgation of laws, as well as the right to proclaim war. Even more remarkably, from 1738 and onward the Diet indirectly controlled the composition of the cabinet, the so-called Council of the Realm (*Riksrådet*), which at the time also was the highest court of appeals. Through the formation in all four estates of two parliamentary factions, the "Hats" (in power from 1738-65 and 1769-71) and the "Caps" (in power from 1765-1769 and 1771-72), this brought a proto-parliamentarian character to the structure of government (while at the same time a serious lack of judicial independence).

In 1772 King Gustavus III brought this "Age of Liberty" to a close in a military- and nobility-backed coup d'ètat. The power of the Diet was seriously circumscribed, and the ensuing near 40 years long "Gustavian Age" only saw the convocation of 5 parliamentary sessions. In 1789 Gustavus III completed his bid to absolutist power through the Act of Unity and Security, which stripped the Diet of all remaining powers save for the endorsement of new taxes and also inflicted a serious blow to the privileges of the Nobility. At the same time he dissolved the Council of the Realm and instead inaugurated a new judicial institution, the High Court, closely tied to the monarch who also held the casting vote on all rulings. The resistance to this move led to the assassination of Gustavus at the Royal Opera in Stockholm in 1793.

Another dramatic event during this period was the defeat in the war against Russia in 1808-09 which led to a loss of a Finland which had been an integrated part of Sweden for 600 years. The military situation in 1808-9 had been desperate since Sweden had to fight a two-front war not only in Finland against superior Russian forces both also in Scania (*Skåne*) in the very south of the country against the other archenemy – Denmark. During the first months of 1808, large French, Spanish and Dutch forces joint the Danish army in order to attack the south of Sweden which, moreover, was ill defended. Had these forces attacked, they would have outnumbered the part of the Swedish army stationed in Scania at a 6-1 ratio and the future of Sweden as a sovereign nation-state would have been severely threatened (Roth 2009). However, luck with the weather (and some indecisiveness among the attacking forces) saved the future existence of Sweden as a nation state during the 1808/09 winter. Spring came unusually early which made it impossible for the French led forces to attack Sweden because the British fleet had, thanks to the melting of the ice, started to patrol the sound between Denmark and Sweden (Roth 2009; Isaksson 2009).

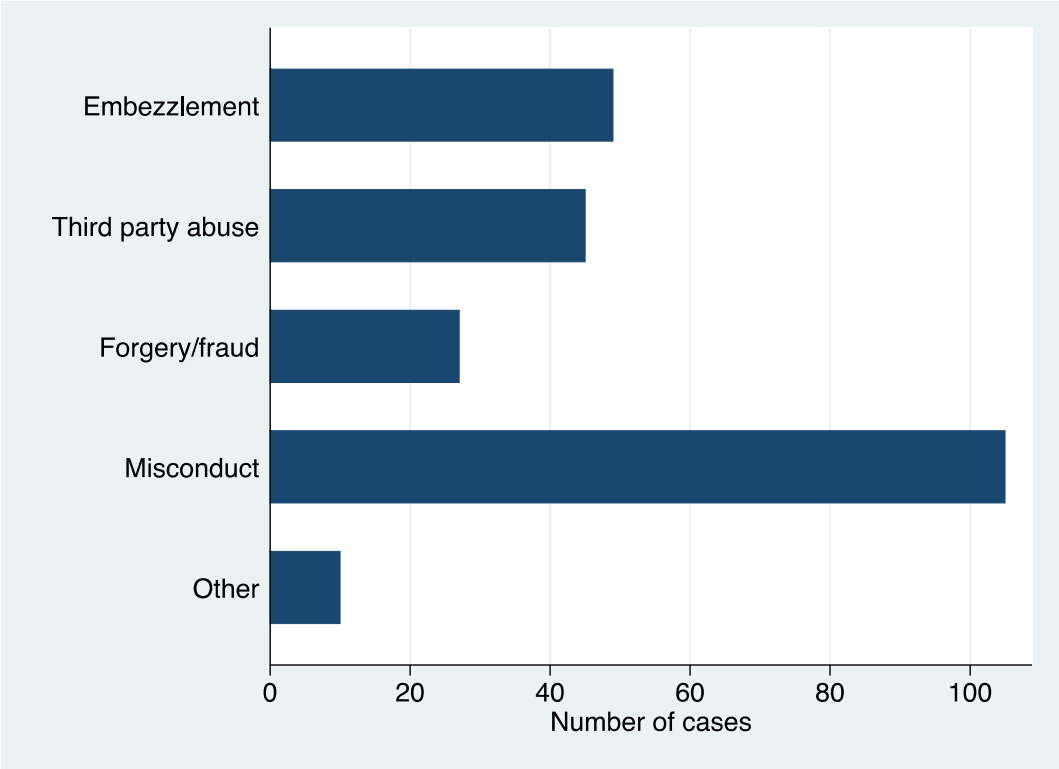
After the traumatic loss of Finland in the war with Russia in 1809, another coup d'état, orchestrated by a group of officers and senior public officials, put an end to the "enlightened despotism" of Gustavus IV Adolfus, the heir of Gustavus III. In a bold move, a French general and close affiliate of Napelon, the Field Marshal Jean Bernadotte, was persuaded to ascend the Swedish throne. The new constitution sought to balance the power of the legislature and the executive branches of government. The King solely decided the composition of the cabinet, and both the King and the Diet of Estates—to be summoned at least every five years—yielded mutual power to veto and initiate legislation. At the same time the independence of High Court was strengthened by providing security of tenure for its members.

The two peaks in cases of malfeasance are thus in time closely connected to two of the most profound political changes at the time: the rise in 1789 of absolutist monarchy together with the inauguration of the of the High Court, and the "revolution" of 1809, which brought a new system of balance of power to the country, a new King from abroad, and strengthened judicial independence. But to what extent can these events be more directly related to the frequency of court hearings on malfeasance? And what does the twin peaks of the trajectory of these court hearing say about the development of the Swedish state more generally?

To dig deeper into these questions, we must also take into account the *nature* of the crimes of which the public officials were being accused. A first take on this question is presented in figure 3, where the nature of the accusations have been classified into four distinct groups.[6] The first concerns cases where the public officials are being accused for stealing from the public coffers, or *embezzlement*. Thus, for example, in 1790 the district clerk Elf Nordström in the county of Älvsborg appealed against the verdict by the Chancery Audit Board to suspend him from duty on account of having abused and stolen corn that belonged to the crown. The High Court saw no reason to acquit. The second category of malfeasance comprise cases where the public official has *abused* his office with the alleged intention to benefit himself and in a way that hurt a *third party*, typically an ordinary citizen or the public. This of course includes cases of bribery, but more common is acts of extortion, where the official has forced ordinary people to pay excessive amounts of tax or unregulated fees. Local bailiff Westhén of the county of Västernorrland, for example, was in 1830 suspended from duty and had to repay the local peasants what he had forced them to pay in overdue taxes. Another type of crime that falls under this category is when officials within the postal office have opened letters and stolen money, something that was regarded as a serious crime. Anders Carlsson, postal assistant in the village of Nohl, for example, was first sentenced to death for having opened three letters and stolen money from them; his penalty was later changed to lifetime prison at the fortress of Kristiansand. The High Court did in 1820 see no reason to acquit.

[6] There is also an infrequent ”other” category, consisting of 10 cases where the information from the file is too vague or incomplete to allow classification.

FIGURE 3. TYPES OF MALFEASANCE



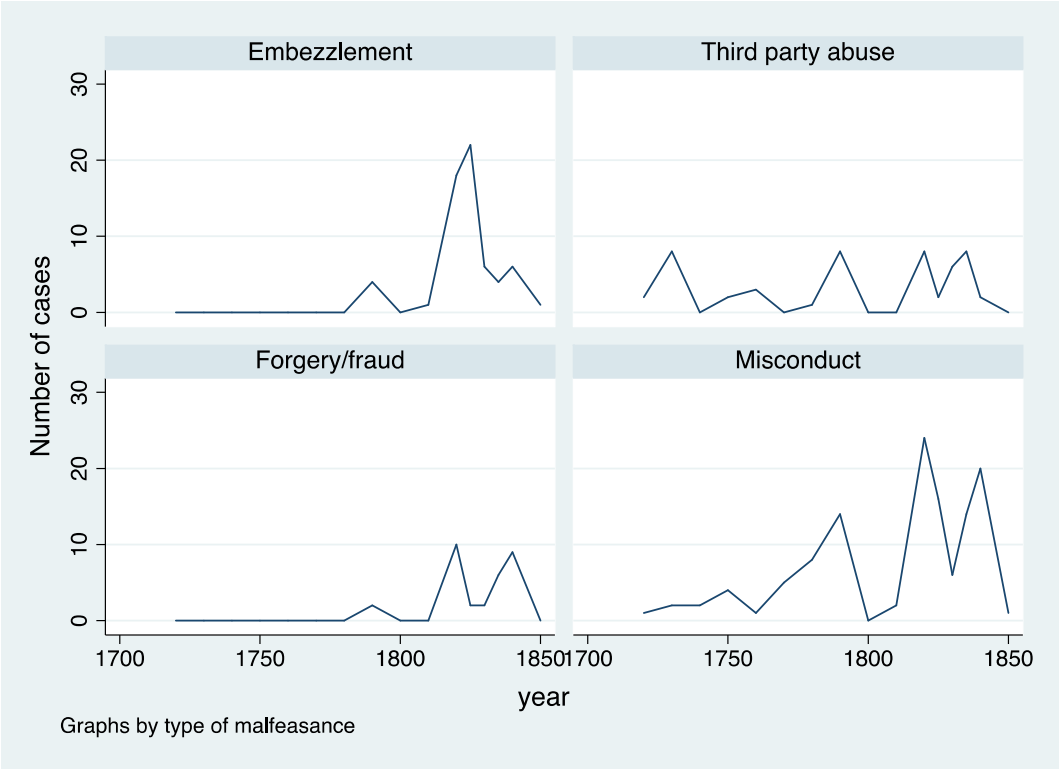
If corruption is defined as the abuse of public power for private gain, both these categories clearly fit under the label. This for the most part also goes for the third type of malfeasance, a less common type that we have dubbed *forgery/fraud*. The chancery clerk Stafverberg in the city of Stockholm, for example, was convicted for having forged the tax documents of a poor farm-hand in order to pocket the proceeds himself. The Svea Supreme Court had sentenced him to pillory and 12 days of prison on water and bread, but the High Court in 1820 changed the sentence to only becoming imprisoned for 14 days. Several of the fraud cases also concerned manipulated elections, particularly with respect to clergy appointments in the country side.[7]

[7] In a related project, Teorell (2011) traces the frequency of contested elections in Sweden from 1719-1909. Cases of election fraud or irregularities appealed to the Lower Judicial Audit Office/High Court could oftentimes be equated with malfeasance, since the perpetrators were typically public officials. The frequency of contested elections however follows a completely different trajectory than the cases of malfeasance, with a large peak in 1769-1771, the last two elections held during the Age of Liberty, and a second one by the mid 1800s, at the time of the replacement of the Diet of Estates by a Bicameral Parliament.

A fourth type of crime, finally, and by far the most common one, has been dubbed *misconduct* and comprises a range of activities which by the legal authorities were judged to be an offence against the law, or a breach of duty, but where no clear intention to benefit the official himself can be discerned. These were thus to a large extent cases of "mistake", "thoughtlessness" or "recklessness", but were there was no apparent private gain for the official involved. As a rule, the sentences for these more common crimes were much milder.

In figure 4, we have plotted the trajectories of how frequent these different types of malfeasance were over time. Two patterns are noteworthy. First, the frequency of misconduct almost perfectly tracks the general development of malfeasance over time. In other words, the two peaks in appeals cases can to a large extent be explained by a rise in court cases dealing with corrections of mistakes or rebukes of rule breaking by the charged public officials. Third party abuses, by contrast, show no clear signs of development over time. To the extent we can tell from the data, they were as frequent in the 18th as in the 19th century. The second pattern, however, concerns the rise in cases of malfeasance in the 19th century more specifically. As can be seen, both fraud/forgery and embezzlement now appear as new types of malfeasance that cannot be traced in our source material in the 18th century. The trajectory for embezzlement is particularly striking in that a large part of the appeal cases in the 1820s concerned this particular type of crime, whereas the decline in embezzlement somewhat predates the general decline in appeals concerning malfeasance in the 1840s.

FIGURE 4. TRAJECTORIES BY TYPE OF MALFEASANCE



Combined with information on the *titles* of those charged with malfeasance, we interpret these diverging trajectories as indications of the nature of problems the Swedish state had to come to grips with at different junctures of its development. To begin with, the typical official charged with malfeasance served in the local administration in the townships or, even more frequently, in the countryside. There are hardly any instances of high level officials working for the central government agencies in Stockholm being accused of malfeasance.[8] This pattern, already observed for 1750-1780 by Cavallin (2003, 201-2) but now confirmed for a much longer time period, in our view reflects the key role of the rural administration of tax collection and control in a largely rural economy (Westerhult 1965; Frohnert 1993). Tidying up the Swedish state mostly was a matter of tidying up the rural administration.

[8] A preliminary breakdown by region, although fraught with large amounts of missing data (in many instances the locality of the official charged with malfeasance has not been recorded), also shows very few signs of concentration to Stockholm or even the more densely populated parts of the country.

With regard to the twin peaks of malfeasance, it could additionally be observed that in the 1780s and 1790s, where most cases concerned misconduct, a large part of the officials on trial were part of the judiciary. Most conspicuous among those on trial are the country judges (*häradshövding*) and city mayors (*borgmästare*). To a large extent these cases dealt with correctives the higher levels of the judicial system made to the workings of the lower levels. A certain strive for universal rules to be applied throughout the country can be discerned in the motivations underlying the sentences of the High Court in particular. Our reading of this pattern in the data is that the Swedish judicial system itself underwent reforms with potentially long-term consequences under the reign of Gustavus III.

It has been argued before by Swedish historians that a more humane and fair judicial system, in today's discourse typically described as a strengthening of the principle of the rule of law, was high on the new king's agenda in the 1770s. To this attests his insistence that judicial matters should be handled by a separate body within the Council of the Realm, that those serving on this body needed some scholarly education in law, and not the least his "inquisition" of the Göta Supreme Court in the 1770s, a famous crackdown on the second to highest level of the Swedish judiciary for instances of bribery and serious negligence in the court's dealings (Wedberg 1922; Westman 1924; Awebro 1977). But it has also been forcefully argued that the inauguration of the High Court in 1789 was simply a political maneuver that formed part of the same king's attack on the nobility, and that the major reason for the formation of this novel judicial institution was the simple fact that the old Council of the Realm ceased to exist (Metcalf 1989). Against this view, however, our data would indicate that there was something more to the judicial reforms of Gustavus III. As already noted, the inauguration of the High Court already in its second year of existence (in 1790) marked a steep rise in the number of appeals cases concerning malfeasance among public officials. As a more long-term legacy, moreover, one could argue that the entire sea change in terms of the frequency of such cases occurring later in the 19th century would never have been possible without a functioning highest court of appeals, although the further reforms of the High Court that were affected after the revolution of 1809 must of course also be taken into account in that respect. That something happened with the judiciary around the this time is further strengthened by the fact, noted above, that the acquittal rate in the appeals cases declined from around 20 percent on average during the 18th century compared to roughly 8 percent in the 19th century.

Another part of the picture of what was going on within the Swedish state is the aforementioned observation that the lion share of the court cases heard in the 1820s concerned incidences of eco-

nomic crime, or embezzlement. We interpret this as an indication that there was a clear fiscal side to the state reform project in the aftermath of the war and revolution of 1809, and the ongoing strategic positioning of Sweden during the final years before the Congress of Vienna. The last war waged by Sweden was the short campaign to subdue Norwegian resistance to being part of a union with Sweden in 1814. The wars overall had a crushing impact on the financial situation of the Swedish state (Nilsson-Stjernquist 1946). One rationale for strengthened the fiscal control of public officials could thus have been simply to save money.

A final point of notice concerns the *downturn* in the number of appeals cases that we observe in 1850. To what extent can we believe in this downward trend when being substantiated by a single year observation? As a matter of fact, starting in the year 1857, the Swedish National Bureau of Statistics (*Statistiska Centralbyrån*) started to collect systematic data on criminal court cases heard at any level within the Swedish judicial system. As Sundell's (2012a) compilation of cases concerning malfeasance among public officials shows, the incidence of both more serious and minor offences slope downward from the 1860s. Moreover, starting in 1874 there is another systematic source of published information on the court cases heard by the High Court (the so-called *Nytt Juridiskt* Arkiv). A cursory look at its first ten years if existence clearly attests to the fact that malfeasance did not take up any prominent part of the court's hearings again. We may thus rest assured that the decline in malfeasance toward the mid-19th century is not simply an artifact of our sample. We interpret this, in line with Sundell (2012a) himself as well as Rothstein (1998, 2011b), as a clear indication of the fact that the Swedish state had by this time been thoroughly reformed and transformed from a patrimonial into a more professionalized, Weberian bureaucracy.

The debates in the diet of estates

Thanks to a new register created by a special (actually voluntary) project (www.runeberg.org), we have been able to start a preliminary analysis of the debate about a number of specific issues related to corruption and state-capacity in the Swedish Diet (*Riksdag*) between 1809 and 1858. We want to underline that this analysis is far from complete, but we have managed to distill a number of themes that were discussed in the four estates. This material, consisting of minutes from the debates in the four estate, is very large and we can at this stage only present a few illustrations of how the deputies argued. We have also used historical accounts of the rise of political liberalism in the Swedish Diet during this period.

One example is the view about the separation of "private" and "public" money. In the patrimonial order, the view of the public position was for it to be akin to a fiefdom from which the holder of the position could extract private resources as long as a certain dividend was delivered to the state. This implied that there was no clear line between private and public money and civil servants frequently took "loans" from the public coffers. In 1823, a Government Bill was put forward to deal with how to handle embezzlement. In the existing legislation, civil servants who embezzled public money but, after having been discovered, paid back the "loan" were to be given a lesser sentence than those that could or would not return the money. The government bill stipulated that this should no longer be the case because, "since the nature of the crime is the same, the punishment should be the same".[9] The Bill also stated that all categories of civil servants should be included in this new legislation which also was a novelty pointing in the direction of universalism. Three of the estates agreed to this, indicating a that a change had taken place in this important trait of Weberianism. Some opposition came from the estate of the clergy who argued that civil servants that just used public money "temporarily" and could pay back should not be sentenced harshly.[10] .

The *Riksdag* also discussed the "accord system" that prevailed in the Swedish state and especially in the military. Accord was a sum of money that a person wanting promotion to a higher position had to pay to the holder of that position. The sums were considerable and it was generally believed that one reason for why the Swedish army did so badly against the Russians in the 1808-09 war was the accord system (Nordensvan 1908, cf. Larsson 2000). Officers of limited capacity and training had through this system been promoted to positions they were not capable of taking responsibility for (Isaksson 2009; Artéus 1982; Larsson 2000). No less than five laws and regulations stating that "accord" was to be prohibited were issued by the Swedish government during the first part of the 18th century, but to no avail. Instead the system was regulated in 1757 and the sums to be allowed were decided (Larsson 2000, 28). However, the regulation of the sums did not work and was formally abolished in 1767 and the accord system was again outlawed in 1774, but also this time to no avail (Larsson 2000).

After a new decision in 1793, the accord system became in part legal and sums were stipulated by the government, but it frequently happened that the holder of the position demanded and got high-

[9] Bihang till Riksståndens protokoll 1823, saml. 7 avd. 2 s. 1296.
[10] Bihang till Riksståndens protokoll 1823, saml. 7 avd. 2, s. 1300

er payments. In the *Riksdag* of 1828-30, a private bill was put forward arguing that the illegal accords should be punishable because they inhibited the development of a "good esprit" within the civil service, since the one who got promoted had not gotten his position thanks to "merit and competence" but had bought it for money, which put the civil servant in a "despicable and dependent" position and also had a "detrimental effect on the State's finances".[11] The motion, which is supported by the estate of the nobility, proposed that persons that had got their positions by illegal accord sums should lose their positions and the money paid should be confiscated by the state. The bill was however defeated with the argument that it will not be possible to enforce such a ruling and that the government is preparing a different legal strategy for handling this issue.[12]

The issue is dealt with at almost all the following *Riksdag* meetings and the accord system is not finally abolished until the 1870s, when a regular pension system for civil servants and military officers is introduced (Larsson 2000). For some special position, like the important position as county governor, it existed until the early 20th century (Rothstein 1998). The Estate of the Burghers had, for example, a very intense debate about the accord-system in 1834 were the representatives argued that although illegal, "everyone knows" that they are paid. Moreover, the arguments from the representatives in the Burghers' estate are Weberian to the point, arguing that the positions as high-level civil servants should not be seen as "property in the hands of the beholder", but instead should be seen as a position based on the consent and trust from "the people".[13] Positions should be filled based on merit and money should not be involved because this would inflict upon the "impartiality" of the civil servant.[14]

A couple of things are important to notice concerning the accord system. The first is that already in the early 19th century, possibly as an effect of the defeat of the Swedish army in 1809, there is an awareness among parts the political elite that the accord-system is dysfunctional.[15] There is also an awareness that the system is heavily misused, especially in the military.

The reasons that it is not dealt with is first and foremost costs. The accord system worked like a "pyramid-type" pension system and without the establishment of a regular pension system for civil

[11] Bihang till Riksståndens protokoll. 1828-1830, vol. 7, sec. 2 s. 3-4
[12] Ibid, p. 7-8
[13] Borgarståndets protokoll 1834, vol. 2, pp. 78-82 and 94-98.
[14] Bihang till RiksStåndens Protocoll. 1834, vol. 8, s. 6.
[15] See Bihang till Riksståndens protokoll. 1828-1829, betänkande nr. 132, vol. 4, sec. 2, s. 186.

servants and military officers, laws and regulations against it would have little or no effect. Thus, the notion of a need for a more Weberian system came well before the money making it possible for the state to introduce the system. As with many corruption policies used nowadays (cf. Bartory 2012), laws were issued but could not be implemented. This is also a case, comparable to what Sundell (2012a) has shown for how the "sportler" system was overcome, meaning that the problem was partly overcome by legalizing what had been illegal payments to civil servants and military officers. According to the *Riksdag* commission that handled this issue, the idea was that in a future regulation of the State's wage system, those who had paid "accord" for their positions but who after the regulation could not expect to be paid in their turn, should be compensated by state.[16]

It should also be noted that in the debate about the accords in the 1834 *Riksdag*, the central arguments for Weberianism based on legitimacy are put forward especially by deputies of the Burghers' Estate but also in the Estates of the Peasants and the Nobility (the clergy were more wishy-washy). The civil service needed to be seen as legitimate by the people, and for this recruitment based on merit and service according based on impartiality were essential ingredients.[17] The positions in the state should not be seen as a way to collect rents (*näringsfång*), but as a common good service. Thus, from what can be seen in the minutes, in the mindset of the elected representatives in three of the estates at the 1834 *Riksdag*, legitimacy principles from the feudal/aristocratic/patrimonial society based on divine principles and/or heritage/tradition, were no longer seen as valid. The following quote from the Parliament Committee that dealt with the issue in 1829 gives a flavor of the reasoning:

> The committee has realized the drawbacks of the so-called accord system within the army…. but since this is an evil which it is difficult and not without the greatest sacrifices of the State can be fully abolish, a purpose, although alluded to but could not be won by the accords regulation of 1793, the Committee considers it may be better that this time-honored abuse is formally allowed, but it should trough stringent regulations be held within defined limits.[18]

[16] Minutes from the Estate of the Burghers, 1834. vol. 2, pp. 78-82 and 94-98, Minutes from the Estate of the Peasants 1834, vol 4, pp 23-28, Minutes from the Estate of the Nobility 1834, vol 6, pp. 18-23. Minutes from the Estate of the Clergy 1834, vol. 3, pp. 401-404.
[17] Bihang till Riksståndens Protokoll. 1828-1829, betänkande nr. 132 Saml. 4, avdeln. 2, s. 186.
[18] Bihang till RiksStåndens Protocoll. 1828-1829, betänkande nr. 132 Saml. 4, avdeln. 2 , s. 186

The idea that the accord system constituted an illegitimate and socially inefficient praxis was thus high on the political agenda several decades before it was de facto abolished. The arguments put forward was that the accord system made civil servants work for their own sake instead of pertaining to the "public good" and that the system lead to an understanding of a position in the civil service as private property and prevented the fairness of meritocratic recruitment[19] . They also realized the limited effects that central rules and regulations d upon this "time-honored" practice within the state. The reason it could not be dealt with was not a lack of awareness of the problem and its consequences but something much simpler: the lack of money.

The Liberal Ideology and the Liberal Opposition

So far, we have pointed at two reasons behind the move from corruption and patrimonialism in Sweden during the first half of the 19th century, namely the improved judicial system and the trauma of 1809. However, motives for change is not enough to explain the direction of change. For where did the specific ideas of meritocracy, impartiality, professionalism and accountability in the civil service come? Our answer is that these ideas were rooted in the type of enlightenment liberalism that formed the base for the political opposition against the monarchial rule and the power of the conservative aristocracy that dominated the Swedish state during the first half of the 19th century. This political conflict between the new liberal political ideology (mostly imported to Sweden from France and the United Kingdom) and the "ancient regime" became quite strong from 1830s and it was fueled by three things. One was a, compared to other countries, high degree of press freedom that resulted in liberal press that came to dominate political life in Sweden from the mid-1830s. The second was that the Estate of Burghers, which until then had been dominated by local judges and civil servants often appointed by the King and his Council, came to incorporate more elements from the new more independent and liberally oriented capitalist class of industrialists and merchants (Wichman 1927, 11, cf. Andersson 2003). The third reason was that the Estate of Peasants in the Diet, that until the late 1820s had been easy prey for all kinds of bribery and domination from the King and his allies, became a much more independent and self-assured political force that often went into an alliance with the liberal politicians in the Burghers Estate. In addition, there were relatively many liberal members also of the Estate of Nobility in the Diet (Wichman 1927; Sunesson 1981). Together, these forces did not only demand the abolishment of the old estate Diet to be

[19] Bihang till RiksStåndens Protocoll. 1834 Saml. 8, avd 2, s 94-98

replaced by a more representative Parliament as well as a government that respected the Constitution and other laws. Following the liberal ideas of political equality, they also put their forces behind demands for meritocratic recruitment, professional competence and accountability for the civil service as well as the "absolute impartiality in the implementation of the laws" (Wichman 1927, 12). In particular, the liberal opposition and the liberal press reacted strongly against the way the King's and his Council (and close secret advisors) favored members of the aristocracy, political allies and relatives in recruitment and promotion within the civil service (ibid., and p. 24-26). The liberal opposition's critique against the civil service for succumbing to various favoritism and massive incompetence was also very outspoken (ibid).

Towards an endogenous explanation under exogenous contingency

At face value, the reform process of the Swedish administration in the 19th century looks like a clear cut example of the principal agent model of Becker and Stigler (1972). To recall, what needs to be done in order to root out corruption according to this model is to (a) improve the economic conditions of public employees in order to decrease the relative value of taking bribes or selling office, and (b) to significantly increase the probability of being detected for malfeasance. The wage reform and pension systems introduced by the mid-19th century and onward would exemplify the former, the judicial reforms enacted under Gustavus III and with the Constitution of 1809 the latter. The fundamental problem with this explanation, however, is that it is based on the assumption that a benevolent principal was present who foresaw the consequences of these measures and hence pressed for their enactment. But we have failed to identify any such principals. Not even the case of Gustavus III and the inauguration of the High Court is a good example of a reform introduced in this manner since, as pointed out above, the king's motivation for the reform was short-sighted and not at all aimed at coming to grips with corruption or malfeasance in the public administration. Another, and equally important, problem with the principal agent theory for understanding the shift is that even if the rise of a benevolent principal could identified, the problem of how and why these reforms were successfully enacted and complied is left unresolved.

We would thus instead suggest to apply Ostrom's (1990) endogenous theory of institutional change in under to understand the Swedish case. To begin with the problem of supply, the picture that emanates from the debates in the Diet of Estates and from our account of the liberal opposition is clearly one of awareness and information. The key actors of the era thus seemed to have foreseen

the benefits of establishing new institutions for avoiding patrimonial shirking, also in a way that did not discount the future too heavily. At the same time they also clearly saw the financial costs involved in the transformation, and at least in the beginning of the 19th century weighed the later heavier than the former. As to their internal norms, this is of course something that is extremely hard to observe from the historical record, but two observations are in place. According to Coleman (1990), the likelihood for an internalized norm (one that does not require external sanctions) in a social system is directly related to its degree of closure, which basically means the density of social interactions. The first observation to make in this regard is that the Swedish public administration by the early 19th century was not a huge organization. The public officials at the central level numbered slightly below the 1000s in 1823 (Nilsson 2000, 5), and if we add to that the local administration we end up with roughly another 1700 people (Carlsson 1973, 55, 77). This relatively modest size in itself increases the chances for closure and thus favorable norm development. Second, if we are to believe Sundell's (2012b) preliminary estimates of the number of namesakes in central administration, nepotism did not wane in Sweden until the early 20 the century. Nepotism is of course not a characteristic attuned to the Weberian model of state administration, on the contrary, but on a speculative note one could argue that for the sake of developing new norms regulating internal behavior, nepotism could have played a favorable role during the transition. Thirdly, there is good reason to believe that the existence of a strong liberal press, a the more politically self-conscious Peasant Estate and a more independent Burghers Estate, contributed to a sort of political closure around these issue.

We may also make some general observations on the "design rules" in place for upholding the new equilibrium institution of Weberian administration in the Swedish case. One concerns what Ostrom (1990, 93-4) terms participation by the "appropriators" in collective-choice arrangements. It is indeed the existence an important such collective-choice arrangement that made our study of debates possible, namely the Swedish *Riksdag*. It should be remembered that apart from the House of Peasants, the Diet was predominantly populated by public officials. In the House of Nobility, two thirds of the deputies held a position in the public administration (although this figure also includes the military) (Flodström 1936, 67). In the House of Burghers, moreover, around one third of the deputies were local judges (*borgmästare* or *literat rådman)* (Höjer 1936, 96), whereas all of the clergy in the House of Clerics of course were "civil servants" (albeit of a peculiar kind). This means that a substantial number of public administrators were themselves part of the decision-making process through which the legislative reforms were enacted.

A second observation pertaining to design rules concerns monitoring, where Ostrom (1990, 94-100) claims that sustainable cooperation was more likely when those monitoring shirking were either the appropriators themselves or actors accountable to them, and when shirking was sanctioned using graduated sanctions, not necessarily harshly enforced and severe retribution. The parallel here should not be pushed too far, but it is a significant aspect of the Swedish transition that monitoring of and sentences for malfeasance are both carried out by the legal system that was itself part of the public administration. Also, although this is a topic worthy of more systematic scrutiny, our impression is not that the sentences for the convicted were overly severe or harsh (when seen from the standards of the time). Temporary suspension and fines seems to have dominated, although imprisonment also occurred. By and large, however, we interpret this as a system similar to Ostrom's (1990) "graduated sanctions".

In sum, we view this as supportive evidence for interpreting the Swedish transition from a patrimonial and semi-corrupt to a Weberian order as compatible with the endogenous theory of institutional change. Nevertheless, there are two important points to make about the exogenous conditions under which this process took place. A first has to do with the monitoring and sanctioning system just discussed. Obviously everything cannot change at once, and if our interpretation of the historical record is correct one pre-requisite for the endogenous process of institutional change to "ignite" seems to have been that a reasonably fair and clean court system had already been established. How this could come about needs further study but it seems clear from the Swedish case that the court system seems to have been working fairly well in handling corruption related matters and malfeasance already by the early 19th century. And without a reasonably uncorrupt court system, it becomes meaningless to press charges against corrupt public officials. Simply put, you have to start with something and at least in this case, it was the court system.

Interestingly, the same seems to be the case for Denmark. When comparing Frisk-Jensen's mapping of the number of public officials that were suspended from office due to malfeasance in the period from 1736-1936, the similarities with the Swedish trajectory are striking. Thus, the Swedish rise in the number of cases toward the late 18th century, the dip in the first decade of the 19th, the "grand peak" following that in the first subsequent decades, followed by a sharp decline from 1850 and onward, are all mirrored by the Danish case. Could this be a mere historical coincidence? One interpretation would hold that a process of spatial diffusion was underway, so that bureaucratic

reforms spread from one country to another. This is actually Ertman's (2005, 171-2, 178) take on the 19th century process in the Scandinavian counties: that they simply imitated the radical set of reforms first initiated by "enlightened Bavarian minister Count Montgelas". This is an interesting thought worthy of further investigation, but there is an important fact speaking against the diffusion hypothesis: that neither we, nor Frisk-Jensen (2008), find any evidence of it in the historical record. Surely, if a "model" such as the Bavarian reforms was the blueprint for the Swedish reform process, that would at least somewhere have shone through in the contemporary debates or historical documents. But never once have we encountered this notion. (To be quite frank, we had never even heard of Montgelas before reading Ertman 2005.)

We would instead point to another potent explanation for why the Swedish and Danish processes seems to have coincided, and this is also our second observation on exogenous conditions, namely that Tilly's (1990) famous argument that "war made states and states made war" seems to have taken a very peculiar turn in the Nordic cases. The strive to make this dramatic change of the "essence of the state" and in particular how it should be organized came as a consequence not only of *losing* wars, but losing "big time". The period around 1800 dramatically changed both Denmark and Sweden from being semi-large military powers in the European theatre to becoming "small states". Especially for Sweden, with its "glorious past" as a major European military power, the outcome of the 1808-1809 must be considered a national trauma (Roth 2010, Isaksson 2010). The result for both Sweden and Denmark was that much less money came to be spent on the military during the rest of the 19th century, and that these states became much more reluctant to "make war".

It is worth noting that as arch-enemies, Denmark and Sweden had since the early 16th century fought ten bloody wars. The last time Swedish and Danish soldiers fired at each other was in 1814, which is the last time Sweden was at war.[20] Increased state capacity in Sweden thus came *after* the country de facto decided to stay out of military conflicts and dramatically downsize its military ambitions. Our results thus confirm what has recently been argued by Fukuyama, who analyses state-building on a global scale over some 7000 thousand years: "the correlation between war and state-building is not a universal one" (Fukuyama 2011, 111).

[20] The transition from arch enemies to "Nordic brotherhood" is in itself a remarkable story, mainly caused by a movement of authors and students, known as Scandinavianism. At the battle-field in Southern Jutland, known as "Dybböl skansar", a monument praises the more than 400 Swedish volunteers, of which 75 were officers, who took part in defending Denmark against the Prussians in the battle 1864 .

But in what way exactly did losing war matter for the big transition? Two things are important to note here. The first is that the most direct outcome of the loss of Finland in Sweden was the great overhaul of the entire constitution and political system that among Swedish historians goes under the name "the revolution of 1809". This "revolution" in itself had important implications for the structure of the public administration, as noted above, both in terms of decreased influence by the nobility (Carlsson 1973; Nilsson 2000) and in terms of reforms of the High Court, which only now was granted secure independence (Wedberg 1940). It has also been pointed out before that "revolutions" seems to be an important trigger in the history of state-building and bureaucratic reform (Becker and Goldstone 2005). It is also not far-fetched to argue that this traumatic event, that put the very existence of the country as an independent nation at risk, served to delegitimize the "old order" and gave rise to the liberal political opposition.

Second, "loosing big time" created the impetus for reform by transforming the mindset of the political elites. When Sweden lost Finland to Russia in 1809, it was not a loss of a minor and distant part of the country which as a separate territory had been traded in various peace agreement with the arch-enemy on the East. On the contrary, Finland had been an integrated part of Sweden for an uninterrupted period of six-hundred years and in landmass consisted of a third of the country. The point is that the war of 1808-09 did not only lead to the loss of Finland, which has been described as a national "trauma" (Edgren 2010). It also produced a generally held insight among the Swedish political and military elite that the very existence of Sweden as a sovereign nation had been under a severe threat.[21] This importance of a general sense of severe threat to the state as a motive for overcoming obstacles for increasing state-capacity is underlined by Uslaner's (2008) analysis of why Hong Kong and Singapore managed to reduced corruption during the 1980s. For Denmark, the story seems largely to be the same as for Sweden. Losing a number of wars led the Danish state to have to declare a state bankruptcy 1813 which is likely to have led to a sense of emergency (Frisk-Jensen 2008).

Conclusion

"Getting to Denmark" has recently become a catchword in development research, especially among economists (Pritchett and Woolcock 2008, cf. Fukuyama 2011). What this metaphor indicates is

[21] Esaias Tegnér, one of the most well-known intellectual figures of the time, thought that the final hour of Sweden had come.

that there may be some lessons to be learnt from how Sweden and Denmark managed to move from ingrained systems of patrimonialism, and what today should be defined as systemic corruption, to a Weberian type of state. First, it is important to notice that the general awareness that something was seriously wrong with the prebendelist/patrimonial system was established among a broad spectrum of the political elite quite early in the process and several decades before industrialism and modern style market economy capitalism developed in these countries (generally seen a starting in the 1870s). With political liberalism came also ideas about political equality and impartiality in the implementation of the laws that served to give direction to what type of reforms that were needed. We are not here stating that the new Weberian ideology and later practice caused industrialization, but we can at least state that it cannot have been the other way around.

A second, but well-known, conclusion is that new the impartial/universalist/impersonal state machinery developed before representative democracy was in place in Denmark and Sweden (typically being viewed as a 20th century phenomenon). The policy implication of this is of course somewhat unpleasant, since democracy as a system of values have so many other good things that speaks for it. Important to note however is that the fact that many countries in the Western world made the transition under dictatorship should not be interpreted as an argument in favor of that system today. The important implication is rather that we should not expect democracy to do the job for us.

Third, and perhaps most importantly, the endogenous theory of institutional change that we have found support for in the Swedish case in itself sets some limits for reform-minded aid donors in the West with the agenda to make transformations from corruption to "good governance" possible in the third world today. As pointed out by Fukuyama (2004), not only has our knowledge of this fundamental change in our own societies been underdeveloped. It is also far from evident that we have the capacity to transfer that knowledge to other contexts and parts of the world today. What we have shown, however, is that this "bringing it in from the outside"-approach might be misdirected even from the outset. This fundamental change could very well be brought about from the inside.

REFERENCES

Aidt, Toke (2003) Economic Analysis of Corruption: A Survey. *The Economic Journal* 113 (November):F632-F652.

Andersson, I. L. 2003. I Revolutionens svallvågor 1800-1850. In Sveriges historia under 1800- och 1900-talen. Liber.

Andersson, Staffan (2012) "Korruption i Sverige", i Andersson, S, ed. *Motståndskraft, oberoende, integritet: Kan det svenska samhället stå emot korruption?* Transparency International Sverige.

Andvig, Jens (1991) "The Economics of Corruption: A Survey", *Studi economici* 43(1): 57-94

Andvig, Jens and Karl Ove Moene (1990) How Corruption May Corrupt, *Journal of Economic Behavior* 13: 63–76.

Andvig, Jens Christopher, and Odd-Helge Fjeldstad. 2001. "Corruption: A Review of Contemporary Research." Report R 2001: 7. Bergen: Chr. Michelsen Institute.

Artéus, Gunnar. 1982. *Krigsmakt och samhälle i frihetstidens Sverige*. Stockholm: Militärhistoriska förlaget.

Awebro, Kenneth (1977) *Gustaf III.s räfst med ämbetsmännen 1771-1779* (PhD diss.). Uppsala: Historiska institutionen, Uppsala universitet.

Bardhan, Pranab (1997) "Corruption and Development: A Review of Issues", *Journal of Economic Literature* 35: 1320-1346.

Bates, Robert (1988) "Contra Contractarianism: Some Reflections on the New Institutionalism", *Politics & Society* 16(2-3): 387-401.

Becker, Gary and George Stigler (1974) Law Enforcement, Malfeasance, and Compensation of Enforcers. *The Journal of legal Studies* 3:1–19.

Becker, Jaime and Jack Goldstone (2005) "How Fast Can You Build a State? State-Building in Revolutions", in Lange, M. & D. Rueschemeyer, eds. *States and Development*. New York: Palgrave Macmillan.

Bartory, Agnes. 2012. "Why do anti-corruption laws fail in Central Eastern Europe? A target compliance perspective" *Regulation & Governance,* forthcoming.

Besley, Timothy (2006) *Principled Agents? The Political Economy of Good Government*. Oxford: Oxford University Press.

Cadot, Olivier (1987) Corruption as a Gamble. *Journal of Public Economics* 33: 223–244.

Carlsson, Sten (1973) *Ståndssamhäle och ståndspersoner 1700-1865. Studie i det svenska ståndssamhällets upplösning*. Andra upplagan. Lund: Gleerups.

Cavallin, Maria (2003) *I kungens och folkets tjänst : synen på den svenske ämbetsmannen 1750-1780* (PhD diss.). Göteborg: Historiska institutionen, Göteborgs universitet.

Chang, Erik, Miriam Golden and Seth Hill (2010) "Legislative Malfeasance and Political Accountability", *World Politics* 62(2), 177–220.

Coleman, James (1990) *Foundations of Social Theory*. Cambridge: The Belknap Press of Harvard University Press.

Di Tella, Rafael and Ernesto Schargrodsky (2003) The Role of Wages and Auditing During a Crackdown on Corruption in the City of Buenos Aires. *Journal of Law and Economics* 46(1): 269–292.

Downing, Brian (1992) *The Military Revolution and Political Change: Origins of Democracy and Autocracy in Early Modern Europe*. Princeton: Princeton University Press.

Edgren, Henrik (2010) 'Traumakonstruktionen, Svensk historieskrivning om rikssprängningen 1809.' (The construction of a national trauma: Swedish history writing of the 1809 disunion). *Scandia* 76(1): 9-39.

Elmroth, Ingvar (1962) *Nyrekryteringen till de högre ämbetna 1720-1809*. Lund: Gleerups.

Ertman, Thomas (1997) *Birth of the Leviathan: Building States and Regimes in Medieval and Early Modern Europe*. Camrbdige: Cambridge University Press.
Ertman, Thomas (2005) "Building States—Inherently a Long-Term Process? An Argument from Comparative History", in Lange, M. & D. Rueschemeyer, eds. *States and Development*. New York: Palgrave Macmillan.
Flodström, Gunnar (1936) "Ridderskapet och adeln 1809-1866", in *Studier över den svenska riksdagens sociala sammansättning*. Uppsala och Stockholm: Almquist & Wiksell.
Frisk Jensen, Mette (2008) *Korruption og embedsetik: Danske embedsmænds korruption i perioden 1800 til 1886* (PhD diss.). Aalborg: Aalborg Universitet.
Frohnert, Per (1993) *Kronans skatter och bondens bröd: Den lokala förvaltningen och bönderna i Sverige, 1719-1775*. Stockholm: Nerenius & Santérus.
Fukuyama, Francis (2011) *The Origins of Political Order: From Prehuman Times to the French Revolution*. New York: Farrar, Straus and Giroux
Glete, Jan (2002) *War and the State in Early Modern Europe: Spain, the Dutch Republic and Sweden as Fiscal-Military States, 1500-1660*. London & New York: Routledge.
Goel, Rajeev and Michael Nelson (1998) "Corruption and government size: A disaggregated analysis", *Public Choice* 97: 107-120.
Gustafsson, Harald (1994) *Political Interaction in the Old Regime: Central Power and Local Society in the Eighteenth-Century Nordic States*. Lund: Studentlitteratur.

Heckscher, Gunnar (1958) *Svensk statsförvaltning i arbete*. Stockholm: SNS.
Hildebrand, Emil (1896). *Svensk statsförvaltnings historiska utveckling*. Stockholm:
Höjer, Carl-Henrik (1936) "Borgarståndet 1809-1866", in *Studier över den svenska riksdagens sociala sammansättning*. Uppsala och Stockholm: Almquist & Wiksell.
Isaksson, Anders (2009) *Kärlek och krig: revolutionen 1809*. Enskede: TPB.
Jain, Arvind (2001) Corruption: A Review, *Journal of Economic Surveys*15(1): 71–121
Karklins, Rasma (2005) *The System Made Me Do It: Corruption in Post-Communist Countries*. New York: M.E. Sharpe
Klitgaard, Robert (1988) *Controlling Corruption*. Berkeley: University of California Press.
Larsson, Esbjörn (2000) "Officerskåren i Sverige under 1700-talet: En studie av tjänsteställning, avlöning och tjänsteköp." D-level thesis, Department of History, Uppsala University, Uppsala.
Lui, Francis (1986) A Dynamic Model of Corruption Deterrence. *Journal of Public Economics* 31: 215–236.
Melkersson, Martin (1997) *Staten, ordningen och friheten: En studie av den styrande elitens syn på statens roll mellan stormaktstiden och 1800-talet* (PhD diss.). Uppsala: Acta Universitatis Upsaliensis.
Metcalf, Michael (1989) "Det politiska spelet kring Högsta domstolens tillkomst", I *Högsta domsmakten i Sverige under 200 år, del 1*. Stockholm: Nordiska bokhandeln.
Myerson, Roger (1993) Effectiveness of Electoral Systems for Reducing Government Corruption: A Game-Theoretic Analysis, *Games and Economic Behavior* 5: 118–132.
Nilsson, Torbjörn (2000) "Ämbetsmannen i själva verket – rekrytering och avancemang i en moderniserad stat 1809-1880
Nilsson-Stjernquist, Nils (1946) *Ständerna, statsregleringen och förvaltningen*. Lund: Gleerups.
Olken, Benjamin (2007) Monitoring Corruption: Evidence from a Field Experiment in Indonesia, *Journal of Political Economy* 115(2): 200–249.
Ostrom, Elinor (1990) *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambdirge: Cambridge University Press.
Ostrom, Elinor (1998) "A Behavioral Approach to the Rational Choice Theory of Collective Action", *American Political Science Review* 92(1): 1-22.

Persson, Anna, Rothstein, Bo and Jan Teorell (2012). "Why Anticorruption Reform Fails: Systemic Corruption as a Collective Action Problem", *Governance*, forthcoming.
Persson, Torsten and Guido Tabellini (2000) *Political Economics: Explaining Economic Policy*. Cambridge: The MIT Press.
Pritchett, Lant and Michael Woolcock. 2004. "Solutions When *the* Solution is the Problem: Arraying the Disarray in Development." *World Development* 32(2): 191-212.
Van Rijckeghem, C & Beatrice Weder. 2001. Corruption and the rate of temptation: Do low wages in the civil service cause corruption?, *Journal of Development Economics* 65: 291-307.
Rose-Ackerman, Susan. 1978. *Corruption: A Study in Political Economy*. New York: Academic Press.
Roth, Thomas (2009). "Danskarna sprängde Sverige." *Svenska Dagbladet* Febr. 2nd, 2009.
Rothstein, Bo (1998) "State Building and Capitalism: The Rise of the Swedish Bureaucracy", *Scandinavian Political Studies* 21(4): 287–306.
Rothstein, Bo (2011a) *The Quality of Government: Corruption, Social Trust, and Inequality of International Perspective*. Chicago: The University of Chicago Press.
Rothstein, Bo. (2011b) "Anti-Corruption: The Indirect 'Big-Bang' Approach," *Review of International Political Economy* 18(2): 228-250.
Sah, Raaj (2005) Large and Persistent Differences in Corruption across Countries and Regions. Unpublished manuscript, University of Chicago
Schlesinger, Thomas and Kenneth Meier (2002) "Variations in Corruption among the American States", in Heidenheimer, A. and Johnston, M. eds., *Political Corruption: Concepts & Contexts*. Third Edition. New Brunswick & London: Transaction Publishers.
Skuncke, Marie-Christine (2003) "Media, mutor, nätverk", in Skuncke, M.-C. and Tandefelt, H., eds. *Riksdag, kaffehus och predikstol: Frihetstidens politiska kultur, 1766-1772*. Stockholm: Atlantis.
Sundell, Anders (2012a) "Legalize It: An Argument for Formalizing Petty Corruption When State Capacity Is Low", Quality of Government Institute Working Paper Series 2012:2. Gothenburg: The Quality Of Government Institute.
Sundell, Anders (2012b) "Professionalism and nepotism in the Swedish central public administration, 1824-1925". Gothenburg: The Quality Of Government Institute.
Sunesson, Sune (1981) *Byråkrati och historia: Fem studier i politik och organization*. Lund: Arkiv.
Teorell, Jan (2011) "Cleaning Up the Vote: The Case of Election Fraud in Sweden, 1979-1909", Paper Presented At The Conference "Electoral Fraud, Vote Buying And Clientelism", The Juan March Institute, Madrid, June 29-July 1, 2011.
Tilly, Charles (1990) *Coercion, Capital, and European States*. Cambridge: Blackwell.
Uslaner, Eric M. 2008. *Corruption, inequality, and the rule of la : the bulging pocket makes the easy life*. Cambridge: Cambridge University Press.
Van Rijckeghem, Caroline & Beatrice Weder. 2001. Corruption and the rate of temptation: Do low wages in the civil service cause corruption?, *Journal of Development Economics* 65: 291-307.
Wedberg, Birger (1922) *Konungens Högsta Domstol 1789-1809*. Stockholm: Norstedt & Söner.
Wedberg, Biger (1940) *Konungens Högsta Domstol 1809-1844*. Stockholm: Norstedt & Söner.
Welch, Susan and John Hibbing (1997) "The Effects of Charges of Corruption on Voting Behavior in Congressional Elections, 1982-1990", *Journal of Politics* 59(1): 226-239.
Westerhult, Bo (1965) *Kronofogde, Häradsskrivare, Länsman: Den svenska fögderiförvaltningen, 1810-1917*. Lund: Gleerups.
Westman, Karl Gustaf (1924) "Den gustavianska Högsta Domstolen och dess hävdatecknare", *Historisk Tidskrift* 44(4): 317-389.
Wichman, Knut (1927) Karl XIV Johans regering och den liberala oppositionen. Göteborg: Pehrssons Förlag.