

SYMPOSIUM: TRAILBLAZERS TOO LIGHTLY MENTIONED?

The Economic Analysis of Constitutions: Fatalism Versus Vitalism^ε

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[ABSTRACT](#)

SCIENTIFIC PROGRESS SOMETIMES OCCURS IN QUANTUM LEAPS, AS when seminal contributions challenge well-established convictions and trigger whole new research programs. Thomas Kuhn (1962) studied these quantum leaps in his theory of “the structure of scientific revolutions.”

According to Daron Acemoglu (2005), the field of political economy has witnessed such a revolution with Torsten Persson and Guido Tabellini’s *The Economic Effects of Constitutions*. Acemoglu writes in his review in the *Journal of Economic Literature*.²

Therefore, I believe that overall PT [Persson and Tabellini] have largely achieved their ambitious aim of revolutionizing comparative political economy, and this book is the most significant contribution to this field since Lipset’s work [Lipset 1959] almost fifty years ago. PT have not only pushed comparative political economy forward, but they have provided a set of findings that will challenge all

^ε Among those invited to reply to this article were Torsten Persson and Guido Tabellini, who answered in correspondence that they felt the article is very close to Blankart and Koester’s *Kyklos* article (2006), and that they refer readers to the reply in *Kyklos* by Alesina, Persson, and Tabellini (2006). *Ed.*

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¹ Some of the material in the article appeared in our related criticism in *Kyklos*, Blankart and Koester (2006). That criticism drew a reply from Alberto Alesina, Torsten Persson, and Guido Tebellini (2006).

² Large parts of the Acemoglu review deal with the econometric testing of central hypotheses of PT’s book. In this comment we focus on the general approach.

economists and social scientists, and likely pave the way for a large body of new work in this area. (Acemoglu 2005, 1043)

Acemoglu suggests that what PT have achieved amounts to more than the entire comparative politics literature of the past fifty years:

Only a very brave or uninformed scholar could attempt to write on comparative political economy without seriously studying this book, and only a very stubborn researcher would have his or her posteriors remain unchanged after studying it. PT have already achieved something very few scholars can: a body of work for not only the current generation of researchers, but also for the next generation. In fact, the impact of the book might even be greater than this discussion suggests. If the results indeed correspond to the causal effects of the form of government and electoral rules on policies and economic outcomes as PT claim, we have learned more with this book than from the entire comparative politics literature of the past fifty years. (Acemoglu 2005, 1033)

A BLINKERED VIEW

For not-so-brave and not-so-uninformed scholars, however, Acemoglu's evaluation of *The Economic Effects of Constitutions*, and the book itself, contain some surprises.

Acemoglu quotes from the introduction of the book, where Persson and Tabellini describe the objectives of their inquiries:

We would like to answer questions like the following: If the United Kingdom were to switch its electoral rule from majoritarian to proportional, how would this affect the size of its welfare state or its budget deficit? If Argentina were to abandon its presidential regime in favour of a parliamentary form of government, would this facilitate the adoption of sound policies toward economic development? (Persson and Tabellini 2003, 7, and quoted by Acemoglu 2005, 1027)

Questions of comparative constitutional analysis such as these have been studied for a long time by economists of the so-called public choice tradition³, e.g., in *The Calculus of Consent* by Buchanan and Tullock (1962) and *Constitutional Democracy* by Mueller (1996), and in the huge literature based on such works, including the journals *Public Choice* (established 1968) and *Constitutional Political Economy* (established 1990). But in the whole of PT's book there is barely a

³ See Grofman (2004) or Dennis Mueller's *Public Choice III* (2003) for a discussion of the foundation of the public choice approach. We focus on the so-called Virginia School of public choice (see Mitchell 2001).

footnote to public choice (by which we mean to include the public-choice oriented literature of constitutional political economy). PT reject this literature, or even deny its existence. Right in the beginning of their book they write:

Surprising as it may seem, social scientists have not, until very recently, really addressed the question of constitutional effects on economic policy and economic performance (Persson and Tabellini 2003).⁴

Without acknowledging the public-choice/constitutional literature, PT prefer to cite their own work and the literature of political science, which they consult extensively. Likewise, Acemoglu (2005, 1043) reviews the preceding literature but refers – with the exception of the classical contributions of Arrow, Black, Downs and Hotelling and Stigler’s work on regulation - solely to the work of the political scientist and the sociologist Seymour Martin Lipset (1959).

How can researchers like Persson, Tabellini, and Acemoglu completely ignore the public choice tradition? We would argue that the reason is a very skewed reception of the public choice approach. In the guest introduction of an earlier and highly related book by Persson and Tabellini, *Political Economics* (2000), Christian Schultz writes:

Political Economics has become one of the most active research areas in the last decades. Building on earlier work of the Public Choice school, rational expectations macroeconomics, and game theory, Political Economics *has taken the next step by including rational voters, parties and politicians in the models* (Schultz 2000, xv, emphasis added).

Public choice is alluded to as a mere stepping stone in the formation of political economics, the "new approach." Elsewhere, Persson, Roland, and Tabellini articulate a rationale for such light treatment:

Traditional neoclassical theory is entirely normative and assumes a benevolent planner with a well-defined social welfare function. This has been criticized as a caricature by the Public Choice school, which argues that politicians rationally follow their self-interest. Positive Public Choice theory, however, typically relies on an alternative caricature: the malevolent Leviathan policy maker that replaces the benevolent Pigouvian planner and is solely maximizing her own rents. *The voters’ interest and the possible conflicts among them are generally disregarded, and political institutions do not play any part in the analysis.* To put it more bluntly: both traditions lack micro-political foundations. Building a bridge between these two traditions – combining their main insights – is an important task for public finance. This requires addressing the above questions regarding how well democratic institutions align the interests of

⁴ We classify economics as a social science. See e.g. Frey (1999).

voters and the incentives of self-interested politicians. (Persson, Roland, and Tabellini 1998, 686-687, emphasis added)

As public choice – in the view of political economics – is restricted to the study of the ‘Leviathan’ and includes neither voters, nor conflicts between them, nor political institutions, it becomes clear how political economists can claim the introduction of models that include rational voters, politicians, and parties to be “the next step” in the economic analysis of politics.

For a public-choice scholar, however, this view is astonishing. How could one possibly overlook the public-choice research on representative democracies that dates at least back to Anthony Downs (1957), Gordon Tullock (1967), Riker and Ordeshook (1968, 1973), and Ashenfelter and Kelley (1975), and covers a huge variety of models (e.g., deterministic voting models, probabilistic voting models, and legislative bargaining models) that all include rational voters, political parties, and politicians? Indeed, even Anthony Down’s *Economic Theory of Democracy* (1957) – one of the early contributions to public choice – already builds on the assumptions of rational voters, political parties, and politicians. More pointedly: how can one criticize public choice for disregarding political institutions when James M. Buchanan received a Nobel Prize largely for his work on the economic analysis of those very institutions? Public choice work that integrates analyses of political institutions include for example Crain and Tollison (1979) on the executive, Kimenyi, Shughart and Tollison on the judiciary (1985), or Niskanen on bureaucracy (1975).

Hence, PT and Acemoglu keep their eyes shut to public choice. As noted, they want to compare the consequences of alternative constitutions found in the world. Persson and Tabellini (2000, 2003) focus on two constitutional polarities: (1) majoritarian versus proportional electoral systems, and (2) presidential versus parliamentary forms of government. Using as a benchmark the social optimum as defined by the Samuelson condition for public-good provision and zero rents to the politicians,⁵ they find every constitutional combination to exhibit shortcomings, especially in three dimensions: the amount of public goods provided, redistributive transfers to politically powerful minorities, and rents to politicians. Which of the three is more pronounced depends on the particular constitutional combination. More variables, e.g., total government spending, adjustments to shocks, deficits, and structural policies, are analyzed, especially in PT 2003, but we focus on the main variables discussed in PT 2000.

In a parliamentary regime the legislators of the majority coalition form the government and dictate the policy. To sustain their electoral support they promote the joint interests of their voters and therefore concentrate spending on relatively broad-based programs such as public goods and general transfers. So the level of public good provision is relatively close to the “ideal level” characterized by the Samuelson condition, although the ideal level is not actually

⁵ See Persson and Tabellini (2000, 254).

reached, as the majority coalition focuses on its voters, not the whole population. But the relatively satisfactory level of public goods comes at the expense of large special-interest rents and large rents to politicians, as the government is largely unconstrained in privileging special-interest groups that are part of the majority coalition, and few checks and balances prevent rent extraction by politicians.

In presidential systems, in contrast, there is no firm parliamentary majority. Therefore powerful officeholders such as the heads of the US congressional committees dictate the agenda and try to play off one minority against another. Politicians' promotion of minority interests and the absence of a parliamentary majority make for weaker incentives than in a parliamentary system to provide public goods, resulting in underprovision. But the presidential veto power allows for better prevention of special-interest rent extraction by rent-seeking politicians than in a parliamentary system.

**Figure 1: The Economic Effects of Constitutions
(Persson and Tabellini)**

		Electoral System	
		Majoritarian	Proportional
Form of Government	Parliamentary	<ul style="list-style-type: none"> • Large rents to politicians • Large special-interest rents • Strong underprovision of public goods 	<ul style="list-style-type: none"> • Very large rents to politicians • Very large special-interest rents • Underprovision of public goods
	Presidential	<ul style="list-style-type: none"> • Very small rents to politicians • Very small special-interest rents • Very severe underprovision of public goods 	<ul style="list-style-type: none"> • Small rents to politicians • Small special-interest rents • Severe underprovision of public goods

Note: Figure based on Persson and Tabellini (2003; 2003).

With respect to electoral rules, the authors educe similar effects. Compared to a proportional electoral system, a majoritarian system leads to increased competition between the political parties and helps therefore to restrict rent-seeking activities aiming at transfers to politically powerful minorities. But underprovision of public goods is more severe, as spending is targeted only at the marginal districts (especially

if the districts are small), while the safe districts are neglected. In proportional systems, on the other hand, more – and in particular more broad-based – spending can be expected (especially if districts are large), as all votes are equally important in the election. But competition and accountability are weaker, because representatives' efforts are internalized to a lesser extent and so rents to politicians tend to be larger.

Bringing the effects together, a trade-off between limiting politician rents and public good provision results for both the choice of electoral rule and the form of government. Combining different electoral rules and forms of government leads to four main regimes, which are summarized in a simplified form in Figure 1.

In an extensive cross-sectional empirical analysis, Persson and Tabellini find their derived trade-offs at least partly supported (see, for a summary, Persson and Tabellini 2003, 269f.). The influence of electoral rules on public-good provision, rents to politicians, and rents to interest groups comes out fairly clearly. Concerning the form of government, they state that their empirical results are largely inconclusive.

A PUBLIC-CHOICE PERSPECTIVE ON CONSTITUTIONAL POLITICAL ECONOMY

Does the discussed approach of political economics, by virtue of its advances in the current literature, allow us to dispense with public choice in constitutional political economy? To discuss this question we need not delve into a detailed evaluation of the theory of political economics, nor a critique of possible weaknesses in the argument, nor a detailed examination of the empirical claims. Instead, we focus on the central character and purpose of the research, by comparing the proclaimed ends of the research with its results.

Returning to a quotation provided above, we ask: Suppose that British or Argentinean citizens are confronted with the trade-offs identified by Persson and Tabellini and summarized in Figure 1. What should they do? What assistance does political economics give them?

Persson and Tabellini might say:

Look, you are in a situation of second best. Switching from parliamentary to presidential democracy or from a majoritarian to a proportional system may not improve your situation. You may discover that you got out of the frying pan but straight into the fire and will never reach the social optimum as defined by the Samuelson condition and zero rents to the politicians, as you cannot avoid the principal-agent problem. Your political agent works under an incomplete contract, and there is nothing you can do about that. In graphical terms corresponding to Figure 2a, you remain on an inner utility possibility frontier such as BB, connecting the welfare of voters V1 and V2, and the only choice we can offer you is a bundle of alternative political systems CC. But consider that when departing from the status quo Q, you will always be

confronted with a trade-off between securing public good provision and limiting rents to politicians.'

This approach is fatalistic. All of the analysis that political economics offers keeps within the narrow range of institutions that dominate the geopolitical status quo. Nothing is said about institutional innovations. This is wrongheaded, as economic analysis, especially constitutional analysis, calls for consideration of creative solutions. The men and women who developed the constitution in the French Revolution and the founding fathers of the American Constitution were imbued with such creativity. They could not have advanced the art and practice of constitutional analysis had they merely concluded that the world is second best and cannot move much beyond the status quo. As in science generally, and especially the social sciences, researchers and philosophers should assume a spirit of *vitalism*, not fatalism.

Figure 2a:

The Political Economics Approach

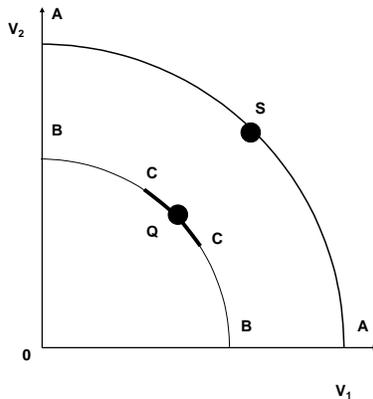
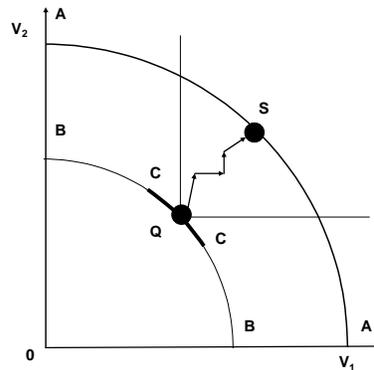


Figure 2b:

The Public Choice Approach



So why is the approach of political economics so conservative? It is typical that cultural elites hew to the status quo. We notice that political economics refers predominantly to the political science literature and largely neglects the public choice literature. Political science, according to the political scientist Hans J. Morgenthau, can be defined as follows:

Political science deals with the nature, the accumulation, the distribution, the exercise, and the control of power on all levels of social interaction, with special emphasis upon the power of the state (Morgenthau 1948).

According to this definition, political scientists ask: What are the institutions and constraints that allow the accumulation, distribution, exercise, and control of power here and now – and not under some alternative, not yet existing framework? And they focus on coercive capabilities of the state. Political economics fits into this approach, as political scientists analyze how politicians decide when confronted with a set of well-known institutions. Choice is limited by the trade-off in and around the status quo – “between the 45 yard lines,” as the analogy to American football goes.

In contrast, public choice scholars, working on the foundations laid especially by Buchanan, do not regard status quo trade-offs as inevitable constraints, but rather as *challenges*. If there is a better potential arrangement beyond the constraint CC – and Persson and Tabellini imply that there is – we may hope to find or create an institutional arrangement to achieve or approach it (see Figure 2b). Public-choice scholars characteristically ask the question: What can be done to go step by step from Q towards S? How can we improve institutions so that we come closer to S? For public choice the relevant question in constitutional analysis is not limited to the effects of existing institutions.

Hence public choice focuses on suggestions for institutional improvements based on constitutional analysis. Happily, the improvements educed by public choice thinking could indeed dissolve large parts of the basic trade-offs discussed so intensively by Persson and Tabellini, as the following examples may illustrate.

One example is public choice’s analysis and evaluation of direct democracy. Complementing representative democracy with a referendum will have the effect that the government spends less (imposes lower taxes) when the citizens want lower spending. Likewise, a popular initiative will cause it to spend more if the voters want to have higher expenditures. Using empirical evidence from different countries, public-choice scholars have shown how referenda and initiatives have decisive effects on spending, taxation, and government debt, as government prerogative decreases and accountability increases (for surveys see Kirchgässner, Feld, and Savioz 1999 and Matsusaka 2005).⁶

A second public-choice concept is decentralization. If labor and capital can migrate at low cost to other jurisdictions in a decentralized state, citizens have a larger say under decentralized than under centralized government. Public output becomes more adjusted to local preferences. Studies such as Kirchgässner (2002) show that at least on the local level, on average no cost increases occur in smaller as compared to larger jurisdictions, and scale effects are therefore often negligible.

Both direct democracy and decentralization can, therefore, be seen as important steps towards the social betterment implied by Persson and Tabellini, as their application helps to increase the supply of public goods to the level demanded by the citizens and to restrict the rents of politicians by giving a larger say to the citizens.

⁶ Indeed, the political-economics community seems to be not totally unaware of this. In a footnote, Persson and Tabellini (2003, 5) quote one older study by Pommerehne and Frey (1978), but come to the surprising statement that only very limited research has been conducted along these lines.

But public choice has not only educed complementary improvements for existing political systems, but has fundamentally challenged the view that constitutional choice is limited to majoritarian versus proportional electoral rules and presidential versus parliamentary forms of government. For example, Gordon Tullock offers the simple vote-transfer mechanism (1967). Every adult person is a member of the parliament (as in a popular assembly). Citizens can transfer their vote to anyone they so choose. The natural choice is a person whom they expect to have nearly the same preferences and to vote as they would. Those who go to parliament will vote with as many votes as they become the representative of. In this case, the advantages of personality vote (which, in the approach of political economics, is confined to a majoritarian system) can be combined with those of proportional representation. Accountability increases because representative shirking is easily observed, and voters select representatives in a contestable market. As representatives are linked more closely to their voters, the transmission of preferences into politics will be less distorted. Under such a regime, representatives would not necessarily join a fixed coalition, but rather aim at increasing their “re-election” probability by voting issue by issue as closely as possible to their voters’ preferences. And the government would no longer be either parliamentary or presidential (in the American sense). The parliament may rather appoint an executive board (like the Federal Council in Switzerland), or the citizens elect a president whose function is to arrange compromises and majorities in the parliament. To prevent free-riding, exploitation of minorities, and cycling, the parliament could decide by qualified majority rule or by one of the simple voting procedures such as voting by veto (Mueller 1978, 1984) or Hylland-Zeckhauser’s point voting procedure (Hylland-Zeckhauser 1979), so that the decisions come closer to those under unanimity rule without causing high transactions costs. Taken together, the vote-transfer mechanism, an executive board in the parliament, and a voting procedure such as voting by veto would lead to political outcomes closer to the “social optimum” than any of the political systems discussed by Persson and Tabellini (for further details see Blankart and Mueller 2002, 2004).

Hence we conclude that the contribution of political economics to the study of constitutional political economy is confined to the small “neighborhood” of the status quo; and therefore is far from displacing public choice. In particular, its almost complete disregard for public choice prevents political economics from facing the central and most important question in constitutional political economy: how to design a constitution that best aligns public policy with individual preferences? As innovation in government is clearly required, the question calls for criticism of the status quo.⁷

⁷ Much more creative than the works by Persson and Tabellini is the book *The Grabbing Hand* by Andrei Shleifer and Robert Vishny (1999), in which the authors are searching for superior institutional designs for privatization, prevention of corruption, and means of supporting market-oriented politicians in foreign-aid policy.

A SCIENTIFIC REVOLUTION?

If we translate the statements of Acemoglu – discussed in the introduction of this article - into the theory of Thomas Kuhn (Kuhn 1962), he states that Persson and Tabellini’s work on the economic effects of constitutions reflects a paradigm shift. In Kuhn’s view a paradigm shift occurs if a new approach emerges that is more plausible, is better able to explain empirical phenomena, and is in part or in whole incompatible with the existing paradigm (Kuhn 1962, Lakatos 1970). It is important to notice that this replacement occurs (as Lakatos pointed out) only if the new alternative theory contains “corroborated excess empirical content” over predecessors or rival theories – meaning that unless the new theory explains both what was explained before and new facts as well, there is no scientific reason to prefer it over the existing stock of literature (Lakatos 1970, 116 et sqq.). This concept implies as well that once a paradigm shift occurs, large parts of the preceding literature become dispensable.

In our view the achievements of Persson, Tabellini et al in constitutional political economy are not so outstanding. They focus almost exclusively on trade-offs within existing representative democracies and miss the central question of constitutional analysis: how to improve the alignment of public policy with individual preferences. Therefore their research is not able to replace public choice in this field and there is no indication of a paradigm shift. They cannot explain what was explained before by public choice and new facts as well. Quite the contrary: Public choice explanations continue to be more convincing in central fields of analysis common to both approaches. This is especially true of the newer contributions of Persson and Tabellini, which ignore public choice research almost entirely.

WHAT’S THE DIFFERENCE?

What are the reasons for the differences in the work of Persson and Tabellini and the public choice tradition? Are there more fundamental reasons why Persson and Tabellini reach different conclusions than public choice, and ignore the public choice tradition?

We would like to discuss especially two basic differences that distinguish the two approaches, leading to different questions, different research designs, and consequently different analytical results, namely: (1) the point of reference, and (2) the importance assigned to individual liberty.

1. Consent versus conflict: Political economics and public choice have different points of reference. Political economics starts its analysis within the framework of existing representative democracy (Persson and Tabellini 2000, 251 et sqq) and focuses on the coercive capabilities of the state. Within this framework political decisions are legitimate if they are supported by a majority of votes. As majority decisions allow for the exploitation of minorities, the main topics within political economics are redistributive conflicts. This is reflected in

the overview article “Political Economics and Public Finance” (Persson and Tabellini 2002), where the existing literature is classified along the dimensions of one-dimensional redistributive conflict, multidimensional redistributive conflict, and analysis of the effects of different constitutional arrangements on redistribution. The analytical results of political economics are therefore mostly trade-offs between different second-best solutions for redistributive conflicts within the political systems of representative democracies.

Public choice on the other hand starts at the level of the individual. The yardstick for the general legitimacy of the state and its decisions is the willingness of each citizen to belong to a state and accept its decisions. Thus, public choice holds voluntarism as a core consideration of constitutionalism (Buchanan 1954). Institutionally, the point of reference of public-choice scholars lies in the model of Wicksell (1896), in which a commonly elected parliament (which represents the preferences of all citizens) decides (nearly) unanimously, i.e., it bargains till (near) unanimity is reached. This process ensures that all preferences – and not just the preferences of a majority – are accounted for in the final decision. Deviations from unanimity are only acceptable if bargaining costs would otherwise be prohibitively high. New research in public choice is intended to reduce these costs by new voting procedures such as those mentioned here.

Based on this approach, public choice scholars see their main task as developing arrangements that facilitate voluntary society. This distinguishes them sharply from the approach of Persson and Tabellini.

2. Liberty versus abstract efficiency: Based on the different points of reference, the two approaches derive different criteria to evaluate political decisions and political institutions. Persson and Tabellini assign central importance to efficiency considerations of political decisions within representative democracy (Ursprung 2003, 224 et sqq). The efficiency is abstract, even mathematical, in that it resembles output:input ratios in mathematical functions, with no concern for the human processes *per se*. External consequences, not choices, are all that matter. Typical questions asked by Persson and Tabellini are: Presidential or parliamentary?, Majoritarian or proportional? The criteria to evaluate these institutional arrangements are comparisons of efficiency in categories like underprovision of public goods versus rents to politicians.

Public choice scholars on the other hand argue that abstract efficiency considerations are not the only criteria. Like the American Founders, they assign great importance to individual liberty as a criterion to evaluate political decisions and institutions. The concern for liberty flows partly from the Smithian presumption that liberty generates wealth, partly from the presumption that liberty, and the consequent individual moral responsibility, generates good moral and spiritual consequences. That is why vital explorations like Buchanan’s classic essay “Natural and Artfactual Man” (1979) belong naturally to the public choice character of political economy: “Man wants more liberty to become the man he wants to become” (112). The extent of liberty—freedom from governmental attenuations of one’s property and freedom of association—is one of the criteria

upon which a political system should be judged. A typical question asked by public choice is therefore how we can improve the institutions of representative democracy to increase individual liberty and limit imposition, exploitation, and degradation by governmental means (Buchanan and Congleton 1998). In Persson and Tabellini's work, in contrast, liberty is absent (as in so much of economics training; see Johansson 2004). Their policy conclusions, therefore, despite the integration of political processes, often are not much different from those of a benevolent dictator. Public choice, however, integrates a calculus of individual liberties and comes therefore to largely different questions, results, and advice.

CONCLUSION

For many economists, James Buchanan was a trailblazer, founding the paradigm of public choice in political economy and revolutionizing the way economists see and analyze the state. Especially upon the basis of his works, the fields of public choice and constitutional political economy emerged, to which a large family of researchers adhere.⁸ For this Buchanan was awarded a Nobel Prize.

As remarkable as it may seem, current works completely ignore this research tradition and assume that it is best to "start from scratch" in political-economic analysis.

We have tried to show that such naïveté does not lead to even rediscovery of the wheel, but rather misses central points. This is epitomized by the fact that the contributions of Persson and Tabellini on constitutional political economy have been unable to provide any meaningful advice for institutional decision – their explicitly declared scientific goal!

Scientific trailblazers open new horizons for research and should be honored for doing so by the academic community. To recognize work as pioneering and important is probably the highest academic compliment a researcher can get, and that is what Acemoglu wanted to confer in his praise for Persson and Tabellini.

Merely following existing trails makes scientific quantum leaps impossible. But to close one's eyes and pretend to be where no one has been before is to harm the people who may use the pioneers' insights to improve their political systems.

⁸ See Dennis Mueller (1985) for the relationship of the public-choice paradigm and the Public Choice Society.

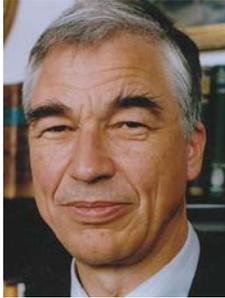
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