Professions, Politicians, and Institutional Reforms

Peter Grajzl and Peter Murrell[*]

Department of Economics and IRIS Center
University of Maryland
College Park, MD 20742
grajzl@econ.umd.edu
murrell@econ.umd.edu

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Abstract

Organized professions are invariably portrayed by economists as solely rent-seeking interest groups. Starting from the observation that the legal professions have been central in institutional development in countries with the highest quality institutions, we challenge this view and develop a model identifying the link between the role of organized professions and the quality of reform. Professional review of interest-group reform proposals solves informational problems when the government's longevity is uncertain. This occurs even though the only direct effect of the profession is the one that usually attracts negative commentary, delay caused by deliberation. The profession's expertise makes the delay credible.

The model predicts how the role of organized professions varies with democracy and political stability, showing that these are substitutes. Professional power and democracy are also substitutes. The predictions cast new light on why 1688 in England and 1789 in France had such different consequences, why the role of professions might be weaker in early post-communist transition than in the USSR, why transitions from autocracy are path dependent, why civil law and common law systems differ, and why post-independence institutions are of higher quality in settler than in extractive colonies. The paper foreshadows a rigorous analysis of civil society's contribution to economic development.

Keywords: Organized professions, legal profession, institutional reform, interest groups, civil society, civil law and common law, colonies, Soviet Union, Louis XIV, Glorious Revolution

JEL Classifications: D72, D82, H10, K40, N40, P51

"Above all, it is now abundantly clear that the history of the legal profession is an important part of the history of the law…." Plucknett (1983 p. 332)

"The history of the legal profession is to a great extent, and despite noisy and incessant protestation and apologetics, the history of efforts by all branches of the profession, including the professoriat and the judiciary, to secure a lustrous place in the financial and social-status sun." Posner (1995, page 33)

I. The Rule Of Law, Professions, and Development

One of the most significant recent developments in economics has been the rediscovery of the central role of the rule of law in economic development (North 1990, La Porta et al.1998, Rodrik, Subramanian, and Trebbi 2002). Despite this new affection for law, economists have not been eager to embrace lawyers, and even less so the organized legal professions (Datta and Nugent 1986, Murphy, Shleifer, and Vishny 1991, Posner 1995). Yet, the rule of law is a human construct, not a natural endowment. Lawyers are the architects and engineers of that construction process, and in every developed country a strong, organized legal profession is central to lawyering.

This paper presents a theory that establishes a role for organized professions in economic development. It shows how a legal profession can improve the quality of institutional reforms. The argument does not rest on some newly identified capability of professions. Rather, it rests on that characteristic of professional involvement in reform processes that has been the subject of much negative commentary–the delay caused by deliberation.

The model predicts how the role of the legal profession varies with levels of democracy and political stability and establishes the direct relevance of these predictions to history and to development policy. The analysis casts new light on historical episodes that have been the object of considerable debate: the old regime, 1789, and Napoleon in France, the Glorious Revolution in England, the USSR and post-socialist transition, the contrasting nature of the English and

French legal systems, and the comparative development of former colonies (North and Weingast 1989, La Porta et al. 1998, Rajan and Zingales 2003a 2003b, Acemoglu, Johnson, and Robinson 2001). The paper elucidates the character of civil society, a popular notion in development policy, which lacks a sound theoretical underpinning (Carothers 1999).

To economists, organized professions are simply interest groups, which are invariably cast in a negative light, from the seminal contributions of the Chicago school (Stigler 1971) and public choice theory (Mueller 1989) to modern political economy (Drazen 2000). Even in austere technical expositions of the theory of public policy, interest groups emerge as noticeable villains (Laffont and Tirole 1993). It is difficult to find an economic theory that highlights any positive contribution from them.

With the organized legal profession viewed as just another rent-seeker, there is a paradox to be resolved, encapsulated in the contrast between the epigraphs to this paper. Those countries adhering most strongly to the rule of law and with the highest quality legal rules (La Porta et al. 1998) have notoriously powerful legal professions. Already in medieval times the English legal profession was a force to be reckoned with, and has rarely been challenged since (Burrage 1997). There, the legal profession was a resolute companion of both the rise of democracy and the institutional revolution accompanying modern development: the legal professions have been builders of the liberal state and society (Halliday and Karpik 1997, p. 16). In contrast, in many former colonies and in transition countries, where law has played a much less significant role, organized legal professions have been virtually irrelevant (Johnson 1973, Waters 2003).

These facts should at least blunt the immediate tendency to assume that the organized professions are simply rent-seekers. As Hayek (1960, pp. 59-60) argues, successful development has often been the "…the accumulated hard-earned result of trial and error; …[the] sum of

experience, in part handed from generation to generation as explicit knowledge, but to a larger extent embodied in tools and institutions which had proved themselves superior…" Could it be that the organized professions are part of this sum of experience, taking a place among those "institutions whose significance we might discover by analysis but which will also serve men's ends without men's understanding them"? (Hayek 1960, p. 60) The tenacity of the legal profession, its central role in the most developed societies, and its coevolution with the rule of law constitute prima facie evidence that the professions have been one of the survivors in that Hayekian process. This simple observation is the major stimulus for our analysis, which uses standard economic theories to isolate the way in which professions contribute to the process of institutional development. Although we examine only the legal profession, our analysis is directly applicable to others, such as accounting.

Our paper focuses on the process of designing and implementing institutional reforms. In that process, the government faces the competing demands of different interests. Interest groups have more information about the effects of proposed reforms than the politicians who form the government. Since interest groups submit self-serving reforms for consideration, the politician faces an informational problem because some reforms are damaging to the politican and others are not. We show that one mechanism to ameliorate this problem is for the government to submit all reform proposals to review by experts in the form of an organized profession. The expertise of the profession adds credibility to the submission decision. The review delays the reform, which will be costly for interest groups, since the government might lose power before implementation occurs. This cost changes the incentives of the interest groups when submitting reforms; they drop initiatives with lower payoffs. Consequently, institutional reforms improve.

The politician is interested in more than the quality of institutional reforms. Interest groups support politicians, contributing funds when submitting reform proposals. A politician weighs these contributions against the pursuit of the general welfare, the latter being more relatively more important when democratic constraints are tighter. Hence, the politician is more likely to use the organized profession when democracy is stronger. Political stability also matters. When government turnover is more likely, the politician's expected value from using the profession to obtain better, but later, reforms declines.

Democracy and stability become substitutes. The politician uses professional review only at high levels of democracy in an unstable environment but at lower levels of democracy when there is stability. This trade-off is particularly important in transitions from autocracy, which often involve the paradox of rising democracy and reduced influence of professional groups. The key to the paradox is that instability usually also rises during such transitions. We use these insights to interpret events in the post-socialist transition and in France in the eighteenth century.

Once a professional group has acquired political power, the politician also has to consider the political costs of challenging the group's status. The power of the profession can change the politician's decision, leading to improved institutional reforms. This effect occurs only in the middle ranges of democracy. When it does, professional power is a substitute for democracy. By matching this prediction to historical events, we show how the power of the English legal profession was a factor during the Glorious Revolution, and how instability and a weak legal profession contributed to different results in France a century later.

Our paper is relevant to the empirical work establishing that common law countries have superior legal rules (La Porta et al. 1998). We show that superior rules arise as a result of the politician's decision to use the organized legal profession, and that the politician makes that

choice more often in common law than in civil law countries, given that legal professions are naturally more powerful in the latter. Our analysis is also consistent with recent empirical work on the colonial origins of institutional development (Acemoglu, Johnson, and Robinson 2001). The weakness of the organized professions, for lack of indigenous professionals, could be one reason why institutional quality was lower in the successor nation states of those colonies that were less hospitable to European settlement.

The paper's argument proceeds by modulating between the model and related facts from history and from studies of professions. Section II examines the defining characteristics of organized professions and presents a brief history of the legal profession. Section III builds upon these facts in presenting the model. Section IV develops predictions under the assumption that the profession is politically powerless, identifying the circumstances under which the profession contributes to the improvement of institutional reforms. These predictions are used to interpret events in Louis XIV's France, in the Soviet Union, and in the transition from autocracy. Section V analyzes how the political power of the profession affects the predictions, showing that professional power and democracy are substitutes. The predictions cast light on the differing developments in England in 1688 and France in 1789, and the later consequences of these developments. Then, we show how the model can aid in the understanding of the differences between common law and civil law systems and between settler and extractive colonies. A concluding section considers implications for future research.

II. Organized Professions: Nature and History

This section summarizes those facts that suggest assumptions for the model and that provide context for interpretation of historical episodes. We examine the nature of organized professions, the special status they play in reviewing reform proposals, and the reasons why

organized professions accumulate unusual amounts of political power. A brief overview of the history of organized legal professions summarizes differences across countries.

II.1 The nature of organized professions

The practice of some occupations requires using a highly specialized body of knowledge, much of which has been created by past practitioners (e.g. legal procedures, accounting rules etc). Practice requires costly study and training, which existing practitioners are best qualified to impart. These two characteristics make an occupation a profession, in the broadest meaning of the term. But we define profession in a stricter sense, invoking the assumption that permission to practice depends upon demonstrated expertise in the specialized body of knowledge.[1]

For two reasons, the profession usually has a single set of policies, rules, and standards. First, efficient coordination between practitioners implies common rules and assumptions, e.g., in legal terms and accounting procedures. Second, consistent standards enhance the credibility of accreditation and discipline. Then, possession of specialized knowledge puts the profession in control of the single set of standards: the profession self-regulates.[2] Formalization of self-regulation confers quasi-governmental status on a professional body.

The organized profession's position in society either results from the state deciding to use the expertise of lawyers or derives from the political power of the profession. In Belgium and Japan (Huyse 1988 p.182; Rokumoto 1988, p.128−9), for example, the special status of the organized profession was bestowed by government and formalized. In England, it was won

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[1] See, for example, Torstendahl and Burrage (1990) and Burrage, Jarausch and Siegrist (1990). Åmark (1990) draws the distinction between lobbying groups and professional lobbies, by noting that the former are open to the general public, while the latter are not. We do not examine why there are formal requirements. These requirements are nearly universal in the areas of professional activity that we examine. But there are exceptions, which provide examples used later in the paper: Waters (2003 p. 95) notes that lawyering in Georgia was 'free for all' during the early 1990s.

[2] "...there can be no doubt that the profession's knowledge about the intricacies of professional practice, the official and unofficial procedures, and the opportunities for manoeuvre and circumvention that these provide, is rarely rivaled. This is an immense source of power since it means that any attempt to change or control professional behavior by instituting new rules and procedures has to be negotiated with residential procedural experts, the practitioners who will actually implement the change." (Burrage, Jarausch and Siegrist 1990, p. 210).

through many years of struggle and informal (Burrage 1989). The autonomy of the Inns of

Court, the bastion of the English legal profession, was based purely on custom. Both Charles II

and James II tried to gain control of the Inns, and failed (Landon 1969, Burrage 1997, pp.150–1).

Margaret Thatcher's government published a Green Paper that "anticipated, even celebrated, the

end of sovereign, self-governing professions", but the government that had successfully followed

through on some of the most radical measures enacted in post-war Britain was forced to retreat

quickly (Burrage 1997 p. 140). This history is not unique to England. The Australian legal

profession was under attack in the 19th century, the 1930's, the 1960s, and the 1970s, but was

unaffected (Weisbrot 1988).

With the organized profession deemed to have monopoly expertise, members of the

profession are accorded special status in advising the government on reforms, especially in areas

that involve the rules and procedures that practitioners use. Given the centrality of law, the legal

profession is pertinent for most institutional reforms. Already in the early 1300's, legal

professionals advised the English king on statutes (Rose, 1998) and "When a commission to

enquire into the possibility of legal reforms was appointed in Parliament, its composition was

fixed at eight members – two justices, two serjeants, and four apprentices [all legal

professionals]" (Plucknett 1983, p. xix 335). The advisory role need not be the exclusive domain

of the monopoly professional association itself: governments can satisfy professional demands

by consulting with prominent sub-groups.[3] The special advisory role might be so automatic that

it becomes formalized. The British Commonwealth legal systems have gone farthest in this

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[3] The role of the American Law Institute in the US provides an example.

process by setting up Law Reform Commissions, dominated by professional lawyers and charged with reviewing all aspects of legal reform.[4]

Among the consequences of professional review, there is one that is universally agreed upon: delaying the political process. The twenty-six-year, lawyer-dominated, gestation period of the first German civil code (Zimmerman 1996, p. 6) stands in contrast to the six months in which the Weimar politicians drafted Germany's first democratic constitution. While Napoleon's constitution of 1799 was created and ratified in two months, it took four years for a commission of old practitioners to craft his civil code, largely reviving the legal framework created under Louis XIV and Louis XV (David and de Vries 1958, p. 13). Examples from more recent times are the eight years for new bankruptcy laws in the US and the UK and the six years for new civil procedure codes in France and Japan, each process beginning with lengthy deliberations by commissions of professionals appointed by politicians (Carruthers and Halliday 2000; Cadiet 1999, p. 315; Hasebe 1999, p. 237). At the very least then, one may assume that professional review results in the delay of normal political processes.

II.2 Characterizing professions

The foregoing assumes that a profession exists, in the sense that there is an occupational group that is capable of self-organization, whose members have sufficient expertise to be used by the politician in an advisory role. This assumption might not hold, as in China after the cultural revolution (Pei 2001, pp. 181-2). Thus, a first element of the characterization of a profession is whether it exists. Once it exists, the profession's status, particularly its relationship with

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[4] For example, in the case of the Manitoba Law Reform Commission (2003): "The Commission's duties are to inquire into and consider any matter relating to law in Manitoba with a view to making recommendations for the improvement, modernization and reform of law…" The commission is "…composed of five members…At least one shall be a judge of the Court of Queen's Bench; at least one shall be a full-time member of the Faculty of Law, University of Manitoba; at least one shall be a barrister and solicitor entitled to practise in the province and who is not in the full-time employ of the Government of Manitoba or any agency thereof; and at least one shall not be a lawyer. One of the members shall be appointed President and he or she must be a lawyer."

government, can take on many different hues. The profession might be coterminous with a government department, as in the early nineteenth century in Prussia (Rueschemeyer 1997; Kocka 1990; Siegrist 1990), or it might be a 'little commonwealth' or 'lesser government' as was the English bar already by the middle ages.[5]

Separation between the government and the profession involves several features, for example, the degree of self-regulatory authority or the strength of the opposition when the government tries to reduce the role of the profession. These are inter-related. Self-regulation is a political prize won by an independent profession, but self-regulation also protects independence, keeping a disciplining technology out of government control. Self-regulation enhances the profession's monopoly on specialized knowledge, which increases the need to involve it during reforms. In fact, in the descriptive literature, the notions of independence, autonomy, and self-regulation are often used as synonyms. Therefore, in constructing the model, we assume that a single variable, political strength, reflects all of these notions. When strength is high, the politician incurs a large, direct cost in ignoring the profession in reform processes. When strength is zero, there is no direct political cost of removing the profession from the reform process.

II.3 A brief history of organized legal professions.

Legal professions first emerged in England in the 12th century (Brand 1992). Lawyers were recognized as having skills that made them competent to give technical advice to the government and they won privileges and status by virtue of their expertise. S*erjeants*, the most prominent members of the early English legal profession, were made officials of the crown. Parliament appointed lawyers as members of a commission inquiring into legal reforms. By

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[5] Halliday and Karpik (1997, p. 354): "[In England] Barristers' independence has its medieval origins in civil society, not the state. Indeed, barristers' autonomy, and those of other 'little commonwealths' in civil society, are entrenched in the unwritten English constitution." Burrage (1988, p. 356): "Charles [II] sought to gain control of all 'lesser governments' in the Kingdom."

1300, judges were chosen from the bar rather than from royal officialdom (Plucknett 1983). The autonomous Inns of Court acquired monopoly control over education and admission to practice. The Inns' independence and power gradually became an element of the unwritten constitution. In the1680s, the crown attempted to challenge the power of the profession, but the result was the "the triumph of the Common Law and lawyers over the King, who had tried to put Prerogative above the law" (Trevelyan 1970, p. 71). Hence the power and independence of the English legal profession were won over a long period, in a process intertwined with the development of the common law. An attack on the constitutional status of the profession was not a viable political option after 1688 (Burrage 1997).

The French legal profession developed to satisfy the specific needs of royal courts, *parlements*, which after their establishment in the late 13th century had full control over the profession (Karpik 1999). In the following centuries, the courts acted partially as agents of the crown, while barristers became counsels of the crown. In contrast to England, the French barristers did not provide the pool for judicial appointments.

France's first self-regulatory body of lawyers, the Paris Order of Barristers, was founded in 1660. The profession's reputation stood high for the next century. In the 1760s, however, the French legal profession became a forum for battles between advocates of different views on the role of the monarchy, including whether the profession itself should be independent (Bell 1997). The internal dissensions, combined with an insecure base of power, led to steadily diminishing authority in the period leading up to the 1789 revolution. In contrast to England in 1688, the French legal profession was in no position to play the role of neutral arbiter in the country's decisive revolutionary event. The National Assembly abolished the Order of Barristers in 1790.

Paradoxically, by pursuing broad political goals rather than narrow professional ones, French lawyers secured the demise of their own organized legal profession.

Napoleon re-established the Order in 1810, as a creature of the state. In the volatile political environment that followed Napoleon's fall, the legal profession went through many vicissitudes, but never succeeded in achieving the prestige that it had acquired under Louis XIV (Karpik 1988). Only with the establishment of the Third Republic (1875) and the arrival of a stable democracy did the bar regain its old freedoms (Bell 1994). But these freedoms were bestowed by the state rather than won by the profession's political action.

The German legal profession also had its origins in the state. Throughout the 18th century, Prussia reformed the size, composition, and education of the profession, in a process that essentially converted lawyers into civil servants. Although the dominance of the government did come under attack in the 19th century, the central role of the state as patron of the profession was never in doubt. During German unification, professional autonomy increased but the formation of a country-wide association of lawyers in 1871 was in significant part a result of state action. In the Second Empire (1871−1918), the Ministry of Justice was the initiator of most legislation affecting the status of the profession (Rueschemeyer 1997).

As the above indicates, the type of legal system is strongly associated with the profession's role (Abel 1995). In civil law countries, the organized profession is usually a creature of the state, has less independence, and has less influence over the judiciary. In common law countries, the profession won its own independence by dint of its technical expertise in a system of justice that relied on decentralized courts and law. Historically, it has been largely autonomous from the state (Halliday and Karpik 1997, pp. 5, 354-5).

Colonial status also matters. In those British colonies where settlers were numerically dominant, such as Australia, legal professions followed the English path, attaining the same degree of autonomy and authority (Weisbrot 1988). In contrast, in Africa and Asia, autonomous, independent professions failed to emerge because settlement by the colonizers was less attractive and the indigenous population was excluded from legal training. There was no basis for post-colonial professional power (Johnson 1973). In Kenya or in India, for example, no powerful independent profession ever emerged to exert a major influence (Ross 1992, Gandhi 1988).

Lastly, it is important to emphasize that while there are many examples of autocrats who oppose existing professions, powerful autocrats do not always take this stand. The French Order flourished under Louis XIV; Napoleon reestablished it after its demise in revolution. Lawyer groups had some (highly constrained) independence in Soviet times (Krause 1991). Moreover, transition from autocracy does not automatically translate into increased status for the profession, and might even lead to the reverse, as was the case in some post-Soviet republics (Waters 2003).

III. A Model of Professions in the Reform Process[6]

The model uses the phrasing of interest group politics in a democracy, but it is equally applicable to autocracies. We use the terminology of competing politicians, elections, interest groups, and campaign contributions, but we could also have referred to an autocrat facing factions, receiving tribute, and deliberating on the possibility of being usurped.

III.1 The structure of reform programs

A fundamental institutional reform is under consideration. Reversal in the medium-term is impossible, and at most one reform program can be enacted.[7] Politicians and interest groups

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[6] Elements of the model are derived from Dewatripont and Maskin (1995) and Qian (1994), which focus on finance and on soft-budgets.

compare reform programs to the status quo. Those directly affected fall into two interest groups, α and β, which can devote resources to influence the government's decision.

Reform programs comprise combinations of individual reforms. Reform j is completely characterized by $B_{\alpha j}$ and $B_{\beta j}$, the benefits to α or β from implementation. Classifying reforms according to whether α or β win or lose and whether the sum of payoffs is positive or negative, there are six distinct generic types. Figure 1 portrays these six, the line TT separating reforms with positive aggregate payoff from those with negative payoff. With reforms characterized by payoffs to α or β, all reform programs comprise from one to six reforms, at most one from each type.[8] Hence, in the following, $j = 1,\ldots,6$.

Reform 6 is Pareto inferior to the status quo and can be dropped from the analysis. Reform 1 is Pareto improving and is always adopted. As the presence or absence of reform 1 does not alter the qualitative predictions of the model, it can also be omitted.[9] Since reforms 4 and 5 are mirror images of 2 and 3, we first focus on 2 and 3, later bringing 4 and 5 back into the picture as required.   The payoff structure for reforms 2 and 3 is summarized as follows:

	Interest group α	Interest group β	Aggregate (α and β)
Reform 2	$B_{\alpha 2}>0$	$B_{\beta 2}<0$	$B_{\alpha 2}+B_{\beta 2}<0$
Reform 3	$B_{\alpha 3}>0$	$B_{\beta 3}<0$	$B_{\alpha 3}+B_{\beta 3}>0$

Reform 2 is redistributive with a deadweight loss. Reform 3 also redistributes but with a welfare gain as a consequence of introducing more effective institutions. An example of reform 2 might be a change in corporate law that makes financial markets less efficient, aiding dominant owners by reducing protections for minority shareholders. Reform 3 could be an improvement

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[7] To emphasize, our model is not relevant to short-term policy. Once the incumbent has had a chance to implement a reform, the country enters a new era with different economic circumstances and altered political configurations. Then, the question of which reforms to undertake is posed anew.

[8] Two reforms of type j combined are equal to one reform of type j.

[9] A complete presentation of the model including reform 1 is available from the authors on request or downloadable from http://www.bsos.umd.edu/econ/murrell/SupplementtoProfessionsPoliticiansInstitutionalReforms.pdf .

in contract law that facilitates the use of collateral, aiding new businesses, but reducing entry barriers that protect existing firms. Both measures could belong in an omnibus finance-oriented institutional reform program, underscoring the relevance of the model to situations where packages of related reforms are combined into one program.

The structure of payoffs captures a fundamental aspect of institutional reform: one interest group favors reform programs with several sub-components, some contributing to general welfare and some reducing general welfare. The central problem of institutional reform is to find a screening process that fosters adoption of the efficiency-enhancing components and reduces the likelihood of adopting wasteful redistributions. To ensure that our model focuses on this central problem, we introduce two assumptions concerning the nature of α's favored reform program. First, assume that the redistributions in reforms 2 and 3 are of equal scale:[10]

Assumption A1. $B_{\beta 2}=B_{\beta 3}$.

Second, assume that α's favored program reduces the general welfare:

Assumption A2. $|B_{\alpha 2}+B_{\beta 2}|>B_{\alpha 3}+B_{\beta 3}$. [11]

We do not argue that A.1 and A.2 always hold, but rather that these assumptions focus the analysis on the central problem of institutional reform. Without them, there might be no conflict between α's objectives and finding an improvement in the general welfare.[12]

III.2 Interest groups, politicians, society

There are two rival politicians, A and B. The one forming the government has the power to implement reforms. The impetus for particular reforms comes from interest groups submitting

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[10] For brevity, the analogous assumptions for reforms 4 and 5 are omitted, but implicitly imposed.

[11] Equivalently $B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3} < 0$. To understand the intuition of A.2 note that if it does not hold, $B_{\alpha 3}$ can be infinite. To see this, let $B_{\beta 3}=B_{\beta 2}= -c$, $0<c<\infty$. Since $B_{\alpha 2}+B_{\beta 2}<0$, then $B_{\alpha 2}\in(0,c)$. If $|B_{\alpha 2}+B_{\beta 2}|<B_{\alpha 3}+B_{\beta 3}$, then $B_{\alpha 3}>|B_{\alpha 2}+B_{\beta 2}|-B_{\beta 3}= -B_{\alpha 2}+2c$, so $B_{\alpha 3}=\infty$ is consistent with the model. With A2, $B_{\alpha 3}$ is bounded by $|B_{\alpha 2}+B_{\beta 2}|-B_{\beta 3}= -B_{\alpha 2}+2c<\infty$.

[12] Unless a distributional consideration is introduced.

programs. The government accepts a submission only if the interest group pays a lobbying fee: Ψ_{ik} is the payment when the government of politician k accepts a submission of a single reform from interest group i.[13] The politician is at an informational disadvantage and cannot recognize reform types when they are submitted. However, politicians do understand the model and recognize which interest group lobbies.

Given the structure of payoffs, α and β are in opposition. Hence, it is natural to view enactment of reforms 2 or 3 as inconsistent with enactment of 4 or 5.[14] One politician cannot help both groups. We build this formally into the model's structure by assuming that each interest group is aligned with a different politician:[15]

Assumption A3: For all j such that $B_{\alpha j}>0$, $\Psi_{\alpha A}<B_{\alpha j}<\Psi_{\alpha B}$.

For all j such that $B_{\beta j}>0$, $\Psi_{\beta B}<B_{\beta j}<\Psi_{\beta A}$.

These assumptions fit the politics of longer-term institutional reform, where different visions of the future are in contention and the ideologies of politicians restrict their actions. Then, interest groups oppose each other in a manner that aligns with political ideologies and politicians could not credibly solicit support from all groups. The resultant structure of lobbying

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[13] If interest group α wants to submit both reforms 2 and 3 to A, for example, it must pay $2\Psi_{\alpha A}$.

[14] The assumption of direct conflict is common in the analysis of the effect of interest groups on policy. Examples from Grossman and Helpman (2001, sections 4.2.2, 8.4, and 9.3) are multiple lobbies when favored outcomes are on either side of the politician's ideal, when a business lobby wants lower tariffs and higher export subsidies than does a labor group, and when groups want to move in opposite directions from the status quo. Drazen (2000, Sections 3.7, 13.5) examines situations where redistribution is from one group to another and where special interest groups can block reforms in transition countries. Mueller (1989, pp. 108, 230, 245, 247, 279, and 453) offers many examples–liberal versus conservative reforms, rent-seeking for regulations, monopolies, tariffs, changes in the structure of regulatory processes, the supply of government output, macroeconomic policy, and agricultural programs.

[15] A3 is formulated in strong terms to simplify the exposition. It is sufficient, not necessary. Its key implication is that the lobbying equilibrium within any time period results in only one of the following: (i) no lobbying or (ii) lobbying for 2 or 3 or both or (iii) lobbying for 4 or 5 or both. This implication is innocuous given that reforms 2 and 3 are contradictory with 4 and 5. Many different assumptions could lead to the same implication, for example, directly assuming that interest groups lobby against reforms they do not like or directly assuming that enactment of 2 or 3 involves repeal of 4 and 5.

Assumption A3 can be interpreted as a *strong alignment* assumption since the lobbying fee charged by a politician to the non-aligned interest group exceeds the benefit from the reform to that interest group. The model's qualitative features do not change with a *weak alignment* assumption, where the lobbying fee charged by a politician can be marginally smaller than the benefit from the reform to the interest group, that is, for all j such that $B_{\beta j}>0$, $\Psi_{\beta B}<\Psi_{\beta A}<B_{\beta j}<\Psi_{\beta A}+\epsilon$ and for all j such that $B_{\alpha j}>0$, $\Psi_{\alpha A}<\Psi_{\alpha B}<B_{\alpha j}<\Psi_{\alpha B}+\epsilon$, where $\epsilon>0$ is arbitrarily small.

(α lobbies only A and β only B) is consistent with empirical work on campaign contributions, which shows alignment between the objectives of donors and politicians (Poole and Roomer 1985; Poole, Romer, and Rosenthal 1987). This structure is also consistent with empirical work that shows that contributions influence politician's decisions (Stratmann 1991 1995 2002).

Aggregate welfare is the sum of payoffs to the two interest groups:

Assumption A4: Aggregate welfare from implementing reform j is $B_{\alpha j}+B_{\beta j}$

Note that the lobbying fee is a pure transfer and does not appear in aggregate welfare.[16]

Politician k's payoff from accepting the proposal of reform j from group i and implementing it is a weighted average of aggregate welfare and lobbying income:

Assumption A5: The politician's payoff from j is $\lambda(B_{\alpha j}+B_{\beta j})+(1-\lambda)\Psi_{ik}$, $\lambda\in(0,1)$.[17]

λ is common knowledge. It is a measure of democracy: the higher is λ the more the politician must follow general welfare. A non-benevolent dictator's λ is close to 0 and then Ψ_{ik} reflects the tribute the dictator extracts from subjects.

III.3 Politicians and the profession

There exists an organized profession having the required expertise and authoritative standing to review, to comment on, and to stimulate public debate about proposed reform programs. Before interest groups submit proposals, the government decides whether such review is to be standard. The review process delays the passage of reform programs.

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[16] This way of accounting for social welfare is consistent with Shleifer and Vishny (1994), Persson and Tabellini (2000, Chapter 7), Persson (1998), Grossman and Helpman (1994) and Grossman and Helpman (2001), Chapters 7 and 8.

[17] λ does not depend on the politician's type, k. This specification of the politician's payoff implicitly assumes that the politician does not attach any value to holding office per se. This form of the objective function is consistent with the political economy literature on campaign contributions; see Persson and Tabellini (2000, Chapter 7), Persson (1998) and Grossman and Helpman (2001, Chapters 7 and 8). If $\lambda(B_{\alpha j}+B_{\beta j})+(1-\lambda)\Psi_{ik}$, where $\lambda\in(0,1)$, is rewritten as $\lambda(B_{\alpha j}+B_{\beta j}-\Psi_{ik})+\Psi_{ik}$, then the politician's objective function has the interpretation of the politician valuing a dollar in his hands more highly than a dollar in the hands of the public. Observe also that maximizing $\lambda(B_{\alpha j}+B_{\beta j})+(1-\lambda)\Psi_{ik}$, where $\lambda\in(0,1)$, is equivalent to maximizing $\theta(B_{\alpha j}+B_{\beta j})+\Psi_{ik}$, where $\theta\equiv\lambda/(1-\lambda)>0$. See also Grossman and Helpman (1994) for a discussion of the politician's objective functions.

There are two elements to this assumption, that delay is the only effect of the review and that the government can build a credible, politically persuasive justification for the review by referring to the prestige and status of the organized profession. Section II presents the background on the second aspect, arguing that the prestige and status of the profession on technical matters naturally flows from its monopoly expertise in a specialized body of knowledge. Sometimes this is also backed by the organized profession's political power.

Professional involvement obviously does more than delay: the review process also generates information, but this is on technicalities, not on who gains and who loses, and by how much.[18] Hence, professional review does not directly reveal the payoffs from each separate element of a submitted reform program. Nevertheless, deliberation on those technicalities involves a time-consuming process, which leads us to our minimal assumption: professional review slows passage of reforms.

The consequence of delay is that a particular government might run out of time before being able to implement a submitted reform program. The incumbent might lose an election and be replaced by the other politician.[19] Then the interest groups have to incur lobbying costs again if they still want their reforms to be considered for implementation.

III.4 The timeline

There is a single reform process beginning when one politician, say A, takes the reins of power. The model covers two sub-periods, A's initial incumbency and the following time interval when either A or B forms the government. The decision on whether to use professional review is made at the beginning of A's incumbency and holds for the whole reform process. The

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[18] Examining this process would entail modeling the capabilities and incentives of the organized profession and consideration of its interaction with politicians and interest groups. These are important issues, but extend far beyond present concerns.

[19] We do not model the details of the process of change of power.

irreversibility of this decision within the time-frame of the model reflects the view that once a single reform process has begun, it would be difficult for a politician to change that process.

Let $p \in (0,1)$ be the known, exogenous probability that A stays in power in the second period. p is a measure of political stability.[20] Values close to 0 correspond to chaotic, often revolutionary, environments, while values close to 1 reflect stagnation rather than stability. Hence, p is not an indicator of democracy. While a p in the middle range can be associated with democratic regimes, a p close to 1 occurs only under autocracy. A p close to 0 could occur under either democracy or autocracy.

In both periods, each interest group decides whether or not to submit a proposal without knowing what the other is doing. The government then decides whether to accept the proposal. If it does, it receives the submission fee and if there is no professional review the measure is immediately passed. If there is professional review, the measure is debated until the second period. Then, if A remains in office, the reforms submitted in period 1 are implemented. If B takes over, each interest group decides again whether to submit a proposal. If the reforms submitted in period 2 are the ones that already passed through professional review in period 1, they are implemented. If the reforms submitted in period 2 differ from the ones submitted in period 1, they pass immediately if there is no professional review,[21] but are delayed beyond the end of this reform process if there is professional review.[22] Figure 2 summarizes the timeline.

IV. When Do Politicians Use Powerless Professions?

We begin with the simpler form of the model, when a profession exists, but the politician suffers no special costs in ignoring it. This matches the circumstances of autocracy and the early

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[20] Our assumptions on p exactly match those in Persson and Tabellini's (2000, Section 13.3) analysis of political instability.

[21] In fact, this sequence of events does not appear in any equilibrium of the model.

[22] This assumption closes the model without an infinite horizon. It is equivalent to focusing on a single reform process under A.

phases of democracy. Section V introduces the political power of the profession, matching later

developments in a country's history, after the accumulation of power by a profession.

Reform 3 is always desirable for politician A.[23] Reform 2 is undesirable for A if

$\lambda(B_{\alpha 2}+B_{\beta 2})+(1-\lambda)\Psi_{\alpha A}<0$, or, equivalently, if $\lambda>\underline{\lambda}$, where $0<\underline{\lambda}=\Psi_{\alpha A}/[\,|\,B_{\alpha 2}+B_{\beta 2}\,|+\Psi_{\alpha A}]<1$. $\underline{\lambda}$

is therefore the lowest level of democracy at which the politician's consideration of the general

welfare has any effect: for $\lambda<\underline{\lambda}$, A would knowingly accept aggregate-welfare-reducing reform 2.

When $\lambda>\underline{\lambda}$, A has an informational problem. If there is no screening mechanism, A either

approves all reforms or none. A approves all reforms if and only if

$$[\lambda(B_{\alpha 2}+B_{\beta 2})+(1-\lambda)\Psi_{\alpha A}]+[\lambda(B_{\alpha 3}+B_{\beta 3})+(1-\lambda)\Psi_{\alpha A}]>0,$$

or, equivalently, if $\lambda<\bar{\lambda}$ where $\underline{\lambda}<\bar{\lambda}=\Psi_{\alpha A}/\{\Psi_{\alpha A}+\frac{1}{2}[\,|\,B_{\alpha 2}+B_{\beta 2}\,|-(B_{\alpha 3}+B_{\beta 3})]\}<1$.[24] $\bar{\lambda}$ is therefore

the lowest level of democracy at which the general welfare dominates A's decisions.

In sum,[25] when $\lambda<\underline{\lambda}$, A likes reform 2, accepts all reforms, and does not face an

informational problem. When $\underline{\lambda}<\lambda<\bar{\lambda}$, A accepts all submitted reform programs (unless a

program is known to comprise only 2), but faces an adverse selection problem. When $\lambda>\bar{\lambda}$, A

rejects all submitted reform programs (unless a program is known to comprise 2 only), but still

faces an informational problem.

The model's basic parameters are p and λ, the levels of stability and democracy. Figure 3

summarizes the analysis as it proceeds, depicting how the model's equilibria vary with (p, λ).

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[23] That is, there does not exist a $\lambda\in(0,1)$ such that $\lambda(B_{\alpha 3}+B_{\beta 3})+(1-\lambda)\Psi_{\alpha A}<0$.

[24] Observe that $\lambda<\bar{\lambda}$ implies that *any* politician in power accepts any reform program, submitted by α or by β. A might in principle (but not in equilibrium) receive reforms submitted by β in period 1. If A accepts any reform submitted by α, then A accepts any reform submitted from β, since β's lobbying fee is higher and 4 and 5 are symmetric to 2 and 3.

[25] This summary holds only as long as the politician does not use a mechanism that *ex-ante* screens out the undesirable reform.

IV.1 Baseline equilibria: when the profession does not exist

First consider equilibria in a baseline case, when an organized profession does not exist. Without the profession, with A in power, and with $\lambda < \bar{\lambda}$, α lobbies immediately for reforms 2 and 3 and A implements them both in the first period, ending the reform process. When $\lambda > \bar{\lambda}$ neither α nor β lobby for reforms because A rejects all proposals.[26] Denote social welfare (compared to the status quo) when there is no profession as W^-. Hence,

$$\begin{aligned} W^- &= (B_{\alpha 2}+B_{\beta 2})+(B_{\alpha 3}+B_{\beta 3}) < 0 & \text{when } \lambda < \bar{\lambda} \\ &= 0 & \text{when } \lambda > \bar{\lambda}. \end{aligned}$$

Similarly, let V^- be politician A's payoff when there is no profession:

$$\begin{aligned} V^- &= \lambda[(B_{\alpha 2}+B_{\beta 2})+(B_{\alpha 3}+B_{\beta 3})]+(1-\lambda)2\Psi_{11} > 0 & \text{when } \lambda < \bar{\lambda} \\ &= 0 & \text{when } \lambda > \bar{\lambda}. \end{aligned}$$

Hence, $\lambda < \bar{\lambda}$ provides the more interesting case, since the politician would then want to implement the proposed reform, which would reduce aggregate economic welfare. In the case of $\lambda > \bar{\lambda}$, there is no such conflict between politician and society.

IV.2 Equilibria when the profession exists and the politician's self interest matters ($\lambda < \bar{\lambda}$)

When $\lambda < \bar{\lambda}$, A is faced with an informational problem and approves all submitted reforms, the standard adverse selection scenario.[27] Then, the equilibrium of the reform-lobbying game between α and β is specified by the following:[28]

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[26] Given that at most one reform is implemented and the symmetry between α and A and β and B, nothing will occur in the second period, whoever is in power.

[27] See, for example, Dewatripont and Maskin (1995) and Qian (1994).

[28] Proofs of all propositions are in the Appendix.

Proposition 1. Assume that $\lambda < \bar{\lambda}$, A is in power, and there is professional review. α never lobbies for reforms 4 and 5. In period 1, α lobbies for 3 if and only if $p \geq \Psi_{\alpha A}/B_{\alpha 3}$ and also for 2 if and only if $p \geq \Psi_{\alpha A}/B_{\alpha 2}$. In period 2, α does not lobby for any reform regardless of which politician is in power. Interest group β never lobbies for reforms.

Therefore, in equilibrium, β remains inactive (i.e. never lobbies for any of the reforms). This conclusion is crucially related to our assumption that all Pareto-improving reforms have already been implemented. Had we included reform 1 in the analysis, the interest groups would behave strategically when lobbying for its implementation and interest group β would actively engage in lobbying activity in equilibrium. It is therefore valid to view β as an interest group (as opposed to the general public, say).[29]

Let W^+ be social welfare with professional review. Proposition 2 immediately follows:

Proposition 2. When $\lambda < \bar{\lambda}$, then:
$$W^+ = \begin{cases} 0 & \text{when } p < \Psi_{\alpha A}/B_{\alpha 3}, \\ p(B_{\alpha 3}+B_{\beta 3}) & \text{when } \Psi_{\alpha A}/B_{\alpha 3} \leq p < \Psi_{\alpha A}/B_{\alpha 2}, \\ p(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3}) & \text{when } p \geq \Psi_{\alpha A}/B_{\alpha 2} \end{cases}$$
$W^+ > W^-$ for all p: aggregate welfare is *always* higher with the profession than without it.

The reason why the profession is advantageous to society varies with levels of stability. If p is low, professional review dissuades α from lobbying because A's survival is too uncertain to repay lobbying costs. If p is high, review and delay reduce the probability of implementation of a bad reform program (2 and 3). For mid-range p's, the profession solves society's informational problem: α lobbies only for reform 3. Therefore, it is in this mid-range that use of the profession makes its strongest contribution, suggesting variation across countries in the value-added from the use of an organized professions.

The contribution of the profession identified in Proposition 2 is only a potential one, contingent on whether the politician decides to implement professional review. When $\lambda < \bar{\lambda}$, it

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[29] Proof of these points available on request.

would not be surprising to find situations where the politician's objectives conflict with those of the general population. Denote the politician's payoff with professional review as V^+. The following proposition relates the difference between V^+ and V^- to the values of p and λ:

Proposition 3. Assume $\lambda<\bar{\lambda}$. Let $p^*(\lambda)\equiv 1+[\lambda(B_{\alpha 2}+B_{\beta 2})+(1-\lambda)\Psi_{\alpha A}]/[\lambda(B_{\alpha 3}+B_{\beta 3})]$.
1. With professional review, the politician's welfare is given by:

$$V^+=\begin{cases} 0 & \text{if } p<\Psi_{\alpha A}/B_{\alpha 3} \\ \lambda p(B_{\alpha 3}+B_{\beta 3})+(1-\lambda)\Psi_{\alpha A} & \text{if } \Psi_{\alpha A}/B_{\alpha 3}\leq p<\Psi_{\alpha A}/B_{\alpha 2} \\ \lambda p(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+(1-\lambda)2\Psi_{\alpha A} & \text{if } p\geq\Psi_{\alpha A}/B_{\alpha 2} \end{cases}$$

2. The politician's gain or loss from professional review has the following properties:
   $V^+ < V^-$ if $p<\Psi_{\alpha A}/B_{\alpha 3}$
   $V^+ < V^-$ if $\Psi_{\alpha A}/B_{\alpha 3}\leq p<\Psi_{\alpha A}/B_{\alpha 2}$ and $p< p^*(\lambda)$
   $V^+ > V^-$ if $\Psi_{\alpha A}/B_{\alpha 3}\leq p<\Psi_{\alpha A}/B_{\alpha 2}$ and $p> p^*(\lambda)$
   $V^+ > V^-$ if $p\geq\Psi_{\alpha A}/B_{\alpha 2}$
3. The line $p^*(\lambda)$ in Figure 3 is downward sloping, convex to the origin, intersects $p=\Psi_{\alpha A}/B_{\alpha 3}$ below $\bar{\lambda}$, and intersects $p=\Psi_{\alpha A}/B_{\alpha 2}$ above $\underline{\lambda}$.

Proposition 3 clearly establishes that the political decision to use the profession is related to (p, λ) in a straightforward way because of the properties of $p^*(\lambda)$, as embodied in Figure 3. Before discussing the this relationship, we find the remaining equilibria of the model by examining outcomes when $\lambda>\bar{\lambda}$.

IV.3 Equilibria when the profession exists and the politician's aims coincide with society's ($\lambda>\bar{\lambda}$)

With professional review, if $p<\Psi_{\alpha A}/B_{\alpha 3}$, α does not lobby because the probability of A's keeping power is not high enough to repay lobbying costs. For $p\geq\Psi_{\alpha A}/B_{\alpha 2}$, A rejects all submitted reforms and therefore α does not lobby for reforms. Hence, when either $p<\Psi_{\alpha A}/B_{\alpha 3}$ or $p\geq\Psi_{\alpha A}/B_{\alpha 2}$, $W^+ = V^+ = 0$ (= $W^- = V^-$). It is only in the mid-ranges of p that A approves a submitted reform program. When $p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$, lobbying for reform 3 only is beneficial for α, while lobbying for a reform program consisting of 2 and 3 is not. Since A knows α's incentives and reform 3 is desirable for A, it is approved. Therefore, $W^+ = p(B_{\alpha 3}+B_{\beta 3}) > W^- = 0$ and $V^+ = \lambda p(B_{\alpha 3}+B_{\beta 3})+(1-\lambda)\Psi_{\alpha A} > V^- = 0$.

IV.4 Professions under autocracy and transitions to democracy

Figure 3 summarizes the central results. The profession, if used, always promotes the general welfare, but is only used if it is to the politician's advantage ($V^+ \geq V^-$). At high levels of either democracy or stability, the politician invokes professional review. As either democracy or stability fall from their highest levels, they become substitutes. At many levels of democracy, the profession is used only if political stability is high enough. It is because professional review solves the adverse selection problem that there is a trade-off between democracy and stability. Hence, this trade-off, the politician's informational problem, and the role of the profession are intimately related.

Raising the status of the profession is consistent with autocracy, so long as there is also a high level of stability. When democracy is low and stability is high, $V^+ > V^-$, and an absolute autocrat who brooks no independence would still use the profession.

France under the old regime provides an outstanding example. During the century of domestic political stability initiated by Henri IV (1589-1610), the French legal profession rose in status and power. With Louis XIV (1643-1715) the very symbol of absolute monarchy, one does not associate his era with the development of decentralized institutions. His treatment of the Huguenots showed that independent views were not to be valued for their own sake. But, France was very stable, and independent entities could provide a useful service to the monarch. The first bar association, the Order of Barristers, was formed in 1660 and won a monopoly over a range of legal activities while controlling recruitment and discipline. "In the second half of the 1660's, Louis XIV issued his great ordinances on civil procedure and criminal law, and this overhaul of large parts of the French legal code put a premium both on legal expertise, and on the sort of back-breaking intellectual labor that barristers prided themselves on. Chancellor

Lamoignon himself convened a special committee of barristers to work on the projects.…mere

barristers sat at the same table with the chief magistrates of the *parlement*. After the project had

been completed, the king himself thanked the Order for its services (Bell 1994, pp. 55−6)."

Therefore our model's predictions are consistent with the observation that the prestige of

the French legal profession stood high in the early part of the 18th century. De Tocqueville

(1955, pp. 115-6) commented about these times that: "For though as far as administration and

political institutions were concerned France had succumbed to absolutism, our judicial

institutions were still those of a free people." Had revolution occurred at this time, when the

legal profession had gained some power and was politically neutral, perhaps the evolution of the

rule of law in France would have taken a different course than it did. But the strength of the

legal profession declined over the 18th century. We postpone discussion of this part of the story

until Section V, when the political power of the profession is introduced, facilitating comparison

with English developments.

The role of lawyers under Soviet rule and in the transition can also be elucidated using our

predictions concerning the use of a politically powerless profession. While the communist

revolution in 1917 destroyed the pre-revolutionary Russian legal profession (Shelley 1991,

pp. 65−6), the return of stability under Stalin was accompanied by a recognition that lawyers

would play a role in the Soviet state. The complex mechanisms of state management entailed a

role for the legal profession (Waters 2003, p. 41). The legal profession was given a degree of

independence that was remarkable within that system (Shapiro 1961). Stalin allowed the

advokatura (defense lawyers) to form a "British barrister-style set of *collegia* or lawyers' self-

controlled practice groups, self-funding and attached to each major court.…private, petit

bourgeois 'mini-guilds' within the state structure" (Krause 1991, 16−8), which were subject to far

less state control than other types of collectives (Shapiro 1961). Even in the Stalinist state, "professional pride emerged among many lawyers, as they had a claim to expertise based on specialized knowledge" (Shelley 1991, 66) and their influence and autonomy increased over time (Krause 1991, 18). The *advokatura* provided a rare example of a profession that was outside all administrative structures and was to some degree self-governing (Huskey 1982).

The Soviet legal profession did affect policy in the way depicted in our model. One well-documented case is that of criminal law and criminal legal-procedure reform in the years of destalinization (McCain 1982). In this process, legal scholars and practitioners were invited to debate the many proposals that surfaced after the Communist Party announced that new legal codes would be adopted. This resulted exactly the process of delay included in our model, a two-year "elaborate ritual of consultation with legal specialists" (McCain 1982, p. 6), during which lawyers played important roles in the process of drafting and re-drafting the proposed codes. "Because the political leadership needed the technical skills of lawyers in producing new criminal and procedural statutes, the drafting process was designed to involve Soviet jurists, and in many instances they predominated on the legislative committees." (McCain 1982, pp.19-20). The special place of the legal profession continued throughout the Soviet period, including involvement of the *advokatura* itself in the lengthy review of drafts of the 1979 Law on the A*dvokatura* (Huskey 1982, p. 204). Although the role of the legal profession in Soviet society was minor compared with its role even in medieval England, the existence of any professional influence in a totalitarian state is surprising, but consistent with our prediction that an unchallenged dictator can find professions useful. The Soviet Union before Gorbachev could be placed at point S in Figure 3.

The role of the legal professions was enhanced under Gorbachev, with lawyer groups influencing the development of criminal law, playing a more central role in legislative drafting, and gaining further tools of self-regulation (Jordan 1998). The Union of Advocates of the USSR was established in early 1989, the first independent union to be formed since 1917 (Jordan 1998, p. 770). Because the early Gorbachev years were a time when democracy rose faster than instability, this is thoroughly consistent with the model's predictions.

In contrast, in early transition the continued rise of democracy was accompanied by increases in political instability. In Russia in the 1990s, the power of the existing legal professions declined: they sought the state's help in warding off new competition rather than increasing their own self-regulation (Jordan 1998). Their status still remained governed by a Brezhnev-era law. Thus, in the instability of the early Yeltsin years, the rise in democracy was not sufficient to encourage politicians to make greater use of the legal profession. The developments were even more stark in the new republics, such as Georgia, where instability dominated. Legal groups lost all power and lawyering became a free for all. Politicians paid little attention to the profession and it was scientists and literary figures, and not legal experts, who dominated the process of drafting a constitution (Waters 2003 pp. 57–8). The pattern of events is consistent with our model's predictions. While the Soviet regime found some use for the legal profession, the higher levels of democracy of the early 1990s did not translate into greater use of the profession, because they were more than countered by large increases in political instability. Early transition in Georgia, and perhaps even in Russia, is at G in Figure 3.

In Poland, where much higher levels of democracy were quickly attained and instability declined, the legal profession was soon prominent. Law professors and legal professionals were regularly appointed to task forces that were charged with drafting new laws (Gostynski and

Garfield 1993) The use of recognized legal experts to review proposed laws could result in the delay of economic reforms (Rich 1997). The higher levels of both stability and democracy would place Poland at point P in Figure 3. In Georgia, it was only in the late 1990s, with the appearance of greater political stability, that lawyers played a more important role. Lawyer groups were now chosen to carry out legislative drafting projects and were able to play a role in pressing the government to pay more attention to the rule of law (Waters 2003, pp. 100, 168–9).

The model's interpretation of these historical developments provides insights into the development of civil society in the transition to democracy. Whether civil society groups, such as professional organizations, benefit from transition depends upon the balance between changes in democracy and instability. When the rise in democracy more than counters the increase in instability, as in Poland, politicians enhance professional status and the profession builds upon any prestige it held under the old regime. When the rise in instability dominates, as in Georgia, politicians ignore the profession, eroding any professional power inherited from the old regime. The early years of transition are therefore crucial: the maintenance of stability as democracy rises can lead to reinforcement of the role of the profession and improved institutional reforms. This increases the political power of the profession. Then, as the next section shows, the enhanced political power can encourage the politician to use the profession when the country is at a point such as G in Figure 3. These interactions increase the degree of path dependence in transition.

V. When Do Politicians Use Professions that Have Political Power?

Often professions are entrenched and a politician bears significant extra political costs in removing a profession from its advisory role. These political costs increase with the level of democracy. A powerful autocrat can purge a profession at whim. For example, in April 1933, Hitler intimidated the board of the German lawyers association (DAV) into resigning and the

DAV was formally abolished by the end of that year (Jarausch 1990, p. 118). In contrast,

professions can vanquish even the most determined democratic politician. In the late 1980s, the

Thatcher government retreated from an attempt to reform the English legal profession and reduce

its autonomy (Burrage 1997, pp. 137–40). Hence, we model the political costs of removing the

profession from its advisory role as $c\lambda$ ($c>0$), which is subtracted from the politician's payoff in

Assumption A5. c quantifies the political strength of the profession: c is smaller in countries

where the profession is new or where it is a tool of the government.[30]

   The politician would like to keep the profession in its advisory role if at the prevailing

(p,λ), $V^- - V^+ \leq c\lambda$ and would like to remove the profession when $V^- - V^+ > c\lambda$. For a given (p,c),

define $\lambda^T(p,c)$ as the least value in $[0,1]$ such that for all $\lambda>\lambda^T(p,c)$, the politician keeps the

profession. Then, since $V^- - V^+$ is non-increasing in λ at any given p, the politician removes the

profession if $0 < \lambda < \lambda^T(p,c)$. The following proposition establishes that a unique $\lambda^T(p,c)$ exists

for each (p,c) and characterizes the effect of p on λ^T:

> Proposition 4. For a given $c\geq 0$,
> (i) $\lambda^T(p,c)$ is a function with points of discontinuity at $p = \Psi_{\alpha A}/B_{\alpha 2}$ and at $p = \Psi_{\alpha A}/B_{\alpha 3}$.
> (ii) $\lambda^T(p,c)$ is constant for all $p\in (0, \Psi_{\alpha A}/B_{\alpha 3})$ and attains its maximum in that interval.
> (iii) $\lambda^T(p,c)$ is decreasing and convex in p for $p\in [\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$.
> (iv) $\lambda^T(p,c) = 0$ for $p\geq\Psi_{\alpha A}/B_{\alpha 2}$.

The next proposition shows how changes in the strength of the profession, c, affect outcomes:

> Proposition 5. If $c^1>c^2\geq 0$, then
> (1) For $p<\Psi_{\alpha A}/B_{\alpha 2}$, $\lambda^T(p, c^2) > \lambda^T(p, c^1) > 0$. For $p<\Psi_{\alpha A}/B_{\alpha 3}$, $\lambda^T(p, c^2) - \lambda^T(p, c^1) > 0$ does
>   not depend on p. For $p\in [\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$, $\lambda^T(p, c^2) - \lambda^T(p, c^1) > 0$ is decreasing in p.
> (2) For $p\geq\Psi_{\alpha A}/B_{\alpha 2}$, $\lambda^T(p, c^2) = \lambda^T(p, c^1) = 0$.

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[30] The linear form is chosen to simplify the exposition, but is a far stronger assumption than necessary for our results. For example, all of the results of our paper hold if political costs are an increasing function of λ and the first derivative of political costs with respect to λ increase with the profession's political strength. Even these assumptions are far stronger than necessary.

Figures 4 and 5 summarize these two propositions, highlighting the interaction between stability, democracy, and professional power. The power of the profession does not change the politician's decisions (and consequently aggregate welfare) at high levels of stability: the profession is used even by autocrats facing a weak profession. As levels of stability decrease, levels of democracy become more important. λ affects political decisions and there is a widening of the interval of λ in which professional power makes a difference. This result appears clearly in Figure 5, which is Figure 3 modified to show the set of (p, λ) for which professional political power makes a difference.[31] In the shaded area in Figure 5, the power of the profession increases the equilibrium level of social welfare by encouraging the politician to keep an institution, professional review, that improves the outcome of institutional reforms for society as a whole, but not for the politician. When the strength of the profession is higher, the level of democracy at which the politician chooses the socially optimal outcome is lower. The strength of the profession substitutes for weak democracy.[32]

V.1 Comparative legal development in England and France: 1688 and 1789

These propositions lead to insights into why the legal professions developed so differently in France and England and why the revolutions of 1789 and 1688 had different consequences for the place of law in post-revolutionary government. The legal profession's high status, achieved under Louis XIV, continued into the reign of Louis XV, when the Jansenist movement confronted the monarchy. As the Jansenists fought their battles in the courts, barristers played key roles by using *factums*, written briefs that escaped censorship (Bell 1997, pp. 74–8): as in our model, the profession leads to deliberation and delay. The regime chose to

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[31] Figure 5 has the c^2 of proposition 5 equal to zero. Note that λ^T(p,0) lies along the solid line in Figure 3.

[32] This conclusion does not depend at all on the assumption that the costs of removing the profession are cλ. Exactly the same conclusion would apply if the costs of removing the profession were completely independent of levels of democracy.

do no more than denounce the Order as "a sort of absolutely independent little republic at the heart of the state" (Bell 1994, p. 67). In terms of Figure 5, France could lie at a point such as F_1 under Louis XIV, where the unchallenged autocrat uses a powerless profession, and at point F_2 under Louis XV: a rise in instability alters the monarch's view of the profession but not the outcome as a result of the political power acquired by the profession.

Matters changed when in the waning years of Louis XV political unrest further increased instability and lawyers began to have wider political ambitions. In the 1750's, a long-standing conflict between the *parlements* and the crown degenerated into full-scale constitutional conflict: magistrates, advised by Jansenist barristers, demanded a greater role in the legislative process, while the king wanted them to play a purely judicial role (Bell 1997, p. 83). The earlier political success of the barrister pamphleteers attracted imitators who did not share the same political and professional views and chose to support the crown, attacking the idea of an organized legal profession. The Order was fatally weakened.

Louis XV could now respond by attacking the legal profession in general. The Order's monopoly and disciplinary powers were abolished in 1771. The old *parlements* were replaced with trusted royal appointees. Although Louis XVI recalled the old *parlements*, the organized legal profession did not recover its former status (Bell 1997, pp. 90–5). In contrast to earlier in the century, when Louis XV chose not to remove a troublesome profession, the profession's power was lower. In contrast to a century earlier, when Louis XIV used the profession and allowed it to attain power, political instability was higher making the profession less valuable. France under Louis XVI can still be viewed as lying at F_2 in Figure 5, but since the profession weakened itself and lost its power, the solid upper line is relevant rather than the dashed lower one: the monarch could do what was too costly before, remove the profession from its role.

When 1789 came, the Order of Barristers had no authority (Bell 1997, pp. 90–5). A year later, the National Assembly formally abolished the Order and the French legal profession virtually vanished (Burrage 1989, p. 330). Consistent with our model, this brief period of higher democracy did not result in increased use of the legal profession: politicians were neither forced to use a politically weak profession nor saw advantage in it at a time of great instability (e.g., point F_3 in Figure 5). Napoleon used pre-revolutionary judges and practioners to draft his civil code and re-established the Orders in 1810, showing that a return to stability, even after a decline in democracy, could lead to a reinstatement of the profession (e.g., back to point F_1). But he instituted a very different legal profession than before. In contrast to earlier times, Napoleon's legal profession was his own creation and remained under strict state control (Bell 1997, p. 99; Karpik 1999, p. 120; Bell 1994, pp. 214–5). From that time on, any independence attained by the French legal profession was given by government, not won from the state.

The English legal profession had substantial power as early as the middle ages and asserted itself more strongly than ever in the early 1600's. In 1640, at the beginning of the Puritan revolution, Parliament passed reforms establishing the supremacy of the common law courts over the crown's prerogative courts, bolstering the power of the legal profession. However, the Puritan revolutionaries who were able to remove a king's head were unwilling to go as far as pressing for popular legal reforms over the objections of the legal establishment: "…the power of the English lawyers, which confounded Cromwell, derived from a solidarity that transcended revolutionary enthusiasms…" (Burrage 1989, p. 356).

Later, in the 1680's, the legal profession was prominent in the struggle against the crown over the independence of chartered bodies and other "lesser governments", essentially a civil war fought with law rather than the sword (Landon 1970, pp. 100–1). One of those lesser

governments was the Inns of Court, the legal profession's stronghold. Because the Inns'

independence was based on custom, not charter, the crown pressured the Inns by forcing royal

appointees onto their governing bodies. The Inns resisted (Burrage 1997, p. 150). James II even

faced a shortage of lawyers willing to fight his battles. In March 1686, the attorney general and

the solicitor general both refused to implement royal measures that would have flouted common-

law precedent (Landon 1970, pp.191). In 1688, in the trial of the Seven Bishops, often taken to

signify the beginning of the Glorious Revolution, the crown faced an almost united legal

profession, including eminent Tory lawyers, and lost. At issue was whether the royal prerogative

could negate the common law, as interpreted by the legal profession (Landon 1970, Chapter 6).

In sum, England in the years preceding the Glorious Revolution might be thought of as

being at a point such as E in Figure 5: the King had every reason to try and remove the legal

profession from its role, but was apparently unwilling to pay the political cost of doing so by

extra-legal means. Of course, James' battle with the legal profession was only one element of

many contributing to the final outcome. But James had not succeeded in weakening or even

dividing the legal profession: the Glorious Revolution entailed the triumph of common-law

lawyers and their interpretation of the law (Landon 1970 p. 248). In the construction of the post-

revolution settlement, lawyers played a fundamental role, even in the House of Lords where the

Tory establishment was strong. Exactly as in our model, the legal profession was the arbiter of

the debate because the settlement had to be made consistent with 500 years of common law.

The contrast between the fate of the English legal profession in 1688 and that of the

French one in 1789 could not be greater. The English profession had been in existence since the

thirteenth century and its autonomous institutions and practices could have been removed only at

great political cost. The French profession weakened itself in the latter half of the eighteenth

century and could easily be removed by a monarch who no longer regarded it as useful. The

English legal profession played a major role in the formulation of the post-1688 settlement,

increasing the quality of the institutional reform. The French profession was abolished a year

after the Bastille fell and played no role in institutional development. The consequences of these

divergent histories are with us still.

V.2 The professions under civil and common law

There is now substantial evidence that legal origin affects institutional quality (Djankov

et al. 2003). However, there are differing interpretations why. La Porta et al. (1998) argue that

legal origin matters because the quality of the legal rules varies across legal systems. Rajan and

Zingales (2003a) suggest that private interests are more likely to see their agenda enacted in civil

law countries because laws emanate from the center rather than evolving through legal process.

New policies are enacted more quickly in civil law countries, sometimes resulting in better

outcomes, sometimes in worse, depending on the configuration of interest groups.

Our model overlaps with both views, but by introducing a different causal mechanism it

suggests a reconciliation. A strong, independent legal profession coevolved with the common

law system, exactly because decentralized and autonomous legal institutions are intrinsic in that

system. In France and in Germany, the state itself has been the patron and regulator of the

profession's development: state-sponsored, state-controlled professions are consistent with a

civil law system.[33] Since the use of the profession improves the quality of institutional reforms

and since strength of the profession is sometimes critical in determining its use by the politician,

our model predicts that common law countries tend to have better legal rules than civil law

countries, consistently with La Porta et al. (1998). Moreover, as delay is intrinsic in the use of

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[33] The difference between the profession's political power in common and civil law countries has been widely recognized in the
sociological literature (Halliday and Karpik 1997, pp. 5, 354–5; Abel 1995, p. 3; Burrage, Jarausch and Siegrist 1990, pp.
219–20; Siegrist 1990, pp. 181–2; Collins 1990, p. 16; Cleaves 1987, p. 10).

the profession, reform will be quicker on average in civil law countries, and the government responds faster to interest groups, consistently with Rajan and Zingales (2003a).

Our model also identifies when legal origin most matters. At the lowest levels of democracy, neither common nor civil law countries adopt professional review (unless p is very high). When the level of democracy is high, both common and civil law countries use the profession. Therefore, legal system is likely to matter most at middling levels of democracy, when the politician's decision hangs on the political cost of removing the profession from its advisory role. In this range of democracy, common-law politicians are more likely to use the legal profession to act as a filtering device, with the quality of institutional reforms consequently improving. Legal origin has no effect at either the highest or the lowest levels of democracy.

V.3 Colonies and institutions

Acemoglu, Johnson, and Robinson (2001) argue that more effective institutions were put in place in those colonies where Europeans settled in larger numbers and that the consequences of colonial decisions on institutions persist until today. Their reasoning focuses on the demand side of politics: dominant political groups demanded different institutions in settler colonies than in colonies focused on wealth extraction. The key aspect of their evidence is the hospitality of settlement, extractive colonies appearing where settlement is less attractive for Europeans.

Our model has supply-side implications that are consistent with the evidence. In British colonies in Africa and Asia, the demand for legal services was met by temporary labor appointed on a contract basis, as was natural where settlement was unattractive. The colonial administration became the patron of the professions and did not find it advantageous to develop indigenous talent (Johnson 1973). Under such circumstances, "…there was no viable basis for independent professional practice nor was there a secure foundation for the emergence of

professionalism…Under these conditions the technically-based authority of the professions was subordinated to extra-professional sources of power." (Johnson 1973, p. 289) These characteristics persisted into the post-independence period.

In Kenya, for example, the legal profession was controlled by non-African lawyers and was fragmented during and after the colonial period (Odenyo 1979; Ross 1992). With both democracy and the existing profession weak, the state impeded the growth of an autonomous legal profession, by taking sides in Law Society elections, by giving the Minister of Commerce full authority over issuing licenses to practice law, and by establishing commissions to inquire into judicial conduct (Ross 1992). In India too, the profession had no indigenous roots, but was a tool of the British. The colonial authorities, apprehensive that members of the legal profession might lead the struggle for independence, repressed autonomous Indian lawyers' associations. As a consequence, strong professional autonomy did not emerge in modern India (Gandhi 1988).

Australia provides a contrast. The legal profession descended directly from British roots and developed remarkable autonomy and power. Key elements of the modern professional structure were in place by 1823 before the colonies were self-governing. Therefore in contrast to the African and Asian colonies, post-independence Australian governments faced a legal profession with much power to control legal practice, including admission and discipline. Although under political attack several times in both the nineteenth and twentieth centuries, Australian lawyer associations have generally been the victors (Weisbrot 1988). The Australian Law Reform Commission, on which the legal profession is dominant, matches the advisory role played by the profession in our model (Australian Law Reform Commission 2003). Hence, the colonial heritage of professional political power had significant effects.

VI. A Postscript on Further Research

This paper has argued that the role of organized legal professions in developed economies provides an example of an institution that has survived in a Hayekian trial-and-error development process. The argument is general and should apply to professions that have similar characteristics, such as accounting. This constitutes a subject for future research.

The professions are one element in that set of arrangements that have come to be known as civil society (Bell 1997, p. 86). In policy circles, it is an article of faith that promotion of civil society contributes to economic development (Carothers 1999). Yet, fostering civil society sounds suspiciously like promoting interest group development, and there is much in past economic research to indicate that interest groups detract from economic development. Failing an analytical understanding of why civil society is beneficial, there is no guidance for the conduct of practical development policy in this area.

Our paper shows how an element of civil society, organized professions, improves the process of institutional development. By understanding how this occurs, the paper provides lessons for policy on aid for the development of civil society. For example, we have shown why groups of neutral experts are more important than groups favoring specific reforms. The model also provides insights into where aid is most productive. If the purpose of the aid is to improve institutional reform by helping the professions, then Figure 5 shows that this aid is superfluous when stability and democracy are high, and unproductive when stability and democracy are low. Rather, it is in the middle ranges of democracy and stability where aid to professional groups has an effect, widening the set of conditions under which a reluctant politician is forced to use the profession. Obviously, further research is needed to make these conjectures more rigorous, but the model in our paper provides a seed from which such efforts might grow.

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Appendix: Proofs of Propositions

<u>Proposition 1</u>. When $\lambda<\bar{\lambda}$ the politician accepts all reform proposals. Consider reform $j\in\{2,3\}$. β will never want to lobby for $j\in\{2,3\}$, since $B_{\beta j}<0$ for $j\in\{2,3\}$. There are four possible sub-games at the beginning of period 2, depending on whether α chose to lobby for reform $j\in\{2,3\}$ in period 1 or not and whether A or B is in power in period 2.

1. If α lobbied for $j\in\{2,3\}$ in period 1 and A is in power in period 2, then the payoff to α when it lobbies for reform $j\in\{2,3\}$ in period 2 is $B_{\alpha j}-\Psi_{\alpha A}$ and $B_{\alpha j}$ when it does not lobby. Therefore, α does not lobby.
2. If α lobbied for $j\in\{2,3\}$ in period 1 and B is in power in period 2, then the payoff to α when it lobbies for reform $j\in\{2,3\}$ in period 2 is $B_{\alpha j}-\Psi_{\alpha B}<0$ and 0 when it does not lobby. Therefore, α does not lobby.
3. If α did not lobby for $j\in\{2,3\}$ in period 1 and politician A is in power in period 2, then the payoff to α when it lobbies for reform $j\in\{2,3\}$ in period 2 is $-\Psi_{\alpha A}<0$ and 0 when it does not lobby. Therefore, α does not lobby.
4. If α did not lobby for $j\in\{2,3\}$ in period 1 and politician B is in power in period 2, then the payoff to interest group α when it lobbies for reform $j\in\{2,3\}$ in period 2 is $-\Psi_{\alpha B}<0$ and 0 when it does not lobby. Therefore, α does not lobby.

If α chooses to lobby for $j\in\{2,3\}$ in period 1, its payoff is $pB_{\alpha j}-\Psi_{\alpha A}$. If α chooses not to lobby for $j\in\{2,3\}$ in period 1, its payoff is 0. Therefore, α chooses to lobby for $j\in\{2,3\}$ in period 1 if and only if $p\geq\Psi_{\alpha A}/B_{\alpha j}$.

Consider now reform $j\in\{4,5\}$. α will never lobby for $j\in\{4,5\}$, since $B_{\alpha j}<0$ for $j\in\{4,5\}$. There are four possible sub-games at the beginning of period 2, depending on whether β chose to lobby for $j\in\{4,5\}$ in period 1 or not and whether politician A or politician B is in power in period 2.

1. If β lobbied for $j\in\{4,5\}$ in period 1 and A is in power in period 2, then the payoff to β when it lobbies for $j\in\{4,5\}$ in period 2 is $B_{\beta j}-\Psi_{\beta A}<0$ and $B_{\beta j}$ when it does not lobby. Therefore, β does not lobby.
2. If β lobbied for $j\in\{4,5\}$ in period 1 and B is in power in period 2, then the payoff to β when it lobbies for $j\in\{4,5\}$ in period 2 is $B_{\beta j}-\Psi_{\beta B}>0$ and 0 when it does not lobby. Therefore, β lobbies.
3. If β did not lobby for $j\in\{4,5\}$ in period 1 and B is in power in period 2, then the payoff to β when it lobbies for $j\in\{4,5\}$ in period 2 is $-\Psi_{\beta B}<0$ and 0 when it does not lobby. Therefore, β does not lobby.
4. If β did not lobby for $j\in\{4,5\}$ in period 1 and politician A is in power in period 2, then the payoff to β when it lobbies for $j\in\{4,5\}$ in period 2 is $-\Psi_{\beta A}<0$ and 0 when it does not lobby. Therefore, β does not lobby.

If β chooses to lobby for $j\in\{4,5\}$ in period 1, its payoff is $pB_{\beta j}+(1-p)(B_{\beta j}-\Psi_{\beta B})-\Psi_{\beta A}<0$. If β chooses not to lobby for $j\in\{4,5\}$ in period 1, its payoff is 0. Therefore, β chooses not to lobby for reform $j\in\{4,5\}$ in period 1.

<u>Proposition 2</u>. If $p<\Psi_{\alpha A}/B_{\alpha 3}$, α chooses not to lobby, so $W^+=0>W^-$. If $\Psi_{\alpha A}/B_{\alpha 3}\leq p<\Psi_{\alpha A}/B_{\alpha 2}$, α lobbies for reform 3, so $W^+=p(B_{\alpha 3}+B_{\beta 3})>W^-$. If $p\geq\Psi_{\alpha A}/B_{\alpha 2}$, α lobbies for reforms 2 and 3, so $W^+=p(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})>W^-$.

<u>Proposition 3</u>. If $p<\Psi_{\alpha A}/B_{\alpha 3}$, α chooses not to lobby in period 1, so $V^+=0<V^-$.
If $p\geq\Psi_{\alpha A}/B_{\alpha 2}$, α lobbies for 2 and 3 in period 1, so
$$V^+=\lambda p(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+(1-\lambda)2\Psi_{\alpha A}>V^-.$$
If $\Psi_{\alpha A}/B_{\alpha 3}\leq p<\Psi_{\alpha A}/B_{\alpha 2}$, α lobbies for 3 in period 1, so $V^+=\lambda p(B_{\alpha 3}+B_{\beta 3})+\Psi_{\alpha A}$. Then,
$$V^+>(<)V^-\Leftrightarrow p>(<)p^*(\lambda)\equiv 1+[\lambda(B_{\alpha 2}+B_{\beta 2})+(1-\lambda)\Psi_{\alpha A}]/[\lambda(B_{\alpha 3}+B_{\beta 3})].$$
Observe that $p^*(\lambda)<(>)1$ if and only if $\lambda>(<)\underline{\lambda}$.
Since $\partial p^*(\lambda)/\partial\lambda<0$, there exist λ_H and λ_L, where $p^*(\lambda_H)=\Psi_{\alpha A}/B_{\alpha 3}$, $p^*(\lambda_L)=\Psi_{\alpha A}/B_{\alpha 2}$ and
$$\lambda_L\equiv\Psi_{\alpha A}/[(\Psi_{\alpha A}/B_{\alpha 2}-1)(B_{\alpha 3}+B_{\beta 3})+|B_{\alpha 2}+B_{\beta 2}|+\Psi_{\alpha A}],$$
$$\lambda_H\equiv\Psi_{\alpha A}/[(\Psi_{\alpha A}/B_{\alpha 3}-1)(B_{\alpha 3}+B_{\beta 3})+|B_{\alpha 2}+B_{\beta 2}|+\Psi_{\alpha A}],$$
such that:
$$\forall\lambda>\lambda_H,\ p^*(\lambda)<\Psi_{\alpha A}/B_{\alpha 3},\text{ so for any }p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2}),\ p>p^*(\lambda),\text{ and }V^+>V^-$$
$$\forall\lambda\leq\lambda_L,\ p^*(\lambda)\geq\Psi_{\alpha A}/B_{\alpha 2},\text{ so for any }p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2}),\ p<p^*(\lambda),\text{ and }V^+<V^-$$
$$\forall\lambda\in(\lambda_L,\lambda_H],\ p^*(\lambda)\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2}),\text{ so }V^+>(<)V^-\Leftrightarrow p>(<)p^*(\lambda).$$
It can also easily be shown that $\underline{\lambda}<\lambda_L<\lambda_H<\bar{\lambda}$ and that $\partial^2 p^*(\lambda)/\partial\lambda^2>0$.

<u>Proposition 4</u>. Define $C^m(p,\lambda)$ as the maximum political cost that the politician is willing to incur to remove the profession from its advisory role. If $V^+<V^-$, $C^m(p,\lambda)=V^-(p,\lambda)-V^+(p,\lambda)$ and if $V^+\geq V^-$, $C^m(p,\lambda)=0$. More precisely,

$$C^m(p,\lambda)=\begin{cases}\lambda[(B_{\alpha 2}+B_{\beta 2})+(B_{\alpha 3}+B_{\beta 3})]+(1-\lambda)2\Psi_{\alpha A}, & \text{when }p<\Psi_{\alpha A}/B_{\alpha 3}\text{ and }\lambda<\bar{\lambda}\\ \lambda[(B_{\alpha 2}+B_{\beta 2})+(B_{\alpha 3}+B_{\beta 3})]-p\lambda(B_{\alpha 3}+B_{\beta 3})+(1-\lambda)\Psi_{\alpha A}, & \text{when }p<p^*(\lambda)\text{ and}\\ & p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})\\ 0, & \text{elsewhere.}\end{cases}$$

The politician chooses not to use the profession for all values of λ and p such that $C^m(p,\lambda)>c\lambda$. $C^m(p,\lambda)$ has the following properties:

1. When $p<\Psi_{\alpha A}/B_{\alpha 3}$ and $\lambda<\bar{\lambda}$,
$\partial C^m(p,\lambda)/\partial p=0$,
$\partial C^m(p,\lambda)/\partial\lambda=[(B_{\alpha 2}+B_{\beta 2})+(B_{\alpha 3}+B_{\beta 3})]-2\Psi_{\alpha A}<0$
2. When $p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$ and $p<p^*(\lambda)$,
$\partial C^m(p,\lambda)/\partial p=\lambda(B_{\alpha 2}+B_{\beta 2})<0$,
$\partial C^m(p,\lambda)/\partial\lambda=[(B_{\alpha 2}+B_{\beta 2})+(B_{\alpha 3}+B_{\beta 3})]-p(B_{\alpha 3}+B_{\beta 3})-\Psi_{\alpha A}<0$,
$\partial^2 C^m(p,\lambda)/\partial\lambda\partial p=-(B_{\alpha 2}+B_{\beta 2})<0$.
3. Elsewhere, $C^m(p,\lambda)=0$.
4. Two additional properties that enable us to construct Figure A1 are:
$$\partial C^m(p,\lambda^0)/\partial\lambda\Big|_{p<\Psi_{\alpha A}/B_{\alpha 3}}<\partial C^m(p,\lambda^0)/\partial\lambda\Big|_{p=\Psi_{\alpha A}/B_{\alpha 3}}\text{ for all }\lambda^0<\bar{\lambda}$$
$$C^m(p,\lambda^0)\Big|_{p<\Psi_{\alpha A}/B_{\alpha 3}}>C^m(p,\lambda^0)\Big|_{p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 3})\text{ and }p<p*(\lambda^0)}\text{ for all }\lambda^0<\bar{\lambda}$$

The properties of $C^m(p,\lambda)$ summarized above imply than for any pair (p,c), there exists a unique value of $\lambda^T(p,c)>0$ such that $C^m(p,\lambda^T(p,c))=c\lambda^T(p,c)$ if $V^+<V^-$. On the other hand, $C^m(p,\lambda)=0$ if $V^+\geq V^-$ and hence $\lambda^T(p,c)=0$. This proves that $\lambda^T(p,c)$ is a function. To prove that $\lambda^T(p,c)$ is discontinuous at $p=\Psi_{\alpha A}/B_{\alpha 2}$ and at $p=\Psi_{\alpha A}/B_{\alpha 3}$, and points (ii) – (iv), note also the following:

1. When $p < \Psi_{\alpha A}/B_{\alpha 3}$, $\lambda^T(p,c)$ is defined by
   $c\lambda^T(p,c) = \lambda^T(p,c)(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+(1-\lambda^T(p,c))2\Psi_{\alpha A}$, so that
   $\lambda^T(p,c) = 2\Psi_{\alpha A}/[c-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+2\Psi_{\alpha A}]$. Then, $\partial\lambda^T(p,c)/\partial p = 0$.
2. When $p \in [\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$, $\lambda^T(p,c)$ is defined by
   $c\lambda^T(p,c) = \lambda^T(p,c)(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})-p\lambda^T(p,c)(B_{\alpha 3}+B_{\beta 3})+(1-\lambda^T(p,c))\Psi_{\alpha A}$, so that
   $\lambda^T(p,c) = \Psi_{\alpha A}/[c-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+p(B_{\alpha 3}+B_{\beta 3})+\Psi_{\alpha A}]$.
   $\partial\lambda^T(p,c)/\partial p = -(B_{\alpha 3}+B_{\beta 3})\lambda^T(p,c)/[c-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+(B_{\alpha 3}+B_{\beta 3})p+\Psi_{\alpha A}] < 0$ and
   $\partial^2\lambda^T(p,c)/\partial p^2 > 0$.
3. When $p \geq \Psi_{\alpha A}/B_{\alpha 3}$, $\lambda^T(p,c) = 0$.
4. $\lambda^T(p,c^0)\big|_{p<\Psi_{\alpha A}/B_{\alpha 3}} > \lambda^T(p,c^0)\big|_{p\in[\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})} > \lambda^T(p,c^0)\big|_{p\geq\Psi_{\alpha A}/B_{\alpha 2}} = 0$ for all $c^0 > 0$.

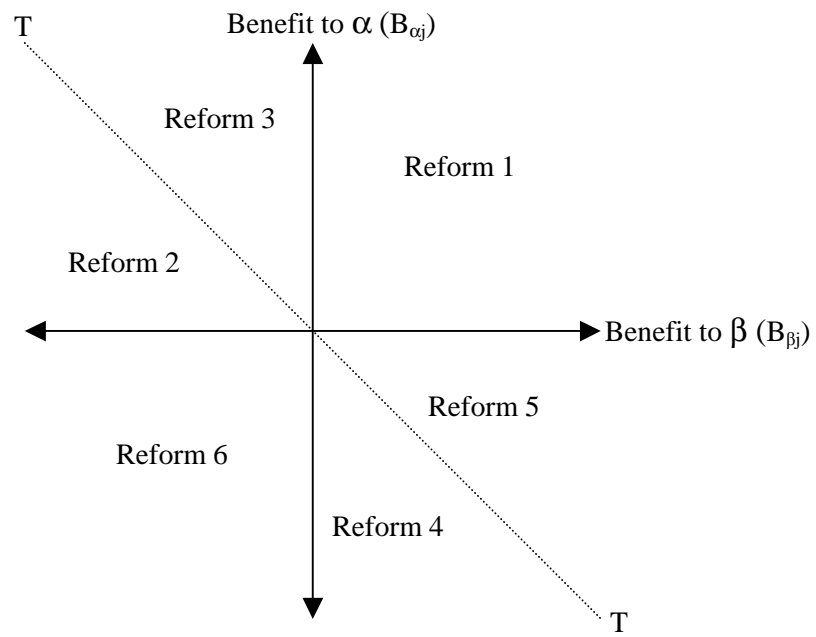<u>Proposition 5</u>.
Let $c^1 > c^2 \geq 0$. Define $\Delta^T(p,c^1,c^2) = \lambda^T(p,c^2) - \lambda^T(p,c^1)$.
1. When $p < \Psi_{\alpha A}/B_{\alpha 3}$, $\Delta^T(p,c^1,c^2) = 2\Psi_{\alpha A}/[c^2-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+2\Psi_{\alpha A}] - 2\Psi_{\alpha A}/[c^1-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+2\Psi_{\alpha A}] > 0$ and $\partial\Delta^T(p,c^1,c^2)/\partial p = 0$.
2. When $p \in [\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$,
   $\Delta^T(p,c^1,c^2) = \Psi_{\alpha A}/[c^2-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+p(B_{\alpha 3}+B_{\beta 3})+\Psi_{\alpha A}] - \Psi_{\alpha A}/[c^1-(B_{\alpha 2}+B_{\beta 2}+B_{\alpha 3}+B_{\beta 3})+p(B_{\alpha 3}+B_{\beta 3})+\Psi_{\alpha A}] > 0$ and $\partial\Delta^T(p,c^1,c^2)/\partial p < 0$.
3. When $p \geq \Psi_{\alpha A}/B_{\alpha 2}$, $\lambda^T(p,c^2) = \lambda^T(p,c^1) = 0$, so $\Delta^T(p,c^1,c^2) = 0$.
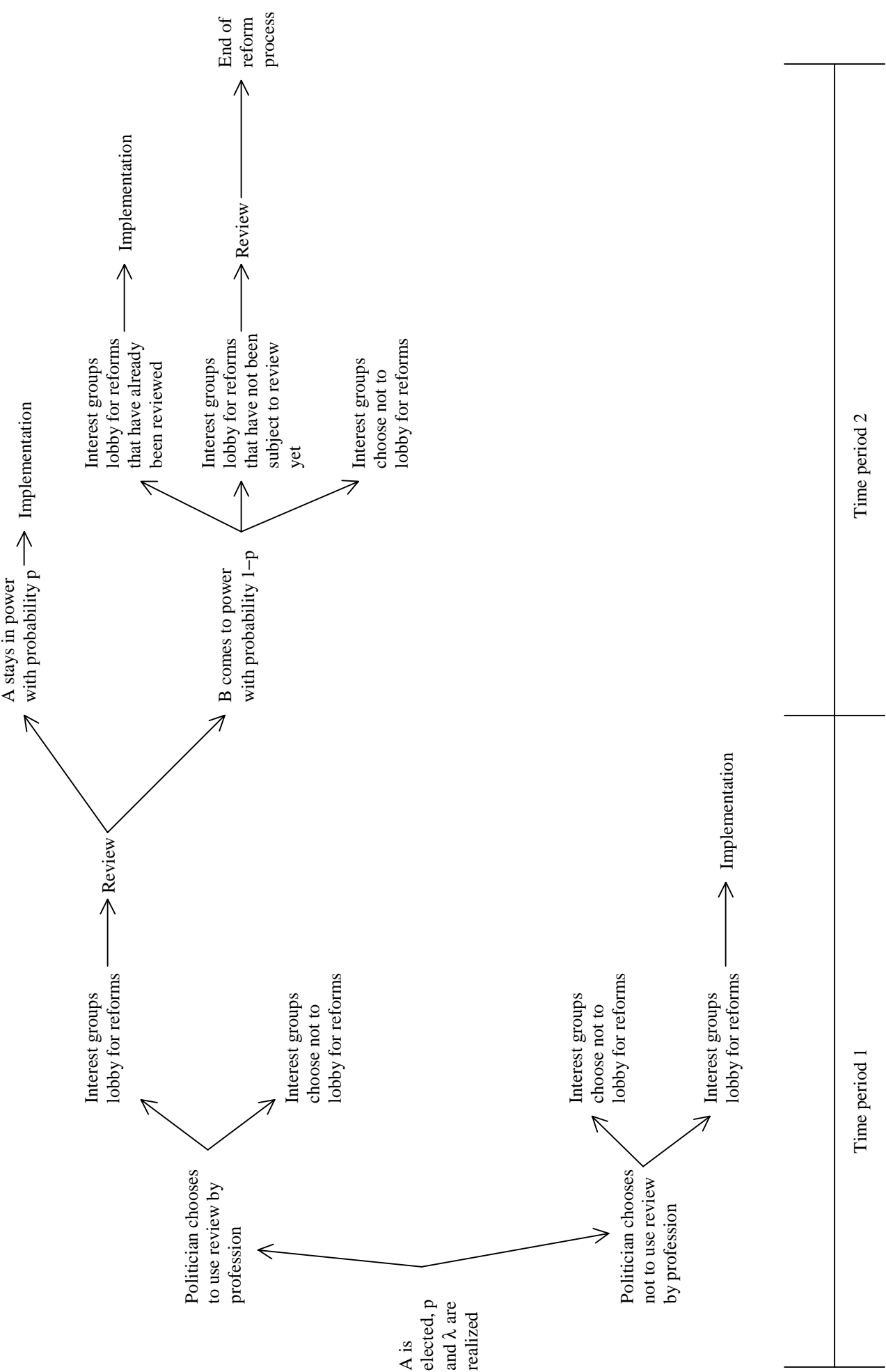
Note that when $p < \Psi_{\alpha A}/B_{\alpha 3}$, $\lambda^T(p,0) = \bar{\lambda}$ and when $p \in [\Psi_{\alpha A}/B_{\alpha 3},\Psi_{\alpha A}/B_{\alpha 2})$, $\lambda^T(p,0) = p*^{-1}(\lambda)$.

Figure 1: The Set of Reforms

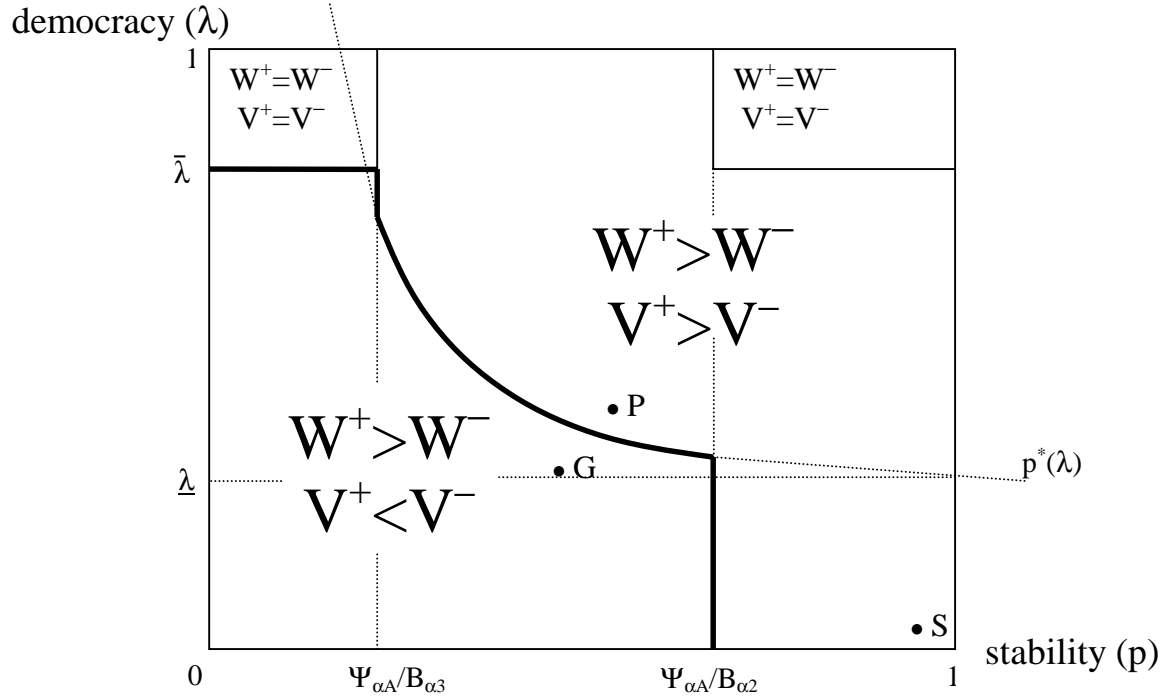Benefit to α $(B_{\alpha j})$

T

Reform 3

Reform 1

Reform 2

Benefit to β $(B_{\beta j})$

Reform 5

Reform 6

Reform 4

T

Figure 2: The Timeline

A is elected, p and λ are realized

Politician chooses to use review by profession

Interest groups lobby for reforms → Review

Interest groups choose not to lobby for reforms

A stays in power with probability p → Implementation

B comes to power with probability 1–p

Interest groups lobby for reforms that have already been reviewed → Implementation

Interest groups lobby for reforms that have not been subject to review yet → Review → End of reform process

Interest groups choose not to lobby for reforms

Politician chooses not to use review by profession

Interest groups choose not to lobby for reforms

Interest groups lobby for reforms → Implementation

Time period 1

Time period 2

Figure 3: The Politician's Welfare and Aggregate Welfare with and without a Powerless Profession

Notes:
1. W^+ = aggregate welfare with professional review.
2. W^- = aggregate welfare without professional review.
3. V^+ = politician welfare with professional review.
4. V^- = politician welfare without professional review.
5. ━━━ Boundary between use of profession and non-use
7. S = The Soviet Union before Gorbachev
8. G = Georgia during early transition
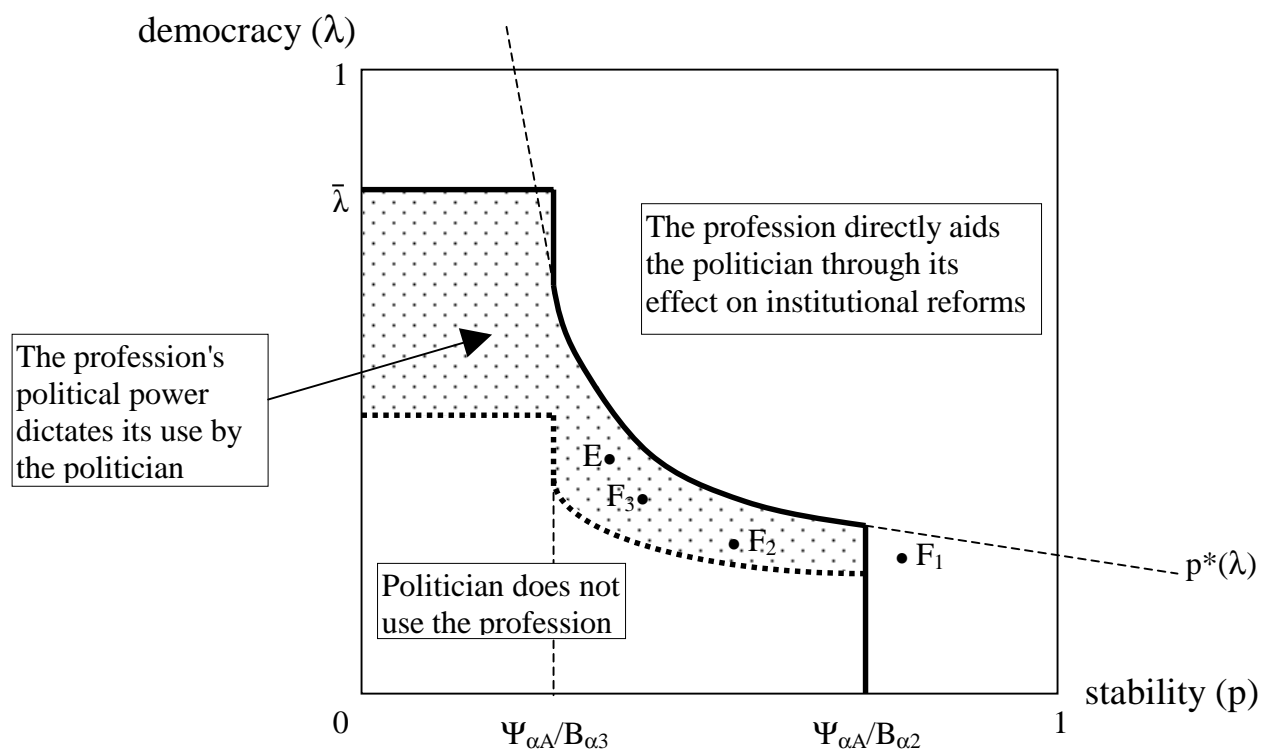9. P = Poland during early transition

Figure 4: Professional Political Power, Democracy, and Stability
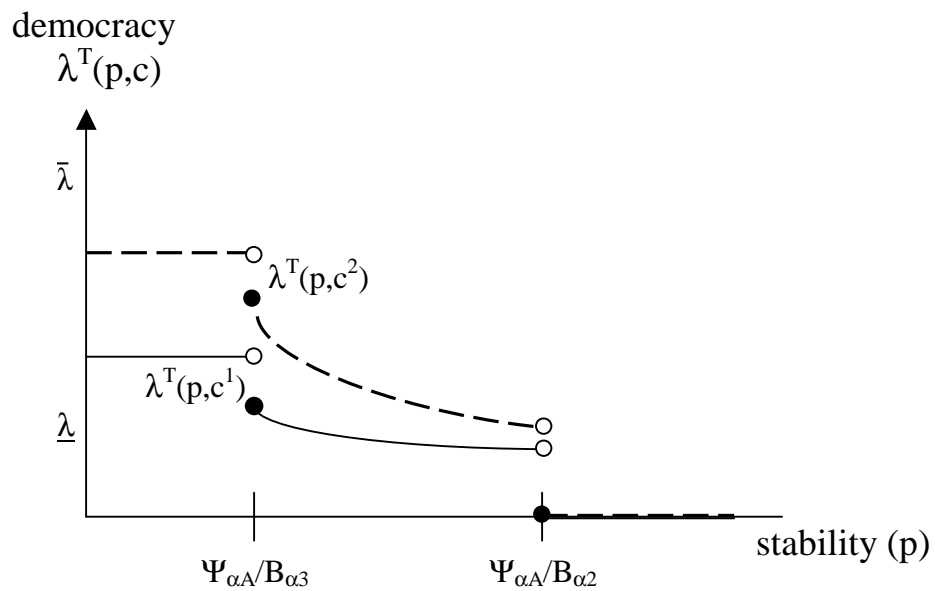
Notes:
1. $c^1 > c^2 \geq 0$
2. $\lambda^T(p,0)$ lies along the solid line in Figure 3.

Figure 5: Political Power and the Use of the Profession

democracy (λ)

The profession directly aids the politician through its effect on institutional reforms

The profession's political power dictates its use by the politician

Politician does not use the profession

E•

F$_3$•

•F$_2$

• F$_1$

p*(λ)

stability (p)

$\Psi_{\alpha A}/B_{\alpha 3}$ $\Psi_{\alpha A}/B_{\alpha 2}$

········ Boundary between use of profession and non-use when political power (c) is positive.

─────── Boundary between use of profession and non-use when political power (c) is zero. (This line is the same one as in Figure 3.)

F$_1$ =   France under Louis XIV, Napoleon (c=0 and ─── is pertinent).

F$_2$= { France early in the reign of Louis XV (c>0 and ········ is pertinent).
         France late in the reign of Louis XV (c=0 and ─── is pertinent).

F$_3$ =   France soon after the revolution (c=0 and ─── is pertinent).

E =   England under James II (c>0 and ········ is pertinent).

Figure A.1: The Political Cost of Removing the Profession