Inheritance Rights in the Formation and Evolution of Institutional Matrices

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Abstract

This study assesses the impact of inheritance rights on the formation and transformation of institutional matrices with dominant market (Y type) or redistributive (X type) institutions. It shows that the implementation of primogeniture in Western Europe strengthened market institutions, namely, fostered the establishment of private property rights and the accumulation of capital, stimulated the growth of cities as centers of capitalist development, and led to the establishment of a new middle class which became involved in local self-administration. Among the main implications of primogeniture is the emergence of a subsidiary mindset—a basic sociocultural market institution. The evolution of inheritance rights in societies with a Y type institutional matrix is due to capital substituting land as the primary income source over the course of time.

The study reveals that the presence of a mobilizing communal natural environment and a frontier location conditioned the formation of social systems with an X type institutional matrix, characterized by a highly centralized state regulating all social relations, including those of property. The fundamental legal principle of inheritance limited inheritance rights to the mere transfer of the title and privileges to heirs. In such societies, the fragmentation of inheritance recurs in each generation, which atomizes property and diminishes the economic (and thereby, political) power of its holders. This reinforces redistributive institutions, for instance, centralized governance and an egalitarian outlook.

We find that the evolution of inheritance rights in societies with an X type institutional matrix is due to either institutional diffusion or political attempts at economic regulation. Yet, in the former case, the inheritance law implemented from the alternative institutional matrix is modified by the state so as to balance the dominant redistributive and the compensatory market institutions.

Keywords: institutional matrix, market institutions, redistributive institutions, private property, land property, inheritance rights, primogeniture

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Introduction

The long period of hardship the post-Soviet states have endured in their economic, political, and social transformation draws attention, among other things, to one vital issue: how the institutional environment is formed, why it evolves the way it does, and what prompts it to change. In the investigation of this issue, we use the relatively new theory of institutional matrices [Kirdina 2014], relying on two fundamental ideas, namely, the dichotomy of economic systems, expounded in the works of Adam Smith, Karl Marx, Max Weber, and Karl Polanyi, and the effect of social memory, analyzed by Karl Wittfogel, Theodore Jouffroy, and Lev Gumilev, who viewed the social-economic development of nations as a function of their primordial social forms. In light of this theory, society, as a system, is comprised of interconnected and interdependent economic, political, and socio-cultural subsystems. The transformation of each of them and the entire system occurs through a complex framework of institutions (defined as the rules of the game that give structure to social action [North 1991, p. 97]), where the most basic ones constitute the institutional matrix.

The institutional matrix has two main types of institutions, market and redistributive, one always dominant, the other compensatory [Polanyi 1977, p. xix]. The redistributive model is dominated by institutions of redistribution (accumulation—coordination—redistribution), property in exchange for service, complaints as a means of feedback, and a unitary political regime and communitarian ideology [Borschch 2015, p. 146]. The market model is characterized by trade relations between social actors, private property, wage labor, profit as a means of feedback, federalism, and elements of subsidiary ideology. If redistributive institutions prevail in the institutional matrix, it is considered as being of X (Oriental) type. The alternative Y type matrix is known as Occidental and showcases dominant market institutions.

The institutional matrix is not set in stone. It undergoes constant change due to endogenous and exogenous factors [Ksenzov et al. 2010; Nikitenko, Solodovnikov 2008; Nowakowski 2013; Luchenok 2016; Barakhvostov 2021a; Barakhvostov 2021b; Yankovskaya et al. 2021]. Furthermore, the transformations that occurred earlier do not disappear without a trace, having a sizeable impact on the nation’s economy, political culture, and mentality. A profound and comprehensive understanding of the specificities of present-day nations and regions thereby necessitates an in-depth analysis of the evolution of institutional matrices, including those from the bygone eras.

Inheritance rights are one of the most important social institutions. Conditioned by the nation’s historical trajectory, they have been studied by anthropologists and historians, sociologists and political scientists, lawyers and economists. The present paper aims at determining the role of inheritance rights in the formation and transformation of institutional matrices. This research draws on the institutional approach complemented with comparative and typological analysis.

Inheritance Rights in the Y Type Institutional Matrix

Classic Y type institutional matrices are traditionally attributed to Western European countries. Bearing in mind their geography and history, let us consider the genesis of Y type matrices and the role of inheritance rights in them.
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After the fall of the Western Roman Empire, Europe experienced a long period of political turbulence and steep economic decline, which was reflected in the zero growth (and even reduction) of the GDP and the population until the year 1000 [Maddison 2006, pp. 33–34]. With feudalism taking hold, the situation ameliorated: from 1000 to 1500 (1500–1600) the mean annual population growth was 0.16% (0.26%), while for the GDP that value reached 0.13% (0.14%).

In those times, Western Europe already had land property. Among the various types of it, the most common were feuds—estates granted in exchange for military service. Their owners were obligated to contribute to the safety of the state’s borders and administer justice at the local level [Pirenne 1963; Cameron 1989]. For the landlords to fulfill their duties, feuds had to be highly profitable and, therefore, large, which inevitably raised the issue of inheritance. Adam Smith wrote [Smith 2007]:

When land was considered as the means, not of subsistence merely, but of power and protection, it was thought better that it should descend undivided to one. The security of a landed estate […] depended upon its greatness. To divide it was to ruin it, and to expose every part of it to be oppressed and swallowed up by the incursions of its neighbors.

Thus, the legal systems of Western European countries were supplemented with primogeniture—when all real estate is inherited by the oldest son and cannot be parceled, sold, or mortgaged [Kelly 1992]. The proliferation of primogeniture across the continent went in numerous ways: via transplantation, as in England in the wake of the Norman conquest; via hybridization of inheritance rights under the influence of other law systems, as in France (in the north of which primogeniture dominated, while in the south, which preserved some remnants of Roman law, the institution of testament not only co-existed but was more widespread); via law fragmentation, as in the Holy Roman Empire, where different lands practiced different inheritance procedures—from primogeniture to the more historically inherent equal sharing of property.

De Tocqueville remarked [De Tocqueville 2009]:

The law of inheritance […] in a particular manner […] vests property and power. […] If formed on opposite principles, it divides, distributes, and disperses both property and power.

It was from primogeniture that the European landowning aristocracy originated—the elite that had amassed huge estates and, therefore, wielded great economic, military, and political power [Labatut 1978; Cooper 1976]. This elite underpinned the monarch’s authority; however, they soon learned how to articulate their own interests in such a way that the monarch had to take them into account.

The principle of primogeniture steadily gained ground not only horizontally but also vertically (in the downward direction across the social strata). If in the
16th century, for instance, in England and Italy only the noble classes enjoyed the benefits of it, by the 19th century even the middle class resorted to primogeniture [Thirsk 1976].

It is noteworthy that primogeniture also entailed responsibilities the eldest son had towards his younger brothers, who received payments of money [Labatut 1978]. Although land was indivisible, capital could be freely divided between all children. This, in particular, paved the way for its accumulation. Investments in trade and industry, giving considerable income, grew in importance, which led to changes in the law. In France, the nobility was allowed to engage in sea trade in 1669, in manufacture and banking in 1767. This process intensified in the 17th century, when many aristocrats invested in the financial sector.

Large numbers of people were deprived of land and forced to look for other sources of economic survival, which engendered rapid urban growth. Out of the landless aristocracy came prosperous merchants and craftsmen, making up the middle class of the agricultural society.

Urban migration drastically diminished the agricultural sector and prompted the birth of capitalism, which let younger sons understand that one’s living could be earned without dividing their father’s property [Cooper 1976]. In the broad context, relying on oneself became a virtue, which contributed to the formation of the subsidiary mindset—one of the fundamental market institutions.

Seeing the ongoing economic tendencies, the landowning aristocracy had to make concessions and undertake a range of transformations to stay efficient, in particular, more actively attract wage labor. The shrinking agricultural workforce made workers’ wages climb, often at the expense of landlords. However, as primogeniture limited the right to own land, it also limited the decrease of the landlord’s profit and prevented the decline of the landowning classes. These facts bear witness to the economic effect of primogeniture.

The emerging middle class of capital holders swelled, which, step by step, reformatted the political system, as the nouveaux riches demanded representation in local self-administration to balance their interests with those of the old aristocracy. Thereby, the importance of land as a source of wealth started to diminish—land relinquished its place to capital, undermining the economic and political position of the nobles and causing a new, more inclusive and participatory, political culture to develop.

The main source of wealth (and, therefore, power) and inheritance rights are inextricably linked. By way of example, the trade city of Venice resorted to primogeniture only in 1550. In the end, the rise of capital and its decisive victory over land resulted in a change of the inheritance procedure, namely, in the abandonment of primogeniture, since it had fulfilled its historical mission (revolutionary France was the first to do so, in the 19th century almost the whole of Europe followed).

Nevertheless, despite losing its political superiority (e.g., after the introduction of universal suffrage in the Austrian part of the Habsburg Empire, the aristocracy was virtually altogether pushed out of the Parliament [Yudin 2019, p. 108]), the landowning elite managed to adapt due to, inter alia, investments in the financial sector, and for a long time continued to bewilder their compatriots with their luxury and extravagance.

In summary, the analysis provides evidence that primogeniture was both a consequence and a driver of social development.
Inheritance Rights in the X Type Institutional Matrix

The X type institutional matrix requires the presence of a mobilizing communal natural environment [Nureev, Latov 2011, p. 40] and stimulated collective efforts under unified leadership. Russia is a good example of nature mobilizing people to collective action. Here, the production cycle in agriculture is relatively short (no longer than 5 months annually), and the surplus product is small (approximately three collected grains to one sown). To compare, in Western Europe this agricultural cycle is twice as long, and the product 1.7 times bigger [Milov 1998, p. 554]. Agricultural activity in Russia was characterized by wave-like mobilization, low productivity, and high economic risks (early autumnal frosts, drought, floods, etc.). All of that necessitated collective work organized by a leadership who also collected, accumulated, and redistributed the final product in order to overcome the disastrous implications of possible poor harvests. This leadership meant an organized system of power and the dissolution of individual households in the village commune. One of the prime socio-cultural redistributive institutions thereby formed—the collectivist and paternalist mindset.

Another pre-condition for the X type matrix is a frontier geographical location, when external aggression could only be repelled by forces united in a strong state. In contrast with Western feudal strife, which aimed at territorial expansion and pillage, Russia faced a distinct threat from nomads who destroyed everything and killed everyone they encountered. Under such extreme circumstances, the state assumed the responsibility to ensure public safety.

In sum, the presence of a mobilizing communal natural environment and a frontier location determined the emergence of an excessively powerful centralized state that started to regulate all social relations, including those of property.

Land remained the main source of wealth in the pre-industrial period. However, in this case, its ownership was temporary and conditional: the central government gave the right to collect profit from certain territories with the possibility of transferring this right to heirs in exchange for service, but the monarch could take it back at any time, as he was legally regarded as the owner of all land in his realm (during the first and only universal census of the Russian Empire in 1897, Nicholas II described his occupation as the owner of the Russian land [Census List 1897]). The well-being of members of the elite depended more on their position in the hierarchy of the state than on the inherited or bought property. That is why the transfer of the title and its privileges to heirs was of utmost importance.

The system of redistribution required the state’s land funds to be replenished, which was carried out through territorial expansion and redistribution of land between landowners, leading to recurring periods of repressions, such as Ivan the Terrible’s Oprichnina.

Nonetheless, any property needs rules of inheritance. For nations of the X type institutional matrix, these rules were based on the principle of fragmentation (equal division of property between all heirs). Fragmentation parcelled not only property but the economic and, consequently, political power of its owners. As a side effect, the law of inheritance meant inventorying land with peasants, which exacerbated serfdom.

The heirs who received even a tiny part of their father’s property were not inclined to switch from agriculture to other forms of economic activity (trade, craft, etc.).
Therefore, the law of inheritance impeded urban growth (in the 15th century only 0.1% of the Russian population lived in cities [Shapiro et al. 1971, p. 324], in the 18th century no more than 4% [Vodarskij, Kabuzan 2011, p. 143]). In Western Europe, many of the junior sons joined the clergy. In Russia, Orthodox priests do not adhere to celibacy, so they were not interested in the in-flow of new people.

In Western European countries, the evolution of the law of inheritance was economically conditioned (mainly by the change of the prime source of income), countries with the X type institutional matrix experienced an attempt of political regulation of economic relations. In 1714, Peter the Great adopted majorat (the French synonym of primogeniture). Making all the existing types of land property de jure equal and agreeing to the right of nobles to inherit land, the state in turn reserved the right to deprive anyone of freedom and property. In other words, while being aware of the significance of majorat, Peter the Great could not make up his mind to ruin one of the vital redistributive institutions—the state ownership of land. Interestingly, Peter’s niece Anne repealed this reform in 1731.

The next bid to introduce elements of primogeniture was undertaken after the partition of Poland as a result of institutional diffusion. Those wishing to apply the law of primogeniture were obliged to seek royal permission. In 1914, primogeniture encompassed 3.5 million dessiatin (~3.8 million hectares) or about half of the total sown area recorded in the Russian Empire and 19 aristocratic families [Anfimov 1969]. The peculiarity lay in the fact that their estates were situated in different provinces and did not make up unified land complexes, which decimated the political power of the landowners and put obstacles in the way of their more active participation in local self-administration. The dependence of the aristocratic well-being on political factors did not help the Russian landed aristocracy to self-organize and articulate their interests. Moreover, in Russia, primogeniture did not go beyond the thin layer of the richest and was not known in other social strata.

A specificity of countries of the X type matrix is the possibility to revoke inheritance in order to reinforce redistributive institutions, which took place, for example, after the October Revolution. According to the Soviet Decree of April 27, 1918, inheritance through law or testament was abolished. After the owner’s death, his moveable and immovable property became property of the Republic [Decree Abolishing Inheritance 1918]. Later, these laws were mitigated, but the state still continued to regulate all property issues: citizens could buy apartments only in cooperatives, and limits on their size were imposed. The owners of cottages and houses in the countryside owned the buildings but not the land under them. Such laws made the development of private property impossible.

**Conclusion**

This paper analyzed the role of inheritance rights in the formation and evolution of X and Y type institutional matrices. It showed that the inauguration of primogeniture in Western European countries facilitated the consolidation of market institutions: development of private property, accumulation of capital, growth of cities as centers of capitalist progress, and emergence of a new middle class and its inclusion in the
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process of local self-administration. A pivotal consequence of primogeniture is the elaboration of subsidiary ideology. The evolution of inheritance rights in societies of the Y type matrix was determined by the change of the main source of wealth over time, as capital substituted land.

The analysis established that the presence of a mobilizing communal natural environment and a frontier location conditioned the formation of social systems with the X type institutional matrix, characterized by a highly centralized state regulating all social relations, including those of property. The limitation of inheritance rights in such societies led to another principle of inheritance, fragmentation, which parcels property and diminishes the economic and, therefore, political power of its owners. The evolution of inheritance rights in systems with the X type matrix is shown to be due to either institutional diffusion or attempts to politically regulate economic relations. In the former case, the law of inheritance implanted from the alternative institutional matrix is modified by the state in order to prevent the self-organization of landowners and their political participation.

References


Права наследования в процессе формирования и эволюции институциональных матриц

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Аннотация

Целью настоящей работы является установление роли права наследования в процессе формирования и трансформации институциональных матриц с доминирующими рыночными (Y-тип) и редистрибутивными (X-тип) институтами. Показано, что к концу первого тысячелетия в странах Западной Европы земля превратилась в главный источник дохода, а следовательно, силы и защиты. Это потребовало урегулирования вопроса о наследовании, который был решен введением в правовые системы закона о примогенитуре. При этом его распространение в Западной Европе осуществлялось различными путями: в результате «трансплантации» из других правовых систем, как это произошло в Англии после завоевания ее норманнами; «гибридизации» права наследования под влиянием других правовых систем, как это имело место во Франции (на севере – доминирование примогенитуры, на юге в связи со значительным влиянием римского права значительное распространение получил институт завещания); «фрагментации» правового пространства, как в Германии, в различных областях которой существовали разные практики наследования – от примогенитуры до исторически сложившегося равного раздела собственности между наследниками.

Проанализированы экономические и социальные последствия примогенитуры, среди которых изменение социальных страт (формирование, с одной стороны, землевладельческой аристократии, обладавшей крупными земельными владениями и, следовательно, экономической, военной и политической властью, с другой, «среднего» класса, представители которого получили в наследство не землю, а денежную компенсацию); формирование миграционных потоков из сельской местности в города и, как следствие, активное привлечение в сельскохозяйственный сектор наемного труда при перераспределении доходов между землевладельцами и наемными работниками. Данные изменения обусловили укрепление базовых рыночных институтов (в том числе институтов частной собственности, местного самоуправления), способствовали формированию субсидиарного мировоззрения.

Установлено, что наличие «мобилизационно-коммунальной» природно-климатической среды и фронтирное положение привело к формированию общественной системы с институциональной матрицей X-типа, характеризуемой наличием централизованного государства, которое является регулятором всех общественных отношений, в том числе отношений собственности. Показано, что ограниченность права собственности в данных социумах определяет принцип наследования, направленный в первую очередь на передачу наследникам титула и привилегий. Основополагающим принципом наследования является фрагментация, способствующая дроблению собственности, уменьшению экономической (а следовательно, и политической) силы ее владельцев. Данный принцип наследования стимулирует укрепление редистрибутивных институтов – централизованной системы управления, элементов эгалитарного мировоззрения.

Статья поступила в редакцию в декабре 2021 г.
Эволюция общественной системы под действием экзогенных и/или эндогенных факторов обусловливает изменения прав наследования, которые могут быть следствием диффузии институтов из альтернативной институциональной матрицы либо попытки политического регулирования экономических отношений. При этом в первом случае имплантированный из альтернативной институциональной матрицы закон наследования модифицируется государством с целью регулирования баланса между доминирующими редистрибутивными и компенсаторными рыночными институтами.

Ключевые слова: институциональная матрица, рыночные институты, редистрибутивные институты, частная собственность, земельная собственность, право наследования, примогенитура

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