

# **A Monarchical Perspective on Constitutional Governance: H.S.H. Prince Hans-Adam II of Liechtenstein and *The State in the Third Millennium***

**Alexander William Salter**

Berry College

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## **Abstract**

This paper explores key ideas in constitutional political economy by analyzing the writings of H.S.H. Prince Hans-Adam II of Liechtenstein. As a hereditary head of state, His Highness has significant political power. However, the constitution and political institutions of Liechtenstein give each element of the government—the monarch, the parliament, and the people—checks on the ability of the others to behave arbitrarily. Through examining His Highness's ideas on constitutional governance in his recent book, *The State in the Third Millennium*, this paper offers a new perspective on the balance of political power necessary to keep state activity within its appropriate bounds.

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## **I. Introduction**

How should a state be ordered if its authority is to remain within well-defined and nonarbitrary bounds? What is the relationship between constitutional craftsmanship and the rule of law? Can constitutions with nondemocratic elements, and even monarchical elements, be effective at restraining majoritarian and autocratic abuses? Each of these questions undergirds a separate research project within the field of constitutional political economy. This essay explores, rather than settles, some of these questions by examining the ideas of H.S.H. Prince Hans-Adam II of Liechtenstein in his recent book, *The State in the Third Millennium* (2009).

Liechtenstein and its reigning prince are an interesting case study for scholars interested in constitutional economics. Since the end of World War II, Liechtenstein, a tiny state with a population of 35,000,

has transformed from a largely undeveloped agrarian nation into the country with the highest income per capita in the world. In addition, Liechtenstein's head of state is hereditary. In contrast with other European monarchies, whose function is ceremonial, Liechtenstein's reigning prince has the authority to veto legislation, call for popular referenda, propose new legislation, and dissolve parliament. The combination of a powerful, hereditary head of state with largely liberal economic policies is an outlier in political history and deserves attention.

Although *The State in the Third Millennium* is not an academic work—His Highness readily admits the book should be thought of as a “cookbook of political recipes” rather than a treatise on political philosophy (Hans-Adam II 2009, p. 1)—Prince Hans-Adam II's perspective on constitutional governance bears investigating because of his unique experience as a public figure. In addition to being a hereditary head of state, His Highness has also been a popular politician backed by a democratic mandate. Citizens of Liechtenstein overwhelmingly voted to strengthen the authority of the reigning prince in a 2003 constitutional referendum, and again overwhelmingly struck down a proposed limit on these powers in a 2012 constitutional referendum. Thus, while *The State in the Third Millennium* does not offer any striking theoretical novelty, it is valuable as the reflections of one whose life testifies that checks on state power are not necessarily, nor perhaps even most successfully, majoritarian.

## II. Setting the Stage: Humanity's Political History

The first five chapters are a whirlwind tour through human political history, which His Highness uses to develop the concepts he will later employ to analyze the efficacy of various forms of government. Of particular importance are the analyses of state claims to legitimacy and the forces that determine the size of the territory over which states exercise their authority. Altering slightly the standard definition, His Highness defines a state as “a geographical area that is more or less defined, with a population that in the majority has accepted a central authority or has been forced to accept such an authority over a long period of time” (Hans-Adam II 2009, p. 17). The chief source from which states historically claimed authority is religion, but this claim does not necessarily imply a harmony of interests between king and clergy. For example, despite the monopoly status of Roman Catholicism in medieval Europe,

temporal and spiritual authorities frequently had to compete for power and influence. His Highness pays close attention to this division of power, asserting that it led “for many parts of the population to freedoms that did not exist in the other part of the world” (Hans-Adam II 2009, p. 28). The importance of divided power, which historically resulted in a sphere of autonomy for the individual, is a theme that receives much attention throughout.

The first five chapters are also where His Highness develops the political taxonomy employed in later chapters. Borrowing the classical Greek concepts of monarchy, oligarchy, and democracy, His Highness asserts that all states throughout history exhibited features of each, and that success in statecraft is primarily about finding the right balance. The monarch is likened with the executive or head of state; the oligarchy consists of bureaucrats and, often, legislators as well; and democracy obviously refers to the mass of people outside the machinery of the state, whose tacit consent is required at a minimum for the state to exercise its authority (see, e.g., de la Boetie 2008).

### **III. America, Switzerland, and Liechtenstein: Case Studies in Constitutional Democracy**

In the next four chapters, His Highness considers America’s, Switzerland’s, and Liechtenstein’s experiences with constitutional democracy, arguing that the Liechtenstein model exhibits the most promising balance of power between monarchic, oligarchic, and democratic elements for keeping the state within its proper bounds.<sup>1</sup> Despite describing the American Constitution as “brilliant” (Hans-Adam II 2009, p. 60), His Highness concludes it has proved insufficient to curb various democratic pathologies. These pathologies will be familiar to public choice theorists: weak incentives for elected officials to work in the interests of voters because of voters’ high cost of exit and extremely limited voice (Hans-Adam II

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<sup>1</sup> Hoppe (2001) argues that a democratic politician will have a shorter time horizon than a monarch, since a politician only controls the current use-value of the country’s resources. Thus a democratic politician has an incentive to expand the powers of the state, toward the end of maximizing consumption of the country’s capital. In contrast, a monarch, since he controls the country’s capitalized value as well and can pass it on to his descendants, faces better incentives for stewardship and responsible statesmanship. Hoppe’s analysis is largely in line with that of Kuehnelt-Leddihn (1956, ch. 4), perhaps the most systematic modern defense of monarchy against democracy.

2009, pp. 61–62). In His Highness's view, American political institutions offer insufficient checks on oligarchic discretion.

Switzerland differs from America in the use it makes of direct democracy. The Swiss people have the right of referendum on parliamentary decisions, and can even propose initiatives to its parliament. Whereas in America the executive is envisioned as the primary check on oligarchic malfeasance, in Switzerland this responsibility falls to the people. His Highness locates the importance of direct democracy in the traditional federal governance structure of the Swiss cantons, which retain a large degree of autonomy today, not unlike the individual states in America. But His Highness finds Swiss direct democracy processes lacking in constraining the oligarchy, just as he finds the monarchical power of the American executive deficient.

Liechtenstein, His Highness asserts, contains a better mixture of constitutional provisions for the balance of power between monarchy, oligarchy, and democracy. Liechtenstein's reigning prince, as head of state, has the right to veto parliamentary legislation and peoples' initiatives, protecting "against initiatives that are too populist at the cost of the general good or that would negatively impact on minorities" (Hans-Adam II 2009, p. 71). However, to protect against the abuses of an irresponsible prince, the people can put forward a motion to depose the prince through a vote of no confidence, and even abolish the monarchy entirely, which would trigger established procedures for the transformation of Liechtenstein into a republic. While Liechtenstein's princely family has some say over the deposing of a prince, the people's motion to abolish the monarchy cannot be challenged. Combined with traditional roles for parliament and the judiciary, this balance of monarchical authority and legitimacy through the exercise of direct democracy exhibits the necessary features of a stable state that checks autocratic and majoritarian abuses.

Throughout these chapters run a number of themes familiar to students of constitutional political economy. The first and most prominent is a dedication to (classical) liberalism.<sup>2</sup> His Highness

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<sup>2</sup> As a positive discipline, constitutional political economy is not necessarily linked to liberalism, which is a political philosophy and hence normative. But a means-ends analysis of the kinds of institutions and policies suggested by liberalism suggests a robust connection among liberalism, constitutionalism, and economic prosperity, which explains why so many students of constitutional political economy advocate some version of it.

unapologetically asserts the importance of liberal political institutions and policies in creating a robust economy. Since the end of World War II, Liechtenstein has employed such policies and, partly as a result, it has the highest income per capita of any nation. The second is a dedication to federalism. His Highness believes that the majority of public activity should take place at as local a level as possible, leaving for the national state apparatus the tasks of defense, foreign relations, and maintenance of the rule of law. Third is the importance of self-determination. In maintaining the right of local communities to govern themselves, His Highness even goes so far as to explicitly endorse the right of secession, a right that is enshrined in the Constitution of Liechtenstein. Thus, His Highness's political philosophy has intellectual antecedents in the defense of liberalism put forth by Mises (2002) and in the positive political economy of the Virginia School (e.g., Buchanan and Tullock 1962, Buchanan and Brennan 2000), especially with respect to the "generality norm" (e.g., Buchanan and Congleton 2003; see also Salter 2013).

#### **IV. The State's Comparative Advantage**

This is not to say, however, that His Highness finds the state everywhere socially detrimental. From the first pages, His Highness makes it clear he believes that a well-functioning market economy, coexisting with a robust civil society, requires stability and the rule of law, which the state is uniquely positioned to provide. Thus, His Highness holds that politics is logically, if not historically, prior to economics. Echoing Hayek's (1944) rejection of "dogmatic laissez faire," His Highness presents a list of activities he believes the state can and ought to undertake, as long as these activities are clearly circumscribed within constitutional bounds.

The overall constitutional model His Highness proposes is one that would radically alter our conceptions of a state. In terms of form and function, there are many parallels with Hayek's (1960) model. His Highness's main argument throughout the book's second half is that "the state has to become a service company facing peaceful competition, and not a monopoly giving the 'customer' only the alternatives of accepting bad service at the highest price or emigrating" (Hans-Adam II 2009, p. 87). His Highness argues for the constitutionalization of federalism, delegating the vast majority of functions currently practiced by the state to local communities, which are more likely to possess the requisite knowledge and incentive alignment necessary to offer effective solutions (Hans-Adam II 2009,

p. 95). His Highness also believes the constitutionalization of federalism would diminish the problems associated with rent seeking, rent extraction, and concentrated benefits, dispersed costs practices that typically characterize democratic politics when populations are large.

In terms of welfare spending, His Highness suggests that these activities should gradually be delegated by the state to local communities, although he at times seems sympathetic to national catastrophic insurance coverage. For education, His Highness favors a voucher system similar to that proposed by Friedman (1962). Transportation is one issue His Highness believes can be completely delegated to the public sector, thanks to new monitoring technologies that make possible marginal cost pricing. On monetary issues, His Highness holds that “in a globalized world economy a single currency based on metal would probably be the best solution” (Hans-Adam II 2009, p. 141), although this solution is obviously far in the future. His Highness does allow that small states, if they engage in a large share of trade with few countries, would benefit from a monetary arrangement that stabilized, or at least kept predictable, the purchasing power of a domestic currency vis-à-vis the foreign currency.

How should the activities that the state ought to engage in be financed? His Highness argues in favor of splitting taxing authority between the state and local communities. The state must curb its authority to enact direct taxation (real estate, capital assets, etc.) and only engage in indirect taxation, such as a sales tax. Local communities should retain the right of direct taxation. Under this division of authority, “local communities and the whole population within the state would have a strong vested interest in the state behaving as economically as possible and not increasing its debt” (Hans-Adam II 2009, p. 129).

His Highness closes with the presentation of a hypothetical constitution for the kind of state he envisions. Of particular interest are the articles and clauses that make it clear that the state’s authority is expressly delegated and narrowly defined. These articles present a clear division of authority between the state and local communities and “emphasize particularly that the state has to leave all other duties to local communities or private organizations” (Hans-Adam II 2009, p. 152). In addition, there is also an article expressly confirming the right of communities to secede, which should pressure the state to keep within its circumscribed bounds.

## V. Going Forward

His Highness's ideas suggest a number of interesting pursuits for scholars looking to advance the research program of constitutional political economy. First, and most obvious, is a rigorous analysis of decentralized political operations, in the form of federalism and self-determination, using the tools of positive economics. Is the relationship between economic efficiency and political decentralization as robust as it appears, or would the primary result of decentralization be a mere shifting of the loci of rent seeking and rent extraction? Even if careful study confirms the link between decentralization and economic efficiency, how are we to move societies in this direction, given the degree of entrenchment of special interests?

The second avenue, equally interesting as the first, concerns the economic analysis of state efficacy in general. If the justification for the state is its ability to provide important services to its citizens on the basis of democratic legitimation, it ought to be able to provide these services better than voluntary exchange relationships—the market—can. His Highness certainly thinks the state has a comparative advantage at the provision of law and order, at least. Although His Highness is sympathetic to anarchism, to the degree that he envisions a future where states transition from acting as voluntary service companies to actually *being* voluntary service companies, he ultimately concludes this arrangement will not be viable anytime soon (Hans-Adam II 2009, p. 3). However, the positive analysis of anarchy has grown by leaps and bounds since its first treatment by Virginia School scholars in the 1970s, deepening our understanding of social coordination and pushing the argument that the market can, in fact, be the source of its own order (Powell and Stringham 2009). The “analytical anarchism” paradigm (Boettke 2009), by helping us understand the fundamental architecture of social order, suggests it is an open question as to whether a state is the best provider of a stable and reliable framework of social rules. At the very least, this analysis will help identify which rules should be supplied privately, and which rules should be supplied publically.

This is not just a theoretical concern. Liechtenstein is already testing the boundaries of post-Westphalian conceptions of state sovereignty, given the constitutional checks each organ of the government has on the other, and the explicit guarantee of

municipalities' right of exit through secession.<sup>3</sup> It is debatable to what extent Liechtenstein is a state, either in the Weberian sense or in that outlined by His Highness at the beginning of the book. In addition, European history, and especially the history of the German microstates and principalities pre-Unification, provides relevant examples for examining the economics of quasi-sovereign governance structures. These territories can be conceived as proprietary communities where land ownership is bundled with law enforcement (Stringham 2006). This can be seen by examining the dominant mode of economic and legal thought that prevailed in these territories from the mid-sixteenth to the early nineteenth centuries. Known as cameralism, this combination paradigm in governance and public finance sought to provide practical guidance for rulers seeking to raise revenue from their lands, in order to provide them the means to perpetuate their regimes (Wagner and Backhaus 1987; Wagner 2012). Interestingly, cameralism recommended taxation only as a last resort. Princes instead were encouraged to use their resources to develop income-generating businesses, working *within* the existing network of exchange relationships rather than *upon* it. This arrangement was practical because of the extreme fragmentation that existed among Germanic principalities at the time—more than 300 separate territories at the time of the Peace of Westphalia in 1648. Any prince who sought to expropriate wealth from his peasant tenants, rather than use his estate to generate new wealth, would quickly find his tenants exiting to neighboring territories where the costs of governance would be more favorable. This early exercise in Tiebout (1956) competition forced the Germanic princes to behave as governance price takers in a competitive environment, as discussed by Stringham (2006).<sup>4</sup>

In addition to proprietary quasi-sovereign communities, the Hanseatic League, which existed from the thirteenth to seventeenth centuries in modern-day Northern Germany, provides an example of another typology of market governance: functional, overlapping, competing jurisdictions (Fink 2012). In this system, governance is

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<sup>3</sup> See Chapter I, Article 4, Paragraph 2 of the Liechtenstein Constitution.

<sup>4</sup> Olson (1993) is less optimistic about the efficiency prospects of these sorts of arrangements, since the ruler has an incentive to extract all surplus rents from the polity, that is, to choose the revenue-maximizing point on the Laffer curve. The ability to exit should ameliorate this, but it is ultimately an empirical issue, since the size and distribution of surplus depend on the particular options available to resident and ruler alike.

functional rather than hierarchical. Different units of governance would provide their services within the same geographical territory, resulting in competition between governance units for customers. In its ideal, typical form, these governance units would have the power to levy taxes. This last element was absent from the Hanseatic League. Rather than being subsumed under a constitutional authority, the cities comprising the Hanseatic League exhibited a polycentric governance structure, which required governance arrangements to be self-enforcing (Fink 2012, p. 195).<sup>5</sup>

Both of the above cases—competing quasi-sovereigns across territories, and competing governance units within a given territory—highlight the importance of taking seriously His Highness’s conception of the state as a service-provision corporation. Without romanticizing feudalism, we can nonetheless recognize the impressive incentive-alignment features that existed in pre-unification German principalities. These areas, along with modern-day Liechtenstein, should be regarded as valuable sources for projects studying federalism, exit and voice, constitutional enforcement, sovereignty, and market-chosen law.

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<sup>5</sup> See also Fink (2011) for evidence of a quasi-social contract emerging from members of the Hanseatic League.

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