

Constitutional Entrepreneurship and Civil Resistance

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Abstract: This paper examines the role of civil resistance in constitutional change. Constitutional entrepreneurs utilize nonviolent action to alter the government's cultural and political foundations. Empirical studies demonstrate that nonviolent revolutions are nearly twice as likely to succeed as violent regime change. By analyzing civil resistance mechanisms and exploring pre-constitutional and constitutional entrepreneurs who use these tactics, this paper sheds light on their influence in shaping cultural institutions and instituting new forms of government.

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1. INTRODUCTION

Civil resistance is a mechanism for constitutional change, as demonstrated in three channels. First, constitutional entrepreneurs reimagine social and constitutional systems that dovetail existing customs, norms, and culture. Second, they develop and deploy strategies to engage the public. Third, these tactics are nonviolent and guard against bloodshed and destruction.

Constitutional entrepreneurs using nonviolent action seek to alter the government's cultural and political foundations. The scope of the paper is tailored to nonviolent revolutions as distinct from violent coups or civil wars. However, many of my arguments could be made of constitutional entrepreneurs using violent methods. From 1900 to 2019, nonviolent revolutions are nearly twice as likely to succeed as violent regime change (Chenoweth and Stephan 2021). Of the 50% of nonviolent revolutions that succeed, many do not experience significantly higher Polity IV or economic freedom scores a decade after the change. Burkina Faso in 2014, Ghana in 2000, Kyrgyzstan in 2010, and Georgia in 2003 significantly improved their Polity scores after recent nonviolent revolutions. Yemen in 2012, Venezuela in 2002, Thailand in 2006, and Egypt in 2011 scored much worse.

Constitutional entrepreneurs who want to rebuild their country's political system take the energy and ideas from peaceful protest movements and use them to carefully design new rules that shape how people work together and make decisions, like a skilled carpenter building a house that will last for generations. These reformers think carefully about what motivates people, create rules that encourage good behavior, and draw on both academic knowledge and real-world experience. This happened during the Sudanese Revolution in 2019 (Hassan and Kodouda 2019), the 2019 Smile Revolution in Algeria (Zoubir and White

2015), the 2011 Jasmine Revolution in Tunisia (Alvi, 2019), Iceland's Pots and Pans Revolution in 2009 (Bernburg 2016; Elkins et al. 2012), and the 2005 Rebellion of the Forajidos in Ecuador (Thoresen 2009).

The constitutional entrepreneurs analyzed in this paper utilize tools commonly called civil resistance or nonviolent action. Civil resistance is defined as "widespread nonviolent resistance by the civilian population, usually practiced in conflicts over political issues" (Sharp 2011) or "collective action that seeks to affect the political, social, or economic status quo without using violence or the threat of violence against people to do so" (Chenoweth 2021). Nonviolent action is a synonym for civil resistance, and they both are distinct from principled nonviolence because they rely on strategic decisions rather than normative justifications or religious convictions.

Empirical studies, such as those by Chenoweth and Stephan (2011), indicate that nonviolent campaigns attract a broader societal spectrum, making them more extensive than violent movements. This inclusiveness contrasts with violent revolutions, which tend to centralize power among a select few, maintaining the status quo as Tullock (1971) observed. Hayo and Voigt (2013) further highlight that while violent methods like assassinations often perpetuate institutional challenges, nonviolent approaches like strikes lead to positive governmental changes. Governments recognize the efficacy of nonviolent movements, often preferring to negotiate with them over violent factions. This nonviolent approach is particularly effective when movements are organized through established institutions like trade unions and religious organizations, which provide the social networks and organizational infrastructure needed for sustained nonviolent action (Butcher et al. 2018). However, the presence of "violent flanks" can compromise the effectiveness of primarily nonviolent movements by diminishing public support, though there are occasional short-term gains (Chenoweth and Schock 2015; Feinberg et al. 2020; Muñoz and Anduiza 2019). Even purely nonviolent urban protests can have complex consequences, as Gerling (2017) finds they may trigger coups in autocratic regimes without necessarily leading to democratization. To curb violent tendencies, movements can employ strategies like fostering a nonviolent identity and centralized leadership, proven methods for promoting peace (Busher et al. 2023; Belgioioso et al. 2021a). In essence, nonviolent campaigns, even when unsuccessful, often pave the way for democratic governance more effectively than their violent counterparts (Chenoweth and Stephan 2011).

Constitutional Political Economy, Buchanan's framework for analyzing welfare-enhancing constitutional agreements (Buchanan 1990), rests on normative individualism and modified Pareto-criteria requiring unanimous consent (Buchanan 1991, 2005, 1962; Buchanan and Vanberg 2002). However, empirical research shows constitutional development deviating from these ideals (Mueller 1996; Kirstein and Voigt 2006; Voigt 2011, 2015), with market entrepreneurship's welfare claims proving non-analogous to political and constitutional contexts (Vanberg and Buchanan 1991; Callais and Young 2024; Holcombe 2002). Recent scholarship challenges assumptions about unanimous consent (Buchanan 2011), with constitutional interpretation and historical exclusions undermining idealized constitutional development theories (Salter and Wagner 2019; Novak 2023).

Constitutional entrepreneurship emerges as a distinct process where actors seek to create or modify constitutional rules for improved outcomes (Thomas and Thomas 2014; Kiser and Ostrom 1982). Lucas (2021) identifies four distinct levels of nonmarket entrepreneurship: political and social entrepreneurs working within existing rules, public entrepreneurs operating at the governance level, constitutional entrepreneurs changing formal institutional environments, and cultural entrepreneurs modifying embedded norms and customs. This framework aligns with Martin and Thomas (2013), who outline three discrete arenas: pre-constitutional rules (linguistic and cultural institutions), constitutional rules (formal frameworks), and post-constitutional rules (policies and implementation).

The scope of constitutional entrepreneurship extends beyond traditional state structures, encompassing private provision through various organizational forms (Thomas et al. 2010; Berg et al. 2020; Skarbek 2016). Research demonstrates how constitutional entrepreneurs must balance competing interests while providing selective incentives to overcome collective action problems (Novak 2023; Rajagopalan and Wagner 2013). This perspective emphasizes constitutional entrepreneurship as a dynamic process of exper-

imentation and bargaining (Salter and Wagner 2018; Martin and Thomas 2015), where entrepreneurs must navigate complex social dynamics while operating across multiple governance levels, from cultural institutions to formal constitutional frameworks (Thomas and Thomas 2014; Salter and Furton 2018).

This paper seeks to contribute to Voigt's (2011, p. ?) challenge that, "[l]eaders' individual traits are but one potentially relevant aspect in the determination of and change to constitutions. Empirical analysis needs to be theory-driven and it is the theory that is sorely needed." Following Buchanan's writing on constitutional political economy, scholars contributed theory and empirical work to great effect on the practical analysis of revolutions and constitutions (Aidt and Franck 2015; Aidt and Albornoz 2011; Aidt and Jensen 2014; Aidt et al. 2018; Apolte 2011; Congleton and Yoo 2018; Congleton 2006; Hayo and Voigt 2010, 2016; Tridimas 2016; Salzberger and Voigt 2002; Voigt 2011). However, the constitutional political economy literature on revolutions rarely examined civil resistance movements. Likewise, the literature on nonviolent action within political science, history, sociology, and conflict studies fails to engage with constitutional political economy with a few notable exceptions (Goldstone 2014; Lichbach 1996, 1998; Novak 2023).

This paper is organized as follows. First, I outline four activities undertaken by successful constitutional entrepreneurs using civil resistance in Section 2. Then, Section 3 examines how each of these applies to the successful case of Estonia in Section 3.1. Section 3.2 examines Algeria, an unsuccessful case. Finally, in Section 4, the paper examines the relevance of these insights to global social movements, constitutional political economy, entangled political economy, and public choice more broadly.

2. CIVIL RESISTANCE AND CONSTITUTIONAL ENTREPRENEURSHIP

Constitutional entrepreneurs distinguish themselves through the attainment of pivotal outcomes. They commence by crafting a vision of political and constitutional change harmoniously with a nation's intrinsic customs, norms, and culture. Subsequently, they implement a meticulously devised strategy that leverages selective incentives to engage the public, often deploying subversive tactics that resonate with, entertain, and captivate the citizenry. Throughout their endeavor, they diligently guard against any resort to violence.

2.1 *The Role of Pre-constitutional Entrepreneurship*

Pre-constitutional entrepreneurs within a civil resistance framework develop the informal institutions that animate constitutional change. Representing revolutionary thought leaders, these constitutional entrepreneurs champion political and cultural metamorphosis sans violence. They channel social movements and mold societal perceptions through diverse tools like moral suasion, entertainment, selective incentives, expansive social networking, insider insights, and identity affirmation (Novak 2021). Such tactics necessitate rigorous planning and an unwavering pledge to nonviolence, aiming for a seamless integration into the prevailing political fabric.

Significant constitutional alterations are often heralded by shifts induced by pre-constitutional entrepreneurs in customs, ideologies, and religious tenets. This demarcation between pre-constitutional and constitutional rules is more conceptual than chronological, placing a premium on efforts impacting informal institutions (Martin and Thomas 2015). Successful constitutions are grafted onto deep-rooted informal institutions (Boettke et al. 2015). Pre-constitutional entrepreneurs endeavor to transform or safeguard societal conventions and values in this context. Key societal influences like religious leaders, moral thinkers, and dissidents assume the mantle of pre-constitutional entrepreneurs when they construct pivotal cultural shifts. Participants in civil resistance campaigns often target these foundational structures in their quest for holistic societal renewal.

Vaclav Havel exemplifies pre-constitutional entrepreneurship through his deliberate efforts to transform informal institutions under communism (Keane and Havel 1985). His core contribution was not merely coordinating resistance, but fundamentally reshaping societal norms and values. He mod-

eled a form of living that was a direct challenge to the institutional foundations of communist rule. By advocating alternative paradigms and experimental lifestyles, Havel and fellow intellectuals engaged in pre-constitutional entrepreneurship by creating new social norms and cultural frameworks that operated outside state control. The establishment of parallel institutions like underground universities and independent unions served a dual purpose while they coordinated resistance activities, their primary entrepreneurial function was transforming the informal institutional environment by demonstrating alternative ways of organizing society, thereby undermining the communist system's normative foundations.

Religious leadership also emerges as a pivotal force in fostering regime transitions. Empirical studies attest to the enabling role of religious elite defection in bolstering social movements, even if it isn't a *sine qua non* (Nepstad 2021a). By fostering unity and serving as conduits for anti-state narratives, religious figures amplify resistance efforts. Their global linkages, like connections to the International Fellowship of Reconciliation, and their adeptness at liaising with international actors to navigate governmental roadblocks, further bolster their influence. Historically, their teachings have been instrumental in tempering movement strategies and rallying expansive support.

Integrating pre-constitutional entrepreneurs into the constitutional entrepreneurship paradigm unveils the intricate tapestry of experimentation, societal learning, setbacks, and political negotiations culminating in pivotal constitutional moments. These entrepreneurs may take many forms, including scholars, poets, or clergy. However, most campaigns fail without their initial work and leadership firmly placed at the foundation of a movement for constitutional reform.

2.2 Strategy, Tactics, and The Dynamics of Selective Incentives

The linchpin of civil resistance lies in its adept orchestration, as leaders discern innovative approaches to harness social, human, and physical capital, galvanizing revolutionary momentum. Their acumen is particularly sharpened towards discerning public sentiment, particularly in regions where public dissent is muzzled, leading to an informational vacuum regarding citizen grievances. In these circumstances, constitutional entrepreneurs serve as pivotal conduits, accelerating the diffusion of this knowledge.

At the heart of this endeavor lies nonviolent action, a compendium of tools used by individuals or groups within states or organizations to navigate political, economic, or societal terrains. Unlike violent means, these tools pivot on non-cooperation, encompassing a spectrum from strikes, civil disobedience, and boycotts to persuasion and protests. The methods of nonviolent action set the stage for a strategic duel, where on one hand, social movements strive to bolster their relevance and erode governmental authority. At the same time, governments grapple to suppress these movements, cement their dominion, and preserve their legitimacy. The state's conflicting objectives further complicate this intricate dance, with excessive suppression risking public legitimacy. Constitutional entrepreneurs astutely exploit these vulnerabilities, choreographing their tactics over time. This nuanced strategy-counterstrategy dynamic resonates with the 'political jiu-jitsu' notion in civil resistance scholarship.

Glaeser and Sunstein (2015) have further dissected this dynamic, positing a model rooted in the signaling by political stewards. Classifying leaders as either "tough" or "benign," they outline a strategic matrix with actions ranging from hostility to neutrality towards a dissident faction. For instance, while overt aggression might project strength, excessive hostility, especially against a frail opponent, might inadvertently betray vulnerability. Civil resistance movements must tread cautiously, evoking responses without pushing the state to extremes the public might perceive as justifiable. This model, incorporating varied assumptions, uncertainties, and bounded rationalities, delineates potential trajectories for governmental and civil resistance factions.

Yet, a perennial conundrum for constitutional and political entrepreneurs is the provision of selective incentives, sidestepping collective action dilemmas highlighted by Olson (1965). Tullock (1971) subsequently posited that violent upheavals might merely reproduce existing structures, given the inherent expectation of post-revolution power dynamics among the most active participants.

Subsequent work has identified multiple complementary mechanisms for solving collective action problems in social movements. Lichbach's (1996) framework organizes solutions into market (cost-benefit adjustments), community (shared values and social incentives), contract (self-governance and conditional cooperation), and hierarchy (leadership and organizational) categories. Building on this, Chong (2014) emphasizes the role of selective incentives (both positive and negative), moral and social norms, leadership strategies, emotional mobilization, reputation effects, and tangible outcomes in overcoming participation barriers. Novak (2021) further identifies entrepreneurial coordination, normative framing, social networks, technological facilitation, and incremental victories as crucial mechanisms. These works suggest that successful movements employ multiple, overlapping strategies that combine material incentives, social pressure, moral appeals, and organizational structures to align individual interests with collective goals and sustain participation despite significant costs.

To amplify their influence and realize their vision, constitutional entrepreneurs relentlessly strive to expand their movement's footprint. Central to this endeavor is coalition-building, leveraging shared affinities, be they ethnic, racial, or other identity markers. This might also include trade unions or religious organizations. While tapping into society's altruistic and cooperative pulse is beneficial, seasoned entrepreneurs understand the necessity of appealing to self-interest. Finally, incorporating inter-generational ties is critical for forming a large movement.

These mechanisms manifest in concrete ways within civil resistance movements. For instance, social networks often provide tangible benefits like employment opportunities, professional connections, and mutual aid systems that reward participation. Religious organizations may offer both spiritual fulfillment and material support through established community structures. Movement organizers frequently create formal roles and responsibilities that confer status and recognition, from neighborhood coordinators to media spokespersons. Some movements establish alternative institutions that provide services to participants, such as parallel education systems or healthcare networks, making movement participation personally beneficial. These selective incentives become increasingly crucial as movements expand. When a movement grows from hundreds to thousands or millions, the free-rider problem intensifies: individuals have a stronger incentive to let others bear the costs of participation while still benefiting from the movement's potential success. Constitutional entrepreneurs must therefore scale their incentive structures proportionally, often by creating hierarchical networks of local organizers who can maintain accountability and distribute benefits at the community level. They might also leverage technology to track participation and contributions, or develop recognition systems that make individual participation more visible and rewarding within larger group contexts. This careful balance of incentives helps maintain cohesion and commitment even as the movement grows beyond face-to-face interactions.

The Serbian resistance, especially the Otpor! movement, adeptly tapped into the nation's rich cultural and musical legacy and resonated with a diverse audience. Under Marshal Tito, despite being a communist regime, Yugoslavia enjoyed a vibrant cultural scene, with magazines like "Jukebox" featuring global rock stars and the official record label, Jugoton, releasing albums by international artists like the Beatles and David Bowie. This cultural openness shaped the youth of the 1980s, like the members of Otpor!, fostering a unique blend of local and global musical tastes.

Otpor! developed sophisticated approaches to entertainment as selective incentives, particularly evident in their 1996-7 student protests and later resistance campaigns. During prolonged confrontations, they transformed potentially dangerous situations into carnival-like gatherings most notably during the "Cordon of the Cordon" standoff, where they established the "Discotheque Blue Cordon," attracting 30,000 participants with a mix of British punk and traditional Balkan music. These events were not merely diversionary. They served multiple strategic purposes: generating media coverage, building solidarity, undermining regime authority through mockery, and preventing violent escalation (Sombatpoonsiri 2011). Through their branch network of approximately 130 local offices, Otpor! adapted these tactics to local conditions using more overt humor where media coverage was available while focusing on door-to-door organizing in regime strongholds (Sombatpoonsiri, 2008).

Evidence shows these approaches foster broader engagement by lowering barriers to participation and sustaining morale through collective joy, while militaristic or labor-intensive methods often discourage mass participation due to high personal risks and resource demands (Popovic and Miller 2015; Chenoweth and Stephan 2011). These creative tactics also resonate with the expressive voting concept in public choice scholarship (Brennan and Lomasky 1997; Brennan and Hamlin 2009), as the psychological rewards of participating in enjoyable, low-risk activities help offset traditionally perceived low returns from individual efforts. The carnival atmosphere served to transcend the apparent reality of confrontation, creating what Sombatpoonsiri (2011) terms a parallel world where political imagination is made possible.

The yardstick for tactical success remains the sustainability and growth of the movement. By 1998-2000, Otpor! had evolved beyond mass demonstrations to a sophisticated blend of marketing-based campaigns, local organizing, and targeted actions, effectively becoming what they termed a youth cult of resistance. Tactics empirically demonstrated to correlate with greater movement size and induce selective incentives to participate include nonviolent tactics, political jiu-jitsu, access to exclusive networks and intelligence, coalition building (especially through clubs, unions, or identity-based movements), and finally humor and entertainment. Notably, Otpor!'s experience suggests that entertainment-based incentives work best as part of a broader tactical repertoire that can be adapted to local political contexts and levels of repression.

2.3 Constitutional Entrepreneurs and Nonviolent Action

Nonviolent action is empirically demonstrated to be the most effective means of regime change (Chenoweth and Stephan 2011; Hayo and Voigt 2013; Butcher et al. 2018; Chenoweth and Schock 2015; Feinberg et al. 2020; Muñoz and Anduiza 2019; Busher et al. 2023; Belgioioso et al. 2021a). However, many campaigns are violent or become violent over time. What tools do constitutional entrepreneurs use to maintain the discipline of nonviolent action? Leaders of civil resistance movements employ three key mechanisms to maintain nonviolent discipline: providing appealing alternatives to violence, leveraging cultural frameworks for nonviolent action, and developing robust systems to manage violent flanks. Recent research demonstrates that these mechanisms are crucial not just as alternatives to violence, but as more effective means of achieving movement objectives (Shuman et al. 2024).

First, leaders who organize entertaining or humorous events provide alternatives to violence that are more appealing and effective at mobilizing broad participation. Experimental studies show that people are more likely to identify with and support nonviolent groups compared to violent ones, especially when they already sympathize with the cause (Dasch et al. 2024). This finding helps explain why successful movements invest heavily in creating engaging nonviolent tactics. When movements offer participants clear benefits, including a sense of empowerment, community belonging, and meaningful ways to express dissent with lower personal risk, they can overcome the selective incentive problems that might otherwise drive some toward violence (Thomas et al. 2022).

In civil resistance campaigns worldwide, constitutional entrepreneurs have deployed rock bands, music festivals, art installations, and illegal acts of humor to subvert the state while maximizing public engagement. One humorous example involves Moroccan cats and the prohibited flags of the Sahrawi Arab Democratic Republic (Bisgaard-Church 2011). In 1975, the Kingdom of Morocco invaded Western Sahara, controlling most of the territory, while the Sahrawi Polisario Front, advocating for the entire region as the Sahrawi Arab Democratic Republic, retained only 20-25% of the land. The 1991 UN-supervised ceasefire and referendum led to a deadlock over voter eligibility and resulted in multiple Sahrawi protests over the years, particularly the *intifadas* of 1999-2004 and 2005, which faced harsh Moroccan repression. In a creative form of resistance during the protests, Sahrawis released feral cats with attached Sahrawi flags into the streets, leading Moroccan riot police on a comical chase to remove the symbols of dissent. Such tactics not only delegitimize the state but provide forums for citizens to air grievances while prioritizing creativity over violence (Martin et al. 2024).

Second, movements are more successful when they evoke traditional, cultural, or religious rationales for disciplined civil resistance. These appeals often refashion the symbols and stories associated with national identity, combining historical accounts that resurface deep nationalistic pride with calls to action addressing contemporary injustices. Research shows that religious and cultural institutions can provide crucial resources and legitimacy to nonviolent movements while helping maintain tactical discipline (Nepstad 2021b). The most successful movements provide combinations of these methods that generate intergenerational appeal and enhance movement legitimacy (Turner 2023).

In the Philippines, following President Marcos's declaration of martial law in 1972, the Church increasingly opposed him. The assassination of Benigno Aquino in 1983 galvanized Cardinal Sin and bishops to lead a nonviolent pro-democracy movement. The religious grounding of his pleas guarded against the propensity for violence. This movement culminated in the massive people power protests in 1986 that ousted Marcos. Later, in 2001, Cardinal Sin mobilized masses through prayer vigils and demonstrations to remove the corrupt President Estrada. As Cardinal Sin demonstrated, religious conviction can be a powerful motivation for nonviolence that galvanizes the population against the regime (Philpott 2004).

Third, leaders within an organization must develop robust systems for addressing violent flanks when they arise. Research demonstrates that movements with strong organizational structures and centralized leadership are better able to prevent shifts toward violence (Belgioioso et al. 2021b). Successful movements establish clear chains of command for tactical decisions, internal monitoring systems, and rapid response protocols for when violence emerges (Schock and Demetriou 2018). This institutional framework is crucial because contemporary research shows that the presence of violent flanks generally reduces movement success rates (Chenoweth and Schock 2015).

To address violence committed by outsiders or movement members, effective organizations develop specific mechanisms including: creating structured roles for former armed actors, establishing internal mediation processes for tactical disputes, and building systems to monitor and address grievances that might lead to violence (Wallace 2018). Leaders train members in concrete interpersonal interventions, such as de-escalation techniques for confrontational situations and methods to peacefully separate violent actors from crowds. They also establish containment practices like rapid deployment of peace teams to protest hot spots and communication networks to warn of potential violence (Martin 2021).

These organizational structures and training programs generate bottom-up capabilities to prevent and respond to violence while maintaining movement discipline. When violence does occur, leaders must also be prepared to investigate whether opposition forces staged these acts to diminish the movement's credibility, while still taking swift action to prevent escalation (Chenoweth et al. 2017). Research shows that movements that successfully manage these challenges are more likely to achieve their objectives, as maintaining nonviolent discipline enhances both tactical effectiveness and public support (Turner 2023).

These three mechanisms, providing appealing nonviolent alternatives, leveraging cultural frameworks, and developing robust systems to manage violent flanks, help ensure that peaceful movements do not descend into violent and therefore less effective means of resistance. While maintaining nonviolent discipline is challenging, especially within large and decentralized social movements, evidence increasingly shows that these efforts are critical for ensuring movement success and long-term institutional benefits (Ammons 2024). The most effective movements invest in organizational structures and training that make nonviolent resistance not just an alternative to violence but a more appealing and strategic choice for achieving social change.

3. CASE STUDIES

3.1 *Estonia: Civil Resistance and Constitutional Success*

Estonia's Singing Revolution, waged against the Soviet hegemony, epitomizes the profound interplay between civil resistance and astute constitutional design. It was not just about resisting an oppressive regime; it was a strategic engagement of cultural paradigms, leveraging deeply entrenched norms, traditions, and historical narratives to orchestrate a revolution, as this paper outlined in Section 2.1. Such endeavors are seldom spontaneous. They require entrepreneurial visionaries who can reimagine existing norms and institutional frameworks as potent resistance tools (Nicoara 2018).

Under the Soviet occupation, key markers of Estonian identity—language, songs, flags, and traditional practices—were proscribed (Smidchens 2014). However, even in these stifling circumstances, the Estonians found a beacon: their singing festivals, which had been celebrated since 1869. These festivals, originally established by nationalist entrepreneurs who strategically framed them as celebrations of peasantry law to gain Russian approval, served as foundations for future resistance (Brokaw and Brokaw 2001). Cultural entrepreneurs systematically built upon this tradition, creating parallel social institutions and networks that would later enable mass mobilization (Nicoara 2018). By June 1988, these seemingly innocuous festivals evolved into powerful resistance platforms, showcasing banned songs and celebrating proscribed cultural practices.

The efficacy of Estonia's cultural resurgence stems from its congruence with preexisting cultural norms, invoking a deep-rooted nationalist sentiment. Pre-constitutional entrepreneurs strategically leveraged these festivals, transforming traditional songs into vehicles of resistance. Songs with double meanings passed censorship while conveying nationalist messages, with pieces like "Mu Isamaa on Minu Arm" becoming unofficial national anthems (Brokaw and Brokaw 2001). These entrepreneurs also bridged generational divides by creating rock versions of traditional songs, ensuring broad participation across social groups (Nicoara 2018). As outlined in Section 2.2, the entertainment value of these festivals proved critical for inducing selective incentives for participation. The movement's growth was remarkable. By September 1988, nearly a quarter of Estonia's population attended these gatherings (Brüggemann and Kasekamp 2014).

The nonviolent character of these gatherings emerged through several deliberate mechanisms. Cultural entrepreneurs utilized Estonia's choral traditions to create structured, disciplined mass gatherings. As Lauristin and Vihalemm (2020) observe, the organized structure of choral singing and its associated collective rituals inherently fostered discipline and self-restraint among hundreds of thousands of participants without requiring external enforcement.

The festivals provided a framework for coordinated symbolic resistance that could effectively challenge the regime while avoiding provocative confrontation. A powerful example occurred during the 1985 song festival, when the audience waited quietly through two days of mandatory Russian and Soviet songs before collectively rising to sing in Estonian, swinging their umbrellas in unison (Brokaw and Brokaw 2001). Smidchens (2007) documents how Estonian national narratives had evolved from celebrating warrior heroes to emphasizing nonviolent cultural resistance, creating a nonviolent mold for nationalist expression. As Section 2.3 outlines, this maintenance of nonviolent discipline proved critical for success, as violent action against singing crowds would have delegitimized the regime.

This cultural revival paved the way for a broader political renaissance. From 1988 to 1993, the Estonian electorate was galvanized, reflected in their participation in nine diverse electoral exercises, including national referendum, presidential and local elections (Grofman et al. 1999). The 1991 referendum allowed a significant majority to affirm their desire for Estonia's independence (Raun 1991). By August 20, 1991, Estonia's Declaration of Independence from the Soviet Union was ratified, catalyzing the Constitutional Assembly's inception.

The Estonian case is a clear example of success utilizing constitutional entrepreneurs who ground their movement within reformations of pre-existing cultural traditions, customs, and norms. Second, they induced participation through identity-based persuasion and entertaining acts of resistance. Third, Estonian leadership and the tactics selected avoided the use of violence.

3.2 *Algeria: The Obstacles of Civil Resistance*

In stark contrast to Estonia's success, Algeria's uprising during the Arab Spring serves as a poignant reminder of the multifaceted challenges civil resistance movements face. Though set against a broader regional wave of political upheavals, Algeria's resistance against President Abdelaziz Bouteflika from 2010 to 2012 bore unique intricacies and hurdles (Zoubir 2022).

As outlined in Section 2.1, pre-constitutional entrepreneurs play a vital role in developing the informal institutions that animate constitutional change. In Algeria, this process faced significant obstacles. Religious institutions, particularly Sufi organizations, which could have served as pre-constitutional entrepreneurs, were effectively co-opted by the regime (Muedini 2012). From being centers of religious teaching and social organization, *zawiyas* (Sufi buildings) were transformed into instruments of state legitimacy, particularly after the 1990s civil conflict (Fedele 2020).

The transformation of informal institutions and social norms, crucial for the success described in Section 2.1, faced particular challenges given Algeria's complex historical context. Bouteflika's regime managed a delicate balance between the army and civil society's grievances, creating competing informal institutional frameworks that complicated efforts at institutional change (Mortimer 2000). Language conflicts and identity politics reflected more profound struggles over cultural identity and institutional transformation, showing how potential pre-constitutional entrepreneurs struggled to operate in the cultural sphere (Sadek 2015).

As discussed in Section 2.2, successful movements require effective social, human, and physical capital orchestration. However, the Algerian resistance faced significant leadership conundrums as the military-political nexus created a system where conventional collective action was highly constrained, forcing potential opposition movements to develop alternative organizational structures (Ait Kaki 2004). Bouteflika successfully neutralized various power brokers who might have served as effective pre-constitutional entrepreneurs, demonstrating the regime's ability to constrain institutional innovation (Mortimer 2006). This was further complicated because Algeria maintained strong coercive capabilities while having limited connections to Western democratic institutions (Hill 2016). The political system under Bouteflika employed sophisticated strategies to maintain power, creating a context where opposition movements had to calibrate their responses (Szmolka 2006).

The challenge of maintaining nonviolent discipline, central to the framework outlined in Section 2.3, proved particularly difficult in the Algerian context. While the movement attempted to use creative tactics and cultural resources (Bentahar 2021), Algeria's unique political context and security apparatus created constraints on civil society mobilization (Thieux 2020).

Fear and trauma from the civil war period in the 1990s significantly influenced citizens' perceptions of protest tactics and regime legitimacy (Zeraoulia 2020). Studies have shown that areas that experienced intense violence during the 1990s civil war showed different mobilization patterns, with some communities being more hesitant to engage in protest but showing more substantial commitment once mobilized (Kilavuz et al. 2023). The regime's hybrid nature created challenges for sustaining political participation, illustrating how movements must constantly adapt their tactics to maintain momentum in the face of sophisticated state responses (Kuznetsov 2023).

As emphasized in Section 2.2, movements must solve collective action problems and provide selective incentives for participation. In Algeria, the shadow of past violence significantly complicated this task. Research has shown that exposure to state repression can have long-lasting alienating effects on citizens' political attitudes while decreasing their willingness to engage in contentious behavior (Rozenas and

Zhukov 2019). In Algeria, this manifested in complex ways, as historical memory deterred and motivated different segments of the population (Zeraoulia 2020).

The Algerian movement initially failed because it could not effectively ground its grievances and vision within the country's broader customs, values, and traditions, a crucial element discussed in Section 2.1. Historical trauma and fear played vital roles in shaping participation patterns (Wang, 2021; Rozenas and Zhukov 2019), while the movement struggled to maintain consistent nonviolent discipline and faced significant challenges in developing effective leadership structures (Lenze 2021). This pattern persisted until 2019, when the formation of the "Revolution of Smiles" (Hirak) managed to overcome these challenges, successfully mobilizing millions of citizens in united opposition to the ruling system and eventually forcing Bouteflika's resignation (Hamouchene 2022). The Hirak movement demonstrated how a renewed approach to civil resistance could overcome the historical, institutional, and emotional barriers that previously constrained collective action in Algeria.

4. CONCLUSION

As observed in various global movements, the trend towards utilizing nonviolent means to instigate change underscores a shifting paradigm in citizen-led initiatives against governmental authorities. Yet, the intricate link between nonviolent movements and subsequent constitutional reform remains in the shadows of academic exploration. Key to the success of such movements is weaving a societal narrative that resonates with prevailing customs, traditions, and values. Coupled with this is the need for well-structured strategies that galvanize participation by offering varied incentives. Steering clear of violent confrontations and pivoting around competent constitutional entrepreneurship can pave the way for efficacious constitutional inception.

However, drafting a new constitution is no panacea. As historical examinations suggest, not all newly minted constitutions adequately address the foundational political and economic disparities that ignited the revolutionary fervor in the first place (Tullock 1971; Callais and Young 2024). Intriguingly, numerous case studies spotlight constitutional metamorphosis in environments devoid of overt citizen force, even under regimes historically indifferent or even hostile to civil liberties and free expression.

A pivotal takeaway from these case studies is the recognition that while the path to constitutional evolution is fraught with challenges, astute strategic choices can mitigate the odds of failure. The Algerian narrative poignantly encapsulates this—where learnings from prior unsuccessful endeavors fueled a more concerted, eventual success. Importantly, the wisdom from these movements need not always be birthed from adversity. The essence of nonviolent resistance is now a global tapestry, with movements borrowing and adapting successful stratagems from diverse geographical contexts.

As the use of civil resistance increases, scholars researching constitutional political economy are well placed for research. Beyond academic intrigue, these movements offer fertile ground for exploring facets of collective action dynamics, the broader spectrum of public choice, and the intersections of defense and peace economics. However, very little scholarship in these fields is devoted to civil resistance. Doing so enables researchers to understand a growing form of constitutional change. Additionally, it provides an additional mechanism for realizing the constitutional ideals of James Buchanan, namely that through voluntary agreement rather than violent conflict, citizens may generate rules for governing society.

Researching pre-constitutional entrepreneurship fits nicely within the growing field of entangled political economy. This literature examines overlapping relationships between government, business, and society. As demonstrated in this paper, civil resistance movements may interact directly with political institutions to great effect. Additionally, the entangled political economy framework's emphasis on network analysis offers productive tools for examining social movements. Demonstrating the capacity of social movements to alter the foundations of political systems reveals the importance of incorporating entanglement into public choice more broadly.

The growth of populist movements worldwide demonstrates the importance of entertainment and expressive forms for understanding political incentives. The profound changes to political structures witnessed in the 21st century, from identity-based movements, entertaining or bombastic political figures, and increases in political polarization, highlight that much of politics can be understood not by purely economic or highly rational incentives, but by understanding the mechanisms of culture, esteem, entertainment, and social affiliation. Civil resistance movements thrive, for better or worse, on the latter category of human motivations, and this research furthers our understanding of where these powerful incentives may take the world's political systems.

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