

Volker Schneider · Burkard Eberlein
Editors

Complex Democracy

Varieties, Crises, and Transformations

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Complex Democracy: An Introduction

Volker Schneider and Burkard Eberlein

Abstract

This chapter introduces the present volume, which originated at a Berlin symposium in 2013, on the occasion of Gerhard Lehbruch's 85th birthday. The chapter presents Gerhard Lehbruch as an early pioneer of complexity thinking in the context of democratic theory. Such a complexity perspective suggests that democratic political systems cannot be reduced to purely electoral systems; rather, they are vertically and horizontally differentiated communication systems in which different organizational levels (intermediary organizations) and different forms of interest intermediations interact. Besides the electoral channel of territorial interest intermediation there are multiple channels of functional intermediation in which organized actors and other private interests are incorporated into policy-making. This understanding of 'complex democracy' permeates the present volume in which 17 original contributions focus on one of the three key aspects of the study of complex democracy: 1. the structural and institutional variety of existing democratic systems; 2. the ways in which democratic systems are affected by and respond to contemporary economic and financial crisis; 3. the long-term transformations of democratic systems, both in institutional terms as well as regarding its implications for policy.

This book originates in a May 2013 Berlin symposium that was held in honor of Gerhard Lehbruch, one of the most distinguished post-war scholars of comparative politics, who celebrated his 85th birthday that same year.

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While many see in Lehmbruch an intellectual father of specific concepts, most prominently of neo-corporatism, we believe that the term ‘complex democracy’ best captures his seminal and wide-ranging contributions. To begin with, his pioneering work on negotiated forms of democracy (*consociational democracy*) revealed the varieties of democratic rule, moving political analysis away from a simplistic focus on the majoritarian, Westminster model and towards more nuanced and complex models of rule-making (Lehmbruch 1967, 2003). In similar ways, he challenged received notions of uniformly pluralist decision-making in representative democracies: developing the concept of neo-corporatism, to describe the close collaboration between the state and organized interests, significantly enhanced and ‘complexified’ our understanding of interest intermediation not only as a form of interest representation but also as a specific institutional arrangement in policy making (Lehmbruch 1977; Lehmbruch and Schmitter 1982; Schmitter and Lehmbruch 1979). In disaggregating societal levels and political domains by his studies on the meso-level of sectoral interest representation or the direct interaction of interest groups and administrative authorities by ‘administrative interest intermediation’ he gradually fanned out the intricate web between government and organized interests and made political analysis less holistic and more differentiated (Lehmbruch 1984, 1987, 1989, 1991). Particularly by his influential study of German federalism he stressed the tension between party-political elite competition and intergovernmental elite accommodation and conveyed a differentiated insight into how representative democracies need to reconcile different institutional logics in complex configurations of forces and rules (Lehmbruch 2000). And last but not least, by his contributions to the analysis of networked politics, particularly in his study of Japanese administrative interest intermediation, he emphasized the role of informal relations in politics and policy-making (Lehmbruch 1995). By his subtle and differentiated analysis in which multiple levels, relations, and logics in political interact Gerhard Lehmbruch can rightly be seen as one of the early pioneers of ‘complex democracy.’

But what does ‘complex democracy’ mean more precisely, and how can we delineate this new perspective in contemporary research? Our basic presupposition is that a complexity perspective on democracy should be informed by complexity theory in a broader sense, i.e. complexity research as it emerged in other disciplines of contemporary sciences. Its core *problematique* there is to explain the emergence of order by self-organizing processes, and a number of overviews of this field have shown, its roots go back to cybernetics, general systems theory, and information theory (Mitchell 2009; Schneider 2012). During the last decades this perspective also was strongly shaped by the new “network science” (Newman 2010; Barabási 2014), and in the meantime, this type of theorizing also penetrated a range of social sciences’ sub-disciplines. Because of the multiplicity of scientific fields involved in this debate, complexity theory encountered similar problems of polysemy as, for instance, other grand theories such as systems theory or governance theory. Some approaches see complexity as a function of the number of components and their interrelatedness. Others also conceive the degree of nestedness of a system or configuration as an important dimension of complexity. In this perspective it is possible to differentiate between various aspects that increase the complexity of a

Table 1 Facets of complexity

| | Facets and dimensions | Explanations |
|---|-----------------------|--|
| 1 | Compositional | The number and diversity of components a system contains |
| 2 | Relational | The interrelatedness among the components in a system; this is not only a function of the number of the relations (density) but also of frequency (intensity) and diversity (multiplexity) |
| 3 | Ecological | The connectedness and nestedness of a system to its external environments and internal (subsystems) environments |
| 4 | Hierarchical | The differentiation and “modularization” of a system across its different hierarchical levels |
| 5 | Functional | The number and diversity of functions a system fulfills |
| 6 | Mechanismic | The number and diversity of mechanisms (“logics”) operating in a system |

Source: Schneider (2012)

given entity of complex. In this view Table 1 presents six different definitions of complexity, and each of them can be conceived of as a “facet of complexity”.

If we apply such a multi-faceted perspective on democratic political systems, democracy cannot be reduced only to periodical elections of governments on the basis of party competition, as it is articulated by the concept of liberal democracy. Democracy is multi-faceted and develops only in institutionally and structurally demanding environments. Such a complexity perspective on democracy suggests that democratic political systems are vertically and horizontally differentiated communication systems in which different organizational levels (intermediary organizations) and different forms of interest intermediations interact. Besides the electoral channel of territorial interest intermediation (grey area in figure 1) there are multiple channels of functional intermediation in which organized interests and other entities such as large corporations, social movements, and scientific institutions are incorporated into policy-making (see Fig. 1). In addition, national political systems are also embedded or nested in international and transnational regimes as well as supranational political entities (Eberlein and Newman 2008). A complexity perspective thus takes this nestedness and coexistence of different levels and logics of a variety of institutional arrangements into account. It avoids holistic macro explanations in which homogenous large organized wholes are the shaping factors of political processes and thus inserts a whole spectrum of actors, institutional arrangements and network structures into political analysis which enable coordination, cooperation, and integration in politics and policy-making.

This understanding of complex democracy permeates the present volume and, importantly, lends some coherence to the 17 contributions written by companions of Gerhard Lehbruch’s academic career: former colleagues, students, and fellow scholars. Indeed, beyond a traditional *Festschrift* collection, this volume presents original contributions from renowned scholars that each focus on one of the three key aspects of the study of complex democracy that simultaneously correspond to the three parts of this volume:

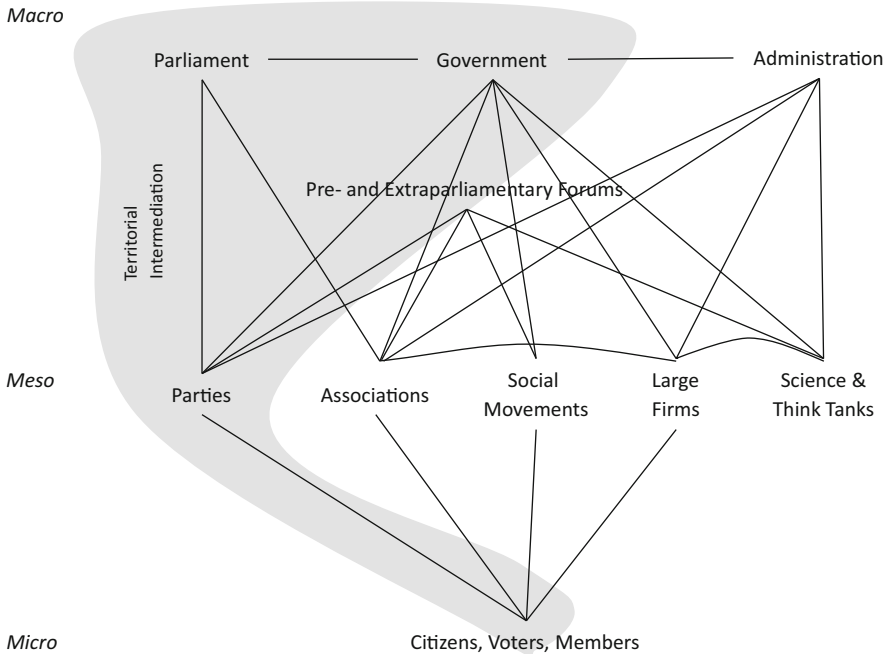


Fig. 1 The democratic complex

1. The *variety* of existing democratic systems: the multiple dimensions that make up the 'property space' of democratic systems, and in particular the different forms and loci of political power;
2. The ways in which democratic systems are impacted by and respond to contemporary economic and financial *crisis*;
3. The long-term *transformation* of democratic systems, both in institutional terms as well as regarding its implications for policy.

1 Variety

The broadest perspective in the empirical analysis of existing democratic political systems is taken by *Hanspeter Kriesi* who has conducted a study that covers 69 countries, traditional and emerging democracies. His major finding is that democracies should be classified not only along two dimensions, as in Lijphart's seminal publications (Lijphart 1999, 2012). Rather, four dimensions should describe them. In addition to the consensus vs. majoritarian and the federalist vs. unitary dimension he emphasizes also the direct vs. representative dimension, and above all also the illiberal vs. liberal dimension focusing on a specific distribution of rights. In this context he also highlights the particularity of the Swiss case.

Manfred Schmidt, too, takes Lijphart's two dimensions as starting point, and gives a critical review of Lijphart's most recent comparison of 36 countries with respect to

structural properties and policy profiles. Like Kriesi also Schmidt tries to extend the number of democracy types beyond just two variants of democracy (majoritarian or consensus) while embracing the Lijphartian property space. He proposes four worlds of democracy that aptly represent the current state of democratic world development. In addition, he also critically assesses the use of Lijpharts macro structures for policy explanations without taking, for instance, party preferences into account. In this regard, Schmidt argues for a combination of comparative politics and policy perspectives.

Philip Manow's paper concentrates on role of class coalitions and the impact of cultural-religious cleavages in the evolution of modern democracy. With a focus on southern European democracies, Manow advances and tests the hypothesis that religious cleavages are the major determinants for the polarization of political space, and that the distribution of religious power explains to a large degree the subsequent strength of communist or left wing parties in France and Southern Europe.

Arthur Benz offers a more conceptually oriented piece to address the multi-dimensionality or complexity of democracies. He contrasts Lehbruch's historical-institutionalist and qualitative approach to the comparative study of democracies to Lijphart's quantitative and essentially two-dimensional approach to investigate 'patterns of democracy'. A major argument advanced by Benz is that contemporary democracies should not only be characterized by varying structures of power sharing (majority vs. consensus), but also as complex configurations of coordination and decision-making. He finds that the path pursued by Lehbruch is more promising to "substantially comprehend and theorize multidimensionality and dynamics of democracies".

Anton Pelinka's addresses the complexity of political historical cases and touches on a particular form of political power which is focused on language and related ethnic dimensions of political identity in the formation of a nation state. He analyzes the emergence of a specific Austrian identity and "peoplehood" in the historical context of the "Anschluss-Movement" after the First World War and its subsequent evolution during the Nazi period, and finally its dissolution in the postwar years. His conclusion is that Austria's current national identity "can be called post-ethnic. Austrian national identity is the result of a civic consensus: Austrians agree to form a specific kind of nationhood."

Also *Wolfgang Seibel's* historical case study is dedicated to a highly specific political institution and configuration of power sharing by administrative interest-intermediation. He tells the story of the Treuhandanstalt, a semi-autonomous administrative body, in the privatization of the remaining industrial base of the former German Democratic Republic, and the complex integration of this institution into the German political and administrative network. He stresses institutional flexibility and active political networks of top-ranking administrative officials.

Colin Crouch's piece is based on the observation that large corporations have become increasingly powerful, and have gained privileged standing in and access to decision and policy making in democracies. In his analysis of corporate political power Crouch elects the innovative vantage point of a normative theory justifying that corporate power. While this would seem a theory 'that dare not speak its name', Crouch demonstrates how in fact the main arguments of this theory have become well rooted in contemporary normative assumptions, which poses grave challenges to liberal democracy.

2 Crisis

The second part of the volume features a number of articles that are related to the political impact of the current economic and financial crisis.

Fritz W. Scharpf focuses on the Euro crisis and more specifically on the present 'euro-rescuing regime'. He provides a normative assessment of its input and output-oriented legitimacy, on the basis of policy analyses examining the causes of present crises, the available policy options and the impact of the policies actually chosen. He concludes that the regime lacks input-oriented legitimacy and that its claim to output-oriented legitimacy is ambiguous at best. This leads him to explore potential—majoritarian or unilateral—exits from the present institutional constellation.

Philipp Schmitter puts his focus on patterns of interest intermediation and asks the question of how the economic and financial crisis in Europe will impact on neo-corporatist arrangements related to industrial pacts and social partnership. He advances the hypothesis that, under certain conditions, the crisis could lead to a revival of neo-corporatism at the sectoral level, particularly in small, homogenous and internationally vulnerable European countries—although this prospect seems less likely in other countries.

In his contribution, *Klaus Armingeon* and *Lucio Baccaro* shows a specific interest in the German response to the financial and economic crisis conditioned by its specific political-institutional and economic constraints. Germany is one of the few countries in which the recent crisis only had a small impact. That Germany has economically so successfully developed since the crisis is largely explained by its export strength, which in turn is explained by a degradation of industrial relations structures and labor market institutions, which had previously tamed the "trading state".

Berndt Keller's article sheds light on the often neglected, long-term consequences of austerity policies that have affected the public sector in the aftermath of the financial crisis. With a special focus on Germany, Keller demonstrates that public sector reform is driven by promises of short-term financial savings through cutbacks, and sorely lacks a strategic, long-term vision or plan, with threatening consequences for the welfare state.

Rainer Eising and his coauthors focus on EU financial market reform in response to the 2007 financial crisis. Their research seeks to identify the dominant governance modes of the EU reform process, and to assess the extent of actual policy change, based on three legislative cases of financial market reform. Regarding governance and democracy, they conclude, "the concern that responses to the crisis are mostly delegated to technocrats is not warranted."

3 Transformation

The various contributions in the third part of the volume take a long-term perspective on political development, through the identification of lasting transformations and political megatrends

Edgar Grande shows a passionate interest in large processes of institutional and structural political change. He identifies three dimensions in the transformation of

modern democracies—new trends in the arena of party government, drifts in the domain of negotiation democracy, and last but not least, an increased influence of mass media in modern politics, currently labeled as “media democracy”. He stresses that all three transformations create tensions and incompatibilities in democratic governance.

The contribution of *Roland Czada* addresses the problem of informality and opacity of negotiated decision-making in pre- and extra-parliamentary policy forums that are highlighted by theories of post-democracy. One of the driving forces of these informal arrangements he sees in the increasing complexity of political problems. Based on an overview of the German context he argues against the conventional wisdom that these informal governance structures are increasingly subject to public scrutiny, transparency and discussion. He also sees a tendency towards more value-based forms of discourse, as opposed to settings of materialistic bargaining.

A classic issue in political development is the sustainability of democracy. *Ellen Immergut* and her co-authors deal with this important topic in their contribution that studies the differential capacity of political systems to recalibrate policy, i.e. to readjust political intervention—and to reallocate costs and benefits—in order to cope with important societal challenges. In particular, they investigate if some democratic institutions (of political representation) are more favorable for policy recalibration than others and how their interaction with institutions of interest intermediation intervene in the distribution of costs and benefits of recalibration. Through three policy case studies (citizenship, agriculture, and pensions) they demonstrate the impact of ‘electoral vulnerability’ of political leaders, mediated by the degree of interest intermediation, on the likelihood of policy recalibration.

By a comparison of environmental policy networks in the 1980s and 2010s also *Volker Schneider* contributes to an empirical reality check of the post-democratic transformation and democratic decline hypothesis. At the same time the article attempts to rejuvenate the power structure perspective and to link it to patterns of democracy and power-sharing perspective in comparative politics.

The final contribution, offered by *Klaus von Beyme*, appears to be focused on a rather unique problem. However, it reflects in fact some broader, long-term changes in cultural policy through which rights related to freedom of speech on religious issues are essentially reallocated. Von Beyme compares rules and policy change with respect to blasphemy and other forms of religious criticism, and provides some evidence that these new rules and codes are “choking freedom worldwide” (Marshall and Nina 2011).

Taken together, the contributions to this volume highlight the continuing relevance of sophisticated institutional analysis of democratic development, a form of ‘complex democracy’ scholarship, as pioneered prominently by Gerhard Lehbruch. Powerful forces of change, notably globalization and economic crisis, have undoubtedly transformed many conditions and features of (post-war) democratic governance, leading to reallocation of political power and shifts in arenas for decision-making. Yet, these developments make careful analysis of institutional legacies, logics, and constellations an ever more pressing task: if we want to better

understand how modern, complex democracies in more diverse societies can cope with the increasing tension between different, and sometimes incompatible demands and “logics”, while upholding the fundamental promise of democracy, we first need to have a solid understanding of how exactly legacies and new developments combine in complex configurations. Only then can we reflect on potential avenues to govern divisions, cleavages and conflicts in productive ways. For this momentous task, Gerhard Lehbruch’s oeuvre remains an invaluable source of inspiration.

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Part I
Varieties

Varieties of Democracy: ‘Proporzdemokratie’, ‘Consensus Democracy’, Liberal Democracy and Direct Democracy

Hanspeter Kriesi

Abstract

This contribution builds on the work of the group of comparativists, Gerhard Lehmbruch among them, who took up the challenge to study the various forms in which the normative principles of democracy have been implemented in the real world. More specifically, it builds on the basic distinction between majoritarian and proportional systems that has been at the core of their reflections ever since the late 1960s when this distinction has been systematically introduced for the first time. In replicating Arend Lijphart’s original analysis for a larger set of countries, I first try to show that his focus on established democracies led him to neglect the liberal dimension of liberal democracy. Second, singling out the case of Switzerland, a case of particular interest to the distinction between majoritarian and proportional systems, it argues that Switzerland is special for reasons which have not been properly appreciated by the comparativists outside of Switzerland: as a matter of fact, it is not the paradigmatic case of a consensus democracy, but it is special because of its direct-democratic institutions in combination with its exceptional degree of federalism in a rather small country.

1 Introduction

My starting point for this discussion of the really existing varieties of democracies is Gerhard Lehmbruch’s (1967) ‘Proporzdemokratie’. Published at the time of an intense debate about the Grand Coalition in Germany, this slender book draws attention to a peculiar type of democracy, with apparently specific institutional regulations and behavioral patterns, as Gerhard Lehmbruch wrote in his

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introduction. In this type of democracy, the majoritarian principle was replaced by what has been called ‘amicabilis composition’ in the Westfalian peace agreement, or what later became known as ‘amicable agreement’, ‘politics of accomodation’, ‘consociational democracy’, or, eventually, ‘consensus democracy’. Lehbruch’s ‘Proporzdemokratie’ was a comparative study of two small Alpine Republics that had not been of much interest to the dominant anglo-saxon political science up to that point. Gerhard Lehbruch not only drew the attention of the German public, but also of the comparative political scientists outside of Germany to the specific patterns of conflict regulation that these two countries had developed based on their past experience.

The anglo-saxon model of democracy had been enormously prestigious at the end of the war, given that it had resisted the onslaught of fascism, while the democracies on the continent had almost all collapsed. By the 1960s, however, European political scientists began to insist that there were alternative models to the anglo-saxon one. At the time that Gerhard Lehbruch wrote his treatise on ‘Proporzdemokratie’, Jürg Steiner worked on his book about the Swiss case, and, Arend Lijphart was about to publish his enormously influential ‘Politics of accomodation’ based on the Dutch case. Even the anglo-saxon comparativists discovered other political cultures than their own, although they still thought that theirs was the exemplary ‘civic’ one.

As Kohler-Koch and Rittberger (2007: 3) have pointed out, different strands of democratic theory do not differ with respect to the basic normative assumptions about democracy’s essence, but in their emphasis on different dimensions of democracy. Similarly, the different existing democracies constitute various attempts to implement these general underlying normative assumptions. They have implemented these principles through various formal institutional arrangements and informal practices and procedures. The challenge for the comparativist is to identify the key dimensions that allow us to bring some analytical order into the complex pattern of really existing democracies—a pattern that becomes increasingly confusing given the increasing number of countries which not only call themselves democracies, but have actually implemented the basic normative principles of democracy.

In my contribution, I would like to build on the work of the group of comparativists who took up the challenge to study the various forms in which the normative principles of democracy have been implemented, and of whom Gerhard Lehbruch was certainly a leading figure. More specifically, I would like to build on the basic distinction between majoritarian and proportional systems that, as far as I can see, has been at the core of the reflection of the comparativists ever since the late 1960s when it has been systematically introduced for the first time. This distinction has not only informed the work of the ‘consociationalists’, but it has also given rise to the distinction between majoritarian and proportional visions of democracy among those who focused their study more closely on electoral systems (see, for example, G. Bingham Powell 2000).

For my empirical analysis, my point of departure is Arend Lijphart’s (1999) pattern of democracy, which has, for a long time, probably constituted the most

elaborate attempt to bring some order into the empirical configuration of the variety of democracies. Lijphart covered 36 established democracies for the period 1945–1996. Since Lijphart has published his analysis, several datasets have been collected that allow the assessment of the quality of democracies—Freedom House, Polity IV, Vanhanen to name but the most well known ones—, but hardly any attempt has been made to extend his more analytical approach to a larger number of cases. It is thanks to the democracy barometer, a new data bank that contains a large number of indicators for the characterization of an increasing number of democracies across the world covering the period 1990–2007,¹ this has become possible now. The original intention of the democracy barometer, too, has been to assess the quality of democracies. However, its set of indicators can also be used for more analytical purposes. Together with Daniel Bochsler, I have already done so for a more limited set of 50 countries (Bochsler and Kriesi 2013). For the presentation in this volume, it is possible to extend this analysis to a set of 69 countries. In addition to the established democracies studied by Lijphart,² this set includes the newly democratized countries of the third wave in Latin America (including Central America), Central and Eastern Europe, and South-East Asia.

In my article, I shall try to replicate Lijphart's analysis for the larger set of countries, and I shall extend it in two respects: first, I shall show that his focus on established democracies led him to neglect the liberal dimension of liberal democracy. For the set of established democracies, this dimension was more or less a constant, which did not play a significant role in distinguishing between them. For the more recent democracies that have only been established in the course of the third wave of democratization, however, the liberal principle appears to be rather more difficult to implement than the democratic one, as has been documented by Moeller and Skaaning (2010). Second, I shall pay special attention to one of the two cases that Gerhard Lehmbruch has compared in his *Proporzdemokratie*—Switzerland. For comparativists, this case is of particular importance. Gerhard Lehmbruch is not the only comparativist who focused on this case. Together with Belgium, Switzerland was the paradigmatic case of a consensus democracy in Lijphart's analysis. As I shall show, Switzerland has, indeed, a very peculiar political system, which is of particular interest for comparativists, but it is special for reasons which have not been properly appreciated by the comparativists outside of Switzerland. As we shall see, the Swiss case is particular above all because of the combination of its direct-democratic institutions with a very pronounced federalism.

¹ http://www.democracybarometer.org/dataset_en.html

² Seven of the countries studied by Lijphart are not (yet) documented in the democracy barometer: Bahamas, Barbados, Botswana, Jamaica, Mauritius, Papua New Guinea, and Trinidad and Tobago.

2 Four Dimensions of Democracy

To draw his conceptual map of democracies, Lijphart (1999) used two dimensions of dividing power—the executives-parties dimension and the federalist-unitary dimension. I shall add two dimensions—one for the liberal principle and one for the distinction between the direct and representative democracy. I shall use 16 indicators for the operationalization of these four dimensions. Following Lijphart, I have calculated for each indicator the average for the entire period covered. Subjecting the 16 indicators to an exploratory factor-analysis, indeed, results in four factors—one factor each for the expected four dimensions, which I shall call

- the illiberal-liberal dimension
- the consensus-majoritarian dimension
- the federalist-unitary dimension
- the direct-representative dimension

Table 1 presents the factor loadings of the 16 indicators on the four dimensions. The *illiberal-liberal* factor is the first and most important one, i.e. it discriminates the most between our 69 countries. The indicators characterizing this dimension refer to what is called ‘Rechtsstaat’ in German: equality before the law, the submission of the state under the law (‘governing capacity’, itself the result of a bundle of indicators characterizing the state’s administration and its implementation capacity), and the guarantee of property rights and of other civil rights (here indicated by the freedom of the press).³ Lijphart’s two dimensions come second and third with the federalist-unitary dimension being somewhat stronger than the consensus-majoritarian dimension. The distinction between federalist and unitary states is characterized by three indicators—one each for the constitutional division of territorial power, the fiscal division of power and for bicameralism.⁴ The operationalization of the consensus-majoritarian dimension relies on five indicators—two intended to measure the proportionality of the electoral system—Gallagher’s disproportionality index and the effective threshold of representation, which is derived from the mean district magnitude—, two designed to measure

³ There are several other indicators in the democracy barometer which could have been used to characterize this dimension (e.g. the ‘freedom of speech’, the ‘adequate representation of women’, or the ‘effective unconventional participation’ as an indicator of the effective use of the freedom to associate, and of the effective use of freedom of speech), but they would not have added any greater precision to what it is intended to measure.

⁴ Following Vatter (2009), I add an indicator for fiscal federalism. Indicators for judicial review, central bank independence, and constitutional rigidity have been dropped, however. Central bank independence is not inherently related to federalism, nor is judicial review. The democracy barometer does not include a measure for constitutional rigidity.

Table 1 Results of exploratory factor analysis ($n = 69$)¹

| Variable | Factor 1 | Factor 2 | Factor 3 | Factor 4 | Uniqueness |
|-----------------------------------|-------------------|------------------------|--------------------|------------------------|------------|
| | Illiberal-liberal | Consensus-majoritarian | Federalist-unitary | Direct dem-representat | |
| Equality before the law | 0.94 | -0.02 | 0.05 | 0.06 | 0.11 |
| Governing capacity | 0.96 | 0.01 | 0.00 | 0.02 | 0.08 |
| Property rights | 0.95 | 0.03 | -0.01 | -0.05 | 0.10 |
| Freedom of press | 0.85 | 0.11 | 0.02 | -0.09 | 0.26 |
| Federalism | 0.02 | 0.86 | -0.07 | 0.01 | 0.26 |
| Bicameralism | -0.09 | 0.78 | 0.01 | -0.10 | 0.37 |
| Fiscal federalism | 0.24 | 0.68 | -0.01 | 0.24 | 0.43 |
| Single party govt | -0.10 | 0.11 | -0.66 | -0.28 | 0.46 |
| Number of parties in govt | 0.18 | 0.17 | 0.57 | 0.15 | 0.60 |
| Effective electoral threshold | -0.17 | -0.16 | 0.62 | -0.05 | 0.55 |
| Gallagher index | 0.17 | 0.17 | 0.40 | -0.38 | 0.64 |
| Parl control over executive | -0.09 | -0.11 | 0.42 | 0.09 | 0.80 |
| Availability of direct democracy | -0.08 | -0.15 | 0.15 | 0.64 | 0.55 |
| Effective use of direct democracy | 0.10 | 0.27 | 0.21 | 0.57 | 0.55 |
| Grand coalitions | 0.01 | 0.18 | 0.28 | 0.46 | 0.68 |
| Mean participation | 0.38 | -0.17 | 0.14 | -0.40 | 0.65 |
| EW | 3.80 | 2.10 | 1.70 | 1.40 | |

¹the most important loadings per factor are in bold.

R^2 adj = .18, without Hungary = .24, without Hungary, US and Dominican Republic = .32

power sharing in government—an indicator for the number of parties in government as well as an extra dummy indicator for single party governments in particular—and a fifth indicator for the constitutional control of the legislative power over the executive.⁵ Figure 1 shows the relationship between the consensus-majoritarian dimension and one of its components—Gallagher's index of disproportionality, which is a key indicator of proportionality. As we can see

⁵ With the exception of Gallagher's index of disproportionality, these indicators are not the same as the ones used by Lijphart. Partly, I try to improve on Lijphart (by replacing the much criticized measure of cabinet duration (Tsebelis 2002: 110) with an indicator for constitutional control of the executive by parliament, and by not including a measure characterizing the system of interest associations as critics (Roller 2005: 111f.) had suggested, too), partly I am constrained by the indicators available in the democracy barometer (no indicator for minimal winning coalitions, but indicators for the number of parties in the coalition and for their share of seats in parliament), partly the indicators Lijphart used did not appear to be part of the dimension in the larger sample analyzed here (the effective number of parties).

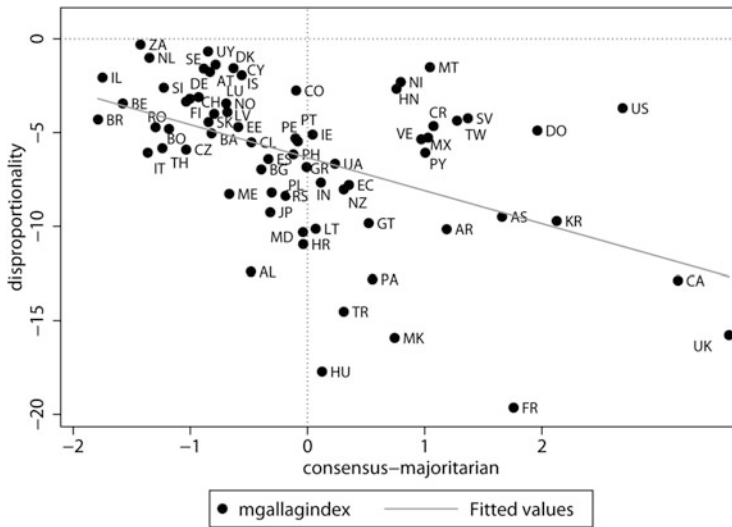


Fig. 1 Proportionality of representation and consensus-majoritarian democracies, all 69 countries

from this figure, the relationship between the two measures is far from perfect, which shows that the consensus-majoritarian dimension cannot simply be reduced to a measure for proportionality. ‘Consensus democracy’ as its precursor—‘Proporzdemokratie’—is more than an electoral system, it also refers to a system of conflict regulation that is not completely accounted for by the electoral rules, but which results from other institutional rules and informal practices. Thus, there are countries which appear as much more proportional than we would expect on the basis of their electoral systems—the US above all (see Powell 2000: 236), but also San Domingo, but also Taiwan, Malta, Nicaragua, Honduras, El Salvador, and Costa Rica. On the other hand, there are countries which are much more disproportional than we would simply expect on the basis of their electoral system—above all France, but also Hungary, Macedonia, Turkey, Albania and Panama.

The last dimension, indeed, refers to the distinction between direct-democratic and representative democracies. The existence of such an additional dimension confirms Vatter’s (2009) earlier findings, which were based on a set of 23 countries. This dimension is associated with the availability and the effective use of direct-democratic instruments, the mean electoral participation rate and, as already shown by Vatter, with oversized cabinets. As Leonhard Neidhart (1970) and Gerhard Lehmbuch (1967: 50) in his ‘Proporzdemokratie’ have argued long ago, the risk arising from optional referendums and popular initiatives can be limited by co-opting all those forces into the governing coalition who are capable of efficiently threatening with the use of these instruments.

3 The Configuration of Democracies in the Four-Dimensional Space

3.1 Lijphart's Conceptual Map

The configuration of democracies shall be presented in three steps. First, I reconstruct Lijphart's conceptual map on the basis of the new data set. Figure 2b presents the positioning in the two dimensional space created by combining Lijphart's two dimensions of the countries that were also part of Lijphart's analysis. The overall distribution of the countries onto the four quadrants of the graph largely corresponds to what Lijphart had found, in spite of the fact that I use different indicators and cover a different period. There is only one major difference with respect to Lijphart's configuration: the anglo-saxon democracies—the UK in particular, but also Canada and the US—turn out to be even more majoritarian here than in Lijphart's analysis. It appears as if, in comparative terms, these three countries had become more majoritarian than they had been before. Together with France, the traditional anglo-saxon models have become the real outliers in the configuration according to Lijphart.

It is particularly noteworthy that in this configuration, just as in the one found by Lijphart with a reduced set of countries for the earlier period, India lies at the border to the lower left-hand corner. This means that, as Lijphart (1996) had already observed some time ago, India, in spite of its anglo-saxon heritage of majoritarian institutions, does not in fact function as a majoritarian system. Given the regional concentration of Indian minorities, regional parties representing these minorities are able to obtain parliamentary representation and, since the decline of the Congress party in the late 1980s, are able to become pivotal elements in government formation. In addition to the Indian federalism, this particular feature of Indian politics makes for a strongly consensus-type functioning of the Indian political system.

There are, however, also some shifts in detail: Switzerland no longer appears to be the quintessential consensus democracy. In fact, Belgium, the Netherlands, Italy and Ireland turn out to be even more consensual than Switzerland. As a matter of fact, both Austria and Germany now appear to be just as typical cases of consensus democracy as their smaller neighbor. If anything, the electoral systems of both Germany and Austria appear to be more proportional than the Swiss one. This would certainly hold to an even greater extent, if the elections to the second Swiss chamber—the Council of States—had been taken into account as well: the second Swiss chamber is elected on the basis of a majoritarian system, given that only two seats are to be filled per electoral district. Switzerland is also less of a consensus democracy than Germany or Austria, since, because of its exceptional hybrid system of government, the Swiss parliament is less able to control the cabinet than its German and Austrian counterparts. On the other hand, what tends to make Switzerland more consensual than Germany or Austria is the fact that all four large parties, plus currently even a fifth party are part of the government. But note that oversized cabinets are less of a characteristic of a consensus than of a direct

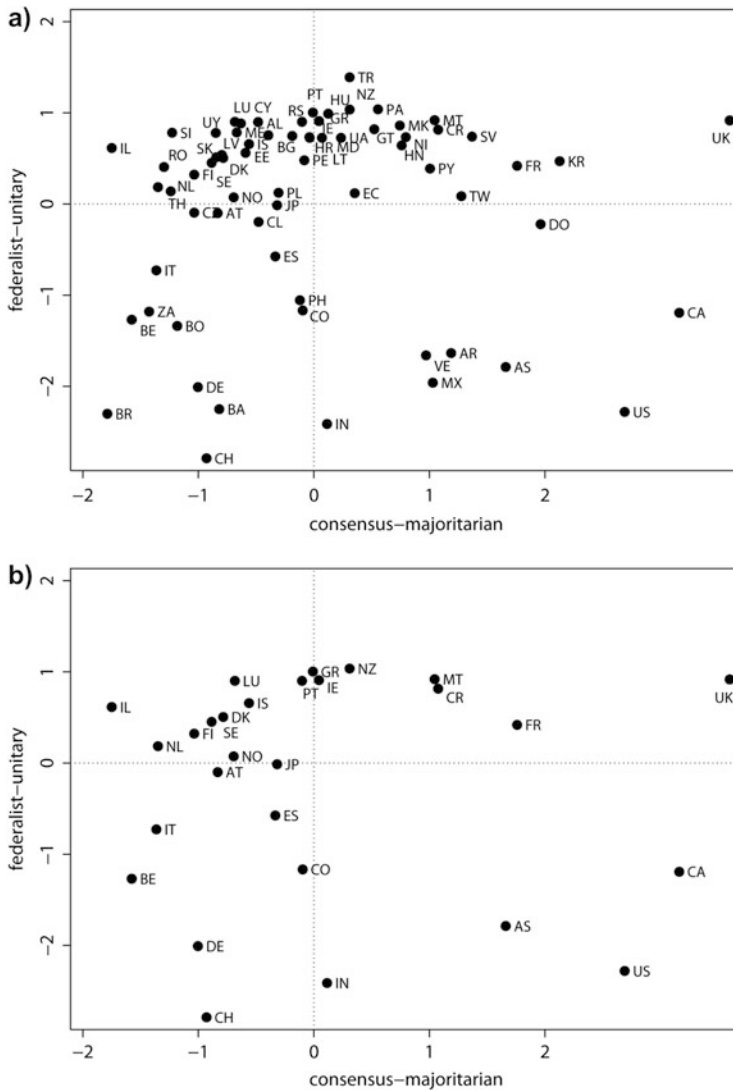


Fig. 2 Lijphart's typology—consensus-majoritarian vs. federalist-centralist democracies (a) with 69 countries, (b) with only countries that were part of Lijphart's analysis

democracy. Moreover, coalition governments (including grand coalitions) have always been a feature of German politics in the Federal Republic, and Austria has known long spells of grand coalitions. Switzerland and Germany also share a pronounced federalism. As pointed out by Gerhard Lehmbuch (2000), the German federalism has largely contributed to consensual practices in a country where party competition has been otherwise giving rise to clearly more majoritarian behavior than in Switzerland.

As for other shifts, we may note that Belgium, Italy and Colombia have become more federalist, while New Zealand, which, together with the UK, was once considered as the ideal typical case of a majoritarian democracy, has moved in the direction of a consensus democracy. These shifts can all be explained by institutional changes in the countries in question.

Turning to the configuration including the whole set of the 69 countries (Fig. 2a), we note a prevalence of the combination of moderately unitary and moderately consensual democracies. The part of the space for which the Scandinavian countries, Israel and the Netherlands have been typical among the established democracies is now also occupied by a host of Central- and Eastern European countries (AL, BG, CZ, EE, HR, LV, ME, PL, RO, RS, SI, SK). Additional Central- and Eastern European countries are to be found in the unitary-majoritarian quadrant, but rather close to the centre of the space (HU, LT, MD, MK, UA). Only one of the countries from this region—Bosnia-Herzegovina—is set apart in the federalist-consensus quadrant.

The Latin-American countries tend to be on the majoritarian side (AR, CO, CR, EC, DO, GT, HN, NI, PE, SV, PY, MX, VE), which is not surprising, given the predominance of presidential systems in this part of the world. Moreover, most of them are unitary, although the largest ones among them (BR, BO, CO, MX, VE) have federalist institutions. However, note that presidential systems do not always go together with majoritarian democracies. Given their fragmented party systems, some Latin-American presidential systems find themselves on the consensual side (BO, BR, CL, UY), and Brazil even appears to be the quintessential consensus democracy, given its combination of federalism and consensus-type governing structures. The strain that the combination of a presidential system with a federalist state structure and a fragmented multi-party system introduces into a democracy is graphically illustrated by the rampant corruption in the Brazilian system. Even a highly legitimate president as Lula had to take recourse to practices such as buying votes in Parliament in order to get his legislation passed (see the enormous *Mensalão* (a Portuguese expression that means something like 'large monthly payments')—scandal).

Finally, note that the only African country in this set, South Africa, also closely resembles a classic consensus democracy, given that it combines federalism and consensus-type governing structures. Contrary to Brazil, however, it does not have a presidential, but a parliamentary system—even if its prime minister is called president. The few Asian countries in this set are either typical unitary-majoritarian (KR, TW), or unitary-consensus (TH) democracies, with the Philippines (PH) being a federalist middle of the roader in terms of the consensus-majoritarian divide.

3.2 The Liberal Dimension

As already pointed out, Lijphart had not taken into account the liberal dimension of liberal democracy. He was mainly interested in the trade-off that exists between consensus and majoritarian democracies. This is easily explained by the fact that,

with one exception (CO), all the democracies he had in his sample had quite a respectable record in terms of the liberal principle (see Fig. 3b). Once we consider the whole sample of the 69 democracies, however, we see that most of the new democracies that have been added to the established set find themselves in the illiberal part of the conceptual map (see Fig. 3a). The only exceptions are CZ, EE, LV, HU, SI in Central- and Eastern Europe (with HU in the meantime having made a decisive turn in the illiberal direction), CL in Latin-America, and the two South-East Asian tigers (KR, TW).

The illiberal state of many new democracies has been heavily criticized by Zakaria (2007), who painted a bleak picture about the current relationship between the liberal and the democratic principles: they are, he maintained ‘coming apart across the globe. Democracy is flourishing; liberty is not’. The two principles are coming apart, however, not because liberty is declining, but because the democratic principle is making headway. Liberty is falling behind in relative, not in absolute terms. Even Zakaria (2007: 56f.) conceded that we should not judge the new democracies ‘by standards that most Western countries would have flunked even 30 years ago’. I would like to add that some established democracies still seem to have a difficult time to live up to these standard—IT and GR are just at the midpoint on the illiberal-liberal dimension.

Moeller and Skaaning (2010) have provided a typology of democracies, which uses the fact that rule of law and civil rights tend to be introduced after the establishment of electoral procedures in a newly democratizing country for the construction of a hierarchical typology of democracies. In their typology, the most basic form of democracy is a ‘minimalist democracy’ (a system with elections that are exclusive to the extent that they do not provide the right to vote to all citizens). Next in their scheme comes ‘electoral democracy’ (a system with universal suffrage), which is followed by what they call ‘polyarchy’ (electoral democracy plus the rule of law) and ‘liberal democracy’ (electoral democracy, plus the rule of law, plus civil rights). Almost all their empirical cases ($n = 122$) neatly fall into one of these hierarchically ordered categories, i.e. there are virtually no cases of countries today with the rule of law or full civil rights, but which are not electoral democracies. The development of the European democracies has, of course, followed a different sequence. As Marshall (1963) has famously argued, civil rights have been guaranteed before political rights in Europe—in many cases universal suffrage has, indeed, been introduced in the established democracies long after the civil rights.

Moreover, note that Moeller and Skaaning’s typology is working well empirically, because it does not differentiate between different types of electoral democracy, i.e. because it neglects the point that has been crucial for the discussion among those who have challenged the anglo-saxon majoritarian view of democracy. It is only when we do not take into account that there are trade-offs between the different ways to implement the democratic (electoral) principle that we can stick to the idea of a uni-dimensional scale of more or less liberal democracy.

This point is also related to the widely known indices measuring the quality of democracy. These measures work reasonably well, because they are mainly

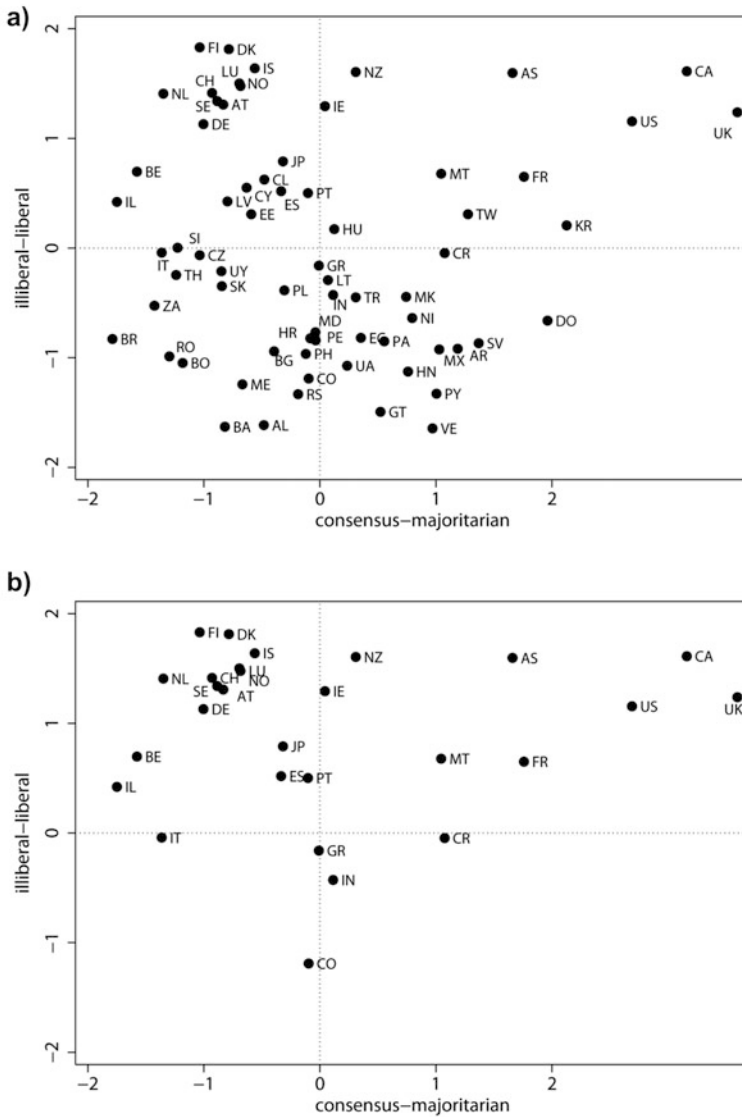


Fig. 3 Illiberal-liberal vs. consensus-majoritarian, (a) all 69 countries, (b) only countries in Lijphart's analysis

measuring the liberal dimension, while they are largely unrelated to the various trade-offs involved in the implementation of the democratic principle. This is shown by the regression analyses presented in Table 2, which attempt to explain the quality assessments of the Polity IV index, of the two components of the Freedom House index (civil liberties and political rights) and of the Vanhanen

Table 2 The quality of democracy as assessed by the Polity IV, Freedom House and Vanhanen indicators, explained by the four factors, unstandardized regression coefficients, significance levels and *t*-values, for average values during the period 1990–2007 ($n = 29–69$)^a

| | b/t | | | |
|------------------------|----------------------|-----------------------|-----------------------|-----------------------|
| | Polity | FH civil lib | FH polit rights | Vanhanen |
| Illiberal-liberal | 1.010*** (4.356) | -0.839*** (-9.585) | -0.821*** (-7.502) | 3.430* (2.279) |
| Consensus-majoritarian | 0.091 (0.507) | -0.135 (-1.894) | -0.068 (-0.763) | 1.794* (2.133) |
| Federalist-unitary | -0.159 (-0.866) | 0.055 (0.782) | 0.095 (1.071) | -1.629 (-1.606) |
| Direct-representative | 0.163 (0.973) | -0.063 (-0.960) | -0.059 (-0.720) | -0.754 (-0.858) |
| Regime type | 0.525 (1.084) | -0.454* (-2.422) | -0.451 (-1.920) | -5.094 (-1.625) |
| _cons | 8.560*** (27.665) | 2.058*** (17.555) | 1.998*** (13.621) | 29.623*** (13.882) |
| R-sqr | 0.27 | 0.62 | 0.50 | 0.61 |
| N | 65 | 69 | 69 | 29 |

^aContrary to other indicators, the Freedom House indicator has low values for democratic systems and high value for non-democratic systems. Significance levels: ***= $.001$, **= $.01$, *= $.05$

index by the countries' factor scores for the four dimensions of democracy, as well as an additional indicator for the regime type. The latter just distinguishes between parliamentary systems (including Switzerland) and (semi-) presidential systems. For the first three scales, only the illiberal-liberal dimension has a highly significant effect. In the case of the Vanhanen-index, the effect of the illiberal-liberal dimension is still significant, although weaker, and the consensus-democracies get an overall higher index value. Note, however, that the Vanhanen index exists only for 29 out of the 69 countries.

Once we control for the four dimensions, regime type has no significant effect on the quality assessments, except for the civil liberties dimension of Freedom House, which is shown to be significantly higher in presidential systems. This weak, but significant tendency of presidential systems to have a higher quality than parliamentary systems is somewhat surprising for comparativists, who mostly tend to be suspicious of presidential systems (e.g. Linz and Valenzuela 1994). To explore the unexpected higher quality of presidential systems, I have checked the factors that account for a country's liberalism. I took my cues from Mainwaring and Shugart's (1997: 53), who contend that the generally poor record of presidentialism may not be attributed to institutional factors, but rather to the lower levels of development and nondemocratic political cultures of countries with this kind of system. As shown in Table 3, a country's value on the illiberal-liberal dimension at the end of the period covered (in 2007) can, indeed, to a considerable extent be explained by the *age* of its democracy. I use a dummy indicator for the older, established democracies from Lijhart's sample, and add an indicator for the quality of democracy—according to the three scales which cover most of our data (FH-civil and

Table 3 The positioning of a country on the illiberal-liberal scale in 2007, as a function of age of democracy, regime type and its first scale value in the period 1990–2007, unstandardized regression coefficients, significance levels and *t*-values ($n = 63–67$)^a

| | Illiberal-liberal | | |
|------------------------------------|-----------------------|-----------------------|---------------------|
| | b/t | | |
| Established democracies (Lijphart) | 0.917*** (5.169) | 0.794*** (4.120) | 1.035*** (5.010) |
| Regime type | −0.464** (−3.010) | −0.524** (−3.363) | −0.453* (−2.576) |
| FH-civil liberties 1990 | −0.252*** (−4.759) | | |
| FH-political rights 1990 | | −0.292*** (−4.693) | |
| Polity IV 1990 | | | 0.060 (1.911) |
| _cons | 0.425* (2.062) | 0.572* (2.459) | −0.636* (−2.435) |
| R-sqr | 0.702 | 0.699 | 0.608 |
| N | 67 | 67 | 63 |

^aContrary to other indicators, the Freedom House indicator has low values for democratic systems and high value for non-democratic systems. Significance levels: ***=.001, **=.01, *=.05

political rights, Polity IV)—at the beginning of the period covered by our data (1990). For each one of the three scales, in 2007, the established democracies are significantly more liberal, and, in addition, the democracies with a higher democratic quality in 1990 still tend to be more liberal in 2007. Moreover, once we control for the age of democracy, presidential systems turn out to be less liberal according to all three scales. In other words, indirectly, presidential systems tend to have a lower quality of democracy than parliamentary systems because of their younger age and their comparative lack of liberalism. But, once we control for their more limited liberalism, presidential systems no longer fall short of parliamentary systems with respect to their quality of democracy.

3.3 Direct and Representative Democracy

Let me finally introduce the fourth and last dimension of the four-dimensional democratic space—the contrast between direct and representative democracy. On this dimension, Switzerland is an extreme outlier. No other country even approaches the Swiss position on this dimension. This is a result of the fact that Switzerland has a maximum value on every one of the four indicators constituting this dimension: it has by far the highest values on the effective use of direct-democratic instruments (.86, followed by Italy with .38, Slovenia and Slovakia with .13, and Ecuador and Lithuania with .12), on the share of grand coalitions (94 %, followed by South Africa with 64 %, Austria and France with 50 %), and, together with three other countries (Slovenia, Lithuania, Uruguay), on direct-democratic access, while it has the lowest value on electoral participation (43.5 %, followed by Colombia with 43.7 %, Guatemala with 45.9 % and the US with 50.3 %).

Given the extreme position of Switzerland on this dimension, the overall solution for the 69 countries is heavily influenced by the Swiss case. If we drop this case, there still are four factors, and the first two of them are hardly affected at all. But the meaning of both the consensus-majoritarian and the direct-representative democracy dimension becomes less clear: without the Swiss case, both of these dimensions are to some extent associated with the availability of direct-democratic instruments and with the indicators of proportionality. This is not to say that we should drop the Swiss case from the analysis. On the contrary, including this case clarifies the structure and makes it very clear that direct democracy has been implemented at the national level only in Switzerland so far. Except for Switzerland, the effective implementation of direct democratic procedures still constitutes a potential innovation.

The Swiss direct-democratic institutions, moreover, are particularly attractive, because they cannot simply be instrumentalized by the political elites, as in the case of the plebiscitary use of these institutions in some countries. Nor are these institutions completely divested of elite control, as in the case of the populist version of initiatives in the member states of the US. In the version of direct democratic institutions that has been institutionalized at all levels of the Swiss

political system, there exists a promising interplay between direct and representative forms of democracy. The Swiss case illustrates that, under conditions of contemporary 'party democracies' and with an appropriate institutional design, direct-democratic procedures are guided and controlled by political parties and related political organizations. In fact, the intermediary form of 'party-based direct democracy' discussed by Budge (1996: 51ff.), where the representative institutions do not disappear but are only modified by combining them with direct-democratic elements, is nothing else but the 'semi-direct democracy' that has been institutionalized in Switzerland for more than a century. The Swiss case shows that there is, however, also a price to pay for this innovation—in terms of participation, in terms of inclusion, and in terms of efficiency. Thus, as already pointed out, in Switzerland, the extension of the direct-democratic participation rights go hand in hand with a reduction of electoral participation, with a highly unequal participation in terms of social and economic status, as well as with the exclusion of a large part of the resident population (foreign residents) from political participation. The very citizens who enjoy a large number of direct-democratic participation rights have not been willing to extend these rights to the foreign residents of the country. Finally, as Gerhard Lehmbuch (1967: 51) has observed in his 'Proporzdemokratie', the direct-democratic element of Swiss democracy has limited the maneuvering space for majority decisions, for innovation and long-term structural reforms.

Figure 4, which combines the federalist-unitary dimension with the direct-representative one, allows to really appreciate the very special character of the Swiss democracy: Switzerland is at the same time the country with an extraordinary amount of direct-democratic participation rights and the most federalist country. Not only its position on the direct-democratic dimension is extraordinary, but also its degree of federalism. With the exception of Belgium, the other federalist countries are all large very large—either in terms of territory or population or both. However, as in the case of its direct-democratic institutions, Switzerland also pays a price for its highly elaborate federalism in a small territorial space: the member states of the Swiss Confederation often meet capacity problems, i.e. they are too small to acquit themselves of the tasks they are supposed to fulfill in the framework of the federalist decentralization of administrative tasks. Moreover, the smallness of the space tends to set the wrong incentives for both citizens and member states in the framework of fiscal federalism.

4 Conclusion

In my attempt to reconstruct the empirical map of the varieties of democracy, 'Proporzdemokratie', the model of democracy of Austria and Switzerland and a precursor of Lijphart's 'consensus democracy', has constituted a crucial reference point. This model has allowed me to distinguish the anglo-saxon cases from the bulk of the really existing democracies. However, as I have also tried to show, the prevalence of this model among comparativists has tended to induce them to

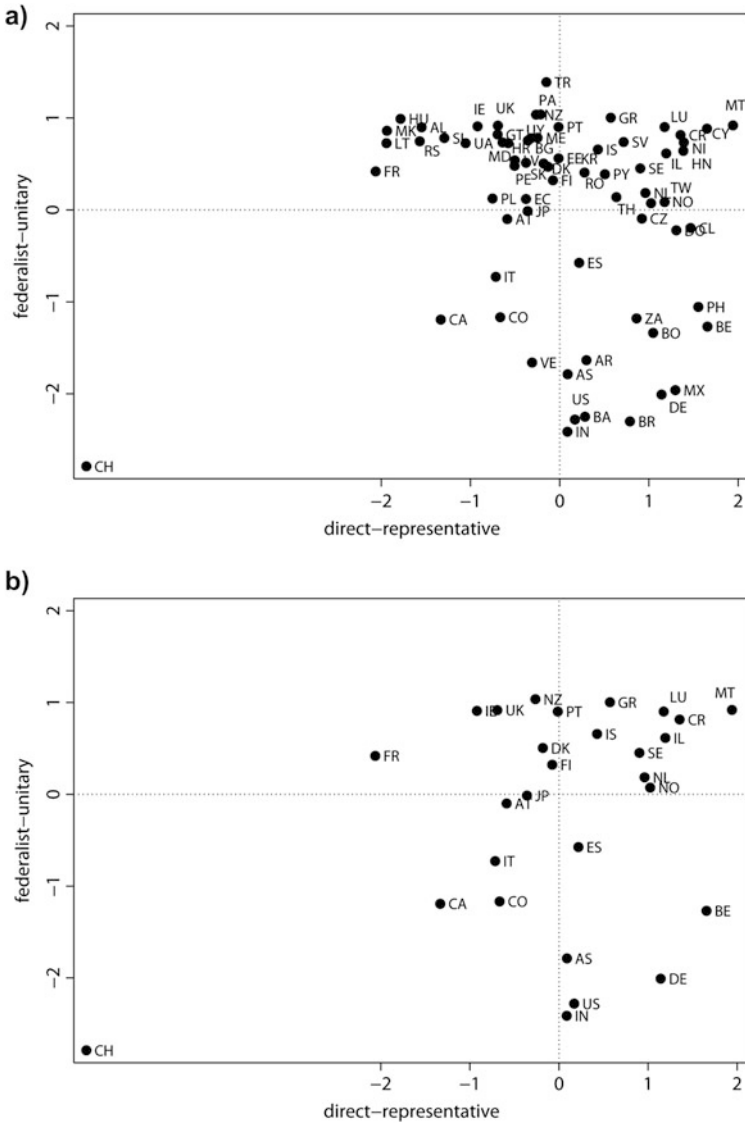


Fig. 4 The exceptional status of Switzerland: federalist-centralist vs. direct-representative, (a) all 69 countries, (b) only countries from Lijphart's analysis

misperceive to some extent the specificities of one of its paradigmatic cases—Switzerland. In fact, this country became the ideal type of ‘Proporzdemokratie’ and of ‘consensus democracy’ without much reference to one of its key institutions—direct-democracy. Almost as an afterthought, Gerhard Lehbruch (1967: 50) introduced a reference to the referendum in his ‘Proporzdemokratie’, conceiving it as intimately related to the consensus democratic modes of conflict regulation.

But, as has been shown by Adrian Vatter (2009) before and as has been confirmed here for a larger set of cases, the direct democratic element tends to constitute a separate dimension of the conceptual map of democracy. While, with respect to the consensus-majoritarian dimension, the Swiss case hardly differs any longer from Germany or, for that matter, from the majority of really existing democracies, it is above all its direct-democratic institutions (in combination with its exceptional degree of federalism in a rather small country) which make it exceptional today. In fact, today, the Swiss case stands for a paradigmatic case that might again serve comparativists as a point of reference for the conceptualization of democracy—not only for democracy as we have come to know it, but especially for democracy as it may develop over the time to come.

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The Four Worlds of Democracy: Commentary on Arend Lijphart's Revised Edition of *Patterns of Democracy* (2012)

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Abstract

The first edition of Lijphart's *Patterns of Democracy* (Yale University Press, 1999) has been praised as a seminal contribution to the comparative study of democracies. The revised edition, published in 2012, advances even stronger arguments with better data and a better methodology in support of Lijphart's key message: consensus democracies are superior to majoritarian democracies—measured by a wide variety of indicators of participation, contestation, policy outputs and policy outcomes. The present chapter is an assessment of the revised edition of Lijphart's book. Starting from a comparison of two schools of research on non-majoritarian democracies—Lijphart's approach and Lehmbruch's contributions to the study consociational democracy—the commentary reports the changes in the second edition of *Patterns of Democracy* (such as updated data sources and a more comprehensive and rigorous analysis of the relationship between types of democracy and policy indicators), and discusses the many merits and the few limits of Lijphart's book. The 2012 edition is another milestone in empirical democratic theory even if it reproduces some of the limits of the first edition. Both editions of *Patterns of Democracy* disregard deviant cases (such as the strong welfare state in a majoritarian democracy in France), tend to overestimate the exportability of consensus democracy, and abstain from complementing the association between democratic institutions and policy output and outcomes with agency-centred variables, such as parties in office. Moreover, both editions focus attention ultimately on two worlds of democracy while Lijphart's data suggest the usefulness of distinguishing between four

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worlds of democracy: unitary majoritarian democracy (like Great Britain), federalist majoritarian democracy (such as the United States of America), unitary consensus democracy (the northern European countries) and federalist consensus democracy (Germany and Switzerland). The distinction between four types of democracy also allows for a more precise identification of some of the mechanisms which account for the success of consensus democracies. There are two different roads that lead to superior performance of consensus democracies: one is based on federalism and the other on a unitary state, and, hence, to some extent on a majoritarian device.

Which roads lead to the “Rome of democracy” (Lehmbruch 1987: 3)? Comparative political science would once have said that the only road goes through democracies with a majority electoral system and a relatively homogeneous political culture. Today, comparative political science takes a different perspective: Many democracies that have proportional representation and a deeply divided society have proven themselves to be at least as stable, as capable of acting and as receptive to changes of government and political innovation as majoritarian democracies. Gerhard Lehmbruch and Arend Lijphart have each provided evidence for this in their ground-breaking work in comparative political science. Lehmbruch (1967, 1992, 1996, 2003, 2012) introduced key terms (in German) meaning “proportional democracy”, “consociational democracy” and “negotiation democracy” (*Proporz-, Konkordanz- and Verhandlungsdemokratie*). Lijphart provided the English terms “consociational democracy”, “consensus democracy”, “negotiation democracy” and, as a common denominator for these terms, “power sharing democracy” (Lijphart 1977, 1984, 1999, 2008a: 3, 2012).

Lehmbruch and Lijphart differentiated between majoritarian and non-majoritarian democracies, thereby pointing the way for future research on comparative democracy and giving it a momentum that has lasted to this day. What is more, they each made a special contribution to the extended study of comparative democracy: Lehmbruch made a name for himself with his analysis of the dynamic interaction between governance in majoritarian and negotiation democracies, on the one hand, and their patterns of conflict resolution, on the other, which is particularly evident in his study of party competition within the Federal Republic of Germany, first published in 1976 and now in its third edition (Lehmbruch 2000). Lehmbruch also linked research on democracy to the analysis of corporatist intermediation (Lehmbruch and Schmitter 1982; Schmitter and Lehmbruch 1979), a combination that turned out to be particularly instructive for studies on the relationship between interest groups, public policy and political economy. Lijphart’s focus, though, is on the political performance of democracies and, in particular, on “patterns of democracy”, which is also the title of studies he published in 1999 and 2012; he explores these patterns using a combination of qualitative and quantitative methods. This work has spurred a line of research that, like Lehmbruch’s, looks at the relationship between political institutions and public policy.

In spite of their similarities, though, the differences between Lehbruch's and Lijphart's analytical approaches are unmistakable: Lehbruch favours qualitative comparative institutional research using a small number of cases and an in-depth historical perspective. Lijphart, whose work has been impregnated by behaviouralism and quantitative political research, prefers to compare larger numbers of democracies and their effects. Although Lehbruch and Lijphart sympathize with negotiation democracies, there is a noticeable difference in their degree of engagement with non-majoritarian regimes: Lehbruch is an analyst influenced by historical institutionalism and remains sceptical of surgical constitutional interventions. Lijphart, on the other hand, is a constitutional engineer; his work is concerned with democracy-promoting *constitutional engineering*, for which he has developed a magic formula: consensus democracy.

This magic formula originated from Lijphart's studies on majoritarian democracies and their non-majoritarian counterparts. His book *Democracies*, published in 1984, coupled with preliminary studies such as Lijphart (1977), broke new ground in this area. *Patterns of Democracy*, a continuation and expansion of the 1984 study, followed in 1999. It is a milestone in comparative political science, even surpassing the original 1984 publication. The 2012 edition of the book was revised and its data source updated to the year 2010. The following is an assessment of this edition.

1 Majoritarian and Consensus Democracies as per Lijphart (2012)

Lijphart's 2012 comparison of democracies is based, like the 1984 and 1999 precursors, on a differentiation between two types of democracy: "Westminster" or "majoritarian" democracy, and "consensus" democracy. Majoritarian democracy is characterised by the concentration of power; consensus democracy by the sharing of power.

As in the 1999 study, Lijphart identifies majoritarian and consensus democracies based on the following ten features:

1. The concentration of executive power in the hands of a single ruling party supported by a majority in parliament, in the case of majoritarian democracy, and the sharing of executive power across broad coalitions of parties in a consensus democracy;
2. The dominance of the executive over the legislative, rather than a balance of powers between the executive and the legislative;
3. A two-party or quasi-two-party system, as opposed to the multiparty system of a consensus democracy;
4. A majority election system with its highly disproportionate share of votes and seats, instead of a proportional representation system;
5. Pluralist relationships between the state and non-state groups, instead of corporatist patterns of intermediation;

6. A unitary, centralised state in majoritarian democracy, versus a federalist, decentralized state structure in consensus democracy;
7. A unicameral parliament, as opposed to a bicameral system with equally powerful chambers in consensus democracy;
8. Either a constitution that can be amended by a simple majority or no written constitution, rather than constitutional rigidity as a result of a written constitution that can only be amended by a supermajority;
9. The legislative branch's right of ultimate decision over legislation, as opposed to judicial review of legislation; and
10. A central bank that is controlled by the executive, instead of an autonomous central bank.

Majoritarian democracy is a system of government based on the concentration of power; it allows the parliamentary majority and its government a large amount of leeway in shaping policies. "Consensus democracy" or "bargaining democracy" (Lijphart 2012: 2), on the other hand, is a system of government based on the distribution of responsibility; it is a "power sharing democracy" (Lijphart 2008a: 3). It provides safeguards against and counterweights to the majority in the legislative and the executive. Moreover, consensus democracy seeks to keep open the possibility for the minority to share power, which could potentially occur via the suspensive or absolute veto, but also via high thresholds, such as two-third majorities or unanimous votes.

Lijphart's (2012) study focuses on those 36 countries with a population of at least 250,000 that have been a democracy since at least 1989, if not earlier, starting with the first democratic elections in 1945 and continuing up to the 30th of June 2010 (Lijphart 2012: 46). The democracies selected are listed in detail in Table 1. This list includes 33 of the original 36 countries from the 1999 study.¹ Due to the large-scale damage to democracy that has since occurred in Columbia, Papua New Guinea and Venezuela, Lijphart has excluded them from the list of established democracies. They were replaced by newcomers Argentina, Korea and Uruguay.

How closely do these democracies match the ideal types of majoritarian and consensus democracies? The answer to this question is provided by Lijphart's operationalisation of the previously mentioned features of majoritarian and consensus democracies (see Table 2). For example, the degree of concentration of executive power is measured in this table by the proportion of time during which minimal-winning and one-party cabinets were in power, and the difference between majoritarian electoral systems and proportional representation is indicated by the disproportionality of the distribution of votes and parliamentary seats.

Lijphart investigates the structures of democracy using the variables presented in Table 1. One of the main findings of this investigation is depicted in Fig. 1. It shows

¹ In future updates of the study, more than two dozen additional democracies will be added to the list if these selection criteria continue to be adhered to, including the post-communist democracies in Central and Eastern Europe.

Table 1 Lijphart's sample in the 2012 edition

| Country | First year analyzed in Lijphart (2012) | Country | First year analyzed in Lijphart (2012) |
|---------------------------|--|--|--|
| Argentina | 1984 | Italy | 1946 |
| Australia | 1946 | Jamaica | 1962 |
| Austria | 1945 | Japan | 1946 |
| Bahamas | 1972 | Korea | 1988 |
| Barbados | 1966 | Luxembourg | 1945 |
| Belgium | 1946 | Malta | 1966 |
| Botswana | 1965 | Mauritius | 1976 |
| Canada | 1945 | Netherlands | 1946 |
| Costa Rica | 1953 | New Zealand | 1946 |
| Denmark | 1945 | Norway | 1945 |
| Finland | 1945 | Portugal | 1976 |
| France (Fifth Republic) | 1958 | Spain | 1977 |
| Germany, Federal Republic | 1949 | Sweden | 1948 |
| Greece | 1974 | Switzerland | 1947 |
| Iceland | 1946 | Trinidad and Tobago | 1961 |
| India | 1977 | United Kingdom of Great Britain and Northern Ireland | 1945 |
| Ireland | 1948 | Uruguay | 1985 |
| Israel | 1949 | United States of America | 1946 |

that the measurements of the structures of democracy according to Table 2 are based on two dimensions (in the sense of the “factors” in factor analysis): the “executives–party” dimension and the “federal–unitary” dimension (Lijphart 2012: 241–244). Moreover, Fig. 1 provides information about the position of the 36 democracies along these dimensions.

The executives–party dimension reflects the difference between majority-concentrating and majority-restricting structures. The executives–party dimension is measured using the standardised average scores of the likewise standardised data for each of the first five indicators in Table 2: concentration of executive power, dominance of the executive, fragmentation of the party system, electoral system-dependent disproportionality and interest group pluralism.

The data was standardised using the z-transformation. The z-transform method makes different variables comparable by transforming the original values of a variable into their deviation from the mean and dividing the deviations by the standard deviation of the original values (the standard deviation is the square root of the sum of the squared differences of each measured value from the mean of the series divided by the number of observation). The resulting z-scores provide information about the relative position of the value of a variable in a (now

Table 2 Lijphart's operationalisation of majoritarian and consensus democracy (2012)

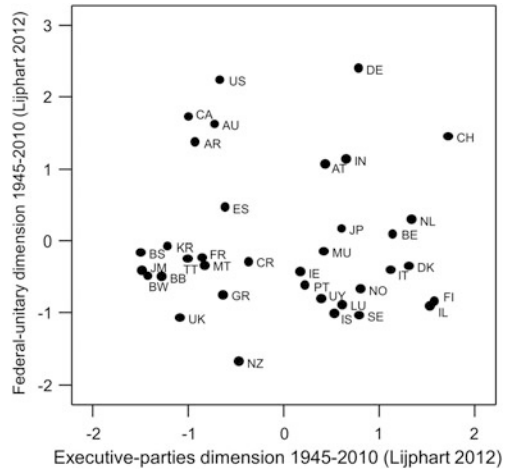
| Concept | Indicator |
|--|---|
| Degree of concentration of executive power | Proportion of time during which a minimal-winning coalition and a one-party cabinet were in power (Lijphart 2012: 99–100) |
| Balance of power between the executive and the legislative/dominance of the executive | A dominance index, based in large part on the average duration of cabinets (with special calculations for presidential systems) (Lijphart 2012: 116–123) |
| Degree of fragmentation of the party system | Laakso–Taagepera indicator of the number of most relevant parties in national legislatures ($N = 1/\sum s_i^2$, s_i^2 = square of the proportion of the seats held by each party in parliament) (Lijphart 2012: 66–75) |
| Electoral system/degree of disproportionality of the distribution of votes and parliamentary seats | Gallagher index (square root of half of the sum of the square of the differences of the percentage of votes and the percentage of parliamentary seats held by parties—excluding small parties classified as “other”) (Lijphart 2012: 145–151) |
| Pluralist or corporatist relationships between the state and interest groups | Index of interest group pluralism, based on Siaroff (1999) with additions (Lijphart 2012: 162–166) |
| Degree of power sharing in the structure of the state (decentralised federalism versus unitary, centralised state) | Federalism and decentralisation scale from 1.0 (unitary and centralised) to 5.0 (federal and decentralised) (Lijphart 2012: 178) |
| Degree of the concentration or the sharing of legislative power (unicameral or bicameral system) | Scale of the concentration of legislative power from 1.0 (unicameralism) to 4.0 (strong bicameralism) (Lijphart 2012: 199–200) |
| Degree of difficulty in amending the constitution | Scale of majority or supermajority required for constitutional amendment from 1.0 (simple majority) to 4.0 (supermajority of more than two-thirds) (Lijphart 2012: 208) |
| Strength of judicial review | Scale of the strength of judicial review from 1.0 (no review) to 4.0 (extensive review) (Lijphart 2012: 215) |
| Degree of central bank autonomy | Estimations based on indices of central bank autonomy (Lijphart 2012: 234–235) |

Comments: All measurements for the period from 1945 at the earliest to 2010.

standardised) normally distributed population of the values (see Fig. 1 and Table 3 in the Appendix).

The federal–unitary dimension spells out the difference between power sharing and power concentration as being primarily the difference between democracy that is institutionally constrained (by federalism, an autonomous central bank and constitutional and judicial restrictions) and popular sovereignty with few restrictions. The federal–unitary dimension is based on the standardised values for the remaining five variables in Table 2: degree of federalism or decentralisation, unicameral or bicameral system, difficulty in amending the constitution, judicial review of legislation and central bank autonomy.

Fig. 1 The four worlds of democracy—federalist or unitary majoritarian and consensus democracies



2 The Four Worlds of Democracy: Structures of Democracy in 36 Countries, According to Lijphart (2012)

Lijphart used these concepts and data to quantify the institutional architecture of the 36 countries in his study.

Of the many interesting findings presented in the 2012 edition of *Patterns of Democracy*, four require special attention. First, there is not one single form of democracy, there are rather several different forms of democracy. Particularly striking is the difference between majoritarian democracy and consensus democracy. Some countries have a predominantly majoritarian type of democracy, above all Great Britain and New Zealand; others have a predominantly consensus type of democracy, such as Switzerland and Germany.

Second, it is not only the difference between majoritarian democracy and consensus democracy that is of consequence. The difference between centralised, unitary democracies, on the one hand, and federalist democracies with constitutional jurisdiction and an autonomous central bank, on the other, is also important.

Third, Lijphart's (2012) study covers (as did its predecessor from 1999) not only two worlds of democracy—majoritarian democracy here and consensus democracy there—but rather four, which is not clearly reflected in Lijphart's interpretation of the data, however. The four worlds of democracy are

- the unitary majoritarian democracies (like Great Britain),
- the federalist majoritarian democracies (such as the USA),
- the unitary consensus democracies (like the northern European countries and the Benelux countries) and
- the federalist consensus democracies.

Fourth, the Federal Republic of Germany, along with Switzerland and Austria, is a federalist consensus democracy, and Germany, together with Switzerland, can even be said to be the antithesis of the typical majoritarian democracy.²

3 Forms of Democracy and Political Performance

Lijphart's studies of democracy link research on institutions to the analysis of public policies. In the new edition of his *Patterns of Democracy*, he has thoroughly expanded and significantly improved this research program, compared to the precursor study from 1999. The biggest changes are to be found in Chaps. 16 and 17. There, Lijphart compares the political performance of consensus and majoritarian democracies. It is in these chapters that Lijphart largely addresses the criticism of his 1999 study (Lijphart 2012: IX–XIII).³

Lijphart measured the political effects of majoritarian and consensus democracies using both new and old indicators. Well-known criteria include economic growth, inflation and unemployment, women's representation and political equality. Indicators like welfare spending and environmental performance appear in a new form. For instance, Lijphart now uses net welfare spending, following Adema and Ladaïque (2009), as the measure of level of welfare spending; this has the added benefit of also measuring the effects of taxation on transfer income, the effects of targeted tax relief based on social policy and the effects of legally prescribed private social benefits. New criteria include "good governance" indicators from the World Bank and measures of the quality of democracy from *The Economist's Intelligence Unit* (Lijphart 2012: XI). Moreover, Lijphart has introduced the use of control variables to account for the influence of economic factors, for instance, level of economic development and population size, on public policies.

According to Lijphart's analysis of the data, consensus democracy is the clear winner: "[T]he overall performance record of the consensus democracies is clearly superior to that of the majoritarian democracies" is Lijphart's conclusion (Lijphart 2012: 296, similarly, Lijphart 2012: xi). Consensus democracy also affects the quality of democracy; Lijphart rates this discovery as "probably the most significant of all my work" (Lijphart 2008a: 9). Consensus democracies are not only "better at

² Still, the differences between Germany and Switzerland are worth noting: Germany has much higher scores on the index of executive dominance and the index of judicial review of legislation. However, Lijphart has once again neglected (as in the 1999 edition) one particularly striking difference, that between Germany's representative democracy and Switzerland's direct democracy.

³ On the other hand, he mainly ignored critical commentary on other parts of the 1999 edition, such as Adrian Vatter's suggestion that direct democracy should be incorporated into the concept of majoritarian and consensus democracies (Vatter 2009).

representing”, but also “better at governing”, on the whole (Lijphart 2012: 274), as measured by the effectiveness of governance, the control of corruption and the combating of inflation (Lijphart 2012: 263). Moreover, consensus democracies represent “a ‘kinder, gentler’ form of democracy” (Lijphart 2012: 274). According to Lijphart, this is because they are “more likely to be welfare states; they have a better record with regard to the protection of the environment; they put fewer people in prison and are less likely to use the death penalty; and the consensus democracies in the developed world are more generous with their economic assistance to the developing nations” (Lijphart 2012: 274–275).

Not only does Lijphart describe the structures of modern democracies more precisely than many others, but he also answers the question of which model of democracy is most suited to be exported as a system of government. His counsel is clear, and is presented even more explicitly than in the earlier studies: consensus democracy is the “more attractive choice” (Lijphart 2012: 296) for those countries that are transforming themselves into a democracy for the first time or that want to reform their democratic structures. This is true not only for countries that are relatively homogeneous culturally and socially, but also (and especially) for countries with deep cultural and cleavages (Lijphart 2012: 296). In those places, majoritarian democracy would work like an explosive charge dropped into a crevice between the sides because the “winner-takes-all” principle and the lack of both power sharing and secured veto rights for the most important warring factions would result in a zero-sum game there. Consensus democracy, on the other hand, makes a cooperative solution possible, even when there are serious conflicts. According to Lijphart’s updated version of *Patterns of Democracy*, consensus democracy has actually become the “mode of government rated normatively high for *all* democratic systems”, to quote Lehmbruch’s commentary (Lehmbruch 2012: 46, emphasis added).

4 Is Consensus Democracy the Only Road to Success?

Lijphart’s thesis, that consensus democracies perform better than majoritarian democracies, is as deserving of attention as his recommendation to use consensus democracy as a universally suitable solution for democracy-promoting *constitutional engineering*. Both theses, however, must be qualified to a greater or lesser extent.

One qualification must be made in regard to the type of differences between consensus and majoritarian democracies. These differences are between-group differences. However, within-group variation is by no means trivial: all consensus democracies are not created equal, and no majoritarian democracy is identical to any other. This must be taken into consideration when generalising the findings. Germany’s consensus democracy, for example, includes more peaceful means of conflict resolution and a higher level of welfare state performance than other states that are inclined toward consensus democracy, such as India, Israel, Uruguay and Mauritius. A second example is that social policy has been broadly expanded not

only in consensus democracies, but also in some majoritarian democracies, first and foremost in France (see Table 3 and Fig. 2 in the Appendix). Thus, majoritarian democracies can also present themselves as a “more friendly and gentle society,” which Lijphart would actually reserve as a label for consensus democracies.

Lijphart’s concept of democracy does not take into consideration the involvement of voters in electing representatives into and out of office, nor the scope of voting rights or the difference between representative and direct democracy. In this respect, Lijphart underestimates the participatory content of countries with inclusive rights of participation. Moreover, if Lijphart were also to take direct democracy into consideration, Switzerland would no longer be merely a consensus democracy, but rather a country that is also familiar with sharp-edged majoritarian-type democratic institutions—the majority has the last word in national referenda, after all!

According to Lijphart, a number of public services are managed better in consensus democracies than in majoritarian democracies. This leaves open the question of cause and effect. There is still the question of which mechanisms underlie the correlations between democratic structures and the policy indicators established by Lijphart. Here is one example: according to Lijphart, there is an inverse relationship between the executives–party dimension and the average annual inflation rate between 1981 and 2009 and between 1991 and 2009 (Lijphart 2012: 263), indicating that consensus democracies are more successful at fighting inflation than majoritarian democracies. They ensure an inflation rate that is approximately 3 percentage points lower—if cases of hyperinflation in consensus democracies (Israel from 1981 to 1985, and Uruguay in 1990 and 1991) are excluded, as Lijphart has done (Lijphart 2012: 267). If the cases of hyperinflation are not excluded, though, the correlation between consensus democracy and the inflation rate disappears. But even when Lijphart’s approach is followed, the mechanisms for successfully fighting inflation remain unclear. Central bank autonomy and federalism, the two main mechanisms for dampening inflation (Busch 1995), cannot have been meant by Lijphart, because they belong to the federal–unitary dimension. But this does not correlate significantly with the inflation rate (Lijphart 2012: 272–273). Conversely, could the five indicators belonging to the executives–party dimension be the cause of below-average inflation rates? Can the inflation rate really be dampened by a majority election system, by the dominance of the executive over the legislative, by the two-party system or by pluralistic relationships between the state and non-state groups? There is nothing in the theory on inflation that provides affirmative answers to these questions.

According to Lijphart, the performance of consensus democracies is not worse than that of majoritarian democracies; in fact, he claims it is usually better. Even consensus democracies have limits, though; there is no statistically significant relationship between consensus democracy and other important policy indicators like economic growth, budget deficits and the unemployment rate since 1991, financial consolidation and inflation—if hyperinflation is not excluded. Nor is there a statistically significant relationship between consensus democracy, on the one hand, and indicators such as government spending on education and research

and other human capital criteria, as well as the proportion of women in employment, on the other hand,⁴ to name just a few examples.

Moreover, the correlations between the dimensions of democracy and the policy indicators also raise questions. Lijphart's dimensions of democracy appear asymmetrical. Only one of the two dimensions of democracy—the executives–party dimension—correlates with a meaningful number of policy indicators. The second dimension—the federal–unitary dimension—has proved itself to be almost completely insignificant, though (Lijphart 2012: 272–273, 287, 293, 295). The political outputs and outcomes Lijphart is investigating are therefore not connected to the difference between federalist and unitary versions of consensus democracies and majoritarian democracies. This then raises the question of whether the theory that the performance of consensus democracy is superior to that of majoritarian democracy can be generalized. If one of the two dimensions of democracy invalidates this theory, there are three possible explanations. The first possible explanation: Lijphart's main theory that consensus democracy has superior policy performance is of little use. The second possible explanation: The indicators belonging to the federal–unitary dimension are irrelevant for differentiating between majoritarian and consensus democracy. The third possible explanation, and the one this author favours: There are four worlds of democracy, not simply two, as Lijphart contends. And those worlds of democracy that have proven to perform better (in the sense of Lijphart's criteria) than majoritarian democracies are the federalist consensus democracies, such as Switzerland and Germany, and the unitary consensus democracies, such as the northern European countries. In the federalist consensus democracies, power sharing is very advanced, in fact. In the unitary consensus democracies, on the other hand, the structure of the state only allows for a much lower level of power sharing. Governments have a much larger opportunity to govern virtually unopposed here than in the federalist consensus democracies.

Thus, there are two very different roads that lead to (consensus democracy) success—not just one road.

5 All That Glitters Is Not Gold: Weaknesses of Consensus Democracy

Lijphart's advocacy of consensus democracy has some merit—if only his evidence that majoritarian democracy is not better, that its performance is frequently worse. This could be seen as support for Luhmann's pointed comment that majority rule is “not a mode of legitimation, but rather a stopgap” (Luhmann 1989: 196). Nevertheless, Lijphart shows a tendency to underestimate the weaknesses of consensus

⁴Evaluation based only on those OECD member states included among the 36 countries in the Lijphart study, as in Lijphart's analyses of welfare spending and spending on foreign aid (Lijphart 2012: 290).

democracy, just as he underestimates those of consociational democracy.⁵ The performance of consensus democracy can be said to have two values, as comparative studies and studies of individual countries have shown (Armingeon 2011; Köppl and Kranenpohl 2012; Schmidt 2010b: 326–329)—both advantages and disadvantages.

- Consensus systems have an Achilles' heel, though: in the case of a low election threshold, their system of proportional representation can lead to a highly fragmented party system, and in the worst-case scenario, can mutate into a “Trojan horse of democracy” (Hermens 1931).
- Consensus democracies are also plagued by higher decision costs than majoritarian democracies. The reason for this can be found in their high requisite majorities.
- In addition, every non-majoritarian democracy has a structural defect caused by the sharing of power: its weakness in a situation where the parties in a dispute cannot reach an agreement; in such a case, there is the threat of a blockade of the political decision-making process. Majority rule, on the other hand, makes it possible to find solutions, even in the case of disagreement—if necessary, by a single vote majority. In order to effectuate decisions, even under the threat of disagreement, the federalist consensus democracies turn to methods of compromise: They extend or postpone the decision process, they curtail contentious distribution or redistribution schemes, they ensure the timely execution of decisions and they put together packages of concessions made and advantages won by the parties involved. But these methods of compromise can also seriously reduce the ability of politics to solve problems, as the theory of interlocked decision-making (*Politikverflechtung*) shows (Scharpf et al. 1976).
- Due to the high threshold for consensus-building, the decision-making process in consensus democracies is also vulnerable to groups that are unwilling to cooperate and to groups that threaten not to cooperate for tactical reasons in order to acquire advantages during the search for compromise. In this respect, consensus democracy is plagued by a problem that is the mirror image of the tyranny of the majority: the tyranny of the minority, whereby veto players threaten to not cooperate or to block decisions.
- In addition, consensus democracies labour under a time frame problem. Their negotiation democracy structures require a great deal of time for decision-

⁵ Lijphart has explained the difference between consensus democracy and consociational democracy elsewhere (Lijphart 2008a: 8f): consensus democracy is measured using ten quantitative indicators of rather formal institutional characteristics; consociational democracy, on the other hand, is based on the qualitative identification of four very broad components that emphasize informal aspects, namely, large coalitions, autonomous segments in a divided society, proportionality and minority rights. While both forms of democracy are possible in deeply divided countries, consociational democracy is “the stronger medicine” (Lijphart 2008a: 8); consociational democracy demands the inclusion of all important groups, while most consensus democracies only set incentives for cooperative behavior (Armingeon 2011: 555).

making and decision-finding. Frequently, issues are only decided on after a considerable delay. In Switzerland, one speaks of the “usual Helvetian delay” in the reaction of the government to pending societal problems. This delay can prove to be advantageous: Errors that have been made by others can be avoided. But there are also disadvantages to delay, such as a late reaction or an irreversible omission.

- Moreover, consensus systems are not always a successful means of conflict control in countries with deep ethnic divisions. They also have their failures. This is evidenced by the cumbersome management of conflict in Northern Ireland, in Bosnia, in Belgium and in failed consensus regimes, such as two of the three countries that Lijphart (2012) excluded from his list of democracies: Papua New Guinea and Venezuela. The failure of the consociational systems in Lebanon or in Columbia can also be taken as evidence against the general suitability of consensus systems for managing conflict.⁶ All of this raises doubts about the general appropriateness of consensus democracy for the peaceful resolution of conflict in countries with deep cultural divisions. At the same time, these doubts support Lehmbruch's theory that consensus systems have challenging cultural prerequisites, foremost among them elites' processes of cooperation and learning, which are deeply anchored historically and socially, but also the corresponding long-term, cooperation-promoting institutions (Lehmbruch 1992). Where both are lacking, it is possible that the structures of consociational democracy will fail to take hold, just like those of consensus democracy.

6 Democratic Structures, Public Policy and Party Politics

Lijphart's arguments primarily relate to institutions, structures and functions. When his investigations of democracy are expanded on through the perspective of actor-based theories—for instance, by including parties and their activities within government—additional findings are brought to light, which is evident in this one finding: Lijphart's most important criterion for majoritarian democracy—the executives–party dimension—correlates with indicators for the partisan composition of governments (see Figs. 3 and 4 in the Appendix); if the structures of consensus democracy are dominant, left-wing parties will be more strongly involved in the government,⁷ while secular–conservative parties will be less strongly involved. The opposite is also true: the structures of majoritarian democracy co-vary with strongly secular–conservative governments.

⁶ In this respect, Columbia's exclusion from the list of established democracies in Lijphart's study (2012) also reflects the boundaries of a previous case of classifying countries as democracies or consociational democracies (Lijphart 1984, 1999, 2008b: 29).

⁷ The same thing applies for liberal parties—if nothing else, it is an effect of the system of proportional representation found in the consensus democracies.

Moreover, the partisan composition of a government helps to explain policies that Lijphart uses in his test of consensus and majoritarian democracies. One example is Lijphart's analysis of the level of net welfare spending in 22 OECD member states in his study; another example is his analysis of the index of environmental performance in 34 countries. The determinants of the level of net welfare spending and of environmental performance include indicators of the partisan composition of the government. If one includes these determinants in multivariate analyses, Lijphart's executives-party factor even becomes insignificant (see Table 4 in the Appendix).⁸

This finding points to alternatives to Lijphart's policy explanation. Lijphart has chosen an institution-centred explanation of public policies. In addition, with his choice of control variables—level of economic development and population size—he has implicitly used a socioeconomic theory for analysing policies. Lijphart did not consider any further approaches to policy research, though—not party differences theory (Schmidt 2010a), nor power resources theory (Esping-Andersen 1990), nor the theory of the inheritance of public policies (Rose and Davies 1984) nor the theory of the international determinants of public policy (Swank 2010). As studies on social policy in particular show (Huber and Stephens 2012; Schmidt et al. 2007), these theories are founded on a hypothesis that goes beyond Lijphart (2012): a significant portion of the political effects Lijphart ascribes to consensus or majoritarian democracies is actually due to other determinants, including the partisan composition of government.

7 Conclusion

The critical comments on Lijphart's *Patterns of Democracies* must be weighed against the merits of this work. Lijphart's study remains a milestone in comparative political science. It stands out with its unusually comprehensive, innovative and verifiable analysis, done in an exemplary manner, of the commonalities and differences between majoritarian and consensus democracies. This alone was a major contribution in closing a gap in the theory of democracy. Lijphart wants to do more with it, though: specifically, democracy-promoting *constitutional engineering*. In this way, he would be joining the theory and practice of democracy. Hence, not only is Lijphart at the forefront of research in comparative politics, he is also a prominent policy adviser.

⁸ An examination of Lijphart's data leads to the same result in the case of two other indicators: the budget deficit (2003–2007) and spending on development and collaboration. The other indicators of outputs and outcomes in the Lijphart study are not affected, though, by the situation discussed here (Lijphart 2012: 304–309; see also the policy output and outcome data posted on Lijphart's web site, UC San Diego 2014). The indicators of the partisan composition of governments are taken from a database compiled by the author. For more on the definition and measurement of party families, see Schmidt (1996) and Schmidt (2010a).

Lijphart's studies of democracy have stimulated further investigations. One of them deals with the more precise measurement of parliamentary democracies; unlike in Lijphart's study, it does not mix structural variables with patterns of behaviour (such as cabinet formation and government dominance). Building on this criticism, Steffen Ganghof differentiates between three forms of democracy based on the number of veto players and the disproportionality between votes and seats: pluralitarian (as in the United Kingdom), majoritarian (for example, Sweden) and supermajoritarian varieties, as in Germany and Switzerland (Ganghof 2005). Adrian Vatter (2009) provides three further suggestions based on his own research for further developing Lijphart's research on democracy. He recommends that three dimensions of democracy be recognised: in addition to Lijphart's executives-party and federal-unitary dimensions, the "top-to-bottom" dimension that includes direct democracy and cabinet government. Vatter also suggests differentiating between two main forms of consensus democracy: the parliamentary-representative type, and the direct democracy type. Moreover, Vatter advocates making corrections to Lijphart's operationalization here and there (Vatter 2009: 132–138).

Lijphart's comparison of types of democracy has also spurred research into and identification of counter-majoritarian institutions. This is evidenced, for example, by the constitutional structure index from Huber et al. (1993), the index of counter-majoritarian institutions (Schmidt 2010b: 332–335) and the index of veto players and co-rulers (Schmidt 2010b: 332–334). Because these indices contribute to the explanation of policy profiles, they can be counted as a further, indirect contribution by Lijphart to policy research.

On the other hand, institution-centred explanations of pragmatic policies are narrowly restricted. It is well known that institutions act both as constraints and as enabling conditions. Nevertheless, they do not determine either the choices or the results of decision-making processes (Scharpf 1997). In this respect, the analysis of public policy and of variations in policy profiles will have to go beyond the institution-centred approach that Lijphart has primarily used and will have to consider—in addition to institutions and socioeconomic realities—actors, power resources, policy inheritance and the interaction between regime type and government capacities, such as mechanisms of governance (Norris 2012).

Table 3 Structures of democracy according to Lijphart (2012: 305–309)

| Country | Executives–party dimension 1945–2010 | Federal–unitary dimension 1945–2010 |
|--|--------------------------------------|-------------------------------------|
| Argentina | –0.93 (–) | 1.38 (–) |
| Australia | –0.73 (–0.78) | 1.63 (1.71) |
| Austria | 0.43 (0.33) | 1.07 (1.12) |
| Bahamas | –1.50 (–1.53) | –0.15 (–0.16) |
| Barbados | –1.28 (–1.39) | –0.49 (–0.44) |
| Belgium | 1.14 (1.08) | 0.10 (0.01) |
| Botswana | –1.43 (–1.26) | –0.48 (–0.50) |
| Canada | –1.00 (1.12) | 1.73 (1.78) |
| Costa Rica | –0.37 (0.34) | –0.28 (–0.44) |
| Denmark | 1.31 (1.25) | –0.34 (–0.31) |
| Finland | 1.58 (1.53) | –0.83 (–0.84) |
| France (Fifth Republic) | –0.86 (–1.00) | –0.22 (–0.39) |
| Germany, Federal Republic of Germany | 0.78 (0.67) | 2.41 (2.52) |
| Greece | –0.64 (–0.73) | –0.74 (–0.75) |
| Iceland | 0.53 (0.52) | –1.00 (–1.03) |
| India | 0.65 (0.29) | 1.14 (1.22) |
| Ireland | 0.17 (0.01) | –0.42 (–0.42) |
| Israel | 1.53 (1.47) | –0.90 (–0.98) |
| Italy | 1.12 (1.07) | –0.39 (0.21) |
| Jamaica | –1.49 (1.64) | –0.40 (–0.28) |
| Japan | 0.60 (0.70) | 0.17 (0.21) |
| Korea | –1.22 | –0.07 |
| Luxembourg | 0.61 (0.43) | –0.88 (–0.90) |
| Malta | –0.83 (–0.89) | –0.33 (–0.40) |
| Mauritius | 0.42 (0.29) | –0.13 (–0.04) |
| Netherlands | 1.34 (1.23) | 0.30 (0.33) |
| New Zealand | –0.47 (–1.00) | –1.67 (–1.78) |
| Norway | 0.80 (0.63) | –0.66 (–0.66) |
| Portugal | 0.22 (0.36) | –0.61 (–0.70) |
| Spain | –0.62 (–0.59) | 0.47 (0.41) |
| Sweden | 0.79 (0.82) | –1.03 (–0.67) |
| Switzerland | 1.72 (1.77) | 1.46 (1.52) |
| Trinidad and Tobago | –1.01 (–1.41) | –0.24 (–0.15) |
| United Kingdom of Great Britain and Northern Ireland | –1.09 (–1.21) | –1.06 (–1.12) |
| Uruguay | 0.39 | –0.79 |
| USA | –0.07 (–0.54) | 2.25 (2.36) |

The numbers in parentheses are the scores from the 1999 study. Lijphart's data are average scores for the period 1945–2010 or alternatively for the period covered in Table 1. Executives–party dimension: low scores (negative) are clear indications of a majoritarian democracy (like Great Britain), high scores (positive) indicate marked structures of consensus democracy (like Switzerland). Federal–unitary dimension: low scores (negative) indicate a high concentration of

political power (unitary, centralised state), and high scores (positive) are indicators of advanced power sharing (as in Germany, Switzerland and the USA). The data are standardised (z-transformed) average values of the standardised (z-transformed) original data. The executives–party dimension is based on the first five characteristics in Table 2, and the federal–unitary dimension is based on the last five in this table.

Appendix

Fig. 2 The anomalous case of France—majoritarian democracy and a high level of net welfare spending

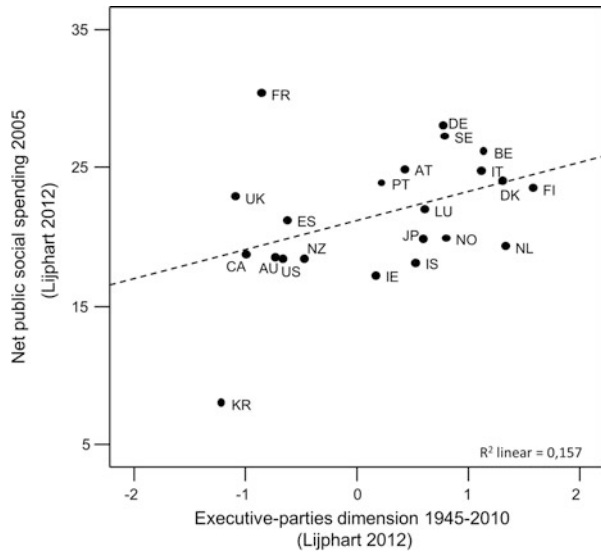


Fig. 3 Executives–party dimension according to Lijphart (2012) and partisan composition of the government, as measured by the proportion of cabinet seats held by secular–conservative parties (1945–2010)

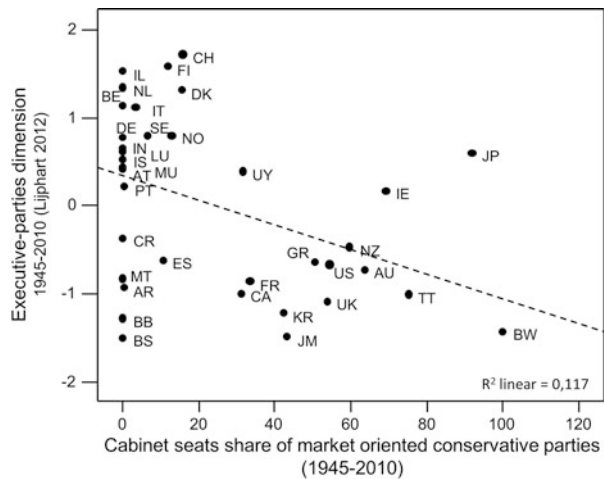


Fig. 4 Executives–party dimension according to Lijphart (2012) and the participation of social democratic and secular conservative parties in government (1945–2010)

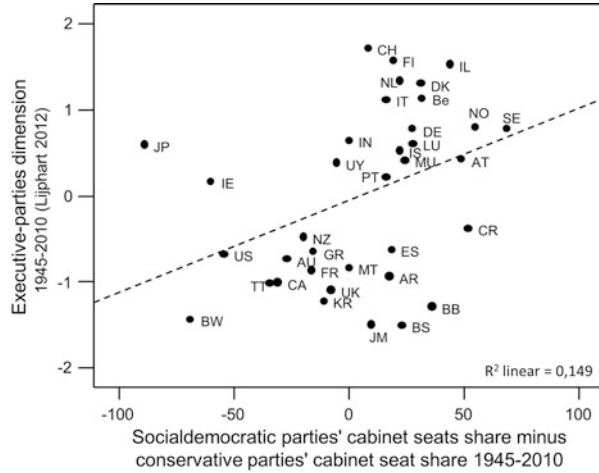


Table 4 Review of Lijphart’s explanatory approach with indicators of the partisan composition of governments (1945–2010^a)

| Independent variables | Model 1: Lijphart’s approach | Model 2: Model 1 + social democratic parties in power | Model 3: Model 1 + social democratic vs. secular-conservative and liberal parties in power | Model 4: Model 1 + social democratic vs. secular-conservative parties in power |
|--|------------------------------|---|--|--|
| Intercept | 41.28* | 38.49* | 33.62* | 32.51 |
| Human Development Index 2010 | 34.43 | 32.29 | 44.10* | 44.30* |
| Population 2009/1000 | -0.012 | -0.007 | -0.008 | -0.006 |
| Executives–party dimension 1945–2010 | 3.63* | 2.63 | 2.08 | 1.29 |
| Percentage of social democratic cabinet seats | – | 0.17* | – | – |
| Difference in the percentage of cabinet seats held by social democratic vs. secular-conservative and liberal parties | – | – | 0.11* | – |
| Difference in the percentage of cabinet seats held by social democratic | – | – | – | 0.11** |

(continued)

Table 4 (continued)

| Independent variables | Model 1: Lijphart's approach | Model 2: Model 1 + social democratic parties in power | Model 3: Model 1 + social democratic vs. secular-conservative and liberal parties in power | Model 4: Model 1 + social democratic vs. secular-conservative parties in power |
|----------------------------------|------------------------------|---|--|--|
| vs. secular-conservative parties | | | | |
| N | 34 | 34 | 34 | 34 |
| R ² (adjusted) | 0.23 | 0.37 | 0.39 | 0.40 |

Number of cases: 34 (scores are missing for the Bahamas and Barbados)

Levels of statistical significance: *** ≤ 0.01 , ** ≤ 0.05 , * ≤ 0.10

^aIn order to homogenise the observation period, all of the variables were measured for the entire period of 1945–2010. Years of an autocratic regime type were coded with 0.0 for each indicator of the various parties' participation in government

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'Proporz' or Polarization? The Religious Cleavage, the Division on the Left and the Party Systems of Southern Europe

Philip Manow

Abstract

The contribution seeks to understand why deep, fundamental conflict in some European countries is moderated by reconciliation techniques like *Proporz*, whereas it leads to polarized conflict in others. The contribution points to religion as the decisive variable and distinguishes between countries in which Catholicism is a minority religion and countries in which the Catholic Church holds the religious monopoly. Only in the latter did the church turn decisively anti-republican in the nineteenth and early twentieth century. One of the consequences of this intransigent stance was that political alliances between devout peasants and anti-clerical workers proved unthinkable. This left workers' parties in political isolation, and they subsequently radicalized and split into a reformist (Social Democracy) and a revolutionary (Communists) wing. The clerical/anti-clerical conflict line thereby came to characterize the political space in Southern Europe and explains the polarized character of political contestation in these countries. The church and subsequently political Catholicism was more moderate and allied with a reformist working movement in countries in which Catholicism is a minority religion.

1 Modes of Conflict Resolution and 'Kulturkreise'

In his small but highly influential *Proporzdemokratie* (Lehmbruch 1967), Gerhard Lehmbruch described the genealogy and functioning of a mode of conflict resolution that responds to 'social antagonisms between rival, internally homogeneous and closed groups' which 'perceive their respective goals to be mutually exclusive

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and wholly incompatible' (Lehbruch 1967, p. 14; own translation). Confronted with problems of this fundamental, antagonistic quality, the majority principle obviously reaches its limits and often gives way to time-honored reconciliation techniques like *compositio amicabile*, *itio in partes* or *Proporz*. However, Lehbruch hastens to add that not every intensive conflict automatically implies the use of these modes of conflict resolution between societal sub-cultures. In this context, he points to France or Italy and their 'fragmented political cultures' and 'ideological antagonisms', as well as to the ethnic conflicts in interwar Central- and Southern Europe (ibid.). Lehbruch highlights the impact of different "Kulturkreise", a typical German and hard-to-translate compound. One might translate it as 'areas of cultural influence'. Culture therefore possibly explains why some countries confronted with antagonistic conflict attempt at reconciliation whereas others stay polarized, and in the extreme, turn to political violence.

Not solely due to his training in theology or his family background, Gerhard Lehbruch is particularly aware of religion's critical and long lasting contribution to culture. He may therefore sympathize with my subsequent attempt to look for religious determinants that possibly explain moderation or polarization (and he hopefully forgives that this attempt is undertaken by someone much less versed in theology and history than he is).

In this chapter, I compare countries in which Catholicism is a minority religion with countries in which the Catholic Church holds a religious monopoly. I argue that it's only in the latter cases that the split of the left into a revolutionary, anti-system party (i.e. Communists) on the one hand, and a rather reform-oriented Social Democratic party on the other, remained a dominant political dividing line in the postwar-period. This is because the split of the left is, as I would like to argue, an upshot of the state/church cleavage, *not* of the labor/capital conflict. Only in countries where Catholicism had the religious monopoly did the church turn decisively anti-republican. One of the consequences of this intransigent stance was that political alliances between devout peasants and anti-clerical workers proved unthinkable. This left workers' parties in the 'working class ghetto' (Esping-Andersen), where they subsequently radicalized. The clerical/anti-clerical conflict line thereby came to characterize the political space in Southern Europe and I argue that it explains the polarized character of political contestation in these countries.

'Political Catholicism' developed when the process of nation building provoked a vehement conflict between the state and Catholic Church. But Political Catholicism came in two currents, as an intransigent and reactionary enemy of liberalism and modernity in the mono-confessional countries of Southern Europe, and in a more moderate, centrist version in the denominationally mixed countries of continental Europe (Martin 1978).¹ This relates to the thesis proposed here, namely that the conflict between the nation-state and Catholic Church manifested itself not only within the bourgeois political camp in the form of Christian-democratic parties but

¹ I am grateful to Karl Gabriel for pointing me towards this argument in Martin (1978).

was also reflected by the political left, specifically as a deep and persistent rift between reform-oriented (Social Democratic) and radical (mainly communist, but sometimes also anarcho-syndicalist) wings of the worker movement in those countries in which the Church took a decidedly anti-republican stance. In turn, such a rift had long-term consequences for the balance of political power and for the political economy in each country. In order to understand this development, it is necessary to broaden our historical scope to re-examine the violent phase of the European interwar period (the *trente peu glorieuses* of 1914–1945; Traverso 2007), since the factors distinguishing European party systems mainly manifested themselves in the interwar period (Lipset and Rokkan 1967; Rokkan 1970; Caramani 2004). Hence, this period, during which the communist parties were also founded, should be given closer examination.

In this chapter, I first present my argument on the causes for the historically evolved differences in European party systems and the resulting differences in post-war European political majorities over the long term. This is followed by the presentation of empirical evidence supporting my argument for those countries in which the Leftist rift between reformers and revolutionaries, and social democrats and communists, has been so influential: the Southern European nations. I conclude with a short résumé on the linkage between political polarization and the clerical/anti-clerical divide.

2 Catholic Monopoly, Liberal Nation Building and Political Polarization in the Nineteenth and Twentieth Centuries²

The counter-reformation in Southern Europe successfully secured Catholicism's religious monopoly—protected via a liaison between the Church and the forces of the Ancien Régime, i.e. crown and ruling classes. In the nineteenth century, the liberal nation-state building elites therefore always attack both, crown and church. 'Coherent and massive secularism' is pitted against 'coherent and massive religiosity'—this is what David Martin describes as the 'Latin pattern' (Martin 1978, pp. 6, 36–41, 244–277 and *passim*). The Catholic Church feels its existence threatened by the liberal state-building elites (Gould 1999; Burleigh 2008) and their legislative program with respect to confessional schools, the Catholic orders, civil marriage, church property, religious festivals, etc., which does everything to make these fears appear to be well-founded. The church reacts by rejecting modernity, liberalism, and the secular nation-state (as in *Syllabus Errorum*, The Syllabus of Errors, 1864). It develops what can be labeled intransigent Catholicism (Perreau-Saussine 2012).

When industrialization, with the rise of the workers' movement and finally the Russian Revolution, gradually changed the main political conflict lines, intransigent Catholicism directed its animosity chiefly and increasingly at the political left.

²The following draws upon (Manow 2013).

In turn, the left developed an often aggressive anticlericalism, too (Rémond 1999, 2001). This conflict turned into “a spiral of fear and mutual repulsion backed by violence until each side feels its very existence endangered by the other. . . Once this occurs fear is transmuted into reality and the only practical tactic is war à l’outrance” (Martin 1978, p. 17). The church-state conflict did not develop with the same vehemence in countries where Catholicism is a minority religion—David Martin therefore distinguishes between the mixed and the Latin pattern (Martin 1978). This distinction is relevant in our context, since both patterns differ with respect to the political positioning of the church, either non-conciliatory anti-republican and right, or moderate and centrist. This translates into different degrees of conflict intensity between the left and the right in Southern and Continental Europe. One *direct* result of the conflict between church and state, according to the standard line of argument, has been the institutionalization of Christian democratic parties (Kalyvas 1996; Kalyvas and Kersbergen 2010; Conway 2004; Kaiser and Wohnout 2004; Hecke and Gerard 2004). Here I argue that there was another *indirect* consequence of the coalition between an anti-liberal, anti-modern church and reactionary forces in countries in which it sees itself existentially challenged. Religion in these countries had an unambiguous political coding; it was decidedly right-wing (Berger 1987). Subsequently, the political confrontations accompanying the mass democratization of societies turned much more fundamental. The result was violent, civil war-like conflict during the first half of the twentieth century in all mono-denominational Catholic societies under study here (Nolte 1998). An important heritage of this conflict between a clerical right and an anti-clerical left was the radicalization of the left due to the lack of a plausible reformist option, in particular since a coalition with farmers in these still very much agricultural countries proved to be unfeasible. As a consequence, postwar politics retained a polarized character, as the rift on the left between socialists or social democrats on the one hand, and communists on the other, persists, and it persists primarily due to the ‘moral’, not the ‘material economy’ of these countries.

This admittedly quite stylized account of the development fits Italy, which turned fascist as early as 1922.³ Since 1860, the peasantry was considered “the reserve army of clerical (papal-Bourbon royalist) reaction” (Absalom 2009, p. 128) and much of the political development after 1861 is explained by a fact of “utmost importance: the hostility of the Catholic Church to the new Italian state, and the hold which it had on popular feeling” (Lyttelton 1987, p. 4). It also fits Spain, which after 1936 became the stage for a merciless civil war between opponents and supporters of the republic. Spain witnessed violent episodes before the turn of the century, experienced a dictatorship under de Rivera beginning in 1923 (Preston 2006), and, once the civil war ended, was ruled by the brutal military dictatorship of Franco between 1939 and 1975. Support for the fascists was concentrated in Spain’s

³ For the Italian case, it is, *inter alia*, important that the Vatican was hostile to the Partito Popolare Italiano (PPI), and during the Republic’s several crises in the early 1920s sided with Mussolini, often against the position of Sturzo’s PPI (Pollard 2009: 170; Kelikian 2002: 57–58).

heartland. Dominated by the Catholic smallholding masses, the Church sided clearly with the insurgents, and in the early 1930s, the Catholic party, or CEDA (Confederación Española de Derechas Autónomas), embarked upon a violently anti-republican rhetoric, openly calling for insurrection. Portugal's history exhibits a similar path toward 'clerical authoritarianism' (Tumbletey 2009), and a similar division between devoutly Catholic and anti-republican smallholders in northern and central Portugal and the "both communist and anticlerical" southern region including many impoverished and landless peasants (Manuel 2002, p. 72).

In Italy, as in France, armed resistance to the German occupation represented a kind of civil war between radicals on the left and right (Traverso 2007), similar to how the Spanish civil war was conceived as the struggle between 'Fatherland and religion' and the '*anti-patria* of the Jewish-Masonic-Communist conspiracy' (cf. Preston 2006, pp. 305, 201). Vichy represents the authoritarian, anti-democratic solution that the French political right, in coalition with the national Church hierarchy, had sought repeatedly during the interwar period and almost put in place in 1934 when France came close to a violent overthrow of the republic (Tumbletey 2009). One therefore cannot be surprised about "the enthusiasm with which the overwhelming majority of French Catholics welcomed the establishment of the Vichy regime in 1940" (Conway 2004, p. 241). The French case, however, might be the most controversial in my explanatory scheme, given that France is one of Luebbert's liberal success cases—a country that apparently avoided democracy's breakdown in the interwar period. Some have even postulated a French 'immunity' (René Rémond) to fascism (on this debate, forcefully rejecting the immunity hypothesis, cf. Soucy 1995; Jenkins 2005). To some extent, this debate appears to be one about correct categorizations. It does not matter for my argument, for instance, whether one labels Vichy 'fascist' or 'clerical-authoritarian' (Tumbletey 2009). A full treatment of the French case is clearly beyond the scope of this chapter. Here I can only point to a rich literature indicating that the highly polarized and often violent conflict between a clerical right and an anti-clerical left was characteristic for France as well (see for the most recent treatment Passmore 2013).

The extremist right, Parti Socialist Français, the successor of the Croix de Feu, had between 700,000 and 1.2 million estimated members around 1937, whereas the NSDAP had around 800,000 members when it came to power in 1933. Whether French democracy would also have collapsed without the onset of war, of course, cannot be known, but Vichy was certainly not a German implant. It is true that in 1936, the Popular Front successfully fought the insurrectionist right. And without a doubt, the French interwar trajectory differed from the Italian or Spanish.

Part of the explanation, in my view, is to be found in the fact that our country cases are far from being independent from each other. It was the French Revolution's fundamental and violent anticlericalism that started the modern conflict between nation state and church in nineteenth century Catholic Europe. Elsewhere, the forces of the ancient regime could prepare themselves against this double onslaught against crown and church. But in France, representing the first episode in this historical sequence, the revolution had critically weakened the church, both materially and morally. Political coalition-building between a Marxist

worker movement and Catholic peasants, however, remained out of reach in the twentieth century due to the religious cleavage in France as well. The isolation of the left and its subsequent radicalization is a trait that France, therefore, shares with its Catholic neighbors.

The other case which needs more elaboration is Austria, given that this country is the epitome of a *Proporz*-democracy, not only according to Lehmbbruch. But at the same time, Austria is a mono-denominationally Catholic country that *did* experience the breakdown of democracy in the form of the clerical-authoritarian Dollfuss-regime in 1933. And yet, in Austria, the left never split and postwar politics were not polarized. With respect to the Austrian case I would like to argue, maybe a bit surprisingly, that this country does *not* fall under the category 'mono-denominational Catholic' and therefore, also did not experience a vehement conflict between state and church in the nineteenth century.

The critical point is that Austria only turned mono-denominational in 1918. Before, a policy of reconciliation between the different religious denominations was what characterized first the rule of the Habsburg house and then that of the Austro-Hungarian monarchy. The tolerance edicts (*Toleranzpatente*) of 1781–1785, which were renewed and substantially extended in 1849 and 1861, are exemplary in this respect. In 1910, the Austro-Hungarian army even introduced Islamic military chaplains. Of course, the Catholic Church dominated in the Austrian part of the k.u.k. Monarchy, but ruling a multi-religious empire forestalled a policy of religious exclusiveness and precluded Catholic intransigence. Instead, techniques of *Proporz* came to use—here they have an imperial background. Consequently, the defense of the only true and sacred religion was not a card played by the Cisleithinian monarchs in their fight against the pro-republican forces. On the contrary, in the brief *Kulturkampf* over the anticlerical legislation of the *Bürgerministerium* of 1868/1869, Emperor Franz Joseph sided with the liberals against the church (Kalyvas 1996, pp. 196–203).

True, after 1918, the cultural conflict returned with heightened intensity and in the late 1920s increasingly polarized Social Democrats and the Christian-Social party. The church itself, however, for most of the time remained conciliatory and the polarization came only after a phase in which the Christian Social party had proactively managed the transition to the republic, expressed its clear commitment to the new republican order and even, if only briefly, formed a coalition with Social Democrats. Therefore, in the beginning at least, a reformist option was not wholly unrealistic, which may explain that a split of a more radical communist party never happened in Austria. In any case, a communist party was absent from Austria's postwar party system and this resulted in a very different form of party-competition and industrial relations, much more in line with the German and Dutch cases than with the polarized polities of Southern Europe.

To sum up, the fundamental character of the political conflict in those countries in which Catholicism turns anti-modernist, anti-republican, or anti-liberal, reveals the explanatory limits of an argument based *solely* on socio-economic analysis. In these conflicts, religion becomes relevant since it renders coalitions between workers and peasants impossible and thereby fosters the radicalization of the left

and often leads to the fascist path. These totalitarian episodes are then a second important explanatory factor for the persistence of political polarization in the postwar period.

Yet, rarely has research taken this into further consideration, perhaps not surprisingly given that most historical studies on the left have followed a neo-Marxian perspective.⁴ For example, the denominational dimension of conflict is almost completely missing in Luebbert's study of Europe in the interwar period (Luebbert 1991),⁵ as well as in Geoffrey Eley's history of the European left (Eley 2002). The same can be said of Beri Sherman's study on interwar social democracy (Berman 1998). Stefano Bartolini treats the religious cleavage as a contextual factor for the mobilization of the left, but fails to discuss religion as a cause for the rift between reformist and revolutionary wings of the labor movement (Bartolini 2000). In Esping-Andersen's account of the 'social democratic road to power' (Esping-Andersen 1985), this dimension is lacking as well, probably due to the fact that he develops his theory from an exclusive treatment of the Scandinavian cases. However, one cannot grasp the specificity of the Nordic pattern by looking exclusively at the Nordic countries, where indeed the state/church-cleavage had been largely absent. But if one wants to understand what enabled northern farmers and workers to enter political alliances, one needs to compare the Nordic cases with other cases, and a comparison with the *economically*, but not *politically* similar southern pattern seems particularly fruitful. I will briefly elaborate on this point.

⁴The history of the Spanish Civil War, of Italian fascism, or the Vichy regime simply cannot be written without examining the political role of the Catholic Church and without taking into consideration the religious dimension of the conflict. For Italy, see Webster (1960). For Spain, see Preston (2006): "Almost every major political upheaval of an especially turbulent period had its religious backcloth and a crucial, and usually reactionary, role for the Church hierarchy". Preston refers to "the near pornographic techniques of anti-clerical demagoguery" of the radical left (2006: 27), which in the early 1930s led to acts of arson against churches and monasteries and to violence against Catholic clergy, as well as to the ominous role of the Church on the part of the reaction. "Religion remained the most potent weapon in the right-wing armoury and, to a certain extent, it was put there by Republican and Socialist imprudence. Indeed, justification for blanket hostility to the Republic could easily be found in various manifestations of anti-clericalism. Given the Church's historic association with, and legitimization of, the most reactionary elements in Spanish society, it was not difficult to understand the extent of popular anti-clericalism" (2006: 59).

⁵Luebbert briefly discusses and then rejects the 'religious hypothesis' (cf. Luebbert 1991: 300). Yet, in his case studies, he repeatedly describes how the left's aggressive anti-clericalism deeply disturbed the peasantry (see, for instance, pp. 282, 283 on Spain and Italy). For Luebbert, the successful worker-farmer alliance in Catholic Czechoslovakia finally proves religion's explanatory irrelevance. In the context of my argument and in the light of the religious pluralism of the Habsburg monarchy, the Czech case, however, is not a counter example. See above remarks on Austria.

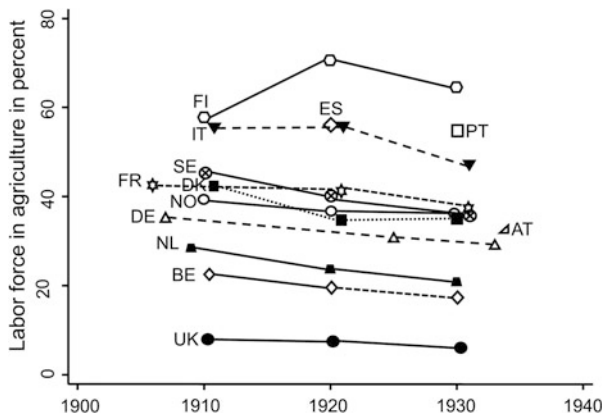
3 Urban–Rural–Industrial: Basic Political Coalition Options in the Interwar Period

The southern—like the northern—countries were relatively late to industrialize; that is, they were still very much agrarian societies at the time of mass-democratization, i.e. around 1920 (see Fig. 1).

For Europe's south, we might sketch the basic constellation of social forces in the interwar period as follows: A coalition between workers and smallholding (Catholic) farmers is unthinkable due to the former's militant anti-clericalism. Farmers rather tend to ally with the established, reactionary forces—the rural elite, the entrepreneurial class, the military, but also with the urban petit bourgeoisie—against the political left. This coalition becomes increasingly likely the more the Catholic Church feels threatened by the liberal elite during the creation of the nation-state. In other words, the fiercer the conflict between church and state once was, the fiercer the conflict between the political left and the Catholic Church becomes.

The fundamental conflict between an aggressively anticlerical left and a reactionary Catholic Church causes small farmers, the agricultural family business, to recoil from a coalition with the labor movement and its doctrinaire Marxism—which treated the rural proprietor as a doomed class anyway (Eley 2002; Judt 1979). It is therefore in Italy and Spain's north among the family farmers—not the South where the latifondista/latifundista dominates—that Fascism made its most successful inroads into the countryside (Bosworth 2009; Ertman 1998; Preston 2006; Luebbert 1991; Lyttelton 1987; Corner 1975; Farneti 1978). In turn, the radicalization of the left becomes all the more probable as coalitions between workers and farmers become wholly unlikely. The resulting political polarization eventually turns violent in almost all of the countries studied here, often completely unrelated to the onset of the Great Depression in the late 1920s, as in Italy in 1922 or in Spain in 1936.

Fig. 1 Employment share in agriculture in Western Europe, 1910–1940 (Mitchell 2003)



The church's massive anti-republican agitation casts substantial doubt on the political loyalty of the rural classes—which opens the void for the political violence of the extreme right. At the same time, given the verbal radicalism, revolutionary maximalism and aggressive anti-clericalism of the left, the fascists appear like promising enforcers of order, family, property and religion, and as a guarantee of an anti-Bolshevik bulwark in a period of civil war-like conflicts. Whether or not the Catholic Church and Catholicism actively participate in a conflict stylized to be the “historic battle of resistance to bolshevism” (quoted in Nolte 1965, p. 19), or act as a critical structural factor rendering a coalition of workers and farmers highly unlikely, the religious dimension is central to the basic coalition options during the interwar period. As quickly understood by the fascist movements, the initial anti-clericalism of the urban fascists quickly recedes into the background as the movements gain massive support in the countryside among the small property owners (Pollard 2009). Later, the Lateran treaties are to follow in Italy, as well as the official recognition of the Franco regime by pope Pius XII.

Admittedly, this is a very broad-brush depiction of the southern European model (including France). The history in each country could and should certainly be told in a far more nuanced manner. In doing so, the overlapping time frames of national development and their mutual influence on one another would have to be taken into consideration—as the impact of the violently anti-clerical Mexican revolution on the political position of the Vatican in the late nineteenth century, or as the impact of the Nazi's advent to power on the strategy change of French communists who were now ordered to defend the republic together with the socialists against the fascist threat. And one would need to differentiate between various actors: national church hierarchies, local priests, Christian-democratic parties, ‘Rome’, etc.

Moreover, church and state relations have been far more complex and changing than could be described here. The final distancing of the Vatican vis-à-vis the catholic Action Française, or Rome's (late) critique of the Franco-regime as well as the changeful relationship between the Vatican and Mussolini belong in this picture (Webster 1960, Chap. 7; Kelikian 2002). And it would be foolish to deny the important differences between, say, the French case in which a united left succeeded in holding the extreme right under control in the 1930s, and the Italian case which, already in the early 1920s, succumbed to fascism. Still, as one expert recently summarized in (Pollard 2009, p. 176):

It would be no exaggeration to say that Catholic support for fascism was a major consequence of the ‘culture wars’ between Catholicism and liberalism that had raged in Europe, and in parts of Latin America, since the early nineteenth century, and that the Spanish Civil War of 1936–1939, in which Catholics saw the hand of anticlerical liberalism, Freemasonry, and bolshevism, was the last and greatest of Europe's ‘culture wars’ and had, accordingly, a massive impact on the attitude of European Catholics to fascism.

As a consequence, the pious rural classes in Southern Europe could not bring themselves to enter into coalitions with the Marxist worker movement, which forestalled the reformist option in response to the social and economic turmoil of the interwar years. The religious barriers to such a coalition fostered the

radicalization of an isolated left and the questionable stance of the Catholic rural classes vis-à-vis a republic-opened political space for the violence of the extreme right.

In my view, the creation of powerful communist parties—and unions—needs to be recognized as an important heritage of this culture war in ‘Latin Europe’. The split on the left shaped the southern party systems after World War II (if these countries turned at all democratic), as did strong communist unions in industrial relations (Ebbinghaus and Visser 2000). It’s the political violence and the fundamental character of political conflict before 1945 which explains the persistence of the polarized electoral milieus of the clerical right and the anti-clerical left after 1945, for a long time basically unaltered by the profound socio-economic change over the post-war period, unimpressed by the slow rapprochement among the political elites of either side (in Italy, this culminated into the *compromesso storico* in the late 1970s) and also not substantially affected by secularization, i.e. the weakening strength of religious sentiments and values.

How much the northern pattern differs from this southern one is relatively well known (cf. Esping-Andersen 1985). True, the Nordic labor movement as well was split between social democratic and communist parties (see below). And like their counterparts in southern Europe, the latter were quite successful in the immediate post-WWII period and mobilized not only the core industrial areas, but also marginalized, precarious agricultural regions (Tarrow 1967a, b).

However, except for the case of Finland, in which the civil war and the subsequent forceful repression of communists is to be understood in connection with the Finnish war of independence, the radicalization of the labor movement in the Scandinavian countries is *not* the expression of a cultural conflict over the fundamental issue of affiliation with and loyalty to the nation-state and to basic values connected to faith, property, and family. The lack of such a conflict—and not the labor movement’s existing or non-existing “instinctive antipathy to the countryside” (Judt 2006, p. 405)—changes the basic political coalition options which are open to social democracy. Also, it was not social democracy’s simple “inability or unwillingness to reach out to farmers” (Berman 1998, p. 204) which explains why, outside of Scandinavia, workers and farmers proved unable to ally. Similarly, “whether or not socialist movements had become engaged in class conflicts within the countryside” (Luebbert 1991, p. 11) does not explain the formation or non-formation of such a class-coalition. It is instead the absence or presence of the religious cleavage which explains why very similar *economic interest constellations* in Europe’s North and South resulted in completely different forms of *political interest representation*.⁶ A coalition between farmers and workers that

⁶ In Eastern Europe, agriculture was dominant, so that farmers could not be ignored politically. In Europe’s West, industrialization had progressed already so much that farmers’ interests were marginal, if not outright irrelevant (Malefakis 1971). In Europe’s middle, however, the question of a coalition with farmers became virulent both in the North and in the South (cf. Bartolini 2000: 472–473).

would have made sense in economic terms and that was feasible in Northern Europe proved impossible in the South due to non-economic reasons.

Looking then at the fate of the communist parties in postwar Scandinavia, we observe that structural change, first in the agricultural and later in the industrial sector, led to the steady electoral decline of the communist parties. In southern Europe, in contrast, confrontation over issues like parochial schools, civil marriage, divorce, and abortion persist as *cultural conflicts*, as do the 'memory politics' over the recent violent past that these countries experienced (Furet 1998). In the south, communists' postwar success is largely based on their anti-fascist credentials.

For other variants of the Catholic pattern, we need to note that political Catholicism is moderate where Catholics are a minority, like in Germany, the Netherlands and Switzerland (Martin 1978, pp. 51, 57 and *passim*). Also, that Catholicism, where it took part in nation building in confrontation with an 'alien' and denominationally different country (such as in Ireland vs. Britain; Poland vs. Germany and Russia; Belgium vs. Netherlands), became a unifying factor, and subsequently either did not lead to the formation of a Christian Democratic party (Poland, Ireland) or rendered this party moderate (Belgium).

Consequently, in these countries, religion does not turn into a fundamentally contested issue between the left and the right (cf. Martin 1978, p. 37, 42–45 and *passim*).⁷ On the contrary: where Political Catholicism was moderate, Christian Democracy was pro-republican and offered coalition options for the left—thereby also moderating the left itself. Crucial therefore were these different zones of cultural, i.e. religious, influence. It was culture, i.e. religion, which critically impacted upon the coalition options in interwar Europe.

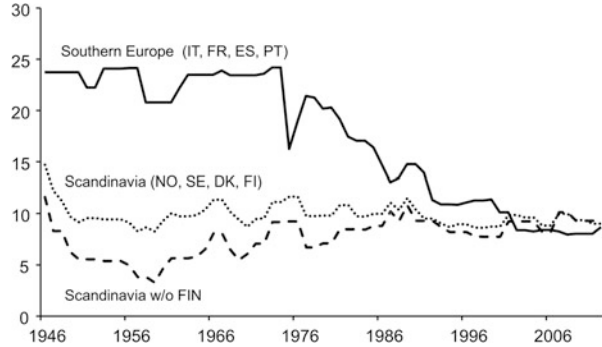
The next section briefly addresses the cleavage on the left as a significant source of systematic variation between Western European party systems.

4 Party Systems, Party Strengths and the "Political Sphere" in Southern Europe

We have ample empirical evidence for the uniqueness of southern European party systems: (a) the electorally strong communist parties and generally the vote share of the different party-families in European comparison; (b) the dimensionality of the party systems in the North, in continental and southern Europe; finally (c), data on the (organizational) strength of communist unions and on the composition/makeup of governments.

⁷ In Rokkan's cleavage theory, the split on the left is addressed only in passing. But corresponding to my argument, he states that "the working-class movement tended to be much more divided in the countries where the 'nation builders' and the Church were openly or latently opposed to each other during the crucial phases of educational development and mass mobilization" (Rokkan 1970: 136; see also 135, 137). He finally arrives at a typology very similar to the one presented here, at least as far as the model of southern European countries is concerned (*ibid.*: 138).

Fig. 2 Vote shares of communist parties in Scandinavia and southern Europe



In order to compare the electoral strengths of party-families over the entire postwar period and to chart the development of the European party systems, I use data from the Comparative Manifesto Project (Budge et al. 2001; Volkens et al. 2012), and the ParlGov databank (Döring and Manow 2013). For the two dimensions of interest here, I use the basic “right-left position of party” (Rile) in the Comparative Manifesto dataset as well as a dimension that shows the significance of the church/state, specifically the clerical/anti-clericalism cleavage for the parties and thus the party systems.⁸ Figure 2 compares communists’ vote share in Scandinavia and southern Europe over the postwar period.

Figure 2 shows that after initial electoral success in the immediate postwar period, the vote shares of Scandinavia’s communist party flattens out very consistently around 10 %. Contrary to this, the PCF and PCI enjoy a vote share more than twice as high until the 1970s; they remain strong during the *trente glorieuses* of the welfare state. Scandinavian and southern communist vote shares do not converge before the late 1990s. The reason for their different electoral fate in Europe’s north and south lies in sectoral change: in the 1950s and 1960s, the “agrarian question” was essentially resolved, which weakened the ability of communist parties to mobilize in rural regions. However, the “cultural” conflicts over confessional schools, divorce, abortion, contraception, civil marriage, and the like continued to be as virulent as ever in Southern Europe.⁹

⁸ Calculated by adding the variables per603 (Traditional Morality, Positive: favorable mentions of traditional moral values; prohibition, censorship and suppression of immorality and unseemly behavior; maintenance and stability of family; religion) and per604 (Traditional Morality, Negative: opposition to traditional moral values; support for divorce, abortion etc.; otherwise as 603, but negative). See Manifesto Handbook. With regard to the state–church dimension of these two items, it is noted further on the CMP website (about per603): “Support for the role of religious institutions in state and society,” and (about per604) “Calls for the separation of church and state” (see https://manifesto-project.wzb.eu/coding_schemes/1). Comparable reconstructions of the political space result when the clerical/anti-clericalism variables of Laver and Hunt (1992) are used.

⁹ In France and Italy, the postwar consensus stipulated an exclusion of communists from the group of parties ‘eligible’ for government participation. Then, the organizational strength of the communist unions gains particular significance—for social policy, industrial relations and the political

Within the southern countries, the electoral strength of the communist parties is not only linked to the industrial zones, but also to rural party strongholds with a strong anti-clerical inclination. With regard to the specific geographic pattern of support for communist parties, Taylor and Johnson maintain for France and Italy that “*Communists are heir to an anti-clerical tradition*” (Taylor and Johnson 1979, p. 188, my emphasis). In certain areas of Italy, France, or Spain, we find the phenomenon of “red peasants,” a radicalized, rural population that cast their vote not for conservatives but for communists (McInnes 1975, pp. 40–46; Tarrow 1967a). The reservoir of communist electoral support therefore is twofold, made up of an industrial constituency and “backwood communism” (see McInnes 1975, p. 45), the latter being deeply rooted in anti-clericalism.

When we examine the position of the parties in the political sphere, it becomes evident that southern European party systems are particularly polarized in the clerical/anti-clerical dimension as well as by the dominant right–left conflict, and that it is characteristic of communist parties with large vote shares to occupy the anticlerical pole. Figure 3a–c depict the two-dimensional political space for the

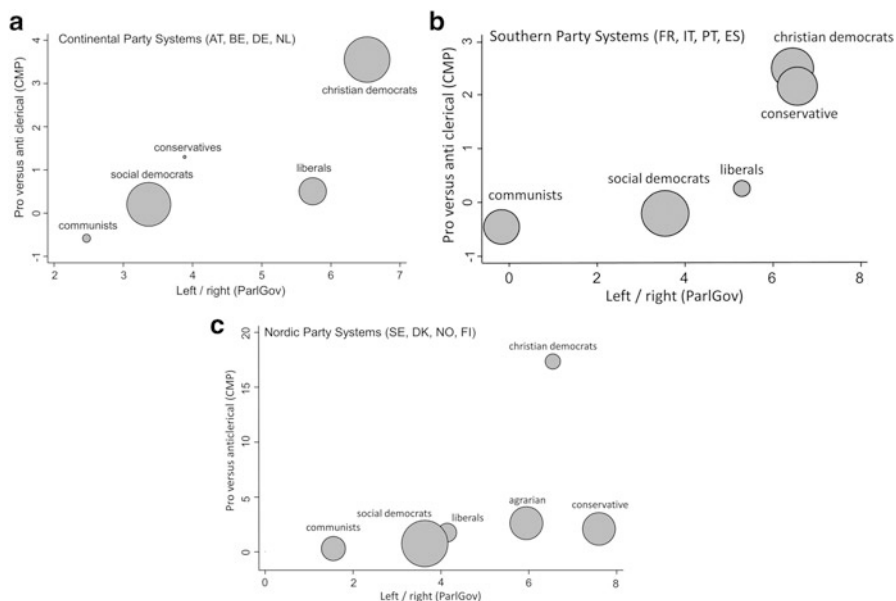


Fig. 3 (a) The party systems of continental Europe, 1946–2012, left/right and clerical/anti-clerical. (b) The party systems of southern Europe, 1946–2012, left/right and clerical/anti-clerical. (c) The party systems of northern Europe, 1946–2012, left/right and clerical/anti-clerical

economies of these countries more generally. On the strength of communist unions in France, Italy, Spain and Portugal, see Ebbinghaus and Visser (2000).

average continental, southern and northern party system (generated by averaging vote shares and positions over our 12 country cases).

Note: The circle sizes represent the party family's average vote share over the course of the postwar period, 1946–2012. The x-axis measures the left/right dimension, the y-axis measures the clerical vs. anti-clerical dimension. Data sources were www.parlgov.org (left/right) and CMP (clerical/anti-clerical).

While we have to be cautious in the interpretation of the spatial representation of the various national party systems, it certainly improves upon previously identified 'strategic configurations of parties' (Kitschelt 2001) obtained in a rather ad hoc-manner. Important differences between the three types of party-systems are the salience of the religious cleavage, the electoral strength of a left anti-system party, the presence or absence of agrarian parties and the varying strength of liberal parties.

A particular upshot of the southern party constellation is the dominance of center-right governments in Italy and France, since the rift on the left increases the probability that Christian-democratic or conservative parties form governments. This also holds true for Portugal and Spain after 1976/1977 (see Fig. 4). On a left-right scale ranging from 0 (left) to 10 (right), Fig. 4 shows the average government position for the Western European countries over the postwar period.¹⁰ A geographic variance between north and south is apparent and mirrors party system differences (Manow 2009; Döring and Manow *in press*). Although the left gains quite similar vote shares in the North and in the South (cf. Bartolini 2000: 64 and Table 2.1, p. 55 and *passim*), they do differ quite profoundly with respect to their years in government. And if in government, the Southern left is usually barred from pursuing a reformist program due to the competition from an orthodox left (Hopkin 2004).

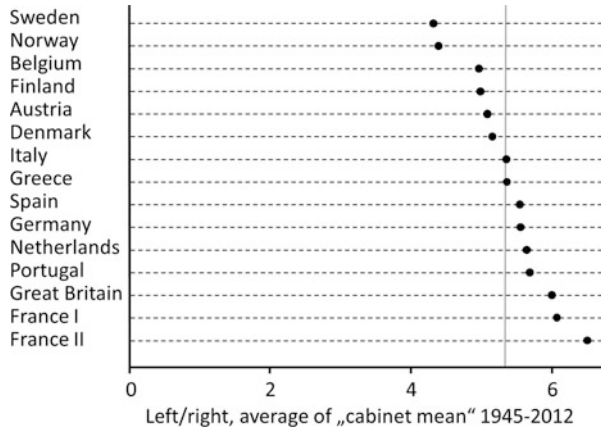
When we take into consideration that the two largest communist parties of the post-war era, the Italian PCI and the French PCF, were prevented from participating in government until 1993¹¹ and 1981, respectively, and that there was, in fact, a post-war consensus to exclude these parties from the group of coalition-building parties, then the organizational strength of the communist unions gains even greater significance. Moreover, the unions became important especially for the communist influence on social policy.

To no great surprise, the most powerful of the strong communist unions in Western Europe is the Italian CGIL (Confederazione Generale Italiana del Lavoro), whose membership in the mid-1970s consisted of 2.5–3.4 million workers out of the roughly 5 million unionized workers in all of Italy. In other words, the communist unions had 50–68 % of all unionized workers as members (McInnes 1975). CGIL claims to have had 5.7 million members in 2011, of which close to

¹⁰ France is listed with two values, one for the Fourth Republic and one for the Fifth, due to electoral reform in 1958.

¹¹ At the end of the 1970s, there was an Italian government *tolerated* by the communists, but without their direct participation.

Fig. 4 The average position of postwar governments in Western Europe on the left-right spectrum (Source: www.parlgov.org/b)



3 million are members of the *Sindacato Pensionate Italiana* (SPI). This makes the CGIL Europe’s largest union overall.

Among communist unions, the next largest is the French CGT (*Confédération Général du Travail*), which is also the second strongest of France’s five big unions. In 1981, when the socialists took power in France, the CGT had roughly 1.3 million members; today it has about 700,000. Communist unions are highly important for communist parties, since these are traditionally “externally mobilized” parties (Shefter 1994) that are unable to mobilize votes and membership with the prospect of winning power to rule within government.

5 Polarization or *Proporz*?

Internally, political Catholicism is oriented towards reconciliation (van Kersbergen 1995; Kalyvas and Kersbergen 2010). Confronted with the challenging task of mobilizing and representing socio-economically diverse societal groups under one religious umbrella, Christian Democratic parties have always used techniques of ‘functional’, regional, gender, etc. *Proporz* to balance their internal conflicts of interest. In its external relations, however, Political Catholicism came in two basic variants: as a decidedly reactionary, intransigent force in the mono-denominationally Catholic countries, and as a more centrist and moderate force in the denominationally mixed countries (cf. Martin 1978).

I developed the thesis here that the different political conflict constellation in Southern and Continental Europe had a sustained impact on the structure of the West-European party systems after 1945 and subsequently, also on the Political Economies of the Continent and the South. The difference mainly manifests itself in the presence or absence of an electorally strong anti-system party and an organizationally strong radical union of the left, i.e. in the presence or absence of strong communist parties and unions. This presence or absence indicates, I argued, whether conflicts follow a polarized pattern or whether they are moderated through

techniques of reconciliation like *Proporz*. Against the background of my argument, it might appear to not be completely coincidental that around the same time and fully independent from each other, a German and a Dutch political scientist developed the quite kindred concepts of a *Proporz*- or a consociational-democracy and with them, provided Comparative Politics with an intellectual impetus that continues to stimulate research until the present day.

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Lehmbruch Versus Lijphart: Comparing Democratic Governments as Multidimensional Regimes

Arthur Benz

Abstract

Taking Gerhard Lehmbruchs studies as point of departure, the article outlines an approach to comparative research on democratic governments. Lehmbruch started to study consensus or negotiation democracy at about the same time as Arend Lijphart. While Lijphart drew attention to two dimensions of democratic governments which he condensed into two types, Lehmbruch focused on uncovering the mechanisms of collective action that are connected in consensus democracies. From different perspectives, both political scientists demonstrated that democracy can only work in a complex institutional setting reflecting different values and different functions. Lehmbruch chose a historical-institutionalist approach and included, at least in his later works, elements of actor-centered institutionalism. This approach highlights structure-induced tensions in governments. In consequence, Lijphart's typology needs to be revised and differentiated. Following Lehmbruch's studies, democratic governments have to be regarded as multidimensional political systems, where internal tensions have to be coped with, and where tensions can be turned into productive policy by actors' discretion, their capacities and strategies, as far as they are supported by enabling institutions and procedures. In order to outline this analytical approach and research program, the article explains basic mechanisms driving politics in democratic governments.

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1 Two Approaches to Study Negotiation Democracies

From time to time scientists generate similar new ideas or knowledge at different places around the world although they work independently from each other, without being influenced by the usual processes of scientific competition or communication. One example of such a coincidence can be found in comparative politics. During the 1960s, Gerhard Lehbruch und Arend Lijphart discovered nearly at the same time a type of democratic government, which significantly deviates from majority democracy (Lehbruch 2012). What Lijphart labeled consensus democracy and Lehbruch denominated “*Proporzdemokratie*” soon was acknowledged as a distinct type, adding to what most scholars in those days took as the model of democracy, which, according to the mainstream explanation, was rooted in the history of England. Lijphart first developed his concept based on country studies, before he elaborated a typology that he used in quantitative studies on the effects of majority and consensus democracies (Lijphart 1968, 1969, 1999). Lehbruch identified the distinct pattern of democracy in historical and comparative analyses of political systems with proportional representation and later conducted international comparisons of democracies where decisions are negotiated (Lehbruch 1967, 1996, 2003).

Despite the different origins, scholars usually consider the works of Lehbruch and Lijphart as complementary contributions to comparative politics that have much in common. Yet beyond the obvious similarities of the typologies that both political scientists have developed, we should not ignore significant divergence in their theoretical approaches. As I will show, these differences are more relevant and instructive for comparative research on democracies than has been acknowledged so far. They are already reflected in the denominations of the types of democracy that indicate particular perspectives. Lijphart emphasizes structures of governments which either guarantee the power of a majority to govern and to pass laws or provide for a consensus of mainstream parties and societal groups participating in politics. Lehbruch’s denominations, in particular the term “*Verhandlungsdemokratie*” (negotiation democracy), describe specific mechanisms of policy-making and decision-making, and they should be contrasted with the term competitive democracy rather than with majority democracy. Unlike Lijphart, Lehbruch focused his research on the emergence and evolution of negotiation democracies. On the one hand, he was primarily interested in the history of democracies, the processes of their formation and the historical conditions for this type of democracy to come into being. On the other hand, he contributed to the understanding of the logic of operation of multidimensional democratic systems, first by his seminal study of party competition in German federalism (Lehbruch 1976, 2000) and in later research on patterns of corporatist interest intermediation (Lehbruch and Schmitter 1982). This approach reveals considerable potential for comprehending the mechanisms that make complex modern democracies work. In contrast, while Lijphart took into account the multidimensionality of governments in his typology, he did not draw theoretical conclusions from this aspect and neglected it in his

empirical research, obviously for methodological reasons as he pursued quantitative studies.

Although it is far from my intentions to underestimate Lijphart's merits, I will explain in the following sections why Lehmbruch's approach proves to be more fruitful for comparative research, and why it constitutes a better foundation for understanding modern democracies. For this purpose I start by making the multidimensionality of democratic governments explicit, to which both Lijphart and Lehmbruch draw our attention. From this point of view we can identify in sufficient detail varieties of democracy, instead of reducing them to a limited set of—usually two—alternatives for the purpose of quantitative studies. I suggest pursuing Lijphart's aim to discover 'patterns of democracy' by resorting to Lehmbruch's historical-institutionalist and qualitative approach of comparative research on democracies. This approach highlights structure-induced tensions in governments. In consequence, Lijphart's typology needs to be revised and differentiated. Moreover, as I will emphasize in this article, comparative research on democratic governments has to uncover the logics of operation and evolution of democracies. Drawing on Lehmbruch's studies, we should understand democratic governments as multidimensional political systems that have to cope with internal tensions, and where tensions can be turned into productive policy by actors' discretion, their capacities and strategies, as well as by enabling institutions and procedures. In order to outline this research program, I will explain a few basic mechanisms driving politics in democratic governments. They can be derived from theories of historical institutionalism and from an actor-centered institutionalism, and can all be found in Lehmbruch's scholarly work.

2 Multidimensionality of Democratic Government

As is well known, Lijphart not only introduced the concepts of majority and consensus democracy, he also suggested distinguishing two dimensions in the constitution of modern democracies. On the one hand, they are characterized by a division or fusion of executive and legislative powers and on the other hand, they can vary according to their vertical decentralization or centralization of powers in federal or unitary systems of government. There is no need to discuss Lijphart's problematic operationalization of the second dimension which is all but convincing (Müller-Rommel 2008). What is essential is Lijphart's implicit assumption that both in majority and in consensus democracies, these structural dimensions can be taken as complementary. At least he did not point out any reasons why tensions between them should arise. In his comparative studies, he reduced the possible four types of government to the well-known two types, while he declared combinations of consensus democracy and unitary government or majority democracy and federalism as exceptional cases (Lijphart 1999: 249).

However, multidimensionality of democratic government is a decisive condition for their operation and dynamics. Therefore, it most certainly should not be neglected in an analytical framework or in research. Democracies build on

institutions, which at the same time create and limit power. Accordingly, they always constitute a kind of ‘mixed constitution’, as has been explained in doctrines of a division of powers (Riklin 2005; Vile 1998). They require an institutional order allowing not only that rulers are elected and can be voted out of office, but also that the power of rulers is constrained by allocating it to different offices or institutions. Therefore scholars who have elaborated new approaches to measuring the quality of democracy have for good reasons taken into account the multidimensionality of government (Bühlmann et al. 2012; Kriesi et al. 2013).

The term ‘dimension’ relates to modes or lines of institutional differentiation in a system of government, which are essential for determining its particular form. In modern democracies we essentially find three dimensions designed to create legitimized power, to enable collective actions and binding decisions on political issues, and to limit the use of power. First, democratic governments include institutions and procedures of electing and controlling representatives of citizens. Second, they establish structures of interest intermediation between politics and society. Third, they divide power, although to a different degree along functional and territorial lines. These institutional dimensions did not come into being simultaneously in the history of democracy. Democratic governments as they exist today resulted from varying sequences in which these dimensions arose and evolved under different historical conditions and for different reasons. This fact indicates that they do not combine to a coherent and consistent system. Given their different sources and functions which they are designed for, they often create interfering processes that cause conflicts and tensions. This aspect is neglected, if scholars aggregate these structural components in one-dimensional typologies. It is also omitted in the veto player theory which, as it regards structures of a democratic government, merely covers to what extent powers are divided (Tsebelis 2002). In a similar vein, Lijphart’s typology of democracies emphasizes indicators relating to the concentration or division of power.

In his study of party competition in the German federal system, Gerhard Lehmbruch suggests another perspective (Lehmbruch 2000). Here he focuses on mechanisms of collective action, which he sees institutionalized in democratic governments. Accordingly, party competition mainly determines the creation of governments in a process which transfers power to representatives that are elected by and that are responsible to citizens. Patterns of party competition vary from state to state, depending on the structures of a society, election rules, or decision rules in parliament or in the executive. The term “*Proporzdemokratie*” emphasizes procedures of selection of office holders, while the term “*Verhandlungsdemokratie*” (negotiation democracy), which Lehmbruch later used and which Roland Czada (2003) further elaborated and refined, highlights the mechanism of decision making applied by actors seeking an agreement. While this pattern of policy making may evolve out of certain political cultures and on account of particular historical developments, it can also be enforced, or at least encouraged, by rules for selecting office holders. In contrast, a ‘competitive democracy’ revolves around the political contest for offices in government that are allocated to members of parties vying for power. In the typical case, two parties or party camps compete and the

winning side, i.e. the party achieving the majority of seats in parliament, can form a government and make unilateral decisions, yet in the shadow of the permanent rivalry of the opposition, who provides steadfast critique of the government while offering alternative policies and candidates for offices in government. The second dimension Lehmbruch describes relates to the division of power in German federalism. Here he focuses on processes of negotiations between the federal government and *Länder* governments. Established by constitutional law or standard operation procedures, federal-*Länder* cooperation materializes in patterns of joint-decision making (Scharpf 1997: 143–145; see also Czada 2003). Accordingly, all governments have to come to an agreement if they aim at a policy or institutional change. The contrasting model—which Lehmbruch did not analyze in detail—would be “competitive federalism”, which can reveal different structures of power and can include different modes of intergovernmental competition (Breton 1996). The third dimension of interest intermediation is covered in Lehmbruch’s works on patterns of neo-corporatism. Under these institutional conditions, collective decisions also result from negotiations, in this case a tripartite constellation of corporate actors. In the alternative model of pluralist interest intermediation, representatives of association compete for influence in politics.

While concepts of majority and consensus democracy, not unlike the veto player concept, mainly refer to the number of collective actors relevant for decision making and participating in the execution of power, corresponding concepts in Lehmbruch’s work aim at comprehending the procedural aspect of democracy. They draw attention to the various ways in which legitimized power materializes and is exerted. Moreover they point out that usually different mechanisms interact in modern democratic governments and that this interaction shapes how democracy works. In consequence, the possible varieties of democracy cannot be reduced to the simple alternative of negotiation or competitive democracy. If, as Czada explained, different dimensions of negotiation democracy exist (Czada 2003; see also Armingeon 2002), this must, as outlined above, also apply to competitive forms of democracy. And as Lehmbruch shows for the German government, competition and negotiation operating in the different institutional dimensions of democracies interact in various ways and with different effects.

Lehmbruch was interested in negotiation democracies. Therefore, he did not carry out empirical research on other types. He also did not elaborate a theory of competitive democracy akin to his influential theory of German federalism. Moreover, he excluded further dimensions of democracy from his analyses. For instance, he did not take into account the limitation of governance by courts, which protect individual rights and freedom against powers of the state. Neither did he include the relations between legislative institutions and the implementing administrations in his analyses, which can vary according to the degree of autonomy and heteronomy of administration. Nor did his analyses end with a typology of multidimensional systems of government. He looked, however, at tensions arising in the interplay between different dimensions and modes of operation of these complex systems, and the ways these tensions are managed in practical politics. Thus Lehmbruch paved a way for comparative research on democracy that proves to be extremely

fruitful. Unfortunately, this approach shifted to the background since scholars working on comparative politics and government tended to apply quantitative methods, instead of elaborating thick description of cases and comprehending the real complexity of governments.

3 Varieties of Democracy

Deviating from Lijphart's understanding of decentralized or federal states, Lehmbruch saw that a territorial division of powers does not necessarily generate a consensus democracy. In his study of party competition in German federalism (*'Parteienwettbewerb im Bundesstaat'*; Lehmbruch 1976, 2000), which particularly reveals his perspective on government, he on the one hand applies his historical approach and on the other hand formulates important insights for comparative research on democracy. His hypothesis of a structural incongruence between party competition and cooperative federalism, which he revokes or qualifies to a certain degree in the second edition of his book, points out that policy-makers have to cope with tensions arising in the multidimensional system of democratic federalism. But more relevant is his analytical framework from which this finding was derived. Lehmbruch draws attention to the fact that different logics of operation interact in modern governments and that they can be more or less congruent and can be linked in different ways.

In German government, Lehmbruch identifies two logics of operation entrenched in institutions and political practice: an intense competition of parties in parliamentary democracy and continuous negotiations between federal and *Länder* governments. While he traces back the practice of negotiation and accommodation to a long history of German federalism (in particular: Lehmbruch 2002), party competition is the result of a later democratization. In the Federal Republic, both mechanisms are tightly coupled, firstly due to an integrated party system where the same parties compete at the federal and *Länder* level and are inclined to extend competition to the intergovernmental arena, secondly, because federal and *Länder* governments are compelled to come to agreements in important policy fields. This particular constellation is combined with structures of interest intermediation varying from policy to policy between corporatism and pluralism (Lehmbruch 1999). In those policy fields where patterns of corporatism are linked to decision making in cooperative federalism, policy-makers have to manage a twofold incongruence between competition and negotiation. Like in intergovernmental joint decision-making, where governments supported by competing parties have to negotiate policies, actors in corporatist patterns of negotiation represent associations organizing conflicting interests in society (Offe and Wiesenthal 1980). Both constellations induce a bargaining mode of governance, which under favorable conditions brings about compromises at the lowest common denominator of the involved interests, while under other conditions it causes deadlock due to the confrontation of competing participants. In his study of economic policy under a

Social-Democratic federal government, Fritz W. Scharpf (1987) impressively carves out these mechanisms and their effects in the German case.

For a long time scholars working on comparative government regarded the combination of party competition and cooperative federalism as an exception. They assumed that in federal systems governments at different levels regularly exercise separate powers and act autonomously. This view took U.S. federalism as a model, whereas Germany, Austria and Switzerland were regarded as contrasting and untypical cases. In this context, the characterization of Germany as a federal state was often doubted. Incongruence and tensions in multidimensional structures like those brought to light by Lehmbruch did not come into view in comparative research. A similar perspective prevailed in comparative research on patterns of interest intermediation. In this context, scholars argued that consensus democracy should be a necessary condition for a stable and working corporatist system. They tended to assume that modern governments are characterized by congruent structures establishing complementary mechanisms of governance. According to the mainstream of theorizing, congruent mechanisms should guarantee stability and effectiveness of governments. Incongruent constellations were considered unstable and disposed to governance failure.

Meanwhile, comparative research on federalism has found out that negotiation between governments (or multilevel governance) must be considered as the rule rather than the exception, although the manner of institutionalization and the extent of power-sharing vary between federal states. Furthermore, in a number of countries we find parliamentary democracies in federal states, not at least in those federations which had developed in the former British colonies. Hence, the combination of cooperative federalism and party competition in parliamentary systems is not an exception, and it constitutes the characteristic feature of government in Australia and Canada. We find similar combinations if we include the dimension of interest intermediation. In Switzerland, for instance, consensus democracy and a cooperative federalism interact with pluralist structures of associations (Abromeit and Stoiber 2006: 209–213). Such structural inconsistencies might complicate policy-making, but they do not necessarily undermine the operation of government or the quality of democracy. Neither Australia or Canada nor Switzerland can be considered as examples of ineffective or unstable democracies. Judging by comparative research, quite the opposite is the case.

Apart from that, mono-dimensional categorization of democratic governments neglects a particular constellation. It is built into the US government with its consequences having become visible only during the last decades. While Lijphart mentions this distinctive structure in passing (Lijphart 1999: 250–251), it is completely lost in veto player theory, although the basic idea, which the US Constitution was founded on, is well reflected in this concept. The constitution was not only designed to enable and guarantee the political participation of equal citizens, it also, if not primarily, aimed at limiting the powers of government in order to protect individual freedom. For this purpose the founders of the American constitution introduced a clear separation of powers between the executive and the legislative and between federal and state governments. Only later, in the course of

the twentieth century, did democracy unfold with a gradual introduction and implementation of universal suffrage, the direct election of the Senate, the rise of political parties as platforms of political communication, the extension of participation in administrative procedures, and the application of referenda in state and local governments. All these institutions and practices have been interpreted as elements limiting powers and fostering negotiations in policy making. Yet with the increasing party orientation of actors in parliaments and the executive, competitive politics gained ground, which in the dual party system tends to turn into confrontation. To a growing extent, this pattern of politics impacts on negotiation processes in the Congress and those between the Congress and the President. In consequence, the probability of deadlocks has increased, not the least due to the frequent situation of a 'divided government'. Accordingly, the ability of the American government to achieve significant reforms has declined. From this perspective, it is not the number of veto players or the separation of powers which causes serious problems of democracy in the U.S., but the tight coupling of two mutually interfering mechanisms of governance: negotiation and party competition. The effects produced by the incongruence of these mechanisms probably have more problematic consequences in the U.S. than in German government. Yet only a closer inquiry of policy-making and of the ways which actors have developed to cope with the complicated institutional and political conditions can confirm this assumption.

4 Tensions and Dynamics

If we regard democratic governments as multidimensional political regimes¹ (Benz 2004), we not only discover veto points due to a division of powers, we also have to take into account the mechanisms of governance designed to coordinate policies of veto players. These mechanisms interact, and their interaction impacts on their operation. Interfering mechanisms can lead to deadlock in policy making or in coordination between governments or departments of government. From a normative point of view, such a result appears ambiguous. With regard to the creation of effective power to govern, deadlock would appear to be detrimental, whereas it is a necessary consequence of constraining institutions as required by the principle of a division of powers (Vile 1998: 57). Consequently, multidimensionality constitutes an essential condition for the simultaneous creation and limitation of power in democracies. Inherent in this institutional order are tensions between structures which are conducive to achieving these two contradicting goals.

From this perspective, the fundamental conflict of values inherent to democratic governance is stated in a terminology characteristic of the theory of constitutionalism emphasizing the division of powers. It also finds expression in concepts distinguishing between 'input'- and 'output'-legitimacy (Scharpf 1970) or participation und effectiveness as basic objectives of democracy (Naschold 1972). For this

¹ In the present context, the term regime is defined as a form of institutionalized power.

reason, Frieder Naschold suggests to consider democratization as a task to optimize these contrasting values. In this view democracy requires a continuous search for appropriate forms to achieve effective governance with as much participation of citizens as possible or of those affected by decisions. However, if the values of democracy are anchored in different dimensions of an institutional order, then no constitution and no real pattern of democracy can promise to achieve an optimal balance. Rather than overcoming the conflict, multidimensionality expresses values which unavoidably diverge. Other scholars therefore speak of an inextricable ‘trade-off’ (e.g., Dahl 1994; Kriesi and Bochsler 2013: 89). In theories of constitutionalism and in theories of federalism, this matter has been described as a challenge to find a balance of powers in a political system which inevitably is instable. These theories have also pointed out that due to the impossibility to come to a stable equilibrium, it is the process of balancing induced and guaranteed by countervailing powers and ‘safeguards’ (Bednar 2009) that is essential for effective and legitimate governance. Therefore, tensions are necessary in order to induce dynamics of power structures since there is never an optimal balance of creation and limitation of power. Rather than a structure, democracy has to be considered a process designed to induce a continuous search for a—always imperfect—balance. Accordingly, Hanspeter Kriesi recently characterized democracy as a ‘moving target because democratization is an ongoing process that not only leads to an extension of democracy to new countries and to new layers of supra- and international governance, but also continuously transforms the way politics works in established democracies’ (Kriesi 2013: 14).

Complexity of structures and institutions, entanglement and overlapping constituencies, division or sharing of powers or the existence of veto players constitute features of modern governments, which as such tell us little about how democracy works. Multidimensionality creates a necessary condition, ensuring that divergent values of democracy are entrenched in the institutional framework and thus are guaranteed to become effective. If this is acknowledged as a basic assumption of a realistic theory of democracy, comparative research should be directed to finding out how institutions, in particular democratic governments, weight these values, how they guarantee them, which processes they provide to search for a balance or why they fail to achieve an accepted balance. In particular we have to inquire whether and how systems of government induce or prevent necessary flexibility or whether and why they tend to make structures rigid and, as a consequence, obstruct the continuous balancing of values.

In comparative research, questions relating to the dynamics of multidimensional structures, to conditions for adaptation or learning of governments, and to the permanent democratization of democratic government have rarely been addressed so far. As far as these questions are raised, the answers provided by researchers are not fully convincing. One of the reasons is the predominant assumption that institutional complexity causes rigidity and path-dependent change. Second, concepts of democracy applied in comparative research still do not sufficiently come to terms with the real complexity of governments. Third, the concept of democratization has been occupied by research on transition from autocracy to

democracy, instead of being introduced—as Kriesi suggests—as a core concept of research on democratic governments.

The analytical perspective which I outlined here, following the line of reasoning by Gerhard Lehbruch, promises to find answers to the questions raised and to consider the effects of multidimensional institutions of governments. The consequences for comparative research can only be indicated briefly. At any rate, this approach not only sheds new light on veto points or veto players, but also on the interaction of incongruent mechanisms of governance. They may cause problems for policy making, but they can also trigger or maintain dynamics of governments, which is necessary in order to find a balance of powers and to integrate structures implementing the different values of democracy. Veto points can serve as safeguards against the concentration of power or the ossification of routines. Incongruent patterns of governance can give rise to productive conflicts and thus induce change. As to whether these effects will become reality cannot be said without knowing the particular conditions. Yet conflicts and tensions inherent in complex, multidimensional structures open opportunities for strategic actions of policy makers. The ‘contradictory potential of institutions’ (Onoma 2010: 65) induces them to find appropriate strategies and thus initiate processes of adaptation and learning. Whether such processes maintain the institutional balance or cause instability due to an uncontrolled shift in power, whether they improve effectiveness of governance in a democracy or obstruct governance, must be analyzed in particular cases. These cases should be studied both from a historical perspective focusing on continuity and change as well as from the perspective of an actor-centered institutionalism, emphasizing institutional constraints and strategic action. In any case, as multidimensional regimes, democracies offer potential for institutional and policy learning, which can be mobilized under specific conditions.

These conditions have to be uncovered in future research. To this end, an important hypothesis can be found in Lehbruch’s work. He indicates in which ways different institutional dimensions and the mechanisms of governance that are entrenched in them, are coupled in a political system and how they determine whether a dynamic balance of power and institutions can be maintained in democratic governments (Lehbruch 2000: 28; see also Benz 2000, 2010). The consequences of a tight coupling of party competition and institutionalized negotiation systems have been outlined above regarding the political system of the U.S. Lehbruch describes a similar constellation for German federalism, but also discovers that the rigidity of tightly coupled institutions can be diminished by informal processes (Lehbruch 2000: 158–162). For Switzerland and Canada, research has demonstrated that systems of negotiation and political competition in parliamentary democracies do not necessarily interfere if they are separated and loosely linked in different arenas. In Switzerland, negotiations are not required by the constitution (if we leave aside new rules for inter-cantonal cooperation), but are applied when governments or parliaments seek a far-reaching consensus in order to reduce the risk of a legislative decision being defeated in a referendum. Therefore,

negotiations operate in the shadow of majority democracy, which may be initiated by citizens or are required to pass a constitutional amendment (Armingeon 2000; Neidhart 1970). In Canada, intergovernmental negotiations evolve in the shadow of party competition in the parliamentary arena due to the sovereignty of parliaments. Yet in contrast to German cooperative federalism, the Canadian constitution does not establish shared powers compelling governments to find an agreement. In cases of conflicts, individual governments simply can opt out while the remaining partners settle an accord in voluntary negotiations. This loosely coupled constellation has proved highly flexible (Broschek 2009). In Australia, the two-chamber system of the federal parliament establishes compulsory negotiations similar to the patterns we find in the German federal system and the pattern which Fritz W. Scharpf (1988) described as joint decision-making. But since parties are differentiated according to the levels of government rather than vertically integrated as with the German parties, party competition has a lower impact on intergovernmental negotiations. Moreover, Australian parties constitute organizations that deal with conflicts between the governments and at least partially solve them. Hence, the logic of intergovernmental negotiations and the logic of party competition in parliaments are more differentiated as in Germany and are linked more by informal processes than by formal rules (Sayers and Banfield 2013).

Future research must reveal whether congruent patterns of governance, regardless of whether they exist in competitive or negotiation democracy, really can lead to a better balance of the basic values of democracy than constellations with incongruent mechanisms being loosely coupled in governments. As it is well known, the Westminster system of parliamentary democracy that evolved in a unitary state, allows for a significant concentration of power in the executive. For consociational negotiation systems which are typical for democracies in Northern European countries, one could expect a 'kinder, gentler' government (Lijphart 1999: 293), but also a lower level of adaptability due to high decision costs. However, in these democracies party competition never was utterly replaced by negotiations. Moreover, consultations with private interest organizations regularly occur in the pre-parliamentary arena and thus are embedded in political competition between parties and associations. In Austria, government was for a long time characterized by tightly coupled negotiations among parties in the legislature, among governments of the federation and the *Länder* in federalism, and between the executive and associations in corporatist patterns of interest intermediation. This has caused a strong concentration of power in a political elite and reduced the responsiveness of government. Yet, as the Austrian case demonstrates, such structures can dissolve if elections revitalize party competition or if corporatist structures are dispersed due to changes in economy and society. Apparently, the shadow of competition seems particularly relevant in negotiation democracies in order to maintain the capacity of governments to adapt its institutional balance and to preserve its ability to learn.

5 Conclusion

In their research, Gerhard Lehbruch and Arend Lijphart deal with similar subjects and are guided by similar ideas. Nonetheless both scholars analyze democracies from different perspectives with different approaches. Both approaches complement each other in so far as Lijphart draws attention to the multidimensionality of democratic governments, while Lehbruch focuses on the mechanisms of collective action and how these are connected in multidimensional regimes. Both political scientists teach us that democracy can only work in a complex institutional setting reflecting the various values and functions it should fulfil. These multidimensional governments may be organized in different ways. Yet, they all produce dynamics caused by the conflicting mechanisms related to particular values or functions and driven by endeavors of actors to manage these conflicts. Structures and dynamics vary depending on how a democratic system balances the diverging values. Accordingly, effectiveness and legitimacy of governance and stability of governments depend on the specific structures and dynamics of the distinct patterns of democracy.

This perspective on democracy has consequences for the analytical approach and for the methods applied in comparative research. In this regard Lehbruch's scholarly work is more instructive than Lijphart's who applies quantitative methods and thus is not able to substantially comprehend and theorize multidimensionality and dynamics of democratic governments. In contrast, Lehbruch chooses a historical-institutionalist approach and includes, at least in his later studies, elements of actor-centered institutionalism. With regard to research methods, he consequently exploits the potential of comparative case studies. This enables him to understand the structural complexity, the modes of operation and the dynamics of democracies.

Thus Lehbruch and Lijphart share an interest in comparing patterns of democracy and particularly in studying consensus or negotiation democracy. Yet if we have a closer look at their basic comparative research work on democratic governments, divergences in their theoretical and methodological approaches become apparent. Due to the reasons outlined in this article, the path pursued by Gerhard Lehbruch seems more promising. He shows us how we are able to gain a better understanding of democracy, how we can capture its structures and varieties, and in which way we should analyze how democracy works.

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A Delicate Relationship: Austria's Oversensitivity–Germany's Undersensitivity?

Anton Pelinka

Abstract

The relationship between the two German speaking states has been characterized by the changing “nature” of Austria from a multilingual empire to a small republic. Defined after World War I by the Entente as the “rest”, the Austrian republic saw itself as a “German state”, strongly interested in joining the Weimar Republic. When the “Anschluss” came in 1938, dictated by Nazi Germany, the Austrian society reacted ambivalent. After “Greater Germany’s” defeat, the Austrian political elites—represented by and organized in two dominant ideological camps (center-right and center-left)—as well as the mainstream of the Austrian society redefined Austria: not as a German state, but a state based on the understanding of a specific Austrian identity.

Germany became Austria’s “defining other”: Differently from Germany, Austria was not partitioned along East-West conflict lines and, due to its declaration of “permanent neutrality”, abstained from any direct involvement in the Cold War. Austria’s political system was shaped also differently from the West German system: Decades of “grand coalition” and a deeply rooted neo-corporatist system (“Social Partnership”) made Austria—like Switzerland—a model for consociational democracy or, following Gerhard Lehmbuch’s terminology, “Proporzdemokratie”.

The German-Austrian relations changed again when the end of the Cold War opened the door to Austria’s full integration into the EU. The German-Austrian relationship within the Union did not become what some suspected would be a “Germanic bloc” within the Union but a rather relaxed cooperation between one bigger and one smaller state within the framework of an “ever closer” European Union.

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Two personal remarks at the beginning: When I visited the German Democratic Republic (GDR) for the first time—February 1973, as member of a small delegation of Austrians, I had a talk with some farmers of one of the agrarian cooperatives (LGPs) in Thuringia, near Weimar. The farmers told as to be especially curious: They were used to visitors from the Federal Republic; and of course to visitors from other communist countries. But how to judge German speaking visitors coming neither from West Germany nor from the GDR itself? Our group enjoyed a kind of exotic status.

Years later, 1994, a meeting in Brussels: Some months before Austria joined the EU, I participated as Austrian representative in a meeting organized by the EU's Council. The chairman, a very prominent French intellectual, expressed during a break his ambiguous feeling about Austria's EU-membership: What to do with a country which, different from Germany, didn't seem to have learned the lessons from the Nazi era? And to which extent did the Austrians just wait for the best opportunity to join the just unified Germany?

Two different—but perhaps not so different—experiences! From the outside, Austria tends to be seen mostly from a view first and foremost focused on Germany.

1 The Background of the “Anschluss”-Movement in Austria

When the Republic of German-Austria was founded in 1918, the Provisional National Assembly declared Austria “part of the German Republic”. It was the policy of the Entente, especially the French government, which prevented an “Anschluss” in 1919 by forbidding Austria in the State Treaty of St. Germain to join the German Republic.

The declaration of 1918 was consistent with the structure of the Habsburg Empire. Partitioned between an Austrian and a Hungarian part, Austria—consisting of a vast territory between Trieste and Cracow, Czernowitz and Dubrovnik—officially was seen a multinational state. The “nationalities”—defined as linguistic groups—enjoyed certain rights, and none of them was the majority. According to the constitution of 1867, Germans and Czechs, Italians and Poles, Slovenians, Ruthenians (Ukrainians) and Romanians elected representatives to the Austrian Parliament—the “Reichsrat”, who shared power with the emperor and a government, appointed by the emperor and not responsible to parliament. All nationalities were considered to be Austrians. Austria was not a nationality or a nation but an institutionalized umbrella for different nationalities.

In 1918, at the defeat of the Dual Monarchy, the different nationalities left the Austrian umbrella to create different nation states—Poland and Czechoslovakia, or joining existing states like Italy and Romania, or participating in reshaping the Kingdom of Serbia into the Kingdom of Serbs, Croats, and Slovenians. Austria ceased to exist. Following the logic of Italians and Poles and the others, those Austrians who had been considered part of the German “nationality” opted for becoming part of Germany.

The Germany the German (speaking) Austrians wanted to join was the Germany of what soon became the Weimar Republic—an enlightened system, the product of a center-left coalition. And the Germans in Austria had any reason to claim the right of self-determination for their orientation: Had Woodrow Wilson not declared this right to be the cornerstone of the peace the victors want to establish? Had this right not been the background for shaping the borders of the other successor states? Of course, there had been disputes—e.g., concerning the border between the Kingdom of Italy and the Kingdom of Serbs, Croats, Slovenians. And, of course, the border of Czechoslovakia had in doubt been decided against the will of significant German and Hungarian minorities. But all in all: The principle of self-determination had not been disputed by the powers dictating the treaties of Paris.

When France and its allies decided to prevent the Austrian Germans to join Germany and forced them to become an independent state, the Republic of Austria, the Austrians had any reason to see this as gross violation of the very principle the victors had declared. The Austrian government and the Austrian parliament had to accept the dictate. But it was under protest, and for the next two decades, the feeling that the Germans in Austria had been treated extremely unfair dominated Austrian politics. All major parties declared that the “Anschluss” only to be postponed; all major parties—the Social Democrats, the Christian Socials, and the Pan-Germans—insisted that under new and more favorable international conditions, joining Germany should be on the agenda again.

This was the consistent and rational side of Austria's German orientation, between 1918 and 1938: The overwhelming majority of Austrians considered themselves ethnic Germans like they did before 1918 under the umbrella of multi-ethnic Austria. And the overwhelming majority of Austrians thought to have a legitimate claim to decide about their future in correspondence with the principle of self-determination.

But there was also a less rational side. What became known as the Pan-German camp in the 1880s and 1890s had a specific understanding of being German. For this political-ideological camp, German identity did not consist of linguistic and other cultural preferences. German identity was seen in “racial” terms: To qualify for German identity, someone had to be of German “blood”.

This—second—background of the “Anschluss”-movement was defined by a biological anti-Semitism, constructing a Jewish “race”. Austrians of Jewish origin—from Theodor Herzl to Gustav Mahler, from Stefan Zweig to Arthur Schnitzler—may define themselves German. But for the Pan-German nationalists in Austria like Georg von Schönerer, they could never qualify as Germans. This camp's popular slogan was “Die Religion ist einerlei—in der Rasse liegt die Schweinerei” (Religion doesn't matter—it is the race that counts). It has been this side of Pan-German nationalism in Austria which formed the thinking of the young Adolf Hitler in Linz and in Vienna (Bukey 1986; Hamann 1996).

The ambivalence between the rational, democratically legitimate side of the Austrian yearning for becoming part of the German Empire and the “racial”, racist, especially anti-Semitic side became obvious when the Germany of the Weimar Republic was replaced by the Germany National Socialist dictatorship; when

Germany stopped to be the focus of democratic republicanism and became diluted by the exclusion of Jews and an rearmament program which became more and more aggressive.

In 1933, the Social Democratic Party of Austria deleted the programmatic “Anschluss”-orientation from its program. And the Christian Social Party, for a complexity of reasons looking for Mussolini’s Italy as protector, defined the authoritarian state—constructed by Christian Socials step by step 1933 and 1934—as an antithesis to “Marxism” as well as to National Socialism. From the viewpoint of the two founding parties of the (First) Austrian Republic, the “Anschluss” has become obsolete, due to the significant change of Germany’s political outlook.

But the third camp—the Pan-German camp—became starting in 1932 more and more infiltrated by National Socialists. Most of the representatives of the two parties of the Pan-German camp, the Greater German People’s Party and the Landbund (“Country League”), joined the Austrian NSDAP already before 1938, a party which had become illegal in 1933 as a consequence of the violent means the party used.

When in March 1938—as a result of military blackmailing from the outside and internal infiltration—the “Anschluss” became reality, the jubilation of a significant part of the Austrian population reflected the ambivalent background of Austria’s attitude towards Germany: Some welcomed the German troops in spite of Nazism, and some because of it.

2 The Experience of the Years Between 1938 and 1945

In 1938, Austria became fully integrated into the—now—Greater German Empire. Even the term Austria had to disappear: The province of Lower-Austria became Lower-Danube, Upper-Austria became Upper-Danube. Nazi-Germany’s repressive system worked in Austria as it did in Germany: The victims were Jews and the regime’s political opponents (from the left but also from the right), soon also people with disabilities, and Roma and Sinti, and members of the Slovene minority in Carinthia. At the beginning, anti-Nazi resistance did exist, but only on a small scale: Communists and (pro-Habsburg) Monarchists were the most active among the resistance groups (Luza 1984). Both—Communists and Monarchists—combined a political-ideological with a patriotic motivation: The goal of all their activities was the rebirth of an independent Austria. The two groups did not have much else in common, but the intention to undo the “Anschluss” was the common denominator. It may be seen a tragic irony that the patriotism of Communists and Monarchists prevailed in 1945, but neither Communists nor Monarchists were able to play a significant role in the Second Republic of Austria.

The Austrian exile with centers in London, New York, Stockholm, and Moscow was unable to form a common platform. Communists and Social Democrats and Catholics (among them many Monarchists) were unable to agree on a government in exile. The main reason for this failure was the disagreement concerning the

future: Until 1943, most of the Austrian Social Democrats in exile favored an All—German formula, a “German Revolution”, aiming on the renaissance of a Weimar—like Republic, including Austria. The Monarchists were focused on an Austria including as much and as many of the former Habsburg territories as possible, expressed in the phantom of a “Danube Confederation”.

The future of Austria was neither decided by the Austrian exile nor by the Austrian resistance but by the Allies: On November 1, 1943, the United States, the Soviet Union, and the United Kingdom declared their intention to re-establish an independent Austria within the borders of 1937. This put an end to the leftist, republican dream of a democratic Greater Germany as well as to any kind of a Habsburg renaissance.

The insight in the reality of the Allies’ policy changed the outlook of the Austrian exile and even more of Austrians within Greater Germany. When Adolf Schärf, a former Social Democratic member of Parliament, was approached by a Social Democratic member of the German resistance and asked about the possibility of Austria staying voluntarily within Germany after Hitler’s defeat, Schärf’s response was clear: “The Anschluss is dead” (Stadler 1982: 174).

It was the experience with the reality of the existing Greater Germany of Adolf Hitler and the catastrophe of World War II, provoked by the German leadership, which changed the mainstream of the Austrian understanding. A combination of strategic (opportunistic?) thinking and of a rather new Austrian patriotism created an Austrian identity, beyond Habsburg and Pan-Germanism. As soon as the German defeat became obvious, it made sense to stress a specific Non-German identity. And the reminder of Austria’s history, excluded from the creation of a German nation state in 1871, helped to build a rationale above an interest driven, patriotic orientation.

This has been the background of Austria’s “victim theory”: Following the arguments of the Allies in 1943, the official Austria, after the liberation by the Allies in 1945, began to believe in its own innocence. As part of the construction of national innocence, a non-German national identity had to be stressed. In that respect, the “Anschluss” to Germany had been the midwife of a non-German Austrian identity. Among the creators of a post-Habsburg, republican, national identity of Austria, the Austrian Hitler must be given a prominent place. Hitler had articulated and implemented the thesis, and the Austria society replied with an antithesis. Beginning with 1945, the Austrian identity became defined in a negative way: Whatever the Austrians might be—there were not Germans.

3 Germany: The Defining Other?

Austria’s second attempt to establish a democratic republic was in all possible respects more successful than the first. One difference could be seen in the fact that the new Austria had not be forced to be independent. Differently from 1918, Austria did not declare its longing for becoming part of Germany. Differently from 1919, Austria had not to be prevented by international actors from joining Germany.

Parts of this picture were the international conditions. In November 1918, there was a Germany—defeated, but undisputed in its existence as a nation state. In 1945, there was no Germany, only different regions (“zones”) directly administered by allied administrations. In 1945, nobody in Austria was able to predict the future of what used to be Germany. But Austria, in its pre-“Anschluss” borders and based on the democratic and republican constitution of 1920, was definable. Austria could claim to have a future. The Germany of 1945 could not. The Austrian future might have still be dependable on the policies of the allies, but from the viewpoint of 1945, the perspective of an independent Austria had more to offer than the perspective of a future Germany.

According to Benedict Anderson, national identities have to be “imagined” before becoming a reality. And according to Immanuel Wallerstein, “Peoplehood” has to be constructed (Wallerstein 1991). This exactly happened in Austria, beginning with 1945.

This does not imply a pure voluntaristic understanding of the growth of Austrian identity. There had been a lot of factual evidence on which such an identity could be built: The existence of an Austrian statehood, parallel to the German state of 1871; the existence of cultural specificities—from the dominance of the Catholic counterreformation to the positive view of the late Habsburg empire as an attempt to tame and to civilize the aggressive potentials of nationalism; the experience of a rich history cultural of Austria, more than just a sideshow of German history. And by accepting the status of a small country, beyond any dreams of an empire, Austria explored its potential role of a “second Switzerland” (Koja and Stourzh 1986).

But some elements of this nation building process were pure construction: The distinction between peace loving Austria in contradiction to belligerent Prussia; and, of course, Austria’s victimhood during the years between 1938 and 1945 when the culprits were “the Germans”. The “Building of an Austrian Nation” (Bluhm 1973) consisted of piecemeal engineering, of legitimate and not so legitimate interpretations of history. But nation building was successful, because it became by and large the credible construction of a superstructure over a society which longed to believe in an Austria with a specific national identity. The structural basis of was the agreed concept of power sharing—between the center-left and the center-right (Pelinka 1998: 15–29). The superstructure above the political construction was the willingness of Austrians to imagine Austria as a specific national identity.

The proof of the success of this process is the empirical evidence. During the decades of the Second Republic, an increasing majority of Austrians began to believe in the existence of an Austrian Nation (Bruckmüller 1994; Thaler 2001; Reiterer 2003). Seen from the background of history, this implied one unavoidable meaning: Austrians stopped to see themselves as Germans. Austrian national identity became defined by what it is not: it is not (as it had been during the first decades after 1918) German nationhood.

This kind of national identity was and is not based on linguistic distinctiveness: The special Austrian variations of the German language have never been sufficient to construct an Austrian language, different from German. In that respect, Austria’s

national identity—as developed after 1945—can be called post-ethnic. Austrian national identity is the result of a civic consensus: Austrians agree to form a specific kind of nationhood.

The relations between Germany and Austria in the twenty-first century can be seen as a “big brother-small brother” relationship. Austria and Germany have so many things in common, beginning with the language and ending with the close economic links that the differences may be overlooked. Those differences are in many respects quite similar to the (Anglo-) Canadian–US-relations (Von Riekhoff and Neuhold 1993) or to the Irish–British relations. Germans usually are surprised how emotional Austrians respond when Austrians believe German media dispute the “Austrianness” of Wolfgang Amadeus Mozart; or when Austria’s sport fans are especially emotional when an Austrian national team plays the German national team. In what can be seen as an inferiority complex, Austrians have to stress their difference; and in what can be seen as insensitive, Germans tend to overlook the difference.

4 No “Germanic” System

When it comes to the comparison between the two democratic systems, some similarities can be taken into account (Ismayr 2009; Pelinka 2009):

- The traditionally dominant parties in the post-1945 democracies in both countries belong to the same party families: The CDU/CSU has its equivalent in the Austrian People’s Party (ÖVP), and the SPD finds in the Social Democratic Party of Austria (SPÖ) a center-left partner of its own kind.
- Since the 1980s, the Greens have become rather stable parties in the two party systems, in both countries of medium size, and in doubt preferring alliances with the Social Democratic parties. Both green parties are fully integrated into the European Parliament’s Green party group.
- Despite a curious constitutional asymmetry—the Austrian constitution, still the constitution from 1920, is shaped in many respects (due to an amendment from 1929) after the constitution of the Weimar Republic, a pattern the Federal Republic has intentionally left behind—the consequences of the institutionalized framework of both systems follows variations of the Westminster system: It is the majority in parliament (Bundestag, resp. Nationalrat) which decides about the government; and it is the head of the government (chancellor) who is the key figure of politics—and not the head of state (president).

Nevertheless, the differences are at least as important as the similarities. It starts with the party system: Austria doesn’t have an equivalent to the FDP. With the exception of the years 1993–1999, there was never a liberal party—in the sense of the European liberal party family—in the Austrian parliament. And there is no equivalent to the FPÖ (Freiheitliche Partei Österreichs) in the German polity: A party, constructed 1995 by former Nazis for former Nazis, traditionally number

three in Austria's parliament, but completely isolated on the European level. On the other side, there is no equivalent in Austria's political landscape to the German Left Party.

These differences are the result of different historical developments. In Austria's political history, movements of political liberalism have been taken hostage by the different types of nationalism; in the territory of contemporary Austria, by Pan-German nationalism. On the other side of the political spectrum, the Communist Party of Austria was never able to play any significant role in the short period of democracy after 1918—very different from the KPD. And despite (because of?) the significant role Austrian communists played in the anti-Nazi resistance, the weakness of Austrian communism did not change in the Second Republic. And, of course, the partition of Germany into two extremely different systems as well as the unification has no parallel in Austria. This explains why there is no Austrian left comparable to the German Left Party, the transformed SED in more than one respect.

There is another significant difference: On the federal level, Germany experienced “grand coalitions” only twice—1966–1969 and 2005–2009. In Austria, “grand coalitions” governed for most of the time since 1945: 1945–1966, 1987–2000, and—again—since 2007. In Germany, a coalition between center-right and center-left is the exception; in Austria, it is the rule. This is the reason why—in addition to Austria's specific form of (neo-)corporatism, “social partnership”, authors like Gerhard Lehmbuch and Arend Lijphart have qualified post-1945 Austria as a model of “Proporzdemokratie” or “consociational democracy” (Lehmbuch 1967; Lijphart 1977).

It is Austria's political culture and not so much the party system or the constitution which makes the difference between Austria and Germany. Germany follows more the “Westminster” pattern of democracy, Austria more the “consociational” (or “consensus”) model (Lijphart 1999: 9–47).

5 Germany and Austria Today

The Federal Republic was one of the founders of the European Communities which became the European Union. Austria joined the Union not before 1995—despite its (domestically) clear orientation on Western, liberal democracy; and despite its economic orientation on the West, on West Germany in particular. The reason for this delay was Austria's geopolitical position resulting in the country's status of neutrality. Only after the demise of the Cold War, Austria (together with two other neutrals, in a similar geopolitical position—Sweden and Finland) thought it feasible to integrate itself into a community which had started as a West European institution.

Differently from Germany, Austria is not a member of NATO. As long as Austria insists that its status of neutrality is still valuable, Austria will stay outside this alliance—despite the fact that all former communist neighbors of Austria have become NATO members. As long as NATO is looking to define its post-cold-war

role, there is no urgency for Austria to rethink its relationship with NATO, and there is no specific NATO interest in incorporating Austria into its alliance. But as soon as the European Union will be able to specify its concept of a Common Foreign and Security Policy (enshrined into the EU's de-facto constitution and, as a principle, accepted by Austria), Austria would have to choose between insisting on its special status as a neutral or accepting its full integration into an all-embracing concept of an integrated European Foreign and Security Policy.

Germany had, step by step, forfeited its different special status: by backing NATO's military intervention in the Kosovo and by participating actively in the warfare in Afghanistan, Germany has stopped to see itself in a particular role. Germany's foreign and defense policy outlook has become normalized in the sense of Westernized. Austria, on the other side, has still to confront the consequences of its insistence on a special status. Austria still has to decide whether a specific Austrian approach to European and global politics is justified.

In European and global affairs, Austria is almost anxiously demonstrating that it is not part of a "Germanic bloc", that Austria's foreign policy is not decided in Berlin; that Austria has not become an appendix of Germany. Yes, Austria's economy is strongly interwoven with Germany's. But so is—or even more—the Irish economy with regard to the British. Yes, Austria's media (and especially the electronic media) are in many respects on the periphery of the German language media system. But so are—or even more—the Anglo-Canadian media regarding the US media.

But despite this center-periphery situation, Austria behaves differently from Germany in many respects. So in 2012, when Austria backed the Palestinian claim to be recognized as a state by the United Nation and by UNESCO, Germany did not. And: On the semantic and psychological level, Austria and the Austrians are used to stress the difference: Austria is not Germany, and Austrians are not Germans. There is the old paraphrase, used among others by Karl Kraus: Austria and Germany are united in many respects but separated by the same language.

This does not prevent a friendly and unproblematic relationship between the two states. And it does not prevent Austrians moving to Germany especially for reasons of individual careers—and Germans coming to Austrians, and not only as tourists but also for professional reasons. The German-Austrian relations can be called rather normal and quite friendly, and not only on the diplomatic level. But it is a relationship between unequal partners.

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Latent Institutional Elasticity: The Demise of Communism in the East Germany 1989/1990 and Gerhard Lehbruch's Concept of Administrative Interest Mediation

Wolfgang Seibel

Abstract

This chapter refers to the notion of 'administrative interest mediation' coined by Gerhard Lehbruch in an influential paper in the 1980s conceiving public administration not just as an a-political tool of government but as a relatively independent institutional segment assuming functions of political integration and stabilization. Lehbruch emphasized that the integrative role of public administration was contingent on a productive configuration of structural properties and political requirements thus anticipating more recent scholarly discussions on goodness of fit and dynamics of institutional change. Just in line with this discourse, the present chapter emphasizes institutional elasticity as a crucial ingredient of integrative capacity in the sense that dominant structural conditions may remain stable while the actual exchange with the political and societal environment may be subject to substantial though latent change. This is being illustrated through an exemplary historical case which is the highly turbulent phase of temporary re-stabilization of what used to be the German Democratic Republic (GDR)—or *Deutsche Demokratische Republik*, DDR—in early 1990. The argument is that it was the purposeful yet latent adjustment of existing institutional structures and related investments in political legitimacy that brought about the smooth and peaceful coping with a twofold challenge namely the transition from communism to democratic capitalism and the unification of two German states. The core-institution of interest is the *Treuhandanstalt*, a GDR institution created March 1, 1990, as a compromise between reform-oriented communists and the democratic civil movement and persisting throughout dramatic political and economic transformation by virtue of substantial adjustment of purpose and robustness of structural status quo.

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1 Introduction: Gerhard Lehbruch's Non-Weberian Approach to Public Administration

Gerhard Lehbruch had turned 61 when the Wall came down in Berlin on November 9, 1989. His generation had no choice but to take it for granted that Germany would remain divided throughout the rest of their lifetime. That was what they had in common with us, the baby boomers. Unlike us, however, they had been growing up when the Reich still existed. The visceral reaction that the reality of two Germanies was something unnatural was much more theirs than ours. What is more, Gerhard Lehbruch was born and raised in East Prussia (*Ostpreußen*), the most Eastern German province, separated from the Western part of the Reich by Polish territory, the so-called corridor, since 1920. His characteristic East Prussian accent is slight but noticeable. East Prussia came under Polish and Russian administration through the Potsdam Accord of 1945 and Gerhard Lehbruch became one of some 12 million East Germans subjected to forced migration. He never returned to Königsberg, now Kaliningrad, the city of his birth and youth.

Due to his biography as an IDP (internally displaced person) Gerhard Lehbruch had presumably a particular sensitivity for the territorial dimension of political integration and stability that suddenly became virulent in Central Europe in 1989. At any rate and, again, compared to my own generation of German political scientists he had a much better grasp of the significance of what happened when in early September 1989 the Iron Curtain between Hungary and Austria was lifted. At that time, Gerhard was a Max Weber Guest Professor at the New School of Social Research in New York City where we met in November. When he said that German Unification was imminent I took it as a nostalgic desire rather than a political scientist's diagnosis.

As we know, that arrogance proved to be totally baseless. Gerhard Lehbruch had a razor-sharp understanding of the nature of the collapse of the bi-polar hegemonic order that had shaped the geopolitical landscape for the four decades that marked his adult lifespan. He soon published two seminal articles (Lehbruch 1990, 1991) where he outlined an analytical concept for the consequences of what he aptly termed the "improvised unification" of Germany. The basic idea was that due to the unforeseen character of the merger of the West German Federal Republic and the East German Democratic Republic political and institutional stability would be achieved through an "institutional transfer" from West to East with the dominant West German political and societal actors shaping that transfer in accordance with their respective interests, mind sets and institutional routines. According to Lehbruch, the transfer would display sector-specific patterns each shaped by a particular configuration of governance components ranging from hierarchical governmental stipulation to quasi-corporatist co-determination or independent self-regulation.

This perspective was clearly a fruit of Gerhard Lehbruch's path-breaking contributions to the analysis of capitalist democracy aiming at the overlap of alternatives to Westminster-style parliamentary rule—consociationalism, neo-corporatism—and sector-specific varieties of capitalism. However, a more

latent and less known component of Lehbruch's conceptualization of improvised institution building was the notion of administrative interest mediation he had coined a couple of years earlier (Lehbruch 1987). The message was that not just parties and parliaments but also the state apparatus as such in the form of public administration was crucially important in enhancing the integrative capacity of a political system not just through the delivery of public services but also as a mediator between public and private interests. The idea had its roots in both the institutional history of German public administration as a political integrator in the absence of parliamentary government and the concept of a "laboring state" according to Lorenz von Stein (1815–1890) (Overeem 2012: 41–45). It implied a non-Weberian notion of public administration in the sense that the latter was conceived not just as an a-political tool of government but as a relatively independent institutional segment assuming functions of political integration and stabilization (Seibel 2010). There is good sense indeed in acknowledging such functions of public administration when it comes to the remarkable stability and structural continuity of German statehood despite severe crises and changing political regimes as they characterized the conditions after two lost wars in 1918 and 1945.

1989 was another water-shed year in German and European history when the political role of public administration would soon become salient. It was not just that the "institutional transfer" from West to East Germany triggered by the collapse of the GDR was a gigantic administrative task in terms of organizational and managerial efforts. A more fundamental question was if there was a "goodness of fit" between the quest for political stabilization and available institutional resources at all.

What Lehbruch had emphasized in his paper of 1987 was that the role of public administration as a political integrator was contingent on a productive configuration of structural properties and political requirements (Lehbruch 1987). That came close to what recently was discussed in the scholarly literature on the goodness of fit problem and the dynamics of institutional change (Greif and Laitin 2004; Streeck and Thelen 2005). However, Gerhard Lehbruch's concept of administrative interest mediation entailed a more fine-grained understanding of the interplay of continuity and change of institutional conditions. It allowed for the assumption of public administration to adapt the actual use of dominant structural conditions and related patterns of exchange with the political and societal environment to new challenges. What one may infer from this is that the goodness of fit between the quest for political stabilization and available institutional resources is a matter of both political skill and administrative adaptation. Institutions are elastic in the sense that their dominant structural conditions remain stable while the actual exchange with the political and societal environment may be subject to substantial though latent change.

In the remainder of this paper I will illustrate how the notion of latent institutional elasticity applies to the highly turbulent phase of temporary re-stabilization of what was a GDR in full demise. The focal point is the collapse of the East German economy and its institutional consequences. I am stating that it was the purposeful yet latent adjustment of existing institutional structures and related

investments in political legitimacy that brought about the smooth and peaceful coping with a twofold challenge which was the transition from communism to democratic capitalism and the unification of two German states. The core-institution of interest is the *Treuhandanstalt*, a GDR institution created March 1, 1990, as a compromise between reform-oriented communists and the democratic civil movement forming the core of the political opposition. Their ideas on economic and political reform differed but, at the same time, had a point of convergence in the objective to keep as much *Volkseigenes Vermögen* (state-owned industrial assets) as possible under government control until the legal and political conditions of the still existing East German state would have been clarified. It was the dramatically accelerated political dynamics leading to the merger of the two Germanies that made these plans pointless. However, instead of dismantling the very *Treuhandanstalt* meant to be the institutional anchor of the preliminary preservation of the *Volkseigenes Vermögen*, the *Treuhandanstalt* was decisively strengthened while its purpose was converted into the reverse which was swift privatization of the state-owned GDR economy. I intend to demonstrate how this counterintuitive coincidence of institutional stability and a fundamental change of course unfolded and how both elements—stability and change—were causally interdependent thus forming the core of the very latent institutional elasticity I am referring to.

This is it in a nutshell: The crucial mechanism at work was an implicit bargain over the price for dissolving rather than reforming the GDR (Maier 1998). After all, the collapse of communism in East Germany was not the inevitable consequence of economic decay but simply the consequence of ‘voting by feet’ in the form of hundreds of thousands of East Germans leaving GDR territory once the Wall had fallen in November 1989. The inner-German currency union whose preparation was announced by the West German government in early February 1990 was meant as a signal that staying at home was the more reasonable option. In order to make that signal credible, the currency union conversion rate for salaries had to be set at par. Otherwise, East Germans would have continued to leave for West Germany where even living on welfare assistance would have resulted in an increase of salary. Converting salaries at a 1:1 rate, however, implied to push the East German economy over the cliff. The *Volkseigenes Vermögen*, meant to be kept as a giant public trust under the auspices of the *Treuhandanstalt* and a token of economic reconstruction, became a nightmarish liability at tax payer’s expenses. No wonder that, from then on, the dominant agenda of the *Treuhandanstalt* was to get rid of that liability as quickly as possible. The bargain behind that was that the East Germans were getting what they had asked for which was free travel and the illusion of private prosperity in the form of the famous Deutsch-Mark while the West Germans were getting what they had to insist on which was control over the *Volkseigenes Vermögen* as the collateral for the huge fiscal risks represented by a state-owned economy in full depression. What made up the institutional elasticity of the *Treuhandanstalt* was the agency’s double role as both executioner of a shock-like approach to economic transition and a stabilizer buffering the politically undesirable consequences of that strategy. As a tool of government, the

Treuhandanstalt was an effective agency that at the peak of its activity employed no less than 4,000 staff. As a political integrator, however, the agency became a hub of administrative interest mediation just in the Lehmbruch sense.¹

2 Institutional Stability Through Latent Change of Purpose or How to Cope with the Shift from Gradual to Shock-Like Transition

The stability of the *Treuhandanstalt* despite substantive change of purpose and dramatic turbulences that turned the political and economic environment upside-down is the counterintuitive result of a goodness of fit between environmental challenges and institutional properties Mahoney and Thelen (2010). More exactly, it is an example of institutional stability as a political problem and a dynamic political outcome. In the case of the emerging *Treuhandanstalt* the distinction between exogenous and endogenous factors remains a relative one. The very same societal and political forces that shaped the turbulent political and economic environment of the *Treuhandanstalt* also shaped the latter's institutional properties, including a substantially altered purpose. How to cope with the political and economic situation in a GDR in demise and how to cope with the *Treuhandanstalt* as an institution were just two aspects of one and the same politico-economic process. In what follows, the crucial characteristics of that process and the emergence of the *Treuhandanstalt* as an institutional coping mechanism are analyzed.

Two key-decisions were overwhelmingly influential in shaping the integration of the GDR into the political and economic system of West German Federal Republic, formally completed by October 3, 1990: The announcement of the West German government of February 7, 1990, proposing formal negotiations with the GDR government on an inner-German currency union, and fixing the related conversion rate for wages and savings to 1:1 laid down in the inter-governmental treaty (*Staatsvertrag*) of May 18, 1990. It is here where the shock-like transition from a planned economy to a market economy originated that characterized the trajectory of economic transformation in post-1990 East Germany in a path-dependent way.

An early currency union was the opposite of what the *Bundesbank* and the *Sachverständigenrat zur Begutachtung der gesamtwirtschaftlichen Entwicklung*, an independent and non-partisan government board empowered to analyze economic developments, had recommended. Until late January 1990, in accordance with those recommendations, the West German Federal government had treated an inner-German currency union as the capstone of economic transition within the GDR rather than its starting point. The 1:1 conversion rate for wages and a certain amount of savings was chosen against the advice of the *Bundesbank* and the

¹ The empirical substance of what follows is based on my chapter Seibel (2005). Major parts of the present paper will also appear Jarausch (2013).

Sachverständigenrat as well. Both institutions had emphasized the disastrous consequences of a 1:1 conversion rate that would force East German firms to pay wages in hard currency at a level that could not be covered by the profits made on the basis of low productivity and a largely obsolete capital stock.

However, the early currency union at disastrous conversion rates not only defied West German preferences for gradual transition from a socialist economy to capitalism but also East German reform options that had emerged since the Fall of 1989.

When Prime Minister Hans Modrow took office on November 17, 1989, a reformist intellectual elite became temporarily influential—loyal communists who nonetheless had repeatedly criticized the actual practice of economic planning and production, and who therefore had been neutralized by the regime. Typical representatives of this group were Christa Luft, Minister for the Economy and Deputy Prime Minister, and Wolfram Krause, previously Deputy Chairman of the Commission for Economic Planning (*Staatliche Plankommission*). Krause had been ousted from the Berlin district administration (*Bezirksleitung*) of the communist SED in 1978. Luft had been President of the *Hochschule für Ökonomie “Bruno-Leuschner”* in Karlshorst. Modrow and Luft convened a Task Force for Economic Reform reporting to the Council of Ministers of the GDR (*Arbeitsgruppe Wirtschaftsreform beim Ministerrat der GDR*) and appointed Wolfram Krause as its director. These politicians and functionaries represented the reformist wing of the SED and, consequently, those hoping for renewal of socialism and the resilience of the GDR as a sovereign state. They also sought to maintain the system of collective ownership of industrial asset in the form of the *Volkseigenes Vermögen*, or “people’s property.”

The idea of modernizing the socialist economy, however, was soon eclipsed by the idea of a “Third Way” that was widespread among those forming the Round Table on December 7, 1989. The Round Table was composed of representatives of the political parties and societal groups within the official National Front and the representatives of the civil movement that formed the core of the political opposition.

Among those promulgating a “Third Way” beyond capitalism and socialism, GDR style, the group “Demokratie Jetzt” (DJ), or Democracy Now, came up with the most elaborate ideas in the field of economic policy. Wolfgang Ullmann, a DJ representative and himself a trained theologian, together with Matthias Artzt, an engineer, and the physicist Gerd Gebhardt had drafted a paper entitled *Future Through Self-Organization (Zukunft durch Selbstorganisation)* in early November 1989. The paper advocated for the legalization of private ownership of firms and industrial assets under the condition of “social commitment” (*soziale Bindung*) of the owners (Fischer and Schröter 1993). Moreover, the paper expressed as the “strategic goal” to “transfer as much as possible of the property of the people [*Volkseigentum*] directly to the citizens of the GDR.” (Fischer and Schröter 1993). The group Ullman/Artzt/Gebhardt constituted itself as the Free Scholarly

Community for Self-organisation (Freie Forschungsgemeinschaft Selbstorganisation). On December 6, 1989, Ullmann took his seat at the Round Table as its representative.

The goal of a “socially committed” market economy combined with a far-reaching transfer of “people’s property” to the people of the GDR resulted in preliminary considerations concerning the institutionalization of a certain trust function (*Treuhänderschaft*) with the main purpose of transforming the people’s assets (*Volkseigentum*) into a legal form that could persist in case the GDR would disappear and become part of the Federal Republic and its constitutional and legal order. These considerations were, then, laid down in a paper drafted by Ullmann and others and submitted to the Round Table, where it was put on the agenda on February 12, 1990 (Treuhänderschaft 1994d; Kemmler 1994: 69–82). The core of the document was a proposition for the immediate creation of a trust corporation in the form of a holding for safeguarding the shareholder rights of GDR citizens regarding the people’s property of the GDR [Vorschlag zur umgehenden Bildung einer ‘Treuhändergesellschaft’ (Holding) zur Wahrung der Anteilsrechte der Bürger mit GDR-Staatsbürgerschaft am ‘Volkseigentum’ der GDR].

A couple of days earlier, on January 28, 1990, Prime Minister Modrow had met the chairmen of the parties of the political opposition and the previous “bloc parties.”² As a result of that meeting, the date of the first free elections of the GDR parliament, the *Volkskammer*, was brought forward from May 6 to March 18, 1990, while the date for a general municipal elections was set on May 6, 1990. Most importantly, however, a “government of national responsibility” was formed that included the oppositional parties and representatives of the civic movement which had initiated the decisive protests in the Fall of 1989. The new interim government was confirmed by the *Volkskammer* on February 5, 1990.³

It was during the *Volkskammer* session of January 29, 1990, that the Minister for Mechanical Engineering (!), Karl Grünhold, in a report on the overall economic situation, mentioned that in the fourth quarter of 1989 alone 350,000 citizens had left the GDR, the equivalent of 2 % of the population and, when extrapolated, a rate of 1.4 million citizens per year. During the same *Volkskammer* session, Prime Minister Modrow intimated that the state budget deficit had risen to 17 billion Marks. According to Modrow, the economic situation was “disturbing” (*Volkskammer der DDR 1990a*).

² “Blockparteien” was the unofficial designation of the political parties that constituted the Democratic Block of the Parties and Mass Organizations [*Demokratischer Block der Parteien und Massenorganisationen*] that had originated as “anti-fascist and democratic bloc” in the Soviet occupation zone in July 1945 in a—partly successful—attempt to mobilize the loyalty of non-communist and non-socialist political forces to communist rule. These “Blockparteien” were the LDPD, CDU, NDPD and DPD.

³ As ministers without portfolio became members of the cabinet Walter Romberg (SPD), Rainer Eppelmann (Demokratischer Aufbruch), Sebastian Pflugbeil (Neues Forum), Wolfgang Ullmann (Demokratie Jetzt), Tatjana Öhm (Unabhängiger Frauenverband), Gerd Poppe (Initiative Frieden und Menschenrechte), Klaus Schlüter (Grüne Liga) and Matthias Platzeck (Grüne Partei).

When the West German Federal government declared its readiness on February 7, 1990, to negotiate with the government of the GDR about an inner-German currency union it was primarily meant as a political signal to the people of the GDR. The wording of the offer was significant. According to the press release, the Federal government was ready “to start immediately negotiations about a currency union with economic reform” (Presse- und Informationsamt der Bundesregierung 1990). The reference to “economic reforms” was, at this point, probably just a rhetorical formula designed to conceal the abrupt change of course to which the federal government had meanwhile committed itself.⁴

As a matter of fact, the declaration of February 7, 1990, in favor of “immediate” negotiations about a currency union was the result of mere political necessity that was at least as much international as domestic in nature. The German Federal government was exposed to tremendous pressure from both inside and outside Germany that resulted from the reasonable judgment that only the government in Bonn was in the position to re-stabilize, at least temporarily, the situation in the GDR which found itself at the brink of demise. The key to re-stabilization was the containment of the wave of immigrants that, at a rate of 3,000–5,000 people per day, threatened to undermine both the economic viability and the absorption capacity of the West German Federal Republic.

However, the implications of what was required inside and outside Germany where divergent. While the obvious destabilization of the GDR required decisive steps towards a sort of inner-German integration far beyond the “federative structures” mentioned in chancellor Helmut Kohl’s “ten points plan” promulgated in the Bundestag on November 28, 1989, the key players outside Germany—the governments of the United States, the United Kingdom and France—insisted on decelerating the pace of inner-German rapprochement. Their main motive was the fear of negative repercussions to the cooperative and prudent government of the Soviet Union under Gorbachev.⁵

⁴ The *Münchener Merkur* of January 20, 1990, quotes minister of finance Theo Waigel as saying, “A sustainable monetary union must be created by the market. The preconditions for this must be created by reforms in the GDR.”

⁵ In an hours-long discussion with Kohl on 4 January 1990 the French President, Mitterrand, named the effects on the Soviet Union of a rapprochement between the two German states or even of a reunification as “the only true problem”. Mitterrand’s remarks are recorded as follows in the minutes of the meeting at the Federal Chancellery: “The problem of reunification in the one or the other form is on the agenda. The solution must depend on the will of the Germans in the two states. Nobody else is entitled to interfere. The Germans must understand that Eastern Germany is a member of the Warsaw Pact and Western Germany a member of NATO, that the economic systems and many other things are different and that any unwise step will require Gorbachev to react or to disappear. For him, the President, the only true problem would be to harmonize this contradiction. The unification of Germany must not happen in such a way that the Russians harden and react with sabre-rattling. We are on the edge of such a development.” In Kiev (where Mitterrand and Gorbachev met on 6 December 1989: WS) Gorbachev was very uneasy, not on account of the development as such, but on account of the precipitous haste. “One cannot see clearly today how the two German states can cooperate with the 350,000 Soviet troops in Eastern Germany after the elections. This is a question of the time schedule. If a start is made with the

The preparation of an *economic and currency union* uniting the two German states and the bringing-forward of the *Volkskammer* elections to March 18, 1990, were political steps paying tribute to that delicate dilemma the West German Federal government found itself in. Intensifying economic cooperation in general and the announcement of a currency union in particular—needless to say on the basis of the West German D-Mark—were credible signals sent to the GDR populace indicating that the West-German government was irrevocably determined to assume political responsibility for Germany as a whole. By way of initiating a currency union, the West-German D-Mark, the symbol of the “economic miracle” of the 1950s and 1960s, became the token of the inner-German merger. These prospects would not only contain the wave of inner-German migration. The measure itself would bring the GDR state budget and currency system under the control of the West-German government and the *Bundesbank*. At the same time, it was a measure below the threshold of a regular unification of the two German states with its spectacular international implications, representing no less than a fundamental change of a geopolitical order that has lasted for more than 40 years as the result of World War II.

3 But the Band Played on . . .

There was yet another implication: Any kind of “economic reform” such as the one envisaged in the reform-minded SED-circles around Wolfram Krause and Christa Luft or the ones put forward by the “Freie Forschungsgemeinschaft Selbstorganisation” around Wolfgang Ullmann became totally illusory as early as in February 1990. Not that the respective ideas of economic reforms were unrealistic from the very outset. Presumably, they would have been appraised in the West as “revolutionary” if they would have been presented a year earlier. However, the very state order that was the indispensable framework for the implementation of any kind of reform meanwhile was in a state of irreversible dissolution.

It is worthwhile to remember that fundamental reforms as consequence of existential crises of the state had a certain tradition in Germany. The Prussian reforms after the defeat in the war against Napoleonic France in 1806 or the far reaching reform the economic governance structure after the depression 1873–1879 are prominent examples. However, those had been circumstances of mutual dependence of state and society that simply did not exist in the GDR of 1990. The very state that was, for the sake of its actual reform capacity, heavily dependent on civic support had become unacceptable to its own citizens. This was the price to be paid for 40 years of dictatorship. And it was the existence of a real alternative, the West German Federal Republic and its political and economic order—an option for which hundreds of thousands of GDR citizens just a couple of months after the

contract association, as the Federal Chancellor proposes, public opinion and the Russians could become accustomed to the idea. This is the path of history and one will get used to it.”—Bundesministerium des Innern (1998).

fall of the Berlin Wall had “voted with their feet”—whose mere existence made the sustainable re-stabilization of GDR statehood fundamentally illusive. It was not just the political system but the state of the GDR as such that lacked a minimum degree of civic loyalty. So, political and economic reforms under the condition of a maintained GDR statehood obviously had no basis either.

However, on the lethally leaking vessel GDR the bands played on for quite a while. In January 1990, the “Arbeitsgruppe Wirtschaftsreform”, chaired by Wolfram Krause, had drafted a paper that was published as supplement to the journal *Die Wirtschaft* on February 1, 1990. The authors wrote: “The regulatory influence of the state has to be reduced to a scale that shapes the conditions for economic growth, stability and proportionality as well as the social and ecological direction of economic development.” Governmental regulation of the economy should focus on making “economic methods” more effective. It should, therefore, initiate a reform of the price system, a tax reform, a “performance-based payment principle,” a “policy of scarce money on the basis of a performance- and efficiency-oriented loan policy,” the development of the “state-bank of the GDR . . . to an institution independent from governmental interference,” and the erection of a system of “independent commercial banks” (Treuhandanstalt 1994a). From today’s perspective, these ideas may even appear as neo-liberal. They were presented, however, by loyal SED/PDS members.

4 Birth of the Treuhandanstalt

The paper drafted by Freies Forschungskollegium “Selbstorganisation” that reached the agenda of the Round Table on February 12, 1990, contained the proposition to create “trust corporation” [Treuhandgesellschaft] in order to protect the property rights of GDR citizens regarding the Volkseigentum. The formal purpose of the proposition was to close a legal lacuna that could be foreseen in the case of an “affiliation of the GDR to the Federal Republic” since the legal form of collective property of industrial assets did not exist in the West-German legal system. The basic idea was, accordingly, to guarantee the Volkseigentum not only nominally but literally in the form of individual entitlement.

Again, similar ideas were developed within the Arbeitsgruppe Wirtschaftsreform around Wolfram Krause and his SED/PDS comrades. Here, the initiatives were even more pragmatic. The reform-minded post-communists suggested simply to transform the so-called Volkseigene Betriebe and Kombinate into limited liability corporations (Gesellschaften mit beschränkter Haftung) and stock corporations (Aktiengesellschaften) in accordance with West-German corporate law. The irony was that the Limited Liability Corporation Law of 1892 and the stock corporation law of 1937 had never been suspended in the GDR and, consequently, could serve as the basis of the envisaged transformation even in the framework of the GDR legal system. The shares of the capital stock of those newly created corporations, however, should have been held by a Treasury Office (Schatzamt). This was where the proposition of the Arbeitsgruppe

Wirtschaftsreform and the ideas of the Freies Forschungskollegium “Selbstorganisation” converged. The Treasure Office (proposed by the Arbeitsgruppe Wirtschaftsreform) and the “Treuhandgesellschaft” (proposed by the Freies Forschungskollegium “Selbstorganisation”) were very similar in terms of form and function. Both were designed to keep the collective ownership of industrial assets, the very Volkseigentum, in public hands. The main difference between the two propositions, however, was that the Freies Forschungskollegium “Selbstorganisation” insisted on the transformation of the collective ownership of the “people” into individual legal entitlements of the citizens of the GDR.

Regardless of those differences, on March 1, 1990, the Council of Ministers of the GDR decided to create an “authority for the trusteeship administration” of the Volkseigentum designated as the Treuhandanstalt [Anstalt zur treuhänderischen Verwaltung des Volkseigentums (Treuhandanstalt)] (Gesetzblatt der DDR 1990a). Also on March 1, 1990, the Volkskammer passed an ordinance regulating the transformation of state-owned firms into private companies (Gesetzblatt DDR 1990b). This was the birth of the Treuhandanstalt.

5 The Politicization of the Currency Union and the Staatsvertrag of May 18, 1990

The *Volkskammer* elections of March 18, 1990, resulted in a surprising victory of Helmut Kohl’s Christian Democrats, a quasi-plebiscitarian decision in favor of a swift reunification of the two German states. The Christian Democrats (CDU) not only benefited from Kohl’s charisma but also from the organizational infrastructure at the disposal of the East-German CDU as a former “Blockpartei.” Lothar de Mazière (CDU) became the first and last Prime Minister of the GDR to emerge out of free elections acting as the head of a grand coalition comprising all major political forces with the exception of the SED/PDS. The coalition agreement of April 12, 1990, expressed the political will to achieve national reunification through the accession of the GDR to the West-German Federal Republic on the basis of a currency and economic union. Of pivotal importance, also in the perception of contemporary observers, was the commitment to a currency conversion rate of 1:1. It was beyond any doubt that the East-German government had not the slightest leeway to deviate from this self-binding pledge. It is only with the benefit of hindsight, however, that the decision of April 12, 1990, turned out to be the critical junction at which the breakdown of the East-German economy under the condition of unrestricted market forces became unavoidable.

The coalition agreement of April 12, 1990, had been prepared under the massive pressure of East-German public opinion. Two weeks earlier, on March 29, 1990, West-German newspapers reported on a confidential memo submitted to the central board of the *Bundesbank* for a meeting held in the presence of the Federal minister of finance, Theo Waigel, advocating for a general conversion rate of 2:1 (i.e., 2 GDR-Marks to be converted in 1 D-Mark). According to that scheme, only individual savings up to an amount of 2,000 GDR-Marks per person should have

been converted at a rate of 1:1. The paper leaked to the press. What followed was a public outcry in the GDR. For the first time since the dramatic Fall of 1989, massive rallies were organized expressing the disappointment of East Germans who, just a couple of days earlier, had voted for what they thought would be a prosperous future.⁶ These protests suddenly put into jeopardy the recent gains in terms of political stability realized through the announcement of the currency union, the elections of March 18 and the formation of a democratic government constituted by a grand coalition.

The intergovernmental treaty (*Staatsvertrag*) of May 18, 1990,⁷ finally stipulated a conversion rate of 1:1 for salaries and wages, stipends, pensions, housing rents and “further permanent payments.” Savings were to be converted at a rate of 1:1 up to echeloned limits starting at 2,000 GDR-Marks for children and juveniles and ranging to 4,000 GDR-Marks for adults and 6,000 for the retired.

The *Staatsvertrag* of May 18, 1990, was the formal watershed of political dynamics that resulted in a bizarre combination of risk escalation and risk mitigation. The risk of triggering the final breakdown of the GDR economy grew inevitable with any step closer to conversion parity between the two currencies. The reason was that East German firms were forced to pay salaries and wages in hard currency at a level that could never be matched by the proceeds they were able to realize through the sale of their outmoded products on a competitive market. The fate of the GDR economy was virtually sealed when the conversion rate of 1:1 for salaries and wages became effective on July 1, 1990.

By the same token, however, any conversion rate below parity would have been fundamentally incompatible with the goal of political stabilization in both East and West Germany. Facing not only political disappointment but also a substantial reduction of available income and an decreasing instead of increasing standard of living hundreds of thousands of East Germans would have chosen the obvious alternative, which was to leave their own disadvantaged currency zone and to settle in West Germany where welfare payment alone would have been provided for a standard of living they never would achieve on the basis of the meagre salaries paid in West German currency in accordance with East German labor productivity (which was estimated to reach only 30 % of West German labor productivity).

⁶ Some impressions from the West German press: “Beim Geld hört die Freundschaft auf. Der vom Zentralbankrat vorgeschlagene Umtausch 2 : 1 löst in der DDR Empörung und Enttäuschung aus”, *Tageszeitung*, April 3, 1990; “‘Bei 2 : 1 gehen wir eben wieder auf die Straße’. Auch in den Leitartikeln der DDR-Zeitungen wird der genannte Umtauschkurs einhellig abgelehnt”, *Stuttgarter Zeitung*, April 3, 1990; “‘Der Wahlspeck wird wieder eingesammelt’. Die Bonner Geldumtausch-Pläne für die DDR stiften Ärger quer durch die ganze Republik”, *Frankfurter Rundschau* vom April 4, 1990; “2 : 1 und die Nerven. Die Empfehlungen des Zentralbankrats zur Umstellung der DDR-Mark treffen den bloßgelegten Nerv einer Bevölkerung in Existenzangst”, *Die Welt*, April 4, 1990; “Empörung in der DDR, Streit in Bonn: Welcher Umstellungskurs für die Währungsunion ist der richtige? ‚2 : 1—eine Illusion’”, *Die Zeit*, April 6, 1990.

⁷ The treaty’s complete title was “Staatsvertrag zur Wirtschafts-, Währungs- und Sozialunion” (*Gesetzblatt der DDR 1990d*).

Even if East Germans would have decided to stay and to benefit from the welfare system that was expected to be transferred from West to East Germany—which was precisely what the *Staatsvertrag* of May 18, 1990, regulated—the dilemma remained the same. Hundreds of thousands of East Germans whose salaries would fall below a certain minimum would have been entitled to receive welfare payment. Pension payments in particular would not suffice to make a living. This was spelled out to Helmut Kohl by his Minister for Labor and Social Affairs, Norbert Blüm, in a letter of March 27, 1990 (Bundesministerium des Inneren 1990). Blüm, consequently, strongly advocated a 1:1 conversion rate for wages and pension payments because otherwise, as he wrote, the West German government could not keep the promise to transfer the West German welfare system to East Germany. It became crystal clear that no politically viable alternative existed to a conversion rate that necessarily would push the East German economy over the brink of collapse.

5.1 The Changing Role of the Treuhandanstalt

What is more, the currency union based on a 1:1 conversion rate totally changed the role of the *Volkseigenes Vermögen* and the role of the Treuhandanstalt that had been founded by the Modrow government on March 1, 1990. With the West German government in charge of the GDR budget and fiscal system, the *Volkseigenes Vermögen* was designed to function as a deposit for the huge governmental investments necessary for the modernization of the East German economy and public infrastructure. As an influential comment to the *Staatsvertrag* put it: “The Treuhandanstalt, assuming the ownership function for state owned firms in the GDR, has the task to mobilize the Volkseigene Vermögen whose industrial assets alone represent an estimated value of several hundreds of billion Deutsch-Marks. Considerable resources are to be mobilized through an active privatization policy in order to ensure focused but broad measures of restructuring.” (Stern and Bleibtreu 1990: 63).

In the perception of contemporary observers, this arrangement could easily appear as a fair deal. On the one hand, the West German Federal Republic would bear all the major risks connected to the heavily indebted state budget of the GDR and the huge investments necessary for economic modernization in East Germany. On the other hand, the government of the GDR conceded that the *Volkseigenes Vermögen* would be used for covering the budget deficit and the costs of economic reform and reconstruction rather than for having the East German people participating in what, formal terms at least, used to be *their* property.

The bitter irony was that whatever the use of the *Volkseigenes Vermögen* would be—the *Staatsvertrag* and the currency conversion rate of 1:1 made it null and void anyway. The conversion rate of 1:1 for salaries and wages not only made the state-owned firms held by the Treuhandanstalt unprofitable it also made them unsaleable and because the Treuhandanstalt firms were unsaleable the lion’s share of the *Volkseigenes Vermögen* became worthless. Whether the tax payer and the Federal

government would have the staying power necessary for a credit-financed restructuring of the East German economy under the vague prospects of an ultimate redemption through the sale of restructured and newly profitable firms was more than questionable. As it would soon turn out, the Federal government was not willing to take that risk.

Accordingly, the *Staatsvertrag* effective July 1, 1990, defined an extremely narrow path for how to use what was left from the *Volkseigenes Vermögen* and, consequently, for the actual policy of the Treuhandanstalt. It was also a logical consequence that not only the West German federal government took charge of the GDR budget and fiscal system but also West German managers and bureaucrats took charge of the Treuhandanstalt as an institution. Step by step, the board of the Treuhandanstalt was “westernized.” The last East German left the board in June 1992. It happened to be the very same Wolfram Krause, the former SED dissident, reactivated by Prime Minister Modrow in the Fall of 1989 as the intellectual mastermind of economic reform in a socialist framework.

In anticipation of these fundamental changes the GDR *Volkskammer* passed a new legal framework for the Treuhandanstalt. As a bizarre coincidence, this happened on June 17, 1990, the anniversary of the popular uprising of 1953. What the new *Treuhand-Gesetz*, as it would become known, stipulated was the priority of privatization of the state-owned assets as the prime task (Gesetzblatt der DDR 1990c).

The speed of privatization, however, was soon dictated by the consequences of the currency union. The deep economic depression of the East German economy that followed the introduction of the D-Mark on July 1, 1990, translated itself into a dramatic devaluation of the Treuhandanstalt assets. This, in turn, dramatically intensified the privatization efforts which again accelerated the drop-off of prices in the market for firms. Soon, many *Treuhand* firms could only be sold at “negative prices,” i.e., with the help of government subsidies. This was obviously the opposite of the official purpose of the *Treuhand* assets which the *Staatsvertrag* treated as the collateral of the budget deficit caused by the state-financed modernization of the East German economy. Basically, the *Staatsvertrag* suspended itself.

6 The Second Treuhandgesetz of June 17, 1990

In the night of June 17, 1990, the *Volkskammer* passed the *Treuhand-Gesetz*, or the Law Pertaining to the Privatization and Reorganisation of the People’s Assets. This happened, according to the minutes of the respective *Volkskammer* session, with a “great majority” (*Volkskammer der DDR 1990b*). The new law became effective July 1, 1990, together with the *Staatsvertrag* that regulated the currency union as well as the transfer of important elements of the West German legal system, the social security system in particular.

The new *Treuhand-Law* was designed to adapt the policy and the organisational structure of the already existing Treuhandanstalt to the new requirements established by the *Staatsvertrag*. While the law itself remained relatively vague

and abstract, a new charter issued by the Council of Ministers of the GDR on July 22, 1990, came up with the essentials. The charter gave the Treuhandanstalt the right to re-finance itself on the capital market through issuing government bonds. This meant in practice that the Treuhandanstalt and its budget was separated from the ordinary federal budget and, thus, from ordinary parliamentary control.

However, this was not the only deviation from the regular model of democratic control and West German constitutionalism. The Treuhandanstalt reorganized itself as a tightly centralized authority in charge of privatizing state-owned industrial assets of unprecedented size and scale. This institution not only had nothing in common anymore with the initial Treuhandanstalt founded by the Modrow government March 1, 1990—it had nothing in common with the federal structure of the West German polity either. Nonetheless, the new Treuhandanstalt was not an institutional neophyte. Ironically, it very much resembled the centralized economic governance structure of the very GDR and its planned economy it was supposed to dismantle.

Even more bizarre was the fact that, from late summer 1990 on, an organizational reform initiated by the newly appointed Treuhandanstalt president Detlef Rohwedder suppressed what was left in terms of decentralized structures. This affected the huge holding companies under the name *Treuhand-Aktiengesellschaften* (Treuhand stock corporations) that, according to the law, were designed to function as the operational units in charge of privatization and restructuring (Gesetzblatt der DDR 1990d). In the perception of Rohwedder and others, however, the *Treuhand-Aktiengesellschaften* could easily emerge into uncontrollable industrial conglomerates and thus undermine the core purpose of the Treuhandanstalt, which was swift privatization.

Rohwedder, instead, reanimated the Councils of Economic Administration [*Wirtschaftsverwaltungsräte*] in the previous 14 districts of the GDR and re-baptized them *Treuhand-Niederlassungen* [Treuhandanstalt branch offices]. These units were similarly dependent on Treuhandanstalt headquarters in Berlin as the *Wirtschaftsverwaltungsräte* had been dependent on the central authorities in Berlin during the communist era. Those central authorities had been represented by the so-called branch-ministries [*Branchenministerien*]. Also internally, the *Treuhand* headquarters in Berlin was reorganised just in accordance with the logic of those branch ministries. So-called branch directorates [*Branchendirektorate*] were established, each of them in charge of a specific segment of the GDR economy and in most of the cases employing the very same rank-and-file personnel that already had served under the regime of a state controlled economy. The tactical rationale of tight administrative control remained the same as under communist rule as well. Rohwedder, an experienced trouble-shooter of the crisis-ridden West German steel industry, had realized the necessity of exerting strict managerial control over an industrial empire that produced gigantic losses on taxpayers expenses day by day. Even the physical location of the Treuhandanstalt headquarters was a replica of the communist past. In March 1991, the headquarters moved from an insufficient building at Alexanderplatz to the vast complex of the former “House of the Ministries” [*Haus der Ministerien*] that, indeed, had

accommodated the branch ministries of the GDR, located at the corner of Leipziger Straße and Wilhelmstraße in the heart of the former (and present) *Regierungsviertel*. The ultimate irony was that the GDR branch ministries themselves had been the beneficiaries of the Nazi past. The building at the corner of Leipziger Straße/Wilhelmstraße had been erected as Hermann Göring's *Reichsluftfahrtministerium* in 1935. The Treuhandanstalt had to cope with legacies of all sorts, indeed.

7 Patterns of Institutional Stabilization: Cooptation and Cooperation

The economic depression that followed the currency union of July 1, 1990, implied the necessity to accelerate the privatization of the state-owned industrial assets literally at all costs. By the same token, however, the Treuhandanstalt had to serve as an institutional buffer absorbing the social and political costs caused by its own privatization policy. Economic depression meant that the Treuhandanstalt as the owner of several thousands of firms had to lay off hundreds of thousands of employees. It thus contributed considerably to the unemployment rate in East Germany that quickly rose to more than 20 % in 1991. It was the very same Treuhandanstalt, however, that successfully served as a political shock absorber, desperately needed by the Federal government in Bonn. The institutional stability of the Treuhandanstalt became a key factor ensuring the strategic leeway of the Federal government's privatization policy for East Germany. The main component on which this achievement was based was the combination of a rigid organisational core, GDR style, with a flexible organizational periphery in accordance with West German federalism and neo-corporatism.

The key period for these institutional components to emerge was the first half of 1991. In that period, political pressure on the Treuhandanstalt increased massively because the results of privatization remained modest while lay-offs, corporate debts and open unrest among East German workers grew steadily. At the end of the first quarter of 1991, 85 % of the initial 8,000 firms were still in the Treuhandanstalt portfolio. East German industrial output had sunk to 45 % of its 1990 level. The unemployment rate rose to 11.7 % but unemployment on an artificial second labor market, largely funded through government funds, accounted for additional 13 %. Thus a quarter of the active population had no regular job or no job at all (Deutsches Institut für Wirtschaftsforschung 1991).

In February 1991, a wave of wildcat strikes triggered by lay-offs and actual or anticipated shutdowns swept across *Treuhand* firms. This not only affected the Treuhandanstalt itself but also the respective state governments that meanwhile had been established according to the West German pattern but still were weak, lacking administrative capacity and political standing. Politicians at the state level became increasingly nervous and turned to the federal government asking for support in what they perceived as a struggle against the federal agency Treuhandanstalt and its privatization policy. In a similar vein, the unions asked for a decelerated pace of

privatization and either the dissolution of the Treuhandanstalt or its transformation into a federal agency for economic reconstruction (FAZ 1991; Handelsblatt 1991a, b).

The Treuhandanstalt could fulfil its political main task—shielding off the political pressure targeted at the federal government in Bonn—only under the condition that the main and potentially powerful challenging actors were integrated or neutralized. The role and potential strength of those actors was defined by the political system and the political culture of the West German Federal Republic and the characteristic state-economy relationship akin to it. The crucial challenging actors were the East German *Länder* and the unions. A remarkable aspect of the early politico-economic history of the reunified Germany is that the Treuhandanstalt managed, indeed, to integrate the *Länder* and the unions and to neutralize the political pressure they exerted. What is more, unlike prominent forerunners—e.g., Philip Selznick's classic case study on the Tennessee Valley Authority (Selznick 1949)—the Treuhandanstalt managed to integrate those challenging actors without changing course. Instead, it continued its rigid privatization policy and that policy was *de facto* tolerated by both the *Länder* and the unions.

Union leaders and the entire crew of East German Prime Ministers were co-opted into the board of the Treuhandanstalt as early as in the Fall of 1990. This classic pattern of cooptation (Selznick 1949) turned out to be the backbone of the Treuhandanstalt's institutional stability. However, mere representation of potential challenging actors in the decision-making bodies of the Treuhandanstalt was not enough. The decisive question was if the mechanism of cooptation would lead to effective cooperation. And a stable pattern of cooperation emerged in the Spring of 1991, indeed.

The wave of strikes and unrest in early 1991 triggered a cascade of agreements and arrangements between the federal government, the Treuhandanstalt, the governments of the East German *Länder* and the unions. On March 8, 1991, the federal government announced a program *Gemeinschaftswerk Aufschwung Ost* (Common Work for the Rise of the East), consisting of a whole bunch of financial and infrastructural support initiatives in favor of the East German *Länder* (BPA 1991a). On March 14, 1991, an agreement was reached between chancellor Helmut Kohl and the Prime Ministers of the East German *Länder* on Principles of Cooperation between the Federal Government, the State Governments and the Treuhandanstalt for the Rise of the East (BPA 1991b).

Part of the agreement was the establishment of *Treuhand-Wirtschaftskabinette* [Treuhand Cabinets for the Economy], a slightly pretentious designation for regular meetings of Treuhandanstalt board members and relevant ministers of the respective *Land*. On March 20, 1991, the ministers for the economy of the East German *Länder* issued a common statement according to which the Treuhandanstalt had to coordinate regionally important decisions with the respective *Länder*, complemented by a catalogue of standard operations procedures designed to guarantee that cooperation actually took place (Treuhandanstalt 1994b: 371–374). These decisions and procedural stipulations were adopted by Birgit Breuel, at that time the relevant board member in charge, in a letter of March 25, 1991, to her

fellow board members, head of divisions and heads of the branch offices (Treuhandanstalt 1994b: 369–370). On April 13, 1991, a common declaration was issued by the *Deutscher Gewerkschaftsbund* (DGB) [the umbrella organisation of the unions], the *Deutsche Angestellten-Gewerkschaft* [the white collar union] and the Treuhandanstalt containing a “guideline for social plans” [*Sozialplanrichtlinie*] (Treuhandanstalt 1994c: 712–716).⁸ On July 17, 1991 a framing agreement on the formation of associations for labor support, employment and structural development was agreed upon.⁹

Undeniably, the Federal government and the leading officials of the Treuhandanstalt were determined to integrate the East German state governments as well as the unions into core components of strategic decision-making. The resulting arrangement proved to be remarkably effective in stabilizing the weak political flank of the Treuhandanstalt. This was demonstrated, among other things, by the fact that even leading Social Democrats and influential union leaders were outspoken in their support of the Treuhandanstalt when the agency was challenged by protests and opposition elsewhere. When the Social Democrats, at that time the oppositional party in the Bundestag, used their parliamentary minority rights to create a committee to investigate the role and the practice of the Treuhandanstalt in 1993, two prominent Social Democratic members of the board of the Treuhandanstalt reacted in open protest. One was the Prime Minister of the state of Brandenburg, Manfred Stolpe, the other one the chairman of union for the chemical industry, Hans-Hermann Rappe (Welt 1993, BZ 1993).

The unions in particular had their own selective incentives to support the grand design of the Treuhandanstalt policy behind closed doors while supporting, in selected cases, the protest against it. *Vis-à-vis* their East German clientele, the unions were in need to demonstrate their ability to influence strategic decision-making and this is what they actually did through the series of basic agreements and guidelines agreed upon in the first half of 1991. *Vis-à-vis* their West German clientele, by contrast, the unions had to demonstrate that they would not allow a low-wage competitor to emerge in East Germany. The unions were successful in combining both requirements—at the expenses of East German jobs.

On March 1, 1991, the East German employers association and the unions in the metal industry reached an agreement according to which wages in the East German metal industry should be raised in continuous steps up to the West German level by 1995. What might appear from hindsight as a reckless imposition of competitive disadvantages to the detriment of East German firms was the result of convergent interests among employers, union representatives, the Federal government and the immediate beneficiaries among East Germans in the metal industry who were happy enough to keep their jobs.

⁸ *Sozialplan* is the common language for an agreement between employers and unions or others representatives of the employees about social benefits mitigating lay-offs.

⁹ Rahmenvereinbarung zur Bildung von Gesellschaften zur Arbeitsförderung, Beschäftigung und Strukturentwicklung (ABS) Reprinted in: Treuhandanstalt (1994c: 546–552).

What has to be borne in mind is that both employer associations and organised labor were still weak in East Germany in 1991. There were neither experienced and politically uncontaminated union leaders nor were the union functionaries at the plant level as established and accepted as their West German counterparts. This implied that both the representatives of the employers and the representatives of the employees who were negotiating about wages and labor arrangements in East Germany were actually West Germans. The Federal government, represented by the *Treuhandanstalt*, was still the by far largest and most important employer in East Germany. While facing a severe regional economic depression, the *Treuhandanstalt* was dependent on both the neutralization of the unions as a pressure group and their mobilization as an integrative factor at the plant level. Conversely, both the representatives of the employers and the representatives of the unions, being committed to the protection of the interests of the large majority of West German unionized labor and the West German industry, had one common interest which was to keep under control the emergence of wage-based competition in East Germany.

8 Conclusion: Latent Institutional Elasticity

The *Treuhandanstalt*, the largest privatization agency ever, originated at the convergence of various political attempts to regain control over what was both a political system and an entire economic at the brink of collapse. It was the common purpose of both reform-minded intellectual elites within the communist SED/PDS on the one hand and the representatives of the civil movement that formed the core of the political opposition on the other hand to maintain state ownership of the *Volkseigenes Vermögen* at least for the foreseeable future. There was also consensus among these groups, however, that state ownership was not an end in itself anymore but the institutional basis of economic reform considered to be the prerequisite of a political and economic revitalisation of the GDR.

When the prospects of keeping GDR statehood intact evaporated with the *Volkskammer* elections of March 18, 1990, both the economic and the political environment changed dramatically. The elections were a plebiscite in favor of a swift integration of the GDR into the West German Federal Republic. It was also common sense that the first and decisive step in that direction had to be an inner-German currency union which itself was designed to serve a double purpose. One was to underline the commitment of the West German federal government to assume full responsibility for the political and economic fate of the GDR. The other purpose was to secure tight fiscal control over what was left from the GDR's state budget and monetary system. It was a logic of give and take: The intergovernmental treaty (*Staatsvertrag*) of May 18, 1990, stipulated that the very *Volkseigenes Vermögen* whose preservation was the initial purpose of the *Treuhandanstalt* should serve as collateral of the overall fiscal risks to be borne by the West German Federal Republic. This was what turned the policy and purpose of the *Treuhandanstalt* into the reverse direction. When the inner German currency

union was realized on the basis of a 1:1 conversion rate for salaries and wages—an unavoidable measure for maintaining social peace and containing inner-German migration from East to West—it automatically destroyed the already severely damaged profitability of East German firms. As part of the *Treuhand* portfolio, these firms were eating up tax payers' money day by day. Not only did this trigger a wave of massive lay-offs once the heydays of reunification euphoria were over, it also forced the federal government to sell the *Treuhand* assets at a dramatically accelerated pace.

The irony was that the *Treuhandanstalt*, originally created to safeguard state-ownership of the *Volkseigenes Vermögen*, now became the indispensable tool of massive privatization. Maintaining stability while changing course into the reverse direction was the resulting challenge. It is here that we realize that the goodness of fit between the quest for political stabilization and available institutional resources is not static but, if need be, subject to active political manipulation. The stability of the *Treuhandanstalt* was the prerequisite of stable political and economic change in a re-unified Germany in general. By virtue of a remarkable structural elasticity, the *Treuhandanstalt* performed the role of an institutional coping mechanism that absorbed the shock waves triggered by its own privatization activity. It was a particular combination of instrumental, political and symbolic functions that formed the basis of that mechanism or, put another way, of the goodness of fit between environmental challenges and institutional properties in the Mahoney and Thelen sense (2010). That combination was obviously not the result of a self-imposing institutional transfer because there was no institution to be transferred. It was the result of decision making designed to enhance the elasticity of available institutional resources.

The instrumental aspects of the *Treuhandanstalt* was that it successfully kept the state-owned assets of the *Volkseigenes Vermögen* in the initial phase and that it was successfully transformed into a rigid tool of large-scale privatization in the subsequent phase. A particular paradox was the fact that it was the new elite of West German managers that joined the board of the *Treuhandanstalt* in the summer of 1990 who re-centralized the organisational structure of the *Treuhandanstalt* in a way that made the institution very much similar to what had been the governance structure of the GDR economy which the very *Treuhandanstalt* was designed to overcome. The very logic of control akin to a state-planned economy was an inevitable ingredient of the managerial grip required for governmental control over an industrial empire of more than 8,000 firms earmarked for privatization. It was with substantial bitterness that the reform-minded GDR elites who had invested considerable hope into the prospects of gradual economic transformation by way of decentralization and a “socially committed” market economy realized that West German administrative and corporate elites re-established a rigid and centralized governance structure for the purpose of accelerated privatization involving considerable social costs in terms of massive unemployment.

The political function of the *Treuhandanstalt* was based on its integrative role vis-à-vis potentially challenging actors such as the unions and the emerging East German *Länder* governments. This was classic administrative interest mediation in

Gerhard Lehbruch's sense. Although the unions and the *Länder* governments were still weak in 1990/1991 it took a series of accords and agreements to mitigate the tensions between the representatives of East German labor and regional interests and a federal authority responsible for tens of thousands of lay-offs each month. Skilful manoeuvring and active political networking of top-ranking *Treuhand* officials contributed to a solid political embeddedness as a complement to internal managerial and organizational rigidity.

Last but not least, the contribution of the *Treuhandanstalt* to political stabilization was paradoxically connected to its symbolic function. For most East Germans, the *Treuhandanstalt* became the institutional incarnation of the dark side of re-unification. "*Die Treuhand*" became a synonym of a combination of Western hegemony and crude capitalism. None of these sentiments were grounded in reality. After all, the *Treuhandanstalt* was just coping with the consequences and the currency union, the conversion rate of 1:1 for salary and wages in particular, that had been requested by the East Germans themselves. But the psychological projections of the East Germans at the expenses of the *Treuhandanstalt* reduced considerably the immediate risk of de-legitimization at the expenses of the federal government itself. The *Treuhandanstalt*, located in Berlin at a time when the federal government still resided in the tiny city of Bonn at the borders of the river Rhine, served as an institutional scapegoat absorbing much of the negative emotions if not hatred that otherwise could have seriously threatened the overall support for the federal government. When the coalition of the Christian democrats and the liberal Free Democrats won the federal elections of 1994 by a narrow margin, part of that success was due to the fact that the dramatic economic frictions accompanied by an East German unemployment rate twice as high as in West Germany had been successfully buffered by both the structural elasticity and the symbolic usefulness of the *Treuhandanstalt*.

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Can There Be a Normative Theory of Corporate Political Power?

Colin Crouch

Abstract

Neither of the two normative theories that rest at the base of contemporary advanced societies—liberal democracy and neoliberal economics—can find a legitimate place for the exercise of corporate power through privileged political lobbying and taking advantage of imperfect competition. A normative theory justifying that power would seem to be a ‘theory that dare not speak its name’, and in some respects it is. Very few political or corporate leaders or spokespeople would wish to argue publicly that these exercises of corporate power should displace the workings of democracy and the free market. And yet such a theory provides in reality the dominant working assumptions of public life in our time. And although it is virtually never overtly pitted against liberal democracy and the free market, its central ideas are asserted, if obliquely, with increasing confidence by its advocates, ever careful to avoid a direct confrontation. The object of this essay is to delineate the main arguments of this theory, to demonstrate how they have become well rooted in contemporary normative assumptions, and to show some of the challenges it poses to liberal society.

1 Introduction

Neither of the two normative theories that rest at the base of contemporary advanced societies—liberal democracy and neoliberal economics—can find a legitimate place for the exercise of corporate power through privileged political lobbying and taking advantage of imperfect competition. A normative theory justifying that power would seem to be a ‘theory that dare not speak its name’,

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and in some respects it is. Very few political or corporate leaders or spokespeople would wish to argue publicly that these exercises of corporate power should displace the workings of democracy and the free market. And yet such a theory provides in reality the dominant working assumptions of public life in our time. And although it is virtually never overtly pitted against liberal democracy and the free market, its central ideas are asserted, if obliquely, with increasing confidence by its advocates, ever careful to avoid a direct confrontation. The object of this essay is to delineate the main arguments of this theory, to demonstrate how they have become well rooted in contemporary normative assumptions, and to show some of the challenges it poses to liberal society.

2 Problems in Liberal Democratic and Free-Market Theories

Liberal democracy and the free market are always in tension, as the operation of the former repeatedly challenges the latter. Citizens frequently want to challenge the negative externalities that markets necessarily produce, whether they are workers seeking defence from the insecurity of completely flexible labour markets, residents of an area affected by pollution, or a wide variety of other situations. Struggles over such issues form the central agenda of many aspects of political life in democracies, while the absence of them is a central identifying mark of societies that lack democracy. As is appropriate for a liberal democracy, there is no final answer to this tension, even if government technocrats and economic theorists would like to reduce it to scientific decision-making. Total victory by politics (or the state) over the economy (or the market) would be a disaster, as the history of the Soviet bloc showed us. Equally, total victory of economic values over all others leads to an immiseration of human life.

That such a tension exists is often not recognized in academic and political discussion, as for so long it has seemed that liberal democracy and free-market capitalism are fully compatible with each other; in the western world we seemed to have achieved ways of managing the tension and the conflicts in more or less acceptable ways. It can be fairly claimed that for many years most political scientists ignored the tension by concentrating on power relations within the polity and rarely noticing their relationship to economic power. Of course, pluralist theory fully acknowledged the existence of business interests that lobbied government and parliaments, but these were seen as external processes (e.g., Wilson 1986). According to Robert Dahl's classic statement of the pluralist model (1961), provided that no one interest dominated all the time, and all interests were able to gain something some of the time, democracy could be considered to be working. In other words, to the extent that the polity itself behaved like a market, there would be some kind of democratic balance.

The only important challenge to the dominance of pluralist theory came from the theory of corporatism pioneered in particular by Gerhard Lehmbruch (Lehmbruch and Schmitter 1982; Schmitter and Lehmbruch 1979). Here organizations of economic interests were seen, not just as lobbies acting from outside the polity and

through actions based on a market analogy, but as existing within an informal constitutional order and as large, non-market structures. If they included competition, it was imperfect or oligopolistic, not in a free market in political influence. This could well mean that powerful organized economic interests could destabilize a pluralist balance; but under certain circumstances such organizations could become forces of stability, even *staatstragende Kräfte*. It is interesting that, by the end of the 1970s, some of the leading US pluralist theorists, including Dahl himself, had started to adopt aspects of this perspective (Dahl 1982; Lindblom 1977). Lehmbruch's contribution was important in several ways, but the key point of relevance for present purposes was its ability to see polity and economy not as autopoietic systems that might interact from time to time, but as thoroughly inter-meshed institutions.

Today that basic insight acquires a new significance, but with a changed focus. The globalization of the economy and the growing power of individual large transnational corporations are changing both the balance between polity and economy and the inter-relationship between them. A major aspect of this is that the organizations of firms (and workers) that were fundamental to the corporatist model have become far less important. Very large corporations have little need of business organizations; they not only have the capacity to work directly on their political demands (Coen 1997, 1999, 2009; Wilks 2013), but in doing so they develop relations with public officials that can be useful in winning government contracts. Also, being transnational, they do not see themselves as part of any particular national system of organized interests. Meanwhile, organizations of employee interests have lost influence almost everywhere. We need new approaches to study the relationship between economy and polity. One such has been the revitalization of interest in the political aspects of Friedrich von Hayek's philosophy. Hayek (1960) did not share the easy optimism of the pluralist school that democracy and the market could co-exist provided that there were no major concentrations of power. Rather, for him democracy was always likely to threaten the market economy. It would therefore be necessary to erect a series of barriers to protect the latter from the former. Intervals between elections should be long, and it should not be easy for them to change governments; most economic institutions should be placed beyond the reach of democratic politics. Wolfgang Streeck (2013) has recently drawn attention to these often forgotten arguments of Hayek, and has shown their relevance to the changing architecture of the European Union, especially but not solely in its approach to the crisis of the Eurozone.

The issue of the balance between economy and polity, state and market, is again at the heart of debate, but on changed terms. It is however important to carry over from corporatist theory that fundamental insight that the two sets of institutions can never be fully separated, but must be seen as constantly interacting. It is also necessary to avoid seeing the economy as represented by the market alone; it also comprises corporations that cannot be contained by the economic theory of the free market. According to that theory, no one actor should be able to affect a price or other market terms by its own actions; entry to or exit from the market by any one or small number of firms should not by itself disturb the market's functioning; the idea

of firms being ‘too big to fail’ is inconsistent with market theory. As soon as one has an economy in which some corporations are too big for these criteria to apply to them, one can no longer assume that the rule of more or less perfect competition applies—with consequences, not only for the market itself, but also for the polity and the market character of influence necessary to pluralist theory.

In the rest of this contribution I want to concentrate on just one aspect of this set of issues: what form might be taken by a theory that tries to justify the role that individual giant corporations play in contemporary economy and polity, particularly the latter? In previous work on this question (Crouch 2004, 2010a, 2011) I have assumed, as do most other writers, that no such theory exists; that corporate political power has to remain in denial of its own existence, maintaining the inviolability of both pluralist democracy and the free market, being a ‘theory that dare not speak its name’. Here I want to challenge my previous assumption and argue that the materials exist in various areas of legal and business theory that could be used, and in part are already used, to claim that the public interest is often served if corporate political power trumps democracy and the free market. I do not myself accept such a theory, but it is important to understand the kind of case that could be, and perhaps before long might be, made on its behalf.

3 Towards a Normative Theory of Corporate Power

The challenge facing anyone wishing to create what amounts to a normative theory of corporate power is to justify granting to large corporations a political and economic influence that contradicts both the egalitarian assumptions of democratic citizenship and the maintenance of extensive competition and a boundary between economic and political power required by liberal market theory. The theory needs to defend a role for wealth in influencing politics.

Legitimatory, normative theories need to demonstrate that the thing that they are defending serves a general interest, but they can take two different forms. Type A includes those that justify a *system* as serving general ends, without specifying a particular class or group whose specific interests embody that general interest, even if particular interests are incidentally favoured in practice; type B covers those that directly justify the position of a *particular class or group* by identifying its specific interests with a general interest. Formal theories of democracy and of the market are examples of type A. The theories of Hobbes (1651) and Machavelli (1532), and also earlier theories of the divine right of kings, were of type B. A normative theory of corporate power must also be of type B, as it must argue that a system that guarantees the freedom and prosperity of great corporations will serve the general interest. This is quite different from the liberal theory of the market, which argues that it is the primacy of a set of practices, not of certain identifiable organizations, that secures the general interest. It was historically that characteristic that justified the use of the label ‘liberal’ in defining free market theory.

Theories of type B (justifying the superior position of specified groups) mainly belong to pre-modern periods of history, before the Enlightenment development of

a universal liberal language of rights. Ever since the development of that language in the European eighteenth century, normative theories of social order have tended to be of type A (legitimizing a set of abstract rules and practices). An initial striking attribute of a normative theory of corporate power therefore is that it would represent a return to a pre-Enlightenment, pre-universalistic discourse.

Hobbes and Machiavelli (and other post-medieval political thinkers, like Marsiglio of Padua) stood at the cusp of pre-modern and modern approaches. Hobbes justified the role of a sovereign monarch with limited power as the best form of government, but reached that position through a cautious rationalistic justification. This did not at all please Charles II, who far preferred justification through divine right. The king saw that a power, whose legitimacy depended on balanced rational argument, could just as easily be knocked down by a similar but different chain of reasoning. Machiavelli, active a full century before Hobbes, belongs more clearly to the older kind of argument, justifying directly the role of the prince, and indeed justifying him to the prince himself rather than to a wider public. However, he did this in such a rationalist way that he has been regarded as the father of scientific approaches to the study, and justification, of the use of power. Machiavelli was even more unpopular with rulers than Hobbes. Princes, or governors of any kind, do not like to have coldly self-seeking motives attributed to them, and from his own time onwards Machiavelli's name has been a byword for a cynical approach to political power from which virtually all rulers claim to distance themselves. For proper appreciation, both men had to await generations happier with type A justifications, to which perspective they could, albeit with scant regard to their own historical contexts, be assimilated.

To present a normative theory of corporate power one would have to proceed in a manner similar to that in which Hobbes's and Machiavelli's procedures are viewed today: to argue that dominance over political and economic life by certain groups serves a general interest. Specifically, corporations have to be permitted to make certain limited breaches of the rules of those two fundamental legitimacy doctrines of the neoliberal era, liberal democracy and the free market. These constitute the double bind with which the theory would have to cope.

Some may question the statement that neoliberalism has any relationship to liberal democracy, it being sometimes argued that neoliberalism is happier with a dictatorial regime than with a democratic one. This would enable the theory of corporate power to escape the bind of having to accept some elements of democracy. The case of the role of Chicago-trained economists in the Pinochet terror regime in Chile, whose liberalism was entirely limited to the economic realm, where it was extreme precisely because unconstrained by democracy, is usually cited in support of this case (Valdes 1995). There is certainly evidence for the view that neoliberals are not necessarily tied to democracy. For example, the Fraser Institute, a leading Canadian neoliberal think tank and lobbying group for free markets provides an annual rating of the extent to which the nations of the world provide 'economic freedom'. Of its current top 10 ranking countries, four are dictatorships or absolute monarchies: Hong Kong (1), Singapore (2), Oman (7) and Bahrain (10). On the other hand, the other six are democracies:

New Zealand (3), Australia (4), Canada (5), Switzerland (6), Ireland (8), Mauritius (9). China, however, ranks only 100th (Fraser Institute 2013). We can conclude from this that neoliberals certainly have no problems with dictatorship as such; but that they can also be reconciled to democracy, though mainly only in an Anglo-phone context. If they have a preference for a political regime within the democratic family, it would probably be for Hayek's extremely constrained democracy. In the absence of that it would be for what I have called 'post-democracy': a polity in which all the institutions of democracy and constitutional order are in place, but where the creative energy of the political system, at least for economic affairs, has passed into the hands of a politico-economic elite (Crouch 2004). A very similar idea is conveyed by Wolfgang Streeck (2013), when he talks of a democracy that has become detached from dealing issues presented by capitalism, and limits itself to the rule of law and public entertainment (*Rechtstaat und öffentliche Unterhaltung*). The *Rechtstaat* and the formal institutions of democracy can be important to corporate interests, as they protect private property, in a way that only some dictators can be trusted to do. Therefore, corporate power often has to accept some elements of liberal democracy, as the regime in contemporary times most likely to be a reliable defender of the *Rechtstaat*.

The alternative escape from the double bind would be for corporate power to exist alongside democracy but not to have to come to terms with fully free markets. This has been an important historical reality. Until the European single market developed strongly after 1992, it broadly defined the position of 'national champion' firms in Belgium, France, Luxembourg, Italy and elsewhere (Hayward 1995). There were also important elements of this approach in some countries that disavowed the formal idea of such champions: for example, the role of Volkswagen in Germany, Volvo in Sweden, ICI and the various financial activities known as 'the City of London' in the UK. Outside Europe, Boeing, and major military contractors, as well as the great motor and steel industry firms had a similar status in the USA. Japanese and Korean capitalism have operated heavily in this way (Whitley 1992). Under this model, firms in key economic sectors were given privileged access to politicians and senior civil servants, and could expect public contracts without intense competition. In exchange, they were expected to commit themselves to the cause of the national economy. Outside the sphere of the privileged firms and sectors, more or less free market capitalism operated in the rest of such economies. This approach is not available to contemporary giant corporations, which, being global, do not accept that they share with any national government a project of subordinating themselves to national priorities. If there is a major historical change in the political role of today's capitalism, it is this rather than any move from a mythical past when free markets reigned.

3.1 A Defence of Oligopoly

A useful, practical starting point for a theory justifying the current political role of corporate power is to legitimate imperfect competition in oligopolistic sectors,

in other words for an exemption for large, dominant corporations from some of the rules of neoclassical economics. Grounds for such a justification can be found in the arguments developed since the late 1970s by US lawyers critical of antitrust legislation (Bork 1978; Posner 2001; Schmalensee 2002). This school, based primarily at the University of Chicago and therefore at the principal fount of neoliberal ideology, is not just a marginal circle of academics, but became strongly influential under the Reagan administration, when its leading members were appointed judges to commercial courts (Cucinotta et al. 2002). This branch of the Chicago school contended that it is in the public interest for larger firms to absorb smaller ones, due to the efficiency gains that, it claims, almost axiomatically accrue to enlarged scale—i.e., shareholders will only approve a merger or acquisition if they are convinced that there will be such gains. It follows from this assumption that to insist (as did classic US and European antitrust law) on preventing mergers in order to maintain a state of on-going competition for the sake of the competitive order is to deny customers the gains that would flow from greater efficiency. Competition therefore needed to be redefined, not as a condition of on-going and continuous competition, but as the outcome of competition—that is, the victory of a small number of large firms over a large number of small ones. Consumers' interests also had to be redefined, not as the existence of an extensive choice through which they could express their interests, but as their 'welfare' as argued by corporate lawyers. This, it can also be noted, could also help serve to justify the role of small elites in post-democratic politics.

Anti-antitrust legal thinking (as we shall here call it) has never fully succeeded in dominating US competition law, and it has been somewhat less successful in Europe (which partly explains why some major antitrust rulings against such leading US companies as Microsoft have been made by the EU competition authorities). Economists and competition lawyers have not accepted that mergers necessarily create economies of scale; there can be diseconomies of scale, and shareholders do not always perceive these in advance. They have also often considered that the small number of firms that Bork and others considered necessary to sustain a market (three or four) under-estimated the importance of network externalities and of the scope for tacit cartels when numbers are so small (Amato 1997; Cucinotta et al. 2002). Nevertheless, anti-antitrust thinking has weakened the severity with which limited competition has been viewed by courts on both sides of the Atlantic, as the continued existence of many sectors dominated globally by small numbers of giant corporations shows. Outside the realm of strict legal argument, the anti-antitrust argument is fundamental to the needs of a potential normative theory of corporate power, since it provides the crucial step of showing why it might serve the general interest to suspend application of some central tenets of free-market theory when large corporations are involved. This is seen most clearly in the replacement of the central and highly democratic-sounding tenet of neoliberal theory—the importance of customers' freedom of choice—by the hierarchical idea of consumer welfare, as assessed by corporate lawyers and courts. Improved efficiency, it is argued, must serve the general interest, because it means by definition the most cost-effective way of using society's resources; its opposite is

waste, which has to be contrary to the general interest. As the standard-bearers of efficiency, large corporations therefore become legitimate and reliable carriers of that interest, and the more they dominate their markets, rather than being subordinate to market rules, the better they will be so.

Such reasoning does not just legitimate large corporations within their own field of operation, but it can be extended to imply that all other organizations, and in particular governments, should look to them for guidance as to the best means of accomplishing their own tasks. Not themselves having come through the market, governments, churches, charitable bodies, educational institutions, these other organizational forms are all suspect in terms of their achievement of and dedication to efficiency. It can therefore be contended that they are less closely identified with a general interest than the great corporations. From this can follow the conclusion that senior managers from the corporate sector should be brought into these other organizations to take control of them, or at least to give advice on how to manage them. Such an argument can achieve two important tasks for an attempt to legitimize the political exercise of corporate power. More obviously, it presents the exercise of that power favourably within society at large. But it also provides a crucial further step in the theory, as it can be used to justify breaking down the barriers that the rules of both a free market economy and liberal democracy otherwise erect against intimate relations between senior figures from government and corporations. This in turn can enable corporate personalities to enter deeply into government—whether as entrenched lobbyists, advisors or as actual decision-makers.

3.2 New Public Management

The doctrines of anti-antitrust can be seen to have prepared the ground for these arguments by equating economies of scale achieved through market competition with superior efficiency, but the next step in the argument passes to the doctrine of new public management. This too is not just a marginal academic theory, but has played a major role in the policies of governments and international organizations around the world (Osborne and Gabler 1992; OECD 2010). This advances the fundamental tenet that the efficiency of public services (and virtually all other organizations outside the market sector) would be enhanced if they become modelled on those of large private corporations, for example by employing senior managers from the giant firms. An even more direct way for governments to learn from firms is for them to contract out the management and sometimes the ownership of the services it provides to private firms themselves. This is not a full privatization, as governments, not ultimate users, are the firms' customers in framing the contracts. Typically, contracts run for a number of years, and in most national economies only a small number of firms acquire the skills necessary to become contractors. The gains that are expected to flow from such arrangements are often presented as those of 'the market', but these are rarely pure markets as economists see them. There is one customer and a small number of providers,

most of which have probably been granted ‘preferred bidder’ status by the customer. We are still in the very limited form of market anticipated by anti-antitrust arguments—and in the limited form of democracy constituted by post-democracy.

New public management theory overtly advocates the role of corporate personnel within government, and over-rides traditional objections to close dealings between public and corporate officials made by neoclassical economists and critics of corporate power alike. By extension, the argument could also be used to justify corporate personnel working on behalf of their own firms’ interests while within government. If these firms have achieved great efficiencies, it can be argued, the general interest will also be advanced if government is able to help them meet various needs. An interestingly explicit acceptance of this argument was demonstrated by the UK government in 2011, when it established an open list of ‘buddy’ firms. These were corporations who were to be granted privileged access to specified ministers.

3.3 Legitimizing Unequal Lobbying Power

However, nothing has been argued so far that would justify the use of corporate wealth to persuade legislators to favour the interests of particular sectors or firms. This touches a vulnerable point in free market theory. On the one hand, the use of money to affect public decision-making contradicts that theory’s insistence on a separation between economic and political power. On the other hand the theory also requires freedom in the disposal of private property. The preferred neoliberal resolution of the dilemma is to argue that, if there were no government involvement in the economy in the first place, there would be no incentive for firms to lobby politicians, and the problem would not arise; so the answer to the lobbying problem is for governments to stay out of economic affairs. This was the position adopted by [Bork \(1978\)](#) himself when confronted by arguments about corporate lobbies. Such complete abstention of government from economic relations is highly impractical. Extreme liberals argue that, in a pure market economy, there is no need even for a law of contract, arguing that contract parties can freely agree together on terms and on the sanctions that should flow from non-compliance. The medieval *lex mercatoria* is cited as evidence of how this can be achieved ([Cutler 2001](#); [Milgrom et al. 1990](#)). In reality however, wherever contracts with large numbers of clients and suppliers are concerned virtually all firms make very extensive use of legally binding contracts even if they are at liberty to choose private arrangements instead. Enforcement is simply more efficient that way. All governments maintain laws of contract, and technical and social change requires that these be revised from time to time. That revision is a political process and therefore provides those concerned with incentives to lobby legislators. A major example here is the law of intellectual property, copyright and patenting. The central issue here is usually the need to balance a need to promote innovation (through strong intellectual property protection) with a need to protect competition (by restricting that protection). The market cannot itself resolve such disputes, as its own balance is itself at stake. Politics is

involved, and the question of which side has most power to sway a political decision cannot be evaded.

These arguments constitute a serious difficulty for advocates of a privileged political role for corporate interests. That last example, however, indicates a route that they might take. The defence of corporate power must clearly favour the concentration of resources in the largest (and therefore, the anti-trust school would contend, the most efficient) corporations. In the specific case of intellectual property, it will logically place a low value on the protection of competition and favour the maximum protection of existing rights. Large corporations find it easier to assemble resources for lobbying than small ones, as even if there are large numbers of the latter, they face a collective action problem in trying to mobilize joint resources. Therefore, a system of unrestrained corporate lobbying will produce the toughest protection of intellectual property, and therefore further reinforce the position of the large corporations whose role it is the theory's aim to defend. Similar arguments apply if neoliberals' preferred method for changing contract law in common law jurisdictions is chosen: the resolution of issues in courts through private law suits. The objection that such suits favour those rich enough to hire the best lawyers falls if there is a prior assumption that the richest firms have acquired their wealth through superior efficiency—and that therefore it is in the public interest for the odds to be stacked in favour of their winning cases.

Such an argument could be extrapolated to mean that, *ceteris paribus*, the general interest will be served when those who have acquired wealth through superior efficiency carry the day. There would be a similar general presumption in favour of the right to use private property for lobbying purposes over the defence of the purity of the market. Lobbying legislatures as such is less effective than having direct access to government, and in systems where parliaments are more or less controlled by the executive (as in the UK), parliamentary lobbying is not so important. It is in systems like the US one, where there is true independence of executive and parliament, that lobbying is crucial. A very important step therefore in the development of the case for legitimating the political exercise of corporate power came with the decision of the US Supreme Court that corporations had all the constitutional rights of individual citizens (except the right to vote), and could therefore use their wealth for any political task they chose (US Supreme Court 2010). This established, at least for the USA, the priority of property rights over safeguarding the purity of either the neoclassical economic model or the presumption of democratic theory in favour of seeking to equalize access to politics by citizens. As a Supreme Court decision rather than an academic argument, it did not so much legitimate the existence of post-democracy as contribute significantly towards achieving it.

The role of the efficiency argument in the general interest legitimation of corporate wealth establishes a superior claim to that of the old national champions, whose general interest justification was defined clearly in national terms. The corporate efficiency case claims a truly universal benefit, in that it does not need to be specified who gains from the efficiency: efficiency creates resources that might be available anywhere and for anyone. If the gains are at least initially

captured by a few, the trickle-down argument, and the claim that ‘a rising tide lifts all boats’ are deployed to demonstrate that this does not matter. A gain that is initially captured by a few stands more chance of having a benign general effect than a gain that is foregone by all by not being produced, it is argued; which is what happens when the opportunity for superior efficiency is lost—which is what in principle may happen if interests other than those of the great corporations are able to dominate.

3.4 The Superiority of Financial Knowledge

Efficiency gains are most easily universalized when they take the form of financial gain. This brings us to the next element in the legitimation: the superiority of financial knowledge. ‘Efficiency’ gains might be achieved by a variety of different forms of knowledge, such as engineering or chemistry. But these gains are released for general effect only if they are converted into financial gains, by using the most advanced forms of financial techniques available. Only finance—provided the global financial system remains unregulated—is able to flow across the world as a general resource, being converted into a variety of specific goals as revealed by the play of market forces. If it remains indefinitely in the form of pure finance, then the period when it is entirely general is prolonged. This, it could be argued, is the great value of secondary and derivatives markets, which are able to assert the superiority of purely asset-based calculations of the value of resources over any other ones. By the same token, the shareholder value maximization form of corporate governance can be defined as the form that will maximize the general interest, as it is the one that best ensures the financialization of assets. It is also this aspect of the argument that privileges the role of senior managers from backgrounds in corporate finance over those with backgrounds in science or other areas of expertise, and enables these managers to move rapidly among firms in quite diverse fields of activity. At the same time, firms in many other sectors will gravitate towards becoming financial services firms, or will at least set up their own financial services branches. Within financial services, generalized banks will serve the purpose best, in comparison with mutuals, or banks that are restricted from having general investment arms.

It is explicit in the shareholder maximization argument that the private interests of shareholders are identical to the general interest. In a pure market, shareholders can only maximize profits if the products of the firms in which they invest attract customers. Therefore to maximize profits is to maximize customer satisfaction. However, when this argument is combined with that of anti-trust, its necessary assumption falls away. Firms in oligopolies do not need to maximize customer satisfaction, as customers lack much choice.

3.5 Corporate Social Responsibility

This brings us to a tricky point in the theory. Ideally the case for the superiority of financial knowledge and the subordination of all goals to the maximization of shareholder value should mean that firms should reject all attempts to act ‘responsibly’, in the sense of paying attention to any negative externalities that they create, on the grounds that such activities only impede their core activity. Firms often indeed make that argument. However, an increasing number have ceased to do so, and present instead a very different defence of their role. In democracies, people cannot be prevented from complaining about and organizing against corporate conduct that offends important values. Where democracy is strong, this can lead to demands for government action to constrain firms’ freedom—for example, to prevent them from damaging the natural environment, or employing child labour in their Asian supplier firms. Many corporations have therefore decided that it is better—and also more compatible with their claim to have a share in the general governance of society—to pre-empt such action and themselves develop a strategy of corporate social responsibility (CSR). In this way they retain the initiative to define what social issues they will pursue.

This process is deeply ambiguous. On the one hand, it can represent a genuine attempt by corporate leaders, acknowledging the wider socio-political and not merely economic power that they wield, to acknowledge the responsibilities that come with their ‘corporate citizenship’ rights (Crane et al. 2008). This is a kind of modern version of *noblesse oblige* (Crouch 2010b). On the other hand, it can be a means of corporations simply asserting their power, rather than that of governments or citizens, to define the social agenda. In both cases we see corporations acting as political forces. The doctrines of CSR can far more easily be accommodated to the normative theory of corporate power than they can to pure neoclassical economic theory, which with its own ambiguity both absolves firms from social responsibility and denies them a right to exercise a political role.

4 Conclusions

The argument so far has said nothing about the position of employees. Under national capitalism, large firms were in general more likely than smaller ones to favour positive relations with trade unions. This was for a number of reasons. First, in sectors dominated nationally by small numbers of large firms, it was possible to overcome inter-firm collective action problems in a way that facilitated sector-level collective agreements within nationally bound labour and product markets. Second, large firms both needed and could afford to employ specialist personnel staff, which in turn preferred to develop relations with workers’ representatives rather than develop their own extensive knowledge of staff grievances and problems. Third, unions found it easier to organize within large work forces and were therefore more likely to be present within large firms, and would, including through their influence on political parties, tend to favour them against small firms. This changes

considerably in the globalized economy. The collective action problem is less easily solved when national labour and product markets lose salience. And the specific skills of personnel managers, like all other specialists, are subordinated to the general sovereignty of financial knowledge. Personnel managers have been renamed as 'human resource management' staff to signal this. Where relations with unions have been well developed and continue to deliver mutual benefits, matters might remain relatively unaffected, but elsewhere one expects to see a decline in organized industrial relations. This is one of the areas where the theory of corporate power follows the same lines of argument as neoclassical theory.

More generally, similar arguments enable the theory to stand alongside liberal democratic theory in rejecting a role in political influence for organized groups in general and trade unions in particular. A theory designed to justify the political role of corporate power is here able to share the preference of strict liberal democratic theory for citizens' democratic influence to be restricted to voting, and not to take the form of pressure, social movements or other forms of action favoured by more substantive theories of democracy that are critical of the narrow formalism of liberal theory. Such a theory does not rest on arguments about extended democracy, but on those about efficiency developed above. When a corporation speaks to government, it would be contended, it is working for a general interest. When, say, a trade union or an environmentalist organization does the same, it is working to extract rents for a private interest. This explains why, for example, if a large firm wishes to speak to a minister or senior civil servant, it simply does so. Other interests usually need to explain why time should be spent on them and their minority concerns.

In summary, therefore, the legitimation of corporate political power operates as follows: The larger the corporation, the bigger the efficiency gains to scale that it generates. These gains constitute a general benefit to society. The skilful management of financial resources generalizes those gains more effectively than any other form of skill. Senior managers with this background are therefore best equipped to hold controlling positions in organizations of all kinds. Other professional and scientific skills are subordinate to financial expertise, and need to be made junior to it within the enterprise. It also follows that corporate methods should be followed by all other kinds of organization (through new public management), and that financial managers and other corporate personnel should hold senior positions in organizing and delivering services of general interest, either by being co-opted into government or, preferably, by taking over into firms the work previously done by government. The welfare of customers and the efficiency of governments will therefore be maximized by the enlargement of the role of large, financially oriented corporations. Finally, because of their superior expertise and efficiency, society at large will gain from having corporate leaders rather than political processes or regulation decide the kinds of social responsibility that forms should pursue.

Such a theory of corporate power stands alongside the narrower forms of liberal democratic theory in rejecting the role of political activism and lobbying by groups outside the ranks of the corporations; but from its perspective the best form of democracy will be a post-democracy, where formal democratic institutions

function, but where the electorate ceases to be the source of potentially damaging challenges. Similarly, the system is quite compatible with the free market, and prefers free markets over protectionist ones, because the general interests that corporate power can pursue proceed best in a deregulated global economy, and because the existence of competition is important for legitimating the path that corporations had to follow to achieve their size. However, market rules need to be interpreted in a way that does not insist on the maintenance of conditions of perfect competition. Competition needs to be seen as the outcome of competitive struggle, not the struggle itself—otherwise society will miss some of the gains that flow from increased scale. This derogation from the requirement for reinforced competition applies only to the need to protect corporate scale; it is not an argument for limiting competition in the labour market or among small-scale supplier firms.

Thus a theory of corporate power based on the lines outlined here would not need directly to confront either democratic or free-market theory. The amendments and challenges to both appear at subtle points, but they are profound in their implications. Where the theories of liberal democracy and the free market propose a set of procedures for achieving general interests, this post-democratic theory of corporate power returns to a pre-modern tradition of identifying a ruling group who can be trusted to safeguard those interests. While it is not yet fully and openly articulated as a theory by which contemporary political economy ought to be guided, its separate components are each publicly and openly promulgated, making piecemeal challenges to aspects of the two other theories. Most of these components that have been discussed above are to be found in the writings and practices of authoritative and powerful bodies, not just academic argument. All that is lacking are some spokespeople with the audacity of Machiavelli to pull those components together.

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Part II

Crises

No Exit from the Euro-Rescuing Trap?

Fritz W. Scharpf

Abstract

This paper attempts a normative assessment of the input and output-oriented legitimacy of the present euro-rescuing regime on the basis of policy analyses examining the causes of present crises, the available policy options and the impact of the policies actually chosen. Concluding that the regime lacks input-oriented legitimacy and that its claim to output-oriented legitimacy is ambivalent at best, the paper explores potential—majoritarian or unilateral—exits from the present institutional constellation that is characterized by the synthesis of a non-democratic expertocracy and an extremely asymmetric intergovernmental bargaining system.

1 Prologue: My Many Debts to Gerhard Lehbruch

Gerhard Lehbruch was my guide when I moved from a habilitation fellowship in comparative constitutional law to an appointment in political science at the University of Konstanz in 1968. His “*Einführung in die Politikwissenschaft*” (1967) taught me to appreciate the topical breadth, the historical depth and the theoretical and methodological challenges of a field which, until then, I had only observed from the heights of constitutional doctrine and from the lows of election campaigns and intra-party battles. And though I never managed to become a proper political scientist, my policy-oriented research interests often intersected with Gerhard’s politics-oriented perspective in a polity-oriented focus on the same political institutions. Thus in the mid-1970s, we separately defined two basic problems of German federalism—where his focus was on the tension between party-political competition and intergovernmental cooperation and mine on the problem-solving

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deficits of the “joint-decision trap”. And when I tried to explain the successes and failures of social-democratic policies in the 1970s and early 1980s, I relied heavily on Lehbruch’s and Schmitter’s analyses of neo-corporatist interest intermediation. More indirectly, my theoretical perspective on European policy-making was also influenced by Lehbruch’s conceptualization of decision processes in consociational democracies. And even though my recent preoccupation with the political economy of the euro crisis seems far removed from Gerhard’s professional concerns, the concluding section of the present article was in fact inspired by a close re-reading of his 1991 review of the status of “*Das konkordanzdemokratische Modell in der vergleichenden Analyse politischer Systeme*”.¹ There, in an uncharacteristic turn to game theory, he modeled the emergence of consociational regimes as the outcome of an iterated Prisoners’ Dilemma—which also suggested that they remained vulnerable to the temptations of unilateral action. It was this reminder of the inherent instability of interest-based negotiation systems which encouraged me to speculate about exit options from the present euro-rescuing regime.

By way of disclosure: I love the coming-together of the peoples of Europe as much as anybody. But unity, peace and free mobility in Europe might also have been obtained in a Europe united under Napoleon, or perhaps even under Hitler’s successors.² In my own array of political values, however, integration per se will not override all concern for achievements of democratic self-government that have been realized in European nation states after Napoleon and after Hitler. At present, these are being jeopardized by the European regime that was established to deal with the economic and financial crises generated by an ill-designed European Monetary Union. The present essay will combine an assessment of legitimacy problems with problem-oriented and interaction-oriented policy analyses and with the exploration of potential exits from the present euro-rescuing trap.

2 The End of Legitimacy Intermediation in the Euro Crisis

Academic and political concerns about a “European democratic deficit” have risen with the extension of European governing powers in the Maastricht Treaty and after the failure of the Constitutional Treaty. For a while, however, citizens seemed strangely unconcerned about the lack of political accountability of European governing powers and of Europe-wide public debates that might influence European policy choices. In Eurobarometer surveys, “trust in the European Union” continued at remarkably high levels and was generally much higher than the level of trust in democratically accountable national governments. But that has changed with the onset of the present crisis.

¹ Published in: Helga Michalsky (Hrsg.), *Politischer Wandel in konkordanzdemokratischen Systemen*. Vaduz: Verlag der Liechtensteinischen Akademischen Gesellschaft, 13–24.

² Rainer Hank (2013) points to a disturbing continuity of Nazi visions of European unity and the ideas of some prominent promoters of European integration in postwar Germany.

2.1 What Has Changed

Between September 2007 and the end of 2012, average “trust in the EU” fell from 57 to 33 %, and the share of respondents expressing distrust rose from 32 to 57 % (Zalc 2013). In trying to interpret these changes in terms of democratic legitimacy, it is useful to refer to the conceptual distinction between an output-oriented and an input-oriented dimension (Scharpf 1999, Chap. 1)—between Lincoln’s “government *for the people*” and “*by the people*” or between “*responsible*” and “*responsive*” government (Mair 2009).

In normative political theory, the status of output-oriented legitimacy is primordial. The coercive powers of government, which are needed to deal with common problems that are beyond the reach of voluntary cooperation in civil society and of market interactions, may be abused by oppressive, predatory, vindictive or simply incompetent governors. Hence the legitimacy of government itself is in question if it fails to serve the common good of the community and to comply with its basic norms and standards of justice. In these terms, high levels of trust before 2007 may indeed express a relatively high level of output satisfaction which people tended to associate with the EU.

But why would citizens ignore the glaringly obvious deficits of input-oriented democratic legitimacy (Follesdal and Hix 2006) before 2007, and what seems to have changed in the crisis? What did in fact change are the preconditions of “legitimacy intermediation” (Scharpf 2012). Before the crisis, European policies generally had low political salience (Moravcsik 2002)—mainly because highly controversial proposals had no chance to be adopted under the high consensus requirements of European legislation. In any case, however, European directives had to be transposed by national parliaments and all European law had to be implemented and enforced by national courts and administrative agencies. Hence citizens were never directly confronted with the coercive power of EU government. And as their own governments were visibly involved in EU policy making, voters could and did use national elections to hold them accountable for the exercise of all governing powers, regardless of their origin at national or European levels (which may also explain generally lower trust in national governments). In short, high trust in the EU before the crisis may be plausibly taken as indicating output-oriented satisfaction combined with citizens’ lack of concern about input-oriented deficiencies at the European level.

In the meantime, however, European economies were badly hit by the international financial and economic crises triggered by the collapse of the Lehman Bros. bank in the fall of 2008. Subsequently, some member states of the European Monetary Union were threatened by sovereign insolvency—which was interpreted as a euro crisis that might have catastrophic consequences not only for the countries involved but for the European or even the world economy at large. Since this crisis is still dragging on, it is safe to assume that output satisfaction has declined.

What matters more, however, is that in the effort to “save the euro at any cost,” European authorities—the Council, the Commission, the European Central Bank and the “Troika”—have deeply, directly and highly visibly intervened in the lives

of millions of citizens and in the economic, social and institutional fabrics of “debtor states”. And while these efforts have not halted the economic decline and the rise of mass unemployment, they have disabled the effectiveness of input-oriented politics and democratic accountability in these states. Even in “creditor states”, moreover, parliaments found themselves confronted with precisely specified fiscal obligations which they could not reject without disavowing their commitment to European integration. From the perspective of citizens, in short, the exercise of European governing powers is no longer obscured by the accountability of national governments.

2.2 Input-Oriented Legitimacy of the Euro-Rescuing Regime

As a consequence, the legitimacy of euro-rescuing policies now needs to be justified through output- and input-oriented arguments focusing on the European level itself. What matters in the output dimension are their problem-solving effectiveness and their justice in allocating burdens and benefits. These criteria will be discussed on the basis of policy analyses in later sections.

Input-oriented legitimacy, however, implying democratic self-government and, in representative democracies, the electoral accountability of governors, is clearly lacking in the present euro-rescuing regime. This is most obvious for the European Central Bank which has become a crucial actor responsible for extremely effective and totally discretionary policy choices in recent years even though it is totally insulated against citizen-based political inputs and electoral accountability. Similarly the Commission, which is defining the “conditionalities” debtor governments must accept to receive the next installment of “rescue credits”, is neither directly nor indirectly accountable to the people whose jobs are to be eliminated and whose incomes are to be cut under its mandates.

But what about the Eurogroup Council under whose formal authority the Commission-defined requirements have been imposed on Greece, Ireland, Portugal and Cyprus, and will be imposed on all subsequent recipients of ESM credits? The finance ministers and heads of governments are indeed accountable to their own parliaments and voters—which legitimates them to accept sacrifices for their *own* country and to agree to *general rules* that will apply to all member states, including their own. But if what is at stake are *decisions* imposing specific sacrifices on Greece, others on Portugal and still others on Ireland, German voters could not possibly legitimate the Chancellor to impose special burdens on another country. From the perspective of Portuguese citizens, therefore, Council decisions have the quality of rule by foreign governments. And even if the agreement of the debtor government were formally required, it would have been obtained under duress or at least under extremely asymmetric bargaining conditions.

In short, therefore, the present euro-rescuing regime may be characterized either as an authoritarian expert regime or as a *dictat* imposed by creditor governments. In either case, it lacks the institutional preconditions of input-oriented democratic legitimacy. It cannot claim to be recognized as “government by the people”.

In normative democratic theory it is disputed whether output-oriented arguments alone could suffice to establish political legitimacy (Greven 2000)—a normative dispute that cannot be adequately addressed here. But if the regime is to be defended as “government *for the people*”, its claim to problem-solving effectiveness and distributive justice can indeed be examined by empirically based problem and policy analyses (Scharpf 1997). To assess present outcome, these need to examine the causes of the present crisis, the substantive policy options available and the institutional and actor-centered conditions under which they might have been adopted. Since these analyses cannot be fully developed here, I will draw mainly on my previous publications (Scharpf 2011, 2012, 2013a).

3 Problem-Oriented Analysis: What Went Wrong

The structural deficiencies of the European Monetary Union (EMU) and their causal effect on the euro crisis are by now reasonably well understood (De Grauwe 2012, 2013; Notre Europe 2012): By joining the Monetary Union, member states lost both the external constraint of having to maintain a balance-of-payments and the capacity to respond to problems of inflation and unemployment through changes of the nominal exchange rate or through the instruments of expansionary or restrictive monetary policy. And though fiscal competences remained at national levels, their use for expansionary purposes was severely constrained by the Stability Pact. Moreover, member states could no longer turn to their national central bank as lender of last resort in case of a liquidity crisis, while liquidity support by the ECB and by other member states was explicitly ruled out by the prohibition of monetary state financing and by the no-bailout rule.

Competences for exchange-rate and monetary policy were centralized and exercised by the European Central Bank with a narrowly defined mandate to ensure price stability in the Eurozone. This regime, it was expected, would reproduce for the members of the Monetary Union the beneficial effects which the quasi-monetarist policies of the *Bundesbank* had produced for the German economy (Delors Committee 1989; Commission 1990).

3.1 Centralized Monetary Policy in a Non-optimal Currency Area

It is widely acknowledged, however, that the Eurozone was not then and is not now what Robert Mundell (1961) had defined as an “optimal currency area” (OCA)—an economic space, that is, in which centralized policies have similar impacts on all regions.³ In a monetary union, therefore, successful centralization presupposes

³ Regional disparities will of course also exist in most national economies; and in large federal states like the United States or united Germany they may be so significant that uniform monetary policy may also generate diverging economic effects in different regions. But in these federal

strongly converging inflation rates in all member economies (Flassbeck and Lapavistas 2013). In fact, however, the Eurozone included an extremely heterogeneous membership of former “hard-currency” and “soft-currency” economies with differing inflation dynamics driven by diverse sectoral structures, political-administrative institutions and practices and, above all, by different wage-setting institutions (Scharpf 1991; Soskice and Iversen 1998; Calmfors 2001; Höpner and Schäfer 2012; Höpner 2013; Iversen and Soskice 2013). Hence, even though the ECB did succeed in maintaining low inflation rates for the Eurozone as a whole, national inflation rates continued to differ systematically.

These inflation differences did not prevent the convergence of *nominal* interest rates. But they had the effect of converting these into higher *real* interest rates in low-inflation countries, and into very low or even negative real interest rates in the former “soft-currency” economies. Under these conditions, the monetary impulses of uniform ECB policies were too restrictive for the first, and too expansionary for the second group of economies (Walters 1990). In fact, high real interest rates did push the low-inflation German economy into the recession of 2001–2005, whereas in Greece, Ireland, Italy, Portugal and Spain (the GIIPS economies), domestic demand was stimulated by the sudden availability of extremely cheap credit.

Low-inflation Germany had become the “sick man of Europe” at the beginning of the decade, but eventually managed to fight its recession through union wage restraint and supply-side reforms. In combination, these measures facilitated an export-led recovery and a considerable expansion of low-wage employment. At the same time, however, the constraint on domestic demand and rising exports contributed to external imbalances through increasing current-account surpluses and a progressive under-valuation of the real exchange rate. In the GIIPS economies, by contrast, credit-financed domestic demand continued to rise, and so did imports, economic growth in the non-traded (particularly the real-estate) sector, employment and wages. And again, the effects were dynamically increasing external imbalances. Current-account deficits were continuously rising, and the increasing over-valuation of real-effective exchange rates added to the effect by penalizing GIIPS exports, just as German exports were subsidized by a massive real under-valuation.

Remarkably, however, these imbalances were not treated as a cause for concern by European or national policy makers. Rising GIIPS deficits were easily financed by capital inflows from Germany and other surplus countries, and thus seemed to confirm the initial expectations of beneficial catch-up development (Commission 1990). The ECB on its part had met its mandate by constraining average consumer-price inflation in the Eurozone and saw no justification for intervening against asset-price inflation and the real-estate bubbles in Ireland and Spain. And since the

states, the divergence-increasing effect of monetary impulses will be counteracted by the equalizing effects of uniform national taxation, centralized social policy, horizontal and vertical fiscal-equalization programs, and of course by opportunities for labor mobility that are not constrained by language and institutional barriers. In short: the Eurozone is a non-optimal currency area because it is not a large federal state.

Stability Pact defined limits on national fiscal deficits (which were extremely low in Ireland and Spain, and no higher in Portugal than in Germany), neither the ECB and the Commission nor national governments had a sense of an impending catastrophe. But all that changed with the onset of the international financial crisis in the fall of 2008.

3.2 The Impact of the International Financial Crisis

The immediate effect of the Lehman collapse was a world-wide credit squeeze which brought all economies to their knees and forced all governments and central banks to resort to “Keynesian” reflation and to save their “system relevant” banks. Thus public-sector deficits escalated everywhere. But the credit squeeze hit hardest on those Eurozone economies that had become totally dependent on capital inflows from abroad. When these stopped abruptly, the recession in GIIPS economies was even deeper than elsewhere—which also meant that their public-sector debts increased even more steeply. In effect, a large overhang of insecure private-sector debt was transformed into public-sector debt. And when capital markets finally responded in early 2010 by challenging the solvency of deficit states, their economic decline was compounded by acute state-credit crises.

What went wrong, in short, is that Monetary Union in a non-optimal currency area and uniform ECB monetary policies had produced dynamically diverging real exchange rates and current accounts among Eurozone economies, which had been completely ignored by European and national policy makers. Under the credit squeeze of the international financial crisis of 2008, however, the extreme dependence of deficit economies on capital inflows had become a massive economic liability and then a cause of speculative attacks on the solvency of deficit states, first in Greece, and then in Ireland and Portugal as well. And since potential insolvencies of individual euro states were perceived as challenges to the survival of the Monetary Union itself, by May of 2010 European policy makers had agreed to “save the euro at any cost.”

4 Basic Policy Options

As European and national policy makers had paid no attention to the rise of external imbalances, one also should not presume that the causes of the crisis and the effects of available policy options were initially well-understood (Hall 2012). By hindsight, however, there were basically three distinct policy options which policy makers could have chosen in dealing with the Greek and subsequent state credit crises. They could be described as

- Tough luck under Maastricht rules,
- Solidaristic burden sharing, and
- Rescue credits with tough conditionalities

Under the pressures of the Greek crisis in early 2010, the first option was rejected, and the second one was never seriously considered. Nevertheless, an examination of these “nondecisions” (Bachrach and Baratz 1963) is useful for understanding why the third option was actually adopted.

4.1 Tough Luck Under Maastricht Rules

Of the three options, the first one had been prescribed by the Maastricht rules that had only recently been confirmed in the Lisbon Treaty: Even if the interest rate on Greek bonds did rise to a level where the costs of refinancing the state debt would exceed available resources, Art. 123 TFEU prevented the ECB from buying Greek state bonds, and Art. 125 TFEU prevented the Union and all member states from assuming any liability for Greek debts. If that meant that international capital markets would drive the Greek state into bankruptcy, tough luck.

In institutional terms, this was also the option that would have been most easy to adopt. The Maastricht rules were the law of the Treaty which could only be changed by unanimous agreement among all EU governments and ratification in all member states. In other words, every single EMU member state could have vetoed decisions that violated these rules. But what about actor perceptions, interests and preferences?

On the Greek side, the incoming Pasok government had won the 2009 elections on promises of rapid economic recovery. After coming into office, however, it had inadvertently triggered the credit crisis by announcing that its predecessors had vastly under-reported past state deficits. From its perspective, therefore, the immediate prospect of state insolvency must have appeared as a political catastrophe—compared to which applying for European support must surely have appeared as the lesser evil.

From the perspective of surplus states, the choice was more difficult. In Germany, the spontaneous preference of Merkel’s conservative-liberal government was to insist on the Maastricht rules—which, after all had been adopted at German insistence and which also had the support of the neoliberal academic mainstream and business press. It took a while for the government to realize that letting Greece go bankrupt might trigger speculative attacks on the solvency of other EMU member states whose economies had also become dependent on capital inflows—with the consequence that the Monetary Union itself might break apart on the fault line dividing surplus and deficit economies. If that should happen, the huge external-credit position which surplus economies had built up during the first decade of the Monetary Union would be at risk, and surplus states might again have to save their domestic banks. Moreover, governments and unions also came to realize that exports had greatly benefited from an undervalued real exchange rate, and that a collapse of the euro was likely to produce a major revaluation of nominal exchange rates and massive job losses. After some reflection, therefore, governments in Germany and other surplus countries realized that there were

good self-interested reasons for not rejecting the request for assistance in resolving the Greek solvency crisis.

4.2 Solidaristic Burden Sharing

The second approach might have been familiar to policy makers and the public in Germany since it was the one they had chosen in dealing with the consequences national unification after 1990. When vastly diverging real exchange rates were wiping out industries and jobs in East Germany, monetary union was quasi-automatically followed by social and fiscal union. In effect, West-East transfers supporting social security, public infrastructure and economic investment have amounted to about 3 % of GDP over more than 20 years. And while transfers of this magnitude may be unlikely in the Eurozone, a solidaristic “framing” would indeed have suggested policy responses differing greatly from the ones that were actually chosen.

It is now widely accepted that an immediate commitment either to jointly secured Eurobonds or to OMT interventions by the ECB would have put an end to both, the Greek state-credit crisis and the threat of an imminent euro crisis (De Grauwe 2012). Once that fear had been allayed, there would then have been time to assess the causes of the crisis and the effectiveness and normative appropriateness of potential remedies from an inclusive perspective. If the euro was to be saved and external devaluation was ruled out, policy discussion would then have turned to “internal devaluation” as a way to achieve external balance through wage and price cuts. But as that would also have highlighted institutional obstacles, counterproductive economic effects and enormous social costs, inclusive policy discussion and negotiations could not have avoided focusing on the need to mitigate these problems through European or transnational social transfers and investment subsidies. Hence agreed-upon solutions would not only have required difficult internal adjustments in deficit economies but also substantial fiscal contributions from surplus states.⁴ But such options were not seriously considered in the spring of 2010.

An obvious reason is that in institutional terms they would have been most difficult to adopt. Since they would have directly violated the Maastricht rules, they would have required Treaty amendments supported by all EMU member states or at least an international-law treaty among Eurozone states. But given these institutional obstacles, such options could only have succeeded if they had had

⁴ It is also suggested by Keynesian economists that a solidaristic response would have required a strong expansion of domestic demand through deficit spending, wage increases and higher inflation rates in Germany and other surplus economies (De Grauwe 2013). Even if that were institutionally feasible, however, the effect on GIIPS economies would be quite small as the share of Germany in the export and import balances of GIIPS economies, and vice versa, has been greatly reduced after 2008 (Erber 2012).

overwhelming political support among governments and political publics in the Eurozone.

As governments of deficit states would probably not have objected, what ultimately mattered were perceptions and preferences in the surplus states. In German unification, the emotional appeal to national solidarity was not politically challenged—and if it had been, the argument that “we had jointly started and lost the War” would have settled the issue. In the Eurozone, by contrast, appeals to solidarity would not have resonated emotionally with a pre-existing “thick” collective identity. And more reasoned appeals arguing that “we were jointly responsible for the faulty design of the Monetary Union and for its present crisis” had no basis in public perceptions and political debates in 2010. Instead, public attention in Germany and other surplus states was made to focus on what had been and still was glaringly wrong in Greece—which silenced potential political support for a solidaristic “framing” of the euro crisis and supported the regime that was actually established.

4.3 Rescue Credits, Austerity and Structural Reforms

The euro-rescuing policies chosen in May of 2010 combined rescue credits to challenged states with tough conditionalities that had to be accepted and implemented by recipient governments under the threat of insolvency. The credits at (somewhat) lower interest rates were provided by a succession of rescue funds, increasing in size from the temporary EFSF created in May of 2010 and the EFSM to the permanent European Stability Mechanism (ESM) established in September of 2012 through an international-law agreement outside of (but subsequently allowed by) the EU Treaty. The country-specific conditionalities were and are defined and periodically updated by the Commission, and compliance was and is controlled by a “Troika” of inspectors from the IMF, the ECB and the Commission.

The main thrusts of these conditionalities have been extremely tough and rigid rules of fiscal austerity and detailed requirements for “structural reforms” to deregulate and liberalize labor and service markets. Their ostensible purpose was to reduce the need for additional state credits through severe cuts in welfare spending, public employment and public-sector wages, and to reduce external deficits by improving external competitiveness through internal devaluation. At the same time, the ECB also tried to stimulate demand for the bonds of crisis states by flooding the banking system with cheap longer-term credit, and in July of 2012 by President Draghi’s pledge that the ECB would do “all that it takes” to save the euro through Outright Monetary Transactions (OMT)—i.e., direct interventions in the market for state bonds.

In institutional terms, this strategy neither followed the Maastricht rules nor rejected them explicitly. Instead, it fudged them in practice while trying to meet legal challenges by staying within the outer bounds of interpretation (ECJ case 370/2012, Pringle; Franke 2013). But it could have been stopped by any one of the Eurozone governments insisting on strict compliance with these rules. The institutional setting thus had the characteristics of a compulsory negotiation

or “joint decision” system (Scharpf 2006) in which binding decisions depended on unanimous agreement.

In the relation between surplus and deficit countries, however, this constellation was and is characterized by an extreme asymmetry of bargaining powers. Once a government had chosen (even if reluctantly, as in the Irish case) to avoid insolvency by applying for rescue credits, it could no longer reject Commission-defined Memoranda of Understanding. So what ultimately mattered for the shape of the rescue program was the Commission’s view of what was feasible (on which recipient governments could express their views) and of what was acceptable to creditor governments. Among these, initial perceptions, interests and normative preferences may have varied somewhat, but Germany as the largest contributor generally had a decisive voice.

Even though most deficit states could certainly not be accused of “fiscal profligacy and irresponsibility”, perceptions of the euro crisis were framed by the Greek case. And though creditor governments were saving the euro for self-interested reasons, they would still blame debtor governments for the predicament. That may explain the moralistic rigidity with which strict austerity requirements continue to be defended long after it became obvious that they were pushing debtor economies into an economic depression that directly counteracted the initial goal of reducing the need for state deficits.

In the meantime, however, the ECB’s pledge of OMT interventions has calmed the fears of imminent state credit crises, and the Commission has shifted its analysis to the dangers of excessive external imbalances and lost competitiveness (Commission 2010, 2012). Compared to the earlier obsession with state deficits, this perspective does focus on the structural problems of the Monetary Union which had produced vastly diverging external balances distorting export and import flows. As these might continue to invite speculative attacks on the solvency of indebted deficit states, they should indeed be corrected to stabilize the common currency. And since the adjustment of nominal exchange rates was out of the question, the euro-rescuing program had to impose internal devaluation on deficit countries with vastly overvalued real exchange rates.

Even in this revised frame, however, fiscal austerity was to be maintained because it would reduce domestic demand and hence imports. But the main emphasis is now on the need for deep-cutting structural reforms which are meant to improve external competitiveness by reducing wages and prices. In Germany (and even more so in Slovakia and the Baltic states), this emphasis also resonates with the conviction that they themselves had overcome their own crises through tough and painful structural reforms facilitating an export-led recovery. And if they had done it, why shouldn’t the debtor states do so as well?

In short, therefore, the present euro-rescuing regime is institutionally entrenched as an extremely asymmetric intergovernmental negotiation system in which debtor governments have practically no bargaining power. And since its present policies imposing fiscal austerity and structural reforms as a condition for receiving rescue credits serve not only the economic and fiscal self-interest of creditor states but also resonate with the cognitive and normative perceptions of their governments and publics, the regime appears as an extremely asymmetric variant of a “joint-decision

trap” (Scharpf 1988, 2006) which is highly resistant to policy change. So, returning to the question left dangling above, how should this regime be assessed in terms of output legitimacy?

5 Output-Oriented Legitimacy of the Euro-Rescuing Regime

Such an assessment must refer to a regime’s problem-solving effectiveness as well as to criteria of distributive justice. In the first of these dimensions, and in terms of its primary goals, the euro-rescuing program appears as a partial success.

5.1 Immediate Goals

So far, no EMU member state has been declared insolvent. For the time being, speculative attacks were stopped by the ECB’s announcement of OMT interventions, whereas intergovernmental rescue credits were generally considered “too little and too late” to impress capital markets. Nevertheless, Ireland is now confident to refinance its debt at reasonably low market rates without further help from the rescue fund, and Portugal hopes to follow its example.

At the same time, however, the ostensible purpose of reducing the need for public-sector credit has not been achieved. Fiscal austerity has reduced domestic demand so much that the loss of economic activity and the steep rise of unemployment have reduced public-sector revenues and increased expenditures to such an extent that public-sector indebtedness is now generally higher than at the beginning of the crisis (Andini and Cabral 2012). But since the Commission has shifted its emphasis from public-sector debt to external accounts and competitiveness, what seems to matter more in its view is the progress toward internal devaluation that is suggested by a recent decline of current account deficits and of average unit labor costs in the debtor countries (Commission 2013a). These indicators, however, need to be interpreted with some caution.

5.2 Fragile Improvements

If the rise of external indebtedness exposes debtor states to speculative attacks on their solvency, the improvement of current accounts is indeed good news. It appears, however, that the reduction of deficits was mainly due to the drastic decline of imports, and hence to a fall of domestic demand, whereas exports were rising at about the same rate before and after the crisis.⁵ Similarly, the fall of

⁵ Comparing the rise of real exports in 2003–2007 and in 2009–2013, it is hard to see a general improvement in the second period that could be ascribed to austerity and structural reform policies:

average unit labor costs is highly correlated with employment losses (Sinn 2013; Commission 2013b).⁶ In other words, the recent improvement of both indicators may be more a symptom of the continuing economic crisis than of economic recovery. Thus the improvements remain vulnerable to a reflation of domestic demand that would again increase imports and unit labor costs by increasing employment in jobs with lower productivity. It makes sense, therefore that creditor governments and the Commission insist that austerity and structural reforms cannot be relaxed because debtor economies still have a long way to go before external balances will be supported by export-oriented growth.

5.3 Unequal Distributive Effects

In any case, however, the limited improvements from the euro-rescuing perspective were achieved at the price of a dramatic deterioration of domestic conditions in debtor states. Austerity policies have deepened the decline of economic activity, while severe cutbacks of social benefits, public services and public-sector wages combined with labor market deregulation have greatly increased mass unemployment, poverty and social inequality (see, e.g., Koutsogeorgopoulou et al. 2014). Employment has dramatically declined in all debtor states, and in some youth unemployment has soared to more than 55 %. Lower rates in Ireland reflect massive outmigration which, however, is also increasing in other debtor states. In short, the price of euro-rescuing policies has been prolonged economic decline and deepening social crisis in debtor states.

From the perspective of creditor states, by contrast, the euro-rescuing policies must be considered a success. As the collapse of the euro has so far been averted, their external (private and public) asset positions did not have to be written off, and effective budgetary outlays for the euro-rescue funds are minimal as yet. In economic terms, they have by and large recovered from the effects of the international financial crisis, and Germany has even achieved record export surpluses. In terms of distributive justice, therefore, the decision to “rescue the euro at any cost” has led to extremely asymmetric outcomes where practically all the costs of rescuing the common currency are borne by the debtor states and their citizens.

5.4 Ambivalent Problem-Solving Effectiveness

That also suggests the assessment of the regime’s problem-solving effectiveness should be positive from the perspective of creditor states. From the perspective of

Ireland 27.9/14.4 %; Greece 24.3/4.5 %; Spain 21.6/28.2 %; Italy 26.6/20.8 % and Portugal 25.2/28.7 % (Source: Eurostat).

⁶Since firms and jobs with low productivity are likely to be the first victims of an economic downturn, average productivity would rise in a crisis, and hence *average* unit labor costs would decline even if the competitiveness of the remaining firms had not changed.

debtor countries, by contrast, a positive evaluation would depend on the belief that present sacrifices and much greater social inequality are a price worth paying for future economic growth. The intensity of political protest suggests that citizens of debtor states do not generally share this belief. Nevertheless, it may be held by some of their present governments—just as it had shaped the 2004 reforms of the Schroeder government in Germany. But there are important differences. In terms of input legitimacy, it matters of course whether sacrifices are externally imposed or designed, defended and adopted by a democratically accountable government with a view to the overall economic and social fate of their constituency.

And the same difference may also matter for problem-solving effectiveness. The euro-rescuing regime was not created to save Greece, but to save the euro. And if its rescuers are convinced that the common currency is vulnerable to speculative attacks on the solvency of member states with external deficits, it does not really matter from their perspective whether deficits are reduced through higher exports or lower imports, or whether balance is achieved at higher or lower levels of economic activity.

This is not meant to suggest that the Commission, the ECB or creditor governments would not prefer debtor states to achieve German-type export-led economic growth. But they will also know that the German recession of 2001–2005 was far less severe than the present crises in debtor states. Moreover, German industries were well placed in international markets and thus did benefit immediately from union wage restraint and supply-side reforms. Exports, after all, depend first of all on a portfolio of domestic production that matches existing external demand. Where that is lacking, limited wage and price reductions will have no immediate effect on demand or on new investments. Nevertheless, the Commission's conditionalities have not even tried to go beyond wage-reducing reforms in trying to stimulate investment and innovation. Given the generally mixed success of targeted industrial policies, that may be wise. But then one should also not expect to achieve external balance primarily through German-type export-oriented economic growth.

Compared to the difficulties of stimulating exports, the control of imports appears much more feasible. They are directly affected by domestic demand⁷—and demand can be effectively reduced through fiscal constraints. So even if exports should not rise, current-account deficits and the vulnerability of the euro could still be averted through imposed austerity. It seems consistent, therefore, that current reforms of the Monetary Union (apart from efforts to reduce the vulnerability of the banking system) have also concentrated almost entirely on creating and strengthening European controls over national fiscal policy—ranging from the European Semester and the Two-Pack and Six-Pack regulations to the constraints

⁷ For tradable products without domestic substitutes, imports are likely to vary proportionately with GNP. For substitutable products, imports should rise disproportionately if domestic demand exceeds local production (as was true in deficit economies between 1999 and 2008), and they should decline disproportionately if demand falls below domestic production.

of the Fiscal Pact in national constitutional law. They seem eminently suitable for defending the euro by preventing external deficits—even in the absence of economic growth.

From the perspective of citizens in debtor countries, however, who must care for their present and future economic and employment opportunities, the effectiveness of the present euro regime appears at best ambivalent. They may, perhaps in Ireland, hope for a significant fall of unemployment in the near future. But they may also find themselves entrapped in a regime that enforces external balance at the price of economic stagnation, low employment and poverty.

For the Eurozone as a whole, the Excessive-Deficit and Excessive Imbalance Procedures of the Sixpack regulations⁸ have generalized and extended the principles of the euro-rescuing regime to all member states—whether or not they have applied for ESM credits. In institutional terms, these regulations have in no way remedied the input-oriented democratic deficit (Scharpf 2011, 2012). And in output-oriented terms they imply that any country whose economy is hit by a recession will only be allowed to cope with it through fiscal austerity and supply-side reforms. In effect, this amounts to a regime of sequential internal devaluations in the Eurozone which will favor capital interests and exert a permanent downward pressure on state functions and labor interests (Scharpf 2013a).

In short, the assessment of the present euro-rescuing regime's overall problem-solving effectiveness remains ambivalent at best. Its evaluation is shaped by conflicting distributional interests and also by different attitudes toward irreducible cognitive uncertainty and toward the inter-temporal incidence of benefits and losses. Under such conditions, policy analyses may perhaps help to clarify the issues. But the final assessment of output legitimacy must in any case be left to the "people" on whose acceptance the authority of governing powers ultimately depend.

6 Potential Exits from the Euro-Rescuing Trap

The present euro-rescuing regime, so I have argued, lacks input-oriented democratic legitimacy and it produces highly unequal distributional effects. Hence even though the assessment of its problem-solving effectiveness remains ambivalent, it seems safe to assume that a great many citizens and political actors among the Eurozone "people" would, with the advantage of hindsight and a full understanding of its implications, have opposed the regime's establishment in 2010 and would prefer to see it changed now. For them, the question is whether a change of directions is still possible.

The present institutional setting of self-interested intergovernmental bargaining and legally binding agreements seems to exclude that possibility. The governments

⁸ Council Regulations (EU) 1173/2011; 1174/2011; 1175/2011; 1176/2011; 1177/2011; Council Directive 2011/85/EU.

of surplus countries benefiting from the regime have no incentive to change their position, and debtor governments that would prefer a solidaristic transfer regime lack the bargaining power to change the agreements by which they are bound. But could this asymmetric equilibrium be upset? In the spirit of informed speculation, I could envision two such scenarios: A switch from asymmetric bargaining to democratic majority rule at the European level or a switch from the joint-decision mode to unilateral action.

6.1 Majoritarian Democracy

The first of these scenarios is associated with present hopes for a politicization of the upcoming elections for the European Parliament: If EP party families will each present a common candidate for the Commission Presidency and a Europe-wide political platform they may also have to take a stand on euro-rescuing policies. In that case, a politically legitimated President backed by a parliamentary majority might, somehow, achieve an institutional transformation of the euro regime—replacing asymmetric intergovernmental bargaining by democratic majority rule. The obvious risk is, of course, that any politicization of the euro crisis would primarily mobilize actual and potential losers to the advantage of anti-European parties everywhere. Worse yet, competition among pro-European parties, campaigning in Greece as well as in Estonia, and in Germany as well as in Italy, could not avoid dramatizing distributive and normative conflicts—not just in the usual left-right dimension but between Northern creditors and Southern debtors, Northern export workers and Southern work seekers, Northern taxpayers and Southern welfare clients, and so on. The escalation of transnational conflicts, I have argued, would put Europe-wide consensus beyond reach, and majority rule could tear the Union apart (Scharpf 2013b). Just as in the recent German elections, therefore, pro-European parties are most likely to shun controversial discussions of the euro crisis—which also means that the outcome of EP elections cannot challenge the asymmetric intergovernmental and expertocratic character of the present euro regime.

6.2 Unilateral Action

From an analytical perspective, however, the institutional stability of the present euro regime appears quite vulnerable. It could of course be jolted out of its present equilibrium through another financial or banking crisis. But a similar shock could also be triggered by the action of one or more of the governments involved. To appreciate this possibility, we need to shift to a game-theoretic interpretation of the present constellation in which unilateral moves are not excluded by legally binding constraints.

For a first move, one might imagine that the government in Greece or another debtor state may be captured by a majority of anti-European protest parties determined to reject the actual (or in the Italian case, anticipated) austerity and internal-devaluation requirements of the present regime. In effect, this unilateral defection would transform the institutional constellation from a “co-operative” bargaining system into an anarchic field with strategic interactions in a “non-cooperative” game (Scharpf 1997, Chap. 5). In a second move, the ESM would then stop the next installment of rescue credits, and the ECB would honor its pledge to provide OMT support only for states complying with ESM rules. If that were to happen, international financial markets would, in a third move, respond again to the possibilities of sovereign default and a collapse of the euro. In other words, the original specter of an uncontrollable euro crisis would arise again. And if it would turn into an international financial crisis, the catastrophe might even open the way for a new Bretton Woods.

It seems more likely, however, that a credible threat of unilateral defection would provoke hectic European efforts to rebuild a euro-rescuing settlement. But even if the defecting governments were willing to re-negotiate, the constellation would be radically transformed by the change of the “default outcome”. As of now, the present euro-rescuing settlement will continue unless everybody agrees to change it. After the defection, however, there would be no settlement unless everybody agreed to create one. In other words, the constellation would be institutionally similar to the one which had existed in the spring of 2010. Nevertheless, the outcome could be very different because the perceptions and preferences of governments are likely to have changed in the meantime.

Unlike their predecessors, the defecting governments would now be aware of the social and economic costs entailed by asking to be “rescued” by Europe. By comparison, the specter of bankruptcy, followed by exit from Monetary Union and devaluation, may also appear less politically horrifying than it did in 2010. Moreover, these governments will have come to realize how much the settlement reached in 2010 had served the fiscal and economic self-interest of creditor states—which should further harden their bargaining position on demands for a less unequal settlement approximating the option of a “Transfer Union”.

However, perceptions and preferences in creditor countries would have changed as well. After 2010, private capital has greatly reduced its risk positions in deficit economies—with the effect that most of their continuing external indebtedness is now represented in the “Target-2 balances” of national central banks, rather than in the balance sheets of Northern private banks (Sinn and Wollmershaeuser 2011). And while some creditor governments may now be more sympathetic to the plight of debtor societies, the new Baltic member states are likely to be even tougher than Finland. In Germany, moreover, the specter of a euro crisis may appear less horrifying as exports have shifted from the Eurozone to Asia and the Americas. And while it is still believed that nominal exchange rates would rise after a breakup of the Monetary Union, the fact that the Swiss central bank was able to stop the escalation has been duly noted in Germany.

In light of these changed perceptions and preferences, attempts at re-negotiating a euro-rescuing regime might well fail; and the collapse of the Monetary Union might, with the benefit of hindsight, allow for the construction of better long-term solutions. If a euro-rescuing agreement should be reached, however, it could hardly be as asymmetrical as the present one. Beyond that, however, the outcome could not be predicted. It might range from the economically counterproductive combination of rescue guarantees with relaxed conditionalities and minimal intergovernmental transfers to a more generous “Marshall Plan” or even to one of the heterodox parallel currency schemes that would have no chance of being considered in the present veto constellation (Schuster 2014).

In short, if one or more debtor states should come to reject compliance with the present euro-rescuing regime, the eventual outcome could not be predicted on the basis of presently available information and theory. But it seems clear that such challenges could jolt the existing regime out of its equilibrium—and while their probability may appear low in light of present optimism, it should not be discounted to zero. Instead, it would be reassuring to know that policy staffs and think tanks in Brussels, Frankfurt and national capitals are at work exploring the potential trigger events and political and economic implications of such challenges and of potential policy responses.

7 To Conclude

The dramatic decline of citizens’ trust in the European polity in recent years is a consequence of the higher political salience and lower factual plausibility of arguments adduced to legitimate the exercise of governing powers at the European level. The European regime that has been created to deal with the euro crisis after 2010 appears glaringly deficient by the standards of input-oriented democratic accountability. And any claims to output-oriented legitimacy are marred by the regime’s extremely unequal distribution effects as well as by its contribution to the deep economic and social crises of debtor states and their uncertain prospects for economic recovery. Under these conditions on the output side, efforts to improve input legitimacy through the politicization of EP elections are likely to exacerbate transnational conflicts. In spite of the seeming stability of the asymmetric bargaining constellation, however, the present regime remains vulnerable to unilateral challenges that might either destroy or transform the Monetary Union.

In short, the legitimacy of European integration has been damaged by the economic over-integration of the Monetary Union and by the governing regime that was established to deal with the ensuing euro crisis. If European legitimacy is to recover, the present euro regime needs to be transformed.

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Will the Present Crisis Revive the Neo-corporatist Sisyphus?

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Abstract

Despite a much less favorable context, neo-corporatism a.k.a. social concertation did not completely disappear from the practice of European interest politics after the 1970s. In a few countries, the former survived, but only by shifting a good deal of the latter to the meso-level of economic sectors and even by permitting micro-level bargaining at the level of individual firms. The most frequent and persistent form of neo-corporatism or social concertation in Europe came to rest on so-called “pattern bargaining;” whereby, organizations representing one industrial sector (usually metal-working) reached an agreement on wages and other issues and this was then generalized from sector-to-sector to cover almost the entire economy—without any need for a formal national accord. Many advanced capitalist economies, however, proved immune to this form of interest politics, much to the delight to neo-liberal economists who persisted in asserting their belief in the superior performance of pluralist systems or, even better, in systems where no collective bargaining at all took place. With the dramatic financial crisis that began in late 2008, the conditions that had previously promoted or impeded neo-corporatism, tripartism, policy concertation, social pacting, systems of political exchange or whatever it should be called, were radically altered due to a decline in the balance of forces between capital and labor in favor of the former. This article explores whether the 30-year cycle of the neo-corporatist Sisyphus, postulated by Jürgen Grote and myself, will be revived by this crisis—or whether it can be safely exorcised from political practice and academic debate.

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1 Prologue

Gerhard Lehbruch and I came together over the concept of corporatism and both of us have remained attached to it ever since, even though we defined it differently. For Gerhard it was a mode of policy-making; for me, it was a way of organizing interests. We resolved this difference by hypothesizing that the two were causally related: a viable system of regular consensual bargaining between capital and labor (social concertation) required a particular organizational structure (neo-corporatism). It is, therefore, fitting that in remembrance of our long-lasting collaboration and friendship, I attempt to assess the fate of this relationship in the context of the present economic crisis.

Despite a much less favorable context, neo-corporatism and social concertation did not completely disappear from the practice of European interest politics after the 1970s (Kenworthy 2003; Visser 2009). In a few countries, e.g., Austria, Finland, and Norway, the former survived at the macro-level but only by shifting a good deal of the latter to the meso-level of economic sectors and even by permitting micro-level bargaining at the level of individual firms (Traxler 1995; Crouch 2005). Both also required increasingly direct intervention by state authorities, either to reach agreements or to ensure their implementation (Traxler et al. 2001). The most frequent and persistent form of neo-corporatism-*cum*-social concertation in Europe came to rest on so-called “pattern bargaining” whereby organizations representing one industrial sector (usually metal-working) reached an agreement on wages and other issues and this was then generalized from sector-to-sector to cover almost the entire economy—without any need for a formal national accord. Germany, Greece and Switzerland have long had such a system; Denmark and Sweden moved in that direction during the 1980s and 1990s. Spain and Portugal practiced it more erratically, reflecting no doubt broader political calculations stemming from their recent democratization (Royo 2002). In one case, Ireland, macro-concertation made its first appearance during this period—despite the absence of ‘appropriate’ organizational structures (Hardiman 2002) and in the Netherlands it re-emerged after an absence of over 20 years, but soon shifted downward to the meso-level (Visser and Hemerijck 1997). Many advanced capitalist economies have proven immune to this temptation, much to the delight to neo-liberal economists who persisted in asserting their belief in the superior performance of pluralist systems or, even better, in systems where no collective bargaining at all took place. Australia, Canada, New Zealand, the United Kingdom, and the United States are prominent examples, although the first experienced brief bouts of national social pacting in the 1980s. France’s system of bargaining was consistently pluralist during this period, but only due to a heavy dose of direct state intervention in the process. Italy stands out as the most extreme example of a national economy that tried almost every conceivable variety of interest intermediation—from coordinated national pact-making to completely uncoordinated sectoral agreements—without institutionalizing any one of them successfully.

In a previous article, Jürgen Grote and I argued that the practice of neo-corporatism and social concertation had been following a Sisyphian pattern

since the last third of the nineteenth century with roughly 20–25 years between its peaks and troughs—although we were not able to come up with a convincing hypothesis to explain this periodicity (Schmitter and Grote 1997). In most cases, the inversion of trend was triggered by the resistance or outright defection of capitalists, but why this should be the case remains a mystery (at least, to me). One might consider invoking the impact of so-called Kondratiev Waves with their 50 year cycles, but their very existence is controversial and their causality with regard to the behavior of capitalists is even more mysterious.

The great novelty is that, since the 1980s, social concertation has been taking place without the presumed covariance between *organizational structures* that were hierarchical, monopolistic and broadly encompassing and *policy-making structures* that involved officially sanctioned but nonetheless private actors in producing and implementing a variety of “social pacts” (Fajertag and Pochet 1997; Rhodes 1998; Hassell 2003). This unanticipated disjuncture had two effects: (1) It opened up the possibility for neo-corporatism/social concertation in countries whose structures of organized interest previously seemed inappropriate (*viz.* Italy, Spain, Portugal and Ireland); and (2) It opened up the possibility for concerted policy making in issue arenas that are dominated by pluralist interest associations—even very weak and dispersed ones (*viz.* consumer protection, environmental standards, health insurance and public safety). Ergo, the sites and instances of policy concertation over the past 30 years—including those involving capital and labor—have probably not declined in number (but they may have become much less binding in nature and more specialized in content). And they have even increased to cover new policy issues (where actors may be quite differently organized, if barely organized at all).

The following hypotheses might help to explain this puzzling disjuncture between organizational structure and decision-making process that was so central to initial speculation about neo-corporatism:

1. Associations representing the interests of business and workers have become increasingly “divorced” or, at least, “dissociated” from their respective ‘friendly’ political parties, along with considerable convergence in the appeals and programs of these parties which has resulted in an abandonment of the commitment to full employment by Leftist or Social-Democratic parties.
2. Globalization has had a disruptive impact upon the ‘balance of class forces’ between Capital and Labor and this has inhibited both the need for and the willingness of the former to engage in mutually concerted policy-making.
3. The ideological hegemony of “neo-liberalism” and the (alleged) greater success of “Liberal Market Economies” have provoked a process of convergence among “Coordinated Market Economies” (Hall and Soskice 2001) where neo-corporatist practices were most firmly entrenched and this—along with the prescriptions of international financial and trade organizations (IMF, IBRD, WTO, etc.)—has discredited these practices, as well as the Keynesian paradigm that had previously justified the need for them.
4. European integration and its imposition of an additional layer of policy making upon its member states has contributed to “embedding” liberal economic

policies at the supra-national level and this was extended even further by European Monetary Unification and the autonomous powers arrogated to the European Central Bank.

5. The decline in working class collective identity and in the distinctively 'solidaristic' demands that this implies is due to individuation in the nature of workplace—combined with the growth of service sector employment where class relations are more fragmented and ambiguous.
6. The rise in the relative importance of public employment has given its representatives a privileged status within a generally shrinking trade union movement at the expense of manual working class organizations that were more inclined to favor concertation arrangements.
7. Contemporary liberal democracies have witnessed the emergence of new lines of political cleavage around issues that cut across and, hence, divide the previously overriding cleavage between Capital and Labor, e.g., environmental protection, gender equality, gay rights, e cosi via.
8. Political militants, especially youths, have shifted in their effort and attention from 'orthodox' channels of partisan and associational representation to social movements—many of which have no stable organizational connection with either parties or interest associations.
9. Countries have to engage in greater competition with each other in order to attract foreign direct investment and this has undermined the rights of workers to collective representation and their potential for disrupting production which in turn has led to a decline in the power of trade unions and the attractiveness for capitalists of compromising with them.
10. Trade liberalization on a global scale—especially when extended to China and other low wage countries—has diminished inflationary pressures, even under conditions of full employment, and this makes containing wage pressures a much less salient issue than in the past for neo-corporatism.
11. An aging population has meant that more and more trade union members are retired and, hence, less concerned with pressing current demands for wages and working conditions than with protecting future welfare benefits, and that lies more in the domain of state policy-making than that of social concertation.
12. The trend toward increasing the political independence of national central banks and, especially, the European Central Bank has deprived policy concertation of one of its most flexible mechanisms, i.e., the ability to make side-payments in social and/or fiscal policy in exchange for wage and working condition concessions.
13. The shift in substantive content from moderating wage demands and lowering inflation to improving international competitiveness by lowering non-wage costs and containing welfare spending has also detracted from the appeal of 'orthodox' concertation arrangements.

Whatever the validity of each of these hypotheses, there is not a single one of them that is not welcome from the perspective of business interests and the associations that defend them. Since one of the guiding hypotheses about

neo-corporatism is that historically such a bargaining arrangement between organized capital and labor depended on something approximating a “balance of class forces,” and since this is manifestly no longer the case, how is one to explain its persistence? The answer, we shall see, may be that “by changing, it remains the same”—to paraphrase de Lampedusa.

So, *pur si mouve!* Neo-corporatism and social concertation have not completely disappeared from the policy process, even as practiced between consenting adults representing capital and labor at the macro-level of aggregation in Europe. According to a recent systematic survey by Lucio Baccaro (2007), it has actually been on the increase since 1975. Seen from the perspective of advocacy, 10 of the then 15 EU + Norway governments called for some version of it in 1975 and 14 were doing so by 2000 (although the number fell back to 11 by 2003). Seen from the perspective of actual practice, 8 were using some version of it for purposes of negotiating either salaries or welfare issues in 1975 and 11 were doing so by 2000 (again, with a subsequent decline to 9 by 2003). One might have predicted that this inflection would have continued and might even have accelerated after the crisis struck in 2008; however, more recent data that extend to 2010 (Visser 2009; Alonso 2013: 37) actually show a modest recovery after 2003 with a peak in 2008.

Presumably, however, every time it was practiced during this period from 1975 to 2003, organized capital was a voluntary participant, since no one has invented a way to apply it without its consent. Australia tried to do so in the early 1980s, but this collapsed rather quickly. Inversely, Japan has been quietly, protractedly and more-or-less effectively been accomplishing this without the participation of labor.

Why this should be the case when there are so many good reasons why organized business interests should have rejected neo-corporatism or social concertation in any form and at any level is puzzling. “Path dependence” is currently the most fashionable explanation for the persistence of such apparently irrational or improbable outcomes. Actors persist in their practices simply out of habit or because the short-term costs of changing them outweigh the longer-term benefits. It seems unlikely, however, that unsentimental marginalist calculators like business executives would remain in such constraining arrangements unless they generated demonstrable and immediate comparative advantage over their more pluralist competitors. As noted above, neo-corporatism at the national level after World War II until the late 1970s was associated with key aspects of economic performance in the advanced capitalist democracies of the OECD: greater ruliness of the citizenry, lower strike rates, more balanced budgets, high fiscal effectiveness, lower rates of inflation, less unemployment, less income inequality, less instability at the level of political elites and less of a tendency to exploit the “political business cycle” (but not higher growth rates)—all of which suggested that countries scoring high on this property were more governable and, hence, attractive in terms of long-term investment in material goods and human capital (Schmitter 1981).¹

¹ Which is why a recent article by Barbara Vis et al. (2012) that uses an aggregate indicator of economic performance that includes economic growth and concludes that, more recently, there has

Econometricians such as Calmfors and Driffill (1988) even concluded that countries with “corporatist bargaining structures” were as capable of economic success as those following more orthodox neo-liberal and pluralist practices.

Largely on the strength of that endorsement, a substantial literature on “varieties of capitalism” emerged in which well-entrenched neo-corporatist structures and concerted bargaining were considered an integral part of a set of institutions labeled as “coordinated market economies” by Hall and Soskice (2001) that performed comparatively as well as their polar opposite: “liberal market economies.” The defining characteristics of each variety of capitalism have tended to vary from author-to-author, but have included such other institutions as corporate governance, equity markets, regulatory mechanisms and even vocational training systems. This approach tends to deny any particular salience or significance to the system of interest intermediation. Moreover, it comes accompanied with the hypothesis that whether it is pluralist or corporatist, its contribution to performance depends on its “complementarity” with the other institutions. ‘Hybrid’ varieties that combined neo-corporatist bargaining with the wrong type of corporate governance arrangements are presumed to be less successful.

Subsequent econometric studies with more recent data have called into question some of the “benevolent” findings regarding the impact of neo-corporatism alone (Crepaz 1993; Traxler 2000), even in its heartland of small European social democracies (Woldendorp 1997). No one has ever been able to show that neo-corporatist systems have been correlated with persistently higher rates of economic growth. In the turbulent times at the end of the 1990s and the beginning of this century, as we have noted above, policy concertation between social classes, sectors and professions shifted away from the contention of wage costs and reduction in inflationary pressures toward such matters as improving productivity, encouraging worker flexibility and reforming welfare systems. At least one major study has concluded that its impact has been disappointing in these policy arenas—unless backed up with the coercive intervention of state authority (Brandl and Traxler 2005). The previous assumption that such agreements between business and labor could be voluntarily enforced by the private contracting ‘social partners’ was shown to be much more dubious under the new conditions of enhanced global competition.

With the dramatic crash of late 2008, the conditions that have previously promoted or impeded neo-corporatism, tripartism, policy concertation, social pacting, systems of political exchange or whatever it should be called, have radically altered. After years of decline in the balance of forces between capital and labor in favor of the former, the terms of encounter are no longer the same. The ideological hegemony of business interests has been seriously undermined by the collapsed credibility of neo-liberalism, as well as by the revelations of fraud and misconduct by financial interests. Materially speaking, many enterprises have been

been no significant difference between corporatist and pluralist systems of interest intermediation may be beside the point.

devastated in their balance sheets and recovery to profitability—except for those that are not tied to domestic markets and depend heavily on the export of high quality products. Recovery in these sectors most “exposed” to global competition may require the cooperation of a skilled (but still unionized) labor force that is willing to accept wage increases and other benefits inferior to the increase in productivity. Moreover, the sooner consumer demand recovers and order books fill quickly, then, regular negotiations between employers’ associations and trade unions are likely to follow in many European countries, although admittedly given previous trends, this could be satisfied at the meso-level of industrial sectors or even, in those cases where unions have been especially weakened, at the micro-level of individual enterprises. ‘Classical’ macro-corporatist agreements covering the entire economy would not have much to offer—and it is difficult to imagine a scenario under which re-juvenated labor confederations coupled with triumphant Social Democratic political parties would be in a position to impose them. It is even dubious that they would have a joint interest in doing so.

The initial reaction by state authorities to the financial crisis that exploded in 2008—even in governments dominated by conservative parties—demonstrates that they are not just disposed but anxious to intervene (previous ideological protestations to the contrary, notwithstanding). So far, their emergency measures have involved distributing massive welfare to capitalists and no concertation with labor at any visible level. At the beginning, there was simply not sufficient time for tripartite negotiations, but subsequently it has become by no means clear what solutions such negotiations would be capable of reaching and delivering. The organizations for collective action by both capital and labor have been weakened by internal divisions and virtually all consultation has been directly (and often clandestinely) between public monetary and budgetary authorities and large private firms. However, this unprecedented level of subsidization of the very enterprises whose decisions produced the present crisis has already begun to generate a popular backlash. It is not difficult to imagine a scenario in which governments—of whatever partisan composition—would eventually seek to divert this criticism by creating various forums for ‘social partnership’ rather than to have it spill over into the much less predictable arenas of partisan competition and legislative process. This combination of factors could well lead to yet another revival of neo-corporatism/social concertation, probably at the sectoral level and especially in small, relatively homogeneous and internationally vulnerable European countries. For those countries with larger, more heterogeneous and externally sheltered economies that have had no (or only unsuccessful) experience with such arrangements—and whose structures of organized interests tend to be much less centralized, monopolistic and comprehensive—this prospect is much less likely.

An added complication emerged when the initial financial crisis morphed into a fiscal crisis of national indebtedness and, then, into a crisis of the Euro. This is a sector of the economy that has usually been exempt from either neo-corporatist structures or social concertation. Monopolistic associations do usually exist for the representation of both capital and labor, but the component of the latter is relatively minor and masked by a considerable variety of contractual relations between

owners and employees. Where coordination and regulation did exist (and it had been declining radically under the impact of neo-liberal ideology), most of it seems to have taken place under the aegis of the largest private banks and financial institutions with the cooperation of compliant government agencies. The agents presumably in charge at both the national and supra-national levels, i.e., the national and European central banks, are expressly shielded from the explicit influence of organized interests and presumed to take their decisions purely on the basis of technical calculations. Hence, it should come as no surprise that neither neo-corporatism nor social concertation were brought to bear in response to the Euro-crisis—which is not to say that a great deal of negotiation did not take place more informally between capitalists and government officials.

By now (2014), the crisis seems to have diminished and may even have crested. But it is not yet over. The worst case scenario cannot be completely excluded. Momentary recession could turn into protracted depression with mass unemployment reaching levels attained in the 1930s and aggregate output taking more than a decade to recover. Political protest on a large scale could threaten governments and undermine the implicit social contract that connects capitalism and democracy. This was precisely the context in which the initial experiments with macro-corporatist bargaining emerged voluntarily in Denmark, Norway, Switzerland and Sweden during the late 1930s, but one should not forget that it was also the context in which state corporatist structures were imposed on the entire system of interest intermediation by authoritarian regimes in Italy, Portugal, Spain and most of Central Europe—not to mention in National Socialist Germany and its conquered states of Belgium, France and the Netherlands.

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The Crisis and Germany: The Trading State Unleashed

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Abstract

Based on interviews with the main German actors and on secondary sources, the article examines the recent development of the German political economy, and the German strategy vis-à-vis the Euro zone. Germany is a trading state whose economic growth is strongly export-led. Until the years 1990s, strong institutional rigidities, both in industrial relations and in the welfare state, contributed to reconcile export growth with household consumption, thus keeping the German “tiger” on a leash. From the early 1990s on, however, both industrial relations and social protections have been strongly liberalized, thus further stimulating external competitiveness and reducing the role of consumption in the German growth model. The unleashed trading state shapes the German response to the Euro crisis and the austerity policies that Germany imposes to Europe. These policies are strongly supported by political parties, social actors, and public opinion in Germany, and the likelihood that they change in the near future is minimal.

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1 Introduction¹

Having spent a considerable amount of time as the ‘sick man’ of Europe in the 1990s, by 2005, Germany again became a success story in economic terms. While unemployment increased from 5.5 % in 1991 to 11.3 % in 2005, it dropped to 5.5 % again in 2012 (Statistisches Bundesamt 2013: 349). Although the number of jobs in Germany barely changed in 2005 compared to 1991, this figure jumped an additional 7 % in 2012 (Statistisches Bundesamt 2013: 340), and the Real Gross Domestic Product also increased by 11 % between 2005 and 2012 (Statistisches Bundesamt 2013: 315). The bulk of this success can be traced back to high competitiveness, which allowed exports to grow dramatically. In nominal terms, exports increased by 35 % in 2012 when compared with 2005 (Statistisches Bundesamt 2013: 406). Germany’s exports had exceeded imports by about 20 % for many years (Statistisches Bundesamt 2012: 414, 2013) but after the 1990s, the difference between exports and import grew particularly strong (Fig. 1a).

Figure 1b–e depict this success story in a comparative perspective for the indicators employment, unemployment, growth and trade integration, measured as the sum of imports and exports in % GDP. The low values for imports and exports in % of GDP seem to contradict the notion of the trading state. However, many OECD countries are small nations that are strongly integrated into international markets, due in part to the size of their domestic markets. In 2012, about 37 % of all exports went to countries of the Eurozone, another 20 % to EU countries outside the Eurozone, 9 % to NAFTA-countries and 16 % to Asia. In order to allow for long-term comparisons with Germany, we limit the group of countries to mature OECD-democracies in the late 1980s.² The group includes Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom, and the USA. If not otherwise indicated, the source is Armingeon et al. (2013).

Germany’s competitiveness and success is a problem for its competitors within and outside of the Eurozone. Officially, however, the German government does not see a problem, arguing that Germany has done its ‘homework’ in revitalizing its economy and implementing various reforms—major examples being the debt brake and Schroeder’s Agenda 2010 with its Hartz reforms. Now other countries must do

¹This paper builds on interviews with representatives of political parties and interest groups, which we conducted in the fall of 2012. We thank our interview partners for their time, support and patience. The paper draws heavily on an article by Baccaro and Benassi (2013), which develops and modifies the argument about the liberalization of industrial relations and its economic consequences. We are grateful to Fritz W. Scharpf, Wolfgang Schroeder and Rüdiger Schmitt-Beck for comments, support and encouragement. Baccaro thanks the Hans-Böckler-Stiftung for covering his travel costs.

²Replicating the graphical analyses with the countries of Western Europe or the members of the Eurozone in Western Europe does not alter the conclusions. For the sake of clarity, we therefore restrict the comparison to Germany and these mature democracies of the OECD.

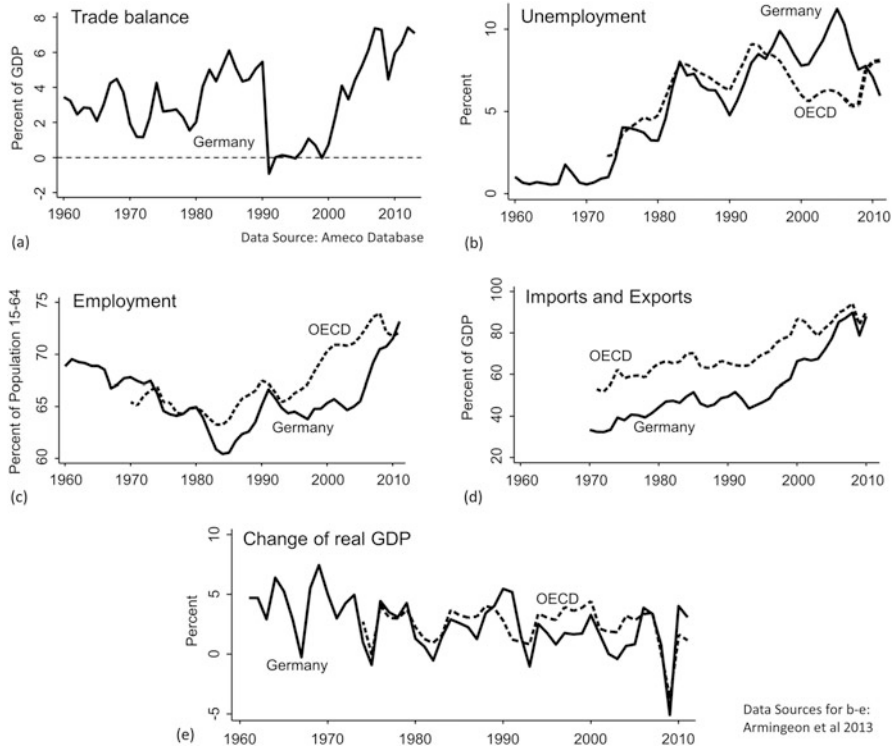


Fig. 1 Germany’s success in a comparative perspective

their ‘homework’ as well. There is no reason for pessimism in the Eurozone if these countries succeed in structural reforms and thereby narrow their competitiveness gap in relation to Germany (<http://www.youtube.com/watch?v=6JWWpLOtjHc>, accessed on January 15, 2014). The German government expects that other countries in the Eurozone will converge rapidly towards the German standard, both with regard to industrial structures and productivity as well as in terms of prudent fiscal policies and efficient containment of public debt.

Given the vastly different industrial structures and economic potential of the Eurozone countries as well as the lack of convergence during the past two decades, it is highly unlikely that these expectations will be met. This being the case, the German success strategy could be self-defeating. Other Euro-countries have to finance their imports—from Germany and other nations—with increasing debts and deficits that, in turn, require bailout activities by successful Eurozone members such as Germany. If these fiscal transfers are not sufficiently large, the Euro project could fail. Germany would have to return to its former currency or a Northern Euro, which would be an extremely strong currency comparable to the Swiss franc. Doing so would however endanger Germany’s export success with skyrocketing relative prices for German products.

How do German political elites cope with the problems of being dependent on the stability of the Eurozone while, at the same time, contributing to its destabilization? This is our guiding question.

We argue that Germany has shifted from a redistributive trading state to a trading state that unleashed its economic potential by removing tempering institutions in the field of industrial relations and labour market policy. This was a major reason for its export-led growth since the early 2000s, which had detrimental consequences for the stability of the Eurozone. However, in responding to the Euro-crisis, it framed the problem in line with its ordoliberal stability culture (Fleckenstein 2012, 2013), which identified the fiscal profligacy of countries such as Greece as major problems. From this perspective, the adequate reaction was austerity and liberalization of the markets. In the short run, this policy serves German interests; over the long run, however, it could be self-defeating. The current policy of ad hoc measures combined with the demand for austerity and liberalization is a strategy of muddling through with respect to both the requirements of domestic politics and interest constellations, as well as the minimal requirements for the survival of the Eurozone. There are no feasible alternatives or majorities to deviate from this course.

This article is organized into three sections. The first section describes the structure of the tamed trading state as it existed in the 1980s, prior to reunification and the Euro project. The second section deals with the changes since 1990, which eroded the institutions of the tamed trading state in industrial relations and labor market policy. Section 3 looks at the unfeasibility of alternative strategies.

2 The Tamed Trading State

After WWII, Germany followed an atypical international strategy for a big country. In large countries, the domestic market is usually so large that the share of exports and imports in gross domestic product is comparatively small (Dahl and Tufte 1973), while the sheer size of the nation makes it an important player in international relations. In contrast, the German government could not and did not want to play an active and leading role in international relations due to its past experiences and the constraints facing a country under the supervision of the allied powers.

German firms, on the other hand, were strongly export-oriented. They were specialised in highly skilled industrial production based on vocational training, continual skill advancement of workers based on cooperation, coordination and industrial peace. Germany became a trading state that avoided political leadership in the international arena and instead focused its international relations on trade and the expansion of the world economy (Rosecrance 1986). The government resolutely supported a strategy of export-led growth based on an ordoliberal strategy (Young 2013) that set a legal framework in which markets could work efficiently and establish a generous welfare state, a working (anti-trust) competition policy, sound public finances and a monetary regime with an independent central bank preoccupied with price stability (Katzenstein 1987, Chap. 2). This resulted in a

comparatively high share of exports and imports (as % of GDP) for a large country and a balance of trade that was almost always positive, with the exceptions being 1991, 1995 and 1999 (see Fig. 1).

The positive current balance was a problem, in particular the balance of trade. This was explicitly addressed in economic policy and implicitly addressed in the system of industrial relations and social policy. In 1966, the government, which was comprised of the Christian-Democratic and Liberal parties, parties that had governed for almost the entire post-war period, was replaced by a Grand Coalition of Social Democrats and Christian Democrats. While this change in power did not lead to the end of German ordoliberalism, a strong Keynesian element was temporarily introduced. The new government tried to have a stronger and more active grip on the economy. It introduced a law for the promotion of the stability and growth of the economy (1967), which established a set of macro-economic goals to guide German economic policy (reprinted in Katzenstein 1987: 110–112).

The four goals consisted of: (1) the promotion of a stable price level, (2) high employment, (3) a balance of foreign payments consistent with (4) steady and reasonable growth of the economy. Economic policy had to respect these goals. However, by the mid-to-late 1970s, after the failure of Keynesian steering (Scharpf 1991), governmental economic policy returned to the previous ordoliberal mixture of policy instruments with an emphasis on price stability and sound public finances.

The co-operative system of industrial relations was of particular importance. German trade unions endorsed a strategy of social partnership (Sozialpartnerschaft). It differs clearly from the conflictual systems in Anglo-Saxon countries or the highly ideologically-driven union strategies in Italy or France. While the trade unions never succeeded in organising a large share of the workforce, such as in Belgium or in the Nordic countries, they did enjoy important institutional guarantees. The system of work councillors (Betriebsräte) and co-determination (Mitbestimmung) facilitated a union presence on the shop floor level and established a strong role for these mostly unionized work councillors and board members in the day-to-day running of German firms. Although some tensions arose in the 1970s among workers (Bergmann et al. 1976), trade unions pursued 'Sozialpartnerschaft' for most of the post-war period, some periods of conflict and industrial action notwithstanding.

In addition, during the interlude of Keynesian steering, the government attempted to establish wage coordination on the macro-level with the so-called 'Concerted Action', an informal meeting of union leaders, employer representatives and government (Lehmbruch 1999). The cooperative mode of regulating class conflict was of course conditional on co-operation by employers and their organizations. This co-operation was practiced at least until the 1990s. Concerted Action resulted in the broad coverage of collective agreements, a large number of generally binding (extended) collective agreements, a moderate to low level of industrial conflict and a moderate wage policy. The guiding formula was 'distribution-neutral wage setting', that is, wages should increase at the same pace as general inflation plus productivity of the entire economy. Wage rounds were strongly co-ordinated between sectors of the economy.

Some unions were ‘wage leaders’—usually IG Metall—setting a norm that was generally accepted with few modifications in other sectors. These collective agreements were then further adapted to the firm-specific situation by additional wage increases. Here the trade union representatives—work councillors and shop stewards (Vertrauensleute)—played an important role. This wage drift worked as a safety valve for intra-class conflicts over relative wages, which relieved pressure in the system of collective agreements whenever the compression of wages went too far in the eyes of workers. The interplay of co-ordinated sectoral agreements with firm level bargaining created a semi-flexible system with rigid collective agreements for large sectors (Flächentarifvertrag), thereby binding most firms in this sector and guaranteeing a minimum wage topped up with firm-specific wage additions.

The wage-setting system constrained wage differences between sectors and set a cap on wage changes in both directions. It thus hindered redistributive policies in favor of the employers or the employees. Firms producing for the world market therefore had to cope with a relatively high and inflexible wage share, and their most promising strategy was a high-productivity production with a highly-skilled workforce under conditions of industrial peace. Low-productivity firms operating on the domestic market had a strong incentive to increase productivity by technological innovation.

Finally, the German welfare state expanded considerably after World War II. Both leading national political parties—Christian Democrats and Social Democrats—supported a generous welfare state. Its basic foundations were contribution-based financing (in contrast to the tax-based Scandinavian system), a conservative emphasis on the family (originally with a single breadwinner) and a generous level of benefits. Job security was established by the system of work councillors, who have a say in decisions on hiring and firing and restrictive employment protection legislation. If employees were laid off, they enjoyed a high level of benefits that were paid for a relatively long period. Employers faced considerable hurdles in pursuing hire-and fire policies in reaction to short-term business fluctuations. Unemployed workers were not forced to accept any job offer with wages far below the previous wage level thanks to high wage replacement rates for long periods.

On the one hand, the German economy was clearly export-oriented and very competitive; on the other hand, this competitiveness was considerably constrained. Germany was an economically-open social market economy with a redistributive system of industrial relations and a generous welfare state that provided social security against the risks of the industrial society, in particular for the cases of sickness, unemployment and old age.

3 Unleashing the Trading State

The institutions that tamed the trading state had been under pressure for a long time. Arguably, capital mobility is one of the major determinants of the room of maneuver a national system of industrial relations has. Under conditions of liberalized capital markets, any expansionary fiscal policy or increase of wage shares can be penalized by capital flight. Between the 1970s and 1990s, Germany set itself apart from other OECD nations with its very open capital markets. This however changed dramatically in the years following 1990, when other countries liberalized their capital market too, thereby offering German capital additional opportunities for leaving the country (see the indicator by Chinn and Ito at http://web.pdx.edu/~ito/Chinn-Ito_website.htm, last accessed on May 21, 2012).

The globalizing economy affected the style of collective bargaining. The ‘Flächentarifvertrag’—the application of coordinated tariff wages—was increasingly criticized by many employers who either left the business associations or settled for membership without being forced to abide by the collective agreement reached between trade unions and the respective business association. Germany once had coverage rates of collective agreements well above the 80 % level. This rate has declined dramatically since the 1990s, reaching a level of about 60 % in 2010. In contrast, coverage rates in other OECD have not exhibited downward trends, remaining more or less the same with an average coverage rate of around 55 % (Visser 2011). There is little doubt that the ‘Flächentarifvertrag’ has been modified substantially due to both employers’ reluctance to enter agreements and various modifications which have led to flexibilisation (Baccaro and Benassi 2013).

Closely connected to the declining coverage of collective agreements is the declining union density. In the OECD nations, the decline of union density generally started in the 1980s. In Germany, union density has decreased since the 1980s, albeit at a much slower pace than in the average OECD country. This however changed after 1990 and following a temporary spike in union density directly after German reunification due to the transfer of members of the former United Union of the GDR to the Deutsche Gewerkschaftsbund and its member organizations in the 1990s (Fig. 2).

A similar finding is revealed when analyzing industrial actions. During the entire post-war period, Germany had been a role model of ‘social partnership’, using strikes only as ‘ultima ratio’. Up until the mid-1980s, there were a few years with large strike figures; by the mid-1980s, this short-term surge in strikes had disappeared in Germany. The former temporary and moderate industrial conflict has all but withered away in Germany, and, as the graph below illustrates, Germany is by no means exceptional in this regard. Not only have trade unions lost members and much of their former capabilities to settle working conditions for the majority of employees, they have also become unwilling or unable to pursue offensive wage policies to the same extent as they had previously.

All these developments may have contributed to the trade unions’ moderate wage policy (Sachverständigenrat zur Begutachtung der wirtschaftlichen Lage 2013: 87, 497), which created favorable conditions for German firms in

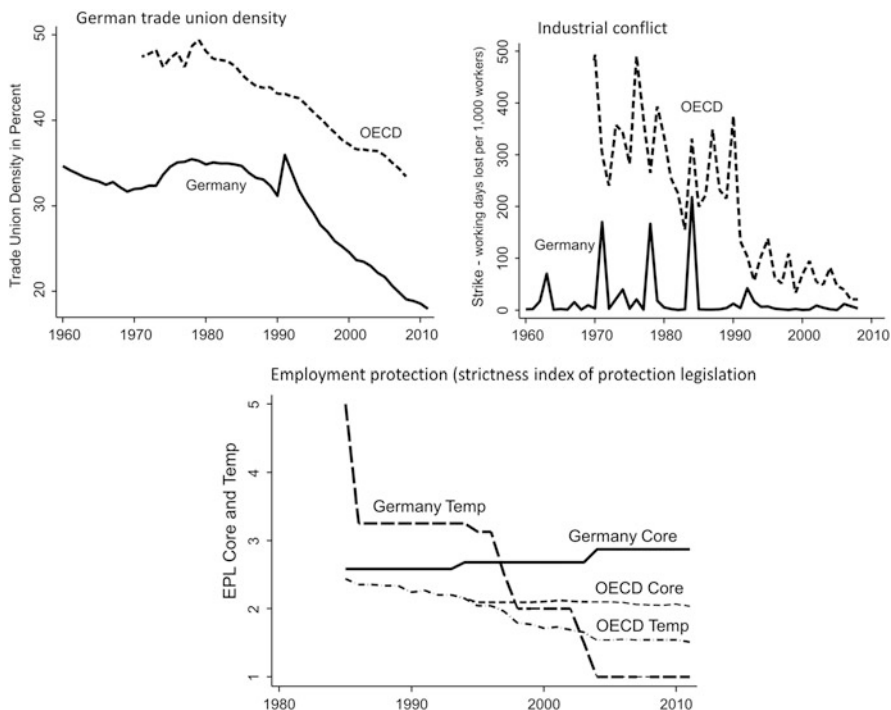


Fig. 2 Industrial relations in a comparative perspective

international markets. While these developments apply to all groups of the labor market, only two far-reaching reforms concerned the marginalized work force directly: the radical liberalization of employment protection for workers with temporary work contracts and the liberalization of unemployment compensation for the long-term unemployed.

Figure 2 depicts the development of employment protection legislation (EPL) for workers with regular work contracts and for workers with temporary contracts. The higher the value, the stricter the regulation of individual dismissals will be. The strictness index of EPL for workers with regular contracts has declined on average from 2.3 to 2.0 over the last 25 years in mature OECD democracies. German workers with unlimited contracts enjoy much better employment protection, which even increased slightly in the past years. In contrast, while workers in the 1980s with temporary contracts were extremely well sheltered, by 2010, the situation had changed completely.

The second major change had to do with the system of unemployment compensation. The Hartz reforms of 2003–2005 dramatically reduced the compensation for the long-term unemployed. In contrast, workers who are only unemployed for a short period continue to receive generous unemployment compensation. The basic idea of the Hartz reforms can be traced back to a liberal vision of ‘workfare’, wherein the long-term unemployed have strong incentives to re-enter the labor

Table 1 Non-employment benefits (for an average worker with two children and one earner), measured as a % of average wage

| Year | Germany | Median OECD-countries | Median EU-countries |
|---|---------|-----------------------|---------------------|
| <i>Immediately after loss of job</i> | | | |
| 2011 | 70 | 64 | 66 |
| 2001 | 70 | 64 | 66 |
| <i>Long-term unemployed</i> | | | |
| 2011 | 39 | 9 | 10 |
| 2001 | 62 | 12 | 12 |
| <i>Average of 5 years of unemployment</i> | | | |
| 2011 | 50 | 33 | 34 |
| 2001 | 64 | 41 | 42 |

Note: Median of all OCED and EU countries, i.e., including Central and Eastern European countries

Source: <http://www.oecd.org/els/benefitsandwagesstatistics.htm>, downloaded on 2012-12-11

market when conditions are significantly worse than compared to the last period of employment (Fleckenstein 2012, 2013; Hassel 2012). There is no question that the Hartz reforms signify a particularly severe liberalization of labor market policy. Table 1 shows the worsening situation of the long-term unemployed in Germany between 2001 and 2011, in particular as compared to core workers. On the other hand, even after Hartz IV, the long-term unemployed in Germany are much better off in comparison to the median in the OECD or the EU.

Over the course of German labor market reforms up until 2000, policy change was strongly coordinated between employers, unions and the government. In contrast, actors in government and parliament almost exclusively executed the Hartz liberalization of the labor market, while interest organizations, in particular the trade unions, participated only at the margins in designing and implementing the ‘Agenda 2010’ of the social democratic-green government (Trampusch 2009).

When we interviewed representatives of the labor market parties in the fall of 2012, we repeatedly heard the argument that these reforms also had signaling effects for the core work force (Interviews NGG, ver.di). ‘Hartz IV’ made clear that the generous German welfare state could be reformed and that although the reforms began at the margins, the core of the welfare state and its clientele could very well become the targets of reform over the long-term as well.

It is worth noting that these harsh reforms concerned only a relatively small segment of the workforce. In 2012, the German labor force totaled about 42 million with around one million long-term unemployed (persons on unemployment for at least 12 months and thus eligible for Arbeitslosengeld II, also known as Hartz IV).

These reforms, together with the liberalization of marginal employment, have changed the employment structure of Germany. Anke Hassel concludes her survey of German labor market reforms as follows: “Overall, the experience is therefore mixed. More employment is combined with low pay and insecure employment” (Hassel 2014: 70).

This situation not only concerns marginal workers, but also sends a signal to the core workers. It may explain, for example, why trade unions (even in sectors with high density and a large share of core workers) were unable to prevent a declining wage share. Income inequality and the share of people at risk of poverty has increased. The Gini coefficient increased from 26.1 in 2005 to 28.3 in 2012; across the EU-15 the increase was from 30.0 (2005) to 30.4 (2012). Likewise, in the EU-15, the share of people at risk of poverty was 23.1% (2012) as compared to 21.6% (2005). The level of poverty in Germany, however, remains much lower: 19.6% in 2012 and 18.4% in 2005. The ratio of the top 20% of incomes to the bottom 20% of incomes grew from 3.8 (2005) to 4.3 (2012), while comparable data for the EU-15 show a more modest rise from 4.8 to 4.9.³

These developments did not, however, indicate that the Germany society and economy had undergone a transformative change. Significant changes concerned some elements of the system of industrial relations and labor market policy, where massive liberalization occurred. But these reforms had no significant effect on other elements of the system of labor relations, in particular the works constitution act (Betriebsverfassung) and the system of co-determination (Mitbestimmung). Both institutions comprise the backbone of trade union power on the firm level. Likewise and even more important, the German welfare state has not been dismantled.

Figure 3 shows the development of total social security expenditures in Germany (in % of GDP) and the average in OECD democracies (mature OECD democracies from the 1989 country group; see footnote 2). While Germany pursued a partial liberalization, it maintained its core of the welfare state principles, which concerns, in particular, the elderly and the sick (Schmidt 2012, 2013). And, as shown above, in terms of income inequality and poverty, even after 2005 the situation is much better in Germany when compared with the average EU-country.

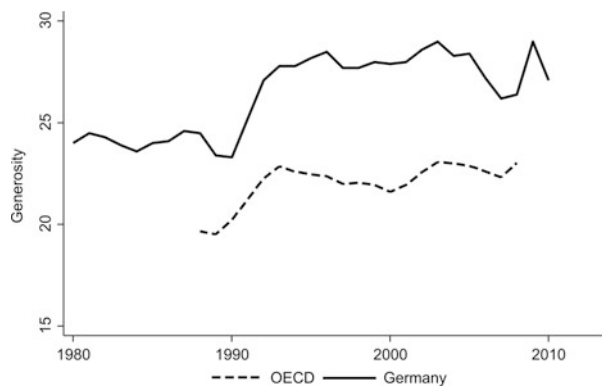


Fig. 3 Generosity of the welfare state in Germany and in the OECD

³ Data are from Eurostat. <http://ec.europa.eu/eurostat/web/income-and-living-conditions/data/data-base>, last downloaded on 2015/04/10. http://epp.eurostat.ec.europa.eu/portal/page/portal/income_social_inclusion_living_conditions/data/main_tables, last downloaded on 2014/01/15.

In sum, the liberalization of industrial relations, employment protection and social security of the marginal workforce, together with the moderate and flexible trade union wage, have arguably contributed to increased competitiveness. Institutions that used to tame the German trading state have been partially dismantled. A large share of the costs of these reforms have been shouldered by the employees, and in particular by the rising numbers of employees who do not belong to the core of the labor market, due to temporary work contracts or their particular vulnerability to long-term unemployment.

4 The Politics of Coping with the Effects of the Unleashed Trading State

Germany, as a traditional export-oriented economy, benefitted from the opportunities created by the EU's internal market, in particular during the past decade when the German economy unleashed its economic potential by modifying its labor market institutions. In addition, Germany also benefitted from its reputation as a competitive and vibrant economy when financing its sovereign debt. Since the mid-1970s, the spread between Germany's long-term interest rates on government bonds and the rates in other OECD and EU countries has been quite large. After reaching a maximum value in the mid-1980s, the average spread between Germany's and the national interest rate in the Eurozone receded and approached 0 by the mid-2000s; thereafter it rose again to 3 %. The average spread between the OECD countries and Germany was 2 % during this period (see Fig. 4). The positive evaluation of the German economy by international financial markets considerably reduced the costs of servicing Germany's sovereign debt.

How did German political elites deal with the challenges associated with aggravation of the currency union brought on by the success of their reforms in relation to national industrial relations and labor market policy? The problems of a monetary union in a non-optimal currency region have been well-documented since the beginning of the Euro project. For those economists and social scientists who



Fig. 4 The spread between Germany's interest rates on long-term government bonds and the interest rates in the OECD and Eurozone countries (average interest rate of the respective country group minus Germany's interest rate)

have pointed to the risks of the project, it came as no surprise that under external shock, problems related to the absence of adjustment mechanisms materialized, i.e., that weakly performing countries could not devalue their currency and were therefore forced to undertake internal devaluation (Armingeon and Baccaro 2012).

However, major political party elites preferred a different framing of the problem: fiscal profligacy and unsustainable welfare states caused the fiscal crisis in the Mediterranean states. The Euro project continued to be perceived as one without major flaws; the problems were rather with the national political economies.

Using this frame, the German government asked for tough austerity measures and far-reaching structural reforms to bring the countries back onto a growth path. This frame was upheld, even after the IMF wondered about the economic wisdom of long-term pro-cyclical fiscal policy and after austerity failed to lead to growth and rising employment, but rather led to rising unemployment, debts and interest rates on the government bonds of the southern European countries. The Chancellor and her government argued that structural reforms and austerity had worked in Germany since the turn of the century; these reform processes needed to be replicated by the governments in southern Europe (Interview with the Ministry of Finance).

The argument that Germany's economic success and its extremely positive trade balance was increasing pressure on the Eurozone was clearly rejected. One argument pointed to the fact that only about 40 % of exports go to Eurozone countries—this point was also underscored by employers.⁴ Another argument stressed that instead of reducing Germany's capacities to the level of other countries, these countries should do everything they could to quickly conform to the German standards (Interview with the CDU). This request assumes that what could not be reached during the past 10 years of relative stability and favorable circumstances could now be done within a few months or years under extremely bad economic and social conditions.

These hopes of convergence are also built on institutional reforms of fiscal policy such as the strengthening of the Stability and Growth Pact and the Fiscal Compact. They limit the room for maneuvering fiscal policy, in particular fiscal profligacy. By exporting the German 'debt brake' to the EU member states, they force a reduction of excessive debts—which will be very difficult if economic growth is depressed by austerity policies.

The way in which the German government framed the problem was highly inappropriate. While fiscal profligacy applied to Greece, this was not the case for the other countries in trouble. In fact, the fiscal position of Spain or Ireland immediately before the onset of the crisis was much better than Germany's (Armingeon and Baccaro 2012; Scharpf 2011).

Invoking the notion of 'lazy Greeks' and that good member states such as Germany are not liable for the shortcoming and debts of 'bad' member states

⁴ Leaflet published by the Bundesvereinigung der Deutschen Arbeitgeberverbände, April 2013: 'Germany's export strength—bad for Europe?'

(Schmidt 2014: 204), the German chancellor applied economic ideas and preferences that had been influential for previous German economic policy.⁵ It reflected the basic conviction held by a large majority of Germans that the German interwar catastrophe of inflation and unsound public finances cannot be allowed to repeat itself (Schmidt 1986). This German ‘stability culture’ is not only explicitly supported by the chancellor and her party, but also, albeit not explicitly, by the Social Democrats. At the core of this stability culture, we find inflation aversion and a high degree of trust in inflation-inhibiting institutions. Jacques Delors once phrased it as ‘not all Germans believe in God, but they all believe in the Bundesbank’ (Howarth and Rommerskirchen 2013, for the quote of Delors see page 752).

Insisting that the problem was with other countries rather than with the structural setup of the currency union or the imbalances created by the Eurozone, to which the German economy has contributed, the German government efficiently pursued its interests in short-term stabilization of the Eurozone by allowing German export-led growth to continue. The obvious problem with this approach is that, in the medium-to-long term, this will once again contribute to similar imbalances that need to be solved by similar ad hoc measures and support. Muddling through in pursuit of the interests of the German economy therefore appears to be the preferred strategy.

The alternatives to this problem framing and policy responses are difficult to realize in the German context. Returning to the former European Monetary System, i.e., the Deutsche Mark, would imply considerable risks for the German economy. There is no majority among politicians and the electorate who would be willing to take that risk. Another alternative would be to create a permanent fiscal transfer union, which would imply substantial redistribution across the regions. It would start with the view that the Eurozone is a non-optimal currency region and needs permanent transfers between member states in order to correct for the imbalances. Germany has extensive experience with such transfer systems, as it lent long term support to structurally-weak economic regions bordering the former German Democratic Republic, had a major flow of resources between the states (Bundesländer) with varying levels of economic performance and, after unification, established considerable transfers to the new Eastern ‘Bundesländer’. These transfer systems were backed by an electorate that felt some national identity and hence the duty for solidarity.

In contrast, the European identity in Germany (and other EU countries) seems much too weak (Scheuer and Schmitt 2009) to legitimize major and permanent inter-regional transfers. In addition, in order to govern this transfer union with some democratic legitimacy, the European Union would need a working democratic

⁵ This is another example of discursive institutionalism. It builds on approaches that emphasize the ‘coordinative discourse’ of policy construction via discourse coalitions, epistemic communities and knowledge regimes as well as those concerned with the ‘communicative discourse’ between elites and the public through deliberation and contestation with mass publics, the media, electorates, social movements and the everyday public’ (Schmidt 2014: 3). See also Lehmbruch (2013).

system that organizes democratic deliberation, party competition and democratic decision making on the level of the European Union (Follesdal and Hix 2006; Schmidt 2010: 399–411)—tasks which arguably do not seem feasible at the present. At least with regard to the domestic political system, Germany is stuck between returning to the Deutsche Mark (which is not feasible) and its inability to move toward a democratic currency and fiscal union.

These constraints not only apply to the major governing political party, the Christian Democrats, but also to the second major party, the Social Democrats. There are few major differences between the SPD's and CDU's strategies to address the sovereign debt crisis. While wholeheartedly supporting the request for institutionalized austerity, the SPD inconsistently adds that it would like to combine countercyclical policy in structurally-weak economies with some growth (Interview SPD) and Eurobonds, all the while detesting austerity in principle. Kurt Hübner has analysed German newspapers and weekly papers to reconstruct the policy positions of the major political parties (Hübner 2013). As in the case of the 'stability culture', the major parties do not differ in their preferred response strategy to the Euro-crisis with regard to strengthening the Stability and Growth Pact, the Fiscal Pact and the debt brake (Table 2).

The new governing coalition of CDU/CSU and SPD and its coalition treaty clearly demonstrate the overlap of positions with regard to the European Union. 14 pages of the 185 page treaty deal with the EU; none of these pages deviate substantially from the previous government's EU policies. There was and there still is no major difference in this regard between the Social Democrats and the Christian Democratic Union.

Likewise, an alternative strategy could not be based on broad support among the major interest groups. For employers, the present strategy of wage moderation and an export-led growth is optimal in the short term, in particular for the export-oriented industries; they are in full support of the government (Interview Gesamtmetall). The trade unions have a less clear position. The major trade union, IG Metall, which organizes workers mainly in the export sectors and whose members benefitted from growing employment during the past years (and whose organizations have witnessed slight increases in membership due to growing

Table 2 Lack in party competition in response to the Euro-crisis

| | Strengthening SGP | Fiscal pact | Debt brake | Austerity | OMT | Eurobonds |
|-------------|-------------------|-------------|------------|-----------|-----|-----------|
| CDU/CSU | +3 | +3 | +3 | +3 | -3 | -3 |
| SPD | +3 | +3 | +3 | -2 | +2 | +3 |
| FDP | +3 | +3 | +3 | +3 | -3 | -3 |
| Green Party | +3 | +3 | 0 | 0 | -1 | 1 |
| Linke | -3 | -3 | -3 | -3 | -1 | +3 |

From '+3 in strong favor' to '-3 in strong rejection'

Source: Hübner (2013: 10)

Table 3 Support of non-austerity policies by households without union members vs. trade union households (% yes)

| | Western Germany | | Eastern Germany | |
|---|----------------------------|------------------------|----------------------------|------------------------|
| | Non-trade union households | Trade union households | Non-trade union households | Trade union households |
| Financially strong member states should help weak member states | 32 | 35 | 33 | 30 |
| Should Greece get additional money from the EU? | 39 | 41 | 28 | 34 |
| Introduction of Eurobonds | 17 | 11 | 13 | 17 |
| Support haircut on Greek debts | 44 | 38 | 38 | 40 |

Source: Calculated from the Politbarometer West and East, 2011

employment in recent years), has little incentive to mobilize against the official government strategy (Interview Gesamtmetall).

In contrast, the members of the second largest union, which organizes in the service sector (ver.di), draws much less benefit from export-led growth. Wage expansion is more advantageous for them, and ver.di therefore tries to push forward its minority position of a ‘Marshall Plan’ for the southern European countries in the German trade union movement (Interviews with ver.di and NGG). However, the likelihood of mobilizing trade union members on a broad base for a substantial change to the government’s EU-strategy is slim. While trade union elites tend to question austerity policies, the rank and file is very much in favor of the governmental position (Interview with NGG). This is supported by a re-analysis of surveys. The “Forschungsgruppe Wahlen” conducted surveys in 2011 that also contained questions relating to the crisis policies (see Table 3).

The differences are not significantly different from zero. In Western Germany, there were only two items (Eurobonds and haircut) where the difference was close to the 5 % level. These were the cases where trade unionists were more strongly in favor of austerity than households without union members.

Likewise, party electorates generally do not differ with regard to these questions. Even after controlling for occupation and union household, we could not find any systematic and significant differences between the voters of the CDU and the other major parties—with the exception of Green Party voters who were significantly less in favor of austerity policies. Even the leftist ‘Linke’ voters support the government’s austerity policies to an extent similar to that of the CDU, SPD or FDP. In other words, among the electorate, there also exists a grand coalition in support of the government’s policies (see Table 4). In another survey, Bechtel et al. (2014) also found no significant difference at the conventional level between voters of the CDU, SPD, Greens and FDP, while the voters of the ‘Linke’ and the (small) radical right parties are significantly more opposed to financial rescues than the voters of centrist parties.

Table 4 Support of non-austerity policies by party vote intention (% yes)

| | Western Germany | | | | Eastern Germany | | | | |
|---|-----------------|-----|-------|-------|-----------------|-----|-----|-------|-------|
| | CDU | SPD | Green | Linke | CDU | SPD | FDP | Green | Linke |
| Financially-strong member states should help weak member states | 32 | 35 | 41 | 46 | 23 | 43 | 45 | 47 | 35 |
| Shall Greece get additional money from the EU? | 41 | 45 | 52 | 34 | 30 | 32 | 20 | 50 | 30 |
| Introduction of Eurobonds | 12 | 18 | 24 | 26 | 17 | 19 | 0 | 36 | 14 |
| Support haircut on Greek debts | 46 | 50 | 58 | 64 | 37 | 45 | 44 | 57 | 50 |

Source: Calculated from the Politbarometer West and East, 2011

This conclusion also holds in view of the success of the party ‘Alternative für Deutschland’ (Alternative for Germany), which won nearly 5 % of the total vote in the 2013 elections. A recent analysis showed that about one-third of these voters were deliberate opponents of the Euro; another two-thirds decided to vote for the party only very shortly before the election with a mix of motivations, among them protest against the major parties and opposition to increased migration. The unexpected success of the AfD can be mainly attributed to the discourse among the major parties which remained relatively silent about EU policy and presented no clear alternatives to the voters (Schmitt-Beck 2014). The voters—and not only the voters of the AfD—are very much concerned about the Euro project. But since none of the major parties took up the issue—arguably because they have no alternative policy suggestions—this unease was not articulated, thereby making it easier for the AfD to organize as a Eurosceptic party.

5 Conclusion

The main result of our analysis can be summarized as follows: Germany witnessed a tamed trading state up until the 1990s, with industrial relations institutions designed to ‘spread the wealth around’. In addition, they ensured high wages and a relatively egalitarian distribution of earnings. These conditions, however, tempered the competitiveness of exports and favored a growth model in which domestic consumption played a larger role than after 2005.

Since the 1990s, and particularly since 2003, Germany has unleashed its trading state by embarking on a number of institutional reforms. After 2005, growth was strongly export-driven, and domestic consumption played a much smaller role for economic development (Baccaro and Benassi 2013). The competitiveness and the

export-led growth are favorable for German employers and the median worker, since s/he faces less risk of unemployment; instead, the main burdens are carried by the marginal groups of the workforce. Unleashing the trading state not only had domestic consequences for redistribution, but also contributed to the destabilization of the Eurozone.

Germany has become the leading economy and the leading political power within the European Union. On June 15, 2013, *The Economist* reported: “Bureaucrats in Brussels talk ruefully about Berlin becoming the capital of Europe. ‘When the German position changes on an issue, the kaleidoscope shifts as other countries line up behind them,’ says one official.” If Germany accepts this leadership position and its responsibility as a leader, the government and interest groups need to consider the requests by the EU Commission, other EU members states and international actors to do more to increase domestic demand and thereby reduce Germany’s reliance on exports for economic growth. At the same time, in their own long-term interests, German political actors have to think about an institutionalized transfer union, which channels resources from countries such as Germany, the Netherlands and Finland to the southern European nations in the sense of permanent support to structurally-weak regions of the Eurozone.

For domestic reasons, this option is not feasible. The overwhelming majority of German citizens are not willing to extend solidarity to structurally-weak regions, having only recently experienced liberalization, decreasing wage shares and austerity policies in their own country. The two leading political parties risk electoral punishment if they agree to a permanent transfer union in favor of the weak economies. Therefore, and following historically-established ideational paths of problem definitions, they framed the crisis as a result of fiscal profligacy and lacking liberalization of labor markets. They requested that other countries adopt the German reform path. “We have realized our Agenda 2010, and now we can expect other countries to pursue their Agenda 2010”, as one of our interview partners put it.

But, as we have argued, this German crisis response will not help to solve the structural problems of a currency union in a non-optimal monetary region. Since German politicians and interest groups are trapped in their own problem frame and since they have to insist on the continuance of export-led growth for domestic reasons, the German economy will ultimately continue to contribute to the destabilization of the Eurozone on which Germany depends. This will force Germany to solve major imbalances by ad hoc measures as in the past. Nothing is left but muddling through and hoping for a global wave of economic growth that will relieve Europe of its structural problems. Alternatives are not feasible, since there are no majorities backing policies other than the current broadly-supported ones. There is no party competition in this policy field and no major conflict between labor and capital over the desirability of export-led growth that could trigger a major policy change. The recent national election and the building of the new grand coalition indicate that Germany will continue its response pattern in the European sovereign debt crisis.

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The Public Sector in the Aftermath of the Financial and Debt Crisis: Long-Term, Neglected Consequences

Berndt Keller

Abstract

The paper deals with some widely neglected, long-term consequences of the financial and sovereign debt crisis for the public sector. It indicates that there are no uniform answers because EU member states have been very unevenly affected. Various measures as parts of immediate austerity packages are categorized and criticized for their quantitative nature, incremental effects and short-term perspective. The focus is on long-term consequences of austerity measures such as quantity as well as quality of service provision, development of macro-economic variables, uneven distribution of curtailments not only between but also within countries and levels of government, and deteriorating employment relations. Unions have to react but are in a purely defensive position.

In comparative perspective the public sector in Germany has been hit but less seriously than a number of others; however, due to earlier severe retrenchment and consolidation measures it is part of a lean state. Established labor market institutions, such as social partners and institutionalized collective bargaining, continue to function despite changed conditions. There are, however, future risks, such as increasing fiscal pressure because of the implementation of national as well as European debt brakes.

Furthermore, there are far reaching, broader consequences of retrenchment measures not only for public sector employees but also for large groups of other citizens especially consumers because of limited access of various publicly provided services. Therefore, some political options and changing priorities

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are discussed. Reactions in general elections seem possible, the existing welfare state will continue to change.

1 Introduction

The public sector was hit less hard than private industry *during* the first financial, and later on, sovereign debt crisis, but has been more severely affected since the crisis officially came to an end. It is to be expected that the public sector would be more severely impaired than private industry by the more or less comprehensive austerity measures introduced by the governments of some EU member states in an effort to cope with the long-term impact of this unprecedented crisis (European Commission 2011). The main reason for the differential impact of austerity measures is that national governments and public authorities have greater legal authority as well as more political opportunities to intervene directly in the public sector than in private industry as a result of their frequently unilateral decision-making powers to control public budgets and enforce significant reductions in public spending.

It is evident that EU member states have been unevenly affected by the severe financial and debt crisis, whose causes have varied across countries from property bubbles to the collapse of private banks. National measures taken and adjustment instrument used have therefore been differentiated and diverse. There is hardly any general pressure to take counter-measures; nor is there any European dimension. Initial empirical analysis shows that there are no uniform answers, and the national austerity packages that have been implemented differ considerably in terms of timing, size and depth. There are, however, certain obvious clusters of countries. Policy responses in Greece, Ireland and Portugal, and more recently, in Italy and Spain, go further and are more severe than in the Scandinavian countries or in Germany and Austria; while eastern European countries constitute a third group. Furthermore, OECD (2011) research indicates the somewhat surprising conclusion that there is no correlation between the actual extent of public expenditure and the need for consolidation.

Up until now, the focus of analysis has been on the immediate reaction and the changing contours of public sector employment relations during the crisis (European Commission 2011, 2013; Glassner 2010; Lodge and Hood 2012; Vaughan-Whitehead 2012), with the individual or micro-consequences of various austerity measures for employees—the most important resource for the provision of goods and services—being analyzed in some detail. These measures can be categorized as follows:

- Wage freezes or even wage cuts (including social benefits) have taken place. In countries such as Greece and Portugal, they have even been unilaterally imposed without any prior review or thorough analysis; in others, they have been the result of social dialogue.

- The more or less gradual lengthening of weekly working hours, plus their further “flexibilization” despite the existence of an already high degree of flexibility, constitutes another frequently-applied measure. One of the official justifications for this, and not just in Greece, is the need for “harmonization” with private industry.
- Incremental or even more substantive pension cuts play a prominent role, because pensions account for a major and—because of the specific age structure of employees—increasing proportion of public expenditure.
- Other closely-related, parallel options are the introduction of direct increases in the contributions of active employees to their pension systems and/or the gradual raising of the statutory age of retirement (in most cases from 65 to 67). The latter option is likely to be preferred because it saves pension expenditure and avoids at least some of the need to replace retirees.
- The overall number of employees can be reduced. One has to keep in mind that in a significant number of EU member states, the overall size of the public sector workforce had already been reduced to a considerable degree over the last decade prior to the crisis. Germany is a prominent case in point.

Furthermore, researchers have investigated the collective or macro-consequences and challenges for corporate actors and labor market institutions, especially unions, and employment relations. Unions are forced to respond, despite the fact that they are in a difficult situation. In some EU member states, they are even completely excluded from political decision-making on austerity programs. They therefore have to exert increasing pressure on governments.

The immediate and predominant reaction to the ongoing crisis and low levels of economic growth has been to introduce cutbacks of varying scope. The main feature of these austerity measures has been their expected short-term effectiveness. However, their usage does not follow a long-term, strategic master plan but rather happens on a more or less arbitrary, ad-hoc basis. Furthermore, their more far-reaching consequences for public sector employees and other groups, especially large groups of consumers and the public at large, have been widely neglected.

In other words, the austerity packages implemented so far lead us to the conclusion that politicians favor short-term cuts and retrenchment measures in the tradition of neo-liberalism over long-term, alternative and available strategies to increase public revenue. The reason is that such measures are supposed to lead to savings and generate some additional revenue, whereas their long-term consequences for public budgets, quality of service provision, not to mention the future of the existing welfare state in general, are hardly taken into consideration. Upon reflection, it is not even astonishing that the problematic long-term effects are not considered equally when arbitrary, incremental short-term decisions are made without being based on strategic planning or any long-term view. The paper elaborates on the argument that their consequences are more difficult to appraise and will happen in the future only.

The long-term, probably unintended consequences as well as alternatives and options constitute the focus of our analysis. There is one important caveat.

Our paper is a preliminary report, because it is still too early to evaluate the long-term overall impact of measures, and therefore a bit speculative. Because of space restrictions, it will focus on the public sector in general rather than on selected sub-sectors such as education, hospitals or municipal services. In order to understand the similarities and dissimilarities of the measures taken at the national level, it contains some comparisons between EU member states without being comparative in the strict sense of the term.

2 The Long-Term, Neglected Consequences of Austerity Measures

Some of the measures indicated above can be given higher priority than others and can be interrelated and introduced simultaneously. Amongst other things, wage freezes or wage cuts can forestall layoffs. Groups of employees can be unevenly affected by specific measures and their distribution across the range of public services. Another feature of cutbacks is that they are of a purely quantitative nature, such as cuts in wages or employment, and neglect important qualitative aspects of the employment relationship, not to mention the persisting need for structural reforms. The overall terms and conditions of employment are likely to deteriorate to a considerable degree. This trend not only includes the most obvious aspects, wages and salaries and working hours, but also heavier individual workloads and the allocation of additional tasks and duties (Vaughan-Whitehead 2012).

2.1 Short-Term Versus Long-Term Consequences

Of course, we do not yet know what the impact of these measures will be on job satisfaction, work motivation and commitment as well as on employees' performance and productivity—and even their willingness to take early retirement. Even in the long-run, these “qualitative” consequences of worsening working conditions will be difficult to measure. There is, however, a link between the quality of employment conditions and the quality of the services provided. It is realistic to assume that these indirect long-term effects of retrenchment measures will be negative because of individuals' feeling that the psychological contract (Rosseau 1995) (in terms of the employment model in organizational theory), as well as the widely-accepted societal norms of fairness and integrity (in sociological terms), have been broken.¹ Potential reactions against these measures will depend on the employment status of individuals within the segmented or even dualizing public sector labor markets. In the case of certain professionals, such as doctors or IT

¹ An additional factor leading to similar effects will be the further deterioration of promotion opportunities and career prospects, which formerly existed within the internal labor markets characterized by strict seniority rules and “promotion from within”.

experts, the consequence could be less personal commitment or even “exit” with a concomitant loss of highly-qualified personnel and organization-specific human capital.

The future quality of service provision is at present hardly taken into account, but will most likely suffer from any infringement of the psychological contract. For the time being, on the short-term, purely quantitative adjustment measures clearly predominate. It is remarkable that there has been hardly any systematic assessment of the empirical impact of these reactive cutback programs, despite the fact that there are indications of a link between public employees and their production and quality of goods and services. The lack of investigation of this aspect blocks any improvements and prevents learning from experience. Furthermore, the long-term consequences for the necessary accumulation and maintenance of sector-specific and job-specific human capital seems to be widely neglected; cutbacks or even elimination of further training measures are just one indicator.

It is management that represents the organization. Nowadays it has more leverage than ever. It should be interested in avoiding these negative—if not disastrous—effects in order to maintain individual motivation and commitment. But management has hardly any new incentives to offer (OECD 2012). In the case of wage freezes or even wage cuts, protection against layoffs could be simultaneously offered in an implicit exchange. It is difficult to predict if management will develop consistent long-range strategies and will indicate transparent “red lines” for retrenchments or will just keep trying to “muddle through” by means of short-term, reactive measures. It is realistic to assume that no single homogeneous approach will emerge. Instead, we will see major differences in reactions according not only to individual countries, but also to sub-sectors and the levels of activity concerned.

2.2 Economic Consequences

The long-term consequences of retrenchment measures for the development of macro-economic variables (such as aggregate demand, overall employment, inflation, or future growth patterns) are hardly taken into account. They are difficult to evaluate. There is, however, an imminent danger that they might prove to be counterproductive, because they might contribute to the next recession. Another seldom-analyzed problem is the fact that not just social expenditure but also public investment has been reduced in the recent past to a considerable degree despite the fact that both are necessary to sustain public infrastructure in the long run.

Reduced public expenditure, especially in an economic downswing, leads to reduced aggregate demand as well as lower tax revenues and slower economic growth. Furthermore, future generations will profit from structural investments (among others, in education or parts of the public infrastructure), especially if they are made in times of comparatively-low interest rates. The introduction of strict spending limits therefore constitutes an arbitrary measure that results in a deterioration of the situation. The implementation and exact distribution of such

limits will probably lead to political disputes and protracted conflicts because of societal aspirations and demands.

2.3 Variation Across and Within Countries

There is likely to be an uneven distribution of retrenchment measures and their long-term consequences not only *across* but also *within* EU member states. It remains to be seen whether specific sub-sectors will be exempted to a greater or lesser extent, including the police and the armed forces, or if others will be more severely hit, including public administration or cultural institutions such as public libraries, museums/theaters, environmental protection, education, or social protection and social security.

Until now, analyses have focused on the central (federal) level and widely neglected the vertical dimension of the growing deficits. However, major differences across levels of government (federal, state/regional, and local/municipal) will occur because the percentage of public budgets made up of wages and salaries varies to a considerable degree and because there are diverging political preferences and thus, reactions across all levels. The consequences of austerity measures will also differ according to the nationally-dominant patterns of unitary or federal constitutions and their specific division of labor regarding the delivery of certain public services (such as education or health).²

There could be “trickle down” effects because of tight budgets and less spending at the federal level. This could create reduced subsidies or even severe budget restraints leading to differing consequences at lower levels. Furthermore, at the state level, the rising cost of pensions as well as the implementation of national and EU debt-brakes, to be mentioned later, will create additional problems. Again, differences between EU member states can be expected. The extent of centralization and coordination of decision-making, above all collective bargaining, constitutes another major determinant. Centralized systems lead to less heterogeneity. The existence of multiple unions and their federations within the public sector (as in Spain) splits existing interests and makes it more difficult to develop coordinated strategies.

In the long run, growing differences between the organization and delivery of public goods and services at different levels or, in other words, greater variation not only *between* but also *within* countries, will emerge as a result of retrenchment measures and related political bargains. The emergence of such differences will have lasting consequences for employment conditions as well as for service provision.

² Spain constitutes a prominent example. Political differences as well as financial gaps between the federal level and the 17 autonomous regions prevent any kind of coordinated strategy to strictly limit new public debts.

3 Union Opposition to Austerity Measures

The public sector definitely did not cause the original financial and ongoing sovereign debt crisis, but it is being forced to make substantial contributions to the solution. It is likely that both at an individual and collective level, there will be fierce opposition to the various austerity measures. Trade unions and interest associations have to react. Amongst other things, major job cuts could reduce current membership levels and density ratios.

In contrast to the “golden age” of industrial relations in the public sector, unions currently find themselves in a purely defensive position and have to try to prevent or at least mitigate major retrenchments instead of being able to demand and enforce improvements in working and general living conditions. They find themselves barely able to protect their members’ vital economic and social interests. In some EU member states, they are virtually excluded from political decision-making on austerity programs and are forced “to dance alone”.

3.1 Risks and Dangers

In the medium term, the unions face the risk of losing authority in one of their few, if not their only, remaining traditional strongholds—the public sector—as well as suffering a reduction in their general political clout. They therefore have to exert increasing pressure on governments (European Commission 2011), including not just threatening industrial action but actually coming out on strike against cutbacks that they consider to be unfair and unevenly distributed across the workforce and/or the public at large. As of yet, there are no coherent concepts and alternative scenarios for opposing the dominant system of economic governance. Again, major differences between countries are to be expected during the ongoing rescue operations depending on union strength and opportunities for the unions to make an impact.

This obvious danger of losing political clout as well as bargaining power triggers vigorous reactions not just in countries such as Greece or Italy. If the unions cannot rely on established collective bargaining rights, including the legal right to strike, and only have the option of consultation and/or lobbying, then the precondition for potential action will be more limited (among others, mobilizing against spending cuts, privatization and outsourcing). In some coordinated market economies, there have been negotiated, consensual procedures for policy-making (Bach and Bordogna 2013). These forms of social dialogue will be difficult to maintain or even reinstall in the present condition.

In a comparative perspective, three variants of public sector regulation have to be distinguished: collective bargaining, unilateral regulation and mixed forms (Traxler et al. 2001).³ Unilateralism as a sector-specific mode of regulation and

³ Germany definitely belongs to the third group of hybrid governance. Unilateral and bilateral legal forms have co-existed for many decades. In empirical terms, however, differentiated patterns of close interaction have developed over time (Keller 2010).

governance of employment relations has been making progress in some EU member states. It allows the unilateral imposition of retrenchment measures instead of agreeing to them on the basis of collective bargaining and other forms of bilateral and consensual decision-making procedures (European Commission 2013). Increased conflict could be a consequence of the general revival of such unilateral decision-making. The implications for the future of multi-employer bargaining, which is frequently more widespread in the public than in private sector, remain to be seen.

The unions must attempt to have some impact not just during the formulation but also during the equally-important implementation of austerity measures. Unions might also sue management and/or employers because of layoffs and redundancies caused by budget cuts. It is likely that rigid implementation of severe austerity programs will lead to a further deterioration in the employment relations “climate”, not just in the case of unionized employees and the public sector. There are growing numbers of strikes either by specific groups working in core sub-sectors such as transport, or across the board by all public employees. These reactions will have an immediate impact on large groups of consumers because of the absence of alternatives. For employers, there is a particular mixture of political and economic costs. Industrial unrest could even develop into broader forms of social unrest and mobilization.

3.2 Industrial Unrest

The right to strike, as well as actual strikes, have always been a critical ingredient in employment relations because of the immediate impact on large groups of citizens and consumers. Over the last decades, a sectoral shift has taken place from manufacturing towards services, especially in the public sector (Vandaele 2011). It is likely that this “tertiarization” is going to continue, because the public sector has been hit harder by the consequences of the crisis. At least in countries like the UK, it might even increase and lead to the most comprehensive strike action for several decades.

Other forms of non-cooperation and expressions of hidden discontent, such as go-slows or working to rule, could occur—with effects similar to actual strikes. Even forms of open conflict such as demonstrations with varying levels of violence, sit-ins, rallies, mass protests, not to mention riots, could take place (as in some cities in Greece). In a broader perspective, even the option of a general strike involving a major number of unions operating in joint action has to be taken into consideration (as in the UK, Greece or Portugal).

It remains to be seen whether increasing levels of industrial unrest will lead to lasting changes or are merely an indication of a temporary process of adaptation within a lasting tradition of stable, highly-regulated employment relations. The reaction of management and employers will be of importance for the change of direction taken by the existing “social partnership”. From their point of view, it is easier to implement retrenchment measures if unions agree in principle and pledge

their close cooperation. Negotiated provisions or some kind of sector-specific “social pacts” and “social dialogue” would take more time, but would create more sustainable solutions than unilaterally imposed and frequently non-transparent measures. However, what could unions possibly gain from the conclusion of such arrangements? Employment security for their members is an unlikely alternative.

4 The Public Sector in Germany

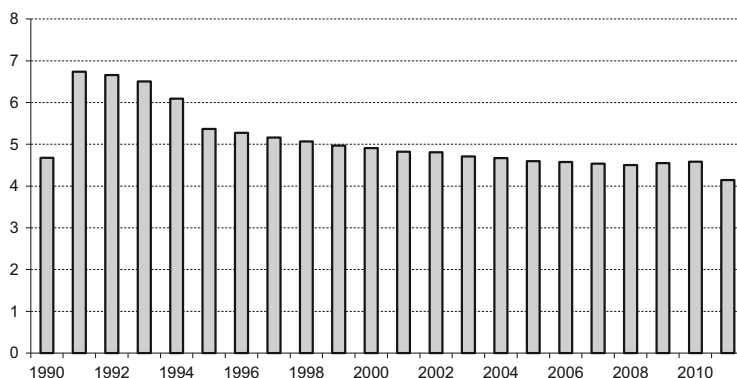
4.1 Long-Term Developments at National Level

One important caveat has to be made. In order to understand the present situation in the German public sector, one has to go back to the 1990s. In other words, an exclusive focus on the time of the financial and debt crisis provides an incomplete picture. Since unification in 1990, employment in the public sector has been reduced by about one third (from 6.7 to 4.5 million) (Table 1).

In a comparative perspective, the overall consequence of this long-term shrinkage has been the creation of a lean government apparatus and a lean public sector (Vesper 2012; European Commission 2013). In the long run, the degree of segmentation has grown and has led to greater employment instability and less security, especially for younger and less well-qualified employees (Keller 2010).

In the early/mid 2000s, the financial and economic environment changed. Forms of “concession bargaining” occurred not just in private industry but, for the first time, specific variants also happened in the public sector. Budgetary problems worsened and posed a challenge to the established forms of social partnership. However, in contrast to other EU member states, there is no evidence of a

Table 1 Employees in the public sector (total) 1990–2011



Note: Figures are in millions. 1990: West Germany. From 1991: Germany. Rounding-off differences are possible

Source: Statistisches Bundesamt, Fachserie 14 Reihe 6, several volumes

general impoverishment or a complete collapse of bargaining relationships. In contrast to other countries, employers' organizations, management and politicians have not attempted to marginalize or nullify the impact of public sector unions as established institutions for representing employee interests; there is no hidden or public anti-union agenda based on ideological or strong political beliefs. Unions' rights of collective bargaining are guaranteed by the constitution, the Basic Law, and unlikely to be severely curtailed or limited. Fundamental attacks on unions, their legal rights and demands in collective bargaining have not taken place.

In contrast to a number of EU member states, there have hardly been any forms of vigorous social protest in Germany in the recent past. The explanation—probably surprising in a comparative perspective—is as follows: Germany belongs to the group of states that have been less seriously affected than the majority by the financial and sovereign debt crisis. Germany managed to recuperate quickly after one of the deepest recessions amongst the industrialized countries. After a considerable drop in GDP of more than 5 % in 2009, the country recovered to a greater extent (and faster) than the vast majority of EU member states in terms of economic growth. This meant that overall employment, as well as public revenue, increased to a considerable, rather unexpected extent. In contrast to other countries, Germany did not experience mass lay-offs or a significant increase in unemployment. On the contrary, employment figures have even increased in the recent past. In contrast to some other EU member states, there therefore seems to be no urgent need for new initiatives aimed at achieving structural reforms.⁴

4.2 National and European Debt-Brakes

In 2009, a new fiscal law, the so-called debt-brake (or *Schuldenbremse*), was enshrined into the Constitution. It strictly limits the amount of new structural debt (to 0.35 % of GDP) and is intended to guarantee and enforce balanced budgets from 2016 onwards. It is supposed to meet the ambitious deficit and debt targets of the EU Stability and Growth Pact (total sovereign debt of less than 60 % of GDP; new debt of less than 3 % of GDP). In the early/mid 2000s, Germany continually missed these officially-set targets, while managing to avoid the threatened financial sanctions. Following a significant additional increase in expenditure caused by the consequences of the crisis, the debt rate is above 80 % of GDP; in 2007, after a period of harsh fiscal consolidation, it was only about 65 %.⁵

The consequences of implementation of this new rule for balanced budgets—even though it has not yet been completely and precisely specified—will have to be taken into consideration in future analysis. This strict imperative will apply, with a

⁴ In stark contrast to the present situation of “Germany’s jobs miracle” (Krugman 2009), the country was frequently called the “sick man of Europe” throughout the early/mid 2000s.

⁵ We take this frequently used indicator, instead of private sector debt (household and non-financial corporate debt as a percentage of GDP), which is more relevant in some countries.

delay of some years, not just to federal but also to the state and local level and will create major financial challenges. It will lead to major retrenchments and austerity measures within the relevant parts of the public sector (education, among others). States and municipalities will be unevenly affected by these unavoidable long-term consolidation measures (Sachverständigenrat 2011). One has to keep in mind that the majority of public sector workers are employed at the state and local level.

This new statute does nothing to resolve the problem of long-term debt that already exists at a rather high and rising level. Thus, it only represents a partial solution to the more far-reaching problem of public finance and requires the continuation of fiscal austerity policies in the long run. It also lays down, almost by definition, strict limits for all variants of “discretionary spending” in public budgets and resulting from political intervention. Furthermore, it has to be mentioned that there have been controversial disputes about the appropriateness of this new fiscal policy instrument for solving the problem of long-term debt and for balancing public budgets.⁶

4.3 Some Comparative Aspects

One would be justified in concluding that public sector employees in Germany have been hit less hard by the financial and debt crisis than many of their counterparts. Institutions governing the labor market really do matter. As in the majority of EU member states (Bordogna 2008; European Commission 2011), density ratios and coverage rates—two basic indicators for any evaluation of institutionalized employment relations—are both considerably higher in the public sector than in private industry. Both are highly correlated in Germany. Coverage rates are far above 90 % and, in contrast to private industry, have not deteriorated in the recent past (Ellguth and Kohaut 2011). Density ratios are also above average.

Germany constitutes one of the few exceptions as far as implementation of austerity programs is concerned. It remains to be seen what the consequences will be if—or when—the weak growth rates prevailing throughout the EU and OECD member states finally reach Germany. Its economy is vulnerable and fragile because of its strong export-orientation and high degree of openness. The financial and debt crisis could produce additional risks not just for the financial sector but also for the economy in general and public budgets in particular (Deutsche Bundesbank 2011).

There have been recent demands for revitalization of the public sector. Most importantly, there is an expectation that additional employees should be hired in sub-sectors, such as care for the elderly (because of the ageing population),

⁶In early 2011, the introduction of the so-called fiscal pact was concluded at the EU level. Violators of its stricter balanced budget rules can be sued by other member states. Critics argue vehemently that these measures will lead only to more expenditure cuts, contribute to the further retrenchment of the welfare state and finally result in a continued increase of social inequality.

education (because of Germany's repeatedly poor results in comparative evaluation studies), pre-school education (Kindergarten) (because of lasting shortages in the number of available places, despite legal requirements to provide them and because of the increasing participation of women in the labor force) or tax administration (because of poor results in tax collection and the proper implementation of tax laws). From a public policy point of view, it will be difficult not to provide additional financial resources for these selected public services of urgent demand and to continue the strategy of cutting expenditure and the number of available jobs. Vesper (2012) calculates an additional demand of about 100,000 full-time jobs.

5 A Broader Perspective: Far-Reaching Consequences

All the changes caused by the austerity measures will not have just immediate but also lasting repercussions for public infrastructure and, as a result, for specific groups of citizens. Not just the quantity but also the equally important quality of public services will suffer at different levels and sub-sectors. The severe distributional consequences for various groups extends far beyond the public sector. Astonishingly enough, these costs are hardly mentioned in the current political discourse and are definitely underestimated. The political issue of "services of general interest" (among others, health care and education) that have been in dispute at the EU level seems to fade away during the crisis.

5.1 Accessibility and Distribution

Large groups of consumers, especially the most vulnerable citizens who have no alternative to publicly-provided goods and services, will be affected to varying extents by the retrenchment measures. One has to keep in mind that the number of employees—and therefore the quantity of services provided—frequently decreases, whereas the demand for public services remains stable. Their accessibility can be severely curtailed. Political tensions, if not conflicts, are likely to occur between groups of citizens about how the economic burden resulting from austerity packages should be distributed. The allocation, and the political justification for severe measures—including cuts in the level and/or length of unemployment benefit payments or cuts in local/municipal services—is always arbitrary. The politically preferred option—not just in Greece—will be to continue or even considerably increase the comprehensive liberalization, privatization and outsourcing/contracting out measures already experienced in previous decades.

5.2 Alternatives and Options

The question is whether the strict priority being given to spending cuts and fiscal austerity is the most appropriate long-term strategy for deficit reduction and

fiscal consolidation. They are, without a doubt, necessary in the long run, but probably not extremely urgent and maybe even counterproductive in the short and mid-term. The economic consequences of this traditional, orthodox strategy could be a further reduction of already weak demand and even less public expenditure and investment, instead of stimulating economic growth and creating new employment opportunities in an era of high and even growing unemployment (ILO 2012b).

The macroeconomic alternative would be not to cut public spending but to raise additional revenues with more expansionary fiscal and monetary policies. These could include changes in the current tax structure towards more balanced and “fair” taxation, or even the introduction of new taxes on high incomes or, at least in some countries, on property and other assets. From a strategic point of view, such changes would stabilize public expenditure and employment, as well as stimulate ailing private demand, domestic consumption and economic growth (ILO 2012a, b). However, such a policy shift from less expenditure and major cuts to the creation of additional revenues has been ruled out by the governments in the majority of EU member states. Even a combination of both strategies—cutbacks and increased revenues from supplementary taxation—seems unlikely, despite the fact that the period of weak economic growth, low aggregate demand and high—in some cases rising—mass unemployment persists (Glassner and Watt 2010).

In terms of political economy, democratically-elected governments are reluctant to raise taxes because they fear that this measure would be unpopular amongst the electorate and would have a detrimental impact on the probability of re-election. The majority of economists argue, in line with the predominant neo-liberal austerity doctrine, in favor of major spending cuts rather than generating more public revenues by means of moderate tax increases. Furthermore, any structural changes with long-term implications are likely to be met with fierce opposition from powerful vested interests.

5.3 The Impact of the Troika

Supranational organizations, especially the “troika” of foreign institutional lenders, i.e., the International Monetary Fund, the European Central Bank, and the European Commission, take the lead in crisis management and demand various kinds of “structural reforms”, especially in labor markets, as well as major spending cuts and public sector reforms. They are likely to accelerate these processes by offering financial aid in exchange for austerity measures, especially in the case of the “programme countries”. The problem is that these measures are likely to result in revenues that are considerably lower than expected because of the continued poor economic conditions for public sellers, who are obliged to realize these measures immediately. One neglected question is who is going to profit from comprehensive privatization of state assets in individual countries and their specific sub-sectors, such as water, energy, transport (including not only railroads but also airlines, regional airports and ports) or public banks? The most realistic answer also explains who it is that favors and is calling for the immediate implementation of

more radical privatization measures. As we know, it is foreign multinational companies and institutional investors who are the most vigorous proponents of such policies.

5.4 Impact on the Welfare State

The retrenchment strategies will have severe implications not only for public sector employees, their unions and the provision of goods and services but, on a broader perspective, also for the future and the development—or, to be more precise, the retrenchment—of the existing welfare state and its social policies (for Greece see Ioannou 2013). Fiscal constraints, consequent cuts in public expenditure and their impact on social protection and benefits will continue to dominate the political agenda. The inequality of income distribution and existing social inequalities may well increase (or, to be more precise, continue to increase) in the long run because of significantly-reduced social spending.

In the recent past, the value and importance of the public sector with its provision of goods and services, that are essential not only for large groups of citizens/consumers, or for social cohesion and the social fabric of society as a whole, but also for the performance of private industry, has become obvious and is widely accepted (Crouch 2011). Nowadays, it is generally accepted that the public sector does provide major elements of the core infrastructure that are necessary for private business to function and especially for them to remain competitive on an international scale. Some authors even argue that limitations and constraints are not politically and ideologically but economically motivated (Kalleberg 2009).

The imminent danger is that this crucial role of the public sector for the national economy will once again be systematically underestimated or completely neglected under the predominant regime of budgetary constraints and will suffer from comprehensive austerity programs. Furthermore, there is a consensus that there are other reform needs and priorities (among others, the necessary adaptation to obvious demographic changes) that require future sustainable investment (for a comparative perspective, see Lodge and Hood 2012). It is likely that necessary processes of public sector modernization and reform will at least be unduly delayed or even completely cancelled because of the strict political priority being given to severe austerity measures. The idea of not just defending but even “rethinking” the public sector and welfare state has no public support.

6 Outlook

As a consequence of retrenchment measures, the public sector is set to be a less attractive employer than in the past, when it used to be the “employer of last resort” as well as a “model employer” (Bach and Kessler 2007), setting a positive example for private industry and thus the economy as a whole. This situation has now completely changed. The public sector is supposed to adjust accordingly or even to copy the principles and HRM strategies that have been developed for purposes of

private industry. In combination with drastic demographic changes in almost all EU member states—which in the future will result in more competition for scarce, well-qualified labor—it is going to face serious recruitment difficulties, and even skill shortages in sub-sectors such as health or education. The long term implications are not yet known, but will be getting worse because of the deteriorating terms and conditions of employment.

One consequence of the present situation will be that, from an empirical perspective, the terms and conditions of employment in private industry and the public sector will become more similar than they used to be (Keller 2010). This is by no means a new trend triggered by the financial and debt crisis but rather a continuation of long term developments.

Consolidation and cost cutting measures will constitute the political priority in the future, rather than the urgent need for reforms related to demographic change, diversity management, technological challenges or social inclusion. These problems are, of course, interrelated, but political perceptions of their urgency vary. Merely coping with the crisis will crowd out all other urgent topics of structural reforms.

In terms of the much-quoted alternative “cutback management or structural reform”, the former option will continue to dominate. In hard times of increasing fiscal pressure, attempts to “muddle through” will remain a latent political priority. Nor will the continuation of this trend depend on the results of general elections or the composition of coalition governments. There is little evidence of any moves to design—let alone to attempt the more difficult task of implementing—a political master plan aimed at systematic or strategic reform packages that could replace the mere continuation of existing piecemeal policies of adjustment. It seems unlikely that any new trajectories of far-reaching structural reorganization of public services will be embarked on; path dependencies of incremental and piecemeal adjustments will prevail. In Germany, in contrast to some other EU member states, there is a certain reform fatigue and no urgent need for the political development of a long-term trajectory of strict modernization and structural reforms.

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When Frames Are Not Enough: Consumer Safety and National Interests in EU Financial Market Regulation

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Abstract

The article investigates the predominant governance modes during the formulation of three EU directives in the wake of the global financial crisis as well as the amount of policy change they introduced. The directives regulate deposit guarantee schemes, alternative investment fund managers, and the investor protection scheme. We illustrate that different governance modes were employed in a sequential or nested order during their formulation. The EU's financial market reforms were based on *technocratic* ad hoc committees, *negotiations* involving all EU legislative institutions, and to a lesser extent on the *voting* and *executive* modes. All three reforms tend to strengthen the *delegation* mode in financial market regulation and supervision. The sequencing and nesting of modes in these three cases casts doubts on assessments that posit close links between issue characteristics and governance modes. Rather than being determined by issue characteristics, the selection of governance modes is strongly influenced by the EU institutional context. There is disagreement on whether the financial market reforms are 'gesture politics' or whether they introduce new regulatory paradigm. Based on three indicators of political change—the perceptions of the policy advocates, the frames employed during the policy debate, and the extent of institutional reform—we find that these directives cover a greater scope and tend to be stricter than the previous legal provisions. They are embedded in the new master frame of stabilizing financial markets and enhancing consumer safety. In institutional terms, they are part of a transformation of the EU's regime for financial market regulation that entails institutional layering and conversion.

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1 Introduction

The global financial crisis in 2007 highlighted some flaws in the design of the Economic and Monetary Union and in the regulation of financial markets in the European Union (EU). Since the onset of the crisis, the EU institutions have introduced more than 40 legislative proposals on financial market reforms which cover a wide variety of aspects.

We study two dimensions of these reform processes. First, we analyse the governance modes that predominate in these reforms as many observers are concerned that democracy has succumbed to the crisis. Secondly, we seek to identify the amount of change that has taken place through these reforms because assessments of these changes vary tremendously. Regarding the amount of change induced by these reforms, there is widespread disagreement on whether the measures taken are merely ‘gesture politics’ (Buckley and Howarth 2010) or whether they introduce alternative regulatory paradigms (Quaglia 2011: 678). We gauge the extent of change in the reform of EU financial governance by studying three cases of financial market regulation: Alternative Investment Fund Managers (AIFM) (European Commission [EC] 2009), Investor Protection Scheme (ICS) (EC 2010a), and Deposit Guarantee Scheme (DGS) (EC 2010b). We propose to identify the extent of change in each case by using three indicators: the policy participants’ perceptions of the amount of change, the frames they held throughout the policy debates, and the institutional changes introduced by the reforms. Regarding the relationship between democracy and the resolution of the economic crisis, we identify the governance modes that apply to these reforms and suggest that the decisions on these proposals are generally illustrative of the European Union’s (EU) patterns of governing the financial market crisis. We demonstrate that different modes of governance have been employed during these reform processes: the *negotiation* mode, the *voting* mode, the *delegation* mode, the *executive* mode, and the ad hoc *technocracy* mode.

The analysis is part of research conducted for the INTEREURO project on interest groups in the European Union (INTEREURO 2014; for details see: Beyers et al. 2014). The three cases are part of a sample of 20 EU directives proposals that were proposed between 2008 and 2010 and received substantial media attention. We study the decision-making processes and the consequences of the proposals drawing on process tracing techniques, qualitative content analysis, as well as interviews with policy makers and interest group representatives at EU level and in four member states (Germany, Netherlands, Sweden, United Kingdom). This selection of countries assures some variation with respect to member state size, duration of EU membership, varieties of welfare state and capitalism, and the state-interest group model (Hall and Soskice 2001; Kohler-Koch and Eising 1999; Lijphart 1999; Scharpf and Schmidt 2000). In sum, we suggest that the course of these three EU reforms follows a specific sequence of governance modes and that the three directives modify EU financial market regulation in a non-trivial fashion.

2 The Regulation of the EU Financial Market

While the efforts to resolve the EU's financial market and the Eurozone crises are frequently analysed as unique events, it seems useful to connect their analysis to general political science approaches. Thus, drawing on the general literature on governance modes, Hendrik Enderlein discusses the democratic credentials of financial and economic reform processes during the years of decision-making on the financial and economic crisis since 2008. He suggests that democracy has lost sway and that economic governance has increasingly been marked by the rise of *ad-hoc technocracies* (Enderlein 2013: 715). These have grown in importance due to specific requirements of policy-making during economic crisis. To EU scholars this means then that the EU's democratic deficit has further increased in recent years.

Enderlein (2013) argues that economic issues with specific characteristics correspond best with specific modes of governing. The main determinants of the governance modes would be the welfare and distributive effects of the issues and the foreseeability of these effects. With the German example of a national parliamentary democracy in mind, Enderlein distinguishes among the following modes: Policies can be *delegated* to non-parliamentary institutions such as central banks if they raise welfare and if these effects can be foreseen. Policies that redistribute welfare and whose effects are foreseeable will be taken in a *voting* mode ('Abstimmungsmodus'). These issues will be debated by the democratic parties and institutions and become part of election programs, whereas policies that redistribute welfare but whose effects are rather ambiguous fall under the remit of the *executive* mode, that is decisions will be taken ad hoc by executive bodies without involving parliament. Policies that tend to increase welfare but whose effects cannot be foreseen are more likely to be taken in a *negotiation* mode which is a mixture of the voting and the delegation mode including protracted negotiations among the involved actors. Furthermore, in economic crises, *ad-hoc technocracies* are being implemented. Here, experts deal with those issues for which it is difficult to conduct sound and precise cost-economic benefit analyses, estimate redistributive implications and establish compensation mechanisms based on policy deliberations (Enderlein 2013: 726). We draw on this framework that seeks to add to the literature on decision-making beyond parliaments to which Gerhard Lehbruch's study of corporatism has contributed tremendously. Applying it to EU level decision-making yields not only the expectation that the *voting* mode is here less relevant than in national politics as a result of the lack of a European public. It also requires us to make some adjustments compared to its usage in parliamentary democracies. Notably, we take the *executive* mode to mean intergovernmental negotiations and decisions at EU level, as the EU's main executive institution, the European Commission, is not recruited from within parliament and often referred to as the member states' agent in studies of political *delegation*.

Furthermore, we seek to demonstrate that these governance modes are not mutually exclusive when working towards policy solutions. They can be employed in a sequential or nested order in public policy-making. We argue that the

groundwork of the EU's financial market reforms was laid in a *technocratic* ad hoc committee, but that the reforms were then prepared and decided in the *negotiation* mode involving all EU legislative institutions. Furthermore, important elements of the *voting* and *executive* modes entered the policy debates and shaped their outcomes. Finally, all three reforms are meant to strengthen the *delegation* mode in financial market regulation and supervision.

The EU's regulatory regime of the financial market had been put in place before the financial market crisis in 2007. It was based on the Financial Services Action Plan 1999 and the *Lamfalussy* framework that has altered the procedures for EU financial legislation and regulation since 2001. There is widespread agreement that these measures established only minimum standards and aimed mostly at strengthening financial market efficiency and integration (Posner and Véron 2010). They led to a 'decentralized model of supervision' with a very strong role for national regulatory authorities (Schammo 2012: 775). In short, a rather light-touch, decentralised *delegation mode* came to dominate EU financial market regulation and supervision that incorporated some elements of *negotiation*.

When the global financial crisis swashed in 2007 (Begg 2009), a first set of reforms introduced changes to this institutional framework. The European Commission drew on expert advice to develop proposals for the general reform of financial market regulation. As a form of *technocratic ad-hoc governance*, an expert committee, the *Larosière* committee, was set up to review EU financial market regulation in 2008 (de Larosière 2009). Jacques de Larosière, a former director of the International Monetary Fund, was asked to set up a High-Level Group on Supervision that would consist of eight financial and economic specialists. This *ad-hoc technocracy* presented a report that included a causal diagnosis of the crisis and outlined several measures for policy and regulatory repair. Based on its recommendations, the European Commission (EC 2009) proposed a new regulatory regime. A European Systemic Risk Board (ESRB) with a strong role for the European Central Bank, the National Central Banks, and the European financial supervisors (see below) would be put in charge of macro-prudential supervision to monitor and assess systemic risks in European financial markets. The European System of Financial Supervisors (ESFS), which includes the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the European Securities Authority (ESA), would be put in charge of micro-prudential supervision. Generally, the supervision of financial institutions would be broadened to incorporate also the systemic risks that might emanate from their economic activities and instruments. Hence, based on recommendations developed through *ad hoc technocratic governance*, the *delegation mode* in EU financial market regulation was equipped with a firmer grip and it became more centralised. The ESFS transforms the three previous *Lamfalussy* level three committees into regulatory bodies with greater supervisory, coordinating powers giving them the task to develop a harmonised rulebook for financial market regulation while it continues to leave day-to-day supervision in the hands of member state authorities. An important argument against any greater centralisation of regulatory capacities at EU level was that the costs of regulatory failures would

not be borne by the EU institutions but by national taxpayers (Schammo 2012: 780). ESRB and ESFS were adopted in late 2010 (Regulation No. 1095/2010). It should be pointed out that *technocratic ad-hoc governance* is by no means new to the regulation of the financial sector in the EU and cannot be attributed to the crisis alone. Also the previous regulatory framework rested on recommendations of technocrats in the Committee of Wise Men, the so-called *Lamfalussy* expert group.

The three directive proposals that we study are part of the EU program to reform the economic governance of the financial sector. In this reform area, the *executive* (or intergovernmental) mode of governance—is not as strongly pronounced as it is in the revision of the economic governance of the Eurozone. As part of the EU's legislative reform package, the three reform processes involve the formal legislative institutions of the EU, the European Commission, the EU Council and the European Parliament (EP), as well as consultations with stakeholders in these proposals. The proposals have been debated in the *negotiation* mode which shows not only the controversies among the public actors that are presented in more detail below but also the involvement of non-state actors in the policy debates. We identified about 900 policy actors who participated in the EU level or national level consultations or who were mentioned in various media sources as having been involved in these proposals (excluding the EU institutional actors). About 50 % of these actors were visible in the consultations on the AIFM directive (458 actors), which attracted considerably more attention than the other two proposals. The most frequent types of actors are interest groups, companies, governmental actors, and public agencies. Interest groups were the modal type of actor on DGS and ICS, while companies were the modal type on the AIFM directive.

The EU institutions had reviewed and discussed these regulatory areas well before the financial market crisis of 2007, but did then not plan to take significant actions. Only the global financial crisis prompted greater action by the EU authorities in these areas to prevent further market failures and to increase the stability of the entire financial system. The Alternative Investment Fund Managers (AIFM) directive proposal aimed at harmonizing the requirements for entities engaged in the management and administration of alternative investment funds. It was meant to extend the *delegation mode* of EU economic governance to the hedge fund and private equity sectors while the ICS and DGS directive proposals aimed at revising existing EU directives on investor protection and deposit guarantee schemes. The AIFM directive was proposed in June 2009 and passed the EU's legislative 1 year later. The other two directives were proposed in 2010. While the DGS directive was passed in 2014, the ICS proposal did not lead to a legislative agreement till the time of writing. The European Commission (EC 2010c, d: 1) framed these two proposals as a 'package to boost consumer protection and confidence in financial markets' in July 2010 that was meant to protect bank depositors and retail investors (small investors). In the following section we analyse why these topics reached the EU policy agenda and what policy issues were debated.

2.1 Directive on Alternative Investment Fund Managers

The AIFM sector has become the subject of EU regulation because gradually a consensus emerged that hedge funds might have a systemic impact and be therefore brought under official oversight (Ferran 2011: 389). The *Larosière* committee found it guilty of important transmission effects ‘through massive selling of shares and short-selling transactions’ (de Larosière 2009: para 86, p. 24). The committee came close to recommending United Kingdom style national regulation as best practice (de Larosière 2009: paras 86–87, p. 24) and recommended establishing an oversight institution that would gather relevant information from the industry and evaluate them.

This change of perspective emerged also from divergent economic structures and conflicting national views of the AIFM in the member states. First, hedge funds would seem to be important financial players in Liberal Market Economies (LME) while they tend to disentangle the close relations between banks and enterprises or across enterprises that prevail in Coordinated Market Economies (CME) (see Hall and Soskice 2001). LMEs like the UK where more than 80 % of the European hedge fund industry is located generally support the industry’s position in favour of no, light, or self-regulation because they aim more at financial market innovation, emphasise competition in financial markets, and rely greatly on the industry’s self-regulation (Quaglia 2011: 669). In contrast, CMEs like Germany or the Netherlands or countries with a ‘state capitalism’, even if transformed like France (Schmidt 2002: 5), tend to suggest tighter control of the hedge fund sector in order to prevent major disruptions of the established finance-enterprises nexus. Furthermore, the importance of the hedge fund sector as a major symbol for global ‘shadow banking’ and the systemic risks it entails must be stressed. The French President Sarkozy and the German Chancellor Merkel who have argued for a stricter regulation of the hedge fund industry well before the financial crisis were crucial in placing this issue on the EU’s political agenda (Quaglia 2011: 670–671). Tighter control of hedge funds fit nicely with a ‘pro-regulation rhetoric’ of the French President to win public support for the upcoming elections (Woll 2012: 15). In several respects—the pursuit of domestic economic interests and of established regulatory ideas as well as the politics against a symbol of global financial capitalism—the financial crisis was a window of opportunity for the French and German governmental actors. Thus, while AIFM regulation was not fully subject to the *voting* mode, electoral considerations in some member states helped to place it on the political agenda as they had done earlier in the US presidential election in 2008. The election to the European Parliament in 2009 also placed the financial market regulation efforts firmly on the agenda of national and European parliamentary parties. Moreover, the French and German political leaders flagged the idea of stricter hedge fund regulation in international fora like the G20 and in the EU. Given the Franco-German tandem’s pressure, the analysis of the *Larosière* committee, and two critical reports in the EP on hedge funds and institutional investors (EP 2008a, b), the European Commission reversed its initially reluctant position to regulate the sector and put forward a Directive proposal in 2009.

The *negotiation* mode shows *inter alia* that the Spanish and the Swedish Presidencies of the EU Council brought several revisions to the directive proposal. The ensuing compromise in the Council was mostly negotiated between on the one hand France and Germany, which were critical of hedge funds and blamed them for the proliferation of the financial market meltdown and on the other hand a coalition of countries led by the UK which argued that stricter regulation would drive financial companies out of Europe (McDermott Will and Emery 2009). The compromise solution established minimum standards for all member states and subjected all alternative investment fund managers who manage funds above a minimum size to authorization by their home member state supervisor and supervision according to commonly defined principles.

2.2 Directive on Deposit Guarantee Schemes

The financial crisis also triggered a review of the 1994 Directive on Deposit Guarantee Schemes that was meant to protect the deposits of bank customers. In 2009, the EU Council and the EP passed Directive 2009/14/EC which raised the coverage level of bank deposits by five times from 20,000 € to 100,000 €. The revised directive also shortened the pay-out period to a maximum of 35 working days and ended the co-insurance system according to which savers would have to bear a 10 % loss of their deposit guarantees. This revision of the 1994 Directive was part of the immediate firefighting against the financial crisis and meant to restore confidence in the banking sector. The bankruptcy of a number of banks during the financial crisis had drawn attention to the national deposit schemes. There was an increasing concern that the established levels of deposit insurance schemes might not be sufficient and that savers needed additional reassurance to prevent capital flights. At the same time, the member states had an interest in limiting state liabilities and a regulatory competition with regard to national guarantee schemes that was prompted by the Irish decision to guarantee savings deposits as well as a range of liabilities held by the country's six biggest banks (European Voice 2008a, b). This problem constellation is also the reason why the first reform of the DGS was agreed upon very fast and in an *ad hoc executive* mode. By agreeing on an increase of the coverage level and a minimum harmonisation of the national deposit schemes, the member states quickly solved their coordination problem. The political significance of the level of deposits became soon evident during the banking crisis in Cyprus when bank accounts up to 100,000 € were exempted from contributing to the financial consolidation of the banks on grounds of the recently revised EU DGS directive. The European Commission was asked to review the directive's provisions and develop proposals for further legal amendments by 2009, if necessary.

After public consultations, expert hearings, and recommendations by the *Larosière* committee for further harmonisation and the pre-funding of deposit guarantee schemes by the financial sector (de Larosière 2009: para 134, p. 34), the Commission presented a recast-proposal in 2010 (EC 2010b). It argued that the

minimum harmonisation provided for by earlier legislation was ineffective in protecting depositors' wealth and also inconsistent with the proper functioning of the internal market (EC 2010b: 3–4). It proposed to shorten the pay-out period to 7 working days and to regulate, for the first time, the financing of these schemes to protect a larger percentage of the eligible deposits. The Commission aimed at the establishment of a bank-financed *ex ante* fund size of 1.5 % of eligible deposits. It suggested a transition period of 10 years to reach this level (Gerhardt and Lannoo 2011). Another 0.5 % should be extracted through *ex post* bank contributions. This fund would increase the banks' contributions to DGS by four or five times and lower their profits by about 2.5 % in normal times (EC 2010b: 6).

This proposal met with substantial criticism from the member states. The most controversial issues of the proposal have been the setting up an *ex ante* fund, the question of international transfers between funds and the time frame for building up the scheme. The German and the Swedish parliaments (October 2010) issued reasoned opinions under the subsidiarity control mechanism. In the UK, concern about the effects of the directive on small banks caused an initial rejection of parts of the proposal. The Dutch actors also resented the proposal because it included provisions for financial transfers from national to foreign DGS. The European Parliament supported the Commission proposals for the *ex ante* fund and for covering deposits up to 100,000 €, but voted for longer transition and payment periods.

In 2012, the European Commission raised the symbolic significance of the directive by presenting this proposal as an elementary component of a European Banking Union, that would consist of a single supervisory authority for banks, a single deposit guarantee scheme, and banking restructuring mechanisms. Hence, over time, the status of DGS moved from quick fixes to maintain consumer confidence to becoming an important stabilisation mechanism of the banking system. In the context of agreements on other aspects of the Banking Union such as the establishment of a Single Supervisory Mechanism and the Single Resolution Mechanism, the EU Council and the EP managed also to reach informal agreement on the revision of the directive in December 2013 (EC 2013). The coverage level of 100,000 € per depositor and bank remains unchanged. The target level for bank-paid *ex ante* funds has been set at 0.8 % of the covered deposits which is 0.7 percentage points below the Commission's proposal and 0.3 percentage points above the resenting member states' demand. This level must be achieved within 10 years as the Commission had proposed; the Commission can grant exemptions from that level which, however, cannot be lower than 0.5 % of covered deposits. The repayment deadline has been shortened to 7 working days from 2024. Finally, the directive passed in 2014 introduces a voluntary but not a mandatory mechanism of mutual borrowing between different national DGS.

2.3 Directive on Investor Compensation Schemes

The proposal for the revision of the 1997 Investor Compensation Scheme directive (Directive 97/9/EC) was meant to restore investor confidence in the financial system. A further rationale was the prevention of competitive distortions arising from member states imposing their own compensation requirements on third country firms. The proposal stipulated to compensate investors in case that an investment firm that held and managed the money and the financial instruments of its clients should be unable to repay or return the invested money or the financial instrument due to fraud or other administrative errors. The proposal covered also investments in funds that were regulated by the UCITS and Markets in Financial Instruments (MiFI directives; EC 2010a). In parallel to its reasoning for a revision of the DGS directive, the Commission claimed that the protection of consumers required an increase of the existing coverage level and stronger common rules concerning the funding of the schemes at national level. Investors with cross border investments should enjoy the same level of protection in all member states. This directive was not part of the immediate firefighting and discussed in a *negotiation* mode, involving all EU institutions. The main issues were how to fund the ICS and what investments to cover by the ICS (Interview European Commission, 10 May 2012). The calculation of the financial contributions should be based on the risks incurred by a firm. As in the DGS case, the Commission suggested *ex ante* funding. Each investor compensation scheme should establish a target fund level of at least 0.5 % of the value of the money and financial instruments that were held, administered or managed by the investment firms or collective investments covered by the scheme. If the amount of compensation funds should prove to be insufficient for the claims, the funds should call additional money from the financial institutions or borrow it from other schemes. In that respect, the Commission proposed a compulsory lending level of 10 % among the member states' ICS. Additionally, the Commission suggested an upper limit of 20,000 € to be imposed on the compensation coverage, which is significantly less than the 100,000 € for bank deposits.

In response, both parliamentary chambers in the UK discussed issuing a subsidiarity complaint. The British parliamentarians argued that an investment compensation scheme might undertake inappropriate, careless or risky actions, because it was relying on the fail-safe mechanism of cross-border lending. To avoid moral hazards it would be better not to have recourse to other member states' schemes, but to have each member state ensure that the members of the national compensation schemes take full responsibility themselves. Similarly, Dutch and Swedish stakeholders rejected the possibility of a mutual loan system. Furthermore, British, German, and Dutch governments claimed that national investor compensation provisions were already in place and that the proposed EU level regulation would not improve the situation. In sum, all four governments rejected the Commission proposal.

Building on the position of British MEPs, the EP (2011) was also concerned that the proposed *ex ante* target fund level of 0.5 % and the mutual loan system could trigger moral hazards. The EP underlined that each member state should maintain

the responsibility for having appropriate financing mechanisms in place. The Commission opposed the amendments suggested by the EP (EC 2011). At the time of writing, the EP and the Council have not been able to find a compromise on the Commission's proposal. The Council has not reached a common position. The member states disagree on the compensation level (ranging between 20,000 € and 50,000 €) and the majority of them reject extending the scope of the Directive to UCITS unit holders.

In sum, the three proposals were placed on the EU's agenda in response to the external shock of the global financial market crisis. Furthermore, electoral considerations and the *voting mode* proved important in the debate on the AIFM directive. But mostly, the legislative proposals were prepared by ad hoc *technocratic committee governance*, before entering the *negotiation mode* in the EU's legislative debates. Here the *executive mode* clearly played a role in the format of intergovernmental bargaining. The member states disagreement on the distributive implications of the DGS and the ICS directive proposals proved a greater obstacle to the passing of these proposals than the introduction of a new set of regulatory institutions at EU level to the hitherto little regulated alternative investment funds. However, the case studies clearly demonstrate that decisions have not been taken in the *ad hoc* executive mode alone, the European Parliament as well as national parliaments had roles to play in these debates. Finally, all three proposals aim at strengthening the *delegation mode*, introducing either new regulatory and supervisory instruments or revising established instruments.

3 The Scope of Policy Changes and Policy Framing in the Three Policy Debates

Policy analysts differ in their opinion about the amount of change induced by these reform processes. For instance, it is contested if the revisions to the AIFM Directive proposal watered the original proposal significantly down (Buckley and Howarth 2011) or if the directive may be regarded as a sea change in the regulation of the hedge fund industry (Quaglia 2011). According to the European Commission, the two most controversial policy issues—the scope of the directive and the opening of the European market to funds from third countries after obtaining a European passport—have been settled very closely to its original proposal (Interview European Commission, 9 February 2012). We are going to employ three indicators to assess the amount and direction of changes introduced by the three legislative proposals that we study.¹ First, we rely on the perceptions of the policy participants. Based on a content analysis of their position papers and policy documents, it

¹ We collected 746 documents on the three directive proposals (207 media articles and 539 position papers from different stakeholders). The majority of the statements were given in the consultation processes of the EC or the national authorities. For this article, we used a sample of 170, randomly selected, policy documents from the four countries and of the EU level actors.

Table 1 Extent of change introduced by the policy proposals

| | AIFM | ICS | DGS |
|---------------------------------|-------------|-------------|-------------|
| Routine or incremental change | 25 (46.3 %) | 25 (71.4 %) | 29 (45.3 %) |
| Major change or emergent policy | 29 (53.7 %) | 10 (28.6 %) | 35 (54.7 %) |

$\chi^2 (2) = 7.3379$, $P = 0.026$, $N = 153$

becomes evident that the policy participants find the changes included in the three directive proposals non-trivial, but disagree on their amount (Table 1). A majority of the actors who were involved in the debates on the AIFM and the DGS directives is of the opinion that these proposals constitute major policy changes or deal with entirely new policy problems. In the case of the ICS directive, this holds only for 29 % of the actors. This proposal is much more likely to introduce only incremental changes to the EU's economic governance regime than the other two proposals. Interestingly, the perceived scope of changes introduced by each proposal is not at all related to the difficulty of reaching agreement in the EU legislative process. The investor compensation scheme proposal which is perceived to display the least amount of change could not yet be passed by the EP and the EU Council. And it took much longer to pass the revised directive on DGS than the AIFM directive, which displays about the same degree of change according to the policy participants.

A second way of gauging the extent of change is to establish the cognitive maps of the actors during the policy debates. For this purpose, we study frames as arguments that emphasise a specific aspect of a policy proposal (Entman 1993). According to Daviter (2009: 1118), policy frames are about what 'actors perceive to be at stake in an issue'. A study of the policy actors' frames shall therefore indicate, if essential perspectives have changed due to the financial market crisis. Before the financial crisis, financial market regulation was primarily meant to ensure market efficiency and market integration. As Barry Eichengreen (2009: 19–20) puts it, the 'EU Financial Services Action Plan (FSAP) of 1999 established minimum standards for supervisors and regulators,' that did not prevent gaps in directives and allowed for an uneven implementation. Financial market stability and investor confidence were not high on the agenda.

Based on a content analysis, Table 2 presents the frames the actors identified in their position and policy papers, or what they perceived to be the essence of the three directive proposals. While not allowing for a strict inter-temporal comparison with previous legislative debates, the table indicates the emphases of the policy debates. It shows that framing is widespread: more than 90 % of the actors invoked at least one frame. A limited number of frames dominated the debates. Among the substantial frames, financial market stability and consumer safety predominate, whereas market functioning and competition is less emphasized. Among the procedural frames, the emphasis is on harmonization and regulation. From this evidence it can be inferred that the substantial concern of financial market regulation has shifted to consumer safety and financial market stability. In the aftermath of the global financial crisis, these two frames brought the entire set of reforms of EU

Table 2 Types of frames in the three directive proposals

| | AIFM | ICS | DGS | Sum |
|------------------------------------|------|-----|-----|-----|
| No frame | 14 | 3 | 9 | 26 |
| <i>Procedural frames</i> | | | | |
| Regulation | 26 | 7 | 2 | 35 |
| Harmonization | 18 | 9 | 29 | 56 |
| Implementation | 1 | 1 | 1 | 3 |
| Information and transparency | 1 | 1 | 3 | 5 |
| <i>Substantial frames</i> | | | | |
| Costs and benefits | 9 | 5 | 1 | 15 |
| Market functioning and competition | 4 | 14 | 5 | 23 |
| Financial market stability | 9 | 8 | 26 | 43 |
| Consumer safety | 6 | 18 | 37 | 61 |
| Investor confidence | 0 | 11 | 0 | 11 |
| Employment | 2 | 0 | 0 | 2 |
| Sum | 90 | 77 | 113 | 280 |

financial market regulation under way. As they were more important during the debates on ICS and DGS than on AIFM and as the former directive proposals were less easily agreed upon at EU level than the latter, it is safe to say that this paradigm shift in the framing of financial market regulation is in itself insufficient to account for the success (or failure) of specific legislative proposals. The political controversies concerning the three directive proposals were situated below the level of the financial market safety metaframe and focused on specific policy issues.

A third way of measuring change is to use an institutional approach by looking at modifications of the regulatory institutions. Here, continuity is more common than discontinuity. When change happens, it is more often a gradual transformation than an abrupt change, which is due to the path dependencies of institutions (Streeck and Thelen 2005: 4–9). In the case of financial market regulation, we can see the global financial crisis as either a window of opportunity for an abrupt change, or rather as a trigger for a gradual, transformative change in the sense of Streeck and Thelen. They distinguish among *layering*, *displacement*, *conversion*, *drift* and *exhaustion*. The first describes a gradual process where a conflicting institution is slowly replacing an old institution because the new one is favoured by decision-makers or the old one becomes more and more costly. *Displacement* means that pre-existing institutions are challenged and pushed aside by new, more salient arrangements that have a bigger lobby than the old ones. When they respond to new challenges or when there is a shift in power relations, policy-makers may redirect institutions, a process the authors call *conversion*. Here, actors change institutions on purpose. *Drift* takes place if institutions are not tended to and not kept updated. In that case, institutional arrangements will drift and be replaced. The process of *exhaustion* describes a gradual breakdown, where the whole institution is not worth being preserved since it may produce more costs than it saves.

Following this classification, we observe different degrees of institutional change across directive proposals and political levels.² The AIFM directive introduced several changes to the way in which hedge funds and private equity funds are treated at EU level. A previously not regulated area was subjected to a harmonized approach. In that sense, a new institutional model appeared, replacing and updating previous national laws, and setting up a multilevel regulation regime. Even though the substance of the EU directive falls somewhat short of the Commission's proposal, the directive calls into question the 'previously taken-for-granted ways' of supervising hedge funds. To qualify the extent of institutional change introduced through the AIFM directive more precisely we pay also attention to the changes it triggered in the EU member states. The reforms required in the four member states we analyse more closely are quite limited such that the AIFM directive leads to an institutional *conversion* which is a situation where formal institutions are redirected towards new goals, functions and purposes (Streeck and Thelen 2005: 26). In the cases of the DGS and ICS directive proposals, the Commission proposed revisions of EU legislation that was already in place. The problems addressed in both recast directives were meant to address the changing conditions of international financial markets to provide for consumer safety. We label these revisions a variety of deliberate but contested institutional *layering* as they modified not only the existing rules, but added also new rules such as those on the financing of these institutions that may allow a later usage of these funds in the resolution of failed banks.

4 Conclusions

The AIFM, DGS, and ICS directive proposals are part of the EU's effort to respond with a unified voice to the global financial crisis and the crisis of the Eurozone. There is a disagreement on whether they are 'gesture politics' or whether they introduce new regulatory paradigm.

As we have shown by looking at three types of changes, the new legal provisions cover a greater scope and tend to be stricter than the previous legal provisions. They are embedded in the new master frame of stabilizing financial markets and enhancing consumer safety by strengthening EU financial market supervision and regulation. In institutional terms, they are part of the gradual transformation of the EU's regime for financial market regulation that entails institutional layering and conversion. The concern that responses to the crisis are mostly delegated to technocrats is not warranted. We identified a typical reform sequence in these three cases: The establishment of an *ad hoc* technocratic committee has been followed by negotiation processes involving all legislative institutions of the EU as well as some national parliaments and buttressed by elements of the executive and the voting modes. Finally, the legislative decisions have strengthened the delegation mode in

² See also Salines et al. (2012), on other institutional changes in EU financial market regulation.

the EU's system of multilevel governance. Insofar, we suggest that these modes are not mutually exclusive alternatives for making decisions on policy problems that have specific characteristics. Rather than being solely determined by issue characteristics, the selection of governance modes is strongly influenced by institutional contexts. In the EU's complex system of multilevel governance, they have been used in a sequential and nested manner.

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Part III

Transformations

Transformations of Democracy in a Globalizing World

Edgar Grande

Abstract

This paper argues that modern democracy has been transformed into a new type of complex governance of dubious democratic quality and unclear effectiveness. The argument is presented in three steps. First, the different dimensions of the current transformation of democracy and its consequences are outlined. The paper shows that as a result of this transformation *complex hybrid types of democracy* characterized by the co-existence of different arenas and rule systems have been emerging. In a second step, the paper analyses the relationship between the different arenas and rule systems. It argues that competition for political office on the one hand, and political decision-making and the production of collective goods on the other hand, increasingly follow different rules which are largely *incompatible*. Finally, the paper discusses the consequences of globalization for these new types of democracy. It concludes that in a globalizing world, our democracies seem to be confronted with the problem that functional and political spaces of authority may be separated and de-coupled. On the one hand, global negotiation systems will increase in importance, in which—at best—effective decisions with inferior democratic quality are taken. On the other hand, in domestic politics there will be an intensification of political conflict and party competition. These conflicts will—again, at best—be symbolic politics. In the worst case, these domestic conflicts will jeopardize the effectiveness of global negotiation systems.

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1 Democratic Challenges of Complex Governance

In the beginning of the twenty-first century, modern democracies are faced with a number of challenges. Among them is the increasing importance of actors without a democratic mandate in new modes of “governance”; the transfer of decision-making power to so-called “independent agencies”; and the globalization and Europeanization of politics. As a consequence of these developments, democracy’s (external) scope and the citizens’ effective chances for influencing public affairs have been shrinking significantly (see Grande 1996, 2000b). In the following paper, I will deal with another aspect of the current transformations of modern democracy, i.e., with changes in its internal structure. I will argue that the *internal* structure of modern democracy has gone through fundamental transformations, too. This is due to the “mediatization” of modern societies, on the one hand (cf. Mazzoleni and Schulz 1999; Blumler and Kavanagh 1999; Schulz 2004); and of their globalization, on the other hand (cf. Held et al. 1999; Zürn 1998; Grande and Pauly 2005). As a consequence, the structure of modern democracies at the beginning of the twenty-first century fundamentally differs from the models provided by normative democratic theory, to say nothing of most textbooks which are used for explaining parliamentary democracy to students (see e.g., Weale 2007). Representative democracy, as it is constitutionalized in West European countries, has been transformed into a new type of complex governance of dubious democratic quality and unclear effectiveness.

This transformation is neither captured by Colin Crouch’s theory of “post democracy”, which underrates the level of political contestation and conflict in this new type of complex governance (cf. Crouch 2004; for a critical account see von Beyme 2013); nor by Ulrich Beck’s concept of “sub-politics”, which places too much emphasis on civil society and social movements, while ignoring the persistent relevance of party politics (Beck 1993); or by Daniele Archibugi’s theory of “cosmopolitan democracy”, which puts too much weight on the transnational level of politics (Archibugi 2008)—to mention only some of the most relevant current accounts on the transformation of politics and democracy in the “age of globalization”.

In the following paper, I will present my argument in three steps. First, I will outline the different dimensions of the current transformation of democracy and its consequences. These transformations result in *complex hybrid types of democracy* characterized by the co-existence of different arenas and rule systems. In a second step, I will analyse the relationship between the different arenas and rule systems. I will show that competition for political office on the one hand, and political decision-making and the production of collective goods on the other hand, increasingly follow different rules which are largely *incompatible*. Finally, I will discuss the consequences of globalization for these new types of democracy.

2 Dimensions of Transformation: Party Democracy, Negotiation Democracy, and Media Democracy

In the past decades, the transformation and crises of democracy have been major topics in political science. We can trace several research areas which have dealt empirically with various aspects of change. However, each of these fields has only addressed these transformation processes in a highly selective way. There was hardly any interconnection between them (for a recent exception, see Kriesi et al. 2013). Research on “mediatization”, “negotiation systems” and “globalization” is most instructive in this respect.

In the 2000s, the focus in scholarly debate was on the increasing importance of media, especially electronic mass media, in politics—i.e., the “mediatization” of democracy (for overviews of the debate, see Donsbach and Jandura 2003; Rössler and Krotz 2005; for a recent account, see Esser and Stromback 2014). According to the concept of “mediatization”, politics has increasingly subjugated both its appearance and its functioning to the requirements of “media society” and the functional logic of “media systems”. Critics of these developments complain that politics are being “dismantled” (Kepplinger 1998) and that the political system has been “colonialized” by the media system (Meyer 2001). As a result, these scholars argue, democracy has been transformed into “mediocracy”.

These findings are in striking contrast to the findings of comparative research on democracies in the 1980s and 1990s. In this research, the focus was—apart from interest in the transformation of authoritarian regimes—primarily on the concept of “consensus” or “negotiation democracy”. This research was inspired by the observation that the type of majoritarian, competitive democracy was losing its significance in Western industrialized countries and that they were about to change into “consensus democracies” (Lijphart 1984, 2012) or “negotiation democracies” (Lehmbruch 2003; see also Benz et al. 1992; Czada and Schmidt 1993; Mayntz and Scharpf 1995; Holtmann and Voelzkow 2000). The consequences of this development have been controversial. Whereas some scholars complain about a “decline of parliaments”, others, in particular Gerhard Lehmbruch, assume that this transformation neither results in a complete loss of power for parliaments, nor in a total renunciation of competition among parties and the use of majority ruling. Rather, they expect a coexistence and combination of different political arenas and modes of political conflict resolution (see Lehmbruch 1977, 2000). In such a perspective, the recent history of democracy in Western industrialized countries can be characterized by the emergence of *complex hybrid systems of governance* which combine different institutional arrangements and decision-making rules in unique ways.

In the following sections, I will extend this argument by showing how parliamentary democracy is meanwhile being superimposed by three forms and arenas of political communication, participation and decision-making, which each suffers from its own specific problems (in the German public debate, these are sometimes denoted as “traps”). In the scholarly literature, these arenas are presented as distinctive types of democracy, which are:

- party democracy,
- negotiation democracy,
- media democracy.

The *first transformation* of democracy results from the increasing significance of political parties, more accurately, of a new type of “cartel party” (Katz and Mair 1995) or “professionalized voter party” (von Beyme 2000). Rather than being replaced by organized civil society and new modes of participatory governance, modern democracies turned into “party democracies”. This reflects the very well-known fact that public offices are no longer occupied by individual members of parliament or by informal political clubs but by oligarchical organizations which marginalize their members and monopolize competition for public offices. In this process, politics is “re-coded” and operates on the basis of the difference between “government” and “opposition”. As a result, government mutates into “party government”, in which government and the majority of parliament are joining forces and any governmental activity is directly subjugated to the pressures of party competition.

This type of party democracy is exposed to a typical hazard—the hazard of getting into a “competition trap”. By this, I mean the danger that *every* political issue is processed by using the difference of “government” and “opposition”, even in cases in which this is inappropriate. Moreover, party democracies tend to subordinate political issues to the short-term calculus of elections or re-election chances. To put it exaggeratedly, in “party democracy”, politics tend to become a “permanent election campaign”—a danger particularly imminent in federal systems like Germany with their frequent parliamentary elections at the sub-national level.

The *second transformation* of democracy concerns the well-known trend towards “negotiation democracy”. According to Gerhard Lehbruch (2003), “negotiation democracies” are political systems in which political issues are neither subjugated to the difference of “government” and “opposition” nor decided by majority vote, but by way of an amicable understanding between all actors concerned. In Western democracies, it is useful to distinguish at least three different types of negotiation systems (see Czada 2000):

- firstly, *institutionally enforced forms of cooperation between governments*, i.e., joint decision-making, which we know from German federalism and from the decision-making processes within the European Union (see in particular Scharpf 1985); and which are typical of international organizations and trans-national policy regimes too;
- secondly, *voluntary forms of cooperation between government and opposition* as exemplified by cases of “consociational democracy” in Austria, Switzerland and in the Netherlands (Lehbruch 1967; Lijphart 1975; for a more recent comparative overview, see Steiner and Ertmann 2002; Köppl and Kranepol 2012);
- thirdly, *voluntary forms of cooperation between governments and interest groups* which are most pronounced in corporatist systems of interest intermediation (see Schmitter and Lehbruch 1979; Lehbruch and Schmitter 1982).

These varieties of negotiation democracy differ in many ways and they are—as Roland Czada (2000) pointed out—not compatible under all and any circumstances. It is of particular importance that in the first case, i.e., institutionalized joint decision-making, *negotiations are enforced* and actors do not have any exit option. Should they fail to reach a consensus, no decision can be taken. This is the constellation which is threatened by stalemate because of the existence of strong “veto players” (Tsebelis 2002). Such compulsory negotiation systems are especially typical of Germany (Scharpf 1985), and in the 1990s, they provided cause for the country’s (bad) reputation as a “blocked republic” unable to adopt political reforms. However, this does not hold for the other two varieties of negotiation systems. They are characterized by *voluntary negotiations*. Should they fail, government as a rule is authorized to take decisions by using its parliamentary majority. In these cases, consensual solutions are aspired because they are expected to improve the political and social acceptance of controversial decisions. In this way, the implementation costs of political decisions can be reduced and confidence in the long-term stability of decisions can be increased.

However, for an adequate characterization of the structure of modern democracies, emphasizing the fact that negotiation systems play an important and indispensable role within and beyond the nation state is not sufficient. Modern democracies are certainly negotiation democracies, but they are also *much more than negotiation democracies*. The literature on negotiation democracies tends to neglect the fact that consensus-oriented negotiation systems are not the exclusive arena of political decision-making and that they do not function in such a way as it is mostly maintained. This is partly due to the fact that negotiation democracy has not simply replaced but rather supplemented party democracy, as Gerhard Lehmbruch (2000) has shown in his seminal study on German federalism.

Another reason is that political systems in Western democracies are not only “squeezed” between the two forms of “party democracy” and “negotiation democracy”. Most recent analyses on negotiation democracy completely ignore a *third transformation* which has constituted a third political arena. This arena might be denoted as “media democracy” (see Grande 2000a). The concept of “media democracy” does not simply stress the fact that media do exert a strong or even decisive influence on politics (Sarcinelli 1997: 36). This is certainly the case. Rather it emphasizes that political deliberation and decision-making in modern democracies are increasingly dominated by the functional logic of modern mass media (cf. Schulz 2004; Sarcinelli 1997; Müller 1999). In the arena of media democracy, the reference scheme for political decisions is not an ideological principle or a criterion of functional appropriateness (whatever its meaning). Rather, it is *media publicity* and *media credibility* which is measured in terms of media presence, public popularity, opinion poll outcomes, or audience ratings. This applies to the selection of political issues (i.e., “agenda setting”), the discussion of political alternatives, and—most important—the content of political decisions. In media democracy, politics tends to become “performance politics” (Korte and Hirscher 2000).

Media democracy has its traps too. The most significant one might be the “*expectation trap*”. The media’s “logic” of attracting attention tends to extort

promises from politicians which are entirely disproportionate to their *de facto* decision-making capabilities and resources. As a consequence, the combination of overpromising and underperforming, i.e. “election fraud by media” (Schelsky 1983: 338), has become a part of everyday life in modern democracies. An additional risk threatening media democracy is the “simplification trap”, i.e., an oversimplification of political problems and solutions (which, in the United States, was characterized as a “rambofication” of politics already in the 1980s). A variety of this simplification of politics and policies might be denoted as an “emotionalization trap”, i.e., the propensity to present political problems not as factual alternatives but to emotionalize them. In such a case, political decisions would not be taken on the basis of rational calculation and discourse but instead under the influence of opinions based on emotion (Westen 2012).

My *first conclusion* then is that the political systems of Western democracies can be characterized by the separation of three distinct political arenas, which are each characterized by their specific institutions, rule systems, reference criteria, and mechanisms of political conflict resolution. The crucial question then is how the various arenas and rule systems are related to each other. In the scholarly literature, we can find two competing arguments in this regard. The dominant hypothesis is a *replacement* or *predominance argument*. It assumes that a specific arena or rule system is replaced by another, or that one arena or rule system dominates the others. Arend Lijphart’s theory of “consensus democracy” (1984, 2012) and Bernard Manin’s theory of “audience democracy” (1995) are among the most prominent examples here. Lijphart argues that the majoritarian type of democracy has been dying out and has been replaced by “consensus democracy”, while Manin assumes that “party democracy” has given way to a new form of “media democracy”.

The alternative to this hypothesis is a *co-existence* and *interaction argument*. This argument follows Lehmbruch’s contributions to research on “negotiation democracies” and suggests that these arenas *co-exist*, even if their relative importance may vary across countries, depending, for example, on the strength of political parties and party competition or on the structure of the media system. In this view, “party democracy” has neither been replaced by “negotiation democracy” nor by “media” or “audience democracy”. In reality, contemporary democracies rather consist of complex hybrids. Existing typologies of democracies fail to grasp the very essence of these new structures. Hence, *it is crucial for an analysis of modern democracies to shift the focus of analysis from individual political arenas and rule systems to the coexistence of various arenas and rule systems and the pattern of their interaction.*

3 The Governance Trilemma: On the Incompatibility of Political Arenas and Rule Systems in Media Society

If contemporary democracies are characterized by the co-existence of different arenas and rule systems, the crucial question is whether these arenas and rule systems are *compatible*. The fact that they co-exist does not imply that they can function simultaneously in perfect harmony. In this context, two main arguments

can be identified in the literature. The first argument could be labelled as “complementarity hypothesis”, similar to the concept of “institutional complementarity”, as developed by Peter Hall and David Soskice (2001) in the field of comparative political economy. This hypothesis argues that the different political logics are, by and large, complementary and that the differentiation of separate political arenas will increase the “governability” of modern democracies. This argument can, for example, be found in Gerhard Lehmbruch’s seminal article on “Liberal Corporatism and Party Government” (Lehmbruch 1977). In the following section, I advance a competing hypothesis, an “incompatibility hypothesis”, which has also been developed by Lehmbruch, but on a different empirical basis, i.e., German federalism (Lehmbruch 2000). Following this “incompatibility hypothesis”, I argue that the three political arenas and rule systems which I outlined above—party democracy, negotiation democracy, and media democracy—are indeed *incompatible* in many respects. As a consequence, politics in modern democracies are increasingly faced with demands which are incommensurate. I will sketch out this argument very briefly for the most important relations between the three arenas:

1. *Party democracy and media democracy*: At first glance, party democracy and media democracy do not only seem to co-exist harmoniously, they even seem to intensify each other. At least in Western Europe, media democracy frequently appears as an instrument and consequence of party politics. If we examine the functional logic of both arenas in more detail, we may discover, however, that media democracy is compatible with the functional logic of party competition only *partially* and only under very specific preconditions. As we all know, the media logic enforces the sharpening of clear and conflicting alternatives. This is only conducive to success in party competition if two parties (or party camps) are competing for votes by offering clear-cut alternatives. As soon as these conditions are no longer given—if, for example, solutions for political problems are more complicated, or if political constellations in a party system are more complex—the functional logic of media democracy will distort party competition and jeopardize its virtues. In addition, media democracy’s tendency towards personalization enforces the sharpening of alternatives in a very specific—and especially problematic—form, viz. personal alternatives (and problems). This may result in intensified party competition (as we had it in Germany, for instance, in sharp confrontation between Helmut Schmidt and Franz Josef Strauss during the 1980 *Bundestag* election campaign). However, this pattern of conflict does not necessarily fit into the distinction between government and opposition. Such conflicts may well take place within governments or opposition parties; and such personalized internal confrontations are apt to do more damage than good for the respective party in inter-party competition.
2. *Party democracy and negotiation democracy*: The relationship between party democracy and negotiation democracy has been quite thoroughly investigated by political scientists, and their results are unequivocal: the two forms of democracy are *largely incompatible*. In the case of compulsory negotiation

systems, this was shown very convincingly and in full detail by Gerhard Lehbruch (2000) in his seminal work on German federalism, as well as by Arthur Benz (2000). Regarding voluntary negotiation systems, comparative research seems to indicate that they function best if party competition can be “appeased” or mitigated. At least it is striking that countries with stable voluntary negotiation systems are either “consociational democracies”, in which the assignment of public offices is not directly affected by the outcomes of national elections (as in Switzerland); or they are countries with a long-term hegemony of a single party (as in the case of the Swedish Social Democratic Party in the post-war decades of the twentieth century).

3. *Negotiation democracy and media democracy*: Relations between negotiation democracy and media democracy are particularly problematic because their rule systems are, in my view, *completely incompatible* (see Grande 2000a). To overstate, the most significant functional principles of *negotiation democracy* are:

- intimacy, i.e., the exclusion of the public and the predominance of informal and intimate conversations;
- anonymity, i.e., the fact that individual contributions to negotiations and their results should remain anonymous;
- lack of transparency, i.e., the blurring of individual responsibilities;
- finally, the impossibility to distinguish between the winners and losers of a negotiation; or what is more, the unwillingness even to evaluate a negotiation outcome according to such categories.

These requirements are hardly compatible with the principles of party democracy. They are also completely incompatible with the functional logic of media democracy. To exaggerate again, media democracy requires:

- publicity: establishing full and unrestricted publicity as well as renouncing any form of secrecy or intimacy;
- clearly assigning successes and failures to individual participants and contributions;
- explicitly attributing individual responsibilities;
- distinguishing unequivocally between the winners and losers of political decisions.

This implies that negotiation systems must inevitably lose their efficiency if they are dragged into the public light and subjugated to media democracy’s rules of the game.

This leads me to my *second conclusion*. Obviously, politics in modern democracies are confronted with a *strategic trilemma*: Competition for political office on the one hand, and political decision-making and the production of collective goods

on the other hand increasingly take place in separate arenas and follow rules which are largely *incompatible*. Metaphorically speaking, politics in a media society seems to be entering three neck-and-neck races at once. As a consequence, political elites permanently generate frustrations: among party members, with their negotiation partners (from politics, business and society), among the media and among voters—in the worst case, among them all. It seems as if modern democracies have been mutating into a highly complicated mechanism for reliably and permanently generating political frustrations.

4 Globalizing Modern Democracy: An Escape from the Trilemma?

How does globalization fit into this picture? At first sight, it seems as if globalization helps to solve the problem of competing and incompatible rule systems and political logics. As a consequence of political de-nationalization, European integration and globalization in particular, we can observe a rapid increase of consensus-based negotiation systems. “Governance beyond the nation-state” (Zürn 1998) predominantly occurs within complex negotiation systems—and, because of the absence of a hierarchical sanctioning authority, is necessarily bound to occur. A hegemonial power, such as the U.S. during the past two decades, might be able to violate international norms without immediate consequences, but it is unable to impose its own norms on other states lastingly.

Most important, efforts to transfer the model of representative parliamentary democracy to new inter-, trans- or supranational institutions have either been unsatisfactory, as in the case of the EU (Greven and Pauly 2000), or they are still utopian, as in Daniele Archibugi’s concept of “cosmopolitan democracy” (Archibugi 2008). The EU is a striking case in this regard. In the EU, we find one of the most powerful parliaments in Europe, although this parliament is not fully dominated by the logic of party competition but by the logic of negotiation (Rittberger 2005). The strengthening of the constitutional competencies of the European Parliament has increased its bargaining power in the EU’s negotiation system, but its activities are not shaped by competition between government and opposition; and it is largely disconnected from European citizens. This has resulted in a striking democratic paradox: While the competencies and negotiation powers of the European Parliament have been increasing, turnout at European elections has been steadily declining.

Moreover, it seems as if the media logic is closely connected to *national* politics. Media attention of European or even international events is significantly lower and focussed on a small number of political summits, catastrophes, etc. Therefore, we should assume that the media logic cannot penetrate politics beyond the nation state in the same way as it does at the national or sub-national level.

As a consequence, we should expect that the logic of negotiation will be clearly dominant in global politics. Global politics are and will be negotiated politics—by and large unaffected by party competition and the media logic at the global level. From the perspective of democratic theory, the key question then is whether these transnational negotiation systems can be democratized, i.e., whether there can be

“negotiation democracy” at the global level. I cannot summarize the results of the intense debate on this issue here, but I have the impression that we must be rather sceptical in this regard. Most of the well-known problems of “negotiation democracy” at the domestic level, such as, for example, lack of transparency, limited access to decision-making, or unclear accountability, hold even more at the global level. As a result, globalizing politics helps us to get rid of some of the problems of complex governance at the national level—however, we risk paying a high price, i.e., a significant loss of democratic quality.

The consequences of globalization on democratic politics might be even worse. There is evidence that globalization not only produces new interdependencies and pressures for transnational cooperation—but also a *re-nationalization of politics* (Kriesi et al. 2008, 2012; Grande and Kriesi 2013). This re-nationalization of politics has two dimensions. Firstly, by producing new groups of winners and losers and by creating a new political cleavage, it intensifies party competition at the national level. And secondly, in Western Europe the new political potentials created in this process have most successfully been exploited by nationalist parties agitating against foreigners, migrants, and Europe.

Hence, in a globalizing world, our democracies seem to be confronted with the problem that functional and political spaces of authority tend to be separated and de-coupled (Zürn 2001). On the one hand, global negotiation systems will increase in importance, in which—at best—effective decisions with inferior democratic quality are taken. On the other hand, in domestic politics there will be an intensification of political conflict and party competition. These conflicts will—again, at best—be symbolic politics. In the worst case, these domestic conflicts will jeopardize the effectiveness of global negotiation systems.

Against this background, my *third and last conclusion* is that analysing the current transformations of democracy in a globalized media society, its functional limitations and political conflict structures is an urgent and still unaccomplished task for comparative political science. Gerhard Lehmbuch with his seminal work on political conflict, party competition and negotiation democracies has paved the way for such a research program. It is up to his scholars to take up the challenge and continue this work!

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“Post-Democracy” and the Public Sphere: Informality and Transparency in Negotiated Decision-Making

Roland Czada

Abstract

Growing numbers of informal consultation bodies, dialog forums and national summit meetings set up by governments indicate a double departure from neo-corporatist interest-intermediation: first from pragmatic, exchange-oriented bargaining towards value-based forums of discourse; second from bargaining processes largely conducted *in camera* to media events accompanied by public scrutiny. Although extra-parliamentary consultation and consensus formation has been interpreted as a ‘post-democratic’ symptom of decline, developments in Germany reveal a tendency towards broader participation and greater transparency as well a shift from distributive issues towards post-materialist reform agendas. Furthermore, political consultations initiated by governments should not be equated with lobbying against governments. They rather attempt to curb one-sided influence and pressure politics. It is therefore proposed to revise the concept of post-democracy in its focus on lobbying and pressure politics in favour of an extended theory of “negotiation democracy”.

Lack of transparency is a frequently-raised criticism of informal interest politics said to “take place behind closed doors, and neither political parties nor backbenchers have much of a role in them. Rather, cabinet members and high-level civil servants serve as brokers to help interest groups reach agreements, which are then accepted as binding by everyone involved” (Haus and Hausmann 2012: 165). In the following chapter, I will point to recent developments in Germany to open up extra-parliamentary consultation for public scrutiny and discussion. In addition, it is shown that ethics-based arguments have come to the forefront, attenuating materialistic demands in consultations and national summits held between politicians,

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senior officeholders, experts and civil society representatives on, for example, energy policy, welfare state reforms or immigrant integration policies.

Unlike elections, parliamentary polls, debates or deliberations in official committees and cabinet meetings, political bargaining and group politics rarely follow mandatory rules of procedure usually required in political decision-making. Rather, they emerge from efforts to substitute formal structures that are not (yet) available or—where such structures exist—to overcome their limitations. This applies, for instance, to agreements reached in the run up to formal governmental proceedings and includes informal decisions made between party leaders in pre- and extra-parliamentary forums, or in exchanges between governments and interest groups. Their significance varies over time, across policy fields and levels of government just as from country to country.

The shift of decision-making from the constitutional sphere of politics to informal consultations and preliminary negotiation is by no means a new phenomenon. Its essential causes and the conditions on which it functions were described in detail, as early as the nineteenth century, by Joshua Toulmin Smith (1849). Yet, the contemporary academic literature on the subject suggests that policy-making has recently been undergoing an increase in informality as a result of an increase in the complexity of policy problems and of a rise in the number of players involved. Moreover, it is assumed that where informality is on the rise, there is, simultaneously, a decline in the transparency and public accessibility of political decision-making.

Indeed, the growth of informal networks and negotiations in which multiple levels and forums, and a diversity of actors have been part of policy formulation and implementation cannot go unnoticed. This applies to global, supranational, national, regional and local network political structures. It is reflected in the notion of “governance” replacing that of government once a multitude of non-state actors and stakeholders become involved in policy-making and implementation. Automatically linking a decline in openness and public involvement thereto does appear, however, rather questionable. On the contrary, it can be shown that informal bargaining systems are revealing a tendency towards an increase in public involvement and transparency for quite some time now. Moreover, at least in Germany, we observe a transition from compromise solutions based on bargaining to a greater consideration of public values and ethically-based orientations towards the common good.

1 Critique of Post-Democracy

The shifting of political decision-making from formally responsible governmental institutions to arenas such as neo-corporatist bargaining systems, expert committees, consultation bodies and government committees, consensus bodies, round tables, QUAGOs and QUANGOs,¹ fire-side chats and similar platforms of

¹QUAGO: Quasi Governmental Organisation; QUANGO: Quasi Non-Governmental Organisation (cf. Kosar 2008).

informal deliberation and interest mediation has long been regarded as an essential deficit of democracy. Academic critique was previously concerned with problems of legitimacy due to an unequal consideration of interests, a lack of public involvement and transparency, the absence of accountability, deparliamentarisation, elitism, and an overly strong emphasis given to the executive branch of government. The links between democracy, group politics, formal political conduct and the public sphere were discussed with different main focuses inter alia in Habermas (1973), Panitch (1977), Offe (1984), Streeck and Schmitter (1985), Czada (1997), Benz (1998), Schneider (1999), Grande (2000) and Heinze (2002). The debate reached a new high point when Jacques Rancière and Colin Crouch introduced their equally critical and acclaimed concepts of "Consensual Postdemocracy" (Rancière 1999: 100–123) or "Post-Democracy" (Crouch 2004).²

What is being described here as a general trend reveals considerable differentiation upon closer examination. Preliminary political decision-making bodies like those dealt with in the context of research on corporatism and in contributions on negotiation democracy (cf. Lehbruch 1977, 1984, 1987, 1991, 2000, 2003) are indeed characterized by elitism and various degrees of informality. These extend from occasional meetings and ad hoc commissions to law-based involvement of organized groups in public policy-making and implementation that we can find in social partnerships in Austria, in Dutch consultation structures, and in remiss procedures of Swiss or Swedish origin. Additionally, research on corporatist networks showed that extra-parliamentary consultation and interest intermediation does not necessarily weaken parliamentary legislation and government (Lehbruch 1977). On the contrary, neo-corporatism and established structures of negotiation democracy have often been seen as having a relieving function not only from the viewpoint of the effectiveness of problem solving, but from that of political legitimation as well.

From the theories of corporatism and consociational democracy, we have learned that insulated negotiation between elite representatives may be an effective means of securing legitimacy in the face of tensions between different groups in society (Streeck and Schmitter 1985; Williamson 1989; Lijphart 1977). Confidentiality in negotiation produces compromise which afterwards can be defended and legitimised to the grassroots via the internal channels of the organisations and parties involved (Naurin 2002: 4).

Interestingly, the legitimation, mentioned here, of compromises between elites of social organisations only succeeds in countries in which neo-corporatist consultations are sustainably established and achieve high rates of acceptance in public opinion polls. This can be seen in the trust enjoyed by national trade unions, which assume an essential role as social partners and in general politics of countries that are known as consensus democracies (Lijphart 2012). A majority of the

² A most notable difference between Rancière's "Consensual Postdemocracy" and Crouch's "Post-Democracy" concerns the role of government vis-à-vis private interests and the general public which will be discussed below.

population trust trade unions in these countries: Finland (67 %), Denmark (66 %), the Netherlands (59 %), Sweden (55 %), Austria (52 %), and Luxemburg (51 %). In contrast, countries with majoritarian political structures, mostly together with more polarised societies, exhibit low levels of trust in unions: UK (35 %), Italy (32 %), Spain (30 %) and Greece (29 %). Germany (45 %) and France (41 %) rank in between the two (Eurobarometer 2010: 48).

In liberal democracies, opponents to and dissidents against corporatist negotiation systems have numerous options of voice and exit, be it in their capacity as members of associations or voters, or as activists or supporters of social movements and NGOs or in any unconventional form of protest. Jörke (2011) points out that the activation of broader segments of civil society and the testing of new forms of protest and participation were promoted by critical debates on expertocracy and elitism long before the academic debate on “Post-Democracy” entered the scene. Rolf Heinze (1982), much earlier, argued in similar terms. He attributed the growth of grassroots protests and alternative movements back in the early 1980s to the predominance of neo-corporatist elite cartels and to the exclusion of new social needs and problems from public discourse. The consideration of interests and needs not represented in elite networks can in fact be fought for or enforced under democratic conditions comprising freedom of association, freedom of expression and free political elections. In Germany, this happened through the incorporation of previously-excluded interests into existing or newly created informal structures of consultation, negotiation and consensus building. The intrusion of the goal of abandoning nuclear power into German energy policy—first featuring a mass protest movement, then on the scene of party competition, then in the expert bodies of the nuclear energy sector and finally in an “Ethics Committee on Safe Energy Supply”, which ultimately adopted the abandonment resolution—can be seen as a perfect example of such a process.

It is evident that the Achilles’ heel of corporatism, expertocracy, policy networks, and bargaining democracy in regards to legitimacy does not lie so much in an allegedly uncontrolled exercise of political power, but rather in their opacity. Features of adhococracy, complexity and lack of transparency, and of the informal procedures and decisions linked therewith have become the object of widespread and occasionally escalating criticism. This is not completely new. After all, the shifting of political decision-making to informal elite networks and ad hoc committees has always been a preferred means of excluding the public. Toulmin Smith (1849) already saw the British Royal Commissions operating in the nineteenth century as representing an attempt to one-sidedly favour certain interests and to disguise the practice of taking undue political advantage. Though there is also a functional aspect to mention here: non-public negotiations and confidentiality obligations appear to be necessary preconditions for successful negotiations between organisational elites, since public observation—as the common argument goes—would negatively affect and weaken the negotiation strategies of those involved and, in the final analysis, render negotiated solutions less effective (Czada 1997; Grande 2000).

I present three interrelated current trends which extend or partly contradict the prevailing understanding of the structures, functional modes and subject matter of extra-parliamentary consultation and interest group involvement in policy-making. The observations refer primarily to the case of Germany and to a number of more relevant ad hoc commissions that operated in place of informal political decision making: the Hartz Commission (established 2002, reform of the labour market policy); the Rürup Commission (2002, pension reform); the Süßmuth Commission (2001, immigration policy), the integration summit (since 2006, immigrant integration policy), the German Islam Conference (since 2006, Muslim Dialog and integration issues), and the "Ethics Commission on a Safe Energy Supply" (2011, abandoning nuclear energy).³

Among the 15 members of the commission "Modern Labor Market Services", known as the "Hartz-Commission" after its Chairman Peter Hartz, human resources executive and board member of Volkswagen, were 5 business executives, 2 prominent business consultants, 2 trade union representatives, 2 social scientists (no economists from academia!), the secretary general of the German Confederation of Skilled Crafts, a city mayor and the North Rhine-Westphalian minister for social and economic affairs. Other commissions comprised of delegates from churches and religious groups, environmental organizations, immigrant associations, or opposition parties. Germany's exit from nuclear energy, for instance, was determined by a commission of 17 technical non-experts from the realms of academia, politics, civil society, religion, and business. Among them was the sociologist Ulrich Beck, author of "Risk Society. Towards a New Modernity" (Beck 1986), philosopher Weyma Lübke, a protestant bishop, the president of the central committee of German Catholics, and Cardinal Marx, Archbishop of Munich.

Without going into detail, the following general observations on policy commissions seem worthwhile to be mentioned at this point:

1. Greater scope of tasks and stakes. While neo-corporatist forms of participation remained focused on macro-economic concertation and sector-wise consultation in the early postwar decades, in unified Germany, extra-parliamentary commissions of many different sizes and compositions have been increasingly set up by the national government to deal with a wide variety of current conflicts and policy problems.
2. Greater openness and publicity. The new bodies of societal consensus formation have been under intensive public observation. For the most part, they were

³ One can find more bodies set up in Germany during the previous decades, such as: the Herzog Commission (established 2003, social security issues), the National IT Summit (2006), the National Ethics Council (since 2007), the Council for Sustainable Development (since 2001), the German Innovation Council (since 2011) or the Commission for the Location of a Final Nuclear Disposal Site (since 2014). Germany has been called a new "Berliner Räterepublik" (Heinze 2002), literally the new Berlin Republic governed by councils or, using the Russian term, by "sowjets".

themselves actively engaged in public relations work. Whether they were doing so merely in pursuance of an information purpose or in response to a now widespread and vehemently voiced call for transparency, the fact remains that the shifting away of political decision-making from constitutional formal institutions was now combined with noticeably greater public involvement than had been the case in traditional neo-corporatist arrangements.

3. Greater attention to ideas and values. From a thematic point of view, a shift can be observed in the course of this development in the immediate subject-matters of distributive policy towards the management of value conflicts. This implies a change in the decision-making procedure, too. Instead of the accommodation of interests through bargaining, we have an exchange of arguments in which information, general norms, and public values are assessed and explained among the participants themselves and in their relationship to the public.⁴

The following remarks are concerned with new forms and procedures of pre-parliamentary and administrative interest intermediation and consensus formation in specially-created bodies and negotiation rounds, whose existence is generally known, but whose procedures and contents are accessible to the public only to varying degrees.

2 Negotiation, Deliberation, Balloting

Bargaining on conflicting political interests is about achieving compromise as their result. Such negotiation (or bargaining) processes typically differ from deliberative talks in that they are focused on the exchange of interests among the parties involved instead on an exchange of arguments in order to persuade and arrive at a shared insight. Political negotiations, like deliberative procedures, can be held within small circles of participants or before larger public settings, or they can even remain totally concealed to the public. But as soon as there is the need for their results to be justified in public or confirmed in elections and balloting, they come out of the shadow of informality. It is then that they become a subject-matter of debates, assuming a formal appearance in the form of majoritarian elections and decision-making. Elections and balloting always require formal procedures which regulate matters regarding time and place, voter eligibility, control and vote counting, and the announcement of results. It follows that the link between informality and public involvement, at a theoretical level alone, appears more complex than what the simple equation, 'the more negotiated decision-making, the more the informality and the less the public involvement', says. This notion, in empirical terms, too, is hardly tenable.

⁴This may reflect a transition, at the national level, from political muscle-flexing to deliberation on ideas and arguments, such as that which has long been undergoing intensive discussion in the area of international relations (cf. Risse 2000).

Table 1 Informality and public involvement in political negotiations and decision-making

| Informality | Public access | |
|-------------|---|--|
| | Strong | Weak |
| High | Public summit meetings, consensus talks, etc. | Corporatist interest intermediation, political fire-side talks |
| Low | Elections, parliamentary debates and ballots | Cabinet meetings, parliamentary committees |

Negotiation democracy in Germany alone (Lehmbruch 2003; Grimm 2003; Czada 2000) reveals a diversity of levels of and interrelations between informality and public involvement in political bargaining processes.⁵ Negotiations in the multi-level federal system are more formally conceived than policy formulation in coalition committees, these, in turn, being more formal than negotiations in the subsystems of corporatist interest intermediation, and so on and so forth; the list continues until we arrive at the level of the most informal consultations between the government and societal associations' representatives. Negotiations between government and the opposition, in which preliminary legislative decisions with far-reaching consequences are sometimes made, represent a special case.

Contrary to the assumption that bargaining processes are accompanied *grosso modo* by an increase in informality and, at the same time, by a greater degree of confidentiality or of non-public treatment, we see a diversity of interrelations which can roughly and simply be represented in the form of a two by two table (Table 1).

Agreements involving public participation are usually not only regarded as commanding greater legitimacy, but also as having superior problem-solving capabilities. In contrast, however, there is also the view that where the public is excluded, the objective aspects of a matter to be decided upon can come to the forefront and its subjective aspects will receive less attention (Elster 1995: 251). Here, the justification for excluding the public draws upon the argument that deliberations held *in camera* deal with real matters free of any influence and can arrive at common conclusions, whereas in deliberations held in public, irrelevant, public-oriented, face-saving or party-political conflicts would easily gain the upper hand (Czada 1997). Hence, the explanation given, for example, for confidentiality of the Reactor Safety Commission in Germany called attention to the publicly-pursued "unity and closeness of the Commission and the necessary openness of the discussions" (Müller 1990: 175), while similar nuclear energy bodies in the USA basically deliberate in public. In Germany, the public affairs of advisory bodies concerning policy and administrative matters are treated more cautiously than in the USA (Brohm 1987).

⁵ A rough distinction can be made between negotiations in subsystems of corporatist interest intermediation, in the multi-level federal system and between parties, particularly in coalition governments, each of which reveals its own inter-connections between informality and confidentiality (Czada 2000, cf. also Lehmbruch 2003; Grimm 2003).

Jon Elster (1995: 251) sees a basic contradiction between the openness of deliberative procedures to the democratic public on the one hand, and their problem-solving capacity as well as substantive quality on the other hand. In his view, excluding the public facilitates adequately objective efforts towards finding appropriate solutions to problems, while the publicity of democratic decision-making processes compels those involved to engage in an exchange of extraneous arguments and can negatively affect discussions. This viewpoint contrasts starkly both with optimistic notions of what practical discourse ethics is expected to deliver and with a widespread distrust of procedures of interest intermediation between elite representatives as practised in neo-corporatism and negotiation democracy. Such procedures are considered indecent when they ‘short-circuit’ the established democratic forums, when they push parliament into taking action, or when they bypass parliament. This explains why they are often under suspicion of unconstitutional collusive action, cartelling or even of corruption, as well as often dismissively categorised as “shadow politics” (Alemann 1994: 141).

3 New Issues and the Conflict Lines of Negotiation Democracy

Besides the various forms of consociational power-sharing found in party politics, corporatist interest intermediation between high-ranking government offices and interest groups has become exemplary for the concept of negotiation democracy (Lehmbruch 2003; Czada and Schmidt 1993). Negotiation democracy represents a mode of political integration and participation in which the principle of majority voting makes way for conflict resolution through extra-parliamentary consultation and negotiation. While research contributions on neo-corporatism are predominantly focused on the fields of industrial relations and social policy, the spectrum of topics dealt with in structures of consociational democracy comprises almost all relevant policy fields.

The observation that certain group identities and conflict lines, such as the antagonism between capital and labour, have lost political significance cannot be easily refuted. Whether or not this results in “individuation” (Schmitter and Trechsel 2004) and therefore, in an insidious atomisation of society, in a “disorganised capitalism” (Offe 1985) or in both (cf. Streeck 2008) appears rather open. The scenarios of decline usually connected with such assessments overlook the emergence of new topics and conflicts, which should be viewed as starting points for new group formations and strategies of interest intermediation. Social developments from the past few decades suggest that the new dominant conflict situations no longer present themselves as comparatively clearly identifiable distributive conflicts primarily between capital and labour, but as conflicts over culture and modes of living. This shifting of matters of conflict is connected with new forms of conflict resolution, which, together with new instruments of the articulation, organisation and intermediation of interests, give rise to new social facts and processes. We may be reminded of changes brought about by the internet, digital

campaigns or forms of e-government. Striking transformations in the area of political communication and the call for transparency, such as can be seen in public discourse and in the open-government concept, play a crucial role in this development. It would be premature, however, to derive, on this basis, a trend towards the disorganisation, pluralisation and informalisation of political interest intermediation. Rather, it can be shown that the mediation of societal group conflict still represents a largely structured field of action which will not simply implode against the background of changing issues of conflict, but is subject to transformation in terms of form and topic that need to be observed and analysed.

In addition to the influence of new forms of communication (internet, e-mail, twitter, facebook, etc.), social diversity and—in a complex correlation therewith—questions of transparency, equality and equal treatment mark a new cleavage and pose new questions of distributive justice. They are oriented towards ethnic and religious group identities, and towards other spheres and cultural groups in their respective lifeworld condition. The value context and orientation in which distributive conflicts are fought out now was already visible in the "Agenda 2010" of the German Red-Green Coalition Government (1998–2005). Whereas the "Alliance for Work", which preceded the Agenda programme and failed in the end, was still meant to function as a negotiated reform of the welfare state framed by the logic of neo-corporatist exchange (Lehmbruch 2000), the commissions set up subsequently—the Hartz Commission and the Rürup Commission, named after their chairpersons—proved different in design, conversation, and argument. The questions raised there suggesting a search for sustainable problem solving based on fundamental concepts and considerations were of rather little relevance in proceeding neo-corporatist negotiations.

The moral claim of a new social policy found its first expression in the so-called "Schröder-Blair paper" titled "The Third Way in Europe". Drawn up in 1999, its neo-liberal undercurrents also characterised the Hartz report. In presenting it, Hartz himself claimed to have written a "bible of the labour market". Here, the new moral tone was first expressed by the slogan "support and demand" as a mixture of a universalist claim-making ethics promising social security for all, and an individualistic work and performance ethic directed against any paternalistic models of the welfare state. A further example of the ethical turn in political consultations is the "Independent Commission on Immigration" (Süssmuth Commission) set up in 2000. Among its 21 members, there were by far more bishops and representatives from religious communities, for example the President of the Synod of the Protestant Church in Germany and the President of the Central Council of Jews in Germany, than representatives of business or trade unions. The reason for this might have originated from the unions' fear of coming into contact with the topic. The commission report, which was presented in May 2001, initially assumed that the results of the deliberations would be incomprehensible to many citizens. Many citizens and residents did not understand how there could be a shortage of highly qualified labour and skilled workers in Germany when there was an annual average of 3.9 million unemployed (BMI 2001: 11). The report very commendably dealt with the question of immigrant integration and offered numerous proposals,

but hardly revealed any attempts at clarifying the comprehensibility problem. Instead, it suggests, in its introduction, that Germany's then-weak economic growth was due to the low rate of immigration of qualified workers (*ibid.*)—a statement which the two union representatives in the commission would not have been able to convey to their organisations without any ifs and buts. On the other hand, the German employers' associations presumably did not have any problems conveying the report to their clientele. Accordingly, the managing director of the Federation of German Employers' Associations enjoyed a high ranking position in that body. The commission's explicit aim was to achieve "change in consciousness" (*ibid.*: 12); it thus distinguishes itself basically from the traditional neo-corporatist *quid pro quo* logic.

The argumentative turn in proceedings of consultation bodies came to full bloom within the context of a turnaround in energy policy in 2011. The abandonment of nuclear power and an ambitious plan for the development of renewable sources of energy were at stake. The decisive contribution to this fundamental change of policy with far-reaching social and economic consequences was made by an "Ethics Commission on a Safe Energy Supply". It not only met under the watchful eye of the public, but also placed the protagonists of the earlier corporatist arrangements in a situation of powerlessness. Besides newspaper reporting and broadcasts on radio and television, the debates could have been partly followed live on the internet. To put it briefly: in energy policy, the traditional corporatist structure of interest intermediation shielded from the public was replaced by a forum with a strong public presence that featured a bishop and a cardinal in addition to philosophers and other public figures, most of them alien to the technical and economic subject matter. Once-dominant business leaders and interest associations of the energy sector as well as nuclear safety experts suddenly became passive members of the audience (cf. Czada 2014). This example alone fuels doubts whether western democracies turned into mere political facades of economic power as suggested in writings on post-democracy.

What the example of the Federal Republic of Germany illustrates here should not be generalised in every aspect for other countries. In comparing consultation bodies (immigrant and religious minority integration) that have been set up recently in many European countries, one can detect quite different organising principles behind them (Musch 2011, 2012; Czada 2011). Instead of functional interest groups predominant in the classical conception of corporatism and the pluralist group school, new alignments and cleavages come up, in the wake of migration, by virtue of cultural, religious, ethno-national or linguistic identities. Fora like the German Integration Summit and Islam Conference, both established in 2006, are rooted in the national traditions of consociationalism or religious governance more than in the neo-corporatist exchange logic (*ibid.*).

4 Administrative Interest Intermediation

The cases discussed point to significant changes in the mediation of political conflicts and political decision-making. However, they do not indicate a shift from the corporatist back to the parliamentary arena. There is still the informal mediation of interests, even in an increasing measure, in subsystems of extra-parliamentary conflict management and policy-making. The new aspect is that they no longer generally follow the pragmatic exchange logic of negotiations for compromise, but increasingly take value orientations into account. Therefore, we find less disagreement and a kind of consensus based on values and principles that is more clearly positioned than the one known from previous neo-corporatist agreements. At the same time, there is an observable tendency towards transparency and more public involvement, without this being connected to formal institutionalisation.

The result thereof is a double departure from the "old" concept of neo-corporatism: first from pragmatic, exchange-oriented interest compromise towards value-based forums of discourse; second from bargaining processes largely conducted in camera to media events accompanied by public scrutiny. On the other hand, very little has changed in the degree of informality or formality of the decision-making arenas. Informal, pre-parliamentary consultation, deliberation and decision-making bodies still exist and are even on the rise. Ever since the turn of the century, they have increasingly been convened to deal with urgent matters calling for decisions and, not least, to help prevent ungovernability and legitimization problems. They thus represent the theorem of a government-initiated "administrative interest intermediation", as proposed by Gerhard Lehbruch (1987), rather than an approach to the activation and participation of civil society as a whole.

The commissions mentioned were initiated and convened by the German federal government mostly on an ad-hoc basis. The recruitment of their members, the frequency and mode of their meetings, their agendas and decision-making procedures remained completely in the hands of the government, and yet they did not follow strictly formal rules of procedure. This reveals a pattern of state-led interest intermediation penetrating informal political pre-decisions among government agents and party leaders or societal group representatives. Due to the status and authority of the participants involved, those pre-decisions are usually accepted among their constituencies and followers, and therefore bind the constitutional proceedings that follow. This is exactly what Gerhard Lehbruch (1987) called "administrative interest intermediation". It is based on strategies of administrations to enhance the associational capacities of societal groups and give them a share in public governance in order to render policy-making more effective and simultaneously raise support for it. Administrative interest intermediation is, thus, explained by mutual resource dependencies of public and private actors. Whether and how this works, however, depends on historical contingencies. Regulating societal conflicts and solving collective problems through top-level exchange relationships requires effectively organized corporate actors as well as an exchange

orientation entrenched in well-established state-society networks (Lehmbruch 1991).

Lehmbruch's concept of Administrative Interest-Intermediation reveals a link to the debate on post democracy in so far as it points out the fact that governments co-opt elites from certain sectors of society towards a predefined goal. Thus, they deliberately convert conflict into a form of negotiation with non-state actors in order to achieve a reduction of disagreement. This reminds us of Rancière's (1999: 121) notion of "Consensual Postdemocracy" which, in his words, is not the insidious work of neo-liberal capitalists but rather a "government practice and conceptual legitimization of democracy after the demos, a democracy that has eliminated the appearance, miscount, and dispute of the people and is thereby reducible to the sole interplay of state mechanisms and combinations of social energies and interests" (ibid: 102). Here we see a difference to Colin Crouch's concept of a somewhat pluralist "Post-Democracy" referring to the older (pressure) group school and its emphasis on the influence of interest groups on governments that are being victimized or even captured by business interests. His claim that "the economic actions of government become distorted by lobbies with privileged political access" (Crouch 2004: xi) falls short of the reality, at least with German politics. Here, the government deliberately attributes status, co-organizes and incorporates groups into policy-making which might prove useful in the pursuit of a common goal.

In contrast to past experiences, extra-parliamentary commissions set up by governments for purposes of negotiation, for the preparation of official proceedings and also, for actual final decision-making, are no longer largely withdrawn from the public eye in the terms described by J. Toulmin Smith in his monograph, 'Government by commissions illegal and pernicious', published as far back as 1849. He refers to the principle of "openness and publicity (. . .) a principle which, like every other protection provided by our fundamental laws and institutions, is directly violated by all crown-appointed Commissions" (Toulmin Smith 1849: 138). Placing public decisions out of parliament or local self-government, in his eyes, fosters a "Procrustean system of centralization of which commissions are but the machinery" that he condemns to be an "irregular, illegal and pernicious method now in use, by which falsehood is made to usurp the place of truth and the latter only to sink the deeper in that well where it lies hidden (Toulmin Smith 1849: 31). One cannot avoid thinking of today's critique of post-democracy when reading these passages from a book published in 1849.

Just as in Anglo-Saxon Common Law, which Toulmin Smith had in mind when drawing upon his examples from England, Ireland and Australia, formality and publicity are central elements of Roman Law, elements which often appear together in civil and constitutional law. This perhaps partly explains the fact that informality is commonly associated with the absence of publicity. In addition, historical experience supports the validity of this correlation. Nevertheless, a new trend towards radical openness and more publicity has been noticeable in recent times. This seems to have a number of vital causes and consequences:

1. There is an identifiable overarching trend in politics and society towards an increase in transparency and the public treatment of issues. It would, however, be inaccurate—if what is at stake is actually ‘governance by commissions’—to interpret this as an increase in deliberative democracy. Rather, commissions and consultative bodies set up on an ad-hoc basis and operating with a low degree of institutionalisation present themselves, fairly often, as part of modern political marketing. Their purpose and function is to shift political decisions into a sphere of public propaganda, which, above all, is meant to serve the government and its re-election interests. To that extent, greater visibility and publicity is quite in accordance with concepts of Post Democracy (Crouch 2004) or “Consensual Postdemocracy” (Rancière 1999) in particular.
2. A reason for involvement by governments of non-state actors in largely informal commissions could be sought in the generally increased complexity of political problems and decision-making. Difficult decisions on substantive matters associated with deep-rooted conflicts are transferred to pre-decision-making systems and thus removed from the immediacy of party competition. In this way, complicated matters and conflict situations are processed into manageable topics and concepts, “pre-digested” as it were, for party competition based on the simplification of problems.
3. A lack of information and expertise on the part of parliaments and administrations can further speed up the creation of extra-parliamentary, non-governmental consultation bodies. Where the in-house expertise of the civil service does not have sufficient capacities, these bodies function as expert quasi-governments for certain policy fields. Besides, formal advisory councils located purely at the administrative level on a permanent basis still operate *in camera*. An example in Germany would be the ‘Reactor Safety Commission’ or regulatory agencies (cf. Döhler 2002). In regard to the Netherlands, the institutions of ‘Techno-Corporatism’⁶ may be mentioned here.

The developments described for Germany could culminate in arrangements in which corporatist package deals are being replaced by governmental initiatives to reach overarching ethically-based agreements among societal elites on how pressing collective problems should be solved across legislatures in a sustainable manner. Additionally, the change in form and function of extra-parliamentary consultations and government commissions is no longer a matter of shifting decisions to the non-public backstage of politics. This classical explanation of extra-parliamentary policy-making has almost turned into its opposite. Institutions such as the Süßmuth Commission, the Integration Summit, the German Islam

⁶This includes the *Sociaal-Economische Raad*, the *Central Panbureau* and the *Stichting van de Arbeid*. Like these bodies, which have existed throughout the post-war decades and, depending on the circumstances, exerted different degrees of influence, the consultation structures of Dutch immigrant and Islamic integration are legally protected as well. In contrast, the ups and downs of corporatist interest intermediation in Germany together with frequent changes of fora and participants reflect a low degree of formal institutional provisions.

Conference, the Rürup Commission, the Hartz Commission, the Herzog Commission, the National IT Summit, the National Ethics Council, the Council for Sustainable Development, the German Innovation Council or the “Ethics Commission on a Safe Energy Supply” served as instruments of political marketing and governance with a strong public relations impact. This is where they differ from neo-corporatist consensus bodies, which they have somehow replaced, and also from advisory councils and expert commissions, which are located at the administrative level and continue to exist thanks to, not least, their higher degree of institutionalisation. Since the ephemeral corporatism of the Federal Republic of Germany has never been as strongly institutionalised as similar participatory institutions in the Netherlands, Norway or Austria, the change in form and function of extra-parliamentary interest mediation in society could make particularly rapid progress.

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The Sustainability of Democracy: The Impact of Electoral Incentives on the Input and Output Legitimacy of Democracies

Ellen M. Immergut, Tarik Abou-Chadi, and Matthias Orlowski

Abstract

International and domestic developments—both economic and ideational—create challenges for contemporary democracies, such as adapting their welfare states, recalibrating their agricultural policies, and reacting to the phenomenon of growing numbers of immigrants. These challenges are not just technical but political. For changes in policies generally mean redirecting public benefits away from current recipients to emerging challengers. Policy recalibration thus poses a distinct problem for democracy, because recalibration entails a reallocation of resources and recognition from established interests and influential voters to newly mobilizing voters and interests. When successful, policy recalibration demonstrates the responsiveness of democracies to new issues, new citizens, and changes in the world. At the same time, policy recalibration indicates governmental effectiveness in addressing these challenges. For, without effective executive pressure, political agreement on the reallocation of the costs and benefits of public policies rarely occurs. Consequently, one can think of policy recalibration as the place where input and output legitimacy meet. Governments respond to citizen demands and preferences, but also guide and mediate in the adjudication of these interests and preferences. Indeed, policy recalibration is a concrete function of government without which democratic polities cannot renew their relevance for citizens and residents. Consequently, the politics of policy recalibration is critical to the sustainability and renewal of democracy. In this essay, our central question is whether some institutions of political representation are more favorable for policy recalibration than others and how their interactions with institutions of interest intermediation intervene in the distribution of costs and benefits of calibration.

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1 Introduction

International and domestic developments—both economic and ideational—create challenges for contemporary democracies, such as adapting their welfare states, recalibrating their agricultural policies, and reacting to the phenomenon of growing numbers of immigrants. These challenges are not just technical but political. For changes in policies generally mean re-directing public benefits away from current recipients to emerging challengers. Policy recalibration thus poses a distinct problem for democracy, because recalibration entails a reallocation of resources and recognition from established interests and influential voters to newly mobilizing voters and interests. When successful, policy recalibration demonstrates the responsiveness of democracies to new issues, new citizens, and changes in the world. At the same time, policy recalibration indicates governmental effectiveness in addressing these challenges. For, without effective executive pressure, political agreement on the reallocation of the costs and benefits of public policies rarely occurs. Consequently, one can think of policy recalibration as the place where input and output legitimacy meet. Governments respond to citizen demands and preferences, but also guide and mediate in the adjudication of these interests and preferences. Indeed, policy recalibration is a concrete function of government without which democratic polities cannot re-new their relevance for citizens and residents. Consequently, the politics of policy recalibration is critical to the sustainability and renewal of democracy. In this essay, our central question is whether some institutions of political representation are more favorable for policy recalibration than others and how their interactions with institutions of interest intermediation intervene in the distribution of costs and benefits of calibration.

Our analysis draws on the contributions of Gerhard Lehbruch to our understanding of the politics of policy-making. It is no coincidence that his chair at Konstanz was named *materielle Staatstheorie*, for Gerhard Lehbruch has always been deeply interested in the substantive outcomes of political structures and processes: What is the material consequence of different political institutions and structures of interest representation? How do the dynamics of political and societal bargaining set developmental paths? How is political behavior affected by conflicting incentives for cooperation and competition, as well as ideational frameworks? Furthermore, we will draw on his combination of a structuralist and dynamic-processual political analysis, which we argue is the key to understanding contemporary democratic politics in multi-level governance systems. We feel the dynamic aspects of Lehbruch's thinking have been insufficiently appreciated, and that his writings on consensus democracy, his theory of corporatism, and his contributions to historical institutionalism should not be treated as three separate and unrelated strands of structural analysis. Instead, we will try to show that it is precisely the mutual embeddedness of corporatist interest intermediation, on the one hand, and the political dynamics of party competition within constitutional structures, on the other, that can explain both policy stability and change.

In terms of democratic and institutional theory, our analysis is part of an ongoing effort to bridge the gap between behaviorist and institutional traditions. As has

often been pointed out, the behaviorist approach assumes that in a healthy democracy, individuals will form interest groups when new problems arise, and that governments will respond to group pressure with new policies. As David Truman (1971[1951]: 320) puts it, ‘The total pattern of government over a period of time presents a protean complex of criss-crossing relationships that change in strength and direction with alterations in the power and standing of interests, organized and un-organized’. Thus, the pluralist perspective always assumed functionalist and automatic policy recalibration—as long as particular scope and boundary conditions were met; namely open political communication, basic political and civil rights, multiple memberships in associations, and the ability of ‘potential interests’ to mobilize in order to protect the rules of the game. Surprisingly, pluralist theory did not really take up what one could call the ‘paradox of pluralism’, namely that if there are differences in the ‘power and standing of interests’ and if some are organized while others are ‘un-organized’, why is it that pluralist theory assumes a democratic equilibrium of interests? But, this precisely is the point of departure for the research program of Gerhard Lehmbruch.

As one of us has argued elsewhere (Immergut 1998), Gerhard Lehmbruch’s work on the theory of corporatist interest representation—including his cooperation with Philippe Schmitter—constitutes an irrevocable challenge to Truman’s equilibrium approach to interest representation, one that marks the beginning of historical institutionalism (Lehmbruch 1979a, b, 2001). Corporatist theory challenges Truman’s claim that citizens will automatically mobilize when faced with new problems, and that governments will respond even-handedly to these pressures, such that public policy, to paraphrase Lehmbruch’s words, can be considered as a ‘vector sum of interest group pressures,’ (Lehmbruch 1979c: 50). Instead, corporatist theory points out that: (1) interest groups are endowed with varying organizational and political resources; (2) these organizational structures and structured access to political decision-making are the products of state policies; (3) once established, these structures and structured relationships are relatively stable over time, and hence can be considered as historic legacies. Furthermore, Lehmbruch argues that states may attempt to instrumentalize the organizations of interest intermediation, such that the transmission of interests may actually be going in the direction from state to society, and not as in pluralist theory, from society to the state.

Nevertheless, despite this criticism of interest intermediation from the point of view of democratic theory, Lehmbruch acknowledges that corporatist interest-intermediation may be instrumentally and effectively used as a strategy of governance. Hence, while criticizing the pluralist view that a vector sum of interests can be set equal to the public good, he argues that internal procedures and elections in interest associations provide some measure (albeit an imperfect one) of democratic accountability to members such that reliance on interest associations for the drafting of policies may be defended as a pragmatic way to include the public, and as an effective means of insuring policy implementation (for a discussion see Immergut 2011). In this way, his work provides an opening for the reconciliation of

behaviorism with institutionalism through an institutionally-informed behaviorism at both a normative and analytic level.

This essay particularly builds on Gerhard Lehmbruch's analysis of corporatist structures and their relationship to constitutional structures and partisan dynamics (Lehmbruch 1967, 1979b, 1984). Inspired by Lehmbruch and Schmitter, scholars have paid a great deal of attention to the organizational resources of corporatist groups. But too little attention has been paid to Lehmbruch's suggestion that different political systems, party constellations or even specific governmental configurations generate distinct political logics, and that some of these constellations may be more responsive or effective than others. Constitutional structures and partisan dynamics constitute a framework within which corporatist bargaining and interest group pressures—but also the demands of voters—play out. Furthermore, Lehmbruch's analysis of these governmental configurations is not simply structural but dynamic and behavioral. For example, not only have German constitutional structures changed over time, but their political dynamics—and particularly whether competitive or consensual bargaining ensues—depends upon the interplay of the institutional structures with political majorities and both electoral and interest group behavior (Lehmbruch 1985, 1990, 2000, 2002).

In the following sections, we will illustrate the value of Lehmbruch's combination of structuralist and behaviorist analysis with some ongoing research in a current project on 'Electoral Vulnerability and Policy Recalibration'.¹ Our approach has been to select a series of problems that a number of democratic polities have identified, and then to examine the political factors that set the parameters for policy change. In terms of institutionalist theory, our approach differs from analyses of institutional change that focus on gradual transformation of institutions through re-negotiation, re-interpretation and changing adherence to institutional rules. By contrast, the changes we examine here require explicit legislative change. Thus, in the terms proposed by Thelen, Streeck and Mahoney, old rules are eliminated and replaced with new ones, such that we are dealing here with 'displacement' (Thelen 1999; Streeck and Thelen 2005; Mahoney and Thelen 2010). Nevertheless, our work is very consistent with their theoretical perspective, in that we understand institutions as intervening variables that affect the dynamics of strategic bargaining and political persuasion amongst societal and political actors. Institutions are not viewed here as static structures, but as rules whose impact depends upon their interaction with political contexts, and the ideas and strategies of societal stakeholders.

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2 Democracy and Policy Recalibration

As argued above, policy recalibration is a necessary, ongoing process, critical to sustaining democracy. While there is a broad literature relating policy changes to phenomena of big transformations such as globalization and internationalization, which create economic and ideational pressure for national governments to adapt their policies, these approaches do not account for the cross-national and cross-temporal differences one can observe empirically (Soysal 1994; Swank 2002; Sassen 2008). By contrast, our approach relies on a new-institutionalist conceptualization of the policy-making process and thus puts an emphasis on political-institutional configurations. Specifically, we conceptualize, measure and evaluate the role of electoral pressure in setting the terms of consensus bargaining, which we argue to be a key element in successful policy-recalibration.

The concept of policy recalibration reflects the state of the art of research on the welfare state, but we believe it to be equally applicable to other areas of policy. After decades of debate about whether the welfare state was in crisis or by contrast absolutely impervious to all attempts at retrenchment or change, analysts now view welfare state politics as being characterized by incremental changes to cope with budgetary restrictions, but also in order to ‘restructure’, ‘recalibrate’ or to ‘modernize’ welfare state policies so as to better cope with ‘new social risks’ and to address new priorities such as ‘activation’ (Pierson 1998; Taylor-Gooby 2004; Armingeon and Bonoli 2007; Ferrera 2008; Häusermann 2010; Kumlin and Stadelmann-Steffen 2014). Thus, we use the term ‘recalibration’ to mean policy change intended to re-adjust an existing policy in light of changed circumstances or goals, regardless of whether the particular policy change is very limited or sweeping in scope. Further, the direction of policy change is a matter for the policy analyst, it is not meant as a prescriptive term.

2.1 The Need for Policy Recalibration

We have chosen to investigate policy recalibration in the areas of pension, citizenship and agriculture, because in all three areas there is an evident need for some form of policy recalibration—even though the extent and direction of needed policy-change is politically-contested. In the area of pension reform, countless studies have come to the conclusion that with population aging and the transition to post-industrial economies, there is a need to re-adjust pay-as-you-go pension systems, as the relationship of pensioners receiving benefits is rapidly increasing in relation to the number of working-age contributors. Proposed solutions include cutting benefits, increasing retirement ages, and restructuring pension systems to include greater scope for collective or individual funded pensions—often termed the second and third pillar of pension schemes (Immergut et al. 2007). At the same time, some governments have increased pension benefits and raised retirement ages (or rescinded cuts made by previous governments). Thus, it is possible to measure policy change in the direction of policy recalibration by measuring cuts in benefits

and pension privatization—or their opposite. Analogously, as international migration has substantially increased, political debates have turned to the need to adjust citizenship laws and measures for incorporating immigrants. Political elites recognize the importance of attracting immigrants, but it is not necessarily politically popular to introduce measures for liberalizing citizenship laws. Thus, we observe policy changes in the area of citizenship that we can measure both in the direction of liberalizing citizenship (reducing the residency requirement, for example) and in re-nationalizing or re-ethnicizing citizenship (introducing cultural citizenship tests). Finally, in the area of agriculture, a policy concern is how to trim or even eliminate agricultural subsidies in developed economies, which serve as barriers to trade for less-developed agricultural economies and thus impede economic development. At the same time, programs of agriculture subsidies cause ecologically-wasteful behaviors and thus impede transition to more environmentally-sound agricultural regimes. Again, we can measure the extent to which various governments have decreased or increased their agricultural subsidies, and whether they promote ecologically-sound agricultural measures.

2.2 Electoral Incentives and Policy Change

Approaches to analyzing institutional and policy change vary with the regard to whether and how they consider the impact of the electorate and electoral incentives on policy change. Gradual institutional change has tended to be considered from the elite level, rather than from the perspective of voters and electoral factors. The focus is on the veto potential of political institutions and societal stakeholders, and the room for administrative discretion of implementing bureaucracies, as well as policy entrepreneurs (Mahoney and Thelen 2010). This is understandable, given the explanatory focus on gradual change such as ‘drift’, ‘layering’ and ‘conversion’. However, if we turn to ‘displacement’, which requires legislative change, we are in the territory of legislative politics, and it stands to reason that electoral incentives and pressures from voters may be highly relevant.

At the opposite extreme, we have the blame-avoidance perspective, which has tended to assume that voters will block change, as policy change tends to affect policies from which voters benefit (Pierson 1996). Although more recent work on blame avoidance considers the distribution of costs and benefits and the extent to which they are visible, obfuscated or made less transparent by automatic stabilizers in more depth, it, too, tends to neglect the role of the electorate (Weaver 2010; Bauer et al. 2012). Indeed, explicit studies of the impact of policy change on the electorate are rare (for a notable exception see Giger 2011, 2012).

A third group focuses on the role of party and interest group bargaining in effecting institutional and policy change (Murillo and Martínez-Gallardo 2007; Lindvall 2010). These authors (as do we) consider policy change as a subset of institutional change, and emphasize particularly dynamic interactions. For example, on Häusermann’s (2010) view, complex configurations of policy entrepreneurs, fractions within parties and relevant societal stakeholders are the key ingredients

for cobbling together legislative compromises that effect significant policy change, even at the cost of vested interests. Tellingly, the extent to which such compromises are likely depends on specific aspects of the structure of political representation and interest intermediation. The separation of powers, i.e., the institutional veto points, determines which parties need to be included in any modernizing compromises. If counter-majoritarian institutions necessitate a compromise between government and opposition, internal and cross-party dynamics—in particular the coalitional flexibility of party fractions—condition political bargaining and the likelihood of policy change, such as a recalibration of social benefits between labor market ‘insiders’ and ‘outsiders’. Finally, the degree to which interest associations (e.g., unions or employer associations) are highly aggregated, will make it more difficult to forge a modernizing coalition. The analysis of complex bargaining configurations with its attention to political veto points, party constellations and interest intermediation fits very neatly into the analytic framework we propose here, but we think that more attention can be paid to the ways in which electoral incentives and voter pressures affect the dynamics and outcomes of such bargaining processes.

2.3 Conceptualizing Electoral Incentives as Electoral Vulnerability

In order to explain the scope for policy recalibration, we argue that we need to look more carefully at the claims of the ‘blame avoidance’ school and at the relationship between electoral systems and political preferences. First, the policy preferences of voters are often multi-dimensional. For any given policy area, it is difficult to know whether voters preferences will block reform, or in which direction these preferences will shape reforms. Thus, we should not consider the electorate merely as ‘blockers’ and we cannot assume that a public opinion average reflects the group of voters that may be relevant to a particular legislator or its political party. Second, there is no reason to believe that electoral pressure is a constant. The threat of being ousted from office by voters should vary across electoral systems, and over time within any particular electoral system. It should depend upon a number of factors, such as the closeness of elections, the willingness of voters to punish politicians they do not like, and the degree to which this punishment will painfully affect parliamentary majorities and the resulting distribution of ‘office’. Third, although the blame avoidance literature has mentioned parties, it has not systematically investigated the role of interest intermediation in the relationship between voters and politicians. But it is precisely these interest intermediaries that communicate the record of politicians and the meanings of policies to voters. Further, these intermediaries can make strategic use of electoral pressure to wrest concessions from policy-makers in policy negotiations. Thus, there should be an interaction between the electoral vulnerability of politicians and the strategic role of interest intermediaries.

Based on these considerations, we propose to conceptualize the impact of electoral pressure and electoral incentives in terms of the probability of politicians being ousted from office. That is, their ‘electoral vulnerability’. As we cannot measure the individual electoral vulnerability of each politician involved in policy-legislation in large numbers of countries over long periods of time, we focus on the electoral vulnerability of governments. We assume that the parties participating in the government will behave differently depending upon the results and consequences of the last election. We hypothesize that members of the government will feel more electorally-vulnerable, the greater the impact the last election had on parliamentary majorities and government composition. We also believe that greater perceived electoral vulnerability will affect legislative behavior as members of the government will be more fearful of voter punishment.

In order to develop an exact measure of electoral vulnerability, we have built upon the literature on political competition, in particular on works by Bartolini and Strøm. According to Strøm (1989), political competition depends upon three elements: ‘Contestability’ refers to the ease with which challengers can contest elections, and will depend upon institutional entry barriers to political competition, such as percent barriers, disproportionality of the electoral formula, and party financing. ‘Conflict of interest’ in his scheme refers to the propensity of parties to compete or to cooperate, which in turn depends upon ideological polarization and the extent to which election results are a zero-sum game, as these aspects affect both the difference that an election result makes for the voter and for the party. ‘Performance sensitivity’ refers to the ability of voters to oust a government, and in particular to the ‘uncertainty of future electoral contests’ (Strøm 1989: 281). Bartolini (1999, 2000) presents a comparable scheme, but adds the dimension of ‘availability’ which refers to the existence of voters willing to switch parties if dissatisfied, and he modifies the other dimensions somewhat. Like Strøm, ‘contestability’ is based on hurdles to political contestation, but refers mainly to the proportionality of the electoral system. ‘Decidability’ would be the approximate equivalent to conflict of interest, and is defined by the ideological spectrum represented by the party system and on the presentation of clear party platforms. ‘Vulnerability’ refers to the ability of voters to punish governments, but is defined not in terms of uncertainty of electoral contests but by whether an alternate coalition could come to power. Bartolini’s ‘vulnerability’ is similar to Murillo and Martínez-Gallardo’s (2007) concept of ‘legislative advantage’. They also define competition in terms of legislative polarization, which is somewhat similar to Bartolini’s ‘decidability’.

Following this previous literature, we focus on what seems to us to be the key aspect of electoral vulnerability: the ability of voters to threaten politicians with the loss of office. We divide electoral vulnerability into two dimensions: (1) the demand side aspect of the ‘electoral pressure’ emanating from voters, and (2) the supply side ‘political protection’ coming from the size of the governing majority. Electoral pressure is comprised of the willingness of voters to switch parties, the disproportionality of the electoral system, and the extent to which governments reflect electoral results. This dimension is similar to ‘availability’ and ‘performance

sensitivity'. As voters become more willing to switch parties and their punishment becomes more effective (vote switches result in seat switches, and seat switches affect the governing coalition) politicians should be under more electoral pressure. However, in contrast to 'contestability' but like 'conflict of interest', we see disproportionality as allowing more effective voter punishment, despite the fact that it also raises entry barriers to political participation and contestation. Therefore, our measure of electoral pressure increases with disproportionality. If the proportion of electoral winners in government increases, this is an indication that seat switches have a direct effect on political office, and hence electoral pressure increases. We do not consider broader aspects of 'political competition' ('decidability'), such as the ideological range of the party system, the clarity of party platforms, or the dimensionality of party competition in any way, but restrict our analysis to electoral vulnerability narrowly defined.

The second dimension of electoral vulnerability—political protection—refers to the imperviousness of governments to electoral pressure, and this is measured by the size of the government majority. This dimension thus corresponds to 'vulnerability' and 'legislative advantage'.

2.4 Electoral Vulnerability and Interest Intermediation

As interest intermediaries are critical for the perception of policy change by the public, we expect the impact of electoral vulnerability on policy change to vary according to the degree of interest intermediation in a particular policy sector, country and point in time. In our view, interest intermediation does not just entail the organizational density, aggregation and monopoly of particular interest associations, but also the specific pattern of control of policy decision-making, ideational framing and agenda-setting by sets of interest associations. Thus, we go back to the broader definition and concept of interest intermediation as conceived of by Lehbruch, which includes the nesting of interest intermediation within constitutional and party systems, and analyze the interaction of interest intermediation with political contexts.

Our three areas vary significantly in the degree and type of interest intermediation, and this is in fact one reason why we selected these cases. Pension politics are a classic case of corporatist intermediation. Unions and employer associations are highly involved in pre-legislative bargaining on pension reforms. But this is true only in corporatist countries, and even in classic corporatist countries, the membership densities and importance of the social partners in the drafting of policies is undergoing change. Thus, we condition our expectations on the degree of corporatism. Under conditions of high corporatism—i.e., high interest intermediation—we expect increased electoral vulnerability to improve the negotiating position of unions, who can alert voters to the cuts and restructuring being made to their pensions. Consequently, we expect fewer cuts and restructuring when electoral vulnerability is high, and more cuts and restructuring when electoral vulnerability is low. The second policy area, agriculture, is a classic case of what Lehbruch

(1984: 3) has termed ‘sectoral corporatism’. In this case, agricultural interests are highly organized, but consumers are generally not (although this is beginning to change). Indeed, if agricultural organizations were included in most measures of corporatism, it would be very difficult to draw a distinction between corporatist and non-corporatist countries, as agricultural interests tend to be densely organized in most advanced industrial countries—but, paradoxically, much less so in developing countries, where indeed agricultural production tends to be taxed rather than subsidized. Hence, we expect variations in the degree of interest intermediation to be based on the extent to which agricultural interests are the dominant reference group for legislators. In all countries, agricultural reforms pit highly organized agricultural interests against diffuse consumers, but ones that are increasingly aware of environmental issues and concerned about food safety and treatment of animals, and are starting to be mobilized by public interest groups. As agricultural interests are often geographically-concentrated, it is important to consider whether the case at hand has a single-member district electoral system and concentrated or dispersed agricultural interests. If agricultural interests are highly concentrated and a single-member district voting system is in place, higher electoral vulnerability should improve the bargaining power of organized agriculture, and cuts in agricultural subsidies should be impeded. By contrast, under conditions of proportional representation or if agricultural interests are geographically-dispersed, higher electoral vulnerability should make it good politics to show the public that measures are being taken to reduce subsidies and improve the environmental sustainability of agriculture. Finally, in the case of citizenship politics, the degree of interest-intermediation should vary with the political salience of the immigration issue. At times of lower salience, unions and employer associations—to some extent joined by public interest groups promoting the rights of migrants—will be the key interest associations involved in immigration issues. When political salience increases, however, often as result of party strategies, including right-wing populist entrants to political competition, interest associations lose their monopoly of the issue to the general electorate. Consequently, under conditions of high salience, electoral vulnerability should make it impossible to introduce legislation liberalizing citizenship.

3 The Impact of Electoral Vulnerability on Policy Recalibration

We constructed a data set in order to assess the electoral vulnerability of all governments in 16 West European nations and additionally in nine OECD countries from 1980 to 2005 in order to evaluate these hypotheses empirically (for details see Immergut and Abou-Chadi 2014). The results, which are summarized in Table 1, show that electoral vulnerability does indeed affect the prospects for policy recalibration, and that it does so in interaction with interest intermediation and representative institutions. In the area of citizenship, we have found that high electoral pressure indeed precludes citizenship liberalization (Abou-Chadi 2012). Regardless

Table 1 Comparison of the three studies

| Findings | Citizenship | Agriculture | Pensions |
|---|--|--|---|
| Policy recalibration | Liberalization of citizenship laws | Cuts to subsidies | Cuts and privatization of pensions |
| Partisanship | Left parties want to liberalize | Left and green parties want to cut and increase sustainability | Right-of-center parties cut more frequently |
| Open veto point | Blocks liberalization | Impedes cuts | Impedes cuts |
| Increasing electoral vulnerability with high intermediation | High electoral vulnerability trumps intermediation | Impedes cuts | Impedes cuts |
| Increasing electoral vulnerability with low intermediation | No liberalization | Promotes cuts | Promotes cuts |

of political partisanship, no parties push the issue of citizenship liberalization at times of heightened electoral pressure. But if the level is low or medium, electoral pressure interacts with the party constellation, as well as the veto points and veto player constellation. Conservative parties are willing to support citizenship liberalization if they are part of the government as a pivot party; in opposition at a veto point, however, they veto liberalization proposals. Thus, there are two paths to citizenship liberalization: multi-party coalition governments containing a conservative pivot party; or left-of center governments not facing an open veto point, a conservative veto player in government or high electoral pressure. Electoral pressure and party competition mediate in parties’ decision whether to concede to the pragmatic policy need to liberalize citizenship or to either use the issue for electoral gain or fear that the issue will be used against one’s party.

In the area of agricultural policy, the impact of electoral pressure interacts with the incentives for cultivating a personal vote arising from the electoral system and the mode of candidate selection, as well as the geographic concentration of agricultural interests. Single-member district systems provide incentives for distributive policies like agricultural subsidies, while in proportional representative systems, credit can be more easily taken for public goods, like environmental improvements achieved by cuts to agricultural subsidies. These electoral incentives, however, are conditioned by the concentration of agricultural interests. Targeting agricultural subsidies to a locally-concentrated constituency is a winning electoral strategy only in single-member district electoral systems, in which politicians are independent of party lists, and when agricultural interests are geographically concentrated. Similarly, under these conditions, cutting agricultural subsidies in favor of more free trade in agriculture and environmentally-sound agriculture is not an attractive electoral strategy. By contrast, in PR systems (or SMD systems with widely-dispersed agricultural interests, as well as all systems with low incentives for cultivating a personal vote), cutting agricultural subsidies can appeal to wider

constituencies and is thus electorally-attractive (Orlowski 2012). These structural incentives, in turn, are enhanced as electoral vulnerability increases.

Finally, in the area of pensions, electoral pressure interacts with the system of interest intermediation. In corporatist systems, where unions are relatively strong and enjoy an important role in pre-parliamentary policy negotiations, unions can benefit from heightened electoral pressure to take a hard line in negotiations. As a group with the credibility to defend their member's pensions, it is very threatening to politicians to lose the stamp of approval of unions for the necessity of making pension cuts or restructuring pension systems. Furthermore, employers are well-organized and prefer consensual negotiated solutions to pure 'power' politics. The threat of conflict is more effective at times when the electoral vulnerability of politicians is higher. As electoral pressure rises in corporatist systems, pension reforms become less likely (Immergut and Abou-Chadi 2014).

This link between electoral pressure and policy re-calibration was apparent in the 1995 reform of the pension system in Finland. After a series of incremental steps to cut pension obligations and increase pension contributions following the 1991 recession, the 1995 Social Democratic-led Lipponen 'Rainbow Coalition' government eliminated the flat-rate basic National Pension and made the calculation of pension benefits more stringent by lengthening the reference period of the benefit formula. As Kangas (2007) argues, the key to the passage of the reform were the restraint of the Left Party and Social Democratic dissidents, as well as the Center Party's inability to mobilize corporatist opposition to the laws. Kangas attributes this to the membership of the Left and Social Democratic parties in the governmental coalition, which closed the presidential veto point, and made these parties stakeholders in the reform. However, lowered electoral pressure provides additional explanatory power for the willingness of these parties to support the cuts. This large reform effort was enacted by a 72.5 % surplus majority government (high political protection) exposed to relatively low levels of political pressure as compared to its predecessors: several parties involved had already witnessed that losing seats at the previous election would not necessarily keep them from joining the government coalition. Thus, reduced electoral vulnerability enabled more effective consociational and corporatist bargaining which in turn facilitated institutional change.

Whereas in a corporatist country, governments exposed to lower electoral pressure passed more significant reforms than governments exposed to higher levels of electoral pressure, this effect is reversed in pluralist systems because unions are weaker and less able to frame policy issues. They compete for framing with many other groups, such as taxpayers' associations and business groups. Thus, we can conceive of union and employer intermediation as being weaker than in corporatist systems, which makes it easier for politicians to frame pension reforms as pragmatic, necessary measures to ensure fiscal stability and control government debt. In such systems, politicians can take credit for pension reforms. In pluralist systems, increases in electoral vulnerability are indeed correlated with higher rates of pension reform. Thus, contrary to what is generally presumed, fear of voters does not preclude cuts to the welfare state, but depends upon the mobilization of

interests. Where unions can mobilize public attention, increases in electoral pressure strengthen their bargaining position. If they cannot play this role, electoral pressure makes politicians more sensitive to business interests and fiscally conservative voters. In corporatist systems, deliberation and persuasion is aided by lower levels of electoral pressure, whereas higher electoral pressure favors confrontation and power plays. In pluralist systems, higher levels of electoral pressure favor confrontation, as well, but the impact of political competition is to encourage cuts despite union protests.

Pluralist Portugal provides an illustrative example for this mechanism. The most controversial issues of Portuguese pension politics concern privatization, in the form of the creation and subsidization of second and third pillar private pension plans, and the introduction of a wage-ceiling (*plafonamento*) above which employees would be free to choose whether to invest their pension contribution into social security or private pensions (Chuliá and Asensio 2007). Despite union objections, at a time of high political pressure in the late 1980s and early 1990s, a series of Portuguese governments introduced measures to introduce second and third private pillars as well as significant benefit cuts, such as an increase in the qualifying period and reference period for pension benefits, and increasing the retirement age for women. By contrast the 2002 government, subject to less electoral pressure because of the more tenuous link between government and electoral results, was unable to reach any agreement on introducing the age ceiling, despite general agreement on this point from the late 1980s. Thus, in a pluralist context, greater electoral pressure puts governments under greater pressure to effect reform, regardless of union opinion.

4 Conclusions

Many scholars have demonstrated that institutions of political representation and institutions of interest intermediation have significant effects on the politics of policy recalibration. Rather than modelling these effects as static, however, we show in this essay how the impact of institutions can only be understood in terms of interactions between institutions and political behavior. Voters' preferences reach politicians through electoral institutions, which change the incentives and risks of politicians. These incentives and risk structures are dynamic because they depend upon the exact distribution of votes at a particular point in time. Further, interest groups intermediate between politicians and voters, and as we have argued, the impact of this intermediation changes dynamically with the electoral vulnerability of politicians. As in Gerhard Lehbruch's works, we see that only this dynamic-processual analysis of the institutional structures, which ensure the input legitimacy of democratic polities, allows us to understand when and how policy change is possible; change that is necessary in order to sustain the output legitimacy of these systems that is constantly challenged in an increasingly complex world.

The study of electoral vulnerability and its impact on policy-making provides a minimal and rational interpretation of both policy-preferences and electoral

incentives. We have not delved into the ideational aspects of policy-making—a major area of research for Gerhard Lehmbruch. Case studies could provide further insights into differences in how politicians or parties perceive the necessity for recalibration, evaluate possible solutions and interpret their electoral situation, given the objective shifts in votes, majorities and office upon which we base our analysis. The examination of electoral vulnerability can provide us with a vantage point for studying the empirical question (as Max Weber put it) of whether politicians will react similarly to the same objective electoral factors or whether psychological, cultural, or processual factors change their behavior. Thus, in contrast to what is often assumed, we do not see any necessary conflict between rationalist and ideational approaches to historical institutionalism. Political preferences may be a rational response to institutional givens, or they may emerge from processes of political contestation and interpretation. The common analytic arsenal of historical institutionalism remains the study of the interplay of ideas, interests and institutions.

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Towards Post-Democracy or Complex Power Sharing? Environmental Policy Networks in Germany

Volker Schneider

Abstract

This article rejuvenates the power structure perspective in the analysis of policy networks. At the theoretical level it links policy analysis to the debate on post-democracies and power-sharing. Whereas the latter perspective emphasizes a great variety of democratic political systems and corresponding structures of power sharing, the former makes the assertion that the current political-economic development would lead to an erosion of democratic structures. Both frameworks are used to check the post-democracy hypothesis within the German policy-making context. The paper proceeds in three steps. After a short outline of the debate on post-democracy it compares empirical analyses of policy networks in Germany in the early 1980s and in the 2010s. The results of this empirical analysis then is interpreted in a power structure and power-sharing perspective. It concludes that the policy actor system in current environmental and energy policy-making in Germany is hardly reducible to the post-democratic power dyad consisting of only the business elite and the governmental executive, but is much more differentiated and pluralistic.

1 Introduction

One of the various schools of thought in the debate on policy networks is emphasizing the governance perspective of this new political phenomenon (for a review, see Boerzel 1998). In its broadest meaning, “governance is the production of social order, collective goods or problem-solving through purposeful political and social intervention, either by authoritative decisions (hierarchical governance) or by the establishment of self-governing arrangements” (Schneider 2004). A key

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feature of this self-regulatory process is that the involvement of and interaction among policy actors is not only restricted to governmental institutions alone but also includes private actors such as business associations, trade unions and civil society organizations, private firms, and scientific institutions. A further key aspect of this perspective is that governance is focused on institutional rule systems and decentralized process mechanisms, contrasting sharply with purely hierarchical decision-making (Mayntz 2003). Private-public interaction, mutual adjustment, horizontal coordination, and often informal institutional arrangements are key features. In a nutshell, policy networks lead to the decentralization of policy processes.

The recent debate has repeatedly pointed to a crucial shortcoming of this perspective: depoliticized technocratic and pure efficiency perspectives of problem solving often dominate at the expense of the political dimension of societal problems and conflicts. Critical questions with regard to power structures and democratic deficits become easily dismissed. But, being blind to the power dimension is not a typical feature of the policy network research, at least not in its quantitative orientation. On the contrary! Many of the first network analyses in sociology and political science were particularly inspired by power structure research. During the 1970s and 1980s, many studies tried to uncover relations of power and domination by new techniques of structural analysis. Their aim was to unveil elite structures and “inner circles” to reveal political inequalities and democratic shortcomings (for an excellent review, see Knoke 1993).

This paper attempts to rejuvenate the power structure perspective and to link it to two other fields of social scientific discourse: firstly, to the debate on post-democracy in political sociology (Crouch 2004); second, to the debate on patterns of democracy and power-sharing in comparative politics (Lijphart 2008, 2012; Norris 2008). Whereas the latter perspective emphasizes a great variety of democratic political systems and corresponding structures of power distribution, the former makes the assertion that the current political-economic development would lead to an erosion of democratic structures. Both frameworks are used to check the post-democracy hypothesis within the German policy-making context.

The paper proceeds in three steps. The next section shortly outlines the debates on post-democracy and post-parliamentarism. This is followed by an empirical analysis of policy networks in Germany in the early 1980s and the 2010s. The results of this analysis will then be interpreted and evaluated using the power structure and power-sharing perspectives. The chapter concludes with a summary.

2 Policy Networks: Extension or Erosion of Democratic Politics?

In one of the first reviews on the literature on policy networks, Kenis and Schneider (1991) conceived policy networks as a new structural arrangement in policy-making, which reflected the changing relationship between state and society with

a tendency towards de-hierarchization, decentralization, and informalization of public policy making:

Their emergence is a result of the dominance of organized actors in policy making, the overcrowded participation, the fragmentation of the state, the blurring of boundaries between the public and the private, etc. Policy networks typically deal with policy problems which involve complex political, economic and technical task and resource interdependencies, and therefore presuppose a significant amount of expertise and other specialized and dispersed policy resources. Policy networks are mechanisms of political resource mobilization in situations where the capacity for decision making, program formulation and implementation is widely distributed or dispersed among private and public actors.

The major policy arenas, the places where conflicts are mediated and bargaining for policy options takes place, are not only parliamentary committees but to a large degree also informal institutions (administrative committees and working groups, roundtables, civil society organization forums, etc.), in which multiple private actors (interest groups, large corporations, lobbying firms, etc.) are also involved (Pollack 1996; Czada 2015). Since many of these constellations marginalize the party-parliamentary sector, some scholars named these phenomena post-parliamentary arrangements in which politics emigrated from constitutional institutions (Richardson and Jordan 1979; Benz 1998; Burns and Andersen 1996).

In recent years, the crisis tendencies of modern democracy have been criticized by a number of philosophers and social scientists (for a recent review of the variety of approaches see Jochem 2013). One of the most prominent critics is Colin Crouch through his diagnosis of “post-democracy” in advanced capitalist democracies (Crouch 2004). The prefix would articulate a trend reversal of democratic development which Crouch describes using the pattern of a parabola (see also Crouch 1999).

In this perspective, democracy broadened and deepened participation particularly of the working class during the twentieth century, not only with regard to policy inputs (decision-making, policy formulation), but also on the policy output side. Unions were important partners for state policy-makers and business associations in the formulation of public policies. Welfare state policies, Keynesian economic policy and institutionalized industrial relations contributed to the greater participation of lower classes in economic welfare. This historical compromise between capitalist economy and the working population reached its end in the 1960s and 1970s, the vertex of the parabolic development pattern. The turning point was the oil crisis and the subsequent decline of Keynesianism. Post-democratic decay started and accelerated during the 1980s by deregulation and the globalization of financial markets. Its major effects were the dismantling of the welfare state and the marginalization of trade unions. On the input side of democratic politics, this process led to the declining political participation of citizens and non-economic organizations. It was degraded to a “liberal democracy”, a concept which was influenced by the U.S. during the post-WWII period, in which elections

became the main mode of mass participation and policies were decided only by a small democratic elite.

Since the end of the twentieth century, Crouch has conceptualized the rise of a novel and reduced model of democracy which he named “post-democracy”:

Under this model, while elections certainly exist and can change governments, public electoral debate is a tightly controlled spectacle, managed by rival teams of professionals expert in the techniques of persuasion, and considering a small range of issues selected by those teams. The mass of citizens plays a passive, quiescent, even apathetic part, responding only to the signals given them. Behind this spectacle of the electoral game, politics is really shaped in private by interaction between elected governments and elites that overwhelmingly represent business interests.

This new structure of politics also implies important structural shifts within business. Crouch stresses the rising influence of large corporations at the expense of traditional business associations. In the interaction between government and business, the positions of individual corporations became gradually more important than business and employers’ associations. Governments also became increasingly dependent on their expertise and other relevant policy resources (Crouch 2004).

Although post-democracy seems to represent a general trend in Crouch’s perspective, he nevertheless points out a series of country-specific variations. The rise-and-decline pattern appears most clearly in Britain and Australia. In other countries such as Scandinavia, the rise would have been similar but the decline was far less pronounced. Germany is seen as a latecomer in democracy development. It “did not embark on Keynesian demand management until the late 1960s, but did have very strongly institutionalized industrial relations and, eventually, a strong welfare state” (Crouch 2004).

In the following sections, Crouch’s developmental hypothesis will be tested with respect to environmental policy formulation in Germany. His pronounced perspective allows us to pose the following questions: Has there been a decline in union participation and influence over the last 30 years? Do business actors and related lobbyists have more influence today than in the early 1980s? Are individual large corporations more influential now at the expense of business and employer associations?

3 Comparing Policy Networks in Germany

In this paper, Crouch’s development theory of democracy is examined in a comparison of two policy networks of environmental policy formulation in Germany. In these studies, the interactions among relevant political actors are analyzed in two policy areas where policy issues emerged that were considered to be of prime importance in their respective decades. The topics are chemical control in the 1970s and early 1980s, as well as climate change in the late 2000s and early 2010s. Just as climate change and global warming are currently considered to be a long-term

policy problem whose solution is deemed critical for human survival (Schneider et al. 2013b), the “intoxication of the world” by uncontrolled chemicals was a sort of doomsday topic during the 1970s. Rachel Carson’s book “Silent Spring” (1962), which was very influential for the American environmentalist movement, aptly summarized the mood of this time.

3.1 Chemical Control in the 1970s and 1980s

The policy issue of regulating chemicals emerged during the 1970s, when the world realized that many of the almost 100,000 different chemical substances circulating in people’s everyday lives were proven to be harmful for human health and the environment. Most industrial countries recognized that the enormous problem of toxic chemicals could only be controlled by more strict regulation. Beginning at the end of the 1960s, many industrial nations developed chemical control programs providing *ex ante* examination and test procedures for chemical substances. Switzerland was a forerunner in the late 1960s, Japan, Sweden, and the U.S. followed during the 1970s, and subsequently, this policy diffused to all OECD and EC countries (Brickman et al. 1985). In the Federal Republic of Germany, legislation started at the end of 1970 which was strongly influenced by OECD and EC initiatives. In 1980, this led to the adoption of a law to “protect against dangerous substances” in Germany, regulating the conditions under which new chemicals could be introduced into the market. It is very difficult to evaluate this law from the output or outcome perspective of democratic politics, but on the input side, we can use relational analysis to unveil the power structures in the policy process.

Using this policy formulation process, categorical and relational data were collected on the different policy actors that were involved in the policy formulation process. To specify the boundaries of this actor set, we used traditional methods of elite research such as data collection by standardized questionnaires and expert interviews. In a first step, policy actors were identified based on the “positional approach”, i.e. organizations of various institutional sectors which principally could have been affected by the chemical problem were selected on the basis of handbooks on public organizations as well as lobby lists. In addition, documentary analysis of press publications and governmental documents was used. This procedure produced an overall list of approximately 90 organizations, which were reduced to the most important 47 organizations by using expert interviews in the next step. During the winter of 1984/85, these organizations were approached with a standardized questionnaire. Only 40 of them could be successfully interviewed.

Although we analyzed a broad array of relations in this study, within the context of testing the post-democracy hypothesis, we will only be interested in relations representing relevant aspects of the power structure in the policy process, i.e. influence reputation and information exchange. Influence reputation can be conceived as a summative concept integrating different dimensions of power,

i.e. instrumental power, relational power, and structural power. Instrumental power implies intentional control of one actor over another actor, relational power emerges from dependency, and structural power points to more diffuse environmental forces that privilege or constrain actors vis-à-vis others. Power thus was measured as influence reputation, asking interviewees to check organizations on a list of policy actors they considered to be particularly influential in the legislative process. On the other hand, the actors' roles as information sources can be considered to measure "dependency relations" (Emerson 1962), and therefore, aspects of relational power. To measure such information exchange relations, we asked the interviewees from which organizations they received specialized scientific information on this policy topic.

The results of these analyses are depicted in two diagrams. The centrality positions of the different policy actors with respect to influence reputation and the exchange of policy information are depicted in Fig. 1.

The position on the x-axis represents the frequency that an organization was mentioned as a source of information. The y-axis represents the weighted degree of influence reputation. Since the various actors greatly differ in their attribution of influence reputation to other actors (some see only 5 % and others see 40 % as particularly influential), we assume that the "value of influence reputation" is a function of its scarcity. The different influence assignments the interviewees give to policy actors were thus divided by the number of policy actors an interviewee considered to be influential. For both axes, the values are expressed as a percentage of maximum values (with transformed axes to the power of 0.5 because of heteroskedastic distribution).

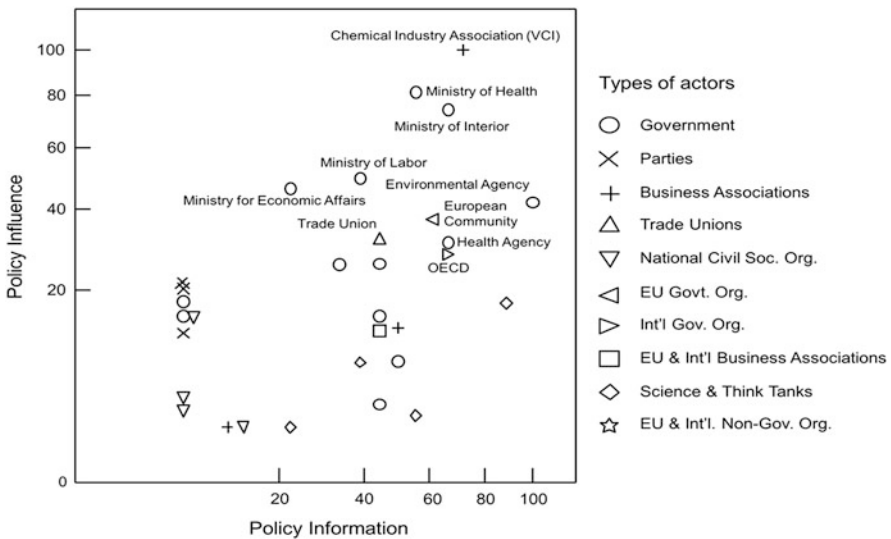


Fig. 1 Power positions of policy actors in the chemical control policy network

The different symbols in the scatter plot indicate the various actor categories. Interestingly, the most influential and central actors in this diagram are VCI and IGCPK, i.e. the business peak association and the trade union of the chemical industry, respectively, which are even more influential than many governmental actors. Representing the interests of the German state, parliamentary or “constitutional” actors like the political parties and the second chamber, the Bundesrat, only have secondary importance. Individual corporations seem to play no role in this structure. The environmental movement and its various civil society organizations only occupy peripheral positions.

Figure 2 takes a close look at the various categories of actors that were considered to be the most relevant in this policy network. The dot-diagram displays the influence reputation of actors within the different categories and names the most important actors.

In an early analysis, I interpreted this configuration to be a typical corporatist policy-making process, where the most important policy options have been shaped by bargaining arrangements between government, business (the industry’s peak association) and the chemicals sector trade union (Schneider 1985, 1990). For a recent reanalysis and a broader array of hypothesis tests see Leifeld and Schneider (2012). The party-parliamentary complex only played a peripheral role. An interpretation in Colin Crouch’s perspective would describe it as a typical constellation in policy formulation during the high tide of democracy, just before the post-democratic

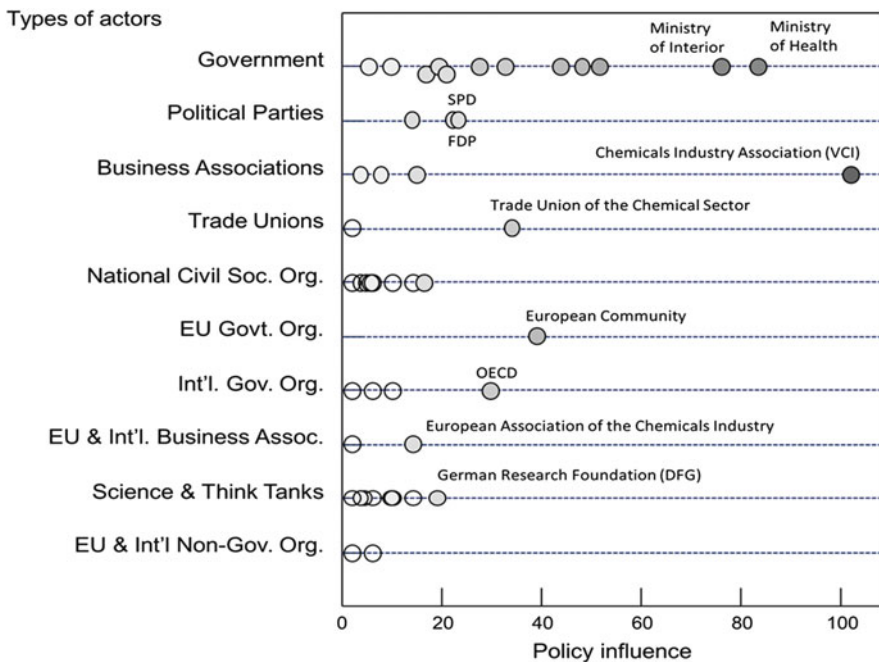


Fig. 2 Types of actors and their influence in the chemical control policy network

trend reversal. In the next section, we will see how environmental politics and policy-making changed almost 30 years later, as well as in which way this arrangement differs and possibly matches the post-democracy diagnosis.

3.2 Climate Politics in the 2010s

The major environmental issue since the beginning of the twenty-first century is undoubtedly global warming, and the main political tool to cope with this problem is usually called “climate policy”. In Germany, this issue emerged for the first time during the 1970s and became more institutionalized after the Chernobyl catastrophe in 1986. One year later, Chancellor Kohl declared it to be one of the world’s most pressing environmental problems, and in the same year, a parliamentary committee on the protection of the atmosphere was established in the German Bundestag. Since that time, Germany has been a global and European forerunner in this policy field. It started several programs and regulatory measures. At the end of the 1990s, it introduced an ecological tax reform, and in 2000, it launched a national climate protection program. A few years later, it joined the Kyoto protocol, and in 2008, it started an integrated energy and climate program. Since that time, the merger of energy and climate policy is an important feature of German policy-making in this field.

Most political and social scholars agree that Germany uses a policy style that is highly inclusive and consensus-based, which most likely contributed to an early perception of this issue and agenda-setting in Germany (Schneider et al. 2013a; Schneider and Ollmann 2013; Weidner and Eberlein 2009; Weidner and Mez 2008).

Also, this policy process was studied with network analytic methods in a rather similar way as the chemical control policy process had been analyzed, although the delimitation of the actor set was done in a slightly different way. The data have been collected in the context of an international comparative project (www.compon.org; see also Broadbent 2010; Broadbent and Vaughter 2014). In this case, we used media content analysis to identify the most relevant policy actors in a first step. Through this, we obtained a list of 75 organizations. In a second step, similar to the delimitation strategy in the chemicals study, we also used snow ball sampling to extend the list of actors. Interview partners were asked to add those organizations to the list that, according to their view, were missing in this context. By this procedure, seven organizations were added. In the end, we interviewed 50 organizations at the national level. However, in addition to these domestic actors, we also collected data on 42 international organizations in the survey. The transnational policy network in climate policy thus includes 92 actors.

Although the comparability of the climate policy network to the chemical control network is not perfect because of slight methodological and contextual differences, contrasting both relational configurations nevertheless gives interesting insight into the change of key positions in policy-making within the last 30 years. Some differences might be accidental, but most are systemic and thus most likely related to transformations within the German political system.

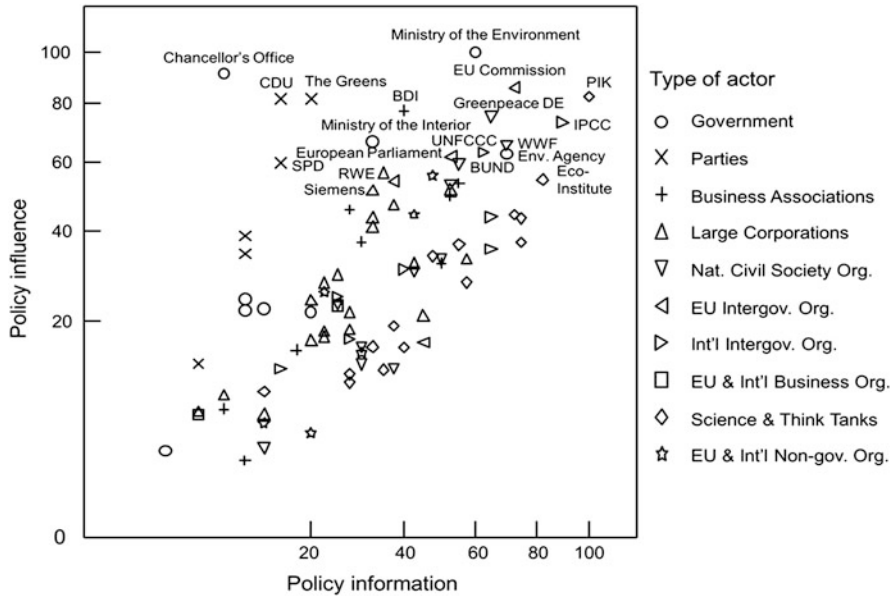


Fig. 3 Power positions of policy actors in the climate policy network

Similar to the case of chemicals control, we analyzed the data on influence reputation and information exchange. Results of this analysis are depicted in Fig. 3 where the y-axis in the scatter plot shows the actor’s positions with regard to influence reputation, and the x-axis indicates the centrality of actors with respect to their positions as information sources. In both cases, the values are expressed as a percentage of the maximum values (with transformed axes to the power of 0.5). Maximal values are attained by the ministry of environment with respect to influence reputation, and by the Potsdam Institute for Climate Research with respect to information centrality. Other top positions in influence reputation are attributed to the Chancellor’s Office and the European Commission, the CDU (Christian Democrats) and the “Greens” political parties, Greenpeace and the world climate council (IPCC), and last but not least, the voice of the German industry (BDI).

Figure 4 shows the distribution of influence reputation within the different actor categories. In each category, the most influential actors are labelled. Within the German government, it is the Ministry for Environment and the Chancellor’s Office. Among the political parties, it is the Christian Democrats (CDU) and the Green party. On the business side, there are a number of associations involved—the most important one being the Federation of German Industry (BDI)—and even more individual large corporations. Most influential in this last mentioned category are the energy suppliers RWE and Siemens. Among civil society organizations, the German affiliate of Greenpeace is estimated to be the most influential. Within the EU context, the EU Commission receives the most influence votes, while within the

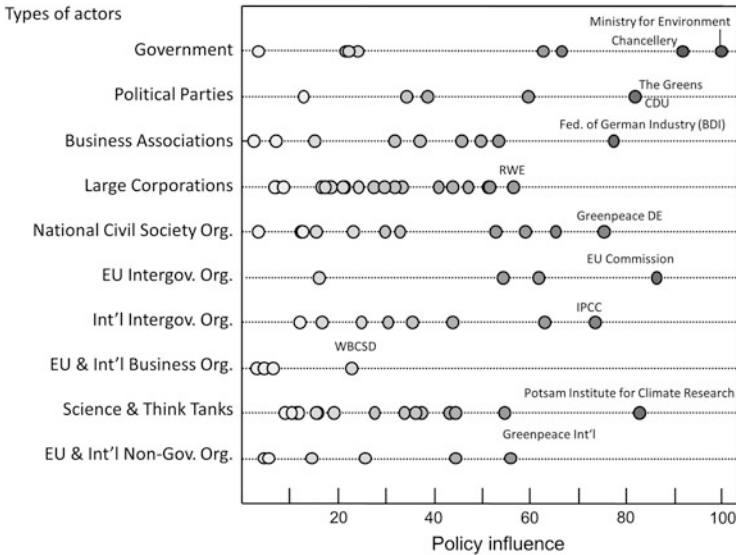


Fig. 4 Types of actors and their influence in the climate policy network

UN system, the ICPP is conceived most important. Within the group of international business associations, the World Business Council for Sustainable Development (WBCSD) is considered to be most prominent. The most influential actor within science is the Potsdam Institute for Climate Research (PIK) and the most influential international nongovernmental organization is Greenpeace International.

It is astounding that not a single German union had prominence in the climate policy network. This observation certainly supports the post-democracy hypothesis of Colin Crouch. Also, the large number of individual corporations that participated directly in the policy process is astonishing, in strong contrast to the chemicals network in which no corporation was directly engaged. At that time, all firms exclusively used the peak association VCI as a channel for interest intermediation. However, contrary to Crouch's expectations, business associations are still important players in the policy game, and many other actors such as parties, international organizations, science and environmental movement organizations are important actors, too.

All in all, the climate policy network clearly looks much more pluralistic than the chemical regulation network. It would be very difficult to reduce it to only the executive branch, a few multinational corporations, and a bunch of lobbying firms. As we have seen, a whole range of very different actors showed up on the political playing field. It would thus not be very plausible to assign the climate policy network of the 2010s a lower democratic quality than the chemical network of the 1970s, even if trade unions only played a peripheral role. In the end, the Crouch model remains too much caught in the narrow perspective of industrial relations research, largely ignoring the diversity and complexity of modern democracy.

In the next chapter, I will try to give a more convincing interpretation of power structures in German policy-making.

4 Policy Networks as Complex Power Sharing Arrangements

Policy systems that are organized in a network-like fashion are de-hierarchized, decentralized, and to a large degree, informal political configurations in which policy formulation is less the result of instrumental power exerted by one or a few organizations, but rather a heterogeneous and pluralistic actor constellation. Policy networks correspond to the “mutual adjustment system” which Charles Lindblom outlined in his seminal book on “The Intelligence of Democracy” (1965) in which mutual dependence, relational power and bargaining play an important role in the making and implementation of public policies. In this book, Lindblom contrasted a “centrally regulated complex decision making system” with “complex decision making through mutual adjustment” (see Fig. 5).

A few years later, Stephen Brams (1968) used Lindblom’s scheme and typified the first configuration as “hierarchy”, using the mutual adjustment system and mixed configurations to study the concentration of power in political systems. Although Brams’ article focused on measurement methods to operationalize power structures, he stressed that already at the “conceptual level, the identification of different types of decision-making systems, and the power structures associated with each, has considerable heuristic value” (p. 462).

Few decades later, this hierarchy versus network dichotomy was taken up by the debate on policy networks (Kenis and Schneider 1991). In this perspective Fritz Scharpf (1993) contrasted the classical model of democracy emphasizing “unitary policy-making by parliamentary majorities legitimated through general elections”

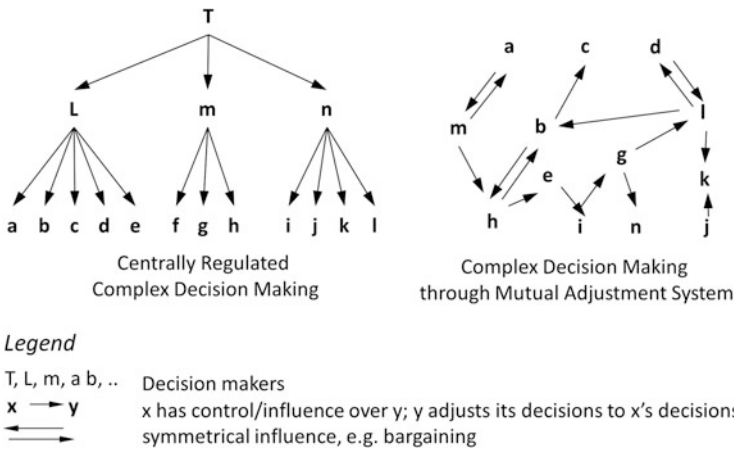


Fig. 5 Concentration and dispersal of power in policy networks. Sources: Lindblom (1965: 26), Brams (1968: 462)

with “hierarchical policy implementation under the control of politically accountable ministers of executives” on the one hand, and policy networks on the other hand “involving semiautonomous parliamentary committees and bureaucratic agencies, organized interests, and specialized publics” (pp. 7–8).

Both social configurations have implications for the distribution or “dispersal of power” (Coleman 1974b). Power in hierarchical systems is more concentrated than in networked systems. In networks, control is more broadly distributed. In the extreme case of hierarchy, only one actor absorbs all power resources (instrumental power) or is in a position where all actors are completely dependent on him (relational power). Although in networked systems the actor’s orientations are less geared towards command-and-control relations and more towards coordination, deliberation and negotiation (Mayntz 1993), networks are also power structures implying dependence relations and structural constraints.

There is a tradition of network studies which try to measure relational and structural facets of power empirically using methods of social network analysis (Knoke and Yang 2008; Knoke 1993). If we follow this general perspective and use “influence reputation” as a proxy for power, we can measure the concentration or dispersion of power in both policy systems in the same way that economists measure inequality of income or wealth by the Lorenz curve and the Gini coefficient. Concentration or dispersal of power has strong implications for Crouch’s post-democracy hypothesis. If it is true, we would expect that political power would be more concentrated in the climate network than in the chemicals network.

In the following figure (Fig. 6), we apply this approach in a straightforward way to the chemicals regulation and climate change networks. The Lorenz curve

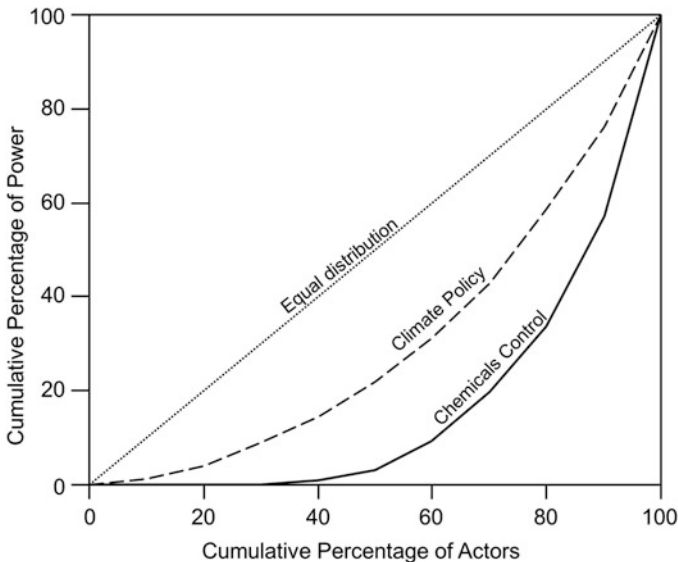


Fig. 6 Power distribution

represents cumulative shares of policy actors from the lowest to the highest degrees of influence reputation. If there is a completely equal distribution of influence, all points would be located on the 45° line and this would result in a Gini coefficient of 0. The extreme of unequal power distribution, where one actor absorbs all influence, would result in a Gini coefficient of 1.0.

However, as we see in Fig. 6, both influence distribution curves differ considerably from the equality line, and astonishingly, the chemicals control policy network represents a much more concentrated power structure than the climate policy network. The Gini coefficient of the chemicals network amounts to 0.65, and that of the climate policy network is 0.38. Power, measured by influence reputation, is thus much more equally distributed in the climate change policy network. Against the expectations of the post-democracy perspective, current environmental policy-making in Germany is thus much more open and inclusive, incorporating a much broader array of different actors into the policy process than environmental policy 30 years before. Although it is true that trade unions are completely absent in this picture and many individual large firms now exert considerable influence, the distribution of power in the network from the 2010s is more differentiated than the 1980s network. At least in this policy domain, the conflict line between capital and labor has been displaced or at least superimposed by other major lines of social and institutional differentiation.

From a general theoretical perspective, it is useful to relate the power positions of various types of actors to specific lines of institutional differentiation and political cleavages (Rueschemeyer 1977). Power can be generated by favorable resource endowments and environmental conditions, but also by the institutional allocation of power through constitutional design. For instance, federal structures, proportional electoral systems, pluralist interest group systems and competitive media sectors are more likely to cause decentralized and distributed power structures than unitary states, majoritarian voting, and monopolistic interest group systems as is emphasized in the discussion of power-sharing (Lijphart 2008, 2012; Norris 2008).

In his landmark book on the “patterns of democracy”, Arendt Lijphart (2012) identified two central lines of differentiation within modern democratic political systems: vertical and horizontal. The vertical dimension represents the dispersal of power between the central government and its territorial sub-units. The horizontal dimension represents power-sharing between the so-called “majoritarian party-government complex” versus the non-majoritarian actors and societal actors. The latter dimension relates to governmental actors such as constitutional courts, independent agencies, but also private organizations which occupy *de facto* power positions and have their share of the political power structure in a country. In Lijphart’s political landscape, Germany belongs to the group of “consensual” democracies with strong power positions inside territorial sub-units (German Länder) and many influential non-majoritarian actors.

Over the previous years, some additional dimensions for the categorization of modern democracies have been added: (1) the degrees to which citizens directly participate in political decision-making by employing the facilities of direct

democracy from Adrian Vatter (2009), and; (2) the degrees of liberty by Hanspeter Kriesi (in this volume). Viewing from a perspective of power dispersal and power sharing, the first additional dimensions can be interpreted as changes in the allocation of power between individuals and the organizational level of politics. It represents a sort of restitution of political power awarded to individuals in societies in which more and more power became concentrated in organizations over the last 100 years (Coleman 1974a). In contrast, Kriesi's dimension could be interpreted as a classical, centuries-old horizontal perspective inside the government between separated powers on the one hand (in particular, coercive and other state institutions). On the other hand, there is a conflict between the state and civil society in general, on how much the first penetrates the latter (see Michael Mann's (1984) despotic and infrastructural power dimensions).

Thus, the overall power structure in an empirical policy network is a multiplex configuration in which multiple dimensions of power sharing are superimposed or over-determined. In summary, we can conceive of the following vertical and horizontal dimensions of power dispersal:

Horizontal Dimensions

- A first horizontal dimension expresses the degree to which a civil society exists that is populated by autonomous private organizations and associations which participate in public policy-making.
- A second horizontal dimension relates to institutions and organizations inside the government: the power positions of parties, parliamentary chambers, the balance of power between the executive and legislative, and the relative influence of majoritarian and non-majoritarian institutions, including the political influence of the administration.
- A third horizontal dimension relates to the differentiation to general social and political organizations vs. organizations specialized in knowledge production, supported by the trend towards a so-called "information society", in which specialized information gains increasing importance.

Vertical Dimensions

- A first vertical dimension relates to the distribution of power between individuals and organizations (mass parties, associational bureaucracies) in modern societies.
- A second vertical dimension relates to the distribution of power between the territorial levels and units of a polity.
- A third vertical dimension relates to the distribution of power between domestic and international actors. Over the last decades, globalization and Europeanization has shifted more and more institutional competences and power resources to organizations and authorities at the international level.

If we take a look at the German policy networks, most of these dimensions are present in the actor population and its distribution of political influence and power.

While all actors are organizations, they represent different structural interests. The diversity of organizations is based on multiple lines of structural and institutional differentiation: domestic vs. international actors, federal vs. regional actors, public vs. private actors, party-governmental institutions vs. quasi-independent administrative agencies, and last but not least, economic vs. non-economic actors. As a superposition of these multiple lines of differentiation, the policy actor system in environmental and energy policy-making in Germany is thereby hardly reducible to Crouch's 'power dyad', essentially a revival of the 'power elite' and 'bloc au pouvoir' perspective of the 1970s, consisting now of only the business elite and the governmental executive.

5 Conclusions

In this paper, it was emphasized that policy networks represent not only governance arrangements but also power structures. However, governance in a network context implies a different distribution of power as policy-making within state-centric and hierarchical configurations. In a power structure perspective, the question of implications of the development of policy networks on democratic theory was raised, and was linked to the recent debate on post-democracy. This new strand of theory on the "crisis of democracy" claims a qualitative decline of democracy in advanced capitalist countries. Democracy would be reduced to mere electoral politics, and trade unions would become increasingly marginalized. Since the 1980s, policy-making would be gradually narrowed down to elite circles of government officials and managers of large corporations.

In the present study, this hypothesis was tested empirically in German environmental policy with some basic methods of social network analysis. In comparing two policy network configurations from different time periods, we determined whether the power structure changes implied by post-democracy have actually occurred. The hypothesis test led to mixed results. While the comparison of both policy networks showed that the marginalization of trade unions and the increased presence of large corporations could actually be observed, the idea of a narrowing down of decision-making structures to elite circles of government and large corporations cannot be supported. Thirty years ago, policy-making was rather more elitist than it is today. From a power structure perspective, the evolution of German policy-making did not lead to a greater concentration but rather to a more equal distribution of power, measured as influence reputation. In configurative terms, post-democracy draws a too simplistic picture of governance in complex societies, which very much resembles the discussion in the 1970s in Marxist state theory and sociologist elite theory where the capitalist state becomes an instrument of a small power elite. In the end, this is a rather strange trajectory of theory development which falls far behind the sophisticated differentiations present within former structuralist Marxism in France.

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Ban on Blasphemy: Protection of Religion Versus Freedom of Opinion as a Conflict of Fundamental Rights in Democracy

Klaus von Beyme

To the former theologian Gerhard Lehbruch on his 85th birthday!

Abstract

A few centuries ago, blasphemy seemed to be an obsolete issue in consolidated democracies. Today, it is a problem that is increasingly forced upon laissez-faire societies by external pressures. Article 4 of the German constitution, namely freedom of faith and conscience, in which the religious and ideological denomination is classified as inviolable, stands peaceful and apparently harmonious next to Article 5, the freedom of expression, arts and sciences, which gives all citizens the right to express and spread his or her opinion by speaking, writing or picturing. Article 5.2 implies constraints regarding general laws like youth protection and the 'right of personal dignity'. Since personal dignity was used many times to claim excessive views on protection regarding issues of belief, the probability for a clash of norms increased.

1 The History of Blasphemy

A few centuries ago, blasphemy seemed to be an obsolete issue in consolidated democracies. Today, it is a problem which is increasingly forced upon laissez-faire societies by external pressures. Article 4 of the German constitution, namely freedom of faith and conscience, in which the religious and ideological denomination is classified as inviolable, stands peaceful and apparently harmonious next to Article 5, the freedom of expression, arts and sciences, which gives all citizens the right to express and spread his or her opinion by speaking, writing or picturing. Article 5.2 implies constraints regarding general laws like youth protection and the

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‘right of personal dignity’. Since personal dignity was used many times to claim excessive views on protection regarding issues of belief, the probability for a clash of norms increased.

‘Postmodern democracy’, which was both invoked and criticized, is threatened by a conflict between religion and politics in immigration societies. In Western Europe, it was mainly Muslim immigrants who raised new conflicts. In the East—for instance in Russia—where there is a lower number of immigrants, old Muslim minorities can find a new assertiveness. The Christmas tree debate in Tatarstan seems almost absurd. Many Muslims of the tartaric region, who formed the majority in this area whereas the Russians formed the minority, consider the Christmas tree and symbols of Christianity to be signs of a foreign, non-Islamic culture and as ‘Russian traditions’. Hence, the Christmas tree in front of the Kremlin in Kazan, which topped the minarets, did not appear anymore after 2011. Fundamentalists appealed for not celebrating New Years and prohibited children to dance around the Christmas tree. This bizarre episode is occasionally seen as a prelude to a sharpened conflict between the Orthodox Church, which appears to be insufficiently separated from the state, and regions of Russia that are inhabited by a Islamic majority (Ludwig 2012: 3).

However, this is not only curious in foreign countries. The Christian Social Union (CSU) wanted stronger criminal law regulation of blasphemy. Because of the adjunct that convictions only take place if the ‘public peace’ is disturbed, convictions rarely occurred. Austria and Switzerland have similar regulations as in Germany. In the United Kingdom, a similar paragraph was abolished in 2008. A majority for the deletion of the adjunct in Germany could not be found, since the Free Democratic Party (FDP) strictly opposed it and the Christian Democratic Union (CDU) was divided. Even the Minister of the Interior, Hans-Peter Friedrich (CSU), saw the existing legal situation as sufficient. The party of Bible-believing Christians was protesting against one of Terrence McNally’s plays called ‘Corpus Christi’, which sully Jesus and his disciples as bibulous homosexuals. Complaints about violations of paragraph 166 of the criminal code did not lead to a prohibition of the play (Jungholt 2012). In the Netherlands, a majority favored the abolition of paragraph 147. Since 1968, nobody has been accused of ‘offensive blasphemy’. In Europe, only Ireland adopted a law in 2009 that amerced blasphemy with a fine of 25,000 €. Even devotional worshippers saw this as exaggerated. Greece is one of the few European countries that actively prosecute blasphemy.

Blasphemy is defined as an abusing act of speech which underlies historical changes and social interpretations in different societal contexts. Several indicators can be explanatory:

- Dogmatic and teleological agreements intensify accusations of blasphemy. Religious authority or politically-confirmed interpretations of sacred texts define blasphemy. In Judaism, there was no such authority, which led to blasphemy in the Old Testament when Jahveh was abused by the prophet Hosea as ‘pus and rottenness’ and by Jeremiah as a ‘seducer and rapist’. Similar forms of blasphemy also occurred in Islam.

- Blasphemy is seen as more substantial if it can be suspected of being inner heresy. The late Middle Ages show, however, that the remission of strict rules did not lead to a decline in heresies, but rather to an increase of them.
- The mentality of nations sharing the same religion also has an influence on the severity of the accusations. Salman Rushdie was judged harder in India and Pakistan than in the Arabic countries (Vogel 1998: 268).
- The occasion and the literary genre are also crucial. During carnival season, blasphemy is tolerated more than during serious speeches. When the German Minister of Family Affairs, Kristina Schröder, called God a neuter ('Das Gott'), nobody accused her of blasphemy. The only incidents were theological/theoretical offenses or a humorous defense of the politician (Finger 2012: 12).
- The social distance between the one who insults and the insulted might increase the instance of accusations of blasphemy.

Religious zealots rarely considered whether an author was seeking to be blasphemous or just happened to be, like Salman Rushdie, who was found to be indifferent on the issue. Two positions can be determined regarding blasphemy:

- No attention or, at best, causal mentioning;
- Mentioning blasphemy without looking for the deeper meaning (Cabantous 1999: 2).

Blasphemy acts as if it's an act of freedom that does not want to cause harm, but is—if prayer were positive communication and blasphemy the reverse of it—directed at God. It is found primarily in revealed religions. Christianity emerged from the blasphemy of Jesus. He was not only condemned because he claimed to be God's Son, but also because he asserted that he would 1 day sit at the right hand of God as a holy being. The Second Commandment calls for punishment if someone takes the Lord's name in vain. The compendiums of confession rarely deal with blasphemy when compared to other verbal sins, such as a false oath. Blasphemy could also occur if uses divine characteristics to describe the devil.

Catholics and Protestants condemned members of other religious denominations multiple times throughout history. While the abuse of pastors and clerics does not count as blasphemy, the religious authorities are put on equal footing with God himself in biblical Israel: 'Thou shalt not revile the gods, nor curse the ruler of thy people' (Ex. 22, 28). In Israel, God was also historically protected against selfish purposes in invocations—especially regarding the abuse of God's name in false oaths (Lev. 19, 20). Any kind of oath was eventually forbidden by Jesus in the New Testament. However, he was condemned to death for blasphemy, because he declared himself as God's son (Joh. 19, 7).

Only when the Bible was increasingly criticized by rationalists did a clericalization take place in Europe. For instance, Beccaria (1764[1966]: 288) was seen as blasphemous towards clerics, because he declared their hands to be 'bloodstained' in his popular work 'Crime and Punishment'. He explained that the clergy went to war for three centuries and took part directly in the battle.

Both religious denominations have accused Turks and Jews of blasphemy, because their belief was not congruent with the commonly-held the apparent truth. This can be seen as a consequence of European anti-Semitism, which was directed towards the ‘murderers of God’, who convicted Jesus of blasphemy. Even humanists such as Reuchlin joined such literary campaigns. Luther expressed similar thoughts in ‘On the Jews and Their Lies’. The Roman inquisition burned the Talmud publicly in 1553. Sigwart, a professor in Tübingen, complained at the beginning of the sixteenth century that not only men but also women were cursing (Beccaria 1966: 25).

During the Counter-Reformation, breaches of the Second Commandment increased. Three types of blasphemy were common place:

- Misjudgments of God’s being;
- Converted believers (especially in Spain) who still worshipped their old religion in secret;
- Academics who criticized the illogicalness of transcendence and the forgiveness of sins by confession (Beccaria 1966: 31). In an abstract way, academics took possession of a phrase that was actually entitled to clericals.

The increasing use of confession and control over the members of families and guilds seemed antidotal to blasphemy. In the beginning of the nineteenth century, especially in France, many states refused to punish blasphemers. The church was left on its own to fight blasphemy. Already at the end of the eighteenth century, the state started to place blasphemy in between disbelief and established usage (Beccaria 1966: 220). The criminality of blasphemy was abolished and the right to adopt and practice any religion was instituted. The confessor Heinrich IV, a Jesuit, tried to convince the king to switch from “goddamn” to another curse.

2 Blasphemy and the Art

At all times, the state sought repressive control over political art. Pope Paul IV produced a banned substances list during the Council of Trient in 1559, which implied that scandalous, crazy, heretical and superstitious works of art should be censored. Often times, only parts of paintings were criticized, such as a missing loincloth. During the bourgeois era, states and the Church became even more intolerant (von Beyme 2005: 345). Veronese did not paint his disputed paintings over, whereas some keen painters of religious topics like Fritz von Uhde were obedient. During the nineteenth century, the allegation of immorality and blasphemy was extended by the courts (Leiss 1971). While it is not surprising that Schiele got into trouble with the law, this is also the case with Franz von Stuck (The War, 1894), Max Klinger (Crucifixion of Christ, 1892) and Lovis Corinth (Perseus and Andromeda, 1913). These conflicts with the state and Church occur rarely in literature from Eichendorff to Wilhelm Busch (Saint Antonius of Padua), Richard Dehmel or Max Halbe.

Max Ernst was attacked harshly in 1926 because of his painting 'The Blessed Virgin Chastises the Infant Jesus Before Three Witnesses: A.B., P.E. and the Artist'. The rumor that the archbishop of Cologne had admonished him, however, was proven to be exaggerated. Spreading pornographic works was seen as criminal, although possessing them was not. The graphic portfolio of Grosz's 'God with Us' against the war and an anti-military sculpture of Heartfield and Schlichter's 'Prussian Archangel', which depicted a hung puppet in a soldier's uniform with a pig's head, were punished with financial fines. In 1923, Otto Dix was acquitted of the charges of pornography for his picture of a courtesan. Goncharova's picture 'Evangelists' was viewed as blasphemy. Her companion Lationow defended her publicly and she won a lawsuit in reactionary Russia in 1911. George Grosz on the other hand was accused of offending religious taboos with his screen sequence 'Ecce Homo' and had to pay a penalty of 6,000 Reichsmark (von Beyme 2005: 556). In the meantime, commercials are accepted in which Christ descends from the cross and claims to 'smile instead of hang out'. Voltaire's 'Mahomet' translated by Goethe, which shows the prophet as a malicious, fanatic politician of violence, was endured by Christians, although it is known that, in fact, it was referring to Christianity.

The painting 'Piss Christ' by the American, Afro-Cuban artist Andres Serrano of 1987 can be taken as an example for the debate over blasphemy. The Crucified was shown in a glass filled with the urine of the artist. The work won an award from the 'Southeastern Center for Contemporary Art', an establishment sponsored by the National Endowment for the Arts. The artist declared that he did not want to denigrate religion, but rather the commercialization of Christian icons in contemporary culture. Wendy Beckett, a nun who also is active as an art critic, agreed with him and saw the painting as a reflection of what modern society has done to Christ.

The reception was vehement: the separation of Church and state was violated, since the establishment was subsidized by the state. Two senators were outraged that Serrano got \$15,000 for his work. The archbishop of Melbourne, George Pell, attempted to obtain an exhibition prohibition from the Supreme Court of Victoria, which was refused. Since the painting was also physically attacked, the director of the National Gallery in Victoria eventually stopped the exhibition, because he did not want to endanger an exhibition of works by Rembrandt, which took place at the same time. When the work was exhibited at the Edward Taylor gallery in New York in September of 2012, religious groups and lawyers called on President Obama 'to denounce the artwork'. They referred to the President's criticism from a few weeks before towards the anti-Islamic movie 'Innocence of Muslims' (Schweitzer 2012). This incident illustrates how Christian fundamentalists are increasingly inspired by the more appreciative treatment of blasphemy compared to Islam. The previous liberal dullness towards blasphemy seemed to be over.

This unilateral development appears remarkable to some scholars (Enderwitz 2009), especially because Islam and comics are not as contradictory as they seem. The older humanistic tradition of Islam during pre-renaissance times knew of related genres and the modern tradition of comics seems to actually serve as cross-cultural communication since not every comic is seen as blasphemous.

In the literature, not only was Salman Rushdie sentenced to death by a fatwa in 1989, but also the Egyptian writer Naguib Mahfouz was pursued. Parts of the final version of 'The Thousand and One Nights' were even seen as 'pornographic and blasphemous' (Enderwitz 2009: 223).

In a dispute with the Islamic immigrants, the term 'Leitkultur' (guiding or mainstream culture) is floated by conservatives. It follows a radical trend, despite conservative connotations, because it is launched against censorship from the outside and self-censorship from the inside and adjures basic European laws like freedom of the press. A caricature of Mohammed with a bomb in his turban in 'Iyllands Posten' in Denmark caused embarrassing actions both in the Islamic and European world: A longing for fatwa in the orient; a betrayal of freedom of the press in the West, when important firms obstructed their articles in newspapers, because they feared repressions against their offices abroad.

In 'The war of images between Orient and Occident', only the genres differ: the West uses caricatures of types or individuals, which was only common in the Orient within secularist circles; the Orient triumphantly shows pictures of the two towers that were destroyed by Islamic terrorists in New York. Given the inconsistency of the West to criminalize the denial of the Holocaust similar to how certain religions did with the denial of God, and to treat blasphemy regarding Israel differently, it seemed possible to threaten the West with harsh caricatures of the Holocaust and even harsher Israeli caricatures. In this crisis, Europe appears to reluctantly remember its old values, which are treated indifferently. Theo van Gogh paid to dispel of a taboo with his life, whereas movies such as 'Valley of the Wolves' that plays up anti-Semitic and anti-American tendencies seems to provoke governmental censorship (Belting 2006: 53, 56ff).

Videos of the execution of Bin Laden or executions in Islamic states are further differentiations of the War of Images on both sides. For oriental countries and movements, it is difficult to understand that awareness campaigns in a constitutional state are launched through freedom of press instead of with governmental approval or even by the government's administration.

Today the war of images is no longer only an ad-hoc reaction from the Muslim side, but apparently it is also a Western provocation. 'Art with a mission' is the new slogan for some groups in the light of new religiousness. According to some keen zealots, the true aesthetic nature of Islam should no longer be displayed by 'bigoted Muslims'.

Art and religion are thus closely related in Islam, since the Koran is classified as a work of art and mosques have to be aesthetic in order to beautify the worship. Regarding Islamic movies, conflict emerged because orthodox directors let veiled women appear when shown with their families, although even under severe interpretations of Islamic conventions they are not permitted to do so. In some cases, this was also criticized by relatively orthodox Muslims (Croitoru 2012; van Nieuwkerk 2011).

3 Judicial and Political Resistance to Blasphemy

The incentives of blasphemers were often misinterpreted from the opposition. Salman Rushdie wanted to show through rationalistic rationalism that his book was an anthem of love and the holiness of art combined with a utopian vision of society. He misjudged, however, how many laws there are that protect religion, as well as against racism and obscenity, in Western countries, which do not conform to his idea of postmodern rationalism (Webster 1990: 127f). Freedom of information is insufficiently distinguished from the freedom to offend in rationalistic utopia. Ethical and rationality imperatives or simply rules of good taste could have defused some cases of blasphemy.

According to some comparativists, Islam has low tolerance for passively enduring insults (Webster 1990: 130, 134, 145). One author, who declared himself an atheist, suggested as a compromise that Rushdie should abstain from releasing a paperback-issue of the ‘The Satanic Verses’ in order to not insult Islam any further, because he feared that—in the words of Heinrich Heine—the burning of books would lead to the burning of bodies.

Authors who have a lot of sympathy for Islam find it unfair that Jews enjoy greater protection against laws and codes of conduct than Muslims. Blasphemy is justified with a terroristic affinity of the opposite party. There have been situations, however, in which Western rationalists display an understanding for terroristic acts, such as the fight of South Africans against apartheid.

Critical authors (Marshall and Shea 2011: 308) make concessions to Islamic sensibilities by arguing that some Islamic countries like Uzbekistan and Turkmenistan restrict freedom of speech also for moderate Muslims. Comparative studies illustrate absurd cases like the condemnation of a believer in Indonesia who whistled while praying or a Malaysian group of people who believe that teapots lead to harmony among humans and were sentenced to 1 year in jail. Groups like the Banai, who adopt parts of Islamic belief and teach that Mohammed was not the last prophet, are seen as heretics and blasphemers. Different faiths such as the Shi’ah in predominantly Sunni regions as well as dissidents and reformers who follow Islam are also often accused of blasphemy.

The issue of blasphemy is even more problematic if it helps protect authoritarian regimes. In Egypt, a public attack on the president of the republic was penalized with jail. In Iran, religious critiques were often compared with a critique of political leadership. The laws of Islamic countries regarding blasphemy are often very vague and invite such denunciation. Fair hearings against such accusations were absent in certain countries, for instance in Saudi Arabia.

The attempt to reach a ‘worldwide ban on blasphemy’ within the United Nations (UN) and hence, intervene in the fundamental rights of Western countries was increasingly internationalized. In 2008, the Council of Europe adopted a new directive against ‘hate speech’ that not only threatens the speaker with punishment, but also those who spread the speech through journalism. Self-censorship seems to be on the rise.

Western countries on the other hand tried to strengthen freedom of speech on the international level using resolutions. The US Department of Homeland Security and the Foreign Office gave direction to their employees to avoid terms like 'Jihadism, Wahhabism, Caliphate or Salafism'. Occasionally, 'Islamic terror' might not be referred to as such in order to avoid conflict with Islamic countries. A US National Security Agency document deliberately avoids the term 'Islamic extremism'. Sometimes even the term 'Islamism' was banished (Marshall and Shea 2011: 323). The director of the Deutsche Oper in Berlin cancelled the performance of the opera 'Idomeneo' because she feared acts of Islamic terror against a passage of the production that was different from the original (Isensee 2007: 114). Although Chancellor Merkel spoke out against a stricter law against blasphemy, some members of the parliament introduced a bill in order to make Section 166 of the German Criminal Code (Insulting of Faiths, Religious Societies and Organizations dedicated to a Philosophy of Life) more effective. The bill was, however, challenged by a majority from the left. While for some politicians from the CDU/CSU party, the issue remained important, others challenged it because it makes concessions to extremists (Anonymous 2012).

Especially in the case of the US, the concessions that scientists make to religious dogmatism are strongly criticized. Even an influential journal like 'Nature' did not often respect the line between rational discourse and sanctimonious fantasies. 'While the scientific method ridiculed religion for centuries in questioning of the facts, it seems today that science cannot tell us how a good life should be defined' (Harris 2013: 48). Science should not back down, but rather find answers to questions of existence and ethics, albeit less apodictic than representatives of beliefs.

In Western countries, the number of lawsuits and criminal investigations concerning ridicule of another religion increased. Even in an ultra-secularist country like France, Brigitte Bardot was sentenced five times on grounds of 'laws against hate speech' because she denounced Islamic slaughter practices. Evangelicals looked for blasphemous comments within speeches of unpleasant exponents of their religion. The most controversial blasphemy in previous years from the Danish newspaper 'Iyllands Posten', however, did not end with a sentencing, because the prosecution could not find a corresponding Danish law that had been violated.

There were also positive counter-movements fighting against the trend towards an escalation of suspicion of blasphemy. The 16th session of the Human Rights Council refused a resolution against defamation in 2011, after the Pakistani Minister for Minorities Shahbaz Bhatti was killed, because he opposed certain laws protecting against blasphemy in Pakistan.

The West was not successful in distinguishing between two important points: the protection of individual believers of a single religion and the protection of religion itself. There is fear of a trend towards blasphemy laws which do not any longer protect freedom of religion and opinion of individual beliefs but are rather increasingly used by Islamic states to force individuals to respect certain religions (Harris 2013).

The chivy after blasphemy is not only expanding to religious and national symbols, but also the abatement of particular leaders is seen as a form of blasphemy. This was the case in Turkey in 2012 when Erdogan's abatement of Süleyman the Glorious in a soap opera led to a near prohibition of certain programs (Martens 2013).

The most pleasant aspect, however, is the trend of Islamic organizations defending themselves against this kind of self-censorship after learning that 98 % of Al-Qaida victims between 2006 and 2008 were Muslims. Tendency towards self-censorship creates a problem in Western democracies because some religions are treated differently than others. While abolishing blasphemy laws in Christianity, the tracing of apparent blasphemers who offended Islam increased. Germany made a clear commitment to punish denial of the Holocaust, but trivialized the denial of other apparent historical events. Additionally, it is suspected that anti-blasphemous regulations tighten social conflicts with minorities instead of appease them. They increase tendencies towards control and mistrust.

In general, the constitutional frame for legislative procedures acting against blasphemy is narrow. 'Religious, moral and aesthetically-blinded fundamental rights dispense sublime and despicable, grandeur and dirt alike. Laws can't really afford to prohibit fundamentally legitimate filth. The fundamental laws do not tolerate censorship to protect Islamic sensibilities nor censorship to avoid Islamic terror' (Isensee 2007: 138). The political scope is even narrower, because society does not tend to claim stricter prohibitive norms. An alliance between Western churches and Islam is also not likely, because they fear that Islam could profit more from it than Christianity.

4 Conclusion

Globalization leads to a diversification of values regarding allegations of blasphemy. An agreement on the containment of mutual allegations is idealized by meta-ethical models of ethics. Since natural justice ethics seem obsolete and it is not possible to find consensus within utilitarianism in general, a rational-discursive ethic is seen as the most promising, especially if it is developed on the basis of complete ahimsa (Vogel 1998: 279ff). Secularist societies have to learn that there are challenges with heretics or disbelievers.

Only a minority of scholars like Mosebach (Mosebach 2012: 29f) invokes 'God in the Constitution': 'With God implied in institution of the great state admits that it is not perfect and also that it cannot be perfect'. This insight actually does not need to imply God, since rational-heretical theorists never assumed the state or at least the formation of the constitution to be consistent or 'perfect'. This is linked to the antagonism that politics and religion have to be related even in a secularist state, since they could be compromised in conflict situations. This is why a limited amount of publication bans were sometimes accepted in order to preserve social peace (Vogel 1998: 282). Allegations of blasphemy often require judicial review:

- Criminal law is seen as the ultima ratio;
- If personal rights of victims were violated, civil law can also be considered;
- Measures of media legislation like warnings or operational restrictions can be important in order to ‘sustainably secure the positive peace order’;
- Voluntary self-control as in the movie industry could be an option;
- Besides its legal responsibilities, it is the duty of the state not to foster blasphemy, which could have consequences for cultural promotion (Isensee 2007: 133).

A constitutional state generally grants an equal amount of freedom to action and reaction as well as press and religion. Protection of Islam cannot be provided if it does not derive from a form of Christianity found in the particular country. The state has to comply, however, with tight boundaries for regulation, especially with the principle of proportionality. Pope Benedict criticized this ‘new wave of dramatic enlightenment or secularism’ on his trip to Bavaria in 2006, as if the state would have the power to stop such a societal trend by resigning defaults.

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