

Explaining
Institutional
Change

Ambiguity,
Agency,
and Power

James Mahoney
Kathleen Thelen

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Ambiguity, Agency, and Power

This book contributes to emerging debates in political science and sociology on institutional change. Its introductory essay proposes a new framework for analyzing incremental change that is grounded in a power-distributional view of institutions and that emphasizes ongoing struggles within but also over prevailing institutional arrangements. Five empirical essays then bring the general theory to life by evaluating its causal propositions in the context of sustained analyses of specific instances of incremental change. These essays range widely across substantive topics and across times and places, including cases from the United States, Africa, Latin America, and Asia. The book closes with a chapter reflecting on the possibilities for productive exchange in the analysis of change among scholars associated with different theoretical approaches to institutions.

James Mahoney is the Fitzgerald Professor of Economic History and a professor of political science and sociology at Northwestern University. He is the author of *The Legacies of Liberalism: Path Dependence and Political Regimes in Central America* (2001), which received the Barrington Moore Jr. Prize of the Comparative and Historical Section of the American Sociological Association. He is also coeditor of *Comparative Historical Analysis in the Social Sciences* (Cambridge University Press, 2003), which received the Giovanni Sartori Book Award of the Qualitative Methods Section of the American Political Science Association. His most recent book is *Colonialism and Postcolonial Development: Spanish America in Comparative Perspective* (Cambridge University Press, 2010).

Kathleen Thelen is a Ford Professor of Political Science at the Massachusetts Institute of Technology. She also holds appointments at the Max Planck Institute for the Study of Societies in Germany and at Oxford University, and she is an elected member of the Berlin-Brandenburg Academy of Sciences and Humanities. She is the author, most recently, of *How Institutions Evolve* (Cambridge University Press, 2004), co-winner of the Woodrow Wilson Foundation Award of the American Political Science Association and winner of the Mattei Dogan Award of the Society for Comparative Research. She has served as chair of the Council for European Studies (Columbia University), as president of the Politics and History Section of the American Political Science Association, and as president of the Society for the Advancement of Socio-Economics.

Explaining Institutional Change

Ambiguity, Agency, and Power

Edited by

JAMES MAHONEY

Northwestern University

KATHLEEN THELEN

Massachusetts Institute of Technology



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Contributors

Tulia G. Falletti is an assistant professor of political science at the University of Pennsylvania. She is the author of *Decentralization and Subnational Politics in Latin America* (New York: Cambridge University Press, 2010), as well as several articles and book chapters on federalism and decentralization. Her article “A Sequential Theory of Decentralization: Latin American Cases in Comparative Perspective” (*American Political Science Review*, vol. 99, no. 3, August 2005) won the 2006 Gregory Luebbert Award from the Comparative Politics section of the American Political Science Association for the best article in comparative politics.

Peter A. Hall is Krupp Foundation Professor of European Studies at Harvard University and codirector of the Program on Successful Societies for the Canadian Institute for Advanced Research. He is the author of *Governing the Economy: The Politics of State Intervention in Britain and France* (Oxford: Oxford University Press, 1986) and more than seventy articles on European politics and policymaking. His edited books include *The Political Power of Economic Ideas: Keynesianism across Nations* (Princeton: Princeton University Press, 1989), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (with David Soskice; Oxford: Oxford University Press, 2001), and *Successful Societies: How Institutions and Culture Affect Health* (with Michèle Lamont; Cambridge: Cambridge University Press, 2009).

Alan M. Jacobs is an assistant professor of political science at the University of British Columbia. He is the author of several articles and chapters on comparative public policy, including “The Politics of When: Redistribution, Investment, and Policymaking for the Long Term” (*British Journal of Political Science*, 38:2, 2008), which won the 2009 Mary Parker Follett Award from the Politics and History Section of the American Political Science Association. Jacobs is currently completing a book, under contract with Cambridge University Press, about how elected governments make policy trade-offs between short-term and long-term social consequences.

James Mahoney is the Fitzgerald Professor of Economic History and a professor of political science and sociology at Northwestern University. He is the author of *The Legacies of Liberalism: Path Dependence and Political Regimes in Central America* (Baltimore: Johns Hopkins University Press, 2001) and coeditor with Dietrich Rueschemeyer of *Comparative Historical Analysis in the Social Sciences* (New York: Cambridge University Press, 2003). His work also includes articles on small-N and comparative-historical methods. Mahoney’s most recent book is *Colonialism and Postcolonial Development: Spanish America in Comparative Perspective* (New York: Cambridge University Press, 2010).

Ato Kwamena Onoma is an assistant professor of political science at Yale University. He received his BA in philosophy from the University of Ghana, Legon, and his PhD in political science from Northwestern University in 2006. He is the author of a book from Cambridge University Press, *The Politics of Property Rights Institutions in Africa* (2010). He is currently studying relations between refugees and host populations in postcolonial Africa.

Adam Sheingate is an associate professor of political science at Johns Hopkins University. He is the author of *The Rise of the Agricultural Welfare State: Institutions and Interest Group Power in the United States, France, and Japan* (Princeton: Princeton University Press, 2001), as well as several articles and book chapters on American politics and comparative public policy. He is a former Robert Wood Johnson Foundation Scholar in Health Policy at the University of California-Berkeley and was a Prize Research Fellow in Politics at Nuffield College, Oxford.

Dan Slater is an assistant professor of political science at the University of Chicago. He is a coeditor of *Southeast Asia in Political Science: Theory, Region, and Qualitative Analysis* (Stanford: Stanford University Press, 2008) and is currently completing a book manuscript examining how divergent historical patterns of contentious politics have shaped variation in state power and authoritarian durability in seven Southeast Asian countries. His articles have appeared in such journals as the *American Journal of Political Science*, *American Journal of Sociology*, *Comparative Politics*, *International Organization*, and *Studies in Comparative International Development*.

Kathleen Thelen is a Ford Professor of Political Science at the Massachusetts Institute of Technology; Permanent External Member of the Max Planck Institute for the Study of Societies in Cologne, Germany; and Senior Research Fellow at Nuffield College, Oxford University. Her two most recent books are *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan* (New York: Cambridge University Press, 2004) and *Beyond Continuity: Institutional Change in Advanced Political Economies* (coedited with Wolfgang Streeck; Oxford: Oxford University Press, 2005).

Preface

Until recently, gradual institutional change has not been a central focus of explanation in the social sciences. Instead, most institutional analysts have considered change during moments of abrupt, wholesale transformation. Yet it is not clear that such episodes of institutional upheaval capture the most common ways through which political institutions change over time. A growing body of work suggests that important changes often take place incrementally and through seemingly small adjustments that can, however, cumulate into significant institutional transformation. These forms of gradual institutional change call for more attention than they have received so far.

The present volume seeks to respond to this call. In the introduction, we propose a theory of gradual institutional change grounded in a power-distributional view of institutions that emphasizes ongoing struggles within but also over prevailing institutional arrangements. On this view, analyses of stability and change are intimately linked. Institutional stability is a function not simply of positive feedback but of active, ongoing political mobilization, and institutions are vulnerable to change not just in moments of crisis but on a more ongoing basis. Features of the overarching context and the properties of the institutions themselves hold the key to understanding the processes through which such change can be accomplished. We emphasize in particular that institutional rules are subject to varying interpretations and levels of enforcement and therefore exhibit ambiguities that provide space for interested agents to exploit in their effort to alter them. We use

these orientations to develop causal propositions about the connections among particular types of institutions, strategies for change, and modes of gradual institutional transformation.

The five empirical essays that follow the introduction bring these propositions to life in the context of sustained analyses of specific instances of incremental change. These chapters span a wide spectrum of substantive topics and political contexts. The authors examine instances of institutional change in Africa, Southeast Asia, and Latin America as well as in the United States, and they consider changes in diverse institutions, from the rules governing the conduct of business within the U.S. Congress to the system of property rights in postcolonial Kenya. Even as they develop their own insights about the specific cases under study, the authors also apply and elaborate the general theoretical framework presented in the introduction.

Our point of departure for thinking about institutional change builds on insights coming out of a body of work broadly associated, as we are, with historical institutionalism. However, the theory we develop in this book, and the specific propositions we lay out, can be fruitfully taken up by scholars associated with any of the various “isms” in institutional analysis. In this spirit, the book concludes with an essay by Peter A. Hall reflecting on the possibilities for productive exchange in the analysis of change between historical-institutionalist scholars and scholars associated with rational-choice and sociological approaches to institutions.

It is our great pleasure to be able now to acknowledge formally those individuals and organizations that made this book possible. This volume grew out of a conference at Northwestern University in October 2007. Our largest debt is to the participants in that conference, for many of the insights contained in the pages to follow came out of the stimulating discussions we had over two days together. In conceiving the project, we sought to gather together some of the best recent work on institutional change undertaken by a new generation of institutional analysts. We are grateful to these authors, who brought fresh insights and original empirical material from their respective fields of study to provide a rich foundation for the discussion. We were also extremely fortunate to have secured the participation of a distinguished group of more senior scholars to serve as discussants at the conference.

Anna Grzymala-Busse, Peter A. Hall, Desmond S. King, Paul Pierson, Theda Skocpol, and Sven Steinmo provided detailed comments on the individual papers but also shaped this volume (and our own thinking) through their broad commentary on the project as a whole. We thank Peter A. Hall especially for going a step further to deliver a characteristically insightful and synthetic concluding chapter to round out the volume.

We are enormously grateful to the Roberta Buffett Center for International and Comparative Studies of Northwestern University for funding this conference. The Buffett Center is home to Northwestern's Program in Comparative Historical Social Science, a tight-knit group of faculty and graduate students from sociology and political science that provides the core intellectual community out of which this project grew. The center's past and current directors – Andrew Wachtel and Hendrik Spruyt – and its associate director – Brian Hanson – offered their encouragement and provided support of all varieties from the inception of the project to its completion. The center's staff, and in particular Diana Snyder, made the conference logistics easy for us.

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James Mahoney
Kathleen Thelen

Explaining Institutional Change
Ambiguity, Agency, and Power

A Theory of Gradual Institutional Change

James Mahoney and Kathleen Thelen

Once created, institutions often change in subtle and gradual ways over time. Although less dramatic than abrupt and wholesale transformations, these slow and piecemeal changes can be equally consequential for patterning human behavior and for shaping substantive political outcomes. Consider, for example, the British House of Lords. This is an institution that began to take shape in the thirteenth century out of informal consultations between the Crown and powerful landowners. By the early nineteenth century, membership was hereditary and the chamber was fully institutionalized at the center of British politics. Who would have thought that this deeply undemocratic assembly of aristocrats would survive the transition to democracy? Not the early Labour Party, which was founded in 1900 and understandably committed to the elimination of a chamber from which its constituents were, more or less by definition, excluded.

We are grateful to the participants in the Workshop on “Explaining Institutional Change: Ambiguity, Agency, and Power in Historical Institutionalism” at Northwestern University in October 2007. The empirical chapters presented at that event, and the stimulating discussions they provoked, provided the inspiration for many of the ideas laid out in this chapter. For subsequent written comments on this essay, we thank Tulia Falleti, Peter Hall, Alan Jacobs, Adam Sheingate, Theda Skocpol, and Dan Slater. We benefited as well from valuable input from Suzanne Berger, Nancy Bermeo, Giovanni Capoccia, Bruce Carruthers, Edward Gibson, Desmond King, Richard Locke, Ann Orloff, Paul Pierson, Dick Samuels, Ben Schneider, and the participants in the Comparative Historical Social Science workshop at Northwestern University and in seminars at Oxford University and M.I.T.

Yet Labour did not dismantle the House of Lords – despite recurring opportunities to do so during the twentieth century. Instead, the institution was reformed over time in a series of more measured moves that, successively: circumscribed its powers (especially in 1911 by a Liberal Party government), altered its composition (especially in 1958 under a Conservative government, with the addition of life peerages), and rendered it less unwieldy and – in the eyes of some – more legitimate (in 2000 under a Labour government, by reducing dramatically the number of hereditary peers). The cumulative effects of these changes have allowed the chamber not just to survive but to position itself as a significant player in, of all things, the defense of civil liberties in Britain (*The Economist*, February 11, 2006, 51). This is quite a change – from undemocratic bastion of traditional interests to champion of individual rights – and it illustrates that incremental shifts often add up to fundamental transformations.

While institutional analysis has earned a prominent place in contemporary social science, the vast literature that has accumulated provides us with precious little guidance in making sense of processes of institutional change such as occurred in Britain's House of Lords. We have good theories of why various kinds of basic institutional configurations – constitutions, welfare systems, and property right arrangements – come into being in certain cases and at certain times. And we have theories to explain those crucial moments when these institutional configurations are upended and replaced with fundamentally new ones. But still lacking are equally useful tools for explaining the more gradual evolution of institutions once they have been established. Constitutions, systems of social provision, and property right arrangements not only emerge and break down; they also evolve and shift in more subtle ways across time. These kinds of gradual transformations, all too often left out of institutionalist work, are the focus of this volume.

In the literature on institutional change, most scholars point to exogenous shocks that bring about radical institutional reconfigurations, overlooking shifts based on endogenous developments that often unfold incrementally. Indeed, these sorts of gradual or piecemeal changes often only “show up” or “register” as change if we consider a somewhat longer time frame than is characteristic in much of the literature. Moreover, when institutions are treated as causes, scholars are too apt to assume that big and abrupt shifts in institutional forms are

more important or consequential than slow and incrementally occurring changes. As the chapters in this book show, these conclusions are in need of fundamental rethinking. Gradual changes can be of great significance in their own right; and gradually unfolding changes may be hugely consequential as causes of other outcomes.

An emerging body of work provides ideas on which we can build to understand gradual institutional change. New insights have grown out of the literature on path dependence and the ensuing debate over this framework (e.g., North 1990; Collier and Collier 1991; Arthur 1994; Clemens and Cook 1999; Mahoney 2000; Pierson 2004; Thelen 1999, 2004). Among other things, this work has led analysts to theorize the circumstances under which institutions are – and are not – subject to **self-reinforcing “lock-in.”** Important strands of this literature suggest that **path-dependent lock-in is a rare phenomenon,** opening up the possibility that institutions normally evolve in more incremental ways. Likewise, works such as Pierson’s *Politics in Time* (2004) discuss various slow-moving causal processes (e.g., cumulative causes, threshold effects, and causal chains) that do not evoke the punctuated equilibrium model of change that is frequently embedded in conceptualizations of path dependence (see also Aminzade 1992; Abbott 2001). Inspired by these works, Streeck and Thelen (2005) have offered an inventory of commonly observed patterns of gradual institutional change that allows us to classify and compare cases across diverse empirical settings.

If theorizing is going to reach its potential, however, institutional analysts must go beyond classification to develop causal propositions that locate the sources of institutional change – sources that are not simply exogenous shocks or environmental shifts. Certain basic questions must be addressed. Exactly what properties of institutions permit change? How and why do the change-permitting properties of institutions allow (or drive) actors to carry out behaviors that foster the changes (and what are these behaviors)? How should we conceptualize these actors? What types of strategies flourish in which kinds of institutional environments? What features of the institutions themselves make them more or less vulnerable to particular kinds of strategies for change? Answering these basic questions is a critical next step if scholars are to theorize the sources and varieties of endogenous institutional change.

In this chapter, we advance answers to these questions. We begin by noting that all leading approaches to institutional analysis – sociological institutionalism, rational-choice institutionalism, and historical institutionalism (Hall and Taylor 1996) – face problems in explaining institutional change. We then consider how a power-distributional approach to institutions, common in historical institutionalism and present as well in some strands of sociological and rational-choice institutionalism, provides a basic motor for change. To account for actual change, however, this power-distributional approach needs to be supplemented with attention to issues of compliance going well beyond the usual concern for *level* or *extent* of compliance. We argue that institutional change often occurs precisely when problems of rule interpretation and enforcement open up space for actors to implement existing rules in new ways. Expanding our focus to include these concerns allows us to observe and theorize forms of incremental change that are routinely overlooked in most institutional analysis.

Our discussion culminates in the presentation of a new model of institutional change. The model elaborates a set of propositions that link particular modes of incremental change to features of the institutional context and properties of institutions themselves that permit or invite specific kinds of change strategies and change agents. The model sees variations in institutional properties as encouraging different types of change strategies, which are in turn associated with distinctive change agents who work to foster specific kinds of incremental change.

The Challenge of Explaining Change

Despite many other differences, nearly all definitions of institutions treat them as *relatively enduring* features of political and social life (rules, norms, procedures) that structure behavior and that cannot be changed easily or instantaneously. The idea of persistence of some kind is virtually built into the very definition of an institution. This is true for sociological, rational-choice, and historical-institutional approaches alike. The connection between institutions and persistence makes it natural for all of these approaches to focus on explaining continuity rather than change. Nevertheless, the three major institutional approaches do vary in subtle ways in how they conceive of institutions and this turns out to have important implications for their ability to theorize institutional change.

The Common Problem: A Focus on Stability and Exogenous Shocks

Sociological institutionalism considers a broad range of institutions, focusing attention on noncodified, informal conventions and collective scripts that regulate human behavior. Definitions of institutions in this tradition routinely spotlight their self-reproductive properties. For example, according to Powell (1991, 197), “Things that are institutionalized tend to be relatively inert, that is, they resist efforts at change”; for Jepperson (1991, 145), “Institutions are those social patterns that, when chronically reproduced, owe their survival to relatively self-activating processes.” For some scholars in this broad tradition, institutions are tied to codes of appropriateness, and reproduction occurs as actors are socialized or otherwise learn to follow them (March and Olsen 1984). For others, the self-reproducing properties of institutions are cognitive in nature; institutions may be so routine and “taken for granted” that they are beyond conscious scrutiny (Berger and Luckmann 1967; Zucker 1983, 2). In addition, sociological institutionalists argue that actors often reproduce the same institutional logic across various domains. With organizations, for instance, new organizational forms are “isomorphic” with (i.e., similar to or compatible with) existing organizations (DiMaggio and Powell 1983; Dobbin 1994; Scott 1995). Actors carry their existing scripts forward when building new institutions even when doing so is not “efficient.”

While quite powerful as tools for explaining continuity, **the mechanisms of perpetuation used in sociological institutionalism** provide few clues about possible sources of **endogenous change**. If a convention is reified, how might it change? If isomorphism encourages new institutions to take the same form as old ones, where is the locus of dynamism and innovation? To explain transformation, therefore, sociological institutionalists often point to an exogenous entity or force – for example, new interpretive frames imported or imposed from the outside (e.g., DiMaggio and Powell 1983; Hannan and Freeman 1989) or the evolution of broader political, legal, and market “fields” (Fligstein 1996). Studies of change in this genre often provide very compelling accounts in which new actors manage to unsettle dominant practices or scripts and impose their preferred alternatives (e.g., Zorn et al. 2008). But what such accounts typically omit is a set of general propositions about what properties of institutional scripts make some of them, at some times, more vulnerable than others to this type of displacement.

Rational-choice institutionalists also face quandaries when confronted with institutional change. As Levi (2008) points out, “Rationalists have long recognized the importance of understanding equilibrium change, but their analyses have generally involved comparative statics rather than a more dynamic approach” (see also Weingast 2002, 692). The basic difficulty here is related to a view of institutions as coordinating mechanisms that sustain particular equilibria (Shepsle 1989, 145; Calvert 1995, 218; Levi 1997, 27). As Greif and Laitin put it, “A self-enforcing institution is one in which each player’s behavior is a best response. The inescapable conclusion is that changes in self-enforcing institutions must have an exogenous origin” (2004, 633; see also Bates et al. 1998, 8). This perspective has an obvious affinity to punctuated equilibrium models of institutional change. But such models tend to draw a sharp line between the logic (and analysis) of institutional reproduction and that of change, and thus make it difficult to conceptualize and theorize gradual processes of endogenous change.

Greif and Laitin’s (2004) work represents one of the most explicit efforts to deal with the problem from a rational-choice perspective. The analysis they offer stresses indirect institutional effects – or “feedback effects” – that either expand or reduce the set of situations in which an institution is self-enforcing; thus, their solution to thinking about endogenous change is to redefine (some) of the exogenous parameters as endogenous variables (i.e., “quasi-parameters”). Greif and Laitin can in this way account for the stability (or breakdown) of different institutional equilibria (their cases address the decline versus the resiliency of social order in Venice and Genoa and the decline versus persistence of ethnic cleavages in Estonia and Nigeria). But their framework does not make clear how scholars would be able, *ex ante*, to distinguish quasi-parameters from parameters, or to identify which quasi-parameters are more likely to be affected by the operation of the institution.

Historical institutionalists have also grappled with the problem of institutional change. And they have also traditionally stressed continuity over change. Much of the empirical work on path dependence, for example, has been organized around explaining the persistence of particular institutional patterns or outcomes, often over very long stretches of time (for literature reviews, see Mahoney 2000; Pierson 2004; Thelen 2004). While historical institutionalists acknowledge the

cultural components of institutions, as well as the coordinating functions that institutions may perform, these scholars view institutions first and foremost as the political legacies of concrete historical struggles. Thus, most historical institutionalists embrace a power-political view of institutions that emphasizes their distributional effects, and many of them explain institutional persistence in terms of increasing returns to power.

When it comes to explaining change, historical institutionalists frequently call attention to “critical junctures,” often understood as periods of contingency during which the usual constraints on action are lifted or eased (Capoccia and Kelemen 2007). Explanations of change focusing on such episodes are sometimes also linked to arguments about the relative weight of agency versus structure in various phases. Ira Katznelson, for example, sees institutions as mostly constraining in periods of “stable” politics, but argues that critical junctures open up opportunities for historic agents to alter the trajectory of development (Katznelson 2003).

In other words, in the historical-institutionalist literature, too, scholars have tended to fall back on a discontinuous model of change in which enduring historical pathways are periodically punctuated by moments of agency and choice. These arguments thus often have the same drawbacks as discussed earlier for other punctuated equilibrium models, obscuring endogenous sources of change and encouraging us to conceive of change as involving the “breakdown” of one set of institutions and its replacement with another.

All three varieties of institutionalism, in short, provide answers to what sustains institutions over time as well as compelling accounts of cases in which exogenous shocks or shifts prompt institutional change. What they do not provide is a general model of change, particularly one that can comprehend both exogenous and endogenous sources of change.

Institutional Stability as a Political Problem and a Dynamic Political Outcome

If institutions are changed not just in response to exogenous shocks or shifts, then their basic properties must be defined in ways that provide some dynamic element that permits such change. The foundation on which we build here is one that conceives institutions above all else as

distributional instruments laden with power implications (Hall 1986; Skocpol 1995; Mahoney 2010; see also Hall [this volume]). As noted, this view of institutions is commonplace in historical institutionalism but it is also consistent with some rational-choice perspectives that emphasize power over cooperation (e.g., Knight 1992; Acemoglu, Johnson, and Robinson 2005; Moe 2005), as well as some sociological accounts that focus on the political-distributional underpinnings of specific cultural or normative practices (e.g., Stinchcombe 1987, Fligstein forthcoming). In our approach, institutions are fraught with tensions because they inevitably raise resource considerations and invariably have distributional consequences. Any given set of rules or expectations – formal or informal – that patterns action will have unequal implications for resource allocation, and clearly many formal institutions are specifically intended to distribute resources to particular kinds of actors and not to others. This is true for precisely those institutions that mobilize significant and highly valued resources (e.g., most political and political-economic institutions).

Existing work has drawn out many implications of this conceptualization for understanding institutional genesis and continuity. Concerning genesis, actors with different endowments of resources are normally motivated to pursue the creation of different kinds of institutions. And the institutions that are actually created often reflect the relative contributions of – and often conflict among – these differentially motivated actors. In some cases, the power of one group (or coalition) relative to another may be so great that dominant actors are able to design institutions that closely correspond to their well-defined institutional preferences. But institutional outcomes need not reflect the goals of any particular group; they may be the unintended outcome of conflict among groups or the result of “ambiguous compromises” among actors who can coordinate on institutional means even if they differ on substantive goals (Schickler 2001; Palier 2005).

For these reasons, there is nothing automatic, self-perpetuating, or self-reinforcing about institutional arrangements. Rather, a dynamic component is built in; where institutions represent compromises or relatively durable though still contested settlements based on specific coalitional dynamics, they are always vulnerable to shifts. On this view,

change and stability are in fact inextricably linked. Those who benefit from existing arrangements may have an objective preference for continuity but ensuring such continuity requires the ongoing mobilization of political support as well as, often, active efforts to resolve institutional ambiguities in their favor (Thelen 2004). Dan Slater's analysis (this volume) of the stability of authoritarianism in Indonesia under Suharto is an excellent case in point. The phenomenal durability of this regime was not a matter of self-enforcement or even of increasing returns to power; rather, this outcome depended on the active creation and nurturing of (over time, different) coalitions and institutional supports for the regime. Ironically, as Slater shows, the political balancing that allowed Suharto to concentrate autocratic power paved the way for later regime collapse by compromising the independent coercive capacities of the co-opted institutions and organizations.

Given a view of institutional stability that rests not just on the accumulation but also on the ongoing mobilization of resources, one important **source of change will be shifts in the balance of power** (e.g., Knight 1992, 145, 184; Thelen 1999). This can happen in straightforward ways as, for instance, through changes in environmental conditions that reshuffle power relations. Beyond this, however, a number of scholars have drawn attention to less obvious aspects of such shifts, emphasizing for example that actors are embedded in a multiplicity of institutions, and interactions among them may allow unforeseen changes in the ongoing distribution of resources. Resource allocations from one set of institutions may shape the outcomes of distributional conflicts over resource allocations connected to a different set of institutions. Pierson and Skocpol (2002, 696) note the importance of hypothesizing "about the combined effects of institutions and processes rather than examining just one institution or process at a time." Actors disadvantaged by one institution may be able to use their advantaged status vis-à-vis other institutions to enact change.

Other strands of scholarship in this broad tradition examine how the expected operation of institutions itself sometimes generates pressures for change. This can occur if the over-time distributional effects of institutions trigger divisions among institutional power holders. Or change can occur if institutions disadvantage subordinate groups to the point that they organize and come to identify with one another, thereby

increasing their power and capacity to break prevailing institutional arrangements. Between them, these two possibilities correspond to the themes of “divided elites” and “united subordinate groups” that are sometimes emphasized in explanations of change (e.g., Yashar 1997).

Compliance as a Variable in the Analysis of Institutional Change

Beyond **balance-of-power shifts** (either exogenous or endogenously generated through feedback effects), we especially call attention to forms of change that are linked to issues of **compliance**. On this point there is a rather important difference between the power-distributional perspective of institutions we are advancing here and some prominent alternatives discussed earlier. In some versions of sociological institutionalism, for example, compliance and enforcement appear to be nonissues. If institutions involve cognitive templates that individuals unconsciously enact, then actors presumably do not think about not complying.¹ In fact, it is their very taken-for-grantedness that makes these institutions self-enforcing. In rationalist accounts, sanctions and monitoring do play a role as mechanisms to prevent free riding and promote collective action (Ostrom 1990). However, in much of this work, compliance is built into the definition of the institution under consideration. In other words, what institutions *do* is stabilize expectations (among other ways, by providing information about the probable behavior of others), and thus enforcement is endogenous in the sense that the expected costs and extent of noncompliance are factored into the strategic behavior of the actors in a particular institutional equilibrium (North 1990, 1993).

If, instead, **we break with a view of institutions as self-reinforcing (through whatever mechanism) and put distributional issues front and center, compliance emerges as a variable, and a variable that is crucially important to the analysis of both stability and change.** The need to enforce institutions carries its own dynamic of potential change, emanating not just from the politically contested nature of institutional rules but also, importantly, from a degree of openness in the interpretation and implementation of these rules. Even when institutions are

¹ We owe this insight regarding compliance and its different valence in different varieties of institutionalism to Wolfgang Streeck, who made these points at a workshop on institutions held in Italy in 2006.

formally codified, their guiding expectations often remain ambiguous and always are subject to interpretation, debate, and contestation.² It is not just that unambiguous rules are enforced to greater and lesser degrees. Rather, struggles over the meaning, application, and enforcement of institutional rules are inextricably intertwined with the resource allocations they entail.

In many cases, there is simply a great deal of “play” in the interpreted meaning of particular rules or in the way the rules are instantiated in practice. This view parts ways with power-oriented rationalist accounts like that of Knight, who acknowledges the ambiguity of rules as a site of conflict but who assumes that such ambiguity will decline over time (1992, 76, 186) or be resolved through the formalization of the rules (1992, 176) or both. We see ambiguity as a more permanent feature, even where rules are formalized. Actors with divergent interests will contest the openings this ambiguity provides because matters of interpretation and implementation can have profound consequences for resource allocations and substantive outcomes. As abortion politics in the United States (associated with the defense of “individual rights” and attached to different beliefs on when “life” is taken to begin) amply demonstrates, competing interpretations of one and the same rule can mobilize quite different coalitions (see also Weir 1992). Coalitions form not only as representatives of alternative institutions but also as movements seeking particular interpretations of the ambiguous or contested rules of a given institution.

Existing historical-institutional work and especially the contributions in this volume suggest several implications that follow from treating compliance as a variable in this expanded sense. First, **compliance is inherently complicated by the fact that rules can never be precise enough** to cover the complexities of all possible real-world situations. When new developments confound rules, existing institutions may be changed to accommodate the new reality. These changes can involve rule creation, or they may simply entail **creative extensions of existing rules to the new reality**. This insight and its implications for institutional change are underscored by Adam Sheingate’s contribution to

² The ambiguity of institutional rules is also a theme in a recent edited volume by Skowronek and Glassman (2007). Beyond the introduction by the editors, see especially the essays by Sheingate (2007) and Carpenter and Moore (2007) in that volume.

this volume. Sheingate's analysis focuses on key changes in the rules governing the U.S. Congress. He challenges a large body of work that sees congressional rules as mechanisms that allow actors to coordinate among themselves – above all, to credibly commit to one another to achieve joint gains (Weingast and Marshall 1988). Such accounts presuppose unambiguous rules; differences in the content of rules produce different equilibrium outcomes.

By contrast, Sheingate sees **rules as ambiguous and therefore themselves the objects of political skirmishing**. While these rules certainly establish important constraints on action, Sheingate emphasizes that they are not unequivocal. **The ambiguities they embody provide critical openings for creativity and agency**; individuals exploit their inherent openness to establish new precedents for action that can “transform the way institutions allocate power and authority” (Sheingate, this volume). Through three episodes of institutional change, Sheingate shows how actors devised new applications and interpretations of old rules in order to bend outcomes in their preferred direction. In each instance, the new interpretation had massively important implications for congressional decision-making structures, in particular for the relative power of the Speaker of the House and minorities within the legislature.

A second, closely related point concerns **the cognitive limits of actors themselves**. Even when institutional rules have been created to accommodate relatively complex situations, actors face information-processing limitations and certainly cannot anticipate all of the possible future situations in which rules written now will be implemented later. The account in this volume by Alan Jacobs of the development of U.S. Social Security provides a case in point. He shows that FDR initially devised the idea of contributory financing on which the system was based as a way of fending off the challenges that elites at that time faced from populists. Contributory financing made it impossible for politicians to expand the program recklessly in response to populist urges. Years later, long after the populist threat had waned, these same provisions provided an unanticipated safeguard against conservative retrenchment. As Jacobs emphasizes, the contributory principle contained within it multiple moral and political logics, not all of which were anticipated by its designers but which later proved crucial to

the (changing) coalitions that both sustained and reshaped this set of institutions over the longer run.

Third, institutions are always embedded in assumptions that are often only implicit. Emile Durkheim's notion of "the non-contractual basis of contracts" points to these implicit understandings held by the relevant community that are necessary for rules to have efficacy. Such shared understandings may exist to differing degrees and may themselves shift over time, which can often trigger a *de facto* institutional change even though formal rules remain intact. This is a major message of Ato Onoma (this volume), who notes that in the absence of such shared understandings, institutional "predators" can systematically undermine rules by exploiting their letter while violating their spirit. Here we need to recognize that institutional stability ultimately depends not only on continuity in the rules themselves but also on the ways in which those rules are instantiated in practice (Hacker 2005; Streeck and Thelen 2005).

Fourth, the fact that rules are not just designed but also have to be applied and enforced, often by actors other than the designers, opens up space (as both an analytic and a practical matter) for change to occur in a rule's implementation or enactment. Robert Lieberman (2006) has provided an excellent example of this in his analysis of equal opportunity/affirmative action legislation in the United States. Lieberman documents that the provision in the 1964 Civil Rights Act that created the Equal Employment Opportunity Commission (EEOC) was deeply contested and nearly failed. A political compromise, the version that Congress did pass was weak in the extreme, more or less by design. Once enacted, however, bureaucrats charged with the implementation and enforcement of the legislation worked with civil rights groups to bring cases to courts, which then, through expansive interpretations of the law, stretched the parameters and scope of the legislation. The result was to transform a weak legislative rule into one of the strongest affirmative action regimes in the world. The general point is that enforcers must decide how and when rules are to be implemented, and this implies possibilities for change – in both directions as it were, either through "slippage" or through expansive interpretations and applications. Actors such as the bureaucracy and the judiciary, charged with implementation, interpretation, and

enforcement, have large roles to play in shaping institutional evolution (see also Carpenter 2001).

In short, we propose that the basic properties of institutions contain within them possibilities for change. What *animates change* is the *power-distributional implications of institutions*. However, where we expect incremental change to emerge is precisely in the “gaps” or “soft spots” between the rule and its interpretation or the rule and its enforcement. This is an analytic space that other conceptions of institutions (as behaviors in equilibrium, or as scripts) essentially rule out by definition, but as a practical matter this is exactly the space in which contests over – and at the same time within – institutions take place (Thelen 2009).

The emphasis on compliance also opens new avenues for theorizing the actors and the coalitions that drive institutional change. Clearly, institutional “winners” and “losers” have different interests when it comes to interpreting rules or dedicating resources to their enforcement. But more important for the analysis of institutional change, compliance problems can blur the lines between winners and losers. When the enforcement of an institution is contested and uncertain, or when the meaning of an institution is undecided, an actor’s interest in institutional continuity may be equivocal and mutable. As the meaning and enactment of an institution change, so too may actor preferences. Putting issues of compliance at center stage, then, forces us to think about the distributional effects of institutions in more complicated ways than simply “winners” and “losers.” New categories that go beyond this simple dichotomy must be created to depict and analyze the actors, coalitional patterns, and political conflicts that drive the politics of institutional change. Carrying out this conceptual work is among the tasks we pursue in the next section.

Explaining Patterns of Institutional Change

A distributional approach suggests that dynamic tensions and pressures for change are built into institutions. However, the approach does not itself specify the different modes of change that such dynamism permits or unleashes. Nor does it embody an explanation for why one kind of change occurs rather than another. The purpose of this section is accordingly to build on the discussion so far by offering a

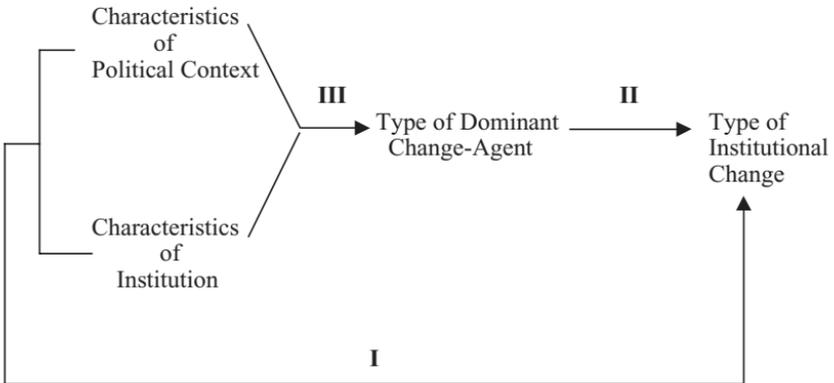


FIGURE 1.1. Framework for Explaining Modes of Institutional Change.

new framework for identifying and explaining types of institutional change.

Our basic model is sketched in Figure 1.1. Here the characteristics of both the political context and the institution in question together drive the type of institutional change we can expect. Political context and institutional form have these effects because they shape the type of dominant change agent that is likely to emerge and flourish in any specific institutional context, and the kinds of strategies this agent is likely to pursue to effect change. In the following discussion, we elaborate this argument, focusing our remarks on the three key causal connections identified in Figure 1.1 (indicated by I, II, and III in the figure). We begin, though, by considering different modes of institutional change.

Modes of Institutional Change

Following Streeck and Thelen (2005), we delineate four modal types of institutional change: displacement, layering, drift, and conversion. As Table 1.1 suggests, each type is defined by asking about the locus of institutional transformation. The dimensions in the table generate the four types:

1. **Displacement:** the removal of existing rules and the introduction of new ones
2. **Layering:** the introduction of new rules on top of or alongside existing ones

TABLE 1.1. *Types of Gradual Change*

| | Displacement | Layering | Drift | Conversion |
|--|--------------|----------|-------|------------|
| Removal of old rules | Yes | No | No | No |
| Neglect of old rules | – | No | Yes | No |
| Changed impact/enactment of old rules | – | No | Yes | Yes |
| Introduction of new rules | Yes | Yes | No | No |

3. **Drift:** the changed impact of existing rules due to shifts in the environment
4. **Conversion:** the changed enactment of existing rules due to their strategic redeployment

Understanding these different types of institutional change – including the roles that institutional supporters and challengers typically play within each – sets the stage for explaining why and how one type rather than another typically occurs.

Displacement is present when **existing rules are replaced by new ones**. This kind of change may well be abrupt, and it may entail the radical shift that is often featured in leading institutional theories. The rapid, sudden breakdown of institutions and their replacement with new ones that accompanies revolutions obviously involves displacement. Yet displacement can also be a slow-moving process. This may occur when new institutions are introduced and directly compete with (rather than supplement) an older set of institutions. New institutions are often introduced by actors who were “losers” under the old system. If institutional supporters of the old system prove unable to prevent defection to the new rules, then gradual displacement may take place. For instance, the advance of market-oriented institutions in China and Cuba pits a new institutional system against an older one. As more and more actors defect to the market institutions, they may erode and slowly overtake the previous state-controlled arrangements.

Layering occurs when **new rules are attached to existing ones, thereby changing the ways in which the original rules structure behavior** (Schickler 2001; Thelen 2003). Different from displacement, layering does not introduce wholly new institutions or rules, but rather involves amendments, revisions, or additions to existing ones. Such

layering can, however, bring substantial change if amendments alter the logic of the institution or compromise the stable reproduction of the original “core.” For example, adding a voucher option to an existing school system while maintaining other features intact is likely to set in motion changes that over time interfere with the stable reproduction of neighborhood-based schools and associated local financing. Processes of layering often take place when institutional challengers lack the capacity to actually change the original rules (or, as in displacement, to set up an explicit alternative institution or system). They instead work within the existing system by adding new rules on top of or alongside old ones. While defenders of the status quo may be able to preserve the original rules, they are unable to prevent the introduction of amendments and modifications. Each new element may be a small change in itself, yet these small changes can accumulate, leading to a big change over the long run.

Drift occurs when **rules remain formally the same but their impact changes as a result of shifts in external conditions** (Hacker 2005). When actors choose not to respond to such environmental changes, their very inaction can cause change in the impact of the institution. For instance, shifts in population across established electoral districts in many democracies can lead to problems of malapportionment, distorting election outcomes by magnifying the representation of some constituencies over others. In Japan, the Liberal Democratic Party consolidated and maintained its dominance in electoral politics in part by actively neglecting to reapportion Diet seats toward cities in response to urbanization. Politicians who resist efforts to revise district boundaries in the face of population movements are promoting change through drift, since their inaction has the effect of altering substantive outcomes.³

Conversion occurs when **rules remain formally the same but are interpreted and enacted in new ways** (Thelen 2003). This gap between the rules and their instantiation is not driven by neglect in the face of a changed setting (as is true with drift); instead, the gap is produced by actors who actively exploit the inherent ambiguities of the institutions. Through redeployment, they convert the institution to new

³ We thank Alan Renwick and Giovanni Capoccia for this example.

goals, functions, or purposes. The “old institutionalism” in sociology is replete with examples of institutional innovators working with existing materials to craft solutions to new problems. In some cases, conversion results from the incorporation of new supporters or the assumption of power by a new political coalition that, rather than dismantle old institutions, uses them in new ways (Selznick 1949). Think of the way the YMCA was redirected over a long period of time and in response to secularization from a primarily religious mission to a broader-based community-oriented organization (Zald and Denton 1963; Zald 1970). In this case, new elites came to power and orchestrated the shift from within. However, in some cases even those who are disadvantaged by an institution can get traction out of conversion strategies. Lacking the capacity to destroy an institution, institutional challengers may be able to exploit its inherent ambiguities in ways that allow them to redirect it toward more favorable functions and effects.

Link I: Political Context, Institutional Characteristics, and Modes of Change

Differences in the character of existing institutional rules as well as in the prevailing political context affect the likelihood of specific types of change. The key issue is how to conceptualize the dimensions of institutions and of political context that matter the most for explaining variations in modes of institutional change. We can ask two broad questions:

1. Does the political context afford **defenders of the status quo strong or weak veto possibilities?**
2. Does the targeted institution **afford actors opportunities for exercising discretion in interpretation or enforcement?**

The answers to these two questions produce the analytic space depicted in Table 1.2, which we adopt (with modifications) from Hacker (2005). As the table suggests, differences in veto possibilities and the extent of discretion in institutional enforcement and interpretation are associated with different modes of institutional change.

Taking each dimension separately, let us first discuss the issue of veto possibilities, which can derive either from especially powerful veto *players* or from numerous institutional veto *points* (e.g.,

TABLE 1.2. *Contextual and Institutional Sources of Institutional Change*

| | | Characteristics of the Targeted Institution | |
|--|---------------------------|--|---|
| | | Low Level of Discretion in Interpretation/ Enforcement | High Level of Discretion in Interpretation/ Enforcement |
| Characteristics of the Political Context | Strong Veto Possibilities | Layering | Drift |
| | Weak Veto Possibilities | Displacement | Conversion |

Tsebelis 2002). Either way, veto possibilities are high where there exist actors who have access to institutional or extrainstitutional means of blocking change. These actors may have access to veto capabilities regarding both changes in the (formal or informal) rules themselves and changes in the rules’ enactment in practice. Actors with strong veto capabilities vis-à-vis a given institution, however, may not enjoy this strength vis-à-vis other institutions. For example, an independent central bank may be a powerful veto player with respect to changes in financial institutions but not welfare institutions.

Where would-be agents of change face political contexts with myriad veto possibilities, it will be difficult for them to mobilize the resources and assemble a coalition that can displace the existing institutional rules. Hence, displacement is unlikely in the context of strong veto possibilities. Likewise, efforts at active conversion will be difficult in such a context, since veto powers also apply to the realm of rule enactment. Instead of displacement or conversion, drift and layering are more promising as strategies of change in political environments with strong veto players. This is true because drift and layering do not require making any direct changes to the old institutions and do not rely on altering the rules themselves or actively shifting their enactment.

With drift, institutional change grows out of the neglect of an institution, or more precisely, the failure to adapt and update an institution so as to maintain its traditional impact in a changed environment. Powerful veto players may be able to defend existing institutions against

outright displacement, but their veto powers are often insufficient to prevent drift since doing so typically requires supporters to take active steps to shore up support for an institution as the social, economic, or political context shifts. Monarchical political institutions, for instance, were gradually rendered into mere institutional vestiges as royal powers time and time again proved unable to successfully defend the old ways in a changing environment marked by rising parliamentary forms and their supporters.

With layering, institutional change grows out of the attachment of new institutions or rules onto or alongside existing ones. While powerful veto players can protect the old institutions, they cannot necessarily prevent the addition of new elements. Thus, for example, Social Democrats across Europe have successfully prevented conservatives from dismantling public pension schemes, but they have not been able to stop the addition of voluntary supplemental pensions alongside the public system, which conservatives hope will tilt the balance toward the latter over the longer run (Clark and Whiteside 2003; Hacker 2005).

The other explanatory dimension concerns differences in the extent to which institutions are open to contending interpretations and variations in their enforcement. As we have argued, adopting a distributional approach to institutions means treating compliance with institutional rules as a variable that can change over time. In practice, nevertheless, the degree to which actors have discretion in implementing rules will vary from one institution to the next.⁴ For example, enforcing and implementing unemployment benefits typically involve some discretion on the part of those who administer such benefits. If benefits are attached to a requirement that recipients be “actively seeking work,” what exactly does that mean (King 1995)? If workers can receive benefits only so long as they cannot find “*appropriate* alternative employment,” what types of jobs might a person be expected to take? The sources of variation in the scope of discretion that rules allow are of course themselves quite varied: the complexity of the rules, the kinds of behaviors regulated by the rules, the extent of resources

⁴ The degree of discretion embedded in different institutional configurations also “maps onto” broad differences between common law and civil law traditions. The importance of this difference for a variety of substantive outcomes has been explored by a number of scholars (e.g., La Porta et al. 1998 for finance and development).

mobilized by the rules, and so on, all matter. In the present context, however, we are concerned simply with the variation in the extent of discretion that actors have at the interpretation and enforcement levels and not with identifying the sources of such variation.

Differences in levels of discretion in the interpretation or enforcement of rules help explain modes of institutional change. If would-be agents of change face an institution in which there is very little room for discretion in enforcement, then the outcomes of conversion and drift are less likely. Conversion normally occurs when rules are ambiguous enough to permit different (often starkly contrasting) interpretations. As scholars of American political development have noted, contending interpretations of the Constitution's commerce clause (a simple one-liner that gives Congress power "to regulate commerce with foreign nations and among the several states") have been harnessed in support of rather massive changes in economic and social policy in the United States, including the consolidation of labor rights during the New Deal as well as important advances in civil rights in the 1960s (Orren 1991; Mettler 1998; Skrentny 2002).⁵

Drift can occur when a gap opens up between rules and enforcement (in this case, often a gap due to neglect). For example, and as observers of labor relations in the United States have noted, different presidential administrations have been associated with wildly different outcomes with respect to workplace safety, depending on how vigorously the Occupational Safety and Health Administration (OSHA) enforces existing laws. The same observation has been made about union organizing under different presidents, depending on whom they appoint to lead the National Labor Relations Board (NLRB) that is charged with interpreting and enforcing labor laws in this country (see, especially, Freeman 1985; Klein and Wagner 1985, esp. 79–83; Moe 1987). In those cases and many others like them, there is tremendous space for diverse outcomes even under stable rules, given different interpretations (narrow/broad) and enforcement (vigorous/lax) of those rules.

In short, administrative capacities may be especially important for conversion and drift, because weakness on these fronts can create

⁵ And since the 1990s, interpretations of the commerce clause have taken another, conservative, turn – being used by the Rehnquist Court to limit the areas in which Congress can legislate. We thank Dan Galvin for this observation.

strategic openings for those who oppose the rules on the books. By contrast, the other two modes of change, layering and displacement, do not rely on exploiting ambiguities in the rules themselves. These outcomes are likely strategies for change agents who realize that transformation cannot occur by taking advantage of a disjuncture between rules and enforcement. With layering, the old institution remains in place but is amended through the introduction of new rules. With displacement, the old institution is simply replaced – outright and abruptly or gradually over time. Either way, change occurs in a manner that does not entail shifting the interpretation or enforcement of rules that remain intact.

Link II: Change Agents and Institutional Change

Addressing questions of institutional change and contemplating the kinds of strategies that are most likely to drive such change in diverse institutional settings also raises the question: exactly who are the agents behind such change? And why do they carry out behavior that leads to transformation? From a distributional perspective on institutions, as we have seen, a starting answer is that institutional losers drive change precisely because they benefit from such change. Yet we have also seen how the notion of winners and losers is often too simple for real situations. The ambiguities inherent in institutions and the uncertainties concerning institutional enactment complicate assessments about which actors are advantaged and disadvantaged. And the fact that actors are simultaneously embedded in multiple institutions often leaves them winners in some arenas but losers in others. We need a framework for thinking about change agents that goes beyond the crude dichotomy between winners and losers.

We also need to disentangle actors' short-run behaviors from their long-run strategies.⁶ We should not, for example, confuse immediate rule-conforming behavior with the overall goal of institutional maintenance. Actors may, instead, pursue a strategy of short-run conformity in the service of long-run insurrectionary goals. We further need to be mindful that institutional change need not emerge from actors with transformational motives. Rather, institutional change can be an

⁶ We thank Alan Jacobs for emphasizing the importance of this to us.

TABLE 1.3. *Types of Change Agents*

| | Seeks to Preserve Institution | Follows Rules of Institution |
|-------------------|-------------------------------|------------------------------|
| Insurrectionaries | No | No |
| Symbionts | Yes | No |
| Subversives | No | Yes |
| Opportunists | Yes/No | Yes/No |

unintended by-product that grows out of distributional struggles in which no party explicitly sought the changes that eventually occurred.

We find it useful to posit four basic change agents: insurrectionaries, symbionts (either parasitic or mutualistic), subversives, and opportunists.⁷ We define these actors formally by asking two basic questions:

1. Does the actor **seek to preserve** the existing institutional rules?
2. Does the actor **abide by the institutional rules**?

The answers to these questions link up to the strategies just discussed and are specified in Table 1.3.

Identifying change agents is useful for explanatory purposes: each agent type is associated with a particular mode of institutional change, as well as a particular preferred strategy for effecting such change. These associations exist because the contrasting interests or behaviors of the change agents vis-à-vis institutional continuity foster different patterns of change. In other words, different types of change agents emerge in different institutional contexts, and where they are successful specific modes of institutional change are likely to follow.

Insurrectionaries consciously seek to eliminate existing institutions or rules, and they do so by actively and visibly mobilizing against them. They reject the institutional status quo and do not always abide by its regulations. Insurrectionaries may be especially likely to emerge when groups of individuals are disadvantaged by multiple institutions that reinforce one another, linking their identities to overall positions

⁷ Clearly, any given actor may occupy different roles in the context of different institutional politics – for example, adopting an opportunist stance in one arena but assuming the role of insurrectionary in another context or at another time. Thus, the change agents we identify refer to roles rather than fixed identities.

within complexes of institutions. These objective similarities can provide a basis for subjective identification and thus coordinated collective action.

The insurrectionary variety of institutional innovator is widely theorized and represents the way that many institutionalists think about change agents when explaining abrupt patterns of change. Indeed, when insurrectionaries prevail in conflicts, they may lead critical-juncture periods that see the rapid overturning of the institutional status quo in favor of radically new rules. Insurrectionaries, therefore, may be especially linked to patterns of outright *displacement*. Moreover, the rapid displacement of institutions is precisely their goal. If displacement occurs gradually, it is likely because insurrectionaries are unable to make things change as quickly as they would like.

Symbionts come in two varieties – parasitic and mutualistic – and in both instances rely (and thrive) on institutions not of their own making. In the **parasitic variety, these actors exploit an institution for private gain even as they depend on the existence and broad efficacy of the institution to achieve this gain**. While they rely on the preservation of the institution, parasites themselves carry out actions that contradict the “spirit” or purpose of the institution, thus undermining it over the longer run. Parasites can flourish in settings where expectations about institutional conformity are high, but the actual capacity to enforce those expectations is limited. Indeed, parasites will not persist if institutional supporters are able to maintain and shore up institutions to address these gaps in compliance. As a result, parasites are especially associated with *drift*, or the neglect of institutional maintenance in the face of slippage between rule and practices on the ground.

In their **mutualistic incarnations, symbionts also thrive on and derive benefit from rules they did not write or design, using these rules in novel ways to advance their interests**. In this case, however, symbiotic activity does not compromise the efficiency of the rules or the survival of the institution. Rather, mutualists violate the letter of the rule to support and sustain its spirit – in contrast to parasites, who exploit the letter of the rule while violating its spirit.⁸ Mutualists are not associated with institutional change through drift; in fact, they

⁸ We thank Bruce Carruthers for underscoring the alternative possibility.

ordinarily contribute to the robustness of institutions, expanding the support coalition on which the institution rests.⁹

The chapter in this volume by Ato Onoma provides a vivid illustration of the logic of the parasitic variety of symbiotic agency and its implications for institutional stability and change. Onoma contests prevailing accounts of property rights institutions as rationally designed to secure efficient economic outcomes. In line with the view of institutions advanced in this volume, he instead depicts property rights regimes as laden with conflict. He shows that in Kenya “con men” and “tricksters” systematically exploited a newly institutionalized system of land documentation, playing on people’s beliefs in the validity of documents to defraud them by exchanging fake documents for money. Kenya’s property rights regime thus underwent drift, as politicians systematically neglected slippage in the enactment of the regime. Indeed, far from bringing the full powers of the state to bear to suppress such parasitic behavior, politicians themselves embraced the logic and the strategies of these con men, exchanging protection of property for political support. In cases like this, parasitic behavior (as in the natural world) can compromise the stability of the system itself. For while stable property rights might survive isolated infractions of this sort, the multiplication of fraudulent claims compromises the very beliefs on which the fraudulent practices rely. The result for Kenya, as Dan Slater colorfully noted at the workshop out of which this volume grew, was “the tragedy of the con men.”

Subversives are actors who seek to displace an institution, but in pursuing this goal they do not themselves break the rules of the institution. They instead effectively disguise the extent of their preference for institutional change by following institutional expectations and working within the system. From the outside, they may even appear

⁹ Mutualists are sometimes therefore associated (like opportunists, discussed later) with *conversion*. In some cases, the emergence of symbionts is a function of feedback effects, as actors who were not involved in an institution’s design become invested in the institution and develop an interest in its survival. Thelen’s (2004) study of vocational training in Germany provides an example. The country’s union movement opposed the creation of a firm-based training system in the late nineteenth century, but as the ranks of unions swelled with workers who had earned their credentials in that system, the unions developed an interest in maintaining and controlling this institution rather than dismantling it. The overall result was to render the system more robust by expanding its support coalition.

to be supporters of the institutions. But they bide their time, waiting for the moment when they can actively move toward a stance of opposition. As they wait, they may encourage institutional changes by promoting new rules on the edges of old ones, thus siphoning off support for the previous arrangements. In this sense, subversives may be especially associated with patterns of layering, in which new institutional elements are grafted onto old ones. Yet depending on the features of the political-institutional context, they may also encourage institutional conversion and the kinds of neglect that promote institutional drift. Either way, subversion brings change as developments on the periphery make their way to the center.

Chapter 2 (this volume) by Tulia Falleti provides an illustration of change via subversion. As she demonstrates, the shift in Brazil from a fragmented (but centralized) health care system to a universal (but decentralized) regime did not take place abruptly with the nation's transition from authoritarianism to democracy. Instead, she identifies long-percolating developments at the local level during the authoritarian period, in which advocates of a municipality-based system infiltrated the existing institutions and laid the foundation for a wholly different kind of regime. While operating within the broad parameters of the existing system, these activists exploited crucial gaps and openings for action at the local level to put in place a more decentralized system alongside and within the existing system, but whose logic was completely different from the prevailing one. The actions of subversives were crucial to later outcomes, and yet it is important to underscore that these changes were not the result of heroic agents operating "against all odds." Rather, as Falleti makes clear, there were significant features of the previous authoritarian institutions (above all, the attempt to penetrate the countryside) that proved crucial to the ability of subversives to work *against* the system from *within* it.

Finally, **opportunists are actors who have ambiguous preferences about institutional continuity.** They do not actively seek to preserve institutions. However, because opposing the institutional status quo is costly, they also do not try to change the rules. **Opportunists instead exploit whatever possibilities exist within the prevailing system to achieve their ends.** Indeed, the weight of opportunists within an institution can be a major source of institutional inertia. Their preference for

making use of existing possibilities over the riskier strategy of mobilizing for change makes opportunists – through their inaction – “natural” (de facto) allies of an institution’s supporters. Thus, beyond the power asymmetries noted earlier, opportunists help explain why changing an institutional status quo is often far more difficult than defending it.¹⁰

When they do emerge as agents of change, opportunists often engage in strategies of conversion: ambiguities in the interpretation or implementation of existing rules provide the space for them to redeploy these rules in ways unanticipated by their designers. The ultimate fate of the Auroux Reforms, a package of laws passed by a Socialist government in France in 1981, provides an example of this (Howell 1992). These laws were designed to shore up the country’s historically weak trade unions and strengthen collective bargaining by bolstering the voice and power of labor at the plant level. However, as Chris Howell (1992) shows, the paradoxical outcome was something like the opposite: in a context of economic crisis and deep antipathy on the part of French employers toward organized labor, firms seized upon and exploited ambiguities in the law to promote the development of firm-specific forms of labor representation that competed with unions – thus in fact further marginalizing unions and weakening collective bargaining.¹¹

In sum, we can generalize about the affinity between particular kinds of actors and modes of change as follows: **Insurrectionaries seek rapid displacement but will settle for gradual displacement. Symbionts seek to preserve the formal institutional status quo, but their parasitic variety carries out actions that cause institutional drift. Subversives seek displacement but often work in the short run on behalf of layering. Opportunists adopt a wait-and-see approach while pursuing conversion when it suits their interests.**

¹⁰ We are grateful to Giovanni Capoccia for this insight.

¹¹ Moreover, and consistent with the arguments laid out earlier, Howell (1992) traces this result to ambiguities that were built into the law as a result of the complex coalition that presided over its passage, which in this case fatefully included a minority of actors representing an older tradition within the French left committed to worker self-management. Howell notes that “the final [legislative] package was . . . a compromise and a hodge-podge of elements” (p. 183), and he attributes its paradoxical effects to “a certain plasticity of law” in which key provisions became “Trojan horses” for strategies that were antithetical to the law’s express purposes (pp. 182, 185).

TABLE 1.4. *Contextual and Institutional Sources of Change Agents*

| | | Characteristics of the Targeted Institution | |
|--|---------------------------|--|---|
| | | Low Level of Discretion in Interpretation/ Enforcement | High Level of Discretion in Interpretation/ Enforcement |
| Characteristics of the Political Context | Strong Veto Possibilities | Subversives (layering) | Parasitic Symbionts (drift) |
| | Weak Veto Possibilities | Insurrectionaries (Displacement) | Opportunists (Conversion) |

Link III: How Context and Institutions Shape Change Agents

Pulling together aspects of context and types of actors, we can also generate some general propositions concerning the kinds of environments in which different agents are likely to emerge and thrive. As Table 1.4 suggests, the character of existing institutional rules and the prevailing political context are again the key explanatory factors. Change agents become the intervening step through which the character of institutional rules and political context do their causal work.

First, *insurrectionaries* can emerge in any setting, but they are more likely to flourish in environments characterized by low discretion and weak veto possibilities. Low discretion is quite compatible with strategies of outright displacement (as opposed to conversion or drift), while fewer veto possibilities means that defenders of the status quo who can be expected to resist change will not be well positioned to counter insurgent efforts aimed at displacement.

Second, *symbionts* of the parasitic variety are the mirror image of this, thriving in environments characterized by strong veto possibilities and high enforcement discretion. Since parasitic symbionts wish to retain the formal institutional status quo, strong veto players (many veto points) help to secure this outcome. At the same time, however, parasitic symbionts need high discretion in enforcement, because this allows them room to alter the valence and meaning of institutionalized rules.

Third, *subversives* can be expected to emerge and thrive in contexts in which the existence of strong veto possibilities and few rule interpretation and enactment opportunities makes it difficult for opposition actors to openly break or even bend the rules of an institution. In this environment, change agents must work within the system to achieve their goals.

Finally, *opportunists* tend to thrive in settings where there is a great deal of discretion in how institutions are enacted and there are few veto players or points to prevent actual institutional change. In this setting, institutional supporters may turn a blind eye to those who willfully convert institutions for their own purposes so long as they do not oppose outright the institutional rules. Moreover, institutional challengers do not need to pursue insurrectionary strategies since gaps between rules and enactment are available for them to exploit. Rather than oppose institutions outright, then, institutional challengers capture resources by acting as opportunists who redeploy the prevailing rules for their own purposes.

Coalitional Dynamics and the Politics of Institutional Change

The foregoing discussion has developed broad propositions about the conditions under which particular types of change agents are likely to emerge as dominant, and it has also identified the kind of change that is associated with each agent. In reality, of course, change agents often do not work alone. Rather, they must act in concert with other institutional actors – other defenders and opponents of existing institutions. Because of the status quo bias of institutions – rooted in Shepsle’s (1986) “wedge of uncertainty” as well as in increasing returns to institutionalized power – the success of various kinds of agents in effecting change typically depends crucially on the coalitions they are able to deliberately forge or that emerge unexpectedly in the course of distributional struggle. As Peter Hall (this volume) notes, the relative power of various actors is enormously important in affecting their ability to assemble the coalition they need to change (or defend) existing arrangements. While these coalitions are inevitably shaped by the particular setting in question, it is possible to make generalizations about how different transformative actors can and cannot forge alliances with those who benefit and do not benefit from the prevailing rules. Table 1.5 presents the logic of these alignments by asking, broadly, whether a

TABLE 1.5. *Coalitional Alignments*

| | Allies with Institutional Supporters | Allies with Institutional Challengers |
|-------------------|---|--|
| Insurrectionaries | No | Yes |
| Symbionts | Yes | No |
| Subversives | No | No |
| Opportunists | Yes/No | Yes/No |

given actor will seek alliances with an institution's supporters or its challengers, bearing in mind that part of the task is often to mobilize latent defenders or opponents into action.

Some of the connections here are straightforward. For example, the interests of insurrectionaries are by definition at odds with those of the defenders of the status quo. Insurrectionaries must seek alliances with other institutional challengers who have their own reasons (possibly substantively quite different) for opposing existing arrangements. Opportunists, by contrast, are available for all kinds of alliances, including alliances with insurrectionaries, depending on the political winds. In fact, the success of insurgencies often depends crucially on their forging an alliance with opportunists who are in principle not committed to existing institutions. Opportunists can be brought into such a coalition, however, only if insurrectionaries can convince them that change is likely or even inevitable – at which point opportunists will take up the insurgent cause. This is in fact one of the lessons that emerged from the literature on the transition from communism in Eastern Europe. Kuran (1991), for example, showed that the success of prodemocracy forces hinged crucially on signs that a critical mass of support for change had been assembled by the insurrectionaries; as change began to appear more likely, citizens' revealed preferences shifted dramatically. Beissinger (2002) documents a similar "cascade" effect in which a successful revolution in one region emboldened insurgents in neighboring countries and (we would add) in the process brought opportunists into the alliance for change.

Other aspects of the coalitional politics implied by the framework in this chapter are even more intriguing. For example, subversives (such as those in Tulia Falletti's chapter) need to work to the extent possible under the radar of the dominant actors. This means that, despite their preference for change, they may not align themselves

(certainly not openly) with insurrectionaries. Instead, they work on their own, behind the scenes or in the shadows. As Pierson pointed out during our workshop, the effects are like those of “termites in the basement” – the changes these actors have wrought may appear only with a delay, and then come to light suddenly (in Falletti’s example, with the transition to democracy), even though the process of change itself was gradual.

Finally, symbionts are in some ways the most interesting of the change agents we have explored here. In both varieties (mutualistic and parasitic), the interests of symbionts are broadly consistent with (and in many ways rely on) the preservation of status quo institutions. This makes them ready allies of defenders of the status quo and opponents of insurrectionaries. But because the *substantive* goals of symbionts are frequently at odds with those of current institutional supporters, strange coalitions can emerge. Alan Jacobs’s chapter provides a good example of this type of “Baptist-bootlegger” coalition. In his account, a key feature of the U.S. Social Security system – contributory financing – was jointly shored up in a period of instability (the 1950s) by an unlikely alliance of social progressives and fiscal conservatives. For progressives, contribution-based funding provided a compelling political and moral logic for maintaining and incrementally expanding the program, while conservatives embraced this same feature for the way it prevented that expansion from going too far. These kinds of alliances are not uncommon for symbionts, who “come around” to supporting institutions created by others and with different purposes in mind.

Conclusion

Building on previous conceptual work and harnessing the lessons we can draw from the analysis of concrete instances of institutional change, this chapter has presented a theory of gradual institutional change. The argument emphasizes the interaction between features of the political context and properties of the institutions themselves as crucially important for explaining institutional change. It also calls attention to the different types of change agents – and associated strategies – that are likely to flourish in particular institutional environments.

The theory suggests a potentially broad agenda and invites further research on gradual institutional change. It offers new concepts and causal propositions for scholars to draw on and put to use in their

own investigations. Indeed, rather than promote abstract debate about metatheory or definitions, this framework is intended to stimulate and aid in the substantive analysis of institutional change – whether in individual cases or across sets of cases. Ultimately, the arguments we have put forward can be evaluated only through the analysis of concrete cases and actual episodes of institutional change. Conversely, it is through their application that the concepts and propositions we advance can be further refined and elaborated.

Empirically assessing the theory in these substantive ways is something that can and should be carried out by institutionalists of all stripes in the social sciences. Although we have built on ideas developed in the field of historical institutionalism (and the chapters that follow originate mostly in that tradition as well), our propositions can be explored with equal profit by sociological and rational-choice institutionalists. Whatever the current disputes among scholars associated with alternative strands of institutionalism, their views are not so different as to prohibit a common research agenda focused on gradual institutional change. As Peter Hall's concluding chapter suggests, institutional analysts from different schools all stand to benefit by combining their best insights in the shared pursuit of valid explanation. Whatever extensions and revisions emerge from the use of the framework we have laid out here, this volume will have served its purpose if it stimulates more scholars to explore broad-ranging questions about gradual institutional change across diverse times and places.

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Infiltrating the State

The Evolution of Health Care Reforms in Brazil, 1964–1988

Tulia G. Falletti

Policy in Brazil changes by accretion rather than by substitution.

Schmitter 1971, 256

In the last two decades, Brazil's health care system has undergone two major transformations: *universalization* and *municipalization*. Prior to 1988, the administration of the health care system was centralized in the federal government. The member states and the municipalities had a minimal role in the management and delivery of health care. National funding was channeled, via contracts, to the private sector, and inequalities in the provision of services were pervasive. A large portion of the population did not have access to health care, either because they were uninsured or because there were no health facilities in the areas where they lived.

Two decades later the system has been radically reconfigured. In the new health care system, coverage is universal, access is free, public

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services are integrated, and the delivery of health care is decentralized. The private sector continues to exist alongside the public sector, but its importance as a contractor for the public system has diminished significantly. The Brazilian states and some of the large municipalities are responsible for high-complexity health services, and all of the municipalities – more than fifty-five hundred in total – deliver basic health care services.

This development is puzzling in light of existing theories that all point to insurmountable political barriers to universalization in a context such as Brazil. Several features of the previous system should have dampened efforts in this direction. In particular, the fact that a sizeable portion of the public enjoyed private-sector coverage should have narrowed the political coalition for reform. In addition, the initial national public insurance programs were focused on “residual” populations, who lacked the political clout to push for the extension of such programs. Moreover, since 1964, the military government had made great strides in building a private medical industry. From a comparative standpoint, the political barriers to universalization of health seemed insurmountable (see Hacker 1998, 127–128).

Why and how did Brazil achieve universalization of health care despite the prior institutional evolution of its health care system? Most scholars invoke a critical-juncture explanation, identifying political “break points” or economic crisis as having provided the solvent that unhinged the old system and opened the door for something new. The most prominent such account points to the constitutional reform of 1988, in the midst of Brazil’s democratic transition after a two-decade-long military regime (1964–1985) (Kaufman and Nelson 2004, 44). According to this approach, the health care reforms were possible when the political opportunity structure changed; this occurred during an exceptional period of political opening that led to the relaxation of the institutional and political constraints set in place by the prior development of the health care system. In this interpretation, the constitutional convention of 1987–1988 was one of these rare and short-lived episodes when the opportunities for fundamental change of so-called locked-in institutional arrangements occurred. Another group of scholars locates the origins of the reforms in the economic crisis of the early 1980s, which created incentives to restructure the economically troubled social security system that provided health

services (Draibe 1994, 276, 285; Lewis and Medici 1998, 270). Similar to the prior account, this explanation considers the economic crisis to be the critical juncture that produced the institutional changes.

These explanations are shortsighted, however. In this chapter, I show that the health reforms introduced in Brazil's 1988 constitution and implemented throughout the 1990s were not the result of a critical juncture (either political or economic). Instead, they were the result of gradual changes – beginning long before the transition to democracy – through which actors on the periphery of the existing system were able to introduce incremental changes through processes of what the editors of this volume call “layering.” The crucial opening for the strategies of these “subversives” was provided by the military, which in the 1970s introduced health care reforms that were designed to solidify authoritarian rule by extending the state's presence to the countryside. The military was interested in the state's territorial expansion to the peripheral areas of the North and Northeast, where it had practically had no presence. The regime was also interested in taming the social and political demands of an increasingly active rural movement. In an effort to legitimate its domination and co-opt rural activists, the military government extended health care to those employed in the informal economy (the majority of the rural population) and to the unemployed.

These efforts provided an opening for leftist health care organizations, those of the *movimento sanitário* (henceforth, the sanitarista movement), to put in practice on a broader scale models of preventive and public social medicine that they had been promoting in isolated pockets, mostly southern municipalities ruled by the opposition. In short, the penetration of society by the authoritarian state facilitated the infiltration of the state by reformist elements in society. Moreover, strengthened by a gradual process of political opening and democratization, the sanitarista movement increasingly imprinted its ideological orientation in the health reforms that unfolded after 1976. The reforms of 1985 merely revealed – but also codified and institutionalized – the principles of universalism and decentralization that had already been promoted to dominance by the actions of these “subversives” who were able to operate on the periphery and within the logic of the existing system, although in ways that gradually altered its trajectory.

Penetrating Society: The Military Integration of Health Services and the Extension of Coverage

Prior to 1988, health care services were organized in three subsystems: the private sector, the public sector, and the social security sector. The private sector covered 20 percent to 30 percent of the population through medicine groups, cooperatives, self-management plans, or private health insurance. Most important, however, the social security subsystem contracted the private health sector to provide services (expensive hospitalizations, in particular) to their members. In the public sector, health had evolved as a responsibility of the central government, focused on vaccination campaigns and the control of epidemic outbreaks. The National Ministry of Health, created in 1953, was poorly funded and was only responsible for preventive and some chronic care (Lobato and Burlandy 2000).

The social security sector was the largest of the three subsystems. It had originated in the 1920s, when the first social insurance funds were formed by industry and provided invalidity, retirement, and survivors' pensions, as well as medical assistance and funeral aid for industry workers. In 1953, Brazil's populist president Getulio Vargas envisioned the social security system as one of the three main pillars (together with the unions and the labor courts) of the state-corporatist arrangement. To this end, he merged the proliferating industry funds into seven social security institutes organized by sector of the economy. These institutes were funded through compulsory contributions from employers and employees, and although the state was supposed to contribute funds as well, state contributions over time did not amount to much more than the administrative costs of the institutes (Malloy 1979, 70, 127, 135–136).¹

¹ The social security institutes were autarchic public entities under the supervision of the Ministry of Labor, Industry, and Commerce. They were managed by a president appointed by the President of the Republic and a council, of four to eight members, where employers and employees were equally represented. After 1953, the resulting Institutes of Retirement and Pensions (Institutos de Aposentadorias e Pensões, IAPs) were the institute of workers in railway and public services (IAPFESP), of banking workers (IAPB), of commerce (IAPC), of industry (IAPI), of maritime (IAPM), of transport and hauling (IAPETC), and of civil servants (IPASE) (Malloy 1979, 97–98).

Despite prior corporatist inducements, the social security sector covered only 7.4 percent of Brazil's population in 1960, and 9 percent in 1970 (Malloy 1979, 68, 95; Weyland 1996, 89). The rural sector, the urban self-employed, and the intermittently employed remained uninsured (Malloy 1979, 68; McGuire forthcoming, ch. 6). High inequalities in the provision of health services plagued the system, both in the type and the quality of services provided by the different institutes, as well as in the services available to the populations of different regions of the country.²

There had been prior attempts to extend social security coverage and reduce inequalities. In the 1940s, inspired by Britain's Beveridge Report, technocrats of the industrial workers' institute (IAPI) had called for equal and universal social protection (Oliveira and Teixeira 1986, 172–180; Weyland 1996, 90). The politicians' incentives to modify the system, however, were quite low, since literacy restrictions on the vote (in place until 1985) rendered much of the rural population and the urban poor irrelevant for electoral purposes.³ In 1945, Vargas tried to unify the entire social security system, but the health institutes' bureaucracies and the unions opposed the measure, which was never implemented (Oliveira and Teixeira 1986, 157; Luna and Klein 2006, 203).⁴ The social insurance institutes had become important

² The system was set up such that the institutes would provide their members with medical services *only* after other obligations had been met. Hence, the funds with higher per capita income members and fewer claims for sickness and invalidity could support better medical schemes. Large numbers of those workers often employed in unhealthy and dangerous jobs received the worst system of health care. Thus, the IAPB (banking sector), with about 153,000 affiliates in 1960, provided the best medical care, whereas the IAPI (industrial workers), with over 2.1 million affiliates, had the worst (Malloy 1979, 102, 110–111). These inequalities were compounded by the regional distribution of all the health services and facilities (public, social insurance, and private), which favored the urban areas of the Southeast, where physicians and hospital beds were concentrated at considerably higher per capita rates than in the rest of the country. In 1970, for example, there were 7.4 doctors per 1,000 inhabitants in the Southeast, compared to 2.3 and 2.4 doctors in the states of the North and Northeast, respectively. Similarly, there were 5.4 hospital beds per 1,000 inhabitants in the Southeast, compared to ratios of 2.8 in the North and 1.9 in the Northeast (Malloy 1979, 111).

³ The political support of traditional rural bosses, or *coroneis*, was sufficient for the delivery of rural votes (on *coronelismo*, see Nunes Leal 1997, 275–287).

⁴ It was decree-law No. 7526 (*Lei Orgânica dos Serviços Sociais do Brasil*) that tried to unify all the social security health institutes (IAPs) and replace them with the Institute of Social Services (Instituto de Serviços Sociais do Brasil, ISSB).

sources of power both for politicians linked to organized labor and for union leaders, who wanted to preserve the institutes' current structure (Malloy 1977, 198–199; 1979, 73). Also opposed to the integration of the social security system were the managers and technocrats of the other social security institutes, who had historically been committed to a contributory system of financing (i.e., services provided only to those who contribute) and were concerned that it would be financially unviable to cover the large mass of the poor (Weyland 1996, 90).

The health system remained little changed until the military regime came to power in 1964. Under the military, the social security subsystem was integrated and coverage was extended, privileging contracts with the private sector whenever possible. As a means of reducing the power of organized urban labor, General Humberto de Alencar Castelo Branco (1964–1967) unified all the social security institutes in a single institute, the National Institute of Social Insurance (Instituto Nacional de Previdência Social, INPS), and replaced their “political” presidents and councils with “apolitical” technocrats. In doing so, the military regime cut one of the labor movement’s most vital institutional pillars of power. This reform, which had been tried in democratic periods but had failed because of the unions’ opposition, was, from the standpoint of services, an equalizing reform. All workers in the private urban economy would have the same social security and health benefits. However, inequalities persisted: the public servants and military personnel remained in separate funds with higher levels of privileges, and the poor in the informal sector of the economy remained excluded (Malloy 1979, 134; Weyland 1996, 90).

In 1971, during its most repressive phase (the presidency of Emílio Médici, 1969–1974), the military government granted social security and health coverage to the rural population, the unemployed, and the self-employed through the Assistance Fund for Rural Workers (Fundo de Assistência ao Trabalhador Rural, FUNRURAL). Responding to pressure from a radicalized rural movement (Erickson 1977), a program with the same name had been created under President João Goulart (1961–1964), but, lacking significant funds, that program was never implemented (Malloy 1979, 120, 200–201). The military now financed FUNRURAL with sound taxes on agricultural wholesalers and on urban firms’ payrolls. Almost overnight, the proportion of the population legally covered by social insurance increased from 9 percent

to 90 percent (McGuire forthcoming, ch. 6). To be sure, the quality of the services and pensions for the rural population was significantly lower than that of the urban population. And the total resources of FUNRURAL were still only one-tenth of the resources of the preexisting system of social insurance for organized urban labor (INPS), even though they served populations of roughly equal size (Malloy 1979, 134). Nonetheless, FUNRURAL was “the most important redistributive change ever made in Brazilian social security” (Weyland 1996, 91). Furthermore, as McGuire explains, “FUNRURAL was the first Brazilian social insurance program to break with the [contributory] principle that benefits depended on contributions” (forthcoming, ch. 6).

Why did the most repressive government of the military period advance such an important redistributive reform? Two reasons are apparent. On the one hand, the military regime implemented this reform as a means of taming and co-opting rural activism. In the early 1960s, political turbulence and organization proliferated in the rural areas, particularly in the Northeast.⁵ This mobilization was perceived as a populist challenge on behalf of former President Goulart. FUNRURAL was meant to stem social discontent among the rural population and to slow down the worrying trend of rural-urban migration.⁶ In the classic state-corporatist tradition, the military regime co-opted the moderate National Confederation of Workers in Agriculture (Confederação Nacional dos Trabalhadores na Agricultura, CONTAG) and entrusted the administration of FUNRURAL to this organization, while quashing the radical elements of the rural movement.⁷

On the other hand, the military sought to use FUNRURAL to extend the presence of the nation-state in the remote rural areas of the North and Northeast, deemed necessary for national security reasons. The military was informed by a comprehensive doctrine of national security, which linked the full realization of the nation’s human and

⁵ Independent rural organizations, the so-called peasant Leagues, had formed in the 1950s and 1960s, aided by either the Catholic Church or the Communist Party (Flynn 1978, 261). Some of the Leagues radicalized to the point of becoming involved in guerrilla warfare.

⁶ In 1960, 55% of Brazil’s population lived in rural areas, but by 1980 this percentage had decreased to 32% (Houtzager and Kurtz 2000, 402–403).

⁷ Of all the northeastern organizations, the radical peasant Leagues suffered the greatest number of prisoners and political murders after the coup of 1964 (Moraes 1970, 496; Malloy 1979, 131).

economic potential to the primordial quest for military security and national grandeur (Stepan 1971, 131; Malloy 1979). By creating a system of social insurance coverage for the agricultural population, and conferring its administration on an organization (CONTAG) that it could control, the military aimed to extend the reach of the nation-state in the North and Northeast and at the same time penetrate and co-opt the rural workers' organizations.

However, in its move to integrate and expand the health care system, the military regime privileged the private health sector. The extension of health coverage largely took place through the expansion of private health services (Lewis and Medici 1998, 281). Whereas in 1960, 14 percent of all hospital beds were in the private sector, by 1976 this percentage had increased to 73 percent (Lobato and Burlandy 2000; McGuire forthcoming, ch. 6). Moreover, when emergency treatment was extended to the uninsured in 1974, the number of "emergencies" treated by private hospitals grew beyond all expectations (Weyland 1996, 96–97).⁸

The promotion of the private health sector was further facilitated by a social security reform introduced in 1977, in which the military separated the pension and the health care components of social security. The National Institute for Medical Assistance in Social Security (Instituto Nacional de Assistência Médica da Previdência Social, INAMPS) was created to coordinate the health care services of the social security system, and this organization instantly became one of the main channels for the transfer of public resources to the private sector.⁹ Above all else, INAMPS institutionalized a high-cost, specialized, curative, hospital-based health care system concentrated in the profitable regions of the country (Arretche 2004, 161; McGuire

⁸ In 1978, the president of INPS recognized that there had been six hundred thousand unnecessary hospitalizations in the four years since emergencies had become covered by the Ministry of Social Insurance and Welfare (Escorel 1999, 55).

⁹ The INAMPS reimbursed doctors on a fee-for-service basis. Because office visits were reimbursed at a lower rate relative to cost than were diagnostic tests and hospital stays, there was an upsurge in hospital stays and unnecessary medical procedures. The INAMPS practice of paying higher fees for cesarean births, for example, led to an estimated 186,000 unnecessary cesarean deliveries in 1979. In 1986, 32% of all births in Brazil, and 64% among high-income groups in São Paulo, were by cesarean section—compared to the 10 to 15% rate recommended by the World Health Organization (McGuire forthcoming, ch. 6).

forthcoming, ch. 6). Since the creation of this new overarching institution superseded and absorbed FUNRURAL, President Ernesto Geisel (1974–1979) passed the reform over the opposition of the organization of agricultural workers (CONTAG) that the government had previously co-opted to administer the rural program.

By the late 1970s, then, despite the integration of the social security institutes and the extension of coverage to a large portion of the population, the institutional conditions were inauspicious for universalization and municipalization. First, as in the United States, a system of national health insurance had not been enacted but a sizeable portion of the population was serviced by the private sector. Second, the first nationalized insurance program, FUNRURAL, reached a substantial portion of the population but it represented less than one-tenth of the social security subsystem – existing as it did alongside the previous industry-based programs for the urban working population. In this sense, it was a “residual” portion of the health care system. Finally, as they expanded coverage to the informal workers and the unemployed and universalized emergency treatment, the military governments made great strides forward in building a private medical industry.

However, as we shall now see, these moves by the military toward integration of the health system and the extension of free coverage to previously peripheral constituencies were consequential to later reform proposals. Moreover, the military regime’s efforts at penetrating society in order to control it paradoxically rendered the authoritarian state more permeable and easier to infiltrate by a reformist movement.

Infiltrating the Authoritarian State: The Sanitarista Movement’s Reorientation of Health Care Reforms

During the military regime, a well-organized and leftist reformist health care movement was able to penetrate the state bureaucracy, build on the reforms introduced by the military, and redirect those reforms toward new objectives. Like the military, the reformist movement promoted integration of the health system and extension of coverage. However, unlike the military, the movement sought to strengthen the public sector and decentralize the delivery of health services to the municipalities. Aided by the federal structure of Brazil’s government, members of this leftist sanitarista movement were able to occupy

key positions in the health sector: in municipal opposition governments, in some national health offices, and in the Panamerican Health Organization (Neto 1997, 63). From those positions, they either built on existing programs or promoted new ones, guided by the movement's ideology, this is to say, by the movement's definitions of public health goals, by their conceptions of bureaucratic and political means, and by their policy agendas. In a sense, the sanitaria movement acted as an "ideological guerrilla," as part of a "subversive elite," "one whose members share[d] beliefs about the nature of politics and economics which differ[ed] from those usually defined as belonging to the [power] elite" (Adler 1986, 704–705).

The sanitaria movement originated in the developmental period of the early 1960s, during the left-leaning government of President Goulart. The movement stressed preventive over curative care and understood health to be a universal human right tied to citizens' socio-economic living conditions. Health, the sanitarias claimed, could not be disentangled from access to decent housing, education, and employment (CEBES 1980; Ministério da Saúde 1986a). Unlike the *sanitarismo campanhista* (the rural sanitaria tradition) of the pre-1930 "Old Republic" (Paiva 2006), the developmentalist sanitaria movement opposed centralization of resources and decision making, and advocated for municipalization of health. Municipalization, the sanitarias argued, would bring basic health care to remote rural areas, where not even the state-level offices reached at the time (Ministério da Saúde 1992 [1963], 187–205; CONASS 2007, 28).¹⁰

¹⁰ In the 3rd National Health Conference of 1963, the representatives of the developmentalist sanitaria movement demanded that health care be devolved to the municipal level and recommended the creation in all the municipalities of a basic sanitary structure that would include water and sewage infrastructure, supervision of food establishments, vaccination against contagious diseases, provision of basic health care, protection of pregnant women and children, sanitary education, and collection of vital statistics (Ministério da Saúde 1992 [1963], 183, 239–240). The municipalization of health demand notwithstanding, the proliferation of municipalities was a concern at that time. The creation of new municipalities responded – apparently – to the electoral incentives of local leaders and to the economic incentives created by Law 395 (July 18, 1948), which distributed the *imposto de rendas* (income tax) in equal parts among all municipalities (Ministério da Saúde 1992 [1963], 179). Thus, according to the Brazilian censuses, the number of municipalities increased from 1,889 municipalities in 1950; to 2,766 in 1960; 3,952 in 1970; 3,991 in 1980; 4,491 in 1991; and 5,507 in 2000.

The military coup against President Goulart in 1964 was clearly a setback for the developmentalist sanitarista movement, which had been close to Goulart's administration. However, even if the institutional and political configuration at the national level doomed any efforts at seeking outright national reform, the sanitaristas continued to pursue their goals at other levels and through alternative channels. For example, a 1968 reform mandating the creation of preventive medicine departments in Brazilian universities opened a door for the institutionalization of the reformist movement (CONASS 2007, 33). Sanitarista doctors taught in these departments and gained organizational strength (Escorel et al. 2005, 63). In 1976, the sanitarista association the Brazilian Center of Health Studies (Centro Brasileiro de Estudos de Saúde, CEBES) was created. In the pages of its influential journal *Saúde em Debate*, CEBES opposed the health policies of the dictatorship (Escorel et al. 2005, 67).¹¹ Similar to the role of the scientific and technological elite that at about the same time was developing a domestic computer industry in Brazil, CEBES "became the home for an ideologically assertive group – a 'guerrilla headquarters' of sorts – that set itself up to sell ideas, raise consciousness, and use political power to achieve its goals" (Adler 1986, 691).¹² In fact, many of the members of the sanitarista movement were militants belonging to the banned Brazilian Communist Party (Neto 1997).

The International Conference on Basic Health Care, organized in 1978 by the World Health Organization in Alma-Ata under the slogan "health for everyone in the year 2000," gave additional strength to the progressive demands of the sanitarista movement (CONASS 2007, 35–38; Weyland 2007). The following year, another influential sanitarista organization, the Brazilian Graduate Association in Public

¹¹ The importance of CEBES has not declined over the years. In a study of the diffusion of the local Family Health Program (*Programa Saúde da Família*) in more than 200 Brazilian municipalities, Sugiyama (2008) finds that affiliation with CEBES led to an increase in the probability of adopting the program.

¹² An important difference between the groups is that whereas the scientific group developing the domestic computer industry was working inside the state, in the Commission for the Coordination of Electronic Processing Activities (CAPRE) in the Ministry of Planning, CEBES was part of civil society. Nonetheless, like the scientists in CAPRE, the health reformists would also penetrate the state and promote progressive health programs. For more information on the fascinating development of the domestic computer industry in Brazil during the years of the military dictatorship, see Adler (1986).

Health (Associação Brasileira de Pós-Graduação em Saúde Coletiva, ABRASCO), was formed.

In the late 1970s, the sanitarista movement had a three-pronged strategy: (1) to produce and disseminate its progressive reform proposals, (2) to occupy positions of power whenever possible, that is, to *infiltrate* the state, and (3) to lobby Congress (Rodríguez Neto et al. 2003, 34–35). In 1979, as a result of the pressure exerted by the sanitarista movement, the Lower Chamber of Congress held Brazil's first symposium on national health policy (Escorel et al. 2005, 71). In a position paper presented at the symposium, the sanitarista association of health studies called for the creation of a decentralized unified health care system (CEBES 1980). The process of political opening at the local and later state levels (Samuels and Abrucio 2000; Falletti 2007) afforded the members of the movement the opportunity to occupy local government positions.¹³ They slowly infiltrated the public bureaucracy from the bottom up.

The Gradual Institutional Evolution of Brazil's Health Care System

Unlike other contemporaneous Marxist or national-populist movements in Latin America, the reformist doctors in Brazil did not conceive the state as a monolithic apparatus that represented solely the interests of the dominant class and that had to be overthrown from the outside. Instead, since the early 1970s, the sanitarista doctors affiliated with the preventive care and communitarian health movement aimed to occupy positions of power in the public health bureaucracy (Escorel 1999, 24). In effect, these doctors sought to exploit the room for maneuver that existed as a result of their ability to exercise discretion from within a bureaucracy not of their own making. From the perspective of the military, the sanitarista movement's proposals of communitarian medicine were inexpensive solutions to the increasing demand for health and sanitation services that the years of the "economic miracle" had generated (Escorel 1999, 23, 29, 49). The bureaucratic-authoritarian regime thus created research and sectoral institutions that emphasized technical knowledge and administrative modernization. Those institutions were soon occupied by members

¹³ Interviews with Luiz Carlos Pelizari Romero (Rio de Janeiro, August 4, 2005) and Gilberto Hochman (Rio de Janeiro, August 15, 2005).

of the sanitarista movement and became the main generators of the health reform proposals to be analyzed here (Escorel 1999, 43–44). In addition, and beginning with the presidency of Geisel, which initiated a process of political liberalization (*abertura*, or “opening”), the Ministry of Health became even more “permeable” to new ideas and actors.

Federalism also facilitated the infiltration of the bureaucracy by health reformist leaders, particularly at the local level. To maintain the appearance of a vertical and horizontal division of power, the military allowed the continuation of some elections. All legislative posts (at the national, state, and municipal levels), for example, were elected. With few exceptions, mayors were also elected, as were state governors, beginning somewhat later, in 1982. Thus, thanks to the vertical division of powers characteristic of the federal arrangement, the opposition won elected posts at the local level first. Elected local officials in turn opened the doors of their municipal secretaries of health to the members of the reformist sanitarista movement. The municipalities of Campinas (São Paulo), Londrina (Paraná), Vale do Jequitinhonha, Montes Claros (both in Minas Gerais), and Niteroi (Rio de Janeiro) experimented with progressive local programs during the 1970s (Cordeiro 2001, 324; Rodriguez Neto et al. 2003, 36, 45).¹⁴ The Montes Claros project, which integrated health services in the north of Minas Gerais, became an important institutional model for a more extensive and ambitious program (for a detailed analysis of the Montes Claros program, see Escorel 1999, 143–154).

In 1976, a group of sanitarista doctors from a prestigious government think tank (Instituto de Planejamento Econômico e Social, IPEA) and the Ministry of Health designed a health program called Program of Internalization of Health and Sanitary Actions (*Programa de Interiorização das Ações de Saúde e Saneamento*, PIASS), which consisted of a network of mini health sanitary stations in localities of low-density population (Tanaka et al. 1992). The network was designed to provide preventive care and sanitation to the population of poor and small towns in the nine states of the Northeast and in Minas Gerais. The program called for the integration of health services at the local

¹⁴ In the case of Niteroi, local officials copied the family health doctor model adopted in Cuba (Weyland 2007). At the time, in fact, it was quite common for sanitarista doctors to travel to Cuba or Italy to study the local community health programs in those nations.

level, under the coordination of the state secretaries of health. Private health providers did not operate in these poor and remote areas, so the private health sector did not oppose the reform. However, because the program would tap into social security resources, the technocrats in the social security national bureaucracy (INAMPS) did oppose it. But Northeast politicians (most of them from the ruling military party) exerted enough pressure on the national government that the program was implemented.

With the governors' support, the new regional program had by 1980 established small health outposts operating in 700 municipalities (56% of the total of the Northeast and Minas Gerais). These clinics served a population of seven to eight million people, about 20 percent of the northeast region's population at the time. In the states of Minas Gerais, Bahia, Pernambuco, Rio Grande do Norte, and Alagoas, the program was operating well. In Ceará and Paraíba, despite its implementation, this basic health and sanitation program had not reached all the necessary localities. Finally, in Maranhão, Piauí, and Sergipe the program was still in an initial phase (Hermógenes de Souza 1980, 84). By 1980 a total of 1,250 health posts (each about 40 square meters in size) had been built in villages with populations of less than 2,000. In towns of up to 6,000 inhabitants, 650 health centers had been built (40 to 150 square meters in size). The health posts and centers were directly connected to higher-complexity medical facilities in the larger nearby state cities or state capitals. The program had a sanitary component, through which 172 systems for provision of water and 22,000 latrines were built. Moreover, PIASS recruited and trained health agents from the targeted regions, most of them young people without formal medical training who would not be prone to professional biases. In the first three years of its operation this program trained 3,700 health agents, eighty percent of whom had only an elementary education.¹⁵

This health and sanitation program (PIASS) had important policy effects for the universalization and municipalization of health care. First, it fostered interministerial coordination. The Ministries of Health, Social Insurance and Welfare, and Interior were all represented in the interministerial executive group, along with a secretary of the

¹⁵ Subsequent successful health programs in the Northeast would have similar practices of personnel recruitment and training (see Tandler 1997, 21–45).

presidency. PIASS was one of the first programs (if not the first) to bring together all these national ministries in a single health program. Second, the program promoted intergovernmental coordination, as the aforementioned national ministries and the state secretaries of health and sanitation were all part of the coordination and supervision group. The financing of the program also connected the national, state-, and local-level governments. PIASS thus constituted the first systematic attempt at vertically coordinating the actions of municipalities, states, and the national government for the staffing, financing, delivery, and supervision of public health services. Third, PIASS strengthened the position of state health secretaries vis-à-vis the once all-mighty representatives of the national social security health bureaucracy. This proved important a few years later, when another decentralization program appealed to the state secretaries of health. Finally, PIASS led to the creation of the National Council of State Secretaries of Health (Conselho Nacional de Secretários de Saúde, CONASS) in February of 1982 (Escorel et al. 2005, 71), just a few months before the first direct gubernatorial elections were scheduled to take place.

The PIASS health and sanitation program and the subsequent proposals to extend public coverage to other regions (such as the program *Prev-Saúde*) were not embraced by all the relevant actors. As it developed, the program encountered increasing opposition in the private sector and in parts of the national bureaucracy (Tanaka et al. 1992, 4; Rodriguez Neto et al. 2003, 37–38), to the point that it could no longer be sustained (Escorel 1999, Escorel et al. 2005, 70–71). Nonetheless, as the financial situation of the social security system worsened, the president commissioned a study for the comprehensive reform of the health care system. In 1982, a national advisory board proposed a plan that combined streamlining and efficiency measures.¹⁶ The program, known as the CONASP Plan after the name of the advisory board, sought greater articulation among the federal, state, and municipal health sectors, along the lines pioneered under the PIASS program (Rodriguez Neto et al. 2003, 44).

A year later, a leader of the sanitaria movement, Eleutério Rodriguez Neto, was appointed director of the Planning Department

¹⁶ The national advisory board was named the Consultant Council of Administration of Social Security Health (Conselho Consultivo de Administração de Saúde Previdenciária, CONASP).

of the national bureaucracy. It was one of the first appointments of a high-level sanitaria doctor to a strategic position in the social security health administration (Rodríguez Neto et al. 2003, 47). Rodríguez Neto used the CONASP Plan as a vehicle to deepen health care reform. Based on that proposal, he advanced a wholesale reorganization of the public and social security health sectors that had a strong decentralizing component. The reform program was called Integrated Health Actions (*Ações Integradas de Saúde*, AIS).

To neutralize internal opposition at the national level, Rodríguez Neto engaged the state secretaries of health. In his own words, he sought to promote “bottom-up” pressures (Rodríguez Neto et al. 2003, 47) – albeit paradoxically, from the top. Thanks to the prior political opening that had started at the municipal and state levels, Rodríguez Neto strategy’s worked: “The greater legitimacy and autonomy of the governments elected in 1982 and in power since May of 1983, especially in the states where the opposition won, gave the [reform] pressures such a strength that it was possible to sign AIS [Integrated Health Actions] agreements ‘in chain.’ Starting with São Paulo, Rio de Janeiro, and Minas Gerais, by May of 1984 all the states had signed, and it was officially recognized that the AIS constituted the federal strategy to restructure the national health policy” (Rodríguez Neto et al. 2003, 47).

The AIS program proved quite effective. It integrated the health services of the Ministry of Health and the Ministry of Education and Culture, and it coordinated the different levels of government in a decentralized administration (Paim 1986, 172; Tanaka et al. 1992, 5). As recalled by José da Silva Guedes, former secretary of health of the city of São Paulo, “The AIS represented an increase of 30% of the secretary budget. It was not earmarked to pay salaries, debt, or new construction. Instead, it was intended to improve and expand the [health care] system. In the city of São Paulo, for example, it allowed for the creation of a third work shift in all the sanitary units and to have general-practice doctors in them” (quoted in CONASS 2007, 53, author’s translation). Rodríguez Neto was removed from his post in 1984, but his removal did not affect the process of decentralization that was already underway. As he said, by 1984 “the AIS were irreversible” (Rodríguez Neto et al. 2003, 48, author’s translation).

After 1985, during the civilian government of José Sarney (1985–1990), the reformist movement occupied more posts in the national

bureaucracy and sought to implement equity-enhancing reforms (Weyland 1996, 159–164). The main opposition to health care reform came from the private sector. Meanwhile, the sanitarias proposed an even more encompassing health reform: the Unified and Decentralized Health System, which was guided by the principles of universal coverage, equity, decentralization, regionalization, articulation of levels of government, and communal participation. This program would transfer authority, resources, and personnel from the social security health bureaucracy to the state and municipal secretaries of health. State and municipal actors would be the main managers of health care. Although the program was never implemented, it was an important antecedent for the implementation of the Single Health System (Sistema Unico de Saúde, SUS) that fully integrated Brazil's public health sector (Cordeiro 2001, 324).

The proposal to create the Single Health System had been drafted at the 8th National Health Conference that met in Brasília in March 1986. The conference was described by President José Sarney as the preconstituent assembly of the health sector (Ministério da Saúde 1986b, 31). More than four thousand people attended, among them one thousand delegates who were equally divided between government and civil society representatives.¹⁷ Among the government delegates, 50% were from the federal level, 22% from the state level, 18% from the municipal level, and 10% from Congress. Of the five hundred civil society delegates, 15% represented the private health sector, 20% belonged to professional health entities, 30% represented unions and urban and rural workers, 10% belonged to dwellers' associations, 20% represented community groups, and 5% were from political parties (Escorel and Bloch 2005, 118). Among the nondelegate participants, there were federal, state, and municipal authorities; health practitioners; health care consumers; and academics. Medical professionals, local health authorities, and left-wing health experts represented the sanitaria movement. The conference was organized into 135 working teams, 37 of which were formed by delegates and the rest by participants (Ministerio da Saúde 1986b, 1). The working teams discussed

¹⁷ For comparison purposes, it is worth noting that the 5th National Health Conference of 1975 counted 217 delegates and 77 nondelegate participants and the 6th Conference had 405 delegates and 29 observers (Ministério da Saúde 1975, 15).

three issues: (1) health as a right, (2) the reformulation of the national health system, and (3) the funding of the health care sector.

By the time this conference was convened, the sanitaria movement had used its position within the existing system both to forge networks across localities and to position itself as a highly credible voice in health care reform. It is thus not surprising that the final conference report expressed the views of the reformist sanitaria movement in every issue. Health was conceived as a right to be guaranteed by the nation-state. The health system had to be public, free, integrated, and decentralized. Popularly elected municipal and state health councils had to be created to facilitate citizens' participation and the implementation and control of health programs. The fiscal strengthening of states and municipalities was demanded, and the decentralization of health care had to target the municipalities (Ministerio da Saúde 1986a; 1986b).¹⁸ This was the template that health reform followed in Brazil from 1988 onwards.

The same networks and expertise also meant that the sanitaria movement emerged as a strong voice with a well-shaped reform proposal in the constitutional convention of 1988 – possibly the best-organized sector (Rodriguez Neto et al. 2003, 48–52). The movement's demand for universal coverage was adopted in the reformed Constitution with the creation of the Single Health System. The demand for a fully public health care system did not succeed owing to the lobbying of the private health sector, thus both public coverage and private coverage were included in the Constitution. Soon after the constitutional reform, the National Council of Municipal Secretaries of Health (Conselho Nacional de Secretarias Municipais de Saúde, CONASEMS) was created. Coordinating the action of subnational authorities, this new council of municipal health authorities worked with the preexisting council of state authorities; together they played an important role in the negotiations over the regulation and implementation of the nation's health system from 1990 onwards. Also stemming from this reform, a process of decentralization of health care was set in motion, such that

¹⁸ According to the annals of the conference, only one mayor, Ubaldo Dantas, of Itabuna, Bahia, expressed any caveats regarding the municipalization proposal. He considered municipalization a possible threat to the integration of the health system (Ministério da Saúde 1986a, 161).

by 2000, 99 percent of the municipalities delivered basic health care services in Brazil.

Conclusion

This chapter explains the remarkable transformation of the Brazilian health care system – from centralized but narrow to decentralized and universalistic. This change did not occur, as was commonly assumed, abruptly, at the moment of democratic transition in Brazil, but unfolded gradually and under the noses of (indeed, within the very infrastructure set up by) the military regime of the 1970s and 1980s. The analysis here calls into question accounts of institutional change that focus too squarely on critical junctures (see also Capoccia and Keleman 2007; Falleti and Lynch 2009), as well as analyses of institutional stasis that place unwarranted emphasis on lock-in effects (see also Thelen 2003; Streeck and Thelen 2005). The study of health care reform in Brazil shows that three main components were necessary to ensure institutional change: subversive actors, infiltration, and expansion.

A well-organized subversive group of health practitioners was essential to bringing about this institutional change. Facing a national context that featured a particularly strong veto player in the authoritarian governments of the day, leftist reformers were nonetheless able to infiltrate a bureaucratic apparatus that had been set up by the military for its own reasons, and use this structure as a platform for introducing more subtle changes on the margins, which pushed the system in directions more consistent with their own ideology and goals. Even if they characterized the state as a capitalist, bourgeois, or authoritarian apparatus, the sanitaristas pursued a strategy of change from *within* the public health institutions, rather than advocating for change from outside the system, as other leftist movements did (Weyland 1995, 1700; Neto 1997, 63). For the sanitarista movement, infiltration was an effective means by which to take advantage of small openings. Those small openings arose first at the local level, where the political opposition was winning mayoral posts, and then at both the territorial periphery of the country and the functional periphery of the health care system, where the power holders were not invested and where local actors could operate beyond the scrutiny of the military.

In fact, it is difficult to determine the extent to which the power holders noticed the ongoing process of infiltration and either tried or cared to reverse it. It appears that the military allowed the process of infiltration by reformists in the health care sector, just as they had in Brazil's technology sector (see Adler 1986). In the Northeast, the reformists' preventive health care plans constituted an inexpensive solution for national health problems. Moreover, by placing the administration of a part of the health system (FUNRURAL) in the hands of the opposition (CONTAG), the military also tried to co-opt mobilized groups and appease social discontent.

Of particular interest in the process of state-society transformation that took place during Brazil's authoritarian period is that the military's intention to penetrate society and extend the nation-state to the territorial periphery made the state bureaucracy more permeable and easier to infiltrate. Like other authoritarian regimes of the right (Bismarck in Germany, for example), the Brazilian military advanced "progressive" social reforms as a means of co-opting and controlling the population and avoiding radicalization. The sanitarista movement seized those opportunities and reoriented the reforms toward new goals.

Brazil's federal institutions aided the sanitarista movement's infiltration in several interrelated ways. First, federalism made local- and state-level public health positions available to the members of the reformist movement, facilitating the reform of the state from the bottom up. Second, and similar to the Canadian case discussed in Hacker (1998, 101), federalism created opportunities for political parties sympathetic to health care reform to gain power at the local and state levels. Governors and mayors thus became potential political allies of the health care reformist movement in the negotiations with the national-level bureaucracy, the national deputies and senators, and the military. Third, federalism allowed for the implementation of innovative programs in politically distinctive and territorially bounded regions and municipalities. Changes in the periphery did not pose a serious threat in the eyes of military rulers and private health providers, whose interests were focused on the hospitals of the Southern region, which constituted the economic core of the health care system. Finally, during both the military and democratic periods in Brazil, federal transfers to states and municipalities were oriented (at least partially) by a criterion of fiscal

equalization among the subnational units.¹⁹ As in Hacker's (1998, 73) analysis of Canada, this feature of Brazilian federalism permitted the poorer subnational units to play a leadership role in health care reforms, a role that their limited fiscal resources would have otherwise precluded.

Expansion was the last crucial element needed to achieve universalization and municipalization. Changes institutionalized in one area of the health care sector prompted changes in other areas, both territorially and functionally. Territorially, health reform programs scaled up from the local to the regional and national levels. Public health reforms first adopted in a few municipalities (Niteroi, Montes Claros, Londrina, etc.) were later implemented in the states of the Northeast and in Minas Gerais. Such programs, in turn, led to other national health reform programs, such as the Integrated Health Actions (AIS). Functionally, changes in one area of the health system prompted changes in other related areas, such as in the case of the expansion from AIS, which coordinated only the Ministries of Health and Education, to the Single Health System, which integrated the whole health system.

In this interpretation of the evolution of the health care sector in Brazil, "choice points," "branching moments," or "critical junctures" have little (if any) relevance in the causal narrative. Although radical changes in the health sector were codified in the Constitution of 1988, they only brought to light changes that had been percolating beneath the surface and been nurtured at the local level for more than a decade. By the time the constitutional conventionalists ruled on health care, the sanitaristas had already established both the networks and the expertise that put them in a position to exercise strong influence, so that the codification and institutionalization of the practices they had perfected over the years of military rule were politically feasible.

A final word is in order regarding the substantive policy outcomes of the institutional reforms analyzed here. The life expectancy of Brazilians increased from 67 to 72 years between 1991 and 2005; infant mortality decreased from 32 to 22 deaths per thousand infants

¹⁹ During the military period, this strategy was pursued for national security reasons (Stepan 1971) and also to build political support for the official ARENA Party in the North and Northeastern regions, which were historic bastions of political conservatism.

between 1997 and 2004; and the number of health care professionals increased from 1.1 to 1.4 per thousand people between 1990 and 2005 (Ministerio da Saúde 2006). Public opinion polls conducted in large cities such as São Paulo and Salvador show that people in the bottom 40 percent of the population – those who rely the most on the public sector for health services – have positive opinions about the current public health system.²⁰ Although Brazil's continental size and immense regional and social inequalities leave statistics based on national averages largely wanting, as McGuire argues in a cross-national study of policy reforms and their impact on health indicators, thanks to health care reforms that “revolutionized social policy in favor of the poor . . . [b]y 2005, Brazil had some of the most well-designed, encompassing, innovative, and pro-poor social policies in Latin America” (forthcoming, ch. 6). It is indeed very likely that universal health coverage and a decentralized structure that is funded with guaranteed federal transfers and that promotes users' participation in health councils are largely responsible for the improvement of Brazil's health outcomes. The evolution of health care reforms in Brazil shows that it is possible to break away, in a gradual and incremental manner, from the historical institutional preconditions that preclude universalization of health. They also appear to indicate that such institutional evolution leads to significantly better public health outcomes.

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²⁰ See the public opinion data in Figueiredo et al. (2005, 135; 2007, 72).

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The Contradictory Potential of Institutions

The Rise and Decline of Land Documentation in Kenya

Ato Kwamena Onoma

I wanted a [land] document because it is like a marriage certificate for a woman. It gives you [the husband] confidence that no one will ever bother you.

An old farmer in Taita Taveta, Kenya, in a 2005 interview with author

[Land titles] are mere pieces of paper.

William ole Ntimama, minister of local government, Kenya, “The Indigenous and the Natives,” *Weekly Review* (Nairobi), July 9, 1993.

Introduction

The gradual decline of institutions that secure property rights presents us with an interesting puzzle. These institutions have a number of features that should display positive-feedback effects and ensure their continued strength. Land documentation systems, which constitute key components of these institutions, can aid informed and well-connected members of society in acquiring swathes of land, giving these actors an incentive to perpetuate such documentation systems (Scott 1998, 48).

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Further, because titles and other forms of land documents and records can help them hold onto their property, we can expect landowners to invest in ensuring the efficacious operation of these systems. Beyond helping resolve issues of ownership, record systems create incentives for their perpetuation by facilitating the productive use of land and the transformation of land rights into capital (de Soto 2000). People involved in these modes of using land thus have an interest in upholding effective record systems. Also, by rendering such exploitation of land more profitable, these institutional arrangements draw new actors to these land uses and so increase the pool of those dedicated to institutional stability. For these reasons, the development of land documentation systems should foster changes that reinforce rather than undermine property rights.

Against this background, the history of the documentation of land rights in Kenya presents a real conundrum. Introduced by the colonial administration in the early 1900s to aid the commercial activities of European settlers, land documentation was later extended to the African population and was warmly embraced and reinforced by the postcolonial government after independence in 1963. But instead of demonstrating the expected trajectory of increasing the stability of institutions that have positive-feedback effects, the practice of title registration gradually eroded and, by 2004, had fallen into disrepute (Kenya 2004, 189). Many have been quick to blame the exogenous shock of multiparty democratization in 1991 for this decline (Klopp 2000, 2002; Kenya 2004, 82).¹ This focus on exogenous shocks is consistent with much of the literature on change in institutions that display positive-feedback effects (Mahoney 2000; Katznelson 2003). If such institutions operate to increase support for their own continued existence, then their decline must be due to factors external to their workings.

Yet this focus on the exogenous shock of redemocratization in Kenya is a mistake. In May 1991, months before the announcement of multiparty democracy in Kenya, the exploitation of documentation

¹ Many policymakers that I interviewed similarly attributed this decline wholly to the redemocratization process of the 1990s. Interviews with an official of the Ministry of Lands in Nairobi (Ken 1), February 14, 2005, and a land control board member in Nyeri District (Ken 18), March 3, 2005.

systems and subsequent cancellation of hundreds of title deeds by Kenya's High Court had led one contributor to the reputable Nairobi newspaper *Weekly Review* to wonder whether the assumption that a title gives one indefeasible rights to property was still true.² Even more important, much of the fraudulent exploitation of land documents and property rights that followed redemocratization mirrored (and maybe even copied) similar activities in the 1970s. So why did this institution, which should display strong positive-feedback effects, change over time?

To answer this question, I highlight the contradictory potential of institutions in explaining gradual change. By the "contradictory potential of institutions" I mean the ability of institutions to simultaneously cultivate and sustain dominant coalitions that support perpetuation of these institutions and to engender marginal groups that thrive on subverting these institutions. These marginal groups take advantage of institutional rules by covertly violating the rules' intended purpose – they are precisely the parasitic variety of "symbionts" to which Mahoney and Thelen refer in the introduction to this volume. In the struggles between institutional backers and parasitic actors, exogenous shocks can play a role, but not always as the sole or even the main causes of institutional change. Exogenous shocks often only exacerbate the existing advantage of one group or trend over others.

The first part of this chapter details the state's attempt to introduce and expand land documentation in Kenya and the positive-feedback effects these efforts had over time. The aggressive efforts of colonial and postcolonial state officials popularized land documents in Kenya (Meek 1949, 93–94; Kenya 2004). But by the late 1990s, following a long process of erosion and drift, the efficacy of land documents had dramatically declined (Kenya 2004, 189). The second part of this empirical section thus details how the system of land documentation contributed over time to its own decline. I locate a significant cause of the decline in the efficacy of land documents in Kenya in the gradual activities of parasitic forces nurtured and sustained by the very system of land documentation that these forces were undermining. The promotion of land documentation in the Kenyan environment produced and empowered a dominant constituency of white settlers

² "What Value a Title Deed?" *Weekly Review* (Nairobi), May 31, 1991.

and new black landed elites who supported land documentation and forcefully advocated the “sanctity of land titles” (Kenya 2004, 16). Vigorous efforts by the colonial and postcolonial state to encourage land documentation created the popular expectation that possession of a particular piece of paper could confer certain rights to a specific land parcel (Kenya 2004, 16). But, at the same time, land documentation fostered the rise of marginal con men dedicated to its exploitation. By cleverly manipulating beliefs about land documentation and the legal instruments that underpinned them, con men, working from the relative safety of their offices, were able to exchange fake land documents for money and thereby defraud people across the country.³

By the 1970s, well-connected politicians, copying the con men, brought the subversive exploitation of land documents closer to the mainstream of Kenya’s political economy. They used land documents to amass and deploy political support. Issuing and selling fake documents became an excellent way of raising cash for electoral campaigns, for buying the support of various individuals and groups, and for dissuading would-be opponents. Supplying land documents to people without actually giving them the land turned out to be an excellent way to get them to attend political rallies. Moreover, by promising land to document holders in various areas of the country, the politicians could change the makeup of electoral constituencies.⁴

This embrace of the fraudulent exploitation of land documentation by politicians compromised the *willingness* of the state to crack down on this activity. Thus the problem was not just one of weak state capacity. Nor was it that the system of land documentation was not well-established in the first place. The problem was that as people close to the state adopted the con men’s techniques, state agencies became increasingly less willing to use their powers to stop the fraudulent exploitation of land documentation by these people. The activities

³ Letter from the district commissioner, Kwale, to the district officer of the Coast Division, Kwale, April 4, 1968, Kenya National Archives (hereafter KNA) CC/12/47; letter from J. M. Masesi of Garissa to the minister for lands and settlement, June 25, 1968, KNA CC/12/47; and letter from the managing director of the Kenya Express Land and Estate Agent to Mr. James Crispus, April 5, 1968, KNA CC/12/47.

⁴ “Vanity Shares,” *Weekly Review* (Nairobi), June 20, 1980; “Bogus Companies,” *Weekly Review* (Nairobi), May 23, 1980; and “Ngwataniro at Crossroads as Internal Problems Surface,” *Weekly Review* (Nairobi), December 12, 1977.

of politically well-connected land-buying company executives underpinned a process of gradual institutional drift. State leaders failed to adequately shore up the institutions threatened by the widespread parasitic activity. When senior state leaders embraced similar activities after the exogenous shock of redemocratization in the 1990s, it only furthered a process that was already undermining the efficacy of the land document system in Kenya.

The conclusion of this chapter examines the implications of the contradictory potential of institutions for the literature on the political economy of Kenya, as well as on institutional change and stability more generally. As is clear from the analysis here, the extreme emphasis on exogenous shocks such as redemocratization to explain change in institutions that display positive-feedback effects is mistaken and overlooks endogenous processes that drive change over time. Given the constant possibilities for change that the contradictory potential of institutions allows, the excessive focus on so-called critical junctures in the study of institutional change also needs further appraisal. There are more openings for and processes of change than such accounts, steeped in the punctuated equilibrium model of change, permit.

The Contradictory Potential of Institutions

Streeck and Thelen (2005, 1–2) point out that a dominant strain of research on change in institutions that display positive-feedback effects emphasizes the consequences of sudden discontinuous changes sparked by exogenous shocks. Such institutions are said to be characterized by strong periods of stability produced by their positive-feedback effects (Mahoney 2000; Pierson 2000). These periods of stability are punctuated by disruptive moments of change – critical junctures – when exogenous shocks break down the institutions, creating episodes of contingency that allow agents to choose between alternatives (Pierson 2004, 144). This emphasis on exogenous sources of institutional change is grounded in an understanding of institutions as unambiguous entities that structure behavior in coherent and uniform ways (Arthur 1994; North 1990, 94; Pierson 2000, 76–77). They are said to exert what Schneiberg (2005, 103), in critical mode, has called “isomorphic pressures” on agents through incentives and distributional consequences that create and reinforce constituencies dedicated

to the survival of these institutions, and that shrink and raise the costs to those who might be interested in institutional change.⁵

A small but growing body of work has raised the possibility of gradual instead of abrupt change, and has suggested that endogenous factors might play a significant role in generating change in institutions with positive-feedback effects (DiMaggio 1988, 13; Greif and Laitin 2004, 634; Thelen 2004; Schneiberg 2005, 128; Streeck and Thelen 2005; Schneiberg and Clemens 2006, 218). Such analyses are partly grounded in an understanding of institutions as ambiguous entities (see Comaroff 1980, 107; Thelen 2000, 105; Ngugi 2004, 472; Jackson 2005, 229). One dimension of the ambiguity of institutions is that institutional forms do not necessarily dictate specific functions and render all other functions impossible (Thelen 2000, 105). As Thelen (2000, 105) has pointed out, an institution's role can change over time as new interests come into power or as the environment facing old interests is altered.

I take this line of argumentation a step further by pointing out that self-reinforcing institutions can contain internal contradictions that offer the potential for change. Institutions can engender and sustain dominant constituencies who support their continued existence and *simultaneously* foster parasitic groups that thrive on exploiting them in ways that may ultimately contribute to the institutions' decline. This view draws insights from but also shifts away from the idea of "temporal segregation"⁶ found in works that subscribe to what DiMaggio (1988, 13) calls the "internal logic of contradiction" in the process of institutionalization (Barley and Kunda 1992, 386; Schneiberg 2005, 106). According to this idea, the factors that are responsible for an institution's rise at time 1 then contribute to its decline at time 2. Here, however, I show that some of the very things about institutions that produce dominant coalitions invested in their perpetuation also concurrently create and sustain subordinate parasitic groups whose activities subvert the institutions. The coexistence of these forces makes an institution, even at the height of its influence, subject to contention and exploitation by subversive groups.

⁵ Leblebici et al. (1991, 336) and Thelen (1999, 392–396) point out this same portrayal of how institutions work.

⁶ I am using a term that Stephen Barley and Gideon Kunda (1992, 386) borrow from David Maybury-Lewis (1989).

Institutions with positive-feedback effects create stable expectations and material conditions that, ironically, can engender their own subversion by groups that exploit these beliefs. These groups rely on others to play by rules that they themselves ignore. Many institutions, including property rights systems, work by creating certain expectations in the minds of agents about the meanings and implications of specific acts and symbols. Thus the success of an institution depends on and can be measured by how tenaciously people hold onto the expectations that the institution engenders. For instance, a system of land title registration succeeds to the extent that it leads parties to believe that various documents represent rights to pieces of land. These beliefs and expectations enable titling systems to facilitate market transactions involving land. However, some of these same expectations can also make it easier for parasitic agents to feed on institutions in ways that undermine their overall efficacy and strength. In Brazil, for example, con men exploited the trust of American and European environmentalists and sold the foreigners worthless “titles” to state-owned land in the Amazon. One particularly successful con man was able to sell “titles” to an area the size of Ireland.⁷

The workings of a self-reinforcing institution can also create material conditions whose exploitation by parasitic actors causes the institution to drift from its intended purpose. Institutions may, for example, restrict the supply of a good or suppress competition for certain goods. When this occurs, opportunities for parasitic activity may result. For instance, by suppressing suppliers of alcohol, Prohibition in the United States created highly profitable opportunities for bootleggers. Whereas the bootleggers embraced Prohibition because of the high profit margins it gave them, their activities subverted the effort to prevent the consumption of alcohol – the main point of Prohibition.⁸

This perspective calls on us to move beyond the prevalent view that institutional failure occurs only because some actors who are disadvantaged by or who detest particular institutions set out to destroy them (Thelen 2000, 107; Schneiberg 2005, 120–121; Schneiberg and

⁷ “Brazil Hunts Amazon Land Thief,” *BBC News*, January 9, 2001, <http://news.bbc.co.uk/2/hi/americas/1107272.stm> (accessed June 12, 2007).

⁸ Yandle (1983) sheds light on these situations where “bootleggers” and “Baptists” coincide in their support for institutions even though their attitudes toward the ultimate goals of those institutions are opposed to each other.

Clemens 2006, 218). For instance, in noting how institutions can contribute to their own demise, Clemens (1993, 757) points to the way in which self-reinforcing institutions with distributional consequences create grievances through the same exclusionary features that attract “winners” invested in perpetuating these institutions. But I make the point here that change can also be unwittingly brought about by symbionts of the parasitic variety. These are agents who harbor no grievances toward the institutions they are involved with. In fact, they depend on these institutions for their survival and so embrace them. Yet despite their need for these institutions, their parasitic activities can, over time and cumulatively, end up ruining the health of their hosts. The efforts of some con men to prevent others from engaging in similar con games can be understood in this light. Although themselves engaged in rackets that exploit certain institutions, they seek to maintain the health of those institutions by keeping others from similarly feeding on them.

Recognizing the contradictory potential of institutions allows us to explore ways in which such endogenous processes highlighted above and exogenous factors collaborate to engender and shape institutional change (Streeck and Thelen 2005, 22). While self-reinforcing institutions may simultaneously foster parasitic groups that gradually undermine them, these groups may have only a limited capacity to inflict damage. These agents may be only marginal actors innovating with institutional forms and operational logics on the periphery. Exogenous changes that impact the distribution of preferences and power in favor of these agents, however, can aid in bringing formerly marginal forms and logics from the periphery to the center (Streeck and Thelen 2005, 22). Such exogenous shocks could be shifts in the political environment that encourage members of dominant groups to adjust their preferences in ways that bring them in line with those of parasitic groups. These more powerful actors can then bring their power to bear against the institutional system.

Alternatively, shocks such as defeats in major elections could erode the power of dominant groups, allowing parasitic forces to take over and fundamentally undermine institutions. As can happen in cases of parasitic behavior, the very success of the parasitic agents can lead to a total institutional collapse that eliminates the agents’ own host institutions. For instance, where con men gain unhindered freedom to

exploit land documentation, popular belief in the efficacy of land documents will drastically decline over time, eventually making it almost impossible for the con men to profit from the fraudulent deployment of these documents and resulting in a sort of “tragedy of the con men,” as Dan Slater has termed it.⁹

The Establishment of Land Documentation in Kenya

By land documentation, I refer to a system by which information about the locations, dimensions, and various rights to parcels of land are noted in record systems in documents issued to relevant parties. Land documents in Kenya encompass titles, letters of allotment, and letters of offer issued by the Ministry of Lands (Kenya 2004, 13), as well as share certificates issued by private land-buying companies.¹⁰ I adopt this broad definition, which goes beyond land title deeds, in part because people employ many forms of documents as indicators of their right to land (Kenya 2004, 12–13).

In Kenya, land documentation started as a primary means through which the British colonial administration sought to attract European settlers to the country.¹¹ To facilitate the subjugation of Kenya following the declaration of the Protectorate of East Africa in 1895, the British East Africa Company and colonial administrators moved aggressively to encourage European settlement and agriculture (Arnold 1974, 54; Hazlewood 1979, 1; Berman and Lonsdale 1992, 335). The resulting expropriation of land from Africans caused massive landlessness and land hunger among Africans.

The reasons given for documenting the land rights of Europeans in Kenya resembled contemporary arguments supporting title registration and property rights security. European farmers had to have secure property rights to persuade them to invest in agriculture and to facilitate their use of their land rights as collateral for loans (Kenya 1941, 1–3). As a result, settlers’ organizations like the Settlement Committee, the Convention of Associations, and the Nairobi Chamber of

⁹ Comments by Dan Slater on an earlier draft of this paper at the Workshop on Historical Institutionalism at Northwestern University, October 26–27, 2007.

¹⁰ “Vanity Shares,” *Weekly Review* (Nairobi), June 20, 1980.

¹¹ This was in addition to the subsidization of European settlers with heavy taxes levied on Africans. See Leys (1931).

Commerce all lobbied the authorities for a land documentation system (Kenya 1941, 1–13).

Ultimately, the East African (Lands) Order in Council (1901), the Crown Lands Ordinance (1902 and 1915), and the Land Titles Ordinance (1908) were passed to provide for the registration of documents for lands seized from Africans for exclusive European use (Kenya 2002, 21–23). In addition, the colonial administration created survey departments, registries, and assorted boards to govern land transactions. By 1919 the colonial government was recording land titles and granting them to Europeans on a large scale (Meek 1949, 93–94).

Africans were initially excluded from these efforts at documentation. However, at the height of the Mau Mau liberation war (1952–1960), the Swynnerton Plan of 1954 extended land documentation to the Native Reserves, where Africans were allowed to possess land (Atieno-Odhiambo 2002, 238). An honest and perceptive colonial official portrayed the Swynnerton Plan as a counterinsurgency weapon aimed at creating a new Kenyan, who will “become the anchor of the tribe, the solid yeoman farmer, the land owner who knows that he has too much to lose if he flirts, however lightly, with the passions of his nationalistic friends” (quoted in Branch 2006, 28).

At independence in 1963, Jomo Kenyatta’s postcolonial government (1963–1978) warmly embraced and promoted land documentation (Kenya 1966). Laws such as the Land Adjudication Act (Cap 284), the Land Consolidation Act (Cap 283), the Land (Group Representatives) Act (Cap 287), and the Registered Land Act (Cap 300) ensured the continuation of documentation. The Land Adjudication and Settlement Department continued to register titles for land parcels in trust land areas.¹² Records were strictly kept for plots in the state’s settlement schemes, including the Million Acre, Z-Scheme, Shirika, and Haraka schemes, which settled more than two hundred thousand families on approximately three million acres by 2005.¹³ In many

¹² Interview with an official of the Ministry of Lands and Settlement, Nairobi (Ken 5), February 18, 2005; and “Recent Land Reforms in Kenya” (paper given by the Kenya delegate at the Seminar on Land Law Reforms in East Africa, June 4, 1968, p. 10), Kenya National Archives (KNA), BN/81/87.

¹³ Interview with an official of the Ministry of Lands and Housing, Nairobi, (Ken 29), March 15, 2005.

districts, land registries were created to facilitate the registration of land rights.

By the late 1960s, land documents had become a common part of Kenyan life (Kenya 1966). A total of 3.1 million titles had been issued by 1999,¹⁴ and the use of land documents in financial transactions was pervasive (Kenya 2004, 65). Banks that granted loans for the acquisition and operation of agricultural, real estate, and tourism concerns accepted titles to properties as collateral (Wanjohi 1985, 13; Kenya 2004, 65).¹⁵

The Positive-Feedback Effects of Land Documentation

Land documentation systems often have positive-feedback effects by virtue of their ability to distribute land in certain ways and make certain modes of using land easier and more profitable (de Soto 2000, 6–7; World Bank 2002, 4–8; Ngugi 2004, 477). Beneficiaries can transform some of their economic benefits into political instruments to reinforce the structure and integrity of land documentation. Land documentation within the context of land hunger and landlessness in Kenya had such positive-feedback effects. It gained the support of many Kenyans with large landholdings by reducing threats to their new holdings posed by rival claimants (Ngugi 2004, 502). This protection was critical.

¹⁴ “How To Get Out of the Quagmire,” *East African Standard* (Nairobi), March 11, 2002.

¹⁵ This urge to use titles to get loans from the Agricultural Finance Corporation (AFC) and other financial institutions was a big part of what motivated many community leaders to ask the state to carry out land documentation in their area. See letter from Chief Zephaniah Malit of East Karachuonyo to the assistant land adjudication officer of South Nyanza, September 8, 1968. The chief was asking for adjudication and documentation in the area to allow people to use their title deeds to get AFC loans. See KNA BV/156/2. Also, interview with a farmer and member of a group ranch in Taita Taveta, (Ken 62), May 12, 2005; and “Back to Square 1,” *Weekly Review* (Nairobi), May 20, 1981. Also see “Kenyan Ministers” Row Over ‘Grabbed’ Forest Land Deepens Divisions in Narc,” *The East African* (Nairobi), April 4, 2005; and “Kenya Starts Process To Cancel 12,000 Title Deeds,” *The East African* (Nairobi), February 28, 2005. These stories reported the concern of the Kenya Bankers’ Association over threats by the government to cancel titles because of the monies they had lent out on titles. Also see comments by Joseph Wanyela, chairperson of the Kenya Bankers’ Association, in “How Should the Ndung’u Report Recommendations Be Implemented? What Kenyans Say,” *Land Update* 3(4) October–December 2004. Nakuru: Kenya Land Alliance. http://www.oxfam.org.uk/resources/learning/landrights/downloads/kla_land_update3_4.pdf (accessed May 8, 2009).

Many large estates, such as the Taveta Sisal Estate of Basil Criticos and the Ziwani Estate of the Kenyatta family, existed side by side with large populations of squatters. As they sought to keep out squatters, who often had strong historical claims to the land parcels (Ngugi 2004, 502), the owners of these estates quickly adopted the “sanctity of land titles” language first used by European settlers.

Land registration in Kenya, like that in many other places, also acted as a cover beneath which the well-connected and knowledgeable could redistribute land in their own favor. Their education and their positions within the state machinery gave them a deep understanding of land administration procedures, as well as the ability to take advantage of these procedures.¹⁶ Many bureaucrats and politicians registered titles to pieces of land that the state had procured for settling poor Kenyans, using the guarantee of the security offered by the titles to shield themselves from challenges.¹⁷ They also exploited land documentation to acquire huge commercial concerns. The family of Kenya’s first president, Jomo Kenyatta, acquired, among other properties, the Gicheha Farms in Kiambu District¹⁸ and the Ziwani Estate in Taita Taveta District,¹⁹ properties that covered tens of thousands of acres. Kenya’s second president, Daniel arap Moi, acquired, among others, Kabarak Farm in Nakuru District²⁰ and Ziwa Farm in Uasin Gishu District.²¹

The ease with which land titles could be procured throughout the country meant that many Kenyans could use their land as collateral for loans from the Agricultural Finance Corporation (AFC), the Settlement

¹⁶ “Moi Suspends Land Allocations, Raises Hopes About Land Reform,” *Weekly Review* (Nairobi), September 22, 1978.

¹⁷ “No Cheer,” *Weekly Review* (Nairobi), August 7, 1981; and letter from J. H. Angaine, minister for lands and settlement, to the director of settlement, January 7, 1975, KNA BN/81/135.

¹⁸ “Land: Who Owns Kenya?” *East African Standard* (Nairobi), October 1, 2004.

¹⁹ “Land: Who Owns Kenya?” *East African Standard* (Nairobi), October 1, 2004; and interview with an official of one of the land administration agencies in Taita-Taveta District (Ken 63), May 13, 2005.

²⁰ “Land: Who Owns Kenya?” *East African Standard* (Nairobi), October 1, 2004; “A Choice of Seven Grand Homes: Which Will Moi Opt For?” *Daily Nation* (Nairobi), January 28, 2002; and “Six Cows Stolen from Moi’s Farm,” *East African Standard* (Nairobi), June 4, 2005.

²¹ Interview with a divisional officer in Uasin Gishu District (Ken 35), April 21, 2005; and “A Choice of Seven Grand Homes: Which Will Moi Opt For?” *Daily Nation* (Nairobi), January 28, 2002.

Fund Trustees (SFT), and various private institutions (Wanjohi 1985, 13).²² The banks and financial institutions involved in such borrowing also became big supporters of land documentation.²³

Land documentation produced and empowered significant constituencies that were dedicated to its continuance (Ngugi 2004, 502). Defending the sanctity of land titles spread from its initial base within the European settler community to the black Kenyan community (Kenya 2004, 16; Ngugi 2004, 502; Branch 2006, 28). The African delegates to the Lancaster House Conferences, where independence was negotiated, accepted the “sanctity of private property,” and Kenyatta himself went to the European redoubt of Nakuru to assure the settlers there that the state would respect land titles and would not expropriate property (Arnold 1974, 65). These moves were unsurprising. Representatives from the crucial Central Province who had been elected in 1957 and 1958 had depended on electoral support from African yeomen advocates of private property who had just received “newly issued land titles” (Branch 2006, 43). Over time, these supporters would try to stamp “an imprimatur of legal invincibility” on land title deeds (Kenya 2004, 16). Yet the development of this dominant constituency of black and white elites and commoners in support of efficacious land documentation went hand in hand with the development of a marginal constituency that thrived on the subversion of land documentation.

The Parasitic Exploitation of Land Documentation:

Peripheral Innovators

Land documentation, while displaying positive-feedback effects, also created opportunities for its own subversion by parasitic elements. Kenya’s colonial and postcolonial governments succeeded in creating exploitable expectations through their introduction and promotion of land documentation. Parasitic elements whose activities ultimately

²² “Fifteen Years of Land Settlement,” *Weekly Review* (Nairobi), October 20, 1978; and “No Hanging On, Moi Tells Land Companies,” *Weekly Review* (Nairobi), April 4, 1985. In fact, this urge to use titles to get loans from the AFC and other financial institutions was a big part of what motivated many community leaders to ask the state to carry out land documentation in their area. See note 15.

²³ “How Should the Ndung’u Report Recommendations Be Implemented? What Kenyans Say,” *Land Update*, Nakuru (Kenya): Kenya Land Alliance. October–December 2004 (p. 13). Also see (Kenya 2004, 66).

undermined the system of land documentation embraced these opportunities with zest and inventiveness.²⁴ As often occurs with innovation in the face of dominant institutions (see Leblebici et al. 1991, 345),²⁵ marginal actors operating at the periphery took the lead in introducing an alternative logic into the structure of land documentation. Already by 1968, we find state authorities in communication about the activities of petty fraudsters who, taking advantage of widespread belief in the efficacy of land titles, were selling worthless pieces of paper to land-hungry Kenyans.²⁶ These minor con men, lacking political clout, were bent on accessing some of the benefits of the dynamic land market of the 1960s and 1970s. In one example, in 1970, a con man fooled a certain Kariuki into buying “title” to two hundred acres of land in Lunga Lunga Location; the land, however, turned out to be Crown Land to which the seller had had no right.²⁷ The District Commissioner of Kwale was to tell Kinuthia later that “the legality of the written agreement between you and the seller is very questionable.”²⁸ In another example, three men sold some Kamba people land that turned out to be Trust Land belonging to Shimba North Location.²⁹ The proliferation of fraudulent sales in Kwale led the district commissioner to request assistance from local chiefs in combatting the practice.³⁰

²⁴ Ngugi (2004, 472) also argues that land registration in Kenya faced significant opposition. But his argument concerns how various social actors sought to blunt some of the implications of land registration that posed major challenges to existing social arrangements. As he points out, “These social sectors refused to accept all the implications of registration, such as near-absolute powers of the individually registered owner. They organized, invented and mobilized customary norms to frustrate complete operation of the new formal regime of tenure arrangements.”

²⁵ See the interesting work of Leblebici et al. (1991, 345) on how alternative logics and structures are first innovated at the periphery and gradually seep into the center.

²⁶ Letter from the chief of Chimba North Location to the district commissioner of Kwale discussing the illegal sale of state land by con men in Msulwa, October 18, 1968, p. 277, KNA CC/12/47; letter from J. C. Kariuki to the district commissioner of Kwale concerning 200 acres of land, May 29, 1970, KNA CC/12/47; and letter from the district commissioner of Kwale to the district officer of the Coast Division, Kwale, April 4, 1968, KNA CC/12/47.

²⁷ Letter from J. C. Kariuki to the Ministry of Lands and Settlement, May 15, 1970, KNA CC/12/47.

²⁸ Letter from the District Commissioner of Kwale to Mr. Kariuki if Mariakani, May 29, 1970, KNA CC/12/47.

²⁹ “Msulwa Report,” by the Shimba North Location chief to the district commissioner, Kwale, October 18, 1968, KNA CC/12/47.

³⁰ Letter from the district commissioner, Kwale, to the district officer of the Coast Division, Kwale, April 4, 1968, KNA CC/12/47.

Eventually, these institutional entrepreneurs began to invent more complex schemes to exploit the credulity created by land documentation. The “company” that called itself the Kenya Express Land and Estate Agent was a sophisticated example of this trend. With an eye-catching name and a postal address in Nairobi it set about its business of harvesting the fruits of Kenyans’ belief in the validity of land documents. It placed at least two advertisements in the influential *Taifa Leo* newspaper (March 23 and April 5, 1968) offering to sell fifty-acre parcels of land in Kwale District.³¹ The ads invited people to bring or send in the 1,170 shillings for the land, a 20-shilling registration fee, a 2-shilling stamp fee, and a 200-shilling agent fee “in one lump sum – no installment.”³² Their letter of April 5, 1968, to one customer prominently noted that buyers will be issued with “Title-deed[s].”³³ When a would-be buyer in Garissa inquired about visiting Kwale to see the plots he was informed that “owing to unforeseen circumstances the land in question is not yet available and therefore it will be a waste of time for you to come to Nairobi. We will inform you in the future if it will be necessary for you to come.”³⁴ At other times company employees passed themselves off as the agents of the “Local government of Kwale.”³⁵ At least a few victims and would-be victims wrote to officials, including the district commissioner of Kwale and the Kenyan minister of lands and settlement, inquiring or complaining about this company. In response to all inquiries, the district commissioner’s representative wrote: “There are no 50 acre plots being sold in Kwale at all. Watch out for rogues who go around deceiving people that they have lands to sell.”³⁶

These subversive institutional innovations by shady “land merchants” on the periphery would gradually move closer to the

³¹ Letter from J. M. Masesi of Garissa to the minister for lands and settlement, June 25, 1968, KNA CC/12/47.

³² Letter from J. M. Masesi of Garissa to the minister for lands and settlement, June 25, 1968, KNA CC/12/47.

³³ Letter from the managing director of the Kenya Express Land and Estate Agent to Mr. James Crispus, April 5, 1968, KNA CC/12/47.

³⁴ Letter from J. M. Masesi of Garissa to the minister for lands and settlement, June 25, 1968, KNA CC/12/47.

³⁵ Letter from Kinuthia Njoroge to the district commissioner of Kwale, May 4, 1968, KNA CC/12/47.

³⁶ Letter from the district commissioner of Kwale to J. K. Ithagu, May 4, 1968, KNA CC/12/47.

mainstream of institutional practice after they were adopted by wily and politically ambitious land-buying company executives in the 1970s.

Refining and Exporting Technologies

Institutional innovations by marginal actors do not necessarily become dominant. How did the institutional logics and forms invented by uninfluential crooks move from the margins, where they were deliberately hidden from the glare of the law, to the mainstream of Kenya's political economy? An important step in the migration of institutional innovations from the periphery to the mainstream is often the adaptation of these institutional forms by actors with more clout who are trying to solve new problems. These actors, who have the power to avoid punishment by state authorities, can shield new institutional logics and forms from attack in a way that marginal actors cannot. The aura of impunity that surrounds the behavior of these influential actors then encourages imitation by others. In the 1970s in Kenya, powerful, politically ambitious land-buying company (LBC) executives in Central and Rift Valley provinces played this critical role.

The leading LBC executives had little to do with small-time crooks even as they adapted the crooks' fraudulent logics. Because of the executives' political ambitions they found the economic exploitation of land documents useful, but they needed to maximize its political effectiveness. To this end, once they had gotten Kenyans to purchase land documents, they impressed on the buyers that the documents' worth depended on the new owners' "correct" political behavior. In effect, the LBC executives removed the guarantee of rights inherent in various land documents and the administrative institutions that supported them, and transferred it to themselves. This gave the executives the benefit of monies and support that people had already tendered for the papers. It also had the advantage for politicians of transforming people who held land documents into captive populations who had to obey the politicians over the long term so that the rights promised by the land documents could be actualized and protected.

The evolution of LBCs in Kenya represents an interesting case of what Hacker (2005) and Streeck and Thelen (2005) have called institutional "drift." LBCs are registered under the Companies Act (Cap 486). Departing white settlers often sought to sell their farms in large

chunks, and poor peasants, many of whom had been rendered landless by massive seizures of land for exclusive European use, could not afford to enter the land market as individuals. Land-buying companies were devised as a way for people to pool their resources by buying shares in a company. Revenues from the sale of shares could then be used by the company to purchase farms that would be subdivided among shareholders according to the number of shares they held (Wanjohi 1985, 13; Kenya 2002, 38). LBCs had tremendous success in enabling many poor Kenyans to pool their money and acquire land in the 1960s.³⁷ It is this success that explains why people were subsequently willing to buy into the schemes of crooked executives.

This institutional structure of the land-buying company was in the 1970s taken over by fraudsters and politicians and used for political ends through the systematic subversion of land documentation. In Kenya, many parliamentarians and aspiring parliamentarians formed LBCs. Thus, Ngengi Muigai, MP for Gatundu, formed the Gatundu Development Company³⁸ John Michuki, who wished to be the MP for Kangema, formed the Kangema Farlands Company.³⁹ George Mwicigi, the assistant minister for agriculture and livestock development, formed the Kandara Investment Company.⁴⁰ Waruru Kanja, Nyeri MP and assistant minister for local government and urban development, formed Burguret Arimi Limited.⁴¹ Kihika Kimani, who aspired to be MP for Nakuru, formed the notorious Ngwataniro Land Buying Company. There were some 320 and 700 LBCs in the provinces of the Central Valley and the Rift Valley, respectively, by the late 1970s.⁴² Kihika Kimani's Ngwataniro LBC alone was estimated to have as many as 30,000 members in 1979;⁴³ the Uiguano wa Mumbi

³⁷ "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980, and "Ultimatum: Directors Told To End Land Problems," *Weekly Review* (Nairobi), August 29, 1980.

³⁸ "Land Issue," *Weekly Review* (Nairobi), May 9, 1980, and "Opting Out," *Weekly Review* (Nairobi), March 26, 1980.

³⁹ "Michuki Takes the Plunge," *Weekly Review* (Nairobi), May 4, 1979.

⁴⁰ "Mwicigi Resigns," *Weekly Review* (Nairobi), January 25, 1985.

⁴¹ "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980.

⁴² "No Hanging On, Moi Tells Land Companies," *Weekly Review* (Nairobi), April 4, 1986; "Act Two: Nyeri Land Squabbles Continue," *Weekly Review* (Nairobi), September 5, 1980; "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980.

⁴³ "Shocking Revelations: Company Allegedly Lost Millions Of Shillings," *Weekly Review* (Nairobi), March 30, 1979.

Company was thought to have 3,604 members;⁴⁴ and Ngengi Muigai's Gatundu Development Company had around 23,000 members.⁴⁵

Land-buying company executives sold "vanity shares" to amass money for political campaigns.⁴⁶ They used the money to influence attendance at political rallies and how and where people voted.⁴⁷ "Vanity shares" were share certificates that were supposed to but that did not actually give people access to land. Shareholders sometimes found that their access to land depended not on their owning share certificates, but on their performance of services, such as rendering political support to LBC executives. The existence of "vanity shares" led to widespread doubts about the legitimacy of LBC share certificates. In 1980, 30,032 people registered with the district commissioner of Nyeri alone, claiming that they had been defrauded by LBC executives.⁴⁸ Of seventy-three known LBCs in Nyeri District in 1980, the directors of forty-one were under investigation for fraudulent activities. The heads of the other thirty-two had simply disappeared, leaving little evidence of their companies' activities beyond the irate peasants they had defrauded.⁴⁹

LBCs were transformed into excellent instruments for raising money for political action. Share certificates were issued for which there were no corresponding land parcels, providing company executives with money for their political activities but leaving purchasers with worthless documents. In 1980, 1,370 shareholders in Burguret Arimi, the LBC headed by Waruru Kanja, complained to the Nyeri district commissioner. They had purchased shares in the company but had received no lands for their shares.⁵⁰ The mammoth Gatarakwa Farming Company, headed by the powerful Ndungu Gicheru, a freedom

⁴⁴ "Land Ultimatum: Directors Told To End Land Problems," *Weekly Review* (Nairobi), August 29, 1980.

⁴⁵ "Land Issue: Shareholders' Patience Running Out," *Weekly Review* (Nairobi), May 9, 1980.

⁴⁶ "Vanity Shares" was the title of a story in the *Weekly Review* (Nairobi), June 20, 1980.

⁴⁷ "Campaign Against JM Rumors," *Weekly Review* (Nairobi), May 5, 1975, and "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980.

⁴⁸ "Vanity Shares," *Weekly Review* (Nairobi), June 20, 1980.

⁴⁹ "Act Two: Nyeri Land Squabbles Continue," *Weekly Review* (Nairobi), September 5, 1980.

⁵⁰ "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980.

fighter during the Mau Mau liberation war, produced even more landless shareholders. Only a third of the company's 6,000 members had received their plots by May 1980. The rest crowded the office of the Nyeri district commissioner to complain about their worthless share certificates. More than a thousand shareholders in Weru-ini Land Limited, a company headed by the governor of the Central Bank of Kenya, Duncan Ndegwa, similarly trooped to the district commissioner's office to complain about not receiving the land presumably guaranteed by their share certificates.⁵¹ Some LBC executives put the same plot number on multiple ballots, which led to more than one person's drawing "rights" to the same piece of land.⁵² About 300 members of the Githunguri Constituency Ranching Company actually got land title deeds from their executives but found no corresponding lands. Another 3,250 company members received neither titles nor land parcels.⁵³ Most shareholders in LBCs in the 1970s eventually came to the same painful conclusion pithily expressed by Mzee Mathenge, a victim of the Ngwataniro LBC: "The land just was not there."⁵⁴

The fortunate few shareholders and titleholders who actually got land often soon realized that their troubles were not over. In many cases, avaricious company directors, eager to profit one more time before they relinquished actual land, used the titles to shareholders' land as collateral for massive loans that they made no efforts to repay. As a result, the few lucky people who had gotten those parcels discovered that they had to repay those loans to avoid foreclosure by the bank. In essence, they had to pay for the land twice to avoid losing it. Members of the Ngwataniro LBC, however, did not lose their newly acquired plots to the banks that held the titles as collateral, thanks to President Moi's intervention on their behalf.⁵⁵

Allegations that some of the proceeds from these fraudulent activities had been used "in the last two parliamentary and civic elections"

⁵¹ "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980.

⁵² Interview with three land control board members and former shareholders in LBCs in Nyeri District (Ken 26), March 9, 2005.

⁵³ "No Hanging On, Moi Tells Land Buying Companies," *Weekly Review* (Nairobi), April 4, 1986.

⁵⁴ "Vanity Shares," *Weekly Review* (Nairobi), June 20, 1980.

⁵⁵ "No Hanging On, Moi Tells Land Buying Companies," *Weekly Review* (Nairobi), April 4, 1986.

were widespread.⁵⁶ Given the involvement of many LBC executives in local and national politics these allegations were not surprising. LBCs had become cash cows for politicians seeking to acquire or maintain positions in the ruling Kenya African National Union's (KANU) competitive one-party system.

But the political uses of LBCs went beyond the companies' serving as a reliable source of cash for aspiring politicians. LBCs became instruments for holding shareholders as political captives who could be manipulated in various ways. The idea was to collect payment from shareholders but delay the distribution of share certificates or titles or both, as well as the land parcels that were supposedly guaranteed by these documents. Politicians could then use the undistributed certificates, titles, and parcels as bait to get people to attend rallies and to vote in certain ways. The case of John Michuki is particularly instructive here. When the former head of the Kenya Commercial Bank decided to contest the Kangema parliamentary seat in 1979, he called a meeting of his Kangema Farlands Company to discuss share certificates. But when members of the six thousand-member-strong LBC gathered at Michuki's home, they had to endure a well-choreographed performance at which share certificates never came up for discussion. Instead, after refreshments were served, a series of speakers mounted the podium to beseech Michuki to run for the parliamentary seat. Michuki finally agreed to do so and announced his intention to unseat the incumbent MP, J. J. Kamotho.⁵⁷

The use of LBCs to gerrymander electoral constituencies was one of the contributions of the man who would become the poster child for the ills of LBCs in the 1970s. Kihika Kimani was the founder and chief executive of what the *Weekly Review* called the "all-pervading business cum political organization" Ngwataniro LBC.⁵⁸ Kimani manipulated the character of voting constituencies in Nakuru District by moving members of his LBC around the company's vast properties during revision of the voters' roll in 1977. Promising land to those who cooperated and threatening the rights of those who refused, Kimani allegedly transported voters from other constituencies to his

⁵⁶ "Bogus Companies," *Weekly Review* (Nairobi), May 23, 1980.

⁵⁷ "Michuki Takes the Plunge," *Weekly Review* (Nairobi), May 4, 1979.

⁵⁸ "Kihika Kimani To Face Uphill Battle," *Weekly Review* (Nairobi), April 27, 1979.

own in Nakuru North, where they registered to vote and boosted his support.⁵⁹

Kihika Kimani used his LBC to rise from obscurity to the heights of Nakuruan and national politics. He created the Ngwataniro LBC after losing his initial bid to unseat the influential Nakuru East MP Fred Kubai in the 1969 parliamentary elections. To raise money for his political activities, he oversubscribed his company's shares, leaving many members with no land. He also threatened to evict company members who opposed his political ambitions and gave company land to many people who were not shareholders but who supported him politically. Using these techniques he expertly executed his plan to replace three of the four incumbent Nakuru District MPs with Ngwataniro members in the 1974 parliamentary elections.⁶⁰ By the middle of the 1970s he was the most influential politician in Nakuru and had set his sights on national politics. He was elected organizing secretary of the powerful Gikuyu, Embu and Meru Association (GEMA), which was very influential during the reign of President Kenyatta. Formed in 1971 to further the social welfare of the Gikuyu, Embu and Meru ethnic groups, GEMA became a powerful and feared political association with an active investment arm, GEMA Holdings.⁶¹ When the prominent Nyandarua North MP J. M. Kariuki was murdered, Kimani launched a series of meetings in the Rift Valley to quell widespread rumors that senior state officials were involved in his assassination. Ngwataniro funds and vehicles were thought to have been used in organizing those meetings.⁶² Kihika Kimani's most significant foray into national politics was his founding of the Change the Constitution Movement in 1977, which hoped to prevent Vice President Moi from automatically succeeding President Kenyatta in the event of the president's death.⁶³

⁵⁹ "Ngwataniro at Crossroads as Internal Problems Surface," *Weekly Review* (Nairobi), December 12, 1977.

⁶⁰ "Campaign Against JM Rumors," *Weekly Review* (Nairobi), May 5, 1975, and "Mr. 100 per cent," *Weekly Review* (Nairobi), January 12, 1979.

⁶¹ "GEMA speaks out on politics," *Weekly Review* (Nairobi), May 19, 1975; "What Went Wrong at GEMA Holdings," *Weekly Review* (Nairobi), February 2, 1979.

⁶² "Ngwataniro at Crossroads as Internal Problems Surface," *Weekly Review* (Nairobi), December 12, 1977.

⁶³ "1977 Limping to the Finish in Kenya," *Weekly Review* (Nairobi), December 26, 1977.

Moi was well aware of the political significance of these LBCs and of their fraudulent manipulation of land documentation and property rights in the struggle for control of the Kenyan state. One of his first actions on succeeding Kenyatta as president was to launch a sustained attack on the LBCs that had enabled his opponents to form the Change the Constitution Movement. Moi knew that the power of these LBC executives came from their frauds involving share certificates, titles, and land parcels. By going after the manipulators he set out to liberate the captive shareholders on whose backs the LBC executives stood (Wanjohi 1985, 14). He thus worked diligently on property institutions in areas influenced by LBC executives, seeking to hinder their efforts to exploit land to garner political support.

Moi repeatedly criticized LBCs and their fraudulent activities, going so far as to compare the LBC executives to Kenya's former colonial masters.⁶⁴ He compelled the companies to register everyone who bought shares from them as shareholders, not just the executives. In its 1977 returns, for instance, GEMA had listed only seven shareholders, all of whom were executive members. The 6,980 others who also held shares were left off the list. By not registering the vast majority of their shareholders, LBC executives kept these "sleeping partners" in legal limbo, denying them the legal standing to challenge the executives.⁶⁵ Moi also forced LBC executives to issue titles to their members and immediately parcel out farms to the rightful shareholders (Wanjohi 1985, 14).⁶⁶ He even deployed state officials to aid the subdivision of parcels and registration of titles wherever executives seemed unwilling or unable to undertake these tasks. Such was the case with the Gatarakwa Farming Company in Nyeri District. Moi went there himself in 1986 to distribute titles to members but refrained from doing so because of problems with the documentation. He then sent state officials to give out land to shareholders and register

⁶⁴ "Beware Conmen," *Weekly Review* (Nairobi), October 5, 1979.

⁶⁵ "Company Rules Tightened: Sleeping Partners To Get Protection," *Weekly Review* (Nairobi), February 23, 1979.

⁶⁶ "Company Rules Tightened: Sleeping Partners To Get Protection," *Weekly Review* (Nairobi), February 23, 1979; "Beware Conmen! President Warns Kenyans," *Weekly Review* (Nairobi), October 5, 1979; "Ultimatum: Directors Told To End Land Problems," *Weekly Review* (Nairobi), August 29, 1980; and "Progress," *Weekly Review* (Nairobi), April 22, 1983.

their rights.⁶⁷ Earlier, in April 1983, Moi had traveled to Bahati in Nakuru to distribute share certificates to members of the Ngwataniro LBC.⁶⁸ In addition, he ordered the deregistration and dissolution of LBCs once they had completed issuing land and titles to their shareholders.⁶⁹ Moi thus tried to free tens of thousands of people from the control of LBC executives. However, given his own similar ruthless manipulation of property rights in the years to come, one can only assume that his effort to save LBC shareholders was motivated more by an interest in undermining his LBC opponents than by any genuine interest in empowering land-hungry Kenyans.

Moi's efforts paid off for him handsomely. As some of the most notable LBC executives lost their ability to manipulate shares and titles, they experienced a rapid decline in their political fortunes. Kihika Kimani's dramatic downfall exemplifies this. On April 21, 1979, his long reign as director of Ngwataniro LBC ended when he refrained from contesting the directorship under pressure from his opponents.⁷⁰ In addition, after Moi had nullified KANU Nakuru Branch elections in 1979, Kimani declined to contest his long-held seat, thus allowing Moi's favored candidate, Kariuki Chotora, to run unopposed.⁷¹ That same year, Kimani lost his Nakuru North parliamentary seat to Koigi wa Wamwere, who received thrice as many votes as he had.⁷² Finally, in 1985, Kimani was convicted of mismanaging Ngwataniro funds and imprisoned.⁷³

It is important to note that state-issued land title deeds did not escape the disrepute into which land documents had fallen. The country's High Court nullified hundreds of title deeds issued after an adjudication exercise in Mosiro, Kajiado District, in 1991 because Ministry

⁶⁷ Interview with an official of a land control board in Nyeri District, (Ken 26), March 9, 2005; "Action for Gatarakwa," *Weekly Review* (Nairobi), June 13, 1986; and "Progress," *Weekly Review* (Nairobi), April 22, 1983.

⁶⁸ "Progress: Ngwataniro Members Finally Get Share Certificates," *Weekly Review* (Nairobi), April 22, 1983.

⁶⁹ "No Hanging On, Moi Tells Land Companies," *Weekly Review* (Nairobi), April 4, 1986.

⁷⁰ "Kihika Kimani To Face Uphill Battle," *Weekly Review* (Nairobi), April 27, 1979.

⁷¹ "Kihika Steps Down," *Weekly Review* (Nairobi), June 8, 1979.

⁷² "Dixon Kihika Kimani Bids for Come-back," *Weekly Review* (Nairobi), November 19, 1982.

⁷³ "Kihika Appeals," *Weekly Review* (Nairobi), January 31, 1985.

of Lands officials had handed out titles to relatives and friends with no right to land in the area.⁷⁴ The cancellations prompted the reputable *Weekly Review* magazine to ponder the validity of the popular expectation that “a title deed gives the holder irrevocable ownership of a piece of land.”⁷⁵

This parasitic exploitation brought land documentation in Kenya under tremendous stress by 1992, following redemocratization. Widespread belief in the efficacy of land documents had played a significant role in facilitating this subversion.

Arriving at the Heart of the Mainstream

The exogenous shock of redemocratization in 1991 did not suddenly cause the subversion of land documentation in Kenya, as some have argued (Klopp 2000, 8–9).⁷⁶ It contributed to an ongoing process by giving even more senior KANU leaders an incentive to embrace, as they struggled to shore up their political dominance, practices similar to those of LBC executives (Klopp 2000, 8). This similarity supports the significance that some scholars give to imitation as an explanation for how peripheral institutional forms and logics move to the mainstream.

The 1992 and 1997 elections pitted KANU politicians against opponents from new parties like the Democratic Party (DP) and the Forum for the Restoration of Democracy (FORD). KANU officials at the highest levels of government resorted to issuing worthless or encumbered land titles and letters of allotment in exchange for money and political support, threatening and evicting title-bearing opponents, and using land documents to influence voting patterns in various constituencies (Kenya 2004, 37–40, 75).⁷⁷ They filled their campaign chests and

⁷⁴ “Land Questions,” *Weekly Review* (Nairobi), May 24, 1991.

⁷⁵ “What Value a Title Deed?” *Weekly Review* (Nairobi), May 31, 1991.

⁷⁶ Internal Displacement Monitoring Center (IDMC), “‘I Am a Refugee in My Own Country’: Conflict-induced Internal Displacement in Kenya” (Geneva Switzerland, December 19, 2006), [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/AF919E45D789BD0BC125724900350687/\\$file/Kenya%20Special%20Report%20Dec06.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/AF919E45D789BD0BC125724900350687/$file/Kenya%20Special%20Report%20Dec06.pdf) (accessed June 4, 2007), pp. 13–20. There is also a popular discourse ascribing the subversion of land documents and other forms of corruption in the land market to redemocratization in the 1990s. Various interviewees held this view. These included a staff member of an NGO involved in advocacy on land issues (Kenya 2), February 15, 2005; and an official of the Department of Lands (Kenya 1), February 14, 2005.

⁷⁷ IDMC, “‘I Am a Refugee in My Own Country,’” pp. 13–20.

sought political support by issuing more than one title or allocation note for the same piece of land (Kenya 2004, 9–14, 80).⁷⁸ To facilitate this fraud, the Ministry of Lands included a disclaimer in letters of allotment in 1993 absolving itself of its responsibility to give people alternative plots of land when the parcels indicated in the allotment letters were already occupied.⁷⁹ Officials also took to changing entries in title registers to benefit their supporters (Kenya 2004, 37–40, 75).

To better tie people to KANU, leading party officials let it be known that the efficacy of a holder's land documents depended on his or her political leanings. In this vein, the minister of local government and influential KANU Narok MP William ole Ntimama threatened many of the title-bearing Gikuyu residents of Narok who were seen as anti-KANU with eviction when he told them to "lie low like an envelop or face grave consequences."⁸⁰ Lying low meant "proper" political behavior. As Ntimama pointed out, "These people are doing lucrative business in all sectors, but recently they have been wanting to control the politics of the area."⁸¹ To those who harbored the vain hope that a title would protect them from victimization if they supported opposition candidates or parties, Ntimama boldly proclaimed that land titles were "mere pieces of paper" in 1993.⁸² This public belittling of supposedly indefeasible titles provoked panic and led the opposition Masai politician John Keen to comment that devaluing land title deeds was "like opening a Pandora's box and ultimately means that no one has a right to own anything in Kenya."⁸³ Ntimama, however, was not trying to deny the existence of property in Kenya. In line with methods first invented by LBC executives like Kihika Kimani, he was attempting to influence title bearers by sapping their documents of the guarantee of security and making such guarantees dependent on "proper" (pro-KANU) political behavior.

⁷⁸ Interestingly, the state simultaneously bought lands at highly inflated prices from allies of leading politicians who had acquired these parcels from the state at very low prices.

⁷⁹ Interview with an official of the Department of Lands (Ken 1), February, 14, 2005.

⁸⁰ "The Narok Saga and Its Implications for Land Policy," *Weekly Review* (Nairobi), March 1, 1991.

⁸¹ "Narok: Background to Ethnic Conflict," *Weekly Review* (Nairobi), March 1, 1991.

⁸² "The Indigenous and the Natives," *Weekly Review* (Nairobi), July 9, 1993, and "The End of Tribal Talks," *Weekly Review* (Nairobi), July 9, 1993.

⁸³ "The Indigenous and the Natives," *Weekly Review* (Nairobi), July 9, 1993.

Title-bearing Gikuyu who refused to heed Ntimama's calls for compliance were violently evicted from Enoosupukia in Narok District.⁸⁴ Similar evictions and clashes preceded the 1992 and 1997 elections and spread across the country, driving home the point that only titles held by those involved in pro-KANU political activities would be respected (Ajulu 2002, 264–265; Klopp 2002, 274–275).⁸⁵ By 1993 clashes in areas such as Nakuru, Turkana, Nandi, Kericho, Uasin Gishu, and Taita Taveta are thought to have led to fifteen hundred deaths and three hundred thousand displacements.⁸⁶ The deliberate depreciation of the worth of land titles was further revealed when KANU elites, including Ntimama and Kipkalya Kones, vowed not to allow title-bearing Gikuyu clash victims to return to their farms until political questions between the communities were settled.⁸⁷

The land clashes that punctuated the elections of 1992 and 1997 led to massive displacement and violence but did not mark the beginning of the subversion of land titles and other land documents. They merely continued a process that had been long underway, one that had proceeded hand in hand with, and had been facilitated by, the promotion and development of land documentation in Kenya.

Conclusion

This chapter builds on an understanding of the contradictory potential of institutions to demonstrate how the success of land documentation in Kenya contributed to its own gradual demise. I argue that the institution of land documentation in Kenya produced and sustained dominant agricultural, real estate, and tourism interests that were dedicated to the “sanctity of land titles” in Kenya. But the success of land documentation created a belief in the efficacy of land documents that was easily exploited by fraudsters and politicians intent on exchanging worthless or encumbered land documents for economic and political gain. The abuse of land documentation by these groups was only exacerbated by the reintroduction of democratization.

⁸⁴ “Resettlement for Victims,” *Weekly Review* (Nairobi), November 19, 1993.

⁸⁵ IDMC, “I Am a Refugee in My Own Country,” pp. 13–20.

⁸⁶ IDMC, “I Am a Refugee in My Own Country,” p. 13.

⁸⁷ “End of Tribal Talks,” *Weekly Review* (Nairobi), September 15, 1995, and “New Fears and Suspicions,” *Weekly Review* (Nairobi), September 1, 1995.

This reflection on the contradictory potential of institutional structures gives us a good way to reflect on the endogenous contributions to change in institutions with positive-feedback effects. It allows us to understand how institutions demonstrating strong positive-feedback effects also contribute to their own downfall. This does not totally rule out the impact of exogenous factors, but shows that, sometimes, these exogenous factors speed along or exacerbate processes that are underway because of endogenous causes.

Recognition of the contradictory potential of institutions has both a theoretical and a methodological implication. On the theoretical front, it forces us to reexamine the conceptualization of critical junctures. Critical junctures are defined as moments of great historical significance during which change occurs and actors chose between various alternatives, unlike normal periods that are marked by the structural reproduction of paths (Mahoney 2000, 513; Thelen 2004, 30). The contradictory potential of institutions reduces the historical significance of “critical” junctures. It infuses the periods of supposed stability with greater significance by showing that agency often operates outside of critical junctures in instances where the process of change unfolds gradually (see also Thelen 2004, 32; Streeck and Thelen 2005, 4; Mahoney and Thelen, this volume). On the methodological front, the story told here about the contradictory potential of institutions forces us to rethink the historical periods in which we concentrate research on institutional change. If change is an ever-present possibility because of the very nature of institutions, and can occur gradually over time, then concentrating research on critical junctures marked by big exogenous shocks and obvious drastic changes might produce misleading conclusions about the sources of change.

Focusing on periods outside of those thought of as critical junctures is important because institutions that display contradictory potential inherently contain the germs of conflict that generates change. By simultaneously fostering parasitic agents and those dedicated to the proper functioning of institutions, institutions create the constant possibility of conflict and contestation. This view of institutions opens up opportunities for conflict and change in even more ways than do accounts that portray institutions as unambiguous structures and that influence behavior in uniform ways. Here the contradictory forces nurtured by institutions do constant battle, and the stable persistence of

institutions even at the height of their acceptance by societal actors is not a foregone conclusion. As shown with Kenya's LBC executives, where such "friends" of institutions happen to be subversive parasites, their warm embrace and exploitation of prevailing institutions may well contribute to drift and gradual institutional decline.

At the heart of the examination in this chapter of the abuse of property rights institutions by con men and LBC executives is recognition of some of the ends to which actors may put the subversion of titles and other forms of land documents. The literature on property rights is replete with works emphasizing the beneficial effects of property institutions like titles. They portray titles as instruments that facilitate productive activities and allow the transformation of real property into capital through its use as collateral (de Soto 2000; World Bank 2002; Joireman 2007). Little attention has been paid to the question of how these same institutions can be manipulated to serve ends that systematically disempower and rob people, undermine markets, and create social disorder. A key dividend of recognizing the contradictory potential of institutions is that we can understand how these institutional structures may be used for different purposes with diverse practical effects and dissimilar ethical valences.

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Policymaking as Political Constraint

Institutional Development in the U.S. Social Security Program

Alan M. Jacobs

Today, few features of the American policy landscape are as prominent and popular, or have proven as resilient over time, as the Social Security program. The largest single item of federal expenditure, Social Security routinely ranks among the state activities most valued by ordinary citizens (United States Office of Management and Budget 2008).¹ Over the last thirty years, the retirement program has survived largely intact against assault by a highly mobilized and politically ascendant conservative movement, most recently withstanding President George W. Bush's 2005 push for partial privatization.

Such political success, however, could hardly have been predicted at the moment of Social Security's establishment. Two features of the scheme's original financial architecture suggested a particularly troubled political future. First, the program was to be financed solely via payroll contributions from insured workers and their employers.

¹ Data from the General Social Survey (GSS) show that between 2000 and 2006, about 95% of the U.S. public thought that spending on Social Security should either increase or stay the same. Support for Social Security spending was therefore comparable to support for education and health, two valence issues, and much higher than support for other government programs. Data from Davis et al. (2007).

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Among its consequences, reliance on payroll taxes made the program's financing highly regressive, concentrating the visible tax burden on those constituents who could least afford to pay (Leuchtenburg 1963; Leff 1983). Second, the program was established on a "funded" actuarial basis, much like a private insurance plan. As a funded scheme, Social Security would not use current payroll contributions to finance current social expenditures but save them to cover the cost of *future* outlays. While "funding" would result in lower long-term contribution rates, it required imposing a far higher payroll tax and paying far lower benefits for the scheme's first decades. With such high net costs in the near term, actuarial funding would be a remarkable choice for any elected government to make; it was, however, an especially striking decision amidst the economic crisis and soaring rates of old-age poverty of the 1930s.

Why did the creators of the Social Security program choose a design that would impose such heavy short-run costs and generate so few short-run social benefits for the most vulnerable social groups? As I will contend, the choices of Social Security's architects make sense only if we take into account their *institutional* aims – the ways in which they sought to employ policy rules and structures as constraints on the long-run politics of public pensions. In particular, Franklin Roosevelt and his closest advisers wanted to expand public social protection but worried about how their successors might exploit the programs that they were now creating. If future incumbents sought to use pension payouts to court constituents and win votes, Social Security might generate a politics of endless expansion that would threaten the fiscal capacities of the state. Roosevelt and his advisers chose pure contributory and funded financing, in large measure, to restrain this future political dynamic: that is, to make it more difficult for their successors to raise benefits and to insulate the Treasury against future claims on federal resources.

These programmatic institutional choices left Social Security highly vulnerable to challenge, however. Designed to manage long-term political risks, these rules had real costs in the *near* term and did little to generate a constituency for the program's maintenance in the short run. In fact, in the years following the program's enactment, Social Security faced assault from actors across the political spectrum, as forces on the left and the right condemned the scheme's high contribution rates, the

regressivity of its taxes, the long delay in its payment of benefits, and its accumulation of a massive fund. Yet the program not only survived but flourished, maintaining to the present its institutional character as a purely contributory financial arrangement, weathering along the way repeated demands for radical change by both liberals and conservatives. How can we explain the persistence of a program saddled with such costly and unpopular rules?

Historical institutionalists have commonly explained institutional stability by pointing to path-dependent processes, especially positive-feedback mechanisms through which rules generate consequences that, over time, enhance the power resources of their advocates and broaden supporting coalitions. The literature on comparative welfare-state politics would strongly suggest a path-dependent account of Social Security's apparent stability over time, and indeed, welfare-state scholars have pointed to contributory pension programs – and Social Security, in particular – as quintessential sites of institutional self-reinforcement (Pierson 1994; Myles and Pierson 2011).

By contrast, and consistent with arguments advanced throughout this volume, this essay will contend that there was nothing automatic or mechanical about the survival and flourishing of contributory old-age insurance in the United States. Institutional change has commonly been theorized as a rare and dramatic reconfiguration, arising from a large-scale shift in exogenous conditions. As Mahoney and Thelen (introduction) emphasize, however, processes endogenous to institutions may generate incremental change on a more frequent basis, as agents disadvantaged by current practices routinely seek to revise, supplement, or reinterpret the rules, sometimes by exploiting resources and ambiguities embedded in the institutions themselves. In the face of both exogenous dislocations and internal challenge, institutional defenders must in turn engage in ongoing efforts to mobilize and maintain political support, at times by strategically modifying the very structures they seek to preserve. Rather than extended stasis punctuated by abrupt transformation, the resulting pattern may be a series of subtle institutional shifts that cumulate into major change over time. Underscoring and illustrating these dynamics, this chapter's explanation of Social Security's developmental trajectory rests on two principal arguments, each of which departs in important ways from a standard path-dependent logic of institutional entrenchment.

First, the apparent continuity of Social Security's broad outlines masks considerable, recurring instability in its underlying rules. Over the last seven decades, central elements of the original scheme have witnessed substantial revision: contributory insurance was overtaken and nearly displaced by noncontributory welfare spending, actuarial funding was abandoned and then partially restored, and the meaning of the contributory principle has been thoroughly reworked. While Social Security has not seen abrupt and sweeping transformation, the cumulative effect of seventy years of institutional contestation is a program that departs in fiscally and socially consequential ways from Roosevelt's original blueprint.

The chapter's second major claim, again echoing a major theme of this volume, is that the most important changes in Social Security's financing institutions have resulted not from exogenous shocks but from endogenous sources – as consequences of the rules themselves and of the conflict that they generated. Far from reaping steeply increasing returns, the New Dealers' institutional arrangements yielded three kinds of *negative*-feedback effects. First, as rules with major distributive consequences, Social Security's underlying institutions generated their own opposition, provoking immediate challenges from groups who were disadvantaged by them. Second, the program's structure provided its opponents with crucial strategic opportunities. Designed to limit the options of future majorities, Social Security's institutional logic ultimately proved contingent and malleable, open to redeployment by actors with competing goals. The program's rules created latent resources – material, procedural, and moral – that rivals were able to convert into tools of institutional challenge. Third, under conditions of intense institutional contestation, change did not emerge solely from the choices and strategies of institutional opponents. Indeed, *defenders* of the New Deal vision were among the most important change agents in the program's historical development. As Social Security faced assault from both left and right, fiscally conservative champions of the social-insurance principle chose to revise and reinterpret programmatic rules in order to shore up the scheme's political foundations and to close off future opportunities for challenge. Institutional survival, in short, has been predicated on gradual institutional change.

In examining the strategies of both opponents and guardians of programmatic rules, the chapter demonstrates the ways in which

continuity and change in institutional arrangements may be intimately linked: how rules intended to generate stability may provoke and enable processes of transformation, and how institutional persistence may depend critically on timely strategic innovation. The account here also illustrates why the analysis of institutional development cannot be separated from the study of institutional origins, as the initial choices and compromises made by designers will generate many of the most important pressures and opportunities for downstream change.

From here the chapter proceeds in four steps. The next section elaborates the concept of a programmatic institution and unpacks its logic of political constraint. The chapter then considers why such institutions may not be subject to some of the stabilizing mechanisms most commonly thought to hold institutions in place – why, that is, programmatic institutions may be relatively susceptible to change. Returning to the empirical case, the essay turns next to the historical analysis of the development of key programmatic institutions governing Social Security’s finances, from the mid-1930s to the mid-1980s. The chapter concludes by identifying the broad developmental patterns at work in this account and drawing out the larger implications of the argument for institutional analysis.

The Logic of Programmatic Institutions

Policies as Programmatic Institutions

Public policies frequently do more than generate distributions of resources and collective social consequences in the near term. By attaching rewards and penalties to specific activities and establishing binding rules, elements of public policy can also exert durable structuring and constraining effects on social interaction – effects that are best considered institutional (Streeck and Thelen 2005). As Pierson points out (2004), “For the individuals and social organizations that make up civil society, public policies are clearly very central rules governing their interactions” (165).

Beyond these structuring effects on social actors outside the state, two prominent lines of analysis suggest that public policies can also serve as institutions in a second, more political sense – structuring and constraining future decision making by political actors themselves. On the one hand, arguments about policy feedback have outlined how

specific features of program design can shape the menu of feasible options available to the future officeholders who inherit them, and can affect the political costs and benefits associated with future policy alternatives (Skocpol 1992; Pierson 1993; Hacker 2002). Yet, at the same time, scholars analyzing problems of political uncertainty and delegation have illuminated actors' *intentional* and *strategic* use of program design to constrain their rivals and successors over time (e.g., Moe 1990; McNollgast 1999; Patashnik 2000; Huber and Shipan 2002). Public programs can be deliberately crafted, for instance, in ways that will make them more difficult for future legislators to dismantle, will inhibit their future expansion, or will tie the hands of the bureaucratic agents charged with implementing them.

The concept of a programmatic institution refers to the constraining effect of existing policies on the future politics of policy choice. More specifically, I define a programmatic institution as *a structural feature of an existing public program that influences the menu of policy options from which officeholders choose or the political costs and benefits associated with those options*. Consistent with our understanding of institutions more broadly, programmatic institutions need not be an object of intentional choice: their constraining effects may be an unforeseen consequence of policy choices made for other reasons. In the analysis that follows, however, I focus specifically on dynamics that involve intentional efforts of programmatic institutional design.

The Constraining Effects of Programmatic Institutions

Why might actors seek to use public policy as a tool of institutional constraint? In well-institutionalized democracies, macro-level political institutions, such as constitutional provisions, are usually designed to reduce uncertainty about processes of allocating political authority and to provide decision rules for policymaking. Political actors devise programmatic institutions, in contrast, with a much more finely tuned objective in mind: reducing uncertainty about specific policy outcomes. When voters and organized groups value a policy objective (low taxes, light regulation, a clean environment), they often care not just about winning a near-term gain but about creating an enduring stream of policy benefits. Politicians, too, have reasons to seek to entrench policy victories over time and to avoid future policy defeats: not only might they have their own long-term preferences over policy outcomes, but

they also have incentives to act to protect the long-term welfare of organized interests and other attentive constituencies (Moe 1990).

Actors in democratic contexts turn to programmatic institutions because macro-level institutional structures seldom resolve political uncertainty about today's policy achievements. To the contrary, the rules of political competition are usually designed to *raise* the likelihood that today's policymaking coalition will see its power wane at some future point in time. Actors in power today thus search for alternative tools for binding the hands of those who will wield influence tomorrow. While constitutions themselves are exceedingly difficult to change, policy structures can usually be manipulated by a much narrower coalition, and they can often be designed in ways that will shape the options, barriers, and incentives confronting the future officeholders who will inherit them. In this sense, programmatic constraints are a logical institutional countermove for actors prevented by higher-order rules from remaining in power forever.

Programmatic institutions typically operate by bequeathing to tomorrow's incumbents a policy structure that makes certain courses of action more politically appealing than others. Designers of programmatic institutions can choose from a wide range of constraining strategies, but for the purposes of illustration I will briefly identify three common strategies of constraint here:

Manipulating information. As students of policy feedback have argued, the ease with which voters can attribute credit or blame often depends on the structure of the public programs with which governments are tinkering (Arnold 1990; Pierson 1994; Pal and Weaver 2003). To invert this insight, those governing today can often design policy in ways that will shape the visibility to future voters of particular kinds of policy moves by those governing tomorrow.

One informational strategy seeks to limit future changes in the distribution of resources by *compartmentalizing* resource flows, creating a separate accounting of the funds raised for and spent on a specific policy goal. A common form of compartmentalization is the financing of a program out of a trust fund that is fed only by its own dedicated sources of revenue, often a hypothecated tax levied on program beneficiaries (Patashnik 2000). By restricting a program to a single source of revenue, compartmentalization can be used to raise the visibility of attempts to *expand* a program. Rather than having to frame an

argument against the program's benefits, opponents of expansion can point to the financial constraints of the trust fund or to the specific tax hike that any spending increase would require. At the same time, compartmentalization can also make it easier to detect when resources are being *diverted* from the original policy goal since this would require their removal from a dedicated account.

Another informational strategy institutes routine *reporting mechanisms* structured to highlight particular consequences. Legislators can require administrative agencies to measure and describe at regular intervals their activities and the consequences or projected consequences of those activities. By carefully selecting the quantities to be measured and the time horizon of forecasting, today's policymakers can clarify and dramatize for voters the implications of any future policy changes.

Shaping capacities. Governments can also shape their successors' decisions by augmenting or exhausting state fiscal or administrative capacities. By designing policy to expand state capacities – for instance, by arranging secure long-term financing for programmatic goals – today's incumbents can enhance the sustainability of current programs by making it less politically costly or more administratively feasible for future governments to maintain them. Conversely, by eliminating fiscal slack or dismantling bureaucratic structures, today's policymakers can narrow the options of future governments by forcing them to take painful measures if they wish to pursue new spending or new regulatory or enforcement activities.²

Inducing investment. Tomorrow's incumbents may have little incentive to keep commitments made by their predecessors. The current government can, however, make it harder for future coalitions to change course by, in effect, making its own promises costly to constituents, that is, by requiring or encouraging constituents to pay specific costs now in return for benefits later. Probably the most commonly cited example of this strategy derives from the field of pensions: those designing state retirement schemes can choose to finance them via contributions from workers, who thereby earn entitlements to future payouts. Tomorrow's incumbents, whatever their own pension policy goals, will find it politically perilous to revoke benefits for which their

² Eliminating capacities resembles what Pierson (1994) terms “systemic retrenchment.”

constituents have paid in advance (Pierson 1994; Myles and Pierson 2001; Weaver 2003).

Susceptibility to Change

The designers of programmatic institutions seek to lend their policy achievements enhanced stability over time. We might well ask, however, what holds policy rules themselves in place. In fact, programmatic institutions may be more susceptible to change than other types of political structure. Three mechanisms commonly theorized to hold institutions in place – mutual gains, restrictive amendment rules, and positive feedback – will tend to operate in diminished form in the case of programmatic rules.

First, programmatic institutions are likely to be objects of intense political contention rather than broad consensus. Arguments derived from the new institutional economics typically emphasize the collective benefits of institutions in reducing transaction costs and facilitating certain kinds of cooperation and exchange (Weingast and Marshall 1988; North 1990). In most cases, however, programmatic institutions will have large distributive implications (Knight 1992). They are intended by their designers to tilt the playing field for future policy conflict, shaping the relative capacities of contending coalitions to achieve their goals. We should thus expect programmatic institutions to be a frequent focus of political conflict among rival interests and officeholders, rather than the object of broadly based agreement.

Second, the exceptionally restrictive amendment rules attached to most constitutional provisions will rarely be available to those designing programmatic constraints. Like most elements of public policy, programmatic institutions will be the product of ordinary acts of legislation, and in most democratic contexts, today's legislative majority is unable to use common statute to formally bind tomorrow's. Thus, a programmatic institution can usually be changed by ordinary legislative coalitions. While there may still be significant hurdles to legislative change – especially in polities that disperse veto power widely – such obstacles are unlikely to compare to the amendment procedures that hold most constitutional provisions in place.

Third, we should not routinely expect to see processes of positive feedback reinforcing programmatic institutions over time. According

to one common understanding of the path dependence of institutions, institutions reap increasing returns to the extent that they establish expectations that then encourage actors to invest in specific assets, the value of which depends on the continuation of current arrangements. In this dynamic, institutions generate their own expanding support coalitions the longer they remain in place (Pierson 2004). For instance, policies that subsidize employer-provided health coverage encourage firms, workers, and insurance companies to invest in long-term arrangements that presuppose the maintenance of the subsidies (Hacker 1998). Similarly, the politics of contributory pensions itself offers an elegant illustration of positive feedback at work. Every year that a contributory pension program is in place, members of the workforce amass longer contribution records and larger earned entitlements to benefits; each successive cohort of workers may also save less in expectation of higher levels of state support. With the passage of time, contributory programs thus become more politically and fiscally costly for governments to dismantle (Pierson 1994; Myles and Pierson 2001). In these increasing-returns dynamics, stability derives from the fact that rules lead private actors to pay substantial costs to establish arrangements that will continue to have value only if the rules are maintained.

Many programmatic institutional structures, however, will exert only a modest influence on long-term choices made by social actors outside the state. Where program structures do not significantly set expectations or incentives for individuals or organizations, they are unlikely to induce investments or to generate strong social interdependencies that would make change costly. Consider, for instance, program rules that require administrators to report on specific program outputs and outcomes. Reporting rules may exert a constraining effect on future officeholders, who might wish to transfer resources out of the program by making the consequences of such changes more visible. But the existence of the reporting rule is in itself unlikely to be the basis of costly specific investments by individuals or organizations.

Even contributory pension programs will be path dependent in only a limited sense. By creating a sense of earned entitlement among beneficiaries, contributory financing may make it risky for future officeholders to cut benefits. However, the feedback mechanism that protects benefit levels does not similarly constrain attempts to change the

programmatic institution – the financing method – *itself*. Few constituents will have made choices or investments, based on the expectation of pure contributory financing, that would lose value if the program started to receive additional resources from general revenues. To frame this point more generally, we should not confuse the feedback effects of a policy structure with *self*-reinforcement: to observe that policy structure A makes it hard to change policy structure B tells us nothing about what holds structure A itself in place.

The aim of the preceding discussion is not to suggest that legislative change is routine or easy. Indeed, many statutory arrangements display substantial longevity, especially in macroinstitutional contexts that diffuse policymaking authority. Rather, my claim is that, in studying programmatic institutions, we cannot assume the operation of *the same stabilizing mechanisms* that help hold many other institutions in place. Nor can we assume that the primary sources of change will be rare and dramatic exogenous shocks that momentarily disturb deeply settled arrangements, as in models of punctuated equilibrium (Krasner 1984). Instead, we should normally expect the evolution of programmatic institutions to exhibit the kind of frequent, incremental, and endogenously driven change that are the focus of this volume. As emphasized in the introductory chapter, our efforts to explain these institutions' developmental trajectories should pay careful attention to *coalitional* dynamics – that is, to the conditions that shape the capacities of contending actors to forge and maintain coalitions capable of challenging or defending prior structural choices.

The Historical Development of Programmatic Institutions in Social Security

How can we explain Social Security's original fiscal rules, especially its strict reliance on contributions and on actuarial funding? And given the stark political liabilities of these provisions, how can we account for the survival of the program on a purely contributory basis?

Returning now to these empirical puzzles, I will argue that the flourishing of contributory social insurance in the United States derived as much from processes of institutional *change* as from mechanisms of positive feedback. In tracing the program's institutional trajectory, the account that follows focuses on the strategic interactions among

three sets of actors with rival motives: *activist fiscal conservatives*, who supported a state role in providing social protection but sought to protect the Treasury from rising expenditure demands; *expansionists* on the left, who sought far more rapid and more generous spending on the aged; and *orthodox conservatives* on the right, who sought to maximally limit the possibilities for state intervention. Each group of actors favored those policy rules that it thought most likely to shape the scheme's future politics to its own advantage.

Together with other contributions in this volume, this analysis will illustrate ways in which institutional change and stability are tightly linked. Social Security's rules were initially crafted to anchor the scheme's finances and to constrain its expansion, yet those same rules later served as important endogenous drivers of change. Social Security's initial institutional structure *provoked* challenge through its distributive effects – by diminishing the program's short-term benefits, raising its costs, and disadvantaging specific political interests. At the same time, the New Dealers' institutional design also *enabled* future challenge: while constraining opponents in certain respects, the Social Security Act also harbored latent strategic resources – material, procedural, and moral – that rivals could mobilize and redeploy for their own institutional purposes. Meanwhile, activist fiscal conservatives sought to preserve Roosevelt's institutional arrangements, especially strict contributory financing, as they came under assault. Yet the ability of fiscal guardians to secure the contributory model hinged on their willingness to change it – to reinterpret its principles, to abandon its most vulnerable components, and to layer new fiscal defenses atop old.³

To be clear, the analysis that follows focuses on programmatic institutions related to the financing of the Social Security scheme, leaving

³ Readers with a particular interest in Social Security politics will note that Derthick (1979), in her magisterial study of the program, also understands its politics as shaped by strategic attempts to limit future options. Derthick describes a dynamic dominated by the institutionalizing efforts of one group – liberal advocates – who sought aggressively to maintain and expand the program. Her liberal advocates, however, seem to have possessed a nearly unilateral capacity to manipulate the terms of political conflict, blessed by conservative opponents who were “uncertain of their stakes, internally divided, reluctant to appear self-interested or to risk a high level of political involvement” (156). In contrast, I argue that the program's history is better described as a product of *dueling* efforts to employ program design to both constrain and to elude constraint on program growth.

aside rules governing the payout of benefits except insofar as benefit provisions derived from financing principles. Readers can find an overview of the historical account in Table 4.1, which summarizes the key programmatic institutional developments in Social Security financing from 1935 to 1983. For each development, the table identifies the outcome; the set of agents that engineered the design, change, or preservation of the relevant rule; and the programmatic institutional logic behind the rule or rule change.

Designing Compromised Constraints

In June 1934, President Franklin Roosevelt appointed the cabinet-level Committee on Economic Security (CES), headed by Secretary of Labor Frances Perkins, to design a public system of “cradle-to-grave” insurance against risks such as unemployment and old age. Among the few directives that Roosevelt issued to the committee was an insistence that the old-age annuity scheme be a “self-supporting” program, financed out of contributions from the insured rather than general tax revenues. Roosevelt and his fiscally orthodox Treasury secretary, Henry Morgenthau, favored contributory financing partly to avoid further strain on the federal budget at a time of mounting deficits. Roosevelt also saw contributory insurance as morally preferable to “the dole,” which he considered to be “a narcotic, a subtle destroyer of the human spirit.”⁴

Aside from these immediate fiscal and moral concerns, however, Roosevelt and his advisers were also worried about the long-run *political* dynamic that their project might unleash. Roosevelt, central figures in his administration, and staffers on the CES had emerged from a Progressive political tradition that viewed government intervention as both a powerful instrument of social progress and a potential threat to sound fiscal management and democratic accountability. As activist fiscal conservatives, they sought to mobilize state capacities to protect individuals against market and life-cycle risks, but were concerned about how their successors might deploy any new policy tools that they inherited. The early politics of American social policy suggested reason for caution, as party politicians had exploited prior benefit schemes such as Civil War pensions as easy sources of patronage and

⁴ Quoted in Berkowitz (1991).

TABLE 4.1. *Key Institutional Developments in Social Security Financing, 1935-1983*

| Period | Programmatic Institutional Development | Key Agent of Institutional Change or Maintenance | Agent's Programmatic Institutional Strategy or Aim |
|----------------------|--|---|--|
| 1935 | Establishment of strict contributory financing Establishment of full funding | Activist fiscal conservatives | Compartmentalization Expand state capacities |
| 1939-1949 | Gradual dismantling of funding | Orthodox conservatives, in coalition with expansionists | Constrain state capacities |
| Late 1930s and 1940s | Near displacement of contributory insurance by noncontributory, means-tested OAA | Expansionists | Circumvent fiscal compartmentalization |
| 1950 | Contributory financing expanded, displacement by OAA reversed Funding rules explicitly replaced by PAYGO rules Contributory principle reinterpreted 75-year forecasting rule added to contributory rule | Activist fiscal conservatives | Reinstate compartmentalization Expand coalition for compartmentalized insurance Expand coalition for compartmentalized insurance Reinforce compartmentalization, close off paths to circumvention |
| 1950-early 1970s | Contributory logic converted to tool of expansion | Expansionists | Circumvent compartmentalization |
| 1977 and 1983 | Contributory rule preserved; PAYGO rule displaced by partial funding | Activist fiscal conservatives | Maintain compartmentalization against pressures for change |

constituency handouts (Ikenberry and Skocpol 1987; Skocpol 1992; Orloff 1993). The New Dealers worried that future incumbents would also seek to manipulate new spending programs for electoral benefit, generating an unrestrained expansionary dynamic (Ikenberry and Skocpol 1987; Orloff 1988). In the 1930s, growing populist movements peddling radically redistributive proposals suggested further cause for concern. Under pressure from the Townsendites⁵ and other expansionist forces, nineteen states had already adopted means-tested old-age assistance laws between 1929 and 1933 (Schlesinger 1958; Leuchtenburg 1963; Graebner 1980; Orloff 1993). With the Republican Party reduced nearly to a rump faction in Congress, administration officials saw it as entirely possible that their successors might emerge from their left rather than their right. As FDR fretted to an adviser in 1934, "You know, [Louisiana senator and populist radical] Huey Long may be the next President of the United States."⁶

Roosevelt and his aides believed that the design of a public program – particularly its method of financing – could have an important effect on the program's future politics. Earlier social programs, in their view, had been left vulnerable by the fact that they were paid for out of the government's general budget (Ikenberry and Skocpol 1987). With the costs of program expansion spread thinly across all taxpayers but benefits targeted at key constituencies, the electoral calculus always favored increasing largesse. Administration officials saw contributory financing, in contrast, as promising far preferable political feedback effects. By tying expenditures to a dedicated tax, contributory social insurance would force future officeholders to impose visible costs on constituents every time they made benefits more generous. One of Roosevelt's business allies later framed this logic of compartmentalization crisply:

Of course one thing that we had in mind all along with the contributory system was that the [House of Representatives] Ways and Means Committee and the Senate Finance Committee would keep a very careful watch on it to keep it

⁵ Comprising more than one million members by 1935, the Townsend movement called for noncontributory pensions of \$200 per month for every person over age sixty (Amenta and Poulson 1996).

⁶ Thomas H. Eliot, New York Times Oral History Program, Columbia University Oral History Collection, Part III, No. 154, Social Security Administration Project, p. 11.

from getting out of line because they know if they raise benefits, they've got to raise taxes. They know there's a certain limit to what the taxes are going to be.⁷

Moreover, by linking the receipt and level of benefits tightly to an individual's record of premium payments, contributory financing would limit politicians' discretion in allocating benefits across individuals, foreclosing opportunities to convert the program to patronage purposes (Ikenberry and Skocpol 1987; Orloff 1988; Berkowitz 1991; Orloff 1993; Rodgers 1998; Kennedy 1999).⁸

In thinking about the long-term political effects of their policy choices, Roosevelt and Morgenthau sought not only to limit future expansion but also to shape the conditions under which future politicians would meet benefit expenses. Specifically, they wanted to ensure that Congress would never face financial pressure to dip into general revenues or to raise ordinary taxes to pay promised pensions. Their institutional strategy was to align the program's financing rules with the principle of long-term financial responsibility that governed *private* insurance plans: actuarial funding. To understand actuarial funding,

⁷ Marion Folsom, New York Times Oral History Program, Columbia University Oral History Collection, Part III, No. 158, Social Security Administration Project, p. 77.

⁸ Some analysts have proposed an alternative institutional objective of contributory financing: that Roosevelt sought to prevent future officeholders from *reducing* benefits (e.g. Derthick 1979; Schlesinger 1958). This interpretation relies on a remark that the president reportedly made in 1941 to a Treasury aide who had questioned the economic wisdom of payroll taxation: "I guess you're right on the economics. They are politics all the way through. We put those pay roll contributions there so as to give the contributors a legal, moral, and political right to collect their pensions and their unemployment benefits. With those taxes in there, no damn politician can ever scrap my social security program. Those taxes aren't a matter of economics, they're straight politics" (Luther Gulick, "Memorandum on Conference with FDR Concerning Social Security Taxation, Summer, 1941," <http://www.ssa.gov/history/Gulick.html>, last accessed September 25, 2007. Original document in Franklin D. Roosevelt Presidential Library, Hyde Park, NY).

While such an interpretation is logically plausible, it is useful to note that the documentary record provides no indication that Roosevelt or his advisers worried about the threat of future cutbacks as they were designing the program in 1934 and 1935. This silence compares to a wealth of evidence that the program's founders were concerned about the fiscal implications of their choices and the political threat from the left. One possible explanation is that the antiretrenchment benefits of contributory financing only became salient to Roosevelt over time. As conservative forces in Congress gathered strength in the wake of the 1938 and 1940 elections, the political conditions for progressive reform evaporated and the administration engaged in a more defensive politics of program maintenance.

it is helpful to consider its opposite: pay-as-you-go (PAYGO) financing. A PAYGO scheme essentially operates hand-to-mouth, each year collecting in tax revenues little more than what it needs to pay that year's benefits. Establishing the scheme on a funded basis, in contrast, would mean that the Social Security program would collect *today* the contributions that it needed to discharge *tomorrow's* benefit promises. In doing so, the scheme would amass enormous capital reserves, projected to reach \$280 billion by 1980.⁹ Because a funded plan would always have sufficient assets on hand to cover all of its outstanding liabilities, future incumbents would never be forced to look elsewhere for revenues to cover pension payouts (Perkins 1946).

Funding the plan had adverse material implications in the short term, however, including far higher payroll tax rates than a PAYGO scheme would require. The president's bill would start out with a 2 percent tax in 1937 that would rise to 6 percent over the next twelve years. Funding would also require maintaining a close relation between benefit payouts and contribution records: rather than grandfathering in existing seniors, only those who contributed would receive benefits; no pensions would be paid until 1942; and payouts would start out low, reflecting the limited contribution records of the first beneficiaries. While imposing a high regressive tax on workers and employers in a stagnant economy, the program would do nothing for elderly citizens presently in need.

When the administration's proposal reached Congress, these short-term effects drew widespread criticism, and the insurance plan was of little interest to most legislators. Roosevelt thus realized that he faced substantial obstacles to forging a winning coalition for his preferred institutional design. His strategy of coalition building relied on careful manipulation of the legislative agenda – tying old-age insurance to initiatives that would deliver far greater short-run benefits to constituents, especially the aged poor (Witte 1962; Quadagno 1988). In addition to a popular unemployment insurance scheme, the CES included in the bill

⁹ Figure in 1980 dollars. "Statement of the Secretary of the Treasury on the Economic Security Bill," File 011.01, "Legislative History and Analysis." Chairman's File, 1935-1942, Records of the Social Security Board/Records of the Office of the Commissioner, RG 47, NACP. Calculation of 1980 value employs GDP deflator from Louis D. Johnston and Samuel H. Williamson, "The Annual Real and Nominal GDP for the United States, 1790-Present," <http://www.measuringworth.com> (last accessed February 27, 2008).

a separate, quick-acting program, Old Age Assistance (OAA). Financed out of general revenues rather than contributions, OAA would provide immediate federal grants to the states covering half the cost of their own needs-based pension programs. The administration thus hoped to achieve its long-term institutional goals by directing near-term side payments to key constituencies.

Opponents of public old-age insurance sought to counter this legislative strategy directly. Members of both the House and the Senate proposed amendments that would have stripped the old-age insurance provision from the bill, allowing Congress to enact *only* the more popular measures for immediate aid without Roosevelt's insurance scheme (Hacker 2002). The president was nonetheless able to muster enacting majorities for his preferred rules thanks to the unusual electoral conditions of the mid-1930s. Not only did Roosevelt enjoy a massive Democratic majority in Congress, but he also commanded a rare degree of loyalty from legislators of his own party, many of whom owed their seats to his coattails. Roosevelt was thus able to persuade the congressional leadership and the chairmen of the tax-writing committees to keep old-age insurance attached to the larger bill. In doing so, the president and his allies effectively forced members of Congress to choose between just two options: his omnibus bill, with old-age insurance included, or the status quo. If legislators wanted pensions for the poor and benefits for the unemployed, then they had to accept the administration's costly and regressive Social Security taxes as well (Schlesinger 1958; Witte 1962; Berkowitz 1991).

Converting and Displacing Constraint

As political conditions shifted, however, the structures chosen in 1935 – together with the macroinstitutional context – would lend critical resources and opportunities to actors both to Roosevelt's right and to his left who sought to challenge his programmatic aims. Against a backdrop of renewed economic misery, the 1938 midterm elections brought major gains for Republicans and anti-Roosevelt Southern Democrats, substantially enlarging and emboldening the conservative coalition in Congress.¹⁰ If Roosevelt represented an activist form of fiscal conservatism – one that paired a belief in collective solutions with

¹⁰ Roosevelt's much-derided 1937 Court-packing scheme had also emboldened conservative Democrats who had, until then, hesitated to rebel against a popular president.

a preference for “sound financing” – business and Southern conservatives subscribed to a more orthodox conservatism, deeply suspicious of federal public authority (Vogel 1981; Quadagno 1988). Viewing the Social Security program as *insufficiently* constrained, orthodox conservatives in Congress sought ways of further tying the hands of future majorities. At the same time, on Roosevelt’s left, the Townsendites and other populist, expansionist actors continued to gather support well after Social Security’s enactment, sustaining their push for more generous and immediate help for the aged.

Even before the law’s enactment, what had most concerned business groups and conservatives about the program was the large fund that actuarial financing methods would generate. Rather than shielding the Treasury against future demands, in their view, actuarial funding might *encourage* fiscal profligacy. As the Commerce Department’s Business Advisory Council had argued in 1935, massive surpluses would simply provide a painless opportunity for vote-seeking politicians to enrich pension benefits:

It is very doubtful whether under our form of government we could actually accumulate this large reserve fund. . . . There would be a strong tendency either to increase the benefits or to reduce the tax rate, with the former being the probable course. If this were done a tremendous burden would be placed upon future generations.¹¹

Capitalists also worried that Congress would raid the pension fund for unrelated purposes, generating “practically unlimited possibilities of reckless public financing” and “uncontrolled Government spending.”¹²

Orthodox conservatives thus sought to dismantle Roosevelt’s programmatic institution of funding and replace it with a different kind of constraint: PAYGO financing. Conservatives’ institutional strategy was to *exhaust* state capacities: if the program collected in payroll taxes each year only what it needed to pay benefits, then significant

¹¹ Business Advisory Council, “Report of the Committee on Social Legislation regarding Old Age Security Sections of the Bill H.R. 7260,” April 30, 1935, CES – Reports, Drawer #2: CES Materials, Lateral File #3, SSAHA, p. 3.

¹² See testimony to Senate Finance (1935), *Economic Security Act*. See also Henry Harriman’s (Chamber of Commerce) argument before the committee about the dangers of government investment of such a large fund (719).

asset accumulation would be avoided, and future Congresses would have no easy path to raising benefits or financing other government activities.

Of course, amending Roosevelt's financing rules would require crafting a new coalition for legislative change. Yet the tools for constructing that coalition lay, in an important sense, within the existing institutions. By definition, a shift to PAYGO financing would require liquidating the existing and projected reserves dictated by actuarial funding. The process of draining those funds in turn would free up resources that could be used for other purposes. Thus, a switch to PAYGO financing had the rare quality of a fiscal "free lunch," allowing – indeed, *requiring* – the dissemination of large short-term benefits at no short-run cost. Crucially, orthodox conservatives' goal of dismantling funding thus dovetailed perfectly with demands by groups at the other end of the political spectrum – especially, calls by expansionists and left-wing opponents of regressive financing to speed up the payment of Social Security benefits, broaden the program's reach, and ease the payroll-tax burden.

By 1938 broad legislative majorities had coalesced around a package of measures that would partly reverse actuarial funding via the distribution of widespread gains to beneficiaries and payroll-tax payers. As the program faced assault from both right and left, even the administration saw institutional adjustment as necessary to preserve the core concept of contributory social insurance. In the wake of conservative gains in the 1938 elections, the president no longer enjoyed the kind of agenda-setting influence within Congress that might have allowed him to preempt the formation of a coalition for defunding. Moreover, he and top Social Security administrators came to believe that the payment of quicker benefits would be necessary to build public support for the besieged program (Schlabach 1969; Derthick 1979; Achenbaum 1986; Brinkley 1995; Tynes 1996; Kennedy 1999).

In 1939, Congress passed and Roosevelt signed amendments to the Social Security Act that added survivors' and dependents' benefits, moved the payout of the first pensions up to 1940, and postponed scheduled increases in the contribution rate. What made funding such a vulnerable structure was – precisely as conservatives had pointed out – that the new fiscal capacities that it created were, ultimately, highly convertible: opponents of funding had, in effect, turned Roosevelt's

tool of “sound” actuarial financing into an instrument of coalition building for the dismantling of the institution itself. In fact, seven times in the course of the 1940s, Congress acted to postpone scheduled increases in the payroll tax, effectively emptying the trust fund of assets. Each time, defunding enjoyed a broad coalition of support as it allowed elected officials to take action that would avoid the imposition of broadly based costs on constituents.

Meanwhile, expansionists advocating vastly increased pension spending found additional, latent institutional opportunities in the 1935 act’s provision for Old Age Assistance (OAA). Intended as a short-term measure while the contributory insurance program matured, this initially small program furnished vital tools for the elaboration and expansion of an alternative model that would ultimately come close to displacing Social Security. Under the auspices of OAA, individual states were free to set pension benefits at any level and to recover half the cost, up to thirty dollars per month per recipient, from Washington. States were also permitted wide latitude in writing eligibility rules, as long as recipients were sixty-five or older.

In ways surely unintended by administration officials, these structures furnished three kinds of strategic opportunities for the expansion of general-revenue-financed social provision. First, by leaving the size and scope of benefits in the hands of state legislatures, the act greatly enhanced the policy relevance of an alternative set of decision-making venues. The empowerment of subnational policymaking arenas mattered because the largest pro-welfare political forces – including the Townsendites, labor movements, and left-wing third parties – were far better organized in some parts of the country than in others. With their presence unevenly distributed across the states, advocates for the poor, aged, and needy saw their influence diluted at the national level and their initiatives blocked by conservative (especially, Southern) forces in Congress. However, in states in the West and North, where pro-welfare parties and movements enjoyed concentrated strength, they were well positioned to press state legislatures for generous social provision (Amenta and Zylan 1991; Amenta and Poulsen 1996). Second, even outside these centers of left-party and populist-movement strength, the OAA program’s financing formula created clear incentives for state politicians to design their own programs on liberal terms: for every dollar spent locally, an additional dollar would flow in from

Washington (Quadagno 1988; Amenta 1998). Third, by opening a channel for spending on the aged out of general Treasury funds, OAA enhanced the prospect of an expansionary dynamic at the federal level, offering members of Congress a relatively painless method of enhancing social provision for the elderly.

Throughout the late 1930s and the 1940s, expansionist forces thus opportunistically exploited openings at the state level in order to circumvent the more tightly constrained national old-age insurance program. While OAA's flexible terms allowed Southern states to keep average benefits low (Quadagno 1988), the program's overall expenditures grew dramatically over its first fifteen years. As insurance entitlements mounted slowly and failed to keep pace with inflation, average OAA benefits across the country rose 57 percent in real terms, to forty dollars per month, during the 1940s. In the middle of the decade, even Congress took expansionary action, raising the federal matching grant from 50 to 80 percent on the first twenty-five dollars of an individual's monthly benefits. By the end of the 1940s, the mean OAA payout was 60 percent higher than the average contributory pension and reached a greater number of beneficiaries (Gratton 1988; Quadagno 1988).

Carefully binding his insurance scheme within a complex of constraining rules, Roosevelt had intended OAA to be a mere stopgap and legislative sweetener. Over the next fifteen years, however, this welfare plan was gradually converted to a starkly different purpose, coming to be regarded in some states as a virtually universal entitlement for the aged (on conversion, see Mahoney and Thelen this volume). With federal OAA expenditures three times as great as those for old-age insurance, this programmatic alternative seriously threatened to displace the contributory scheme as the primary form of public retirement provision (Zelizer 1998).

Defensive Adjustment and Dynamic Stability

By the end of the 1940s, fiscal conservatives within Congress had become alarmed at the long-term implications of these developments. As the wartime economy boomed and tax revenues exceeded expectations, the House Ways and Means and the Senate Finance committees had collaborated in the defunding of the insurance program, approving successive Social Security tax freezes. Now, Congress's fiscal guardians

perceived an impending danger that general-revenue-financed welfare would supplant social insurance as the central pillar of public social protection for the aged. Moreover, with payroll tax rates frozen at an impossibly low long-term rate, Social Security's own contributory structure might buckle as its outlays grew. If payroll collections proved insufficient to cover expenditures, Congress might have to turn to the Treasury for a general-revenue bailout of the program.

By 1950, Congress's tax-writing committees were dominated by activist fiscal conservatives – cautious budget makers who were nonetheless reconciled to the continued existence of a large federal state. Powerful chairmen such as Robert Doughton, Wilbur Mills, and Russell Long largely sought to sustain the New Deal institutional project. Attentive to the political and social importance of welfare spending on the aged, they also – like Roosevelt – aimed to curb financial burdens on the public sector. To the tax committees, pure contributory financing was a doubly useful rule. Like the New Dealers, the committee chairmen hoped that compartmentalization of pension financing would help to contain any expansionary dynamic by tying benefits to visible costs. At the same time, they also perceived in contributory social insurance a second logic that, in some sense, was the mirror image of the first. If the insurance principle tied benefits to costs, it also implied the inverse relation, linking the burden of payroll taxes to a highly popular benefit. If they had to boost future revenues to finance rising spending on the elderly, the tax writers much preferred to raise dedicated insurance contributions than general income taxes (Zelizer 1998).

To protect contributory social insurance from displacement, however, Congress's fiscal guardians realized that they had to change it. In a set of landmark amendments to the Social Security Act in 1950, they undertook four key institutional countermeasures. First, if insurance outlays were not to be outpaced by means-tested assistance, then Social Security benefits would have to be quickly and substantially increased and extended in scope. The amendments brought insurance coverage to an additional ten million workers in previously uncovered sectors and roughly doubled benefit levels. Most strikingly, the tax committees offered substantial benefits to newly eligible retirees with no contributory record. While this move did not affect the compartmentalization of the program's finances – benefits were still to be paid strictly out of payroll contributions – it bent the contributory rule as a principle

for allocating benefits, weakening the link between an individual's contribution record and his or her pension entitlement. In the race against old-age assistance, activist fiscal conservatives saw that they had to reinterpret the contributory principle in order to preserve it.¹³

Second, ensuring the program's solvency on purely contributory terms would require a new schedule of increasing payroll-tax rates, beginning with an immediate percentage point increase in the combined employer-employee rate. Third, Ways and Means leaders added an additional constraining structure atop the contributory principle: a long-term planning horizon. As the tax writers observed, the principle by itself was an incomplete limit on heedless spending because benefit increases could always be scheduled to take effect at a future date. Thus, Congress could too easily grant today's workers generous pension increases without making provision for their future financing. Under the new law, the program's actuaries would now have to forecast the program's financial condition over a seventy-five-year period, and Congress would be required to adjust the tax schedule as needed to maintain the system's solvency over that extended time horizon (Derthick 1979; Zelizer 1998).

Fourth, financing this package of changes required the fiscal guardians of the 1950s to abandon a central element of Roosevelt's institutional blueprint. Rather than returning the system to actuarial fund accumulation, the 1950 amendments explicitly placed the program on a PAYGO basis. Whatever its merits as a financing structure, a return to funding would have been wholly incompatible with the committees' efforts to expand the support coalition for contributory insurance. This is because the political opportunities for transforming actuarial rules were asymmetrical: while funding *expanded* state capacities, generating resources that its opponents could later convert to their own purposes, the drained reserve fund of 1950 severely *limited* politicians' fiscal room for maneuver. Those seeking to move from funding to PAYGO during the 1930s and 1940s could distribute short-term *rewards* as they dissipated the fund, but anyone seeking to revert to funding in 1950 would have had to impose large short-term

¹³ Activist fiscal conservatives in the 1950s thus approximated mutualist symbionts in Mahoney and Thelen's typology (this volume). Although they had not been involved in the institution's design, they developed an interest in its survival. And in order to preserve the *spirit* of contributory insurance, they found it necessary to both amend and reinterpret the *letter* of the original rules.

costs in order to get there. The only way to accumulate a new fund while maintaining the program's compartmentalized character would have been to enact an even steeper and politically insupportable hike in payroll taxes or to scale back benefits. Instead, the tax committees chose to formally break with the principle of funding and to adopt a PAYGO rule that would allow the program to continue operating with minimal reserves.

Like the initial establishment of Roosevelt's programmatic institutions, this shoring-up operation depended on the unusual leverage of a small group of actors wielding powerful gatekeeping prerogatives in the legislative process. To build a coalition for enactment of their revised rules, it was necessary that the tax-writing committees be able to weld the immediate and future increases in the payroll tax to popular increases in benefits – while ensuring that the latter could not be adopted without the former. What allowed them to craft a favorable menu of options was a set of higher-order institutions that structured the legislative process, the most important being the constitutional requirement that all tax measures originate in the House, and the power of the Rules Committee to grant the Ways and Means bill a closed rule, forbidding any amendments on the floor (Cohen 1951).¹⁴

In 1935, Roosevelt had chosen to sacrifice the program's short-run popularity in order to entrench his long-run fiscal preferences. Although the tax writers of 1950 shared many of Roosevelt's policy goals, they were confronted by an altered calculus of institutional conflict as Social Security now faced the prospect of imminent displacement by an alternative arrangement. The survival of contributory insurance now depended more on how *quickly* it won broad political backing than on how strictly it adhered to actuarial principles. Thus, in order to expand the program's support base among the mass public and in Congress, the finance committees chose to amend or abandon central elements of the original insurance model.

Institutional Friction and the Return to Funding

The compartmentalization of Social Security's finances remained a contested institutional feature of the program. While forces on the

¹⁴ The Senate Finance Committee did not receive a closed rule but enjoyed sufficient prestige within the chamber that only one amendment not approved by the panel was adopted on the floor (Cohen 1951).

political left had accepted regressive payroll-tax financing for strategic reasons in the program's early years, organized labor began to push for a general-revenue supplement in the late 1960s (Derthick 1979). Yet activist fiscal conservatives on Congress's tax committees, especially Ways and Means, continued to exercise their formidable agenda-setting authority to hold contributory financing and its seventy-five-year solvency rule in place (Zelizer 1998). At multiple points throughout the 1960s (1961, 1965, and 1967), these rules forced Congress to increase payroll taxes in the near term and to adopt a higher long-term schedule of rates than it otherwise would have. As a result, the payroll-tax rate more than doubled, from 4.5 percent in 1958 to 9.9 percent in 1977 (Board of Trustees 2007).¹⁵

At the same time, expansionists discovered an important set of informational and moral resources in the program's contributory and forecasting institutions. While the explicit linkage of payroll taxes to visible and popular benefits made it relatively easy for elected officials to increase program revenues, the compartmentalization of the program's finances and the imprimatur of long-term "actuarial solvency" also made benefit increases far less vulnerable to conservative attack. It was precisely *because* program spending was so credibly constrained that it could be safely, if incrementally, expanded. When unprojected surpluses emerged – which, in the context of rapid economic growth, they often did – the actuarial rule licensed, rather than limited, gradual benefit growth (Derthick 1979; Zelizer 1998).¹⁶ Between 1952 and 1972, Congress enacted eight benefit increases, all certified by the actuaries as fiscally sustainable, that cumulatively amounted to a 150 percent rise in nominal pension values (Social Security Administration 2005).

Layered atop one another over time, however, Social Security's core fiscal institutions – payroll-tax financing, the seventy-five-year solvency rule, and PAYGO – enjoyed a tenuous coexistence. Their smooth joint operation depended on the particular configuration of exogenous conditions prevalent in the 1950s and 1960s, particularly a steadily growing economy and high fertility rates. Purely contributory

¹⁵ Rates refer only to Old Age, Survivors, and Disability Insurance.

¹⁶ Aside from real economic growth, these surpluses were also partly a consequence of the conservative "level earnings" assumption made by Social Security's chief actuary. Since the forecasting models assumed that wages would remain constant, any rise in average earnings generated surpluses.

PAYGO financing worked well when revenues and outlays grew gradually, predictably, and in step with one another. But a program with minimal reserves and no access to general revenues had little capacity to weather an abrupt and unexpected economic downturn. Moreover, under the seventy-five-year forecasting rule, a drop in fertility rates or an increase in life expectancy would upset the program's long-range financial balance and generate projections of future insolvency. By the mid-1970s, economic and demographic conditions had shifted in ways that brought these program structures into sharp tension with one another. Amidst historically high unemployment and a drop in birth rates, the actuaries' reports began forecasting both short- and long-run deficits within the program (Board of Trustees 1976).¹⁷

For liberals, crisis offered a potential opportunity to revise the program's fiscal rules in their favor. In 1977, President Jimmy Carter and the majority Democratic leadership in Congress proposed solutions to Social Security's financial troubles that included a hefty and recurring infusion of general revenues into the system (Cowan 1977). Such a solution had important political virtues for Democratic politicians: it would have diffused the costs of the bailout across the general budget, increased the financing burden on more affluent income taxpayers, and achieved an institutional change long sought by organized labor. Among voters, an infusion of general revenues was also the most popular solution to Social Security's financial woes.¹⁸

Again, however, fiscal guardians on Congress's tax-writing committees – who would have to initiate any rescue legislation – flatly rejected a break with the institution of compartmentalized financing. Business groups lobbied aggressively against the general-revenue proposal as a threat to future fiscal constraint – as, in the words of one executive, “a precedent that would be too easy for future Administrations to follow” (Jensen 1977). Fiscally conservative Democrats and Republicans on the finance committees echoed employers' concerns. As Ways

¹⁷ An easily fixed error in the formula for automatic inflation-indexation, adopted in 1972, also contributed to the program's financial troubles.

¹⁸ A CBS News/New York Times poll, for instance, found 42% in favor and only 23% against such a switch: April 11, 1978 (conducted 4/3–4/7/78), Accession Number: 0015988, Question ID USCBSNYT.041178, R19B, Roper Center for Public Opinion Research, LexisNexis™ Academic, <http://www.lexis-nexis.com>.

and Means chairman Al Ullman contended, the notion of drawing on Treasury resources “violates the general principle of having a contributory system and makes it easy to move into a broad welfare concept” (Russell and Chapman 1977).

With their strong agenda-setting capacities, the tax writers were able to shepherd legislation through Congress that preserved the program’s contributory structure. Yet in saving the contributory principle, they were forced to dismantle another, now long-established programmatic institution: PAYGO financing. In the absence of a Treasury bailout, payroll taxes would have to be increased immediately to cover outlays during the current period of economic hardship; this was in fact the largest single peacetime tax increase in the country’s history. Once the economy rebounded, however, the new contribution schedule would then generate *more* revenues than the system required, leading once again to the accumulation of a fund. Indeed, in the absence of help from the general Treasury, the program would need this fund to keep its benefit promises and maintain long-term actuarial solvency. With the ranks of beneficiaries projected to grow faster than the workforce, the fund and its earnings would plug a substantial gap between contribution revenues and benefit commitments for the first decades of the twenty-first century (Board of Trustees 1978; Congressional Quarterly 1978).

When back-to-back recessions and renewed high inflation again pushed the program to the brink of bankruptcy in the early 1980s, a parallel dynamic played out. Yet *orthodox* conservatives, a minor force in Social Security politics since the 1950s, now had a champion in the White House intent on rolling back the state. In response to soaring budget deficits and the program’s actuarial imbalance, President Ronald Reagan proposed reductions in benefits. In this new context of conservative ascendancy, however, the contributory principle now offered liberals yet another distinct moral resource. Specifically, it allowed them to argue that any reduction in payouts to today’s seniors – contributors throughout their working lives – would be tantamount to breaking a promise, the withdrawal of an earned entitlement (Pierson 1994). Originally imposed to constrain expansion, contributory financing was now mobilized to entrench benefit promises. It is in this specific but important sense that the program became subject to a path-dependent dynamic: the longer the contributory

principle remained in place, the more difficult it was to scale back benefits.

At the same time, liberals called once again for a break with pure contributory financing, proposing an infusion of general revenues. Fiscal conservatives were still institutionally well positioned to resist such demands, but the reform package they crafted would reinforce the contributory rule at further cost to the PAYGO principle. To get the program through the 1980s without Treasury assistance, program benefits would have to be trimmed and payroll taxes raised once more. As in 1977, these measures not only resolved the immediate cash crunch but – together with a gradual increase in the retirement age – would also eliminate the system’s long-term deficit by accumulating additional enormous surpluses in the trust fund (Board of Trustees 1984; Light 1995).

Combined, the reforms of 1977 and 1983 would return the Social Security program to a partially funded basis for the next several decades, with trust fund assets currently projected to exceed \$4 trillion by 2016 (Board of Trustees 2007). As discussed earlier, PAYGO financing was a relatively robust programmatic institution because departure from it carried high start-up costs. Abrupt economic decline, however, confronted fiscal gatekeepers in Congress with an institutional dilemma: either impose large short-term costs on constituents today or abandon the long-run constraint of contributory financing. Because they cared as much about long-run political consequences as about short-term material effects, they were willing to impose visible, near-term losses on voters in order to preserve the compartmentalized structure of the program. At the same time, the logic of contributory financing provided a crucial informational resource allowing them to justify this painful solution. It was, after all, the insulated structure of the program that made it possible for the scheme to become “insolvent” in the first place and, thus, for elected officials to claim that the tax hikes were fiscally necessary. The program’s compartmentalization, moreover, allowed legislators to credibly link short-term pain to a highly popular public program. With the trust fund separated from the rest of the federal budget, officials could persuasively argue that every penny in new taxes extracted in the present would remain within the program, helping to pay future benefits (Pierson 1994; Patashnik 2000).

As is clear in hindsight, however, these most recent rounds of institutional adjustment were themselves structurally vulnerable. In particular, policymakers in 1977 and 1983 paid little attention to the mechanics of future fund accumulation and did little to ensure that future reserves would remain safe from political manipulation.¹⁹ While nominally separated from the unified federal budget in 1983, trust fund assets would continue to be lent to the Treasury, and future official statements of the federal budget would continue to report a bottom-line figure that included the program's activities.²⁰ As critics would note only years later, Social Security surpluses were potentially facilitating higher spending or lower taxes elsewhere in the budget. Over the last fifteen years, this vulnerability in the trust fund's commitment mechanisms has lent weight to arguments that the program's reserves are an accounting fiction, fueling diverse calls for further structural transformation, ranging from the privatization of the system to a return to PAYGO financing (Schieber and Shoven 1999; Patashnik 2000).

Conclusion

Social Security has ultimately proved a remarkably successful political arrangement, but the path from its New Deal origins to current outcomes has been far from linear or continuous. A principal source of structural instability in the Social Security program has been the repeated contestation of policy rules. While broad consensus ultimately crystallized around important features of the program, much of the scheme's history has been marked by intense conflict. As a powerful engine of resource allocation, the scheme has naturally provoked battles over the size and incidence of its costs and the apportionment and generosity of its benefits. Beyond these immediate distributive concerns, however, stakeholders in the sphere of old-age pensions have

¹⁹ For the 1977 episode, this claim relies on author interviews with Lawrence Thompson (staff economist at the Department of Health, Education and Welfare when the 1977 reform was developing), Washington, DC, October 16, 2001; David Koitz (at the Planning and Evaluation Office at the Department of Health, Education and Welfare during development of the 1977 reform), Washington, DC, May 1, 2002; and Bert Seidman (Social Security specialist at the AFL-CIO), Washington, DC, May 2, 2002. On the 1983 reform, see Ball (1990); Patashnik (2000); and Koitz (2001).

²⁰ The Gramm-Rudman-Hollings deficit reduction package of 1985, for instance, included Social Security in the size of the deficit.

also been keenly sensitive to the ways in which the program's fiscal structure might bias its future politics. Since the earliest days of CES planning, competing coalitions have repeatedly sought to use Social Security's financing rules to limit their rivals' future political opportunities and to expand their own.

Conflict has generated institutional change via two distinct, though interrelated, causal pathways. Most directly, institutional challengers on the left and right managed at times to forge winning legislative coalitions that dismantled, evaded, reinterpreted, or (nearly) displaced important programmatic constraints. Central to their ability to craft such coalitions were fungible resources – financial, procedural, and moral – latent in the very institutions that they sought to revise. Actuarial funding involved the accumulation of capital to cover the scheme's long-term obligations and protect the Treasury from future demands; those same monies, however, were easily redeployed by entrepreneurial actors as a source of inducements to dismantle funding itself. A strict contributory rule forced the Social Security program to live within its means. In limiting the payment of benefits in the early years, however, the contributory principle combined with funding to help mobilize support for alternative modes of provision for the aged. And in tightly linking contributions to outlays, the rule made it far easier for program advocates to justify both increases in the payroll tax and enhancements in benefits. Old Age Assistance was intended as a small and temporary measure to ease the passage of contributory insurance, yet the scheme was quickly converted by opportunistic expansionists into a means of escape from contributory constraints. The tools of challenge were, again, written into the Social Security Act itself: OAA's cost-sharing provisions shifted decision making over federal pension spending to state-level venues more favorable to populist movements while general-revenue financing of the scheme set weak limits on its growth.

A second mechanism of institutional change, however, sprang from the calculations of institutional defenders – of those who sought to preserve Roosevelt's contributory model. In the face of powerful political and financial challenges, fiscal conservatives realized that they could save contributory insurance only by amending it. Repeatedly, leaders of Congress's finance committees pushed through major rule changes intended to expand the program's base of support or to obstruct

further expansionist tactics. These acts of creative entrepreneurship were made possible by the macroinstitutional context in which they unfolded. In particular, congressional rules granted the tax committees formidable agenda-setting authority, allowing them to link popular benefit increases to new programmatic constraints.

Among its broader implications, this developmental process suggests that claims about the path dependence of institutional structures need to be carefully bounded. In Social Security's history, positive-feedback mechanisms played a specific but limited role in stabilizing the program. In particular, beginning in the early 1980s, when a newly aggressive and empowered conservative movement sought to scale back public social programs, the contributory nature of the Social Security scheme posed a formidable obstacle to retrenchment by allowing beneficiary groups to portray cutbacks as the withdrawal of a moral entitlement (Pierson 1994). In this self-reinforcing dynamic, the program's financing method helped to entrench the program's benefit promises.

The logic of positive feedback, however, is less useful in explaining the fate of the program's financial structure itself. Fiscal institutions such as funding and pure contributory financing had few self-entrenching consequences – consequences that would progressively raise the economic or political costs of revision over time. Generally speaking, these rules did not encourage actors, either inside or outside the state, to make specific investments pegged to the maintenance of those rules. Those disadvantaged by Social Security's programmatic institutions, then, did not simply disappear or adapt to these arrangements over time. Strict payroll-tax financing of benefits, for instance, encountered largely the same kinds of opposition in 1983 as it had in 1937. If contributory financing anchored benefits via a path-dependent logic, contributory financing itself generated strong *negative*-feedback effects, and its survival required ongoing coalition building and strategic adjustment by its defenders.

This case thus highlights the central role of endogenous processes in generating institutional change – processes that derive from the logic of the rules themselves. Indeed, one of the most striking features of Social Security's institutional politics is how imperfectly its rules constrained and how readily they could be redeployed as instruments of change. It is worth pausing for a moment to reflect on why this was so – why,

that is, program architects and guardians were not more effective at binding the hands of their successors. The program's rules were not vulnerable and convertible because their authors were particularly poorly informed or myopic. Rather, U.S. pension policymakers faced challenges that are likely to bedevil efforts of institutional constraint in general and to generate important openings for change once rules are in place. Two such challenges in particular are worth noting.

First, designers may be forward-looking and strategic, but they are boundedly rational and confront vast causal complexity. As Mahoney and Thelen point out in the introduction to this volume, rules usually have multiple consequences, and their effects often depend on complex interactions with changing political and social conditions. With limited cognitive resources and imperfect information, institutional designers will rarely be able to predict and optimize across the full range of strategic possibilities latent in their structural blueprints (Pierson 2004). Instead, they will need to simplify the choice problem and attend selectively to relevant considerations (Simon 1971; Arthur 1992; Jones 2001). In crafting his old-age insurance program, Roosevelt made strategic choices in light of potential consequences decades into the future. In assessing those consequences, however, he would have been unable to forecast or take into account the full range of uses to which his rivals and successors might put contributory financing or funding.

Second, even where designers can envision the optimal institutional design, the need to forge an enacting coalition for these rules will often force compromise. Compromise in the writing of rules, in turn, will often generate structures that depart from an optimally constraining logic and will, inadvertently but unavoidably, provide opponents with future opportunities for challenge (Mahoney and Thelen, this volume). If Roosevelt foresaw the vulnerability of OAA to rapid expansion, he had little choice but to accept this calculated risk if he wanted to win enactment of his insurance scheme. To frame these two points more generally: many of the most important sources of institutional change will lie in the conditions of their emergence. Thinking about endogenous sources of change thus provides an analytic opportunity to integrate explanations of institutional *development* with theories of institutional *design*.

Finally, the developmental account here points to the utility of a genuinely historical approach to institutional development. As historically minded scholars have argued, there are many reasons – from the multiplicity of institutional effects to the limited foresight of designers – why we cannot reliably infer the *causes* of institutional emergence from an institution's current *functions* (Schickler 2001; Pierson 2004). From the vantage point of the present, contributory financing seems to bear the imprint of a mutually constraining pact between liberals and conservatives – with rights pegged to obligations – and is currently an object of broad consensus. As a developmental perspective reveals, however, institutions in Social Security politics largely emerged as attempts by one coalition to constrain another, not as a bargain between rival interests. The mutually limiting character of contributory financing only developed *over time*, as liberals learned to exploit an alternative moral logic latent in an institution that had originally been designed to constrain them. Rather than equating functions with causes, we need to go back and analyze moments of institutional emergence or choice.

Equally important, however, is careful analysis of the developmental processes that lie *between* origins and outcomes. As the present case suggests, the degree of fit between current arrangements and original design does not itself tell us much about the causal mechanisms connecting the two. Where outcomes strongly echo origins, it is reasonable to suspect that powerful processes of institutional inertia – whether grounded in consensus, positive feedback, or restrictive amendment rules – may be at work. In the case of Social Security's financing rules, however, elements of institutional continuity emerged from processes that were far less linear and far more contingent on actors' downstream opportunities and choices. The survival of contributory pension insurance in the United States was not built into its origins. To the contrary, the program's initial structure had powerful negative-feedback effects and, after fifteen years in operation, nearly lost out to a far more popular competitor. Even decades after its adoption, the maintenance of the contributory principle hinged critically on the willingness of its defenders to engage in strategies of institutional redesign and reinterpretation. The stability of Social Security's contributory structure was, in this sense, highly dynamic; it had to

be repeatedly and actively reinforced and was dependent on processes of institutional change. Only through historical analysis can we distinguish among alternative causal routes from origins to outcomes and trace out the complex – often mutually reinforcing – relationship between continuity and change.

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Altering Authoritarianism

Institutional Complexity and Autocratic Agency in Indonesia

Dan Slater

How Authoritarian Institutions Change

Authoritarianism is rapidly moving from political science's margins to its mainstream. Lisa Wedeen's (1999, 26) observation that there were, "oddly, few recent writings on authoritarianism in comparative politics" rang true a decade ago – but no longer.¹ A growing literature has established that dictatorships are as diverse as democracies, and that this diversity largely rests in these regimes' institutional differences. Contrary to popular images of dictatorships as regimes in which political arrangements and practices constantly shift at the whim of arbitrary autocrats, authoritarian regimes organize politics in ways that can prove surprisingly enduring. No less than in democracies, the orderliness of politics in authoritarian settings is best explained by the robustness of political institutions.

¹ There was significant coverage of authoritarianism within the "political development" literature of the 1960s and 1970s, but the 1980s and 1990s witnessed a precipitous decline.

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Yet we still know very little about how institutions evolve within durable authoritarian regimes over time.² Through a theoretically motivated analysis of Indonesia's authoritarian New Order (1966–1998), this chapter develops a framework for apprehending and explaining incremental institutional shifts under dictatorship. Ostensibly a model of long-term stability, the Suharto regime in fact experienced a gradual but significant transformation of its core institutional features. What started as a system of oligarchic military rule evolved into a highly personalized regime, backed in nearly equal measure by military and civilian organizations.

Explaining why Indonesian authoritarianism underwent such a considerable transformation, while so many authoritarian regimes do not, demands attention to the causal role of *institutional complexity* in foiling path dependence and expanding opportunities for agentic action. A product of historical inheritance as much as of strategic choice, Indonesia's complex institutional constellation gave Suharto raw material not only for suppressing insurrectionary outsiders but also for dividing and conquering ambitious opportunists and prospective subversives within the regime itself.³ Yet institutional complexity ultimately fostered Suharto's vulnerability as well as his ingenuity. The growing civilianization and personalization of political power sapped the military's will to rule and multiplied the channels through which opportunistic allies and subversive rivals could challenge and loosen Suharto's remarkable grip on power.

Gradual change in authoritarian institutions must be apprehended before it can be explained. This demands a workable institutional typology of authoritarian regimes. The agenda-setting work in this regard has been that of Barbara Geddes (1999a, 1999b), who builds on insights dating back to Samuel Huntington (1968, 1991) to divide authoritarian regimes into three subtypes: military, single party, and personalist. Since it is a tool for explaining regime breakdown and

² An important and informative recent exception is Tsai (2006), but she tackles a very different type of institutional change than the kind covered here, as I will discuss.

³ To review Mahoney and Thelen's definitions of these change agents from the introduction (this volume): *insurrectionaries* openly mobilize against existing institutions from the outside; *subversives* work within the system to effect institutional change; and *opportunists* operate more ambivalently within existing institutions, supporting change when it advances their interests.

persistence, Geddes' typology is not explicitly geared for apprehending institutional evolution within enduring authoritarian regimes.

A typology that I developed in earlier work may prove useful for this analytical purpose (Slater, 2003). My guiding logic was that authoritarian institutions serve to organize two distinct types of power: the power to *make* decisions, and the power to *enforce* them. This mirrors Michael Mann's (1988) distinction between the despotic power and infrastructural power of the modern state. Echoing Mann, I define an authoritarian regime's decision-making procedures as its "despotic institutions," while its organizational apparatus for executing those decisions represents its "infrastructural institutions." Since the gap between formulation and enforcement is a major source of gradual institutional change, as James Mahoney and Kathleen Thelen argue in the introduction to this volume, distinguishing despotic from infrastructural institutions provides a promising start to theorizing incremental shifts in authoritarian settings.

This distinction yields a four-part typology in which despotic institutions range from autocratic (personalistic) to oligarchic (collectivistic), and either a party or military serves as a regime's primary source of infrastructural power. The four resultant ideal-typical regimes are listed in the corners of Figure 5.1: Strongman, Junta, Bossism, and Machine. Note that not all authoritarian regimes are autocracies, although the terms have regrettably become synonyms in much recent literature.⁴ Autocracy implies personalization, which is a variable, not a constant in authoritarian settings. Note also that personal rule is not a distinct regime type in this typology, but a trait that ranges in importance from regime to regime (see also Hadenius and Teorell 2007).

Why does this distinction between despotic and infrastructural institutions enhance our understanding of authoritarianism, and not merely complexify it? In terms of descriptive realism, it is vital to maintain a focus on the enforcement infrastructure of authoritarian regimes. Whereas democratic institutions ostensibly exist to facilitate the sharing of policy influence, authoritarian institutions' primary task is to

⁴ This terminological conflation is especially regrettable in Magaloni (2006). Her explanation for the durability of Mexico's "autocracy" largely rests on the ruling party's consistent rotation of the presidency, i.e., its *avoidance* of autocracy.

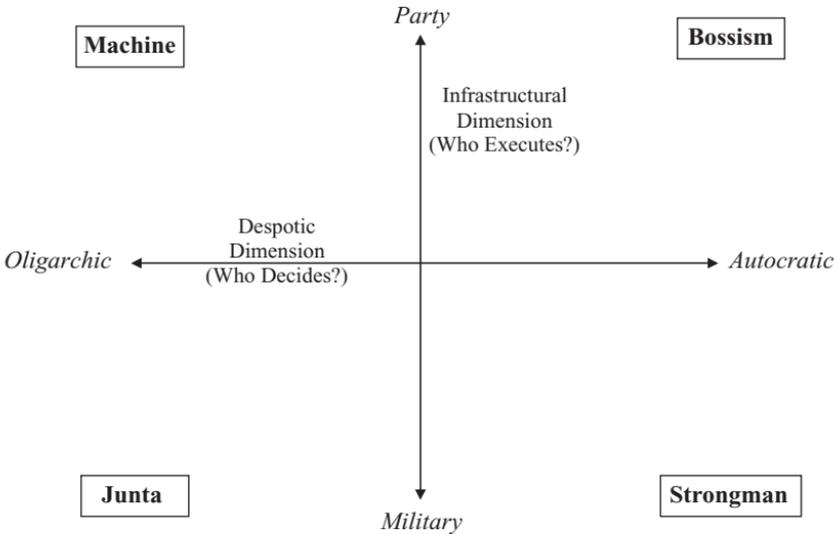


FIGURE 5.1. A Dynamic Typology of Authoritarian Institutions.

ensure not societal *access*, but *acquiescence* (Kasza 1995).⁵ Dictators use institutions first and foremost to craft collective compliance, and only secondarily to solicit policy advice or to offer influence in exchange for support. Hence we must remain attentive to how authoritarian institutions wield power, not simply how they allocate it. Civilian institutions such as parties, elections, and legislatures may present an *image* of decision-making inclusion in authoritarian settings, while denying tangible policy authority and squelching independent political activity in *practice* (Migdal 2001).⁶

Enforcement is more obviously vital when considering the political role of military institutions. To define a military regime strictly by its decision-making procedures – that is, as a regime in which “a group of officers decides who will rule and exercises some influence on policy” (Geddes 1999b, 121) – is to imply that militaries derive their political importance from how they wield authority instead of violence. The

⁵ Acquiescence may or may not be generated with policy concessions. It can also be gained through a mix of rents and raw intimidation, or simply through the absence of viable political alternatives. Authoritarian regimes rest on coalitions, not necessarily coalition *partners*.

⁶ Kasza (1995, 59) uses the term “pseudopolitics” to describe authoritarian practices that “do not affect policymaking or the composition of the ruling elite.”

need to disentangle the despotic and infrastructural roles of military institutions will become evident in Indonesia, where the military lost active policymaking authority but remained an essential weapon for social control during the political crises of the mid to late 1990s. As the *reformasi* protest movement gained strength, its fate rested on two analytically distinct yet equally momentous questions: whether Suharto would decide to crack down, and whether soldiers would collectively enact any such command.⁷

My typology also facilitates the systematic analysis of institutional change by calling attention to two discrete dimensions along which change can take place. Change along the horizontal, despotic dimension can often transpire incrementally and imperceptibly, as aspiring autocrats use techniques of personalization such as “packing, rigging, and circumventing” to subtly siphon decision-making power from pre-existing oligarchies (Slater 2003). Shifts along the vertical, infrastructural dimension, by contrast, tend to be more overt and conflictual – and therefore rarer. Whether a regime’s social control rests on military or party institutions is typically path dependent, since neither type of organization is keen to relinquish its dominant position to the other. Military displacement of a ruling party typically requires a coup d’etat. A party’s effort to out-organize a territorially entrenched military often inspires one.

Recent quantitative research suggests that authoritarian institutional change is far from an everyday occurrence, yet commonplace enough to warrant a general explanation.⁸ An authoritarian regime’s defining institutions are “sticky,” not entirely stuck. Like institutional literature more generally, new research on authoritarian institutions handles their rigidity more successfully than their malleability.

⁷ Studying authoritarian institutions thus requires that we maintain a sensitivity to the organizational aspects of political power – contrary to the growing consensus that institutions should strictly refer to “the rules of the game” (e.g., North, 1990), and not to the organizations that persistently dominate the playing field.

⁸ In Geddes’ (1999a) dataset of twentieth-century authoritarian regimes, 61 of 92 countries (or 66.3%) experienced no intra-authoritarian regime shift, 28 (or 30.4%) experienced one, and only 3 (or 3.3%) experienced more than one. Hadenius and Teorell find more flux among their five institutional types, which subtract personalism but add monarchies, no-party, and limited multiparty regimes to Geddes’ typology. “In fact, from 1972 to 2003, 77 percent of transitions from authoritarian government resulted in another authoritarian regime” (Hadenius and Teorell 2007, 152).

Historical institutionalists have recently shown how regimes' long-term strength can derive in a highly path-dependent way from the circumstances of their origins (e.g., Brownlee 2007; Smith 2007),⁹ while new rationalist accounts have borne analytical fruit by conceiving of durable authoritarian regimes as those in which institutions provide a kind of stabilizing political equilibrium (e.g., Magaloni, 2006; Gandhi and Przeworski, 2007).

Authoritarian institutions are too historically sticky and politically stabilizing for such path-dependent and equilibrium effects to be doubted. Yet a fundamental shortcoming of both types of analysis is that path dependence and equilibrium are features characterizing a *particular* institution. Under conditions of institutional *complexity*, one institution's persistence might undermine another's, and one institution's equilibrium logic might contradict another's. Under such complex institutional conditions, authoritarian regimes can exhibit a more dynamic sort of stability, which neither comparative statics nor path-dependent approaches are well-suited to apprehend or explain.

Indonesia's New Order was very much this type of regime. President Suharto had less freedom to maneuver during his regime's founding period than analyses of path dependence and authoritarian institutional choice typically emphasize.¹⁰ The institutional weight of history and the coalitional contingencies of his violent rise to power denied

⁹ As Brownlee argues in his comparative-historical study of party dominance and debility: "The institutional legacy of the regime formation period subsequently *ensures further stability* for those leaders with ruling parties or unmediated elite factionalism for those with weak parties" (2007, 37; emphasis added). Similarly, Smith's expert comparison of state building and party formation in authoritarian Indonesia and Iran "draw[s] heavily on historical institutionalist conceptions of path-dependent change." Political agents build institutions, but "[o]nce decisions take institutional form, the role of agency changes." Agency dissipates over the life of a regime as "the very institutions that state leaders have much freedom to construct during initial periods powerfully shape their later options for dealing with economic and political crises" (Smith 2007, 9–10).

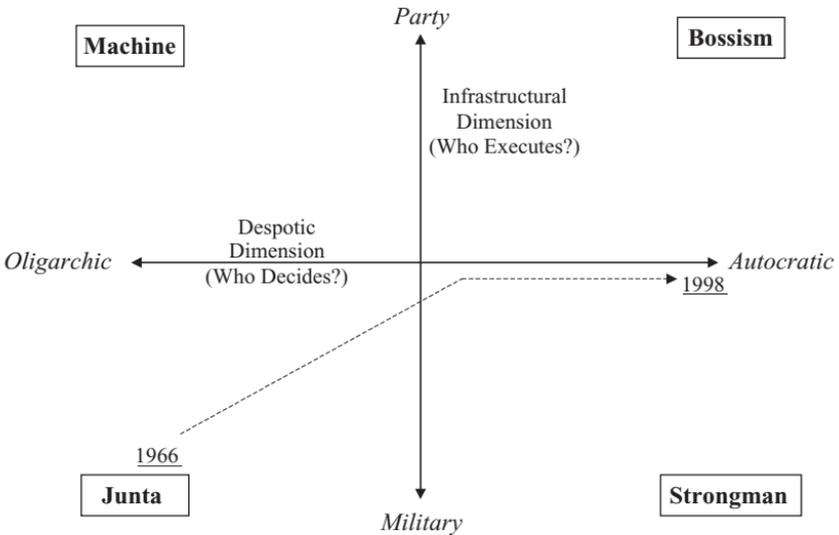
¹⁰ Gandhi and Przeworski (2007) admirably acknowledge that institutional inheritance can shape authoritarian architecture. Yet they do not seem to fully appreciate the significance of this historicist point for their (or any) choice-theoretic account. They treat the number of parties preceding authoritarianism as a proxy for opposition strength and convert the number of parties accompanying authoritarian rule into a proxy for policy concessions. What appears to be empirical confirmation of their argument that strong opposition breeds generous concessions may in fact amount to a confirmation of a more straightforward, historicist finding: the number of parties *before* dictatorship influences the number of parties *during* dictatorship.

Suharto anything resembling a blank slate on which to design regime institutions. The preexistence of a powerful and politicized military put clear initial limits on any party-building initiatives. The military would stand at the center of the new regime whether Suharto liked it or not. Yet the active support for military intervention among Islamic groups, intellectuals, and civil servants presented Suharto with a large pool of civilian allies expecting political inclusion. The advent of a regime with considerable institutional complexity was structured by the multiplicity of highly organized social forces in Indonesian politics and by their common connivance in Suharto's ascent.

Contrary to the assumptions of path dependence, this institutional complexity allowed Suharto's range of options *to expand rather than decline over time*. With territorially encompassing military and quasi-party apparatuses as well as a parliament of supine supplicants at his disposal, Suharto could strategically favor one institution over another as political circumstances shifted. Emergent subversives could be sidelined while more acquiescent opportunists could be privileged, and then marginalized anew if they began to exhibit any subversive tendencies. The upshot was the gradual transformation of a collectivistic military-dominated regime (or "junta") into a highly personalized regime (Figure 5.2), perched atop a mixed party-military infrastructure (or a "strongman" regime with pronounced elements of "bossism").

Existing conceptual frameworks struggle to apprehend such gradual institutional change. Geddes (1999a) classifies Indonesia under Suharto as a hybrid "personal/military/single-party" regime from cradle to grave. Axel Hadenius and Jan Teorell (2007) commence their coding only in 1971, but they portray Indonesia as a "military multi-party" regime throughout. These static classifications obviously neglect the New Order's significant evolution. Yet they usefully convey its complexity. Hadenius and Teorell's categorization captures the existence of multiple political parties under the New Order, while Geddes' classification captures the regime's party-military infrastructural combination.

We must turn to the literature on institutional complexity and change, however, to understand why complex regimes might allow more room for autocratic agency over time than regimes in which a



-----> Rough institutional trajectory of Indonesia's New Order, 1966–1998

FIGURE 5.2. Dynamics of Authoritarian Institutions in Indonesia.

party or military is more solidly hegemonic. As Adam Sheingate (2003, 191, 192) puts it, “institutional complexity creates the conditions that make entrepreneurship possible,” since it “provides the raw material for innovative combinations.” This nicely captures how institutional complexity facilitated Suharto’s perseverance in power through presidential “robust action” and “flexible opportunism” (Padgett and Ansell 1993). Rather than taking the near-suicidal risk of openly displacing the powerful military from his founding regime’s political center, Suharto gradually and increasingly layered civilian institutions atop military ones, crafting a complex institutional balance in which presidential favor could shift between civilian and military allies without advance notice. Far from a dominant-party equilibrium in which a single institutional hierarchy stabilizes politics by making the rules of access to power highly predictable, Suharto pitted civilian hierarchy against military hierarchy, strategically deploying unpredictability and ambiguity as weapons for cementing his personal dominion. It was thus through institutional layering that Suharto accomplished his desired institutional conversion – incrementally

shifting a collectivist military regime into a system of unbridled autocratic rule.¹¹

Yet complexity can empower challengers as well as incumbents. The political skills necessary to manipulate institutional complexity inhere not just in agentive autocrats pursuing dynamic strategies of divide-and-conquer from *above*. They are shared by the insurrectionaries who can exploit institutional schisms from *below* as well as by the opportunists and subversives who can manipulate institutional complexity from *within*. This is why “institutional multiplicity should undermine reliable reproduction” by denying hegemony to any particular institution (Clemens and Cook 1999, 461). Mounting a political challenge to a dictatorship is a different matter than subverting institutions in a democratic setting, however. Authoritarianism systematically denies most actors the agency and access necessary to alter political institutions.¹² So while the specific arrangements that define a given authoritarian regime may evolve gradually over time, challenges to authoritarianism tend to be punctuated, and to erupt suddenly if they are to arise at all.

This helps explain why the Suharto regime’s collapse was as sudden as its evolution had been gradual. Impervious to collective tinkering, the Suharto regime could only be altered through its collective overthrow. Having balanced among multiple institutions for so long, Suharto had denied any single political grouping an unambiguously privileged stake in his continued personal rule. Having used those multiple institutions to incorporate the ambitious as well as the acquiescent, Suharto had invited opportunists and subversives into the inner

¹¹ To review Mahoney and Thelen’s types of institutional transformation: *displacement* entails full-blown institutional change, *layering* involves introducing new institutions alongside existing ones, and *conversion* is the redeployment of existing institutions to new political purposes. To be clear, my argument is that Suharto’s civilianization of power can be conceived as a process of institutional layering, while his personalization of power amounted to institutional conversion.

¹² Marginal and oppositional actors can sometimes undermine and transform authoritarian institutions with creative acts of noncompliance and innovation, as Kerkvliet (2005) and Tsai (2006) have shown; but such acts cannot explain changes of the magnitude that I discuss here. While uncovering fascinating political dynamics in the ostensibly “stable” Vietnamese and Chinese regimes, these shifts within persistent party-dominant regimes fall short of the kind of infrastructural institutional shift from military domination witnessed in Indonesia.

sanctum of his regime, permitting them to gain resources and find routes through which to bring his reign crashing to an end.

Authoritarian Institutions in Indonesia: Inheritance, Complexity, and Evolution

Thanks in part to its rock-solid moniker, Indonesia's New Order is commonly perceived as a stable governing apparatus under which "not much happened" between its violent inception in 1966 and its dramatic collapse in 1998. In fact, the regime experienced significant institutional evolution along both its despotic and infrastructural dimensions. In terms of despotic power, Suharto deployed the tactics of "packing, rigging, and circumvention" (Slater 2003) to transform a collectivist military leadership during its first decade into a more personalized, "sultanistic" regime by its final decade (Chehabi and Linz 1998; Aspinall 2005). In infrastructural terms, Suharto's gradual and partial civilianization of power lessened but could not eliminate his dependence on the military as his primary weapon for social control. Long before the Asian financial crisis seemingly "destabilized" the Suharto regime, its core institutions had come to look quite different than they had at its inception.

Lineages of the New Order: Institutional Complexity in Sukarno's "Old Order," 1949–1965

Diverse social structures tend to spawn complex institutional constellations (Lipset and Rokkan 1990 [1967]), and Indonesia is among the most socially diverse countries on earth. Unlike India, a comparably diverse country that emerged from its decolonization struggle with a highly organized national ruling party, Indonesia's contentious path to independence in 1949 produced no peak institution binding the nation's politics together. Instead, there were five major political and social organizations emerging from Dutch rule that will prove essential in the analysis of authoritarian institutions to follow. The prewar period witnessed the birth of two important mass political parties – the Indonesian Nationalist Party (PNI) and the Indonesian Communist Party (PKI) – and two Islamic organizations with memberships in the millions: the Nahdlatul Ulama (NU) and the Muhammadiyah. Japan's wartime occupation and the subsequent war for independence against

the Dutch brought a fifth critical player onto the scene: the Indonesian national military, or ABRI.¹³

At the center of this constellation was Sukarno, a founding member of the PNI and the leading charismatic figure in the national revolution. To provide some sort of glue to bind Indonesia's diverse political organizations together, Sukarno introduced the ideology of Pancasila in 1945 as an alternative to an outright Islamic state. A vague statement of five principles encompassing religiosity, nationalism, humanism, consensus, and social justice, Pancasila was ambiguous enough to paper over ideological disagreements during the anti-Dutch conflict. When its position as a peak national ideology became increasingly institutionalized under Suharto's New Order, Pancasila's manifest ambiguities would make it a double-edged ideological weapon, justifying both the repression and resistance of political subversives.

Since Sukarno's PNI could not ultimately reign supreme over Indonesia's diverse and highly mobilized social forces, independence gave rise to a parliamentary democracy with four main parties: the PNI, the PKI, the NU, and Masyumi, an Islamic party largely drawing on the mass membership of Muhammadiyah. Postindependence parties thus mirrored preindependence organizations. Elections during the parliamentary era (1949–1957) saw these four parties gain relatively equal support, yielding a string of shaky coalition governments. Hovering impatiently above this rather unstable arrangement was figurehead president Sukarno and Indonesia's fifth main political institution, ABRI.

Yet ABRI was still too fragmented to enter politics as a coherent actor. Factionalism erupted into violence in 1957 with a series of territorial rebellions led by regional military commanders. This gave Sukarno a pretext for dispensing with the deliberative niceties of parliamentary politics and declaring martial law. ABRI leaders thus gained a golden opportunity to purge rebellious rivals and assert their political interests. With the elimination of electoral politics, the parties' grassroots positions began to be usurped by a strengthened territorial military command and a new set of corporatist, government-linked "functional groups" (*golongan karya*), or *golkar*. In 1959, Sukarno

¹³ Nahdlatul Ulama can be translated as the Council of Islamic Scholars. ABRI stands for Angkatan Bersenjata Republik Indonesia, or Indonesian Armed Forces.

seized stronger executive power by returning Indonesia to its presidentialist 1945 constitution, declaring the birth of “Guided Democracy.”

At its inception, Guided Democracy was a straightforward example of personal rule backed by military force: a “strongman” regime. But Sukarno did not remain wholly reliant on ABRI’s infrastructural power for long. In 1960, Sukarno invited the PKI back into government as a counterweight to the military, commencing a precarious period of political balancing. While Sukarno’s appropriation of despotic power did not cause evident strain, his effort to shift the locus of infrastructural power created ominous sociopolitical tensions. ABRI resented and resisted the PKI’s revitalized efforts to mobilize supporters in the cities and countryside, as well as Sukarno’s efforts to promote PKI sympathizers within the military itself. Since the PKI’s bid for support involved creating and capturing corporatist *golkar* of social forces such as workers, peasants, and women, ABRI responded by mobilizing functional groups of its own. In 1964, ABRI Commander A. H. Nasution brokered the formation of a new Golkar secretariat, an alliance of promilitary, anti-PKI corporatist groups, as an infrastructural counterweight to the PKI.

By the end of Sukarno’s “Old Order,” then, the military’s infrastructural power over Indonesian society was substantial. ABRI had “developed a network of territorial units concerned with internal security and watching over civilian activities generally” and “sought to ‘integrate itself with the people’ through its territorial organization,” which “act[ed] as guardians of security at the local level” (Crouch 1978, 222). This infrastructural power would be put to genocidal ends in the wake of a failed leftist coup on the night of September 30, 1965. The PKI was blamed for the putsch, which commenced with the massacre of seven top generals. One of the postwar world’s worst bloodbaths ensued. Under the leadership of Suharto – the highest-ranking general in Jakarta neither killed nor wounded in the coup – ABRI joined forces with NU militias to unleash a pogrom that claimed the lives of hundreds of thousands of communists and suspected PKI sympathizers. By the time Suharto pressured Sukarno to hand over emergency executive powers, in March 1966, his ascent to power represented his scaling of “a mountain of skeletons” (Anderson 1999, 7). As Suharto tried to consolidate the New Order with authoritarian institutions, the momentum of the past would

prevent him from simply inventing advantageous arrangements from scratch.

Societal Acquiescence and Institutional Inheritance: Military Dominance and Institutional Complexity, 1966–1973

The origins of the Suharto regime did not take place in anything resembling a coalitional or institutional vacuum. Rather than needing to seek out new coalition partners to help consolidate his rule, Suharto was immediately tasked with managing an eclectic collection of political allies. As Benjamin Smith (2007, 84) depicts the initial New Order coalition: “In addition to the bureaucracy and the army, which served as the primary institutional bases of the regime, the major student organizations, religious parties and organizations, and rural elites on Java all coalesced around the exigencies of order and development.” These willing allies strengthened Suharto’s hand as he confronted Sukarno supporters within the military, the bureaucracy, and society at large. But they also came with expectations of institutional access that were not easily compatible, thus tying Suharto’s hands as well.

In short, the initial New Order coalition was bound together by a “common enemy” in the PKI, not a common agenda.¹⁴ Military and bureaucratic elites were generally eager for Suharto to replace Sukarno’s Guided Democracy with something entirely guided and not remotely democratic. Yet students, Islamic groups, and anticommunist party politicians often backed the New Order in the “hopeful expectation” that it would prove less authoritarian than its immediate predecessor. Suharto reportedly disliked needing “to depend upon” such a broad and unwieldy coalition of opportunists. His personal position atop the military was initially quite precarious, however, making his wide-ranging support among anticommunist and anti-Sukarnoist civilians too valuable a political resource to be squandered lightly.

Helping Suharto manage this diverse coalition was the complex array of political institutions that he had inherited. With the exception of the insurrectionary PKI and Masyumi (which had been banned since the regional rebellions of the 1950s), civilian parties continued to

¹⁴ All quotes in this paragraph are from an interview with Burhan Magenda, an editor of the influential student paper *Harian KAMI* from 1966 to 1974, as well as a Cornell-trained political scientist and current member of Indonesia’s parliament (July 16, 2004).

exist and retained their seats in the appointive parliament, which continued to convene. These inherited civilian institutions would quickly be bled dry of whatever limited decision-making power they had still enjoyed under Guided Democracy. “Having gained control of the government for themselves, the army leaders had no intention of handing power over to the political parties in the name of ‘democracy,’” writes Harold Crouch. Suharto and his inner circle did not even feel pressed to *share* policy influence with civilians in exchange for acquiescence, since “[t]he emergence of the army to a position of unchallenged domination of the government had been welcomed enthusiastically by a small section of civilian political opinion and accepted as an unavoidable reality by most of the rest” (Crouch 1978, 245).

In Migdal’s terms (2001), the image of an ongoing civilian role in political decision making was thus not reflected in actual political practice. Civilian institutions were present, but military institutions were predominant. ABRI’s newfound despotic domination was backstopped by the revamping of its already impressive infrastructural reach. It strengthened its primacy in social control with the formation of the Operational Command for the Restoration of Security and Control (Kopkamtib), under Suharto’s direct command, in the aftermath of the coup. “With this ‘military within the military’ as the core of ABRI’s repressive apparatus, everyday politico-ideological surveillance was institutionalized in the social life of Indonesia,” writes Jun Honna. “Kopkamtib’s activities were backed by the military area commands which controlled political life in each geographic territory” (Honna 2003, 9). Meanwhile, the “greening” (*penghijauan*) of the bureaucracy witnessed the placement of military men in administrative positions throughout the archipelago. The editor in chief of the influential Islamic student paper *Harian KAMI* noted that by the late 1960s, ABRI had effectively seized “most of the positions which control people” (Suryadinata 1989, 34).

In the New Order’s first decade, then, the military “massively penetrated all hierarchies of the state apparatus and most aspects of society’s life” (Anderson 1983, 490). ABRI also retained a collective grip on despotic power, as “the New Order regime had been established by the military as an institution in which Suharto was initially merely first among equals” (Aspinall 2005, 242). Specifically, Suharto surrounded himself with a personal staff (*staf pribadi*, or SPRI) comprising twelve military advisers, each of whom gained authority over a

distinct decision-making domain such as economic development, social welfare, and domestic intelligence. Nine of these twelve advisers held the rank of brigadier general, underscoring the fact that Suharto was constructing a military junta, not merely a personal clique. Even after Suharto disbanded the SPRI in the face of growing criticism in June 1968, these generals still “exercised great influence over the patronage system. They played a major role in determining appointments in both the military hierarchy and the government administration” (Crouch 1978, 308). Despotism was thus more oligarchic than autocratic at the New Order’s onset, with a consortium of generals making all the political decisions that counted.

Where would civilians fit in this political arrangement? While so-called New Order militants urged a thoroughgoing militarization of the polity, Suharto’s many bureaucratic and societal allies sought an active stake in the regime they had helped to forge. To marginalize the militants and incorporate civilian supporters, Suharto and his closest allies revived and revised Indonesia’s system of elections, parties, and parliaments in a way that would consolidate rather than complicate military domination. “Soeharto was not of a mind – and probably unable – to ban all civilian political activity,” Adam Schwarz (1994, 30) argues. “The forms of government would stay, but those outside the executive branch would be steadily drained of influence.”

In other words, Suharto’s inner circle saw civilianization as a way to develop stronger infrastructural institutions. They had no intention of sharing decision-making authority with civilians, with the exception of a few select technocrats as helmsmen of the macroeconomy. They had every intention of enlisting the help of civilian allies in establishing centralized political and social control. What emerged was a complex structure in which elites would compete both within and across civilian and military institutions for political advancement.

The most important institutional innovation involved the “conversion” of Golkar from a loose confederation of corporatist groupings into the New Order’s electoral vehicle.¹⁵ Working closely with fellow generals Ali Murtopo and Amir Machmud, Suharto compelled

¹⁵ The organization was called Sekber Golkar, or the Golkar secretariat, until after the 1971 elections, but I use the term Golkar throughout to avoid confusion. See the volume introduction on the concept of institutional conversion.

the consolidation of more than two hundred Golkar affiliates into just seven, in preparation to contest the 1971 elections. Rather than building an autonomous ruling party or working through an existing party that might rival the military and mobilize politically unreliable social forces, the Suharto-led junta deployed an organization long dominated by the military itself. Although clearly a creature of state more than society, Golkar provided a useful political outlet for the New Order's many nonmilitary supporters, especially in the bureaucracy. Civil servants were forbidden from maintaining party memberships and forced to declare "monoloyalty" to Golkar.

Such moves allowed the Suharto regime to bleed existing parties of support and influence, without taking the potentially explosive step of banning well-established institutions outright. To invoke Mahoney and Thelen's terms, parties were not displaced entirely, but were stripped of subversive and insurrectionary elements. In a maneuver that foreshadowed manipulations to come, authorities merged several small Muslim groups into a new party called Parmusi in 1968. A pliant party chairman was appointed, and Parmusi was granted eighteen seats in the national parliament. While this created an illusion of sharing policymaking authority, it would soon be evident that parliament would only be entrusted to serve a rubber-stamp role. Parliament's lack of independent authority was signaled in the elections law of 1969, which set aside about 20 percent of all seats for appointed members, usually military men (Suryadinata 1989, 74). Indonesians would deride their parliamentarians' lack of policymaking authority, sarcastically summarizing their daily routine as the "four Ds": *datang, duduk, diam, duit* (show up, sit down, stay silent, get paid).

In sum, civilian institutions may have appeared to be handcuffs constraining the regime's despotic power; but they were more like brass knuckles enhancing its infrastructural power. This was made obvious in the 1971 national elections, when ABRI's territorial apparatus helped deliver a landslide victory for Golkar. Civilian-style politics proved perfectly compatible with continued military domination. Suharto and his military allies then tightened their grip over the New Order's civilian institutions even further. Given the regime's earlier success at infiltrating Parmusi and streamlining Golkar, it confidently compelled all remaining parties to coalesce into two sanctioned semiopposition groupings in 1973: the Islam-oriented United Development Party

(PPP) and the more secular nationalist-leaning Indonesian Democratic Party (PDI).

It thus appeared by 1973 that Suharto's inner circle had consolidated military hegemony, thanks in part to their deployment of subservient civilian institutions, especially Golkar. It is critical to recognize, however, that such institutions were often inherited, not invented. And while parties and a parliament remained present, ABRI was predominant. Yet the mere presence of nonmilitary institutions, disempowered though they were, would have significant consequences for the New Order's evolution. Institutional complexity would give Suharto tools for wrong-footing rivals and concentrating despotic power in an ever-strengthening presidency.

A Turn to Autocracy: Military Factionalism, Protest, and the Junta's Demise, 1974–1977

It is not unusual for collectivist authoritarian regimes to become more personalistic over time.¹⁶ As I have argued elsewhere (Slater 2003, 87–91), there are at least three techniques through which an aspiring autocrat can incrementally siphon decision-making power from fellow elites: (1) “packing,” or the appointment of loyalists and purging of rivals atop political institutions; (2) “rigging,” or the modification of rules to forestall competition for leadership posts; and (3) “circumvention,” or the diversion of influence and resources from rivals in “unpacked” institutions to loyalists in packed ones. After 1974, these techniques became increasingly important drivers of institutional change in Indonesian politics. Once the New Order's combined military-party infrastructure had been established, this multiplicity could be manipulated by Suharto in his bid to monopolize despotic power.

This is not to say that personalizing power *requires* institutional complexity. Autocracy can displace oligarchy in regimes where either a ruling party or the military is utterly dominant.¹⁷ Why then did

¹⁶ Echoing Chehabi and Linz (1998), Aspinall (2005, 204) notes that “‘sultanization’ is especially likely toward the end of a ruler’s term in office.”

¹⁷ Examples of party “machines” giving way to “bossism” include Malaysia under Mahathir Mohamad (Slater, 2003) and Zimbabwe under Robert Mugabe. Military “juntas” that increasingly resembled “strongman” regimes include Burma under Ne Win and Chile under Augusto Pinochet.

Suharto choose to personalize power by pursuing an infrastructural *balance* between ABRI and Golkar, rather than trying to dominate politics through the infrastructural hegemony of ABRI alone? As we have seen, ABRI enjoyed such a commanding position in Indonesian politics at the onset of the New Order that such a strategy appeared quite plausible. In fact, Suharto's initial consolidation of control bore clearer marks of power balancing within ABRI than across the ABRI-Golkar divide. As one leading scholar of military politics observed:

Although the members of [Suharto's personal staff] enjoyed a warmer relationship with the president than did their rivals, he was careful not to favor them to the point where the military professionals felt alienated. A careful balance was maintained, in which both groups were rewarded in the present and had grounds for optimism about the future. Presiding over a system of balancing vested interests, Suharto seemed in the early 1970s to be in a position to maintain his regime indefinitely. (Crouch 1978, 309–310)

In other words, one could envision the consolidation of a straightforward “strongman” regime in which Suharto personally dominated a hegemonic ruling military. Yet the violent confluence of military factionalism, Islamic protest, and student-led unrest in late 1973 and early 1974 would alter Suharto's coalitional and institutional calculations. Troubles began with “rising protests by PPP (the then newly formed Islamic party) and other leading Muslim organizations and individuals against the government's promotion of a new marriage law” (Sidel 2006, 107). The fact that NU and Islamic student groups *stormed* parliament spoke volumes about their lack of influence in that “decision-making” chamber. Anger over proposed family reforms reflected growing sentiments that the New Order was becoming less attentive to the array of Islamic allies who had helped usher the regime to power.

The major lightning rod was General Ali Murtopo. “Suharto's right-hand man” served both as interior minister and as commander of Opsus (short for *Operasi Khusus*, Special Operations), a secretive military unit founded by Suharto in 1968 as a counterweight to ABRI's powerful Kopkamtib group. Not only did Murtopo have stronger ties to Christian than to Muslim constituencies. He had also shown signs of “want[ing] to use Golkar as his own power base,” proposing to transform it into a full-fledged cadre party independent of military control (Suryadinata 1989, 145). This raised the ire of General Soemitro, who

commanded Kopkamtib and had strong ties to Islamic groups dating back to their collaboration in the annihilation of the PKI. When Soemitro intervened to broker a compromise between the regime and Islamic protesters over the proposed family law, Suharto seemingly chafed at his rival's continued political relevance. In Suharto's view, Kopkamtib existed to enforce policy, not to negotiate and formulate it.

Factional tensions erupted into student protests and urban riots in January 1974. The so-called Malari disaster deeply shook Suharto's confidence in his support among student and Islamic groups,¹⁸ as well as their perceived military patrons. "Implicated in the student protests and, by association, the Malari riots, Soemitro was forced to resign his post" (Sidel 2006, 109). Suharto also cracked down hard on the student media, especially those of an Islamic bent, further sacrificing his coalitional support in Islamic circles. As John Sidel has argued, the Malari disaster was very much a violent expression of worsening coalitional and institutional friction. "This series of events reflected – and in considerable measure exacerbated – a set of growing tensions between rival factions, and between conflicting institutional, social, and religious elements, within the New Order regime" (Sidel 2006, 108).

These coalitional tensions wrought institutional change along both the despotic and infrastructural dimensions. The purging of an independently powerful "junta" member, Soemitro, was accompanied by the packing of his Kopkamtib post with a Suharto loyalist lacking either revolutionary credentials or an autonomous political base: Benny Moerdani, a Christian general. This represented a deepening of earlier, subtler practices of personalization within ABRI, rather than a completely novel approach. Suharto had commenced his consolidation of military power in 1966 by shuffling the only remaining general surpassing his own stature, A.H. Nasution, "into a prominent but relatively powerless civilian position" as chairman of the national parliament (Crouch 1978, 228). Similar packing maneuvers were complemented in 1967 by practices of circumvention, with the placement of a general who was "personally and professionally close to Suharto" (Robison 1986, 229) and another who was effectively "the president's political financier" (Winters 1996, 84) in charge of Indonesia's two

¹⁸ "Malari" is short for Malapetaka Lima Belas Januari, or the January 15th Disaster.

greatest sources of discretionary revenue: the state logistics board (Bulog) and national oil company (Pertamina), respectively. And in a foreshadowing of the kind of communal divide-and-conquer politics to come, Suharto had by 1969 “steepened and streamlined military hierarchies under Deputy Minister of Defense General Maradaen Panggabean. General Panggabean was not only personally loyal to Suharto. As a Protestant and member of the Batak ethnic minority, he could not become an independent center of power” (Anderson 1978, 6). The Soemitro-Moerdani shuffle in 1974 thus represented the culmination of a series of personalizing blows leveled against collective military leadership.

Suharto’s falling out with Soemitro also helped Golkar make modest gains vis-à-vis ABRI in infrastructural terms – if mostly through the growing clout and following of a single loyalist, Ali Murtopo. Golkar’s total number of field secretaries, who served as “the links between Golkar and the grassroots,” expanded from five to eleven after 1973. Seven of those eleven “were Ali Murtopo’s men” (Suryadinata 1989, 59, n. 30). Murtopo tried to leverage his enhanced power over Golkar with calls in 1974 for a “dynamic balance between the civilians and ABRI” (Suryadinata 1989, 39) rather than the kind of military hegemony that had characterized the New Order to date.

Golkar nevertheless remained a weak infrastructural rival to ABRI, largely because ABRI elites utterly dominated Golkar’s upper reaches. “The military was the dominant political force within Golkar” between the 1971 and 1977 elections, argues Leo Suryadinata (1989, 84). Although approximately half of the delegates at Golkar’s 1973 congress were nonmilitary men, only two of the twenty-nine invited speakers could say the same (Suryadinata 1989, 53). Such patterns reflected Golkar’s lack of despotic power as well as infrastructural power vis-à-vis ABRI. Even Golkar’s top representative in parliament, Sarwono Kusumaatmadja, admitted that:

Golkar had not played a major role in the decision-making process... Although he [Sarwono] did not mention directly that it was ABRI which was the real decision maker, he did indicate that the relationship between Golkar and ABRI was similar to that of an uncle and a nephew. In other words, it was an unequal partnership. After all, he said, Golkar was still young and it still was unrealistic to expect it to be independent from ABRI. (Suryadinata 1989, 84–85)

As a window on institutional power and change, Sarwono's commentary is intriguing in several respects. First, Sarwono does not claim that ABRI's dominance over Golkar was expressed in terms of decision-making power. Authoritative decisions were increasingly emanating from Suharto's narrowing clique rather than the military as an institution. Yet ABRI's infrastructural advantage over Golkar nevertheless made it the "uncle" rather than the "nephew" in the relationship. Sarwono's familial metaphor is also illuminating in its implications for endogenous institutional change. A nephew may be subservient to an uncle as a child, but the power balance tends to equalize as the nephew grows up.

In the Indonesian case, the nephew (Golkar) had more than time on its side. It also gained increasing personal backing from the metaphorical father (Suharto), who saw it as a weaker and more malleable ally than the uncle (ABRI). Organized support from an increasingly strengthened and civilianized Golkar could help protect Suharto against the kind of military factionalism that had erupted with Malari. Not unlike his ideological archenemy Sukarno, then, Suharto calculated that a balanced regime infrastructure would be more conducive to the consolidation of autocracy than dependence on ABRI alone. Given the initial predominance of military over civilian forces in the New Order, however, a true ABRI-Golkar power balance had to be creatively crafted. *If institutional complexity was inherited, institutional balance would need to be invented.*

This would prove to be an agential enterprise akin to what John Padgett and Christopher Ansell (1993) call "robust action" and "flexible opportunism," and what Adam Sheingate (2003) calls "political entrepreneurship." It involved creative and shifting combinations of presidential packing, rigging, and circumvention in response to the changing contours of acquiescence and dissent within Suharto's ruling coalition. The discussion to follow cannot possibly do justice to the many maneuvers Suharto deployed to sustain his regime as he cast aside "junta"-style politics and constructed more of a "strongman" regime with pronounced elements of "bossism." But it should serve to illustrate processes of *infrastructural balancing* and *despotic personalization*, and to show how these dynamics were at once analytically distinct yet strategically intertwined.

Expanding Agency in Institutional Reproduction: Despotic Personalization and Infrastructural Balancing, 1977–1995

Suharto's decision to seek a third presidential term in the 1977 elections would usher in a new era in regime personalization. Public criticism of Suharto's leadership began to increase from within ABRI, even as voices in Golkar and the wider society increasingly denounced ABRI's domination of the state apparatus. Prominent Suharto critic Ali Sadikin, the popular governor of Jakarta, was replaced with Suharto's "own military secretary" (Smith 2007, 152). While Golkar romped to its usual landslide victory in the 1977 vote, growing social discontent at Suharto's narrowing base produced rising support for the Islamic PPP, which scored outright victories in the province of Aceh and in Jakarta itself. Electoral opposition was followed by contentious opposition, as the early months of 1978 preceding Suharto's reinauguration witnessed a more organized upsurge of urban protest than the rather riotous unrest of the Malari period.

As his coalition constricted, Suharto tightened his personal grip on key authoritarian institutions. Initially this took the form of a strengthened alliance with Ali Murtopo and other key associates within ABRI, as Benedict Anderson (1978, 16) relates:

Shortly after his re-election, Suharto announced a new Cabinet. Far from representing an attempt to widen his shrunken political base, it bore all the characteristics of a regime under siege. It contained far more generals than its predecessor, and these generals were all members of the old palace clique. What new faces emerged were mainly creatures of General Ali Murtopo's intelligence apparatus. . . . For the first time in Indonesia's history the ministry of religion (an old Muslim bailiwick) was given to a general.

Yet Suharto was not trying to restabilize his regime through pure military hegemony. Even as he favored ABRI with prime political appointments, Suharto simultaneously started shaping Golkar into a sharper infrastructural instrument for rule and reducing its dependence on the military. At its 1978 congress following Suharto's reelection:

The Golkar leadership introduced a policy which stated that the military officers on active duty would not be permitted to hold office in Golkar. . . . It was also stated by the Golkar leadership that in the future, the chairmanship of Golkar supervisors' councils at the provincial and district levels would not

be held automatically by local military commanders. Some Golkar leaders interpreted this as a sign of the “civilianization” process. Interestingly, this civilianization process was accompanied by the greater role played by President Suharto in Golkar. (Suryadinata 1989, 99–100)

Civilianization was not merely “accompanied,” but *driven* by Suharto’s autocratic turn. Golkar was not gaining decision-making influence, but gaining positions through which it could complement ABRI as a (well-compensated) weapon for social and political control. The quasi-party was trading subservience to the military for subservience to Suharto.

To that end, the 1978 Golkar congress saw Suharto “rig” internal procedures to his personal advantage. Within Golkar’s supervisors’ council, or “actual decision-making body,” Suharto pushed for the abolition of the post of deputy supervisor, which had previously been held by Indonesia’s vice presidents. When the forty-five-member supervisory council was introduced in late 1978, “most of these people were loyal supporters of President Suharto. The Murtopo group was still rather heavily represented.” In Golkar’s other main body, its executive board, Suharto “was also given the right to appoint members of the central executive board as well as to suspend the board.” In sum, as the daily *Kompas* editorialized, these strategic rule changes “made it very explicit that Suharto was now the actual leader of Golkar” (Suryadinata 1989, 58, 100, 101).

The political shocks of 1977 and 1978 were also followed by Suharto’s invigorated efforts to steer the national economic product toward his own hands and those of his very closest allies, in a combination of packing and circumvention maneuvers. We have already seen how in the late 1960s Suharto placed loyalists atop the national oil company (Pertamina) and agricultural logistics board (Bulog), perhaps Indonesia’s two most lucrative cash cows. Pertamina in particular had grown more flush in discretionary revenues with the first OPEC oil boom. Now Suharto aimed to consolidate his personal control over centralized patronage networks even further. All state banks were mandated in 1978 to give 8 percent of their profits to new presidential foundations (*yayasan*) that would provide Suharto with bounteous additional sources of discretionary finance in the decades to come (Robison and Hadiz 2004, 55). By 1980, Suharto had diverted all procurement decisions from mainline economic ministries to the

new “Team 10” within the executive offices of the State Secretariat (Sekneg), in a spectacularly lucrative circumvention maneuver. “Over the next five years the team’s power would be extended vertically through the state apparatus and horizontally across the archipelago,” writes Jeffrey Winters. “The resources that passed through Team 10’s approval process are mind boggling” (Winters 1996, 130, 134).

The institutional rise of Sekneg and Team 10 in the early to mid 1980s crystallized Suharto’s personal domination of Indonesian politics. “Far from being a creature of the military high command, the Presidency in Indonesia became a center of power with its own momentum,” note Richard Robison and Vedi Hadiz. “In administrative terms, the rise of the State Secretariat (Sekneg) provided the President with a discrete capacity to prepare and plan legislation and to deal with [the] Cabinet, the Ministries and with parliament” (Robison and Hadiz 2004, 48). In this context, “deal with” suggests “handle” rather than “negotiate.” Suharto’s despotic gains were ABRI’s loss, as the presidential office grew into “a formidable institution of state power . . . *vis-à-vis* those competing power centers in the military that had previously gravitated around Ali Murtopo and the Ministry of Defense under General Benny Moerdani” (Robison and Hadiz 2004, 59).

It would be from the presidential office that Suharto’s new right-hand man would arise. If Murtopo was Suharto’s main sidekick of the 1970s, he would be displaced by Sudharmono in the 1980s. Crucially, Sudharmono lacked Murtopo’s autonomous base in ABRI, having risen to power under Suharto’s thumb as head of Sekneg. “Although Sudharmono was a retired general, he had not been accepted by the military establishment as a full member,” Leo Suryadinata (1989, 138) explains. “Unlike most of the military leaders who were field generals, Sudharmono was a staff general without battle experience. His power base had been in the bureaucracy rather than in the military *per se*.” This made him a more pliable figure than Murtopo, as well as a useful balance against Moerdani, the Christian general who had accrued something approximating “complete control of the country’s fire power” (Sidel 1998, 163). The old Soemitro-Murtopo rivalry was being replaced with a Moerdani-Sudharmono power struggle, with Suharto standing once again as the prime beneficiary.

Indonesian politics after 1978 would be characterized by increasing ambiguity as to whether Golkar or ABRI enjoyed the upper hand

as Suharto's primary political vehicle, alongside decreasing uncertainty regarding the fact that Suharto was indeed the driver of politics. Suharto attempted to deploy ideological ambiguity in his own favor as well. In the wake of the PPP's electoral gains and subsequent mass protests, Suharto began to accuse any and all critical groups of defying Pancasila, the vague, consensual national ideology introduced by Sukarno to bridle ideological conflict. During a speech to military commanders in May 1980, Suharto condemned the PPP as "anti-Pancasila" and declared that "because of the presence of anti-Pancasila forces, ABRI would be forced to choose a partner and a friend who fully supported Pancasila. It was clear that he was referring to Golkar" (Suryadinata 1989, 109). A dissident group led by retired generals called the Petition of Fifty emerged in response to Suharto's misuse of Pancasila and apparent intention to convert ABRI into more of a bodyguard for Golkar and himself. While the petitioners failed to gain political traction, their public dissent exemplified the growing alienation between the professional military and the Suharto clique. It also illustrated how Suharto's strategic stress on the importance of Pancasila could unintentionally provide his opponents with a discourse for dissent that would be difficult to keep in check.

Rather than yielding to military concerns about Golkar's growing independence – as he had in 1979 by rejecting Murtopo's effort to convert it into a more autonomous cadre party (Suryadinata 1989, 63) – Suharto now moved the New Order ever closer to an infrastructural party-military balance. After Suharto's ally Sudharmono captured the chairmanship of Golkar unopposed, the 1983 Golkar congress saw even more vigorous efforts at packing and rigging the party in Suharto's favor than had been witnessed in 1978. During Sudharmono's tenure as Golkar's general chairman from 1983 to 1988, "the Suharto government . . . succeeded in reorganizing Golkar and transforming it into a kind of 'cadre party.' This was aimed at making the organization a more effective political movement under Suharto's personal control." Suharto and his wife fittingly became Golkar's first individual cadres in 1984. By 1987, after a nationwide recruitment campaign spanning urban and rural areas, "Sudharmono was quoted as saying that Golkar had twenty-eight million members, of whom approximately nine million were cadres" (Suryadinata 1989, 123, 128).

Golkar's growing territorial strength and social base worsened tensions with ABRI in the run-up to the 1987 elections. Suharto added fuel to the fire, not only by picking a Golkar figure rather than an ABRI man as vice president for the first time, but by selecting Sudharmono, his own point man in Golkar's infrastructural expansion. Meanwhile, Moerdani's star as ABRI commander was on the decline. For his sins of opposing Suharto's appointment of Sudharmono as vice president and "complaining about the unrestrained greed of [Suharto's] children," Moerdani "was shunted upstairs to the less powerful post of defense minister" and eventually "removed from the cabinet entirely" (Schwarz 1994, 146). His main institutional power base, Kopkamtib, was disbanded. William Liddle (1999, 105) has called Suharto's sacking of Moerdani "a defining moment, because from that time on he never delegated a significant amount of power to any senior armed forces officer."

Yet Moerdani's fall within ABRI would not be Sudharmono's gain in Golkar – just as Soemitro's fall within ABRI had not allowed Murtopo to use Golkar as a vehicle for enhancing his personal power vis-à-vis Suharto. Infrastructural balance and despotic personalization remained of the essence. Hence Sudharmono would crash to earth, Icarus-like, when he came too close to the political pinnacle. Soon after choosing him as vice president over military objections, Suharto derailed Sudharmono's reelection campaign as Golkar chairman when the president "showed his preference for Wahono, an obscure figure who was the ex-governor of East Java," writes Suryadinata. "Many observers argued that Wahono was elected because of his close links with Suharto and his reputation as a man without political ambitions. Once proposed, the sixty-three year old retired general was accepted by the delegates of the congress unanimously, indicating the president's power over Golkar" (Suryadinata 1989, 139). Sudharmono's fall indicated that even longtime Suharto loyalists would not be entrusted with too much concentrated authority near the highest heights of Indonesian politics.

Endemic ABRI-Golkar friction in the 1990s gave Suharto leeway to channel support and resources to a rapidly shrinking circle of allies. What was once a vast coalition degenerated into a narrow clique. Suharto famously circumvented Indonesia's economic institutions to

help his children amass untold personal fortunes. By the mid-1990s, the Suharto family comprised “by far the most powerful economic dynasty in the country” (Schwarz 1994, 141). In terms of political institutions, Suharto’s main shift came with the founding in 1990 of a new organization of Islamic elites, ICMI,¹⁹ as a counterweight to the increasingly unreliable military. As with Golkar under Murtopo and Sudharmono, Suharto only favored ICMI through the leadership of one of his closest allies, lifetime family friend B. J. Habibie. Yet again, the image of civilianization was personalization in practice. Suharto was manipulating nonmilitary institutions in an attempt to engineer a balanced regime infrastructure under his personal command, not build a broad coalition of collective decision makers.

ICMI was not designed to gain the despotic power that ABRI had lost. Its purpose was to provide Suharto with institutional balance and control, not advice and consent. Ascendant ICMI elites hoped to score big in the new cabinet introduced in 1993 – even the self-styled “real ICMI” members who had been relatively critical of the New Order before their incorporation into Suharto’s fold. “But there was no mistaking the disappointment the ICMI modernists felt that the ICMI members elevated to cabinet rank were all bureaucrats close to Habibie. The group that calls itself the ‘real ICMI’ was shut out” (Schwarz 1994, 183). When wags joked that the “CM” in ICMI stood not for *Cendekiawan Muslim* (Muslim Intellectuals) but *Calon Menteri* (Ministerial Candidates), they likely realized that ICMI members mostly remained candidates and rarely became ministers (Aspinall 2005, 59).

Rather than creating ICMI as a partylike device to expand civilian access to political influence, Suharto was “bringing the most critical ICMI members into the establishment fold with *the promise* of more influence in government decision-making” (Schwarz 1994, 176, emphasis added). ICMI member Umar Juoro recognized just how hollow that promise was in a March 1993 interview: “The ‘real ICMI’ members understand that they can’t become real decision-makers in this country until Suharto goes.” In sum, neither Suharto nor even Habibie were “at all interested in seeing ICMI evolve into an

¹⁹ Ikatan Cendekiawan Muslim Indonesia, or Indonesian Association of Muslim Intellectuals.

independent political power.” Adam Schwarz situated ICMI’s political role in historical perspective: “Much like Sukarno once looked to the communists to counteract unhappy army officers, Soeharto now looks to Muslims to play the same balancing role” (1994, 184, 183, 176).

At a deeper level, this had always been Golkar’s political plight as well. Even in the 1990s, when the old “nephew” of Indonesian political institutions had fully grown, Golkar’s station was more to balance the ABRI “uncle” than to enjoy influence over the “father,” Suharto. The political potentialities of institutional balance were displayed when ABRI impudently nominated General Try Sutrisno to replace Golkar’s Sudharmono as vice president for Suharto’s sixth term, from 1993 to 1998. Suharto shrewdly accepted the suggestion, even though most analysts believed he preferred his main loyalist, Habibie. But he made ABRI pay in other ways. “When Suharto announced his cabinet in March 1993, only a few ministers had senior military backgrounds,” as it “included more Suharto loyalists and associates of Habibie” (Aspinall 2005, 44). The most important ABRI figure left in the cabinet was Edi Sudradjat as minister for defense and security. Yet he too would subsequently be sacrificed on Golkar’s institutional altar:

In the approach to the Golkar congress in October 1993, Edi Sudradjat openly stated that the organization’s next leader should come from the “big ABRI family.” Presumably partly as a result, Suharto sacked Edi as ABRI commander, after only three months in the position. His replacement, Feisal Tanjung, dutifully insisted that the military had no candidate for the Golkar leadership. . . . Other Golkar leaders seen as sympathetic to military interests were also sidelined. The new board contained two of Suharto’s own children and several individuals linked to Habibie and ICMI. (Aspinall 2005, 44–45)

By the mid-1990s, Suharto finally seemed to succeed in packing ABRI as thoroughly as he had packed Golkar. The replacement of Edi Sudradjat with Feisal Tanjung as ABRI commander effectively purged an old Moerdani ally and promoted a Habibie favorite. “Edi’s sudden replacement was only the most dramatic incident in a broad and accelerating change in the ABRI leadership that through 1993–94 saw many important ‘discontented’ ABRI officers being moved from senior posts.” When Suharto’s own son-in-law Prabowo Subianto secured a major strategic posting in 1995 immediately after “becoming the

youngest officer to attain the rank of major general” (Aspinall 2005, 46), Suharto’s personalization of power was essentially complete. As one Indonesian brigadier general summed up ABRI’s complete loss of despotic power by late 1995:

ABRI is no longer dominant; it is no longer even involved in decision making. It is only Suharto who makes the decisions. ABRI is simply the implementer of what the government decides. . . . ABRI should be able to correct the government. Now it can do nothing, and ABRI recognizes it is no more than the fire brigade.²⁰

Complex Institutions and Contentious Politics: Crisis, Subversion, and Opportunism in Regime Collapse, 1996–1998

Against this backdrop of ABRI and Golkar irrelevance in political decision making, one of Indonesia’s most seasoned political observers concluded that, after thirty long years of rule, the New Order regime “faces no serious inside or outside threat, so long as Suharto remains in power” (Liddle 1996, 59). This was at once an astute characterization of the regime’s stability and a foreshadowing of its impending instability. Through his very success at sidelining any and all potential rivals, Suharto had squandered the New Order’s image as a collectivist expression of either ABRI or Golkar interests. Autocracy had conquered oligarchy, and everybody recognized it. This made it increasingly unclear whether ABRI or Golkar leaders would continue to perceive Suharto’s regime as worth defending with coercion and violence.

The big question thus became whether any organized challenge to Suharto could emerge and put his increasingly factionalized and politicized ruling apparatus to the repressive test. Throughout the 1990s, Indonesia’s complex institutions gradually began to serve as avenues for political contention from below, and not just as building blocks for regime balance from above. In response to Suharto’s founding of ICMI and decision to seek a fifth term as elected president, Nahdlatul Ulama (NU) leader Abdurrahman Wahid organized “the largest non-governmental mass rally held for twenty-five years” in March 1992 – a gathering of at least one hundred fifty thousand NU members and

²⁰ Roekmini Koesomo Astoeti, quoted in Aspinall (2005, 54).

supporters at Jakarta's largest sports stadium.²¹ The rally was held ostensibly "to celebrate the organization's anniversary by publicly reiterating NU loyalty to Pancasila," as first pronounced in its acceptance of Pancasila over Islam as its ideological basis in 1983. Coming less than a year after his formation of the elite-level Forum for Democracy, Wahid clearly meant the rally as a direct challenge to Suharto. Making the rally a massive endorsement of Suharto's own favored Pancasila ideology was a masterstroke in multiple respects. Not only did it give Wahid breathing space to avoid having NU endorse Suharto in the 1992 elections; it also curried favor with anti-Islamist ABRI officers, while implying that Suharto's cultivation of ICMI was itself an embrace of Islamist and a betrayal of Pancasila principles.

Further uses of New Order institutions against the New Order's founding father were soon to follow. Sukarno's daughter, Megawati Sukarnoputri, captured control of the state-created PDI in 1993 and gradually converted the party from Suharto's major weapon for demobilizing Sukarno-style populism into Indonesia's most credible vehicle for oppositional mass politics. Much as Wahid's Pancasila gambit marked the political comeback of NU, Megawati's rise signaled a revival of the social forces that underpinned her father's old PNI. A third creative marriage of pre-Suharto and New Order institutions for oppositional purposes emerged with Amien Rais's meteoric rise within both Muhammadiyah and ICMI. As the first leading figure to raise the issue of a presidential succession publicly, in 1993, Amien was an especially sharp thorn in Suharto's side. Before being pressured to resign from ICMI in 1997, Amien used his protected position in Suharto's pet Islamic institution to give modernist Muslims an independent political voice they had largely lacked since the banning of Masyumi four decades before.²²

These three institutionally ensconced figures would serve as powerful elite focal points for growing mass opposition to Suharto after the Asian financial crisis rocked Indonesia in late 1997 and early 1998. While analysts typically portray the economic crisis as the major cause of the political crisis, it is only by understanding the severity of the

²¹ All quotes and insights in this paragraph are drawn from Ramage (1995, 58).

²² The predominantly rural constituency of NU is typically described as "traditionalist," while Muhammadiyah's more urban base has long been depicted as "modernist."

Suharto regime's "political involution" that one can comprehend the scale of the economic collapse itself (Sidel 1998, 178). The complete absence of any veto players able to check and calibrate the day-to-day recalculations of "an unconstrained presidency" produced "severe policy volatility" and snowballing investor panic (MacIntyre 2001, 116). Far from responding to the crisis with political magnanimity, Suharto revealed more brazenly than ever that when it came to sharing despotic power, his sultanistic regime had no clothes. After securing another manipulated electoral victory in late 1997, Suharto selected Habibie as his vice president, despite Habibie's long-standing unpopularity in ABRI and in much of Golkar. In March 1998, Suharto unveiled a cabinet that "had the narrowest representation of elite opinion yet under the New Order" (Aspinall 2005, 221), with even his widely despised eldest daughter attaining ministerial rank. Each tightening of the despotic screws worsened the market panic. As his coalition withered, Suharto reassigned his son-in-law Prabowo to the main military command in Jakarta, banking on family loyalty to keep the most important working part in his regime infrastructure operational.

Having divided ABRI to conquer it, Suharto possessed only a divided coercive apparatus to conquer his opponents. Despotic manipulations finally produced devastating infrastructural decay. When units loyal to Prabowo rather than ABRI commander Wiranto opened fire on demonstrating university students in Jakarta, peaceful protests and violent riots mushroomed in scale and scope. The regime's institutional complexity had long incubated and now suddenly revealed multiple sites of internal opportunism and subversion, as even Golkar's chairman publicly called on Suharto to resign to restore social peace. And in a final institutional irony, tens of thousands of university students occupied parliament to demand Suharto's resignation. Unlike the handpicked New Order inhabitants of that "decision-making" institution, the students had not come to parliament to sit down, stay silent, and get paid. They had come to return decision-making power to the Indonesian people and their freely elected representatives. By occupying a legitimate institutional site for New Order politics, the students signaled to ABRI that they were subversives, not insurrectionaries, seeking to play by the rules to change them.²³ Having lost

²³ One might reasonably argue – in line with Mahoney and Thelen's Table 1.4 – that Suharto's overthrow by opportunists and subversives rather than by insurrectionaries

all of its despotic power to Suharto, the military would have little to gain by using its infrastructural power against the students to prevent his sultanistic regime's collapse.

Conclusion

Historical legacies and agentive strategies both loomed large in the institutional evolution of Indonesia's New Order. Yet from the perspective of our leading theories of institutional origins and change, these factors did not play their starring roles entirely at the expected times. Purely deductive theories of authoritarian institutions resting on comparative statics fail to capture the extent to which such institutions are inherited as well as chosen; the path-dependent model of institutional development often fails to capture how little choice and agency may matter during the critical juncture of a regime's founding moment; and neither of these types of institutionalist analysis is especially effective at apprehending situations in which multiple institutions coexist and exhibit considerable ongoing friction.

Agency ironically appears to have become more important as the New Order's institutions ostensibly solidified. At moments of rising coalitional strain, Suharto faced the choice of ruling through collective military hegemony, or through the balancing of military and civilian institutions in pursuit of autocratic political domination. He chose the latter approach. Instead of displacing parties entirely or privileging them in a manner that would have converted military into civilian rule, Suharto attempted to strip existing parties of all subversive elements while bringing military and civilian institutions into an ambiguous balance over which he was the solitary master. It is impossible to say with confidence whether this made the New Order endure longer than it would have lasted had Suharto chosen to continue prioritizing the military over Golkar. What is clear is that institutional complexity facilitated gradual institutional change, even as the regime as a whole remained remarkably stable for over three decades. In the final analysis, however, the same complexity that Suharto had exploited to outmaneuver would-be challengers had also empowered subversives

meant that democratic transition would amount to a partial conversion or the adding of a new layer to New Order institutions, and not to their complete displacement. See Robison and Hadiz (2004) and Slater (2004) for more on authoritarian legacies in post-Suharto Indonesia.

and opportunists whose actions – or inaction – amid rising protests contributed decisively to Suharto's downfall.

At a conceptual level, the dynamics of authoritarian institutions have, I hope, been illuminated by this chapter's distinction between despotic and infrastructural institutions. Personalization deprives party and military institutions of despotic power by definition. Whether it affects a regime's infrastructural power – a more pressing matter for regime stability – remains a distinct empirical question. The contrast between an institutionally complex authoritarian regime such as Indonesia and regimes in which either party hegemony (as in Malaysia) or military hegemony (as in Burma) is unambiguous suggests that personalization will not induce regime brittleness unless it compromises the cohesion of party and military institutions or exacerbates tensions between them.²⁴ Unless we include infrastructural arrangements in our institutional typology of authoritarian regimes, such important research questions will be hidden from view.

Perhaps above all else, the analysis here has provided an explanation for institutional change that continues to take institutional stability seriously. It has consistently treated “institutional stability as a political problem and a dynamic political outcome.”²⁵ Like democratic institutions, authoritarian institutions are stable enough to matter, but not so stable that path dependence can carry the entire explanatory load. Whether studying democratic or authoritarian politics, political scientists should take note of the importance of historical legacies in structuring institutional choice;²⁶ of infrastructural institutions in shaping political performance and stability;²⁷ and of institutional complexity in facilitating creative institutional change, both from above and from below. Especially when institutions are multiple and exhibit considerable friction, agency can escape history's “bookends” and help write the ongoing saga of institutional evolution itself (Thelen 2004, 37).

²⁴ Slater (2003, 2005). See also Snyder (1992).

²⁵ Mahoney and Thelen (this volume).

²⁶ Slater and Simmons (Forthcoming).

²⁷ One landmark study of democratic institutions distinguishes formulation and implementation in much the same terms as this essay does: “Institutions are devices for achieving *purposes*, not just for achieving *agreement*. We want government to do things, not just *decide* things” (Putnam 1993, 8; emphasis in original).

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Rethinking Rules

Creativity and Constraint in the U.S. House of Representatives

Adam Sheingate

Rules are a characteristic feature of political institutions. They govern the order and conduct of business within institutions and the distribution of power and authority among them. Rules also structure the behavior of goal-oriented actors, for example, by establishing the parameters for strategic interaction. Rules, in other words, define the scope of permissible actions. As a source of constraint, rules are a part of the regulative, normative, and cognitive structures that shape the alternatives actors confront (Clemens and Cook 1999).

But rules have a double-edged quality; they do more than limit alternatives or set the parameters for strategic interaction. Rules also provide actors with creative leeway. In this way, rules are at once constraining and empowering. Consider, for example, how rules operate as a component of a game. According to the game designers Frank Lantz and Eric Zimmerman (1999), the rules of a game engender *play*. Whereas the rules, “the laws that determine what can and cannot happen,” may be fixed and rigid, play, the human experience of a game “set into motion by the players’ choices and actions,” is creative and improvisational (Lantz and Zimmerman 1999). As they describe the process:

Within the strictly demarcated confines of the rules, play emerges and ripples outwards, bubbling up through the fixed and rigid rule-structure in unexpected

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patterns. During play, relationships between parts becomes [*sic*] a complex system, capable of producing intricate patterns. . . . Uncertainty, produced by randomness or by a rich palette of strategic choice is a necessary ingredient of successful gameplay. Just try to imagine a game without the pleasurable suspense of an uncertain ending. (Lantz and Zimmerman 1999)

Lantz and Zimmerman highlight the creative component of human action that occurs within the context of a tightly specified rule structure. One of the best examples of this creativity is in the game of chess, where a fixed and clearly delineated set of rules gives rise to an ever-evolving array of opening moves, attacks, defenses, gambits, and endgames. It is the multiplication of rules governing the movement of different pieces that gives chess its dynamic character when compared with a simple game like checkers. In other words, the complexity of the rule structure itself provides the scope for individual skill or creativity as the game unfolds.

The example of chess is suggestive for theories of political institutions, and for our understanding of how actors operate within them. Just as the rules of chess can give rise to dynamic play, the complex array of rules within political institutions and the manifold connections among them can provide actors with creative leeway. However, there is an important distinction to be drawn between politics and chess: the formal rules of political “games” are far more ambiguous. In chess, the rules are clearly defined and known to the players. But in politics, the rules are often vague and subject to multiple interpretations. Employing insights drawn from Wittgenstein, J. David Greenstone (1986, 48) writes, “Because the rules are never complete and definitive, there is also an indispensable role for the individual. Verbal formulas can never state the rules unambiguously.”

It is precisely this ambiguity that provides a critical opening for the creative interpretation of rules – and the potential for fresh insights into how actors animate the process of institutional development. As Mahoney and Thelen point out in the introduction to this volume, ambiguity invites conflict and contestation as actors struggle over the meaning, application, and enforcement of formal institutional rules. It is through these conflicts over rules and their meaning that actors can transform the way institutions allocate power and authority. Political institutions, in this view, “are the object of ongoing skirmishes as actors try to achieve advantage by interpreting or redirecting institutions in

pursuit of their goals, or by subverting or circumventing rules that clash with their interests” (Streeck and Thelen 2005, 19). When successful, these skirmishes establish precedents that become codified in new rules, changing the complexion of an institution in the process. In other words, the characteristics of institutions themselves, especially the ambiguity of their rule structure and the attendant struggles over the meaning of rules, help explain how institutions evolve (Thelen 2004; Tsai 2006).

At the same time, this focus on the creative element in politics carries certain dangers if it leads to an overly muscular account of agency. By conceiving some actors as heroic change agents operating outside of institutional constraints, we risk losing sight of institutions themselves. As Powell and Colyvas (2008, 277) caution, “[I]nstitutional theory gains little by making unleashed actors the drivers of institutional change.” The goal, then, is to understand how rule ambiguity provides opportunities for creative leeway at the same time that actors remain tethered to the institutions they inhabit. The solution, therefore, is to begin with the characteristics of institutions and then consider how actors work to transform them, or, as the editors of this volume put it, to “link particular modes of incremental change to those properties of institutions that permit or invite specific kinds of change strategies.” Following Mahoney and Thelen, institutional variations create opportunities for various kinds of actors to interpret, elaborate, bend, or break the rules in the pursuit of individual and collective goals.

Central to any understanding of institutions is understanding the way that they confer power and authority on individuals and groups to *make or break the rules*. Whereas some actors operate from structural positions of authority that confer power over the creation and interpretation of rules, others may lack such power, seeking instead to challenge the rules or subvert them. However, as noted earlier, rules are often ambiguous in their meaning and effect; power and authority are frequently contested and far from secure. This is particularly the case in complex institutions where the multiplication of rules generates manifold contradictions and conflicts. Although one rule might authorize a majority to change the character of an institution, another rule may empower minorities to effectively block such a change. Similarly, although a majority may secure formal changes in the rules that establish new instruments of institutional authority, minorities may

still subvert the effects of rules in practice. Confronted by such obstacles, individuals or groups must pursue new avenues to change and promote novel interpretations of rules that help them control institutions. As these maneuvers within and around the rules establish precedents for action, they open new paths while foreclosing others, adding further to the complexity of the institution and opening new fronts in the struggle for institutional control. In this way, institutional politics is animated by both the creativity and the constraint inherent in rules and rule making.

In this chapter, I attempt to capture this creativity and constraint by discussing three well-known vignettes in the history of the U.S. House of Representatives: (1) the emergence of the Rules Committee as an instrument of majority party agenda control under Thomas Brackett Reed in the early 1880s; (2) the elimination of the “disappearing quorum,” another innovation by Reed, and the consolidation of a powerful partisan Speaker through “Reed’s Rules” in 1890; and (3) the introduction by George Norris of a resolution stripping the Speaker’s power over the Rules Committee during the “Cannon Revolt” in 1910. These events contributed to the development of the House, and each one illustrates how creativity and constraint operate in the process of institutional change. In each case, efforts to transform the rules of the House, even when ostensibly favored by a majority of members, confronted a formidable obstacle because the rules themselves conferred extraordinary power on those most opposed to change. To overcome these obstacles, Reed and Norris exploited the ambiguity of the rules and the complex institutional features of the House either to create new rules or to put forward creative interpretations of existing rules that would allow them to pursue their goals of institutional change.

Because these are extraordinary moments in the history of the U.S. House, some may question how much can be learned from them. Yet their choice is intended to underscore the important role that creativity and constraint play in the evolution of institutions. For many congressional scholars the years between 1880 and 1910 mark a critical period in the institutional development of the House. The era begins with the increasing centralization of party control in the hands of the Speaker in the 1880s, continues through the consolidation and growth of the Speaker’s power under “Reed’s Rules” in the 1890s, and ends with the 1910 revolt against the partisan Speaker that ushered in a new

period of decentralized party control that would hold sway for the next fifty years. In some ways, the events described here were (perhaps *the*) defining moments in the rise and fall of the nineteenth-century partisan House.

The goal in using these vignettes is to illustrate how actors working within a complex institution such as the U.S. House of Representatives pursue their goals, individually and collectively, through an almost never-ending process of rule creation, elaboration, and interpretation. Indeed, it would be a mistake to conclude that instances of rule creativity are rare or exceptional. In fact, they happen quite regularly. As I describe in the next section, the U.S. House steadily accumulates precedents in its procedures that bear witness to this ongoing creativity. At the same time, the House is an evolving rule complex that is itself embedded within a larger context of American politics and partisan competition. This context is important, for it shapes the preferences of members and the goals that members pursue within the chamber. But individual members of Congress are not completely subordinate to contextual factors, nor are they free-floating agents operating outside of institutional constraints. By understanding how actors navigate a complex rule structure amidst a changing external environment, it is possible to grasp both creativity and constraint in the operation of institutions. As in the other cases examined in this volume, the U.S. House of Representatives illustrates how the strategies that actors pursue to achieve their goals reflect (and exploit) the particular features of the institutions in which they operate.

The U.S. House of Representatives as an Evolving Rule Complex

The U.S. House of Representatives provides an interesting case for a study of this kind because of its complicated mixture of rules, precedents, and practices that have accumulated over time. On the one hand, these rules guide the strategic interactions of individual members. The pursuit of electoral, partisan, or policy goals occurs within a set of rules that govern the structure and process of legislation. According to rationalist approaches to the study of institutions, these rules reflect the broad distribution of member preferences within the chamber; changes in the underlying distribution of preferences will generate pressures for changes in the rules. On the other hand, scholars have shown that

the complex array of rules and procedures of the U.S. House defy easy categorization according to a single set of member goals or motives (Schickler 2001). This is because House rules distribute power and authority among multiple and overlapping groups within the chamber: majority and minority parties, party leaders and the rank and file, junior and senior members, and all manner of policy coalitions. The manifold character of member motives and the distributional consequences of congressional decisions invite various kinds of creative rule making by different alignments of goal-directed members. The structural features of complex institutions like the House of Representatives are more than simply rules of the game; they are very often the game itself.

This becomes evident when we trace the evolution of rules, precedents, and conventions that govern the conduct of business and guide the behavior of members in the House of Representatives. Unlike many other institutions, the House maintains detailed records that provide a great deal of information about its rules and the practices associated with them, making it possible to trace the development of the House as an evolving rule complex. This section offers an overview of this development before turning to a discussion of how struggles over House rules illustrate creativity and constraint in the process of institutional change.

Article I, Section 5 of the U.S. Constitution states that “each house may determine the rules of its proceedings.” Consequently, when the first session of the 1st Congress opened in New York in 1789, the House appointed a select committee “to prepare and report such standing rules and orders of proceedings as may be proper to be observed in the House.”¹ Five days later, the House adopted a set of four rules governing the duty of the Speaker, decorum and debate in the House, the introduction and consideration of bills, and the role of the Committee of the Whole House (United States Congress 1983, 36–37).²

As the size and workload of the U.S. House grew over the next several decades, the chamber’s rules expanded in piecemeal fashion. In

¹ *Journal of the United States House of Representatives* (hereafter *House Journal*), April 2, 1789, p. 6. Available at <http://lcweb2.loc.gov/ammem/amlaw/lwhj.html>.

² The Committee of the Whole House of Representatives is a parliamentary device for debating and deciding legislation.

some years, the House made only minor revisions; in others, the chamber simply adopted the rules of the previous Congress. Periodically, however, the House formalized certain elements of procedure, regulated the behavior of members during debate, and developed instruments to better control the order of business (United States Congress 1983, 38–39). An important revision of the rules in 1822, for example, established that a two-thirds majority would be required to suspend the rules, as when the House was considering legislation outside the normal order of business. Rules changes in the 25th Congress (1837–1839) streamlined the procedure for bill introduction, making it easier for individual members to participate in the legislative process (Cooper and Young 1989). A major revision in 1860 (36th Congress) included thirty-six amendments to the rules that “corrected contradictory provisions, combined several rules into one, and made others conform to established practice” (Alexander 1970 [1916], 192). However, such efforts to streamline and update House rules soon became outdated themselves. As the size and workload of the chamber further increased after the Civil War, the conduct of business had again become difficult. In an attempt to address the problems of an increasingly chaotic House, a general revision of the rules in 1880 condensed and reorganized the 166 rules into forty-four general categories, subdivided into clauses, and arranged logically according to subject. Of particular note, the 1880 revision created a standing Committee on Rules with jurisdiction over “all proposed action touching on the rules” (Alexander 1970 [1916], 194–196). Until then, Rules had been a select committee – one that had to be called into existence at the start of each Congress. Its status as a standing committee suggests that rules about rules had grown in importance as the business of the House increased.

Table 6.1 attempts to capture these developments by comparing the size, workload, and rules of the House during the 1st Congress with those during subsequent Congresses following rule revisions in 1794, 1811, 1822, 1836, 1860, and 1880. Not surprisingly, House rules – measured here as the number of *House Journal* pages and length in words – grew along with increases in the number of members, the emergence of a standing committee system to handle legislation, and the growing workload of bills under consideration (Cooper 1988 [1960]). In this way, the development of an elaborate rule structure was part of the broader institutionalization of the House of

TABLE 6.1. *Size, Workload, and Rules in the U.S. House of Representatives, 1st–46th Congresses*

| Congress (years) | House Members | Standing Committees | Bills Introduced | Rules (pages) | Rules (words) |
|------------------|---------------|---------------------|------------------|---------------|---------------|
| 1st (1789–1791) | 65 | 0 | 245 | 3 | 1,869 |
| 3rd (1793–1795) | 105 | 2 | 244 | 4 | 2,782 |
| 12th (1811–1813) | 141 | 9 | 277 | 5 | 3,843 |
| 17th (1821–1823) | 187 | 25 | 317 | 11 | 5,619 |
| 25th (1837–1839) | 242 | 33 | 1,176 | 13 | 7,333 |
| 36th (1859–1861) | 237 | 34 | 1,020 | 20 | 10,183 |
| 46th (1879–1881) | 293 | 45 | 7,257 | 17 | 10,500* |

* Estimated for the 46th Congress.

Source: *House Journal*, various years.

Representatives during the nineteenth century (Polsby 1968). But it is also true that as the House grew in size, developed its internal structure, and absorbed increasing work demands, the institution became more complex. Despite efforts to periodically streamline the process, House rules contributed to this complexity by establishing a complicated web of procedures that in some instances were simply outdated or internally inconsistent. Prior to the 1880 revisions, for example, House rules were enumerated 1 through 166 with newer rules simply added on by succeeding Congresses. Even with the 1880 revisions, the rules contained nearly 150 separate clauses, and these would steadily increase in number. In the 110th Congress (2007–2008), for example, the rules contained 484 distinct clauses.³

However, attention to the formal rules of the House captures only part of this development. Rules, by necessity, must have a partial, open-ended quality. “There will always be some cases that the rules have not anticipated; on other matters, the rules are simply silent” (Greenstone 1986, 48). It is amidst these silences that precedent and convention normally govern, and it is here that interpretation and elaboration take place in myriad ways. For example, House rules established during the 1st Congress gave the Speaker the power to decide who would address the chamber if several members sought the floor

³ United States Congress, *House Rules and Manual*, 109th Congress, 2nd Session (House Document No. 109–157), pp. 335–984. Available at http://www.gpoaccess.gov/hrm/browse_110.html.

at once. Originally understood as simply a way to order parliamentary procedure, the Speaker's power of recognition would take on greater significance as the House grew larger. In 1874, the Republican Speaker James Blaine established the principle that recognition would be based on the Speaker's judgment of the relative importance of the motions being offered. This power of recognition became a critical instrument for Speakers, who could use it to reward or punish individual members, or to advance or block the movement of legislation for partisan or personal reasons (Alexander 1970 [1916], 58–61; Strahan 2007, 84–85).

This power of recognition points to another key element of rule ambiguity: conflicts that arise over the *authoritative* interpretation and elaboration of rules. The original rules from 1789 also granted the Speaker authority to “decide all questions of order” (Hinds 1907, II 872). Again, as the size of the House has grown, and the complexity of its rules has increased, the Speaker's rulings on points of order have become more important. Whereas members can appeal most of these rulings, in matters of recognition the Speaker's word is final. This precedent dates to 1874, when the Democratic Speaker Samuel Randall ruled that “the right of recognition is just as absolute in the chair [of the Speaker] as the judgment of the Supreme Court is absolute in the interpretation of the law.” Randall's edict actually overturned earlier practices of the House in which members could appeal a decision from the Speaker on a question of recognition (Hinds 1907, II 918, 920). Today, the Speaker's power of recognition is still guided by this precedent, rather than by the formal rules of the House.⁴

So much House business is governed by past practice and convention, in fact, that the compilation of precedents has long been critical to the operation of the chamber. Beginning in the 1840s, the House regarded precedent as a guiding principle in the rulings of Speakers. As Virginia Representative George Hopkins put it during debate in 1842, “A chairman does not sit here to expound rules according to his own arbitrary views. A just deference for the opinions of his fellows should constrain him to give precedent its proper influence” (Hinds 1907, II 873). As precedent took on greater significance, the clerk residing at

⁴ United States Congress, *House Rules and Manual*, 109th Congress, 2nd Session, p. 736.

the Speaker's table became an increasingly valuable resource in matters of parliamentary procedure. Asher Hinds, who served as a clerk from 1895 until 1910, compiled the first comprehensive collection of precedents on all matters of House practice. First published in 1907, *Hinds' Precedents of the House of Representatives* eventually ran more than five thousand pages. Hinds's successor, Clarence Cannon, followed the practice of comprehensively updating and publishing House precedents, issuing five additional volumes in 1936. In 1927, the House established the position of House parliamentarian. The office operates as a kind of institutional guardian; parliamentarian Lewis Deschler served from 1928 to 1974 during which time he published nine more volumes of precedent (seven more have been published by Deschler's successor, William Holmes Brown).⁵ In fact, because of their reputation as neutral arbiters, the parliamentarians themselves carry a sizeable degree of authority in the interpretation of rules. Consequently, their decisions on allowable practice are critical to the operation of the House even as they add to the institutional complexity in which rule creation and elaboration takes place. David King (1997), for example, shows how members use the parliamentarian's decisions on bill referrals to expand the boundaries of their committee jurisdiction in ways that transform the distribution of policy authority within the chamber.

The history of the U.S. House is filled with the accumulation of precedents that have added to the complexity of the institution and the strategic environment in which members operate. Figure 6.1 illustrates this complexity by reproducing a page from the rules of the 110th Congress (2007–2008). Rule I, clause 5 governs the Speaker's power to decide questions of order. The discussion that follows describes the origin and evolution of the rule, as well as its various uses or the exceptions made during previous Congresses (the complete note extends for several more pages). This illustrates how House precedents attempt to establish the conditions under which a particular rule holds. Yet in doing so, precedents also give sanction to multiple interpretations, thereby expanding rather than constraining the possible range of action under a given rule. And although precedents operate with the force of

⁵ "Rules and Precedents that Govern the U.S. House of Representatives." Available at <http://www.gpoaccess.gov/precedents/index.html>.

RULES OF THE HOUSE OF REPRESENTATIVES

§ 627–§ 628

Rule I, clause 5

Questions of order

5. The Speaker shall decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner. On such an appeal a Member, Delegate, or Resident Commissioner may not speak more than once without permission of the House.

§ 627. Questions of order.

This rule was adopted in 1789 and amended in 1811. Before the House recodified its rules in the 106th Congress, clauses 4 and 5 occupied a single clause (H. Res. 5, Jan. 6, 1999, p. 47).

The Speaker may require that a question of order be presented in writing (V, 6865). When enough of a proposition has been read to show that it is out of order, the question of order may be raised without waiting for the reading to be completed (V, 6886, 6887; VIII, 2912, 3378, 3437), though the Chair may decline to rule until the entire proposition has been read (Dec. 14, 1973, pp. 41716–18). For example, the Chair declined to entertain a point of order that a motion to recommit was not germane before any nongermane portion of the motion had been read (May 9, 2003, p. 11110); and a motion to recommit with instructions was ruled out of order before the entire motion had been read as a matter of form where a special order of business precluded instructions (May 6, 2004, p. —). Questions arising during a division are decided peremptorily (V, 5926), and when they arise out of any other question must be decided before that question (V, 6864). In rare instances the Speaker has declined to rule until he has taken time for examination of the question (III, 2725; VI, 432; VII, 2106; VIII, 2174, 2396, 3475).

§ 628. Practice governing the Speaker in deciding points of order.

Debate on a point of order, being for the Chair's information, is within the Chair's discretion (see, e.g., V, 6919, 6920; VIII, 3446–3448; Deschler-Brown, ch. 29, § 67.3; Jan. 24, 1996, p. 1248; Sept. 12, 1996, p. 22901; Oct. 10, 1998, p. 25420). Debate is confined to the question of order and may not extend to the merits of the proposition against which it lies or to parliamentarily similar propositions permitted to remain in the pending bill by waivers of points of order (e.g., July 18, 1995, p. 19335; June 22, 2000, p. 12078; Oct. 16, 2003, p. —). Members must address the Chair and cannot engage in colloquies on the point of order (e.g., Sept. 18, 1986, p. 24083; Oct. 16, 2003, p. —), nor can they offer pro forma amendments to debate the point of order (July 21, 1998, p. 16369). To ensure that the arguments recorded on a question of order are those actually heard by the Chair before ruling, the Chair will not entertain a unanimous-consent request to permit a Member to revise and extend remarks on a point of order (Sept. 22, 1976, p. 31873; May 15, 1997, p. 8493, 8494; July 24, 1998, p. 17278). However, the Committee of the Whole by unanimous con-

FIGURE 6.1. Rules and Precedents in the U.S. House of Representatives.

RULES OF THE HOUSE OF REPRESENTATIVES

Rule I, clause 5

§ 628

sent has allowed a Member to revise and extend his remarks to follow the ruling on a point of order (July 13, 2000, p. 14095). A Member may raise multiple points of order simultaneously, and the Chair may hear argument and rule on each question individually (Mar. 28, 1996, pp. 6931, 6933); or the Chair may choose to rule on only one of the points of order raised (July 24, 1998, p. 17278). Where a Member incorrectly demands the "regular order," rather than making a point of order to assert that remarks are not confined to the question under debate, the Chair may treat the demand as a point of order and rule thereon (May 1, 1996, p. 9889).

The Chair is constrained to give precedent its proper influence (II, 1317; VI, 248). While the Chair will normally not disregard a decision of the Chair previously made on the same facts (IV, 4045), such precedents may be examined and reversed where shown to be erroneous (IV, 4637; VI, 639; VII, 849; VIII, 2794, 3435; Sept. 12, 1986, p. 23178). The authoritative source for proper interpretations of the rules are statements made directly from the Chair and not comments made by the Speaker in other contexts (May 25, 1995, p. 14437; Sept. 19, 1995, p. 25454). Preserving the authority and binding force of parliamentary law is as much the duty of each Member of the House as it is the duty of the Chair (VII, 1479). The Speaker's decisions are recorded in the Journal (IV, 2840, 2841), but responses to parliamentary inquiries are not so recorded (IV, 2842).

The Chair does not decide on the legislative or legal effect of propositions (II, 1274, 1323, 1324; VI, 254; VII, 2112; VIII, 2280, 2841; Mar. 16, 1983, p. 5669; May 13, 1998, p. 9129), on the consistency of proposed action with other acts of the House (II, 1327-1336; VII, 2112, 2136; VIII, 3237, 3458), whether Members have abused leave to print (V, 6998-7000; VIII, 3475), or on the propriety or expediency of a proposed course of action (II, 1275, 1325, 1326, 1337; IV, 3091-3093, 3127).

Also, the Chair does not rule on: (1) the constitutional power of the House (II, 1490; IV, 3507), such as the constitutional authority of the House to propose a rule of the House, such matter appropriately being decided by way of the question of consideration or disposition of the proposal (Jan. 4, 2005, p. —); (2) the constitutional competency of proposed legislation (II, 1255, 1318-1322, VI, 250, 251; VIII, 2225, 3031, 3427; July 21, 1947, pp. 9522, 9551; May 13, 1948, p. 5817; Oct. 10, 1998, p. 25424); (3) the constitutional rights of Members (VIII, 3071).

The Chair is not required to decide a question not directly presented by the proceedings (II, 1314). Furthermore, it is not his duty to decide a hypothetical question (VI, 249, 253; Nov. 20, 1989, p. 30225), including: (1) the germaneness of an amendment not yet offered (Dec. 12, 1985, p. 36167; May 5, 1988, p. 9936; May 18, 1988, p. 11404; Mar. 22, 2000, p. 3283) or previously offered and entertained without a point of order (June 6, 1990, p. 13194); (2) the admissibility under existing Budget Act allocations of an amendment not yet offered, particularly where the Chair's response might depend on the disposition of a prior amendment on which

FIGURE 6.1 (cont.)

a rule, they may in fact place fewer constraints on actors seeking to institute new practices. In the House, a precedent can be established by a ruling from the Speaker. Such a ruling can be appealed on the floor, but setting a precedent does not require an affirmative vote of the chamber as in the case of amending the standing rules of the House. In other words, precedents change practices while leaving the underlying rule structure unchanged. However, the very practices authorized by a precedent are themselves vulnerable to new interpretations in the future. As Thomas Brackett Reed (quoted in King 1997, 94) put it, “If we have broken the precedents of a hundred years, we have set the precedents of another hundred years nobler than the last.”

This quotation raises the key question: how are we to understand the behavior of actors within a rule complex such as the House of Representatives? Are actors constrained by rules and past practice, as George Hopkins insisted; or are rules (and precedents) meant to be broken, as Reed presumed? The answer, as we will see, is that both are true. However, approaches to the study of Congress, and institutional analysis more generally, differ precisely on this question.

Rethinking Rules: Creativity and Constraint

Rationalist approaches to the study of Congress examine rules as instruments for the collective pursuit of individual member goals. Rules, in this view, reflect the underlying distribution of member preferences. The conditional party government model, for example, argues that when member preferences are homogeneous within parties and divergent across parties, rules will centralize power within the majority leadership. Conversely, when member preferences are heterogeneous within parties and similar across parties, rules will decentralize power in the House (Cooper and Brady 1981; Aldrich and Rohde 2000). Orthodox variants of this approach adopt a highly deterministic view in which House leaders are agents of their party whose scope of action depends solely on whether rank-and-file members of the majority are like-minded enough to delegate authority to the Speaker (Sinclair 1999). In other words, there is very little leeway in the behavior of House leaders; their actions are largely dictated by the broader partisan context and institutional character of the rules preferred by a procedural majority in the House.

In contrast to this contextual view, other scholars have emphasized how individual leaders have shaped the development of the House. In this view, entrepreneurial leaders can promote rule changes that appeal to an array of member preferences, creatively assembling coalitions of members whose support reflects a mixture of electoral, partisan, or policy goals (Schickler 2001). As Robert Dahl (1961, 6) noted in a different context, such a leader is “not so much the agent of others as others are his agents.” Notable Speakers of the House, such as Henry Clay, Thomas Brackett Reed, or Newt Gingrich can have an independent and influential effect on the institutions of the House. Their leadership capacities do not emerge fully formed from a unified rank and file; rather, their leadership skills reside in their capacity to articulate inchoate preferences and unify them into a powerful force within the House (Strahan 2007).

Neither of these approaches offers a wholly satisfying account of actors or institutions. In the contextual view, for example, rules emerge from a micropolitics of structural choice that views party leaders as little more than institutional “dopes” acting out the preferences of rank-and-file members. The alternative, however, may go too far the other way by conceiving of some actors as heroic change agents who operate outside of institutional constraints. This overly muscular account of agency begs the question why some individuals are constrained by rules and institutions while others are able to act upon them (Powell and Colyvas 2008).

How, then, are we to square creativity with constraint? The problem arises from the dual character of rules noted earlier. On the one hand, rules are ambiguous in their meaning and effect. This presents actors with a degree of leeway owing to the fact that “applying a general rule to a specific situation is a creative act that must take into account, not just the rule itself, but also the unique circumstances to which it is to be applied” (Streeck and Thelen 2005, 14). In other words, rules provide the medium for creative action. Or, as the editors put it in the introduction to this volume, actors animate a process of incremental change by exploiting the “gaps” and “soft spots” between the rule and its interpretation.

Yet even where they are ambiguous, rules still set parameters on the permissible range of action; they establish what can and cannot happen. Indeed, without rules, action becomes impossible, especially

within a complex institution like the U.S. House. Consequently, in many instances, actors will seek to preserve the legitimacy of an institution, comply with broadly accepted norms, and generally work “within the rules” even as they promote novel interpretations of those rules. Moreover, where the legitimacy of rules hinges on a mechanism of third-party enforcement (e.g., the House parliamentarian) actors may face further limitations on what they can accomplish in the (re)interpretation of rules. Finally, power asymmetries and time lags may confer authority over rules upon some actors despite the fact that the structural basis of their power has changed or no longer exists.

Thus actors face a quandary: even as they engage in a steady probing for creative ways to turn the rules to their advantage, actors are constrained to a greater or lesser extent by the very same rules they wish to change. Therefore, *contra* many rationalist approaches to the study of legislatures, a change in the preference of a procedural majority, even when precipitated by a broader shift in political context or partisan competition, does not necessarily produce a change in the rules. Following Strahan (2007, 110), partisan context is better understood as a necessary but not a sufficient condition for change. At the same time, actors, even creative ones, are never wholly unleashed from the institutions they inhabit.

Consequently, we can better grasp the nature of institutional change by focusing on how actors negotiate the dual nature of rules, both their constraining and their creative features. In the vignettes that follow, I identify several strategies actors employ as they work within a complex rule structure like the U.S. House. These strategies are broadly consistent with the modes of institutional change (conversion, displacement, layering, and drift), and some of the corresponding types of actors (opportunists, insurrectionaries, subversives, and symbionts), identified by Mahoney and Thelen (this volume). However, I do not offer a one-to-one correspondence between particular strategies and specific modes of change or kinds of change agents. Rather, my goal in this chapter is to suggest how institutions create opportunities for actors to pursue their goals while working within a complex set of rules. It is far from an exhaustive list.

First, actors may take a rule established for one purpose and employ it for another. For example, nineteenth-century House minorities took the rules of procedure designed to facilitate the business of the chamber

and transformed them into instruments of obstruction. Through an endless stream of procedural motions, members of the minority party could slow down legislative business to a crawl. Such behavior resembles what Mahoney and Thelen describe as *rule conversion*, and it illustrates the point made by Ato Onoma in this volume about how actors can violate the spirit of a rule even as they follow it to the letter.

Second, actors can engage in forms of *rule breaking*, minor but unenforceable violations of procedure. Over time, such practices can themselves become “rules,” durable features of an institution that actors are reluctant to flout.⁶ The disappearing quorum, a practice whereby members could halt the business of the House by withholding their vote, was in fact a violation of House rules. As such, it illustrates another point made in the editors’ introduction: that actors can take advantage of the gap between rules and their enforcement.

Third, actors can exploit points of *conflict and contradiction* among overlapping or nested sets of rules. In such instances of rule conflict, actors may try to overturn rules or circumvent them by appealing to a higher authority in which an institution is embedded. For instance, the U.S. House of Representatives operates within a larger constitutional arrangement; the power of the chamber to make rules is itself a matter of constitutional authority. Consequently, we see various efforts to justify new rules or challenge existing ones through constitutional appeals. This strategy illustrates an important feature of complex institutions. The multiple connections among system components mean that changes in one set of rules can affect other parts of the system. Actors may innovate through “robust action,” a strategy Padgett and Ansell (1993, 1263) describe as one in which “single actions can be moves in many games at once.”

Finally, actors may *combine rules* by exploiting the linkages within a rule complex to establish new procedures that help them achieve their goals. Rules in the House, for example, establish a sequence of moves that govern the passage of legislation. Although governed by rules, these sequences might take various forms, and the creative combination of rules can establish a novel sequence that eases the passage of a bill. For example, Thomas Reed combined several existing rules to create

⁶ On the importance of rule breaking more generally, see Herrigel (2007).

a new element of legislative procedure, the “special rule,” that greatly enhanced the majority party’s control over the legislative agenda.

These strategies illustrate how actors often work *through* rules and not just *on* rules. Rules are constraining insofar as they establish parameters for action, but they also allow for creativity in their application and interpretation. This rule creativity leads to novel practices and precedents that transform institutions. In sum, we can better understand institutional change by examining actors “at work” as they interpret, elaborate, bend, or even break the rules of the U.S. House in the pursuit of individual and collective goals.

Rules About Rules: Thomas Brackett Reed and the Rules Committee

Although the U.S. House of Representatives today is a majoritarian institution, for most of the nineteenth century the rules of the House empowered minorities and frustrated majorities. In part, this reflected a belief that rules of procedure were one of the few protections for minority parties against majority tyranny. As Thomas Jefferson noted in his *Manual of Parliamentary Practice*, “As it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding.”⁷ In theory, parliamentary rules protected minority rights.

In practice, however, the rules of the House empowered even small groups of members who wished to block the passage of legislation. For example, the rules that governed the order and privilege of parliamentary motions allowed members to introduce motions to adjourn, request a call of the yeas and nays, or engage in other time-consuming practices that could slow House business to a crawl. And because the consideration of legislation outside the normal order of business required a two-thirds majority to suspend the rules, these dilatory motions could make passage of the majority party’s legislative agenda exceptionally difficult (Binder 1997).

⁷ United States Congress, *House Rules and Manual*, p. 125.

These features of the nineteenth-century House were much more than quaint parliamentary curiosities. Minority obstruction was a particularly important feature of American politics during the nineteenth century, especially in struggles over slavery and during post-Civil War efforts to secure civil rights for African Americans. Dilatory motions were a key weapon used by Southern Democrats during the House debates on the organization of the Kansas and Nebraska territories in 1854, over a resolution endorsing the Lecompton Constitution of Kansas in 1858, on Reconstruction legislation in 1866, on passage of the 1875 civil rights bill, during debate on the Force Bill that same year, and in contested election cases throughout the 1870s and 1880s (Hinds 1907, IV 70, 72, V 354).

The development of these tactics illustrates how actors can convert the effects of a rule, even subverting its purpose, while still following it to the letter. Dilatory motions employed the rules of adjournment and other parliamentary procedures designed to facilitate the conduct of business in the House and used them to frustrate the conduct of business through inaction and delay. Such instances of rule conversion were not easily suppressed. As even Thomas Brackett Reed, who succeeded in eliminating many of these practices, acknowledged, "There are no words which can be framed which will limit Members to the proper use of proper motions. Any motion the most conducive to progress in the public business . . . may be used for purposes of unjust and oppressive delay." Reed's frustration with "simple motions proper in themselves, but which are improperly used," illustrates the many opportunities available for the creative manipulation of rules, and the challenge for those who sought to diminish their effects (quoted in Hinds 1907, V 352).

Nevertheless, ending such abuse of the rules is precisely what Reed accomplished as a member of the House Rules Committee during the 47th Congress (1881-1883). As mentioned previously, the 1880 reforms granted the Rules Committee status as a standing committee with sole jurisdiction over the consideration of rule changes. In addition, House precedent granted the Rules Committee the privilege of reporting to the chamber at any time, freeing the committee from the constraints of the normal order of business (Hinds 1907, V 967). When the Republicans took control of the House in 1881, Reed became a member of Rules and employed the augmented powers

of the committee to challenge the use of dilatory motions as a tool for minority-party obstruction in the House. In 1882, as Democrats filibustered a contested election case by making endless motions to adjourn, Reed secured recognition from the Speaker to submit a privileged report from the Rules Committee. In it, Reed proposed an amendment to the rules that would allow no more than one motion to adjourn during consideration of a contested election, thereby eliminating obstructive tactics in such cases (Robinson 1930, 86). Predictably, the Democrats responded to Reed's proposal with more dilatory motions. In turn, Reed raised the point of order that "upon a proposition that the House change its rules dilatory motions cannot be entertained by the Chair."⁸

Reed argued that dilatory motions could not be used to prevent the consideration of contested elections because such matters touch on the constitutional privilege that "each House shall be the judge of the election, returns, and qualifications of its own members."⁹ This was the justification behind Reed's proposed rule change. If this is the case, Reed continued, then it also holds that dilatory motions should not prevent changes in the rules because this too touches on constitutional privilege, in this instance, the one that "each House may determine the rules of its proceedings." To allow otherwise would prevent the House from fulfilling its constitutional duties. Consequently, Reed argued, it is necessary to "brush away all unlawful combinations to misuse the rules."¹⁰ Dilatory motions, Reed added, are also self-defeating. "The House has a right to change its rules at anytime; no member or set of members have any rights to use the rules which are to be changed to prevent the change which the House desires to make." The institution's rules, in other words, cannot be used to defeat the rules. "The very power which the House is exercising cannot be used to destroy that power. There is no such thing as suicide in any provision of the Constitution of the United States."¹¹ Reed's logic was a creative stroke that cut at the heart of dilatory motions as a device of minority

⁸ *Congressional Record*, 47th Congress, 1st Session, p. 4305.

⁹ U.S. Constitution, Article I, Section 5.

¹⁰ *Congressional Record*, 47th Congress, 1st Session, p. 4306.

¹¹ *Congressional Record*, 47th Congress, 1st Session, p. 4307.

obstruction. Indeed, “precedent did not fully cover the conditions under which Reed’s proposal was made” (Robinson 1930, 88). After several hours of debate on the floor, Republican Speaker J. Warren Kiefer ruled in favor of Reed’s point of order, and the Republican majority sustained the Speaker’s ruling.

Reed’s gambit nicely illustrates the dilemma faced by actors seeking a reinterpretation of rules. Facing minority obstruction of a contested election case, Reed proposed an amendment to the rules that would limit dilatory motions. Yet Reed’s proposal, itself, nearly foundered on endless delay. As one Reed biographer put it, Reed “proposed to remedy the situation by changing the rules. Now these same rules, which the House admittedly had the right to change, were being used to prevent the change” (Robinson 1930, 87). Reed’s proposal to limit motions on election cases and his argument that dilatory tactics were out of order during consideration of a rule change demonstrate how conflicts and contradictions among nested sets of rules allow actors to appeal to a higher authority as a strategy to circumvent or strike down an obstacle. In essence, Reed argued that a practice of the House, dilatory motions, conflicted with the U.S. Constitution and the Article I powers of Congress to certify elections and to determine its own rules.

The ramifications of Reed’s victory for majority-party control in the House were far-reaching. Not only did his success mean that dilatory motions would no longer be admitted in election cases, but the decision also affirmed the power of the Rules Committee in procedural matters and provided a mechanism to have the committee’s reports promptly adopted by the majority (Alexander 1970 [1916], 202). This outcome proved critical the following year when Reed again sought House recognition for a privileged report from the Rules Committee. With the House deadlocked over a tariff bill whose passage was a major legislative goal of the Republican Party, Reed proposed a resolution that would allow the House to suspend the rules at any time and vote to send a bill to a conference committee with the Senate. The resolution was a “special order,” a species of parliamentary procedure that suspends the regular order of business for a defined purpose, usually for the consideration of a bill. As a suspension of the rules, special orders required approval by two-thirds of the House. Crucially,

however, Reed's proposal stipulated that the motion to suspend would take effect if approved by a simple majority. Again, the implications for the minority party were clear, and again the Democrats protested. As in the debate over dilatory motions, the argument turned on rules about rules – or, more precisely, on what constituted a rule. The Democrats claimed that the resolution did not propose to change the rules, but merely to suspend them. Reed and the Republicans argued that this was a distinction without a difference; if the House could change every standing rule by majority vote, then it could approve by a majority a limited “rule” that applied only to a specific legislative item for the duration of a session (Hinds 1907, IV 195). Reed's innovation expanded the meaning of a rule and, in doing so, gave the majority party in the House a powerful tool for agenda control by allowing it to call up a bill at will in a form the majority preferred and under circumstances conducive to its passage (Roberts and Smith 2007).¹²

As a member of the Rules Committee, Reed augmented the power of the committee in the legislative process and enhanced the majority party's control over the legislative agenda. The creation of a special rule for bringing a bill to the House floor for consideration illustrates how the creative combination of complex elements can yield important innovations. In essence, Reed combined the privilege of the Rules Committee to issue reports at any time (augmented by the elimination of dilatory motions on rule changes) with the rules governing the order of business, fashioning a new instrument of legislative procedure, the special rule, that could suspend the regular order of business by a simple majority vote. In this way, Reed consolidated recent developments in Rules Committee power and turned the committee into an instrument of majority-party government. Reed was adept at elaborating rules about rules: he prevented dilatory motions during consideration of Rules Committee resolutions and made the suspension of the rules possible with a simple majority vote. In sum, Reed showed how rules are ambiguous in their meaning and coverage. Indeed, what constituted a rule became a matter for debate.

¹² Today, most of these special orders are called special rules. They stipulate precise conditions for the consideration of bills and amendments and are key instruments of the majority party's control of the agenda in the House.

Rule Breaking as Rule Making: Reed's Rules and the Disappearing Quorum

Although Reed had successfully neutralized the effects of dilatory motions, House minorities retained another formidable method of delay, the disappearing quorum. The Constitution requires that a majority of members shall constitute a quorum to do business. However, the interpretation of this rule has varied over time, partly over the question of which denominator was appropriate (seats, elected members, living members, etc.), as well as the question of the appropriate numerator to use when calculating a quorum. In Reed's time, House practice held that a quorum was a majority of members voting, rather than a majority of members actually present. Because a simple refusal to vote could halt the business of the House, the "disappearing quorum" became a powerful instrument of minority obstruction.

The origin of the disappearing quorum illustrates how rule breaking can be a form of rule making, that is, how rules and their associated practices shape the operation and evolution of institutions. In 1832, former president John Quincy Adams, then a member of the House, refused to vote on a motion of censure of a fellow member. This violated House rule 28, which required that "every member who shall be in the House when the question is put shall give his vote, unless the House, for special reasons shall excuse him."¹³ As debate ensued, the implications of Adams's not voting became immediately clear. One member worried that if "the present example find imitations, the legislative action of the House might be defeated."¹⁴ Another member offered a resolution to discipline Adams and force him to vote, but others questioned the practicality of such a move. As a defender of Adams noted, there were "innumerable breaches of the rules" during the conduct of daily business in the House that went unnoticed or unpunished, for example, minor infractions of parliamentary procedure. More important, it was obvious that the rule requiring a member to vote was unenforceable (Hinds 1907, V 497-499).¹⁵ With the

¹³ *House Journal*, 22nd Congress, 1st Session, p. 594.

¹⁴ United States Congress, *Register of Debates*, 22nd Congress, 1st Session, p. 3906.

¹⁵ United States Congress, *Register of Debates*, 22nd Congress, 1st Session, pp. 3906-3912.

House powerless in the face of Adams's reticence, "a new weapon of obstruction had been created" (Robinson 1930, 205–206).

Over time, the disappearing quorum became such a well-established practice in the House that members viewed it as a durable feature of the institution – even though refusing to vote remained a violation of the written rules.¹⁶ In 1850, when a member asked that nonvoting members be counted as present, the Speaker declined, stating that only a vote could be used for counting a quorum. When asked to compel members to vote in accordance with House rules, the Speaker replied that "the enforcement of that rule has been considered in previous Congresses entirely impracticable. There is no mode provided by which that rule can be enforced."¹⁷ The disappearing quorum had become such a regular feature of the House that the very idea of permitting a Speaker to count nonvoting members as present was revolutionary. As Speaker James Blaine put it in 1875, during House consideration of the Force Bill (an effort to protect African American voting rights), "The moment you clothe your Speaker with power to go behind your roll call and assume there is a quorum in the Hall, why, gentlemen, you stand on the very brink of a volcano" (quoted in Hinds 1907, IV 70). In 1889, a Democratic House member praised the disappearing quorum as the last bastion of minority rights in the House. Describing how the recently elected Republican majority would try to pad its margins in the House with contested election cases, Roger Mills (1889, 660) predicted that "the great difficulty in the way is the quorum the Constitution requires to do business. . . . This *rule* cannot be changed."¹⁸ However, the disappearing quorum was not a rule, but a practice that rested on a precedent, and one that would prove vulnerable to reinterpretation.

As the 51st Congress opened in 1889, the new Republican majority elected Thomas Reed as Speaker. Just as Mills and the Democrats expected, Reed and the Republican leadership brought up the first of several contested election cases. The Democrats immediately

¹⁶ The 1880 revisions combined rules 28 and 31 into rule VIII, which required every member who was present to vote unless excused by a motion (Hinds 1907, V 497). Even this provision, however, became a source of obstruction as this sequence illustrates: "Mr. Garnett moves to be excused from voting on the motion of Mr. Letcher, to be excused from voting on the motion of Mr. Cobb, to be excused from voting on the motion of Mr. Seward to lay on the table the appeal of Mr. Stanton from the decision of the Chair" (Hinds 1907, IV 72).

¹⁷ United States Congress, *Congressional Globe*, 31st Congress, 1st Session, p. 380.

¹⁸ Emphasis added.

demanded a roll call, which was in order. Predictably, all but one Democrat refused to vote, leaving the House short of a quorum. Rather than calling for another vote, as was the normal practice, Reed began calling the names of the Democrats who had not voted and instructed the House clerk to record them as present. Bedlam ensued as Reed continued to call out the names. In an oft-quoted exchange, Kentucky Democrat James McCreary insisted that Speaker Reed was violating parliamentary law, stating, "I deny your right, Mr. Speaker to count me as present." Reed's response was greeted with laughter and applause: "The Chair is making a statement of fact that the gentleman from Kentucky is present. Does he deny it?" (quoted in Strahan 2007, 106).

As debate continued over the next several days, Reed pointed to other parliamentary bodies, including legislatures in several U.S. states and the British House of Commons, where the presiding officer determined a quorum by a count of present members. Reed argued further that the practice sustaining the disappearing quorum, the count of voting members, did not withstand constitutional scrutiny. "There is a provision in the Constitution which declares that the House may establish rules for compelling the attendance of its Members," Reed pointed out. This provision of the Constitution would be meaningless, Reed argued, if the House could compel members to be present, yet not count them as present for the purposes of a quorum if they withheld their vote. "Inasmuch as the Constitution provides for their attendance only, that attendance is enough. If more was needed the Constitution would have provided more" (quoted in Hinds 1907, V 2895). Although supporters of the disappearing quorum invoked the Constitution in defense of their practice, Reed turned this argument on its head. As in the case of dilatory motions, Reed used conflict and contradiction between the practices of the House and provisions in the U.S. Constitution in his attacks against minority obstruction. Supported by the Republican majority, Reed ultimately prevailed. Three months later, he secured an expanded revision of House rules that codified his procedural achievements: the elimination of the disappearing quorum and the broad authority to rule dilatory motions out of order.¹⁹ With the adoption of "Reed's Rules" in 1890, the House

¹⁹ The 1890 revision also removed the clause from rule VIII that allowed a member to introduce a motion to be excused from voting (Hinds 1907, V 497).

embraced a strong form of party government under the leadership of a powerful partisan Speaker.

The broader political and partisan context was clearly important for Reed's innovations both as a member of the Rules Committee and as Speaker of the House. Reed's novel interpretations of the rules lacked force without the backing of a Republican majority in the chamber. Similarly, the close partisan balance between the two parties in the 1880s gave the struggle over the disappearing quorum its significance – the effects of nonvoting were diluted by lopsided majorities (Binder 1997).

But Reed did more than simply carry out the will of a unified majority. One of Reed's talents was his opportunistic timing; for example, he promoted novel rule interpretations during contested election cases when partisan unity was at its highest. This was critical, as scholars have shown, because the Republicans were divided on many issues in the 1880s – Reed's creativity arguably was more the cause of party unity than it was its consequence (Schickler 2001, 38–43). Another of Reed's talents was recognizing that his position as Speaker allowed him to orchestrate events in a way that increased his chances of success. Reed did not have the authority to change the rules so much as he had the authority to decide how such a change would be presented to the House.²⁰ Rather than seek majority support for a rule change on its merits, a proposition that likely would have failed, Reed first secured the backing of his Republican colleagues on a ruling from the Speaker's chair in the midst of a contested election case. In doing so, Reed was able to assemble his supporting coalition before he proposed a formal change that would codify the new rules. Even then, Reed's success was far from certain; prior to the 1890 quorum battle, Reed made plans to resign from the House if his gambit failed (Strahan 2007, 110). A less risk-accepting Speaker might have paused where Reed forged ahead.

Yet, to focus solely on Reed's political skills may overlook the role of institutional context in rule creativity and innovation. As mentioned earlier, the disappearing quorum was sustained by precedent; but, in fact, it was a practice that violated the formal rules of the House. Although it had become convention for Speakers to recognize its validity, the disappearing quorum was never codified in the rules. This left it a matter of interpretation. Reed's position as Speaker afforded him

²⁰ I owe this point to Randall Strahan.

the structural authority to overturn convention and count members who were present. The chaos in the House that followed Reed's move possibly reflects the desperation among Democrats, who realized that there was little to be done about it. Like the disappearing quorum itself, Reed's action was a form of rule breaking, albeit one that carried the weight of the Speaker's ruling and was ultimately codified in the written rules.

In sum, Reed's various achievements show how the structural position of actors within institutions influences their opportunities for rule creativity. For example, Reed was able to accomplish certain things as a member of the Rules Committee by exploiting the structural opportunities of the committee to issue privileged reports on proposed rule changes and, in the case of special orders, to generate new kinds of rules. As Speaker, Reed enjoyed a different set of structural opportunities, namely, the power to rule on points of order that could break with precedent and create new warrants for action. Indeed, one of Reed's skills was his capacity to match the vulnerabilities of particular rules with his changing structural position within the House. Like a chess master whose "superior play is due to a 'sense of position,' an intuitive form of knowledge gained from experiencing a great variety of chess situations," Reed demonstrated an impressive talent for pattern recognition (Linhares 2005, 134). He perceived correctly how various contextual factors opened possibilities or foreclosed others for pursuing his innovations.

For those who lack a privileged structural position within institutions, however, opportunities for challenging rules are more limited. Even so, rules often remain ambiguous in their meaning and effect. As described in the next section, this ambiguity may permit even rank-and-file members to creatively interpret rules in a manner that challenges authority within the House.

Rule Ambiguity as a Challenge to Authority: George Norris and the Cannon Revolt

Reed's Rules were the capstone to a series of developments that gave the majority party, through the power of the Speaker, near-absolute control over the conduct of business in the House of Representatives. At the turn of the twentieth century, Speakers "could appoint committees – including the chairmen, determine the schedule of

business, recognize members on the floor, appoint members to conference committees, [and] dispense favors of various kinds” (Jones 1968, 619). Speakers also served as chairmen of the Rules Committee, giving them control over the form and manner in which all bills reached the floor, as well as control over the rules of the House. These and other prerogatives gave Speakers a great deal of power over outcomes in the chamber (Cooper and Brady 1981, 411–412). The turn-of-the-century House “placed the widest array of institutional resources in the hands of the speaker of any period in congressional history before or since, with the fewest institutional checks or controls” (Strahan 2007, 87). As a result, Speakers during this time enjoyed considerable leverage over the rank-and-file members of their party; the Speaker’s acquiescence or assent was essential if a member wanted to get anything done.

Yet it was precisely at the height of this system, under Illinois Republican Joseph Cannon, that a revolt by rank-and-file members stripped the Speaker of a major source of power, his control over the Rules Committee. Beginning in 1907, Cannon’s exercise of his prerogatives as Speaker provoked mounting criticism, not only from the minority Democrats, but also among western and progressive members of his own party, whose views diverged from his on a number of policy issues (Hechler 1940, 32–33). These “insurgent” Republicans became increasingly frustrated as Cannon denied them meaningful committee assignments, removed them from committees, or prevented their legislative proposals from reaching the floor (Jones 1968, 621–622). The insurgents knew that only a change in the rules of the House could limit the Speaker’s power. But since proposals to change the rules had to be referred to the Rules Committee, which Cannon controlled, any attempt to curb the Speaker’s power with a formal rule change would be easily quashed (Norris 1945, 111). It is a vivid example of the reform dilemma – of how rules can be used to defeat attempts to change them. That Cannon eventually lost control of the Rules Committee illustrates that even as they erect obstacles and confer power, rules can also be used to challenge authority.

By the beginning of the 61st Congress, in March 1909, dissatisfaction with Cannon had reached the point of open rebellion as a coalition of Democrats and insurgent Republicans prepared to challenge Cannon’s position as Speaker. When the Republican leadership proposed a set of rules at the opening of the new Congress, this cross-party

coalition defeated the measure.²¹ Following the victory, the Democratic minority leader offered an alternative package of rules that, if passed, would strip Cannon of his control over the Rules Committee. Cannon had anticipated such a challenge, and he had negotiated a deal with a group of dissident Democrats that would preserve his power in exchange for concessions that strengthened protections for committees to report bills (Calendar Wednesday) and made it easier to secure floor consideration for noncontroversial bills without the Speaker's approval. Led by New York Democrat John Fitzgerald, twenty-two members of the minority party joined the regular Republicans to pass the compromise and sustain Cannon's power. Shortly thereafter, Cannon appointed Fitzgerald to the Rules Committee (Hechler 1940, 54–58). Despite Cannon's precarious control over a procedural majority in the House, the insurgents still lacked a way to overcome the formidable powers of the Speaker, especially his control over the Rules Committee.

However, a year later, in March 1910, Cannon unwittingly provided an opening for his opponents that proved to be his undoing. On the morning of March 16, a Cannon ally called up a resolution to consider a census bill outside the normal order of business. This violated the terms of the compromise Cannon had negotiated with Fitzgerald the previous year: the time should have been reserved for committee business under the new Calendar Wednesday. Democrats protested, arguing that the census bill was out of order. Cannon replied that the census bill was privileged by its status as a constitutional power of the House. "A certain class of business, like election cases . . . or the taking of the census as to the population, have invariably been admitted as involving constitutional privilege, presenting a privilege higher than any rule of the House would give. Therefore the Chair overrules the point of order."²²

On appeal, forty-two Republicans joined the Democrats and together they voted to reverse the Speaker's decision (Jones 1968, 627). Although it was a significant rebuke, Cannon and the regular Republicans remained steadfast. The following day, the Republicans again called up the census bill as a matter of constitutional privilege. The

²¹ Unlike the Senate, the House of Representatives is not a continuing body. At the beginning of each Congress, the House must adopt a measure establishing its rules.

²² *House Journal*, 61st Congress, 2nd Session, p. 437.

Democrats again raised a point of order, only this time Cannon put the question to the House for a vote rather than issue a ruling from the chair: "Is the bill called up . . . in order as a question of constitutional privilege?" he asked.²³ Perhaps fearful that an affirmative vote would establish a precedent for further incursions on Calendar Wednesday, the House voted negatively on Cannon's question. Then, in a puzzling turn, the House passed a Democratic substitute that read, simply, "Is the joint resolution [on the census] . . . in order *now*?"²⁴ The House then proceeded to consider the census resolution.

When debate on the census bill concluded, the insurgent Republican George Norris (Nebraska) rose from his chair. Gaining recognition from the Speaker, Norris announced, "Mr. Speaker, I present a resolution made privileged by the Constitution." Cannon replied, "If it is a resolution made privileged by the Constitution, the gentleman will present it."²⁵ The clerk then read Norris's resolution, which proposed to expand the size of the Rules Committee from five to fifteen members, distribute Rules Committee seats geographically, and, critically, exclude the Speaker from Rules Committee membership. The *New York Times* reported that "the moment the reading clerk saw it he smiled, for he recognized the fact that the great fight on the rules of the House was on."²⁶ Using the same claim of constitutional privilege Cannon had just argued on behalf of the census bill, Norris found a way to circumvent the House Committee on Rules and Speaker Cannon's control over the floor in a single stroke. As Norris explained,

We have just decided by a vote of the House [that] a census bill . . . is a privileged question, and it is entitled to consideration, notwithstanding that it conflicts with the rules of the House. Now . . . the Constitution reads as follows: "Each House may determine the rules of its proceedings." I submit, Mr. Speaker, if the action of the House . . . makes a census bill privileged because of the Constitution, than any proposition to amend the rules must be privileged by virtue of that same instrument.²⁷

Three days later, the House passed an amended version of the Norris resolution that increased the size of the Rules Committee to ten

²³ *House Journal*, 61st Congress, 2nd Session, p. 445.

²⁴ *House Journal*, 61st Congress, 2nd Session, p. 445; emphasis added.

²⁵ *Congressional Record*, 61st Congress, 2nd Session, p. 3292.

²⁶ "All-Night Fight to Oust Cannon," *New York Times*, March 18, 1910, p. 1.

²⁷ *Congressional Record*, 61st Congress, 2nd Session, p. 3292.

members without considering geographic representation. Although Cannon retained his position as Speaker, crucially, the Speaker lost his seat on the Rules Committee. The 1910 revolt against Cannon began a period of decentralization and decline in the power of the House leadership that would last for fifty years.

The challenge facing the insurgents in 1910 was a straightforward but vexing one: how could a proposal to limit the Speaker's power ever come up for a vote if the Speaker controlled the Rules Committee, which in turn controlled access to the floor for all proposed rule changes? As in the case of Reed's Rules, the fact that a procedural majority preferred a change in the rules was a necessary but not sufficient condition for the change to occur. Norris, perhaps like Reed, displayed an exquisite sense of timing and the patience to wait for the right moment. As Norris later recalled, "I had in my pocket a resolution to change the rules of the House. Unknown to anyone. . . I had carried it for a long time, certain that in the flush of its power the Cannon machine would overreach itself. The paper upon which I had written my resolution had become so tattered it scarcely hung together" (Norris 1945, 113).

Beyond this opportunistic timing, Norris exploited the complex features of House rules, especially the ambiguity surrounding their meaning and their position within a broader constitutional framework. Cannon had claimed that the census bill was a privileged matter; he used the apparent conflict between the Constitution and the rules of the House to circumvent the latter and control the chamber's agenda. Norris demonstrated that such a strategy was not limited to those in a position of authority. Instead, he showed how rulings could be put to multiple purposes. If the rules of the House could not prevent consideration of the census, then the rules of the House could not prevent consideration of the rules. This allowed Norris and his allies to move authority over the rules out of the hands of Speaker Cannon and the Rules Committee and onto the House floor, where the power of a procedural majority held sway. The example illustrates how the interpretation of rules can have multiple, and in Cannon's case, unforeseeable effects.²⁸

²⁸ Further illustrating the ambiguity and uncertainty of rules and their meaning is the fact that the House actually *rejected* the proposition that the census bill was privileged by the Constitution. The Democratic resolution passed by the House did not contain any reference to constitutional privilege (it simply stated the census resolution was

It also illustrates how actors can exploit the conflicts among multiple institutional orders – in this instance, between the evolving rules of the House and the overarching framework of the Constitution – to promote novel interpretations that challenge authority. The same conflict that strengthened Cannon’s control over the agenda provided Norris with an opportunity to weaken it.

Rethinking Rules: Implications for Understanding Institutions

The vignettes of congressional history described here illustrate how rules, in their various forms, can provide considerable scope for actors to create, interpret, and elaborate – in short, to act in ways that have transformative effects on politics. A central theme of this volume is that such creativity is made possible by the complex elements of rules themselves. As the rules of an institution multiply, the opportunities increase to convert the force and meaning of the rules, to creatively combine the rules, to exploit the conflicts and contradictions of the rules, or to even break the rules in ways that produce novel practices and establish new precedents for action. By rethinking rules, the structural features of complex institutions appear to be more than rules of the game – they become the game itself. This has implications for understanding broad transformations of the American polity – the study of American political development – as well as for the study of institutions more generally.

Through the creative interpretation of rules, actors animate the struggles that form the arc of American political development. Rule creativity is central to this process. Partly, this is because the overlapping nature of political authority in the United States creates numerous points of contact between institutions, and multiple conflicts among the rules governing their operation. Note, for example, the consistent appeals to constitutional authority and the conflicts this engendered with congressional rules in the preceding vignettes. Reed and Norris used the tensions between the Constitution and the rules of the House to promote a particular distribution of power within the chamber. In other words, overlapping structures of authority generate ambiguities

in order now), yet Norris and the rest of the House operated *as if* it had. See Jones (1968, 627).

in the scope and meaning of rules, ambiguities that actors can exploit in creative and very different ways.

Attention to the struggle over rules also provides a way to link particular institutional histories with the broader contextual features of American politics. Recent critiques have noted the tendency to study Congress in isolation from larger political struggles, such as those over race and citizenship, or, conversely, to study American political development without paying due attention to Congress (King and Smith 2005; Katznelson and Lapinski 2006). Paying attention to both the creative and constraining elements of rules may help address these concerns. For instance, one cannot fully understand the tactics of minority obstruction or the efforts to overcome them apart from the nineteenth-century conflicts over slavery and civil rights. At the same time, the coherence of partisan majorities under Reed in the late nineteenth century or their fragmentation under Cannon in the twentieth reflect broader changes taking place in American politics (Brady and Epstein 1997). But these contextual factors are not sufficient to produce institutional change. They also require a steady probing for political advantage by actors working through the rules in order to overcome the formidable constraints the rules themselves impose on change.

More generally, the creativity evident in the nineteenth-century House of Representatives has implications for the study of institutions and politics beyond the United States. The U.S. House provides a particularly useful window because of the rich historical detail available about its rules and their use, but as the other essays in this volume document, these patterns can be observed in many different institutional contexts. Consequently, we can see how rules are a dynamic rather than a static feature of institutions. Rules enable individuals to develop innovations in practice and establish precedents for action that guide future behavior through convention or, when codified, as new rules of procedure. “Snapshot” approaches to the study of institutions will miss this feature of rules (Pierson 2004). Such approaches will conclude, mistakenly, that rules faithfully reflect a set of collective interests, or that the rules as written are faithful guides for institutional practice.²⁹ As the example of dilatory motions shows, rules designed

²⁹ For an exploration of this phenomenon in the Senate, see Binder (2007).

for one purpose can be converted to quite another. Similarly in the case of the disappearing quorum, conventions may emerge from the breaking of rules that over time become durable features of the institution to the detriment of its functioning and performance.

Rules, as these examples illustrate, are about power and authority. More precisely, they are about the power and authority to make or break the rules. During the nineteenth century, the position of the Speaker became a source of authoritative decisions about the rules of the House. Similarly, the power of the Rules Committee grew as a source of rule creation, especially through special orders or rules that governed the consideration of bills. Yet, as the Cannon revolt attests, complex rules also create opportunities to challenge authority. It may seem contradictory that increasingly complex rules generate and accentuate hierarchies within institutions at the same time that they open possibilities for challenging them. It also may seem counterintuitive that increasing rule complexity gives rise to more opportunities for creativity. The multiplication of rules would seem to provide less freedom of action, not more. One answer to this puzzle has to do with the nature of complexity itself. As already noted, complexity multiplies the opportunities to combine rules in myriad ways, exploit their conflicts and contradictions, convert rules to new purposes, or even break rules without undermining the entire institutional edifice built upon them.

However, there is another answer to this puzzle to consider if we are to broaden the implications of this study beyond Congress. Rules generate inequalities, not only because rules govern the distribution of resources but also because the capacity to negotiate complex rules is itself a valuable resource. In other words, rule complexity does provide greater freedom of action – for some. Those who possess authority over rules, have particular skills in using rules, or have the resources to hire someone who has those skills and employ rules advantageously. Corporations, for example, can monitor all of the various rules potentially touching on their interests, and they can hire individuals whose experience and contacts enable them to negotiate the variety of legislative, administrative, and judicial procedures that make the rules. For many others, rules impose constraints. This certainly describes the United States, where gaping inequalities are so pronounced and the rules are so complex. It is considerably easier for the affluent to “work” the

rules, for example, when navigating the minutia of their health plan, hiring an accountant to do their taxes, or finding a well-trained lawyer to get them out of jail. It is not surprising that those lacking resources, especially the poor, are at a considerable disadvantage when dealing with the health care or criminal justice systems. For these Americans, rules provide very little freedom.

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Historical Institutionalism in Rationalist and Sociological Perspective

Peter A. Hall

Some of the most fruitful insights generated by social science in recent decades flow from explorations of how institutions, understood as sets of regularized practices with a rule-like quality, structure the behavior of political and economic actors.¹ It is not surprising that attention has now turned to the second-order problem of explaining when and how institutions change.² In conceptual terms, however, this task is intrinsically difficult. By their nature, analyses designed to explain why institutions have a persistent impact on behavior tend to overstate the solidity of institutions. Acknowledging their plasticity raises questions about when institutions should be seen as determinants of behavior and when as objects of strategic action themselves.³

This problem afflicts rational-choice approaches to institutions with particular intensity because of the elegant solutions such analyses have devised to explain the force and persistence of institutions. Typically, they see institutions as patterns of regularized behavior that reflect Pareto-optimal equilibria or subgame perfect solutions to collective

¹ Representative works and reviews include Knight 1992, Steinmo et al. 1992, Hall and Taylor 1996, and Campbell 2004.

² For influential recent works, see Swenson 2001, Greif and Laitin 2004, Thelen 2004, and Streeck and Thelen 2005.

³ For thoughtful analyses that have long been skeptical of institutional analysis on such grounds, see Sabel and Zeitlin 1997.

actions dilemmas, stable because the actors cannot improve their positions by defecting from the pattern of behavior (Shepsle 1989; Koremenos et al. 2003; Greif and Laitin 2004). Therefore, institutional change happens only when *ceteris* is no longer *paribus*, that is, when shocks exogenous to the system of institutions alter the context. Institutional change becomes a response to shocks. Such analyses posit a radical separation between periods of institutional stability and periods of change (often labeled “critical junctures”) that rarely explain well how institutions emerge from disequilibrium at such junctures (see Thelen 2004; the introduction to this volume).⁴

As the essays in this volume indicate, approaches associated with historical institutionalism are more attentive to problems of institutional change. They offer correctives to dualist views that separate periods of institutional stability and change, noting that institutional change can be continuous and institutional transformation the product of incremental adjustment (Palier 2005; Streeck and Thelen 2005). They are sensitive to the power relations associated with institutional change and inclined to accord belief systems a role in such processes (Immergut 1992, King 2005; see also McNamara 1998; Moe 2005). For these reasons, analysts often draw a sharp distinction between rational choice and historical institutionalism.

This essay takes a different approach to the problem. Rather than emphasize the differences between rational choice and historical institutionalism, I explore the common ground between them, asking how the insights of the latter can be used to improve the former. The motivation is straightforward. In my view, rational-choice approaches offer some powerful insights into the operation of institutions. The problem is that they do not yet carry over into an effective analysis of institutional change. My solution is to broaden the rationalist model slightly and to build into it some of the key insights offered by historical institutionalism. In short, this is an attempt to show that historical institutionalism has much to offer rationalist analysts of politics and to suggest that models of institutional change that integrate propositions from both research traditions are not only possible but promising. The result is a research agenda well worth pursuing.

⁴ For notable efforts to address this problem from within a rational-choice perspective, see Knight 1992, Calvert 1995b, Gruber 2000, and Greif and Laitin 2004.

In the first part of this chapter, I make that case by outlining the core propositions of a model of institutional change that is recognizably rationalist. I then identify some of the problems left unresolved by that model and draw contentions from historical institutionalism that offer potential solutions to these problems. The objective is to identify a chain of variables affecting the pace and direction of institutional change that are plausible targets for empirical research. I cannot test the model here against empirical cases, but I reference research bearing on some of its propositions.

However, there are also clear limits to rationalist models of institutional change. The world of institutions is more multifaceted than such models allow, and one of the virtues of historical institutionalism is that it sees this other world as well. In short, there is a second side to historical institutionalism – at its interface with sociological approaches to institutions – that reveals further dimensions of the institutional world and alternative routes to institutional change. These too deserve a place on contemporary research agendas. Accordingly, in the second part of this chapter, I look briefly at the other side of historical institutionalism, with a view to highlighting its distinctive contributions to analyses of institutional change.

Scope conditions are an issue for all arguments about institutional change (MacIntyre 1978). We do not yet know whether the relevant processes in legislatures, firms, universities, electoral arenas, and political economies are similar enough to be described by a common model of institutional change. Accordingly, the propositions I advance are designed to bear on the political economy, although many may apply more generally.

I. A Rationalist Model of Institutional Change

With that prologue, I turn to the task of outlining some of the key features of the process of institutional change when seen in rationalist perspective.

Rules and Coalitions

The problem of explaining the timing, shape, and direction of institutional change can usefully be treated, in the first instance, as a matter of outlining the coalitions of actors, whether individuals or social groups,

who line up in favor of (or against) a particular shift in rules or practices and of explaining why the actors take the positions they do. This is a plausible starting point with wide resonance in political science. The premise is that institutional change is best understood by integrating coalitional with institutional analysis.⁵

This coalitional approach has a nice affinity with rational-choice analyses that see legislative rules, such as those governing agenda setting and decision making, as the basis for a “structurally induced equilibrium” that prevents the constant cycling of coalitions about policy issues that Riker (1980) suggests we could otherwise anticipate, given Arrow’s impossibility theorem (Shepsle 1989; Weingast and Marshall 1988). The key question, of course, is why there is not analogous cycling over the institutional rules themselves. Why do legislative institutions remain relatively stable?⁶

Uncertainty and Instrumental Beliefs

Institutional stability is a foundational issue for analyses of institutional change. In order to understand change, we must be able to explain, in parallel terms, stability. For legislative institutions, Shepsle (1986) provides a crucial component of the answer in the form of a “wedge of uncertainty.” The ultimate impact of adopting new institutional rules is often, as he observes, hard to predict. Accordingly, even if actors could enact a substantive measure that they favor by changing those rules, they may hesitate to do so, lest the new rules disadvantage them during the consideration of other issues that are difficult to anticipate. This point is widely applicable to analyses of institutional change. Uncertainty is a central feature of politics. Where it is high enough to interfere with the actors’ calculations of how they will fare under alternative institutional arrangements in a range of possible futures, they may prefer the status quo to change.

However, this is also the initial point at which the insights of historical institutionalism can be used to enrich the analysis. The level of uncertainty about the impact of proposed institutional changes turns,

⁵ For an alternate perspective, see the second part of this chapter.

⁶ See the chapter by Adam Sheingate in this volume for an argument that this stability should not be overstated.

at least in part, on the availability of what might be described as “instrumental beliefs,” namely, means-ends schemas that describe in this instance how the adoption of new institutions will affect the likelihood of achieving various types of goals, as well as on the level of confidence with which such beliefs can be held. The character of prevailing instrumental beliefs is a key ingredient in the processes of coalition formation that underlie institutional reform (Hall 1989; Krehbiel 1991; Goldstein and Keohane 1993).

Common sources for such beliefs include communities of relevant experts and prior experience, whether domestic or foreign (Haas 1992; Linos 2007). Experience (as compared to theory) is especially important to the level of confidence actors place in such beliefs. Alan Jacobs’s study of the politics of pension reform (this volume and 2009) shows that policymakers were drawn to reforms whose shape resembled schemes with which they were familiar and with a track record on which they could rely. Accordingly, explanations for institutional change must take into account the availability and character of the instrumental beliefs pertinent to the changes under consideration, as well as a range of conditions that might affect the character of those beliefs.

Collective Action Problems, Organization, and Power

Legislative rules are, of course, a special type of institution, whose complexion can often be explained by analyses that assume a world of contracting individuals. Once we move beyond such settings, however, a second set of factors looms larger in processes of institutional change. They are the collective action problems associated with mobilizing actors to take the steps required to enact reform. The magnitude of those problems is conditioned, in turn, by the organizational setting within which those who seek or oppose change operate. It deserves to be seen as a core element affecting the likelihood, timing, and direction of institutional change.

In the political economy, at least three types of organizational settings have a direct bearing on institutional change. The organization of the political system (and, in some instances, the internal organization of the state) has a major impact on the types of coalitions that can be assembled in support of institutional reform. Iversen and Soskice (2006) suggest, for instance, that electoral rules condition the

viability of coalitions seeking redistribution. The nature of producer group organization affects the capacities of workers and employers to mobilize on behalf of institutional change (Offe and Wiesenthal 1986). Inside firms, the shape of the organizational hierarchy has well-known effects on the ease with which coalitions can be assembled for various types of institutional change (Teece 1996).

In short, where institutional change depends on the formation of a favorable coalition, analysts cannot neglect collective action dilemmas and the organizational structures that facilitate or impede coalition formation. This observation underlines the role of power relations in institutional change (Moe 2005). Two dimensions of power bear on the likelihood that change will be effected. The first, widely referenced in rational-choice analyses, is the dimension of power reflected in the relative opportunity costs facing actors contemplating an institutional change. As Knight (1992) notes, actors for whom the opportunity costs of foregoing change are lower will have more power in the accompanying negotiations than actors who would suffer greater losses if the change were not achieved. The second relevant dimension of power is mobilizational, understood as the capacities of the actors to overcome problems associated with the development of a collective strategy and the mobilization of a constituency in support of that strategy. The latter depends on various types of social resources (McCarthy and Zald 1987).

One implication of this point is that the likelihood of institutional change in one direction or another, at any one point in time, is affected by the outcomes of previous episodes of institutional change. These outcomes leave in place particular organizational forms that intensify or mitigate the collective action dilemmas facing actors interested in institutional change at later points in time. While legislatures can sometimes be modeled as sets of actors contracting with each other on a relatively equal basis, even in democratic polities capitalist economies do not have this character (Bates 1988). Economies are structured by organized relationships that confer more power to initiate or implement change on some actors than on others. Those at the top of the hierarchies constitutive of firms enjoy greater leverage than those at the bottom, and employers often face fewer collective action problems than the workers with whom they are negotiating wages or working conditions (Offe and Wiesenthal 1986).

Distributive Issues and Normative Beliefs

One of the central, and most plausible, tenets of the rational-choice approach holds that actors will agree to institutional reforms only when those reforms make them better off. In several seminal contributions to the literature, Calvert (1995a, 1995b), therefore, models the process of institutional reform as a coordination game, which offers all the parties a better outcome provided they can agree on a new set of institutions. This makes eminent sense. However, as Scharpf (1997) notes, in many real-world settings, the actors face a choice between outcomes that distribute the gains from cooperation differently, even if they make all better off. A classic example is provided by firms considering entering into collaborative arrangements for research and development on a new line of products. All of the firms can anticipate gaining from the enterprise, but they have to consider how to apportion the risks associated with it and it may be difficult to do so equally, given that each brings different capacities to the enterprise. Analogous problems arise when firms are negotiating with employees over new work arrangements.

In such instances, in order to collaborate on new institutions, the actors have to resolve the distributional issue of how to apportion the costs, benefits, and risks associated with coordination. Issues of this sort are far from simple. There is evidence, for instance, that actors can be motivated by the relative, as well as the absolute, gains a new set of arrangements offers (Powell 1999). Accordingly, analysts of institutional change need ways of understanding how such distributional issues are resolved.

Part of the answer lies in the dimensions of power that have been described. Those for whom the opportunity costs of foregoing coordination are highest are likely to emerge from the transaction with a smaller share of the gains. Gruber (2000) shows that such considerations played a role in the institutional design of European monetary union.

However, this is another issue area to which historical institutionalism brings useful propositions. As Streeck (1997) and others have noted, there is a sociological underlay to most discussions of institutional reform in the political economy. The background against which they are conducted is one in which conventional conceptions of fairness are prominent. Labor organizations are more likely to agree to new

institutional arrangements if it can be argued that the benefits flowing from them conform to conventional norms of fairness. Even within existing institutional arrangements, coordination becomes more difficult when the results no longer seem “fair” when judged by prevailing standards.

In short, even when processes of institutional change are seen predominantly as matters that engage the “hard-headed” interests of the participants, what we might describe as “normative beliefs” enter into them. The latter are a critical component of the shared understandings that make “common knowledge” and coordination possible (Johnson 1990). In the absence of tacit agreement on such beliefs, the distributional issues associated with coordinating on a new set of institutions are much more difficult to resolve.

Where the establishment of new institutions requires the actors to secure agreement among larger constituencies, such as political parties or trade unions, as it often does, normative beliefs play an even greater role. Normative beliefs can be central to the process whereby the leaders of organizations mobilize consent among their followers. The rank and file will be interested in what they gain from institutional reform, but many will also be motivated by a sense of whether the distribution of those gains is just. Claims for social justice are not simply an ideological patina washed over arrangements negotiated for other reasons. They are an intrinsic element of the expectations actors bring to decisions about institutional reform.

Multivariate Preference Functions and Identities

The effects of institutional change are usually multidimensional and the interests of the actors assembled to support the change equally so. A new social policy, for instance, may appeal to trade union leaders because of the organizational resources it offers them, to the union rank and file because of the material benefits it provides, and to firms because of the ways it shifts their costs (Palier 2002). But the process of coalition formation underpinning institutional change is further complicated by the fact that each actor involved in the process typically brings to it a multivariate preference function of his own (Hall 2005).

When forming a judgment about the desirability of a proposed institutional reform, trade union leaders may consider, for instance,

not only the material benefits it offers the union's members but also the impact of the reform on the union's power vis-à-vis employers, the potential it has for attracting new members, and the organizational resources it provides the union leaders themselves. To reach a decision about whether to support the reform, even when the decision turns entirely on material considerations, the union leaders have to attach implicit weights to each of these types of considerations, namely, to variables intrinsic to their preference functions. The executives of firms make equally complex calculations.

Even individuals, whose support may be crucial to a political party's willingness to support or oppose institutional changes, bring multivariate preference functions to such issues. Proposals to alter the institutional practices associated with environmental issues, for instance, can bear differently on the role of the voter as a consumer, worker, parent, or citizen, and each voter must decide which of the corresponding concerns to weigh more heavily when taking a position on the issue. In this, as in many, cases, those roles are not far removed from the multiple identities voters assume, and the weight a voter attaches to each variable in his preference function engaged by the issue may be influenced by which of his identities are engaged most intensely in debates about the issue.

In other words, *even if* the relevant outcome – understood as the position taken by an actor or as the institutional result that follows from aggregating those positions – is driven largely by considerations of material interest, issues of identity can be important determinants of the result. The presumption that identity politics has little to do with the politics of material interest is generally false, and normative beliefs figure prominently in identity politics (cf. Fraser and Honneth 2003). When debates can be configured so as to engage some identities more deeply than others, actors can be induced to join coalitions they might not otherwise support. In this respect, the politics of ideas is intrinsic, rather than epiphenomenal, to the processes of coalition formation that underpin institutional change.

Network Externalities and Institutional Complementarities

The lively debates among historical institutionalists about “path dependence” also generate propositions of real value to rationalist accounts of institutional change. The core insight here, with which few

rational-choice analysts would disagree, is that the impact of any new institutional practice will be mediated by the operation of other institutions unaffected by the reform. When actors form judgments about whether to support a new institutional practice based on calculations about how it will affect them, they take such interaction effects into account. As a result, the character of existing institutions conditions the reception given proposals for institutional reform. The adoption of one set of institutions establishes conditions that make the adoption of others more or less likely, thereby pushing the relevant unit, whether a nation, firm, or other organization, along some paths that gradually foreclose others.

Pierson (2000) provides many examples of how such processes of path dependence work, emphasizing the role of increasing returns and network externalities (see also Thelen 1999; Mahoney 2000). Once citizens have adjusted their habits of saving and spending to the establishment of a particular pension regime, for instance, they will be interested in reforms that enhance that regime and reluctant to endorse reforms that render those habits unprofitable. If firms respond to the structural inducements present in a national economy to establish specific kinds of production regimes, they will tend to favor reforms that increase the returns from such regimes and to oppose reforms that would require them to adopt entirely new production regimes (Hall and Soskice 2001).

Although an obvious reminder that institutional change does not take place on a *tabula rasa*, this point offers analysts of institutional change real leverage. It suggests, for instance, that the level of support available from various types of actors for institutional reform in one sphere of the political economy will often be conditioned by the character of existing institutions in other spheres. The explanation Swenson (2001) offers for variation in the attitudes of employers to proposals for universal pensions in the United States and Sweden provides a masterful example of such processes at work. He argues that the attitudes of employers to proposals for reform of social policy were deeply conditioned by the character of existing institutions in the sphere of wage bargaining. In Sweden, where the strategies of many firms were built on institutional arrangements for industrial relations that limited wage differentials across sectors, the efforts of some firms to attract skilled labor by offering private pensions began to cause

discontent among other firms. Universal public pensions provided an attractive way to eliminate this practice. In contrast, by the 1950s, American firms had adjusted their strategies to an industrial-relations system that promoted segmentalist practices, whereby some firms operate highly efficient production regimes that depend on skilled workers who are attracted by higher wages and benefits, while other firms use less skilled workers to compete on cost. As a result, American employers found unappealing the prospect of universal pensions that would undercut such practices on both sides of the divide. The extent of employer support for generous universal pensions, therefore, diverged sharply between the two countries as a result of the arrangements each nation developed for regulating industrial relations.

There would be real value in extending this type of analysis to other issue areas, asking how institutional arrangements in one sphere of the political economy influence proposals for reform in others. In an insightful comparison of France and Germany, for instance, Goyer (2006) finds that the reception given by firms to proposals for reform in the sphere of corporate governance is influenced by the character of institutional arrangements in the sphere of labor relations. But there is room for more such inquiries.

A Rationalist Model Expanded

I have argued that we can deploy some of the core insights generated by historical institutionalism to extend a rationalist model of institutional change. The result is a set of extensions that are analytically manageable and render such models more realistic. In summary, the steps I have suggested are as follows:

1. Begin with the assumption that the precondition for institutional change is often the assembly of a coalition, whether tacit or explicit, in favor of the changes.
2. Acknowledge not only that uncertainty about the effects of institutional reform is a pillar of institutional stability but that the character of prevailing instrumental beliefs about such effects is a key variable that makes change more or less likely and conditions its direction.
3. Recognize that, even when institutional change can be secured by reaching agreement among a small set of individuals contracting

with each other on a relatively equal basis, assembling coalitions of support for change entails collective action problems whose intensity is affected by the character of existing organizational practices. Beyond those settings, issues of power are inescapably bound up with the resolution of such dilemmas. In each of these contexts, the character of existing organizations conditions the relative power over change of various groups of actors, as well as the pace and direction of change.

4. Observe that, even when the process of adopting new institutions can be modeled as a coordination game, distributive issues arise. How these issues are resolved then turns on the relative power of the actors (a function of both opportunity costs and mobilizational or strategic capacity) and on normative beliefs about fairness.
5. Note that the effects of institutional reform and the preference functions actors bring to proposals for reform are multidimensional, such that the actors' posture toward reform will depend on how each weighs the variable in that function. Factors that influence this weighing include those that engage the identities associated with the dimensions of these preference functions. Framing effects, whether born of deliberate or inadvertent processes, emerge as potentially important variables in the processes leading to institutional change.
6. Observe that the effects of any new set of proposed institutional practices will be mediated by existing institutional practices not targeted for reform, so that the latter become variables conditioning the positions actors take on proposals for institutional reform.

To be sure, this account presents the process whereby institutions change as one that is more complex than some simple models allow. However, one of the striking features of this analysis is that it remains relatively simple and tractable to manageable empirical inquiry. Historical institutionalism is not a cry of despair about the complexity of the world. Many of its most important insights can be reduced to testable propositions that greatly enrich our models of institutional change at limited cost in terms of the complexity they add to them.

Moreover, the terms of this account suggest many compatibilities between rationalist and historical approaches to institutional change. One need not abandon a rational-choice perspective in order to mobilize many of these insights. That requires only a willingness to accord beliefs, whether instrumental or normative, a role in the relevant processes more precise and expansive than the one conveyed by the vague concept of “common knowledge.”

II. Historical Institutionalism in Sociological Perspective

There is another side, of course, to the perspectives on institutions developed by historical institutionalism. It is well-represented in the chapters of this book, and the rationalist model I have just outlined does not do it full justice. Although I think rationalist models can explain a good deal of institutional change in many settings, it is important to note what they miss in the world of institutions. I will do so by outlining some core contentions on the sociological side of historical institutionalism.⁷

At the heart of this alternative approach is a view of institutions different from the one found in rationalist perspectives. The latter tend to stress the rule-like quality of institutions and, by implication, the extent to which institutions are understood in common terms by all the relevant actors. By contrast, although they still see institutions as regularized practices, analysts with a more sociological leaning tend to stress the intrinsic ambiguity of institutions. Rather than conceptualize institutions as relatively sharp rules, they see their underpinnings in norms that are always subject to interpretation and frequently to reinterpretation. In his chapter for this volume, Sheingate stresses the extent to which even congressional rules are open to creative reinterpretation, and Onoma identifies a “contradictory potential” in the laws governing land use in Kenya.

This shift in perspective is important because it implies that institutional change need not be contingent on agreement among a coalition of actors or even the explicit object of coalition formation. Instead, institutional change can occur through disaggregated processes of “reinterpretation” whereby the meanings actors associate

⁷ For another account, complementary to this one, see the introduction to this volume.

with a particular institution change over time, generating corresponding shifts in patterns of action (Streeck and Thelen 2005; Thelen 2005). Those shifts may be sudden, as some were during the French Revolution, or slow – pushed forward, step by step, by small groups of actors, until one pattern of behavior is replaced by another. Reinterpretation of the rules may be accompanied by overt contention over issues of interpretation or it may take place in subtle and relatively uncontested steps. When it takes the latter form, the process is difficult to model as one of coalition formation, and more relevant templates for analysis may lie in sociological studies of “meaning making.”

Those operating from such a perspective also tend to posit a world replete with multiple layers of institutions, each with more or less sway over particular actors, many slightly contradictory in their implications for behavior, that constitute a broad scaffolding providing footholds for many courses of action. Seen in this light, institutions are *instruments* the actors use to negotiate the complexity of the world. Far from dictating particular actions, institutions are seen as enabling structures within which actors exercise a robust agency. Dan Slater describes the development of dictatorship in Indonesia in precisely these terms.

This perspective diverges from the type of sociological institutionalism that sees institutions as the embodiment of “logics of appropriateness” and associates their influence with the extent to which the institutions are taken for granted (cf. March and Olsen 1989; Dobbin 1994a). By contrast, historical institutionalists are more inclined to view institutions as objects of active reinterpretation, and often of overt contention, as actors seeking power or resources take advantage of their contradictory potential. The persistence of institutions is not a matter of unreflective adherence, but the outcome of exercises of power and interpretation, whose result is at best a contested stability (see the introduction to this volume).

In common with many sociologists, however, historical institutionalists accept that institutions are not simply “rules” but constituted as well by accompanying rituals and symbol systems. Thus, the fate of an institution can be closely tied to the significance attached to its rituals, whether formal or informal, and conditioned by cultural shifts in which new sets of symbols acquire authority as others fall into desuetude. The affinities with constructivist views prominent in the study of international relations should be apparent (Wendt 2000).

These views of institutions carry important implications for how we should understand processes of institutional change. They lend themselves to images of institutional change quite different from those of rationalist models focused on the formation of reform coalitions. Some historical institutionalists stress that institutions can simply break down. Skocpol (1979), for instance, proposes a structuralist view of social revolutions, in which institutions gradually fail as the result of a confluence of separately determined developments, marked by little in the way of a voluntarist impulse.

Others suggest that institutions can change as a consequence of processes of “defection” in which actors gradually stop adhering to the practices formerly constitutive of an institution, whether seriatim or in groups, without any formal agreement to do so (Thelen 2004; see also the introduction to this volume). Although it may be an exaggeration to claim, as one participant in the workshop discussing this volume did, that “shirkers are the motor of history,” there is little doubt that processes such as these are important elements in many instances of institutional change. Thelen and Kume (1999) have shown, for example, that gradual defections from employers’ associations transformed the operations of the institutions governing wage bargaining in Germany.

Drawing our attention to another dimension of institutional change, Streeck (2005) emphasizes that efforts to construct new institutions are often experimental, which is to say that they proceed in incremental steps, marked by movements backward as well as forward, as new institutions are tried out and then found to be ineffective. He is surely right to draw our attention to the “experimental” character of many reform processes, whereby institutional change emerges from ad hoc adjustments to standard operating procedures without clear-cut efforts to mobilize coalitions behind those changes, and to stress the role of unintended consequences in such processes. Tulia Falleti’s chapter for this volume traces that kind of process in the case of Brazilian health care; and, based on a study of social security reform in France, Palier (2005) argues that incremental steps of this sort, issuing from a series of negotiations in which the participants rarely agreed even on how to interpret the results of each stage, can usher in profound institutional transformation.

There is much to recommend these more sociological perspectives on institutional change. They capture key dimensions of the

institutional world, and, although I do not spell them out here, they also supply new research agendas. In some cases, such formulations may provide a better basis for explaining the pace or direction of change than explanations from rationalist perspectives emphasizing coalition formation. At the same time, we can see many points of commonality between the two sides of historical institutionalism. Both accord importance to the role of ideas in politics. Both see institutions as objects of continuous contention rather than as settled arrangements that can be taken for granted; and, behind the operation of institutions, both see the exercise of power.

Conclusion

Whether conducted from a rationalist or sociological perspective, the research done by historical institutionalists in recent years has greatly advanced our understanding of institutional change. Scholars working in this intellectual tradition have arguably done more than any other group to develop realistic formulations about how economic and political institutions change over time. As this account implies, they encounter an inevitable tension between a requirement to develop the relatively simple models that form the substance of social science and a need to portray the world in realistic terms. But, on my reading, they have managed this tension with considerable success. The result is a set of formulations that provide the basis for research agendas with great promise.

There are many issues on those agendas still to be resolved. We do not yet know how the process of institutional change varies across issue domains or spheres of the polity. In some, change may be typically slow or incremental, and, in others, more frequent or abrupt. We could benefit from more investigation into the sources of innovation. In principle, agents facing processes of intense competitive selection, as most democratic governments and firms do, may be more likely to innovate than agents who are sheltered from such processes would be. There is also more to be learned from comparing cases of institutional stability with cases of change. Thelen (2004) has shown how changes in some dimensions of the institutional setting make continuity possible in other dimensions, but we need more general accounts of such processes, built on further case studies and a more intensive

dialogue with analysts of organizational change (cf. McCarthy and Zald 1987).

My bet is that the greatest advances will be made by those willing to borrow concepts and formulations from multiple schools of thought. That is why I have emphasized the points of tangency between rational choice and historical institutionalism and have dwelt at length on the insights available from more sociological perspectives. There is much to be said for analyses that take the opposite tack and focus on the differences among schools of thought. That kind of analysis tends to throw the inadequacies of each theoretical approach into sharp relief, thereby stimulating improvement. Without irritants, there would be no pearls. However, if there is insight in all of these approaches, as I believe there is, it seems short-sighted to cling to one at the expense of benefiting from the others. I have argued that it is often possible to construct synthetic models, whose component parts are eminently testable. In many instances, substantial additional insight can be purchased at a relatively small loss in terms of analytical parsimony. With respect to issues of institutional change, fruitful synthesis is surely the most promising way forward and, positioned as it is between rationalist and sociological views, historical institutionalism is ideally placed to take those steps forward.

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