Werner J. Patzelt
Department of Political Science
Technical University of Dresden, Germany
werner.patzelt@tu-dresden.de

Connecting Theory and Practice of Legislative Institutionalization

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I. The Challenge

Legislative scholars certainly have to *document* and to *describe* processes of legislative institutionalization and parliamentary developments on a continual base. This is true in particular for developing political systems for which no (time series) evidence is yet available on the basic patterns of their individual constitutional development or on the underlying factors that shape them. As long as legislative scholars do not provide the necessary data, politicians and political advisors are left without reliable empirical hints for result-oriented interventions into the processes of political development. But also in well-established polities where many members of the political elite possess reliable intuitive knowledge of the characteristics of their representational system, we thoroughly benefit from descriptive studies of the development of parliamentary party groups and parties, of legislative committees, of staff, of rules and procedures, and even of actors outside parliament that continuously or occasionally shape legislative work (like governments and constitutional courts). First, such work helps us to distinguish stochastic ups and downs of parliamentary characteristics from real breaks or secular trends that might indicate, or call for, changes in other parts of the polity as well. Second, such studies allow us to detect not only continuity or discontinuity, but also *patterns of change* that may occur even across legislative cultures and throughout parliamentary history. Third, we can improve our methodology of detecting, measuring, and explaining institutional change when we apply different approaches of data making, data analysis, and pattern explanation to well documented long-range processes of legislative development. This is why the history of British parliamentarianism has been so inspiring for all types of legislative historiography, and US congressional research so seminal for the methodology of behavioral legislative research.

In epistemological perspective, one central issue of legislative research *beyond* documentation and description is to *recognize* and to subsequently *explain patterns* of "normality" and of "deviation" within and across legislatures, or within and across those polities that make use of a legislature or parliament.[1] The same issue is addressed, in slightly different terms, when we formulate as our interest to find out what is "institution-specific" on the one side and "country-specific" (or "culture-specific" and "time-specific", respectively) on the other side. A second central issue is to find out where similarities – like committee systems, deliberating procedures, or patterns of parliamentary infrastructure – *stem from*. Go they back to "importing" established forms or to "copying" admired models, or are they due to the "logic of functioning" of a representative assembly as such, with the amount of achieved parliamentary power as an important intervening factor? And what complex or subtle "interaction effects" may be at work between similarities "by common origin" on the one side and similarities "by adaption of differently originated structures to common challenges and/or environments"?

It is true that the standard approaches of comparative legislative research ("parallel idiography", "parallel historiography", statistical analysis of different legislatures along the same variables) can, and have, shed much light on such issues. And it is conventional wisdom that comparative research, however methodologically designed, will lead to a better understanding of even any singular case than might be achieved without putting this case into a comparative perspective. In addition, legislative research has always been a field with an exemplary pluralism of complementary methods (ranging from classical historical research via qualitative fieldwork to statistical studies and mathematical modeling) and with an even more exemplary multi-perspectivism of mutually supporting theories (from role theory to rational choice theory and beyond).

Nevertheless, even contemporary legislative research has some worrying shortcomings. Together, they lead to the absence of truly "basic research" (apart from historical and contemporary documentation of facts as its *preliminary* step) and hinder legislative scholars to act as undoubtedly non-partisan "institutional engineers" when legislative performance is to be evaluated and parliamentary reforms are discussed. This is regrettable all the more since legislative studies are such an inviting, integrative, and practically relevant field of research. It

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[1] A legislature is a representative assembly with the right to legislate for the people represented in it. A parliament has, in addition to its legislating authority, the right to bring down, or even to install, a governing body, usually a cabinet, for the people represented. It will be highly consequential both for the inner organization and working of that representative assembly, and for the voting decisions of its electorate as well, whether or not a representative assembly has that latter responsibility. In this paper, however, the terms of legislature, parliament, and representative assembly are used synonyms whenever such distinctions are not relevant.

is true that we produce many and highly useful (comparative) data collections and (parallel) case histories. But do we really generate questions that lead us beyond portraying (diachronically) the more or less obvious phenomena of parliamentary party groups and legislative committees, of legislative staff and parliamentary rules and procedures? Are we really dealing with questions that lead us beyond simply "telling the story" of these phenomena's development over time and spread over countries? It is true as well that we have (a) found useful indicators of legislative institutionalization and parliamentary development, have (b) developed reliable methods for exploring legislative role orientations and role behavior, social networking and power-building, or political issue handling and public impression management, and have (c) created inspiring theories of delegation chains, recruitment and career patterns, epistemic policy communities, and actions shaped by bounded rationally and nested political games. But has all of that really inspired us towards attempts at *integration*, or even at a *synthesis*, of our so manifold knowledge about legislative processes or parliamentary structures? Have we now easier access to structured knowledge for *pattern recognition* in representative institutions or for the *explanation* of such patterns? And have we now really better advice, when our professional expertise as is requested by politicians for purposes of institutional engineering?

My *first thesis* is that honest answers to all these questions cannot be in the affirmative. To weigh arguments and counter-arguments on that, this paper is certainly not the proper place. But the thesis seems to be plausible enough to build on it for the rest of this paper. Core of this paper's arguments is my *second thesis*, stating that no less than four intellectual challenges must be met if we desire to move legislative research beyond its present status by establishing basic research from which practical applications can be derived in an engineer-like manner. First, we need a better framework for the intellectual integration of the many varieties of legislative research. Second, we should have a more encompassing theory of legislative institutionalization and institutions than most legislative scholars seem to use. Third, we should be able to do much more with the history of parliamentary institutions than merely "to tell" it: We should be able to recognize its "evolutionary algorithm". And fourth, we should include into our comparative research some valid and reliable further "algorithms" for systematic research into the forms, and causes, of similarities and dissimilarities. These can be derived from an evolutionary approach to parliamentary institutional history and should lead to the establishment of "institutional morphology" as a new approach of comparative legislative research. Combined advances on all four fronts would bring about truly "basic research" in legislative studies, would make its results particularly useful for all

those who look for insights beyond the scope of "practical intuition", and would thus connect academic theory of legislative institutionalization to practical attempts at institutionalizing, stabilizing, and empowering parliaments.

II. Mapping Legislative Research

To better integrate our research efforts and to ease encompassing syntheses of our theories and empirical results, we should have a common comprehensive "map" of legislative research, in which all our manifold approaches to representative institutions can find their proper and mutually illuminating place. My favorite setup of such a "map" is based on the central distinction between "applied" and "basic" legislative research, the latter being ordered within a three-dimensional map of its own.

(1) Well developed: Applied legislative research

When it comes to applied research, legislative specialists have the double task of documenting developments and of giving advice. Because parliaments are ever changing institutions, documentation is a never ending process and highly demanding when no special institutions for that purpose are established. Documentation is demanding in particular, where data bases for recently emerging parliaments have to be created at all. In addition to the collection of legal documents like constitutions, electoral laws, standing orders etc., such data bases should include data on MPs and their staff during their "parliamentary life cycle" on the one side, and data on a parliament's institutional functions on the other. As to data on MPs and their staff, the best possible documentation would encompass personal background information; candidate recruitment and selection; campaigning; legislative socialization and professionalization; parliamentary roles and parliamentary behaviour ("hill style"); legislative careers; MPs' networking both on their fields of legislative specialization (interest groups, executive branch of government, i.e. the "iron triangle", and media) and back in their voting districts ("home style"); de-recruitment and post-parliamentary careers; and parliamentary infrastructure (staff, offices, further resources; personal pay …). Documentation of parliamentary functions would comprise data and findings on legislation and on control of the executive branch of government, covering the fields of legislative-executive relations, of coalition formation and cabinet support in the case of parliamentary systems of government, and of representation in particular, that is, of practiced parliamentary responsiveness and leadership.

Giving advice – both in domestic politics and in parliamentary training projects – relies on historically recorded experience with well established legislatures and on research regarding viable legislative structures and their logic of functioning. Concerning that, there is competition between different theories of legislative behavior and functioning that claim to explain, to predict and – sometimes – even to advise. But there are not enough efforts to compare and to verify or falsify these theories beyond partial tests, to choose among competing theories, and to integrate basically complementary theories or compatible elements thereof. But since there is nothing "more practical" than a good theory, legislative research should invest more effort into such work on theory comparison, testing, and integrating. Doing so, it should cover the functional logic and the working patterns of the structures for parliamentary leadership, deliberation, and decision-making; in addition, it should take a special look at parliamentary party groups, their ever problematic cohesion, and the various forms of "parliamentary opposition". Moreover, it should include the analysis of those time structures that give order and coherence to parliamentary activities; and in particular it should focus on the institutional mechanisms[2] by which a legislature operates effectively. Finally, the specific functions and effects of staff (and its organizational patterns) and of think tanks etc. working for parliaments and their members should be studied.

(2) Still a construction site: Basic legislative research

On the basis of reliable documentation, basic research is expected to generate those insights on which scientifically and practically useful theories can be based. Such research will be inspired by importing theories from other fields of social and social-psychological research, and it will come to generalizing insights in particular by doing extended comparisons that include both contemporary and historical representative assemblies. In all of these respects, legislative studies demonstrate considerable possibilities for growth. It is true that economic theories have been widely used in form of rational choice models of legislative processes, sociological theories in form of role theory or of delegation theory, and social-psychological theories in the studies of political motivation and ambition. More recently, some varieties of advanced institutional theories have been included as well. But theories of (parliamentary) knowledge structures, belief systems and – on basis of that – of legislative "reality work" are still not in wide-spread use. And since there is no well-developed common theoretical

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[2] An "institutional mechanism" is a chain of actions that can be used intentionally and reliably. Such chains of action emerge from the interplay of institutional *positions* (endowed with resources), formal and informal *rules* that connect these positions, and *interests* of (institutional) actors. They are typically used to fulfil an institution's functions, e.g. in form of institutional mechanisms for holding office holders accountable.

background characterizing legislative research, comparative legislative research also has no common theoretical framework either. As a result, much comparative work is devoted more to "parallel description of different cases than to striving for generalizing theoretical insights based on comprehensive data.

This, in turn, is consequential for some shortcomings in social integration of the field of legislative studies: Except for rational choice approaches, cooperative work is based rather on common interest for *cases* than for theoretical *question*. And because sampling follows personal expertise for particular cases rather than the data requirements of overarching theoretical questions, small n-studies – using either most similar-designs or most-dissimilar designs – prevail over large n-studies, and studies of contemporary parliaments prevail over studies of historical representative institutions. The result is that well-established scholarly research covers modern and mostly democratic legislatures, but generates much less knowledge on the *general institutional type* of a – more or less – representative assembly. Noteworthy, as a result of such limitations, is in particular the absence of encompassing attempts to understand the general *way of any representative institution's functioning*, and to find out how this special "functional logic" can be brought to bear in quite *different* political systems, including authoritarian regimes. This, however, limits our possibilities to give practically important advice and does harm to the applied relevance of legislative studies. On balance, much more comparative efforts seem desirable. As to the methodological problems that may dissuade researchers from genuinely theory-driven comparisons, the approach of qualitative comparative analysis (QCA) as developed by Charles Ragin,[3] should open new research possibilities.

(3) A three-dimensional map

Independent from its form as a comparative or a single-case approach, basic research on legislatures and parliaments should be systematically developed in three dimensions.[4]

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[3] Ragin, Charles (1987): The Comparative Method. Moving Beyond Qualitative and Quantitative Strategies. Berkely / Los Angeles. Since then, a great number of publications using this approach has appeared. Entering "QCA" (Qualitative Comparative Analysis) into a search engine on the internet, will easily provide an overview of this flourishing field of research.

[4] A detailed discussion of the current status of legislative research can be found in Patzelt, Werner J. (2009): Parlamentssoziologie [Sociology of parliament], in: Viktoria Kaina / Andrea Römmele, eds., Politische Soziologie. Ein Studienbuch [Political Sociology. A manual], Wiesbaden 2009 (VS-Verlag), S. 311-351

(a) Analysis of reality construction in parliamentary institutions

The first dimension encompasses the processes and practices in which the institutional of a parliament is socially constructed; therefore it may be labeled "construction analysis". Here the (manifold) "sociologies of reality construction in everyday life", like ethnomethodology,[5] will prove to be useful. Hardly can basic research get closer to the real processes of parliamentary work than in such studies of parliamentary reality construction. This can be seen from the research questions to be answered: What are exactly those processes and practices by which the social reality of a given parliament is constructed, reproduced, modified, transformed, or destructed respectively? How are stocks of parliamentary knowledge and interpretive schemes, rules and roles, "evidences of adequate behavior and talk" brought about in hundreds of places and thousands of situations devoted to parliamentary work? How is their validity defended against rivaling patterns? And how are they conveyed to new generations of members of parliament?

(b) Analysis of the evolution of parliamentary institutions

In this dimension, basic research on parliaments and legislatures deals with how representative institutions evolve in both contingent and path-depending processes during which they interact with changing environments that are, at least partially, co-influenced by a parliament's activity. Central research questions are the following: How do parliaments come into existence, and develop, in a continuous interplay of trajectories that have been created both by former actions and by contingent events that occur by chance or at discretion? In particular: How is parliamentary evolution shaped by the interplay of, on the one side, an already emerged and stabilized institutional form, and on the other side by changing challenges for a parliament that originate in the cultural, social, political, economic, and technical environment of this parliament? Such questions lead even beyond "Historical Institutionalism" as presented in the work by Thelen,[6] with "Evolutionary Institutionalism" being a promising candidate for guiding such research. This is why this approach will be outlined in more detail below.

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[5] On how institutional analysis can make use of ethnomethodology, see Werner J. Patzelt, Institutionalität und Geschichtlichkeit in evolutionstheoretischer Perspektive [Institutionality and Historicity in the light of evolution theory], in: id., ed., Evolutorischer Institutionalismus. Theorie und exemplarische Studien zu Evolution, Institutionalität und Geschichtlichkeit [Evolutionary Institutionalism. Theory and exemplary studies on evolution, institutionality, and historicity], Würzburg (Ergon-Verlag) 2007, pp. 287-374.

[6] See Kathleen Thelen, "How Institutions Evolve. Insights from Comparative-Historical Analysis," in: James Mahoney, ed., Comparative Historical Analysis in the Social Sciences, (Cambridge: Cambridge University Press, 2003), pp. 208-240

(c) *Causal analysis of parliamentary institutions*

Basic research along this third dimension unfolds along attempts to answer empirically, both for each parliament and comparatively, the following four questions, listed up in Aristotle's theory of "four forms of causation":[7] (1) Out of which elements or sub-systems (i.e., out of what *"matter"*) is a parliament built up, and how do they shape a parliament and its functioning? (2) What is the *"power"* that makes these elements or sub-systems "tick", like ambition a politician or competition parliamentary party groups? (3) What is the *"purpose"* of a given parliament, and how is this purpose transformed into concrete parliamentary functions? (4) What is the concrete *"institutional form"* of a given parliament,[8] and which consequences for the functioning or performance of this parliament does it entail? The goal of such research along the effect chains of the "matter course" (*causa materialis*), the "power cause" (*causa efficiens*), the "purpose cause" (*causa finalis*), and the "form cause" (*causa formalis*) is "pattern recognition", originally coined, in German, as "Gestalterkenntnis". For this aim, much more is required than the understanding of only a single particular case, but much less than a previously developed "general theory". It is basically a *heuristic* device to follow these four categories of causation worked out by Aristotle and proven to be useful for more than 2000 years.

When looking at parliaments' *matter causes* (causa materialis), we would study – on the one side – the personality, the biographical and social background of parliamentary actors, along with their socialization experiences. Research guiding theories and approaches would be those of "political personality", social background analysis, political socialization etc. On the other side, research on parliamentary matter causes would cover the resources of parliamentary reality construction (role building, institutionalization …), such as stocks of parliamentary knowledge, interpretive schemes, shared values, known or applied formal and informal rules etc. Research guiding theories would comprise theories of social construction of reality, of cultural sociology, and of memetics.[9]

Research of parliaments' *power causes* (causa efficiens) would equally unfold in two

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[7] See Michel Bastit, Les quatre causes de l'être. Selon la philosophie première d'Aristote [The Four Causes of Being according to Aristotle], (Louvain: Peeters, 2002); Yungwhan Lee, Aristotle and Determinism: An Interpretation of Aristotle's Theory of Causation, Necessity and Accidents, (Saarbrücken : VDM Verlag Dr. Müller, online resource, 2009).

[8] The "institutional form' of a parliament consists of its fixed social and legal structures that, on their part, are reproduced in everyday interactions as long as background expectancies, formed during institutional socialization, are mutually not discredited. How this is achieved, is a central topic of Evolutionary Institutionalisms and of parliamentary construction analysis (see Patzelt, Institutionalität und Geschichtlichkeit, op.cit., 287-323, and below).

[9] See section IV of this paper.

branches. The first encompasses motivations like (progressive) ambition and the manifold incentives for running or not running. Inspiring theories and approaches for such research would include theories of (progressive) political ambition as well as demand/supply-theories of political recruitment. The second branch comprises tactical considerations and rational choices of legislative actors. Rational choice models and delegation theory are particularly useful theoretical approaches in this field. They should, however, be mirrored by reconstructions of tactical everyday reasoning of parliamentary actors.

Studies of parliaments' *purpose causes* (causa finalis) would, on the one side, address the guiding principles and regulative ideas of parliaments: What purpose (e.g. in terms of representation or control of government) does a particular parliament serve? On what convictions are the operations of a given parliament based? Here, relevant theories and approaches include the historiography of parliamentary ideas, institutional analysis, and evolutionary institutionalism. On the other side, the concrete ways are analyzed in which such "guiding ideas" work out in practice. This means in particular analyzing role orientations and the role behavior of parliamentary actors, inspired both by classical parliamentary role analysis (but never limited to role orientations alone, or even focused exclusively on such misleading concepts like trustee, politico, delegate) and by Richard Fenno's studies of "home style" and "hill style".

Research on the *form causes* of parliaments (causa formalis) would focus, first, on the concrete social structures in parliaments: committees, task forces, leadership structures etc. Guiding theories and approaches would include traditional institutionalism as well as the information theory of legislative structures or veto-player theory. Second, basic types of parliaments would be studied as "institutional forms" shaped by the type of the surrounding political system. In this way, research on "minimal legislatures", as they exist in authoritarian regimes, would be easily aligned with well-established research on the assemblies in presidential, semi-presidential, or parliamentary systems of government. Sample theories and approaches would here include regime analysis or classical constitutional history.

III. A More Encompassing Theory of Legislative Institutionalization and Institutions

When thinking about (legislative) institutionalization, Nelson Polsby's attempt to grasp this phenomenon is still a starting point for most research.[10] Concerned with the development of

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[10] Nelson W. Polsby, "The Institutionalization of the U. S. House of Representatives," in: American Political Science Review 62, no.1, 1968, pp. 144 - 168.

the US House of Representatives, he developed three criteria along which (growing) institutionalization can be detected and even measured. First element is the establishment of institutional boundaries: Membership becomes less open, and intra-institutional leadership begins to be reserved for incumbents. Both certainly reflects, and contributes to, the stabilization of a set of roles and rules. Among the possible results thereof is a growing internal complexity of an institution, which is Polsby's second element of institutionalization. Functions become regularized and specialized; social structures emerge and infrastructure is built up, both allowing reliable fulfillment of such functions; and leadership systems are put in place so as to co-ordinate institutional (sub-) structures and functioning. Third, rules and decision criteria become less and less *ad hoc* and more and more impersonal and universal. This makes an institution independent of purely personal characteristics of its members and leaders, providing *institutional* stability proper. As a reaction to all of that, professionalization may occur, that is, explicit attempts on part of institutional members to really understand the rules of the institutional game and to use them, along with institutional infrastructure, in a success-oriented manner.

Among the many merits of Polsby's definition of institutionalization is that it can be operationalized without major problems. His definition is bottom-up and driven by clear interest in the concrete phenomena grasped by the definition, that is, in the developmental patterns of positional boundedness, of internal complexity, and of really used rules. Not so much interested, if at all, is this approach to institutionalization (1) in those *cultural patterns* that trigger the whole process of rule-and-role formation, (2) in the processes that give shape to *'institutional generations',* and (3) in the internal and external factors that influence the process of institutional *evolution*.[11] Polsby's approach has its outstanding merits when it comes to the analysis of long-range processes of institutional development, and when the mere fact of an institution developing life of its own is at the center of analysis. This approach, however, does not work equally well when phenomena of rapid institutionalization and details of the interaction between an institution and its environment are the issues of interest.

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[11] Applied to the first and formative years of East German state parliamentarianism in particular, Polsby's indicators of institutionalization seem to miss even important things. See Werner J. Patzelt, "Blueprints" and Institution-Building. Former East Germany and its present state parliaments as a case in point, in: Irina Khmelko / Werner J. Patzelt, eds., Legislative Institutionalization in the Context of Democratic Transition and Consolidation, Special Issue of the Journal of East European and Asian Studies, 2011 [forthcoming].

Therefore, a Dresden-based multidisciplinary research group developed an alternative approach to processes of institutionalization and institutional development.[12] In this theory, an institution is defined as a set of formal and informal rules that are expectably followed and, thereby, give shape to stable interactions. Such interactions, in turn, create and reproduce a set of roles and positions, usually ordered in a hierarchical way. The emerging set of rules and roles, stabilized by giving symbolic expression to its guiding ideas and binding principles, is called an "institutional form". We often find it laid down in laws and standing rules, but we may find it as well in ethnographic analyses of – otherwise – "informal institutions". This institutional form can be practiced by the members of a given institution with diverse skills and priorities. As a result, any "practiced" institutional form may deviate from the "institutional form proper", of which it is a time-, member-, and resources-specific concretization. At the core of every set of rules, out of which a set of roles and finally the (practiced) institutional form may emerge, lies a "guiding idea" or a set of (possibly even competing) guiding ideas.[13] Seen in this way, institutional rules and roles are the very means for realizing in stable social practice what should be achieved, or be avoided respectively, according to an institution's guiding idea(s).

Institutionalization, then, is the process of …

- making a (set of) guiding idea(s) attractive for followers, and attracting members or supporters of the emerging institution;

- finding out which rules and roles will really be helpful for serving the goals defined by the guiding ideas, and implementing these rules and roles, such that "competent" members of the institution, abiding by the rules and respecting the roles, can be distinguished from "outsiders" or intruders";

- stabilizing this whole arrangement with means like (a) giving symbolic, emotionally inviting and obliging expression to the guiding idea(s); (b) setting up collective mind maps in which the guiding idea(s), the rules and roles of the emerging institution appear – at least for "competent members" of this institution – as "simply sound facts" beyond need of continuous discussion; and (c) making sure, by using different forms of power, that such collective mind maps are not put into doubt, that established rules are followed, established roles really respected, and that those who feel and even act differently are marginalized as outsiders, or are even excluded as adversaries;

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[12] See the chapters in Patzelt, Evolutorischer Institutionalismus [Evolutionary Institutionalism], op.cit.

[13] This concept stems from the 19th century French law professor Maurice Hauriou and reads in French the 'idée directrice' or 'idée de l'oeuvre'. It is analytically equivalent to have in the center of an institutional set of rule/roles 'guiding differences' instead of guiding ideas.

- developing and implementing measures that help to transmit compliance with institutional rules and roles, and with the guiding idea(s) around which they are centered, from one "generation" of competent institutional members to a following one.

As has been shown in several historical and empirical analyses, all these processes can be found in the history of any representative assembly as well, and the "institutional form" of any parliament or legislature can be recognized and described along the analytical categories mentioned above.[14] In addition it will have occurred to the reader of the preceding paragraphs that only such topics have been addressed, but in a new perspective, that had already been dealt with in the sections on reality construction in parliaments and on causal analysis along Aristotle's forms of causation. Thus we see a coherent "intellectual matrix" of basic legislative research emerge. And because quite different parliaments and legislatures (different in historical and cultural setting, in guiding ideas and power etc.) can be described and analyzed along these very same – and highly abstract – categories, the necessary step is done towards fruitful comparisons, even when following a most-dissimilar-cases approach.

IV. Evolutionary Institutionalism

The understanding of "institutional generation" as developed close to the end of the last section is crucial for Evolutionary Institutionalism. Never this concept refers to different "phases" or "stages" in the history of an institution, as if estate assemblies had been an "earlier generation" of modern parliaments. "Institutional generation" means always a cohort of institutional freshmen or "novices" that enter an institution (like a parliament or a party, a religious order or an army); receive more or less successful institutional socialization and become (possibly) competent institutional members; will contribute (more or less) to the maintenance of their institution's (practiced) form; and will transmit one day those cultural patterns that are used for the institution's functioning and reproduction hitherto to a new cohort of institutional freshmen. Usually *many* cohorts of already experienced institutional members, of already more or less completely socialized successors, and of freshmen proper, will co-operate in an institution. All of them, if they do not irregularly drop out from the institution for whatever reason, will make their way through the institution. So individual

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[14] See Werner J. Patzelt, Grundriss einer Morphologie der Parlamente [Outline of legislative morphology], in: id., Evolutorischer Institutionalismus [Evolutionary Institutionalism], op.cit., pp.483-564.

members come and go, but the institution remains[15] – depending on a certain number of active competent members, but independent of any single individual.

With this concept of generation, the whole theoretical apparatus of evolution theory becomes available for institutional research.[16] Required is only a certain effort towards abstraction from biology and towards re-concretization within sociology, and necessary is one single conceptual change. The reason for this change is obvious: Of course no genes, or *genetic* blueprints, are transmitted from one institutional generation to the next one, but something else, namely information on rules to be followed, on roles to be respected, and on guiding ideas to be at least emotionally embraced. If we dislike, for good reasons, using a strictly metaphorical concept like "institutional gene", we need another notion for those "blueprints" that need to be transmitted from one institutional generation to the next one if an institution is to survive the continuous replacement of its members. In fact we can use an even similarly sounding concept. More than two decades ago it has been coined by the British evolutionist Richard Dawkins, and it has been subsequently popularized by authors like Susan Blackmore.[17] It reads "memes" in the plural and "meme in the singular. Single memes (like specific rules, particular patterns of behavior or the elements of a guiding idea) may be combined, or may have "grown together" in the past, to a (more) complex memetic structure, i.e. to a '"complex of co-adjusted memes", which is shortly called a "memplex".[18] And where do memes exist? They are carried and distributed by "vehicles", that is, in persons' minds and talks, in texts and pictures, in rituals like religious ceremonies, and in institutions like a political party, a legislature, or a department of political science.

Seen in this way, institutional evolution is based on the transmission of *memetic* blueprints (i.e., via institutional socialization) for the reproduction of normative and behavioral patterns (i.e., of the institutional form) in the process of replacing one institutional generation with the

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[15] The medieval formula for the same observation has been *universitas non moritur*.

[16] As an empirical application of the theory outlined below see Patzelt, "Blueprints" and Institution-Building. Former East Germany and its present state parliaments as a case in point, op.cit.

[17] Richard Dawkins, The selfish gene. (New edition, Oxford: Oxford University Press, 1989); Susan Blackmore, *The Meme Machine,* (Reprint, Oxford: Oxford University Press, 1999).

[18] One should note here that there is nothing mysterious in the concept, or existence, of memes. All the single phenomena that fall under this concept – from "cultural patterns" like ideas and "thought figures" via melodies and rhythms to steps in standard dances and metrical foots – are well known themselves, and so are the ways and usual practices of their transmission from one generation (e.g. of philosophers, composers, dancers and poets) to the next generation. All these cultural patterns are simply addressed here in a much more abstract form than in those life-worlds, or academic disciplines, in which they are a kind of "common communicative currency". Using the language of memetics is, therefore, just like using the language of systems theory: Many things that are well-known in our life-world are referred to in a very abstract way in the language of systems theory, e.g. as sub- or supra-systems, as input and output, or as outcome and as feedback. The reason for doing so is not unavailability of clear names for the empirical referent of these notions in everyday language or in science-specific vocabulary, but the desire to disclose a different, and – for some purposes – more useful analytic perspective. The same is true for the language of memetics.

next one. While we have known for many decades that biological species rely on genetic replication of their biological structure-building information, we now start to understand that institutions simply rely on memetic replication of their social structure-building infomation, or of their "reality constructive" cultural patterns, respectively. It is true that some institutions combine both biological and memetic replication, like monarchical dynasties. But most institutions rely exclusively on memetic replication, like religious orders, political parties, and parliaments.

As soon as there is a process of replication or socialization, the following *algorithm of evolution*[19] is put into work. It seems to work in the world of culture and society not differently from how it works in the world of nature:

- Whenever a genetic pattern is "copied", or whenever a memetic pattern is "imitated" or finds itself "reconstructed from a previously learnt rule", then some *variation* may occur.

- However, not all variations will have the same chance to be maintained and to become a basis for further structure building. Instead *selection* will take place and fix those variations that will be retained.

- In the course of selection, *internal* selection factors work at first: A variation will have greater chances to be retained if it fits with the already existing structure of a structural design, be it the one of an animal or of an institution. As a result, contingent changes in *fundamental* structures will seldom be retained; but variation in hitherto – but not necessarily in the future – *superficial* structures will be retained quite often. In this way, new "layers" of structure are put on top of an existing structure, or new links are created between existing elements of a system. Although such variation may affect only this or that detail, it will sometimes open up quite new, and in hindsight even surprising, paths of further development.

- Second, *external* selection factors are at work: Only such variations will be retained that do not lend themselves to disconnecting the "chain of services rendered and resources returned" between an institution and its environment or niche.[20] If a variation opens up new possible functions that an institution may fulfill, thereby attracting more resources for the institution and its members, or if a variation is

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[19] For an elaboration of this concept see Daniel Dennett, Darwin's Dangerous Idea. Evolution and the meanings of life, (New York: Simon and Schuster, 1996).
[20] *Environment* is everything outside an institution, whereas an institution's *niche* comprises only such *parts* of the environment that are *important* for the institution (for whatever reason).

"functionally neutral", that is, will not decrease the resources that the institution gets in compensation of the services it renders for its niche, then the modification has a chance to be retained. If, however, the variation cuts access to hitherto available resources, then it will be retained only if, and only as long as, there is compensation for the resources that are no longer accessible because of that variation.

The result of this two-step selection process is an *asymmetrical "architecture"* of any given institution, and a *path-dependent process* of any further institutionalization and institutional development. In terms of structure, there will always be some – comparatively old – basic structures, or underlying layers of elements, that on their part carry all other ("higher") institutional layers as their "burdens"; and in turn the "upper parts" of an institution are dependent on such support from its "lower parts". As a first of two consequences, random variation in the higher layers of an "institutional architecture" has greater chances to fit with the rest of the institution than would variation in its basic structure. As a second consequence, variation in the higher layers of a an institutional form will have greater chances to pass through internal selection processes than variation in the lower, or more basic, layers of the institution. This is known as "*structural* inertia", which is inevitably at work even if changes in the institution's environment would call for quick and in-depth adaptation. In terms of function, these mechanisms work as follows: In every complex institution, there are some basic functions that need to be executed if other, more dependent institutional functions shall be properly performed. Thus, any or institution can be understood as a bundle of "function chains". Random variation in the "far ends" of such function chains have considerably greater chances of being retained than such at the "fixed end" of the function chain. This leads to "*functional* inertia", the second source or form of "institutional inertia". In the long run, both processes creates institutions that are "basically similar", but "dissimilar in (important) details" – like so many parliaments and legislatures.

Functional requirements for a system, stemming from its environment or niche, use to change in very contingent, sometimes even turbulent ways. As a consequence, the asymmetry of function chains will not contribute to path-dependent development in the same extent as the asymmetry of structural layers does. But because all functions are fulfilled by structures, there are important *interaction effects* between internal and external selection factors and between both forms of institutional asymmetry. A good case in point is the development the People's Chamber of the German Democratic Republic. This assembly maintained many structural elements of bourgeois parliamentarianism (like parliamentary party groups and committees) even though there was no functional need for them in a socialist minimal parliament.

However, the communist leadership of the People's Chamber made sure that virtually no use could be made of the functional possibilities of that retained structure. Only the new leadership groups, arriving to power in the course of the Peaceful Revolution, "re-enabled" the previously suppressed functions of those same structures as soon as the communist party's claim for political leadership had ended and new functional requirements for the People's Chamber had emerged between November 1989 and July 1990.[21]

Another important effect of that double asymmetry of structural burdens and of function chains is that *not all* variations of structures and functions can actually have *equal chances* to be retained, that is, to lead to a "mutation" of the institutional form. Instead, certain paths of system development are *always* more probable than others. This is why we recognize so many "directed processes" when looking at institutional history, for instance at the development of modern democratic parliamentarianism out of the English Estate Assembly, called "Houses of Parliament". For the same reason, not all thinkable futures are really "open" at a given point in time, such that even command of enormous political and economic power will not allow every desired institutional transformation to take place, or any attractive institutionalization, at least not at any time or in a sustainable way.

In this way, evolution's algorithm is at work behind all patterns of institutionalization or of institutional history. Evolution, however, implies no teleological "master plan" whatsoever. Nor is there any "guarantee" that future contingent changes in an institution's environment or niche will subsequently be matched by future variation in the institution's own development. It is true that institutional fitness *may* emerge or be (re-) established; but this is no "necessary" process or effect. On the contrary, we observe quite frequently that institutions "evolve into an impasse" (like the French National Assembly of the IV Republic) or into a "regulative catastrophe" (like the Reichstag of the Weimar Republic). And institutionalization is, even though path-dependent, not principally "irreversible": If memetic replication is not sufficiently effective, institutions can "erode", that is, will suffer more and more from rule ambiguity, and will be affected by less and less clarity of those roles that competent institutional members ought to play.

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[21] See Roland Schirmer, „Machtzerfall und Restabilisierung der Volkskammer im Lauf der Friedlichen Revolution" [Collapse and Restabilization oft the People's Chamber in the Course of East Germany's Peaceful Revolution], in Werner J. Patzelt, ed.: Parlamente und ihre Macht. Kategorien und Fallbeispiele institutioneller Analyse [Parliaments and Their Power]. Baden-Baden (Nomos) 2005, 171-215.

Certainly can institutions *learn* to improve their institutional form and to maintain institutional fitness.[22] In some cases this is done, or at least attempted, intentionally. In much more cases institutional learning takes on one of the following forms, and even against the preferences of institutional actors: (1) "institutional layering", (2) "institutional conversion", (3) "institutional drift", or (4) "institutional displacement".[23] Changes in a system's environment may drastically alter the odds for the retention of occurring variations in the function chains and structural design of an institution. The reason is that variations which might have been detrimental for the institution's resource supply yesterday can open up new paths of development tomorrow. If this comes true, then (1) new institutional structures are *built over old ones*, or (2) old structures are – under impact of changed functional requirements – *converted to serve new purposes*. In the same way, institutions may *preserve* much of their structural architecture, although that architecture has been modified at so many points over time that it may now *work quite differently* (3), and this in spite of the fact that this (part of the) institution looks very much like in earlier times. And if a part of an institution, or if an institution itself, has worked well for achieving certain goals in a given setting, one may try to *transfer the tested institutional solution* for a functional problem from this setting to a quite different one (4). In this case, institutional blueprints are "exported" or "imported", respectively, and memetic replication is not done in a "vertical way", that is, from a predecessor generation to a successor generation, but in a "horizontal way", i.e., from one social or cultural setting to a different one.

V. Institutional Morphology

Here we are at the core of what is known as *Galton's problem* in comparative research[24] and at the crystallizing point of *institutional morphology*.[25] Galton's famous question reads as follows: If institutional features in two different settings are similar – does this similarity then stem from an *adaptation of different structures to similar environmental challenges* ("analogous similarity", calling for a "functionalist explanation"), or does their similarity stem from *common "blueprints"*, that is, from similar memes or memplexes that were used to build

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[22] Cf. Christian Demuth, Institutionelles Lernen. Der Deutsche Bundestag als Beispiel [Institutional Learning. The German Bundestag as a Case in Point], in Patzelt, ed. Evolutorischer Institutionalismus, op.cit., pp. 641-687.

[23] These forms have been described and distinguished, but not really explained, by Thelen, How Institutions Evolve, op.cit.

[24] Cf. James M. Schaefer, ed., Studies in cultural diffusion: Galton's problem, (New Haven: Human Relations Area Files, 1974).

[25] See Patzelt, Grundriss einer Morphologie der Parlamente [Outline of legislative morphology], in: id., Evolutorischer Institutionalismus [Evolutionary Institutionalism], op.cit.

up those institutional structures, and even under different environmental challenges ("homologous similarity", calling for a "culturalist explanation" or "memetic" explanation)? Homologous similarity, often not directly visible, can be *detected* only by finding – or by plausibly postulating – memetic replication chains, whose (hypothesized) existence then requires an explanation. Analogous similarity, on the contrary, may be recognized easily, but can be adequately explained only after homologous similarity has been excluded *and* the causal chains of functional adaptation have been clarified.

If two or more institutional structures are built along the same memes or memplexes *and* are, in addition, shaped by similar environmental challenges as well, then the established term is "*homoiologous* similarity". More than only a few political institutions that spread from Western Civilization over the world (like parliaments and constitutional courts) display homoiologous similarity, which makes it sometimes difficult for comparative researchers to accept the deeper sense of clearly distinguishing homologous from analogous similarity. But if no clear concepts of analogy and homology are at hand, attempts at explaining patterns of similarity will bear no really convincing results. This, in turn, will impede comparative research – in particular if undertaken in a broad perspective along the most-dissimilar-cases-approach. The annoying discussions on "wrong analogies" or "mistaken parallels" are, to put it metaphorically, nothing but the epicenter of the not yet overcome challenge to agree on common notions for different forms of similarity.

If we, however, use the notions of homologous, analogous, and homoiologous, similarity just as introduced in the last paragraphs, then the approach of Evolutionary Institutionalism will offer quite new possibilities for both cross-historical and cross-cultural comparison. The reason is that, finally, two widely known but hitherto quite awkwardly labeled types of "family resemblances" can be easily distinguished: Similar elements, or features, of various legislative institutions may go back to common history or to "institutional export/import" (i.e., to memetic replication), or they may go back to adaptation of institutional elements of different origin to similar conditions in the political environment, like type of regime, electoral system, policy challenges, etc. In addition, all kinds of *interaction* effects between the quite *different* forms of homologous and analogous similarity will easily lend themselves to precise descriptive and classificatory procedures, instead of being brought to a premature end by the usual discussions of "false analogies" and "misleading comparisons". Thus freed from the cuffs of insufficient analytical vocabulary, we could engage in wide-range systematic comparative research of representative institutions across all periods of history and all cultures or countries from which we have at least some information. Such research, which

may certainly last for decades and could bring together many social scientists and historians in well-organized working relations, would disclose the manifold "kinship relations" between historical and contemporary legislative institutions and contribute to a thorough understanding of the development and dispersion of different types of representative institution.[26] Based on such knowledge, any analysis of (initial, early …) legislative institution building and politics even in (rapidly) developing political systems could draw from carefully studied and condensed "lessons of (parliamentary) history". Of course, this approach can be applied equally to the comparative analysis of parties, NGOs, administrative bodies, armies etc.

VI. A few perspectives

Quite different from the situation in political science, where evolutionary thinking is widely confronted with disinterest or even hostility, "evolutionary economics" is – although "heterodox" and not "mainstream" – an important school of economic thought already now.[27] In Economics, evolutionary theory has even turned out to be useful when it comes to practical business consulting.[28] And in political science, it has been demonstrated that analyses along the path of Evolutionary Institutionalism allow for *a priori*-evaluations of institutional reform processes.[29] So our evolutionary approach of connecting theory and practice of institutionalization has successfully passed several hard tests of its alleged capacity. It really is promising to carry on with such tests, and why not in comparative legislative research!

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[26] In this context, the large variety of "second chambers", that historically have often been the "first" chambers, could finally be dealt with in line with those more or less elected assemblies that are the usual object of legislative research.

[27] One of the the central texts is Hodgson, Geoffrey M. (1993), Economics and Evolution: Bringing Life Back Into Economics (Cambridge, UK and Ann Arbor, MI: Polity Press and University of Michigan Press).

[28] See Manfred Sliwka, Die Praxis der Unternehmens-Evolution. Wenn Manager bei Charles Darwin in die Lehre gehen [The Practice of Evolving Business Enterprises. When managers learn from Charles Darwin], Norderstedt (Books on Demand), 2006.

[29] Jakob Lempp, Ein evolutionstheoretisches Modell zur Analyse institutioneller Reformen. Fallanalyse: Die Reform des Auswärtigen Amtes [An evolutionary model for the analysis of institutional reforms. The reform of the German Foreign Office as a case in point], in: Patzelt, Evolutorischer Institutionalismus, op.c., pp. 599-639.