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Observers of the European Community have criticized "intergovernmentalist" accounts for exaggerating the extent of member-state control over European integration. This article grounds these criticisms in a historical institutionalist analysis, stressing the need to study European integration as a process that unfolds over time. Losses of control result not only from the autonomous actions of supranational organizations, but from member-state preoccupation with short-term concerns, the ubiquity of unintended consequences, and the instability of member-state policy preferences. Once gaps in control emerge, change-resistant decision rules and sunk costs associated with societal adaptations make it difficult for member states to reassert their authority. Brief examination of the evolution of EC social policy suggests the limitations of treating the EC as an instrument facilitating collective action among sovereign states. Rather, integration should be viewed as a path-dependent process producing a fragmented but discernible multi-tiered European polity.

THE PATH TO EUROPEAN INTEGRATION A Historical Institutionalist Analysis

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The evolution of the European Community (EC) has long fascinated political scientists. For 4 decades, some of the world's most enduring nation states have conducted an extraordinary political experiment. Progressing sporadically but in a consistent direction, the member states of the European Community have pooled increasing areas of policy authority, introducing prominent collective institutions. The creation of these institutions initiated a process that has transformed the nature of European politics.

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123

How the evolution of these arrangements of collective governance can be explained and the nature of the current system understood remain matters of considerable controversy. Within American political science, students of international relations have maintained the most theoretically driven discussions of the EC. Despite significant internal disputes, the dominant paradigm in international relations scholarship regards European integration as the practice of ordinary diplomacy under conditions creating unusual opportunities for providing collective goods through highly institutionalized exchange (Garrett, 1992; Moravcsik, 1993). From this "intergovernmentalist" perspective, the EC is essentially a forum for interstate bargaining. Member states remain the only important actors at the European level. Societal actors exert influence only through the domestic political structures of member states. Policy making is made through negotiation among member states or through carefully circumscribed delegations of authority. Whether relying on negotiation or delegation, Chiefs of Government (COGs) are at the heart of the EC, and each member state seeks to maximize its own advantage. Debate within this perspective has concerned such questions as why member states desired certain observed outcomes, which member states have the most influence on collective decision making, and which alignment of member-state interests can best explain policy or institutional development in the EC (Lange, 1993; Martin, 1993; Moravcsik, 1991).

This perspective has not been without its challengers. European scholars have generally depicted the EC as a more complex and pluralistic political structure, less firmly under member-state control. Much of this scholarship is not particularly concerned with advancing broad theories of integration, concentrating instead on the detailed investigation of day-to-day policy development in areas where the EC's role is prominent. From this perspective, the Community looks more like a single (if highly fragmented) polity than the site of diplomatic maneuvering among autonomous member states. Within Europe, analyses that treat the EC as a quasi-federal system—"an obvious reference point for the European Community," in the words of one prominent analyst (Dehouze, 1994, p. 103)—are now quite common (Majone, 1992; Scharpf, 1988).

This is equally true within the ranks of comparativists, who have turned their attention recently to the EC (Anderson, 1995; Marks, 1993; Pierson & Leibfried, 1995; Sbragia, 1992). The principal reason for this new interest is revealing: Students of a wide range of government activities, including industrial, regional, social, and environmental policies, have found that they can no longer understand the domestic processes and outcomes that interest them without addressing the role of the EC. These investigations also portray a complex and pluralistic political process, not firmly under member-state

control and not explicable in terms of simple diplomatic bargaining. Coming from the detailed investigation of particular domestic policy arenas to address a strikingly new phenomenon, however, comparativists possessed few theoretical tools that appeared directly applicable. Like European analysts, they have tended to depict the Community as a quasi-federal, *multilevel* or *multitiered* political system. Yet these terms are used more to describe the current state of affairs than to explain it. Thus, if a growing body of detailed research reveals considerable unease about the dominant international relations models of EC politics, critics have so far had little to offer as an alternative to intergovernmentalist accounts.

In practice, the critics of intergovernmentalism have tried to move forward in two ways. Some have continued to investigate particular policy areas, content to reveal the density and pluralism of actual policy making while simply observing that the focus of international relations theory on grand diplomacy among sovereign member states does not square with what is actually occurring "on the ground." However, it is almost always possible, *ex post*, to posit some set of member-state preferences that reconciles observed outcomes with the image of near total member-state control. Where policy outcomes do not conform to the expected preferences of member states, they may be explained as part of a "nested game" or as an instance of side payments. Drawing on rational choice theory, intergovernmentalism possesses flexible conceptual tools that can explain why member states would favor the observed outcomes (Green & Shapiro, 1994).¹ Thus, absent a theoretically based explanation for the constraints on member states, these detailed investigations will not persuade proponents of intergovernmentalism.

More theoretically oriented critics have drawn on aspects of the *neo-functionalist* tradition in international relations, showing how spillover processes and the autonomous actions of supranational actors (including the Commission and European Court of Justice) contribute to European policy making. Recent efforts to update neo-functionalism have successfully highlighted important limitations in intergovernmentalist accounts, and I will rely in part on these arguments in developing my own analysis. Yet neo-functionalism has serious problems of its own. Given the strong institutional position of member states in the EC, neo-functionalists seem to attribute greater autonomy to supranational actors than can plausibly be sustained. Although neo-functionalism arguments about the independent action of the Commission and Court of Justice have some merit, there is little doubt that

1. A good example (among many possible ones) is Lange's (1993) analysis of the Maastricht Social Protocol. Lange may well be correct in arguing that poor member states signed the protocol because of side payments, but he provides no actual evidence that this was the case.

the member states, acting together in the Council, remain the most powerful decision makers. In most cases, it seems equally probable that these decision makers act to secure their own interests, whatever those are deemed to be. Crucially, these principals retain the legal authority to rein in their agents if they find it in their interests to do so. Thus, *at any given point in time*, the key propositions of intergovernmentalist theory are likely to hold.

This article seeks to lay the foundation for a more persuasive account of member-state constraint. My focus is on why gaps emerge in member-state control over the evolution of European institutions and public policies, why these gaps are difficult to close, and how these openings create room for actors other than member states to influence the process of European integration while constraining the room for maneuver of *all* political actors. The basis for this challenge to intergovernmentalism lies in insights from what I will term *historical institutionalism* (Ikenberry, 1994; Thelen & Steinmo, 1992). The label covers a diverse range of scholarship, much of it with little theoretical focus. Indeed, a principal goal of this article is to strengthen the theoretical foundations of historical institutionalism. There are, however, two unifying themes within this broad research orientation. This scholarship is *historical* because it recognizes that political development must be understood as a process that unfolds over time. It is *institutionalist* because it stresses that many of the contemporary implications of these temporal processes are embedded in institutions—whether these be formal rules, policy structures, or norms.²

The crucial claim I derive from historical institutionalism is that actors may be in a strong initial position, seek to maximize their interests, and nevertheless carry out institutional and policy reforms that fundamentally transform their own positions (or those of their successors) in ways that are unanticipated and/or undesired. Attempts to cut into ongoing social processes at a single point in time produce a “snapshot” view that is distorted in crucial respects. Central parts of my analysis emphasize temporal aspects of politics: the lags between decisions and long-term consequences, as well as the constraints that emerge from societal adaptations and shifts in policy preferences that occur during the interim. When European integration is examined over time, the gaps in member-state control appear far more prominent than they do in intergovernmentalist accounts.

In contrast to the functional account of institutions that underpins intergovernmentalism, historical institutionalism stresses the difficulties of sub-

2. Throughout, I rely on North's (1990) definition of institutions: “the rules of the game in a society or, more formally, . . . the humanly devised constraints that shape human interaction” (p. 3).

jecting institutional evolution to tight control. Two brief historical examples can illustrate the broad point explored in this article. The first concerns the changing institutional position of state governments in the United States (Riker, 1955). Because approval of the U.S. Constitution required state ratification, the interests of states received considerable attention in the process of institutional design. The framers intended the Senate to serve as a strong support of state interests. In an arrangement that partly echoes the EC's emphasis on member-state participation in collective deliberations, state legislatures were to appoint senators, who were expected to serve as delegates representing states in the formation of policy. Over time, however, senators seeking greater autonomy were able to gradually free themselves from state oversight. By the early 1900s, the enactment of the 17th Amendment requiring popular election of senators only ratified the result of a lengthy erosion of state legislative control.

The development of Canadian federalism provides another example (Watts, 1987). The designers of the Canadian federation sought a highly centralized form of federalism—in part as a reaction to the ways in which decentralization contributed to the horrors of the American Civil War. Yet the Canadian federation is now far less centralized than the American one. Among the reasons: the Canadian federation left to the provinces sole responsibility for many activities that were then considered trivial. With the growing role of government in social policy and economic management, however, these responsibilities turned out to be of tremendous importance.

In both cases, the current functioning of institutions cannot be derived from the aspirations of the original designers. Processes evolving over time led to quite unexpected outcomes. Similarly, I will argue that what one makes of the EC depends on whether one examines a photograph or a moving picture. Just as a film often reveals meanings that cannot be discerned from a single photograph, a view of Europe's development over time gives us a richer sense of the nature of the emerging European polity. At any given time, the diplomatic maneuvering among member states looms large, and an intergovernmentalist perspective makes considerable sense. Seen as a historical process, however, the scope of member-state authority appears far more circumscribed, and both the interventions of other actors and the cumulative constraints of rule-based governance more considerable.

My argument is developed in three stages. In the first, I review the main features of intergovernmentalist analyses of the EC. In the second, I develop a historical institutionalist critique. In the third, I briefly apply these historical institutionalist arguments to one aspect of European integration, the development of social policy. This application is hardly intended as a full test of my approach. Nonetheless, historical institutionalism's applicability in an

area where intergovernmentalist analysis ought to be on strong ground provides further evidence of its theoretical promise.

1. INTERGOVERNMENTALIST THEORIES AND MEMBER-STATE AUTONOMY

The accelerated activity of the EC in the past decade coincided with a growing focus among international relations scholars on international regimes, which were conceptualized as institutionalized forms of collective action among nation states (Haggard & Simmons, 1987; Keohane, 1984; Krasner, 1983). Although some analysts of European integration have continued to echo the earlier international relations literature on neo-functionalism, the dominant intergovernmentalist perspective has treated the EC as a standard (albeit unusually well-developed and multifaceted) international regime. It would be unrealistic to attempt a thorough review of this diverse and sophisticated literature here. Instead, I focus on three core features of intergovernmentalism: the emphasis on member-state preoccupation with sovereignty; the depiction of institutions as instruments; and the focus on "grand bargains" among member states.

The centrality of sovereignty. Intergovernmentalism itself generally takes member-state preferences as given, focusing instead on how member states seek to pursue those preferences.³ Yet despite this apparent openness, intergovernmentalist accounts tend to stress member-state preoccupation with preserving sovereignty. As Keohane (1984) maintains, "governments put a high value on the maintenance of their own autonomy, [so] it is usually impossible to establish international institutions that exercise authority over states" (p. 88).

Of course, much of the writing on international regimes arose as a reaction to realist perspectives that were seen as putting *too much* weight on sovereignty concerns—suggesting that collective action among states would almost never be possible. Regime theorists have argued that in contexts where security concerns have diminished, nation states may care about absolute gains as well as relative ones. Nonetheless, the realist focus on sovereignty carries over into intergovernmentalist treatments of the EC. Most intergovernmentalist analyses suggest that member-state preferences are heavily

3. Moravcsik (1993) has outlined a "liberal intergovernmentalist" view in which liberal theories of member-state preference formation are used to supplement intergovernmentalist theories of member-state bargaining.

weighted toward preserving sovereignty, leading COGs to be vigilant guardians of national autonomy in evaluating proposals for international cooperation. The issue is often posed in principal-agent terms (Garrett, 1992). The principals (member states) may delegate certain responsibilities to agents (international institutions), but only with the strictest oversight. The core calculation for member states is whether the benefits of collective action outweigh any possible risk to autonomy. According to Moravcsik (1993), "In the intergovernmentalist view, the unique institutional structure of the EC is acceptable to national governments *only* [italics added] insofar as it strengthens, rather than weakens, their control over domestic affairs" (p. 507).

The instrumentality of institutions. Work on international regimes has drawn heavily on the insights of Transaction Cost Economics (TCE), which analyzes institutions in functional terms (Keohane, 1984; North, 1990; Williamson, 1975). As Moravcsik (1993) summarizes, "Modern regime theory views international institutions as deliberate instruments to improve the efficiency of bargaining between states" (p. 507). Drawing on sophisticated work in game theory and economic theories of organizations, intergovernmentalists note that collective action among autonomous nation states is often desired yet enormously difficult. A critical issue concerns problems of information. Uncertainty about the preferences, intentions, and reliability of other actors makes agreements difficult to execute and enforce. Institutions can help surmount these problems, reducing information asymmetries, monitoring compliance, and creating linkages across issues that diminish the likelihood of defection. According to Keohane (1984),

Far from being threats to governments (in which case it would be hard to understand why they exist at all), they permit governments to attain objectives that would otherwise be unattainable. They do so in part by facilitating intergovernmental agreements. Regimes facilitate agreements by raising the anticipated costs of violating others' property rights, by altering transaction costs through the clustering of issues, and by providing reliable information to members. Regimes are relatively efficient institutions, compared with the alternative of having a myriad of unrelated agreements, since their principles, rules, and institutions create linkages among issues that give actors incentives to reach mutually beneficial agreements. (p. 97)

In intergovernmentalist accounts, self-conscious, maximizing actors (member states) create institutions because these institutions help them surmount collective action problems and achieve gains from exchange. The best way to understand the development of international institutions is to identify the functions they fulfill, especially the lowering of bargaining costs and the reduction of uncertainty through the provision of "a forum and

vocabulary for the signalling of preferences and intentions" (Stone, 1994, p. 456).

The centrality of intergovernmental bargains. Students of the EC frequently distinguish between the intermittent grand bargains (e.g., the Treaty of Rome, the Single European Act, Maastricht) that establish basic features of institutional design and the day-to-day policy making in the Community that occurs between these agreements. For intergovernmentalists, the grand bargains are where the action is. Because, as Moravcsik (1993) puts it, "functional regime theory view[s] . . . international institutions as passive, transaction-cost reducing sets of rules" (p. 508), it is the design of those rules that is central. The EC, he adds, "has developed through a series of celebrated intergovernmental bargains, each of which sets the agenda for an intervening period of *consolidation* [italics added]. The most fundamental task facing a theoretical account of European integration is to explain these bargains" (p. 473). The intergovernmentalist research agenda clearly reflects this line of thinking, focusing overwhelmingly on explaining aspects of two grand bargains: the Single European Act (Garrett, 1992; Moravcsik, 1991) and the Maastricht Treaty (Garrett, 1993; Lange, 1993; Martin, 1993). Political developments during the periods between these bargains, or that concern matters not hotly contested during those bargains, have received almost no attention.

These three aspects of intergovernmentalist accounts are closely connected. The depiction of member states as profoundly concerned about sovereignty contributes to a functional view of regimes. Given the preoccupation with sovereignty, the institutional underpinnings for cooperation will only be created or extended after a careful weighing of long-term costs and benefits. The benefits are the transaction-cost reducing functions that regimes perform; the costs often relate to any risk of lost autonomy. Similarly, the emphasis on member-state bargains follows logically from the functional analysis of institutions. If the EC is an international regime in which member states have carefully designed passive instruments to allow them to carry out collective goals, periods of consolidation are of little interest. It is the bargains themselves that create or change the rules of the game, therefore demanding attention. The post-bargain period simply plays out the implications intended in the grand bargains. Together, these three positions have contributed to a powerful argument about the process of European integration. As I suggest in the next section of this article, however, all three are open to serious challenge.

2. A HISTORICAL INSTITUTIONALIST CRITIQUE

Historical institutionalism is a loose term covering a range of scholarship that has tried to combine social science concerns and methods with a recognition that social processes must be understood as historical phenomena (Ikenberry, 1994; Thelen & Steinmo, 1992). In my own usage, historical institutionalism cuts across the usual sharp dichotomy between rational choice and nonrational choice work, drawing instead on research within both traditions that emphasizes the significance of historical processes. Thus it includes rational choice analyses that consider issues of institutional evolution and path dependence crucial (Knight, 1992; North, 1990). It excludes much research in political science that uses history only as a technique for widening the universe of available cases.

The core arguments of historical institutionalism contrast with a more common view in the social sciences, which, as March and Olson (1989) observe, assumes (often implicitly) that “institutions and behavior . . . evolve through some form of efficient historical process. An efficient historical process . . . is one that moves rapidly to a unique solution, conditional on current environmental conditions, and is independent of the historical path” (pp. 5-6). Given this orientation, Skocpol (1992) notes, “Analysts typically look only for synchronic determinants of policies—for example, in current social interests or in existing political alliances. In addition, however, we must examine patterns unfolding over time” (p. 58).

Recent research focusing on institutional evolution and path dependence has challenged the expectation that institutions embody the long-term interests of those responsible for original institutional design (Krasner, 1989; North, 1990). Where the legal authority of the institutional designers is as unquestionable as that of the member states in the EC, I will argue that such a challenge must be based on two sets of claims. First, there must be an account of why gaps—by which I mean significant divergences between the institutional and policy preferences of member states and the actual functioning of institutions and policies—would emerge. Second, critics must explain why, once such gaps emerge, they cannot reliably be closed. One can find scattered elements of such accounts in recent theoretical treatments of institutional change. When brought together, they provide a compelling response to the claim that institutional development in the European Union can be understood in functional terms.

I focus first on the factors that are likely to create considerable gaps in member-state control. Four are of fundamental importance: the autonomous actions of European institutional actors, the restricted time horizons of

decision makers, the large potential for unintended consequences, and the likelihood of changes in COG preferences over time. Each of these factors requires more detailed discussion.

The partial autonomy of EC institutions. The main contribution of recent neo-functionalism has been to emphasize the autonomous role of supranational actors, especially the Commission and the Court (Burley & Mattli, 1993; Ross, 1994; Sandholtz, 1993). I begin by summarizing these arguments and suggesting that, by themselves, they constitute an inadequate response to intergovernmentalism.

The central objections raised by neo-functionalists can be cast in terms of the same principal-agent framework used in many intergovernmentalist accounts. Member states created the EC, and they did so to serve their own purposes. In order to carry out collective tasks, however, the member states felt compelled to create new institutions. As Moe (1990) has argued, the results are predictable.

A new public agency is literally a new actor on the political scene. It has its own interests, which may diverge from those of its creators, and it typically has resources—expertise, delegated authority—to strike out on its own should the opportunities arise. The political game is different now: there are more players and more interests to be accommodated. (p. 121)

In the European context, the member states' problem has been especially difficult. They have needed to create arrangements that would allow reasonably efficient decision making and effective enforcement despite the involvement of a large number of governments with differing interests, and despite the need for decision making, implementation, and oversight on a wide range of complex and tightly coupled policy areas. These considerations generated pressure to grant those who run these institutions considerable authority. Thus, the political organs of the EC are not without resources; as a result, they are not simply passive tools of the member states.

Over time, EC organizations will seek to use grants of authority for their own purposes, especially to increase their autonomy. They will try to expand the gaps in member-state control, and they will use any accumulated political resources to resist efforts to curtail their authority. The result is an intricate, ongoing struggle that is well-known to students of the European Union but would also be familiar to American observers of, say, relations between congressional committees and administrative agencies (Kiewiet & McCubbins, 1991; McCubbins & Schwartz 1984; Moe, 1987). Member states generally (but not always) seek to rein in EC institutions. They recognize, however, that these crucial collective organizations cannot function without significant

power and that the authority required will grow as the tasks addressed at the European level expand and become more complex.

For their part, European institutions such as the Commission, the European Court of Justice, and the European Parliament are always looking for opportunities to enhance their powers. Neo-functional analyses have emphasized the significant successes of these supranational actors. The Council, to be sure, continues to stand watch over proposed legislation and actively protects member-state interests. Yet the Commission, Parliament, and Court possess considerable ability to advance their own interests. For the Commission, two assets are particularly important (Ross, 1994). The first concerns the setting of agendas, a source of influence it frequently shares with the European Parliament (Garrett & Tsebelis, 1995; Tsebelis, 1994). Choosing which proposals to consider is a tremendously important (if frequently unappreciated) aspect of politics, and here European institutional actors often have primacy. Obviously, this power is far from unlimited; the Commission cannot expect to pass proposals that ignore the preferences of member states. Usually, however, it will have some room for maneuver (Pollack, 1995a, 1995b). Entrepreneurial European actors, such as the Delors Commission, may be able to frame issues, design packages, and structure the sequence of proposals in ways that maximize their room for independent initiative (Riker, 1986). The expansion of qualified majority voting has widened the range of possible winning coalitions, further increasing the agenda-setting powers of the Commission and Parliament. Neo-functionalists have argued persuasively that the Commission's effective use of agenda-setting powers has advanced European integration and increased its own role in policy reform (Ross, 1994).

The Commission's second major asset is its role as what Eichener (1993) calls a *process manager* (see also Peters, 1992). Policy making at the EC level, as many have noted, is heavily tilted toward regulation—a type of policy making with its own distinctive qualities (Lowi, 1964; Majone, 1992). The development of complex social regulations requires the assembly and coordination of dense networks of experts. This task falls to the Commission, and with it comes additional room for influence. Especially in the labyrinths of regulatory policy making, this role may give the Commission significant power.

The political resources of the European Court are at least as significant. If the United States in the 19th century had a "state of courts and parties" (Skowronek, 1982), the EC looks at times like a "state of courts and technocrats" (Leibfried, 1992, p. 249). In the process of European integration, the European Court has taken an active, even forcing stance, gradually building a remarkable base of authority and effectively "constitutionalizing" the emerging European polity (Alter, in press; Burley & Mattli 1993; Weiler,

1991). The Court has more extensive powers of judicial review than most of its national counterparts and fewer impediments to action than other EC decision-making bodies. If the Council is prone to gridlock, the necessity of deciding cases inclines the Court to action. This inclination is strengthened by rules allowing simple majority decisions and by a secrecy (neither actual votes nor dissenting views are made public) that shelters judges from member-state and popular pressures. European Court judges also share a common professional background, legal culture (at least on the continent), and sense of mission that seems to effectively limit the influence of the member states in judicial decision making.

Neo-functionalists accounts of these supranational institutions have certainly demonstrated their prominent role in the EC, as even some intergovernmentalists have acknowledged.⁴ Yet the true influence of the Court, Commission, and Parliament on policy making and future institutional development remains uncertain. Do these organizations create genuine gaps in member-state control, or do they simply act as agents, fulfilling monitoring, information-gathering, and implementation roles under tight member-state scrutiny? As Martin (1993), among others, has suggested, autonomy may be more apparent than real:

Politicians and academic observers often infer from such a pattern [of activity] autonomy of the Commission and/or of government leaders. However, consideration of institutional constraints leads us to examine delegation of authority. . . . because of the costs of exercising tight control over agents, an optimal structure of delegation may be one with little active oversight or overt interference in the negotiating process from principals. Agents rationally anticipate the responses of those they represent. The law of anticipated reactions suggests that we cannot infer a lack of political influence from a lack of observed oversight activity. (p. 135)

Thus what appears to be autonomy may simply reflect the principals' deft use of oversight. Relying on the disciplining power of anticipated reactions and the use of "fire alarms"—signals derived from reporting requirements or interest-group monitoring activity—to identify significant problems, member states can stay in the background while remaining firmly in charge (McCubbins & Schwartz, 1984).

4. Consider, for instance, Moravcsik's (1993) striking acknowledgment of the growing power of the European Court:

The decisions of the Court clearly transcend what was initially foreseen and desired by most national governments. The "constitutionalization" of the Treaty of Rome was unexpected. It is impossible, moreover, to argue that the current system is the one to which all national governments would currently consent, as recent explicit limitations on the Court in the Maastricht Treaty demonstrate. (p. 513)

Again, given the ease of assembling plausible ex post accounts of why given outcomes served member-state interests, these arguments about delegation are difficult to refute, although they are equally difficult to demonstrate (Garrett, 1995; Mattli & Slaughter, 1995). To foreshadow a point pursued at length below, the intergovernmentalist claim that supranational actors are agents rather than autonomous actors is strengthened if we believe that member states can react powerfully to observed losses of control. If the Commission, Court, and Parliament anticipate that their efforts to produce or exploit gaps will be detected, punished, and reversed, they are indeed unlikely to strike out on their own. Thus a crucial problem with neo-functionalism is that it lacks a coherent account of why the threat of such a member-state reaction is not always credible. I address this problem below.

Before proceeding to that issue, however, the case for constraints on member-state control can be greatly strengthened if other sources of gaps can be identified. Here, the historical institutionalist focus on the temporal dimension of politics is invaluable. It highlights three additional sources of gaps: the short time horizons of decision makers, the prevalence of unanticipated consequences, and the prospect of shifting member-state policy preferences.

The restricted time horizons of political decision makers. A statement attributed to David Stockman, former President Reagan's budget director, is unusual among political decision makers only for its candor. Asked by an adviser to consider pension reforms to combat Social Security's severe long-term financing problems, Stockman dismissed the idea out of hand, exclaiming that he had no interest in wasting "a lot of political capital on some other guy's problem in [the year] 2010" (quoted in Greider, 1982, p. 43).

Many of the implications of political decisions—especially complex policy interventions or major institutional reforms—only play out in the long run (Garrett & Lange, 1994). Yet political decision makers are frequently most interested in the short-term consequences of their actions; long-term effects are often heavily discounted. The principal reason is that of the logic of electoral politics. Keynes once noted that in the long run, we are all dead; for politicians in democratic polities, electoral death can come much faster. Because the decisions of voters, which determine political success, are taken in the short-run, politicians are likely to employ a high discount rate. They have a strong incentive to pay attention to long-term consequences only if these become politically salient, or when they have little reason to fear short-term electoral retribution.

The gap between short-term interests and long-term consequences is often ignored in arguments about institutional design and reform. As a number of critics have noted, choice-theoretic treatments of institutions often make an intentionalist or functionalist fallacy, arguing that the long-term effects of institutions explain why decision makers introduce them (Bates, 1987; Hall & Taylor, 1994; Knight, 1992). Instead, long-term institutional consequences are often the by-products of actions taken for short-term political reasons. The evolution of the congressional committee system in the United States—a central institutional feature of contemporary American governance—is a good example. As Shepsle (1989) notes, Henry Clay and his supporters introduced the system to further their immediate political goals without regard to long-term consequences: "The lasting effects of this institutional innovation could hardly have been anticipated, much less desired, by Clay. They were by-products (and proved to be the more enduring and important products) of self-interested leadership behavior" (p. 141). In this case, the system's long-term functioning was not the goal of the actors who created it. By the same token, the reasons for the institution's invention cannot be derived from an analysis of its long-term effects.

Recognizing the importance of policy makers' high discount rates raises a challenge for intergovernmentalist theories of the EC. As noted above, most international relations approaches to European integration stress the tenacity with which nation states cling to all aspects of national sovereignty. The design of collective institutions is assumed to reflect this preoccupation. Yet, in democratic polities, sustained power requires electoral vindication. Under many circumstances, the first concern of national governments is not with sovereignty *per se* but with creating the conditions for continued domestic political success. By extension, where the time horizons of decision makers are restricted, *functional* arguments that are central to transaction-cost views of international regimes also come into question. Rather than being treated as the goals of policy makers under such circumstances, long-term institutional effects should often be seen as the by-products of their purposive behavior.

Unanticipated consequences. Gaps in member-state control occur not only because long-term consequences tend to be heavily discounted. Even if policy makers *do* focus on long-term effects, unintended consequences are likely to be widespread. Complex social processes involving a large number of actors always generate elaborate feedback loops and significant interaction effects that decision makers cannot hope to fully comprehend (Hirsch, 1977; Jervis, 1993; Perrow, 1984; Schelling, 1978; Van Parijs, 1982). Although

social scientists possess limited tools for dealing with such outcomes, many models—such as core neoclassical arguments about the dynamics of market systems—are based on them.

Unanticipated consequences are likely to be of particular significance in the European Union because of the presence of high *issue density* (Pierson & Leibfried, 1995). In sharp contrast to any existing international organization, the range of decisions made at the European level runs almost the full gamut of traditionally domestic issues, from the setting of agricultural prices to the regulation of auto emissions and fuel content to the enforcement of trade restrictions. In the past decade, there has been a massive expansion of EC decision making, primarily because of the single market project. The sheer scope of this decision making limits the ability of member states to firmly control the development of policy.

The profound implications of expanded policy activity need to be underlined. As the number of decisions made and the number of actors involved grow, interactions—among actors and among policies—increase geometrically (Beer, 1978). Figure 1 offers a simple illustration. The connections between the points could represent either relationships among actors or among governmental activities. With two points (Figure 1a), there is only one connection; with an expansion to four points (Figure 1b), there are six connections; with an expansion to eight points (1c), there are 28. This is the kind of process that has been under way in the EC.

Growing issue density has two distinct consequences. First, it generates problems of overload. As European-level decision making becomes both more prevalent and more complex, it places growing demands on the gatekeepers of member-state sovereignty. In this context, time constraints, scarcities of information, and the need to delegate decisions to experts may promote unanticipated consequences and lead to considerable gaps in member-state control. Member-state scrutiny will usually be extensive in the formation of the grand interstate bargains that are the favorite subject for intergovernmentalists, such as the Treaty of Rome, the Single European Act, and the Maastricht Treaty. In the intervals between these agreements, however, flesh must be added to the skeletal frameworks. In this context, where much policy actually evolves, the ability of member states to control the process is likely to be weaker. As Marks (1993) has put it, "Beyond and beneath the highly visible politics of member-state bargaining lies a dimly lit process of institutional formation" (p. 403). Marks, for instance, has demonstrated how the Commission exploited its more detailed knowledge of the policy process and its manager role in policy formation to generate influence over the structural funds that the British government failed to anticipate.

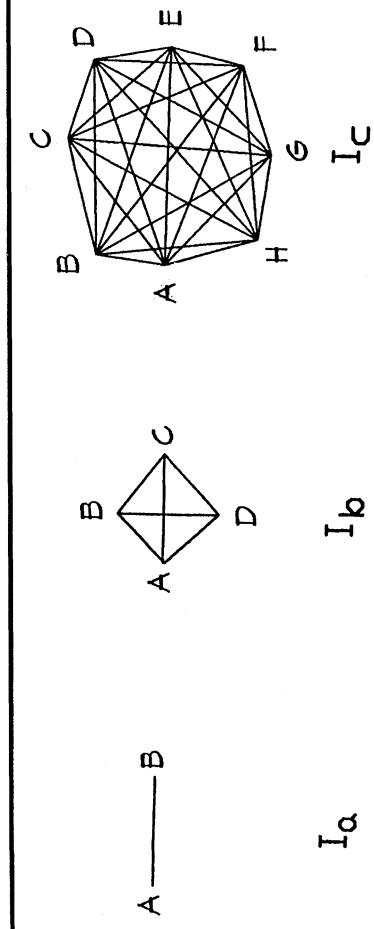


Figure 1. The growth of issue density.

As previously discussed, problems of overload are especially consequential when member states must contend with supranational organizations eager to extend their authority. In the development of complex regulatory judgments and the legal determination of what previous decisions actually require, essential policy-making authority is often in the hands of bodies of experts, where the Commission plays a crucial role, or in the hands of the Court. This is, of course, one of the central insights of principal-agent theory. Agents can use their greater information about their own activities and the requirements connected to their work to achieve autonomy from principals. *Asymmetrical access to information*, which is ubiquitous in complex decision-making processes, provides a foundation for influence (Moe, 1984).

The second consequence of issue density is the oft-cited process of spillover: the tendency of tasks adopted to have important consequences for realms outside those originally intended, or to empower actors who generate new demands for extended intervention (Haas, 1958). One of the key arguments in much writing on contemporary political economies stresses precisely the embeddedness of economic action within networks of tightly coupled social and political institutions (Garrett & Lange, 1994; Hall, 1986; North, 1990). Efforts to integrate some aspects of complex modern societies, without changing other components, may prove problematic because the sectors to be integrated cannot be effectively isolated. The more "tightly coupled" government policies are, the more likely it is that actions in one realm will have unanticipated effects in others (Perrow, 1984). McNamara (1993), for example, has demonstrated the significance of such interaction effects in the cases of monetary and agricultural policies. Similar connections between the single-market initiative and social policy development have also been documented (Leibfried & Pierson, 1995). As the density of EC policy making increases, such interaction effects become more prevalent, unintended consequences multiply, and the prospect of gaps in member-state control will grow.

Shifts in COG policy preferences. Intergovernmentalist theories tend to treat the institutional and policy preferences of the member states as essentially fixed. This is one of a number of crucial respects in which intergovernmentalism involves a too-easy translation from the world of economic organizations to the world of politics. It may make some sense to assume stable policy preferences when studying firms, or even when one discusses the enduring issues of grand diplomacy. However, as one moves from traditional foreign policy issues such as national security toward the traditionally domestic concerns where the EC has become quite significant, this becomes a more dubious premise.

The policy preferences of member states may shift for a number of reasons. Altered circumstances or new information may lead governments to question previous arrangements. Equally important, changes in government occur frequently, and governments of different partisan complexions often have quite distinct views on policy matters dealt with at the EC level. Governments come and go. Each inherits a set of arrangements from the past; each tries to place its own imprint on this heritage. The result, over time, is that evolving arrangements will diverge from the intentions of original designers, while any newly arriving COG is likely to find institutional and policy arrangements considerably out of synch with its own preferences.

Thus, there are a number of reasons that gaps in member-state control are likely to emerge. Two general points about these sources of gaps deserve emphasis. First, most of these processes have a temporal quality, which makes them invisible to a synchronic analysis of institutional and policy choice. The role of restricted time horizons, unintended consequences, and shifting member-state preferences will only be evident if we examine political processes over time. Second, most of the processes highlighted are much more likely to be prevalent in the EC than in the more purely international settings that were the subject of original efforts to develop and refine regime theory. Because many of the more domestic issues that the EC considers have significant electoral implications, the time horizons of decision makers are likely to be shorter. Unanticipated consequences are also more prevalent, because unlike a typical international regime, the EC deals with many tightly coupled issues. Electoral turnover is more likely to cause shifts in COG preferences on the more domestic issues that the EC considers than on the traditional diplomatic agenda of most international regimes. In short, the EC's focus on core concerns of traditional domestic politics makes it more prone to all the sources of gaps in member-state control that historical institutionalism identifies.

At this point, however, the claim of member-state constraint is incomplete. Transaction-cost approaches are compatible with the possibility of at least some sorts of gaps, although these are rarely addressed in practice. After all, although it has not emphasized unanticipated consequences (Williamson, 1993, p. 116), TCE is based in large part on how uncertainty about future events provokes particular organizational responses. It is not enough to demonstrate that gaps emerge, one must also show that once such losses of control take place, they often cannot be corrected.

For intergovernmentalists, even where the possibility of gaps is acknowledged, these losses of control are considered theoretically unproblematic. Should outcomes occur that principals do not desire, TCE describes two

routes to restored efficiency: competition and learning.⁵ Competitive pressures in a market society mean that new organizations with more efficient structures will develop, eventually replacing suboptimal organizations. Learning processes among principals can also lead to correction. According to Williamson (1993), one can rely on

the “far-sighted propensity” or “rational spirit” that economics ascribes to economic actors. . . . Once the unanticipated consequences are understood, these effects will thereafter be anticipated and the ramifications can be folded back into the organizational design. Unwanted costs will then be mitigated and unanticipated benefits will be enhanced. Better economic performance will ordinarily result. (pp. 116-117)

Both these corrective mechanisms, however, are of limited applicability when one shifts from Williamson's focus on firms in private markets to the world of political institutions (Moe, 1984, 1990). This is clearest for the mechanism of competition. Political institutions rarely confront a dense environment of competing institutions that will instantly capitalize on inefficient performance, swooping in to carry off an institution's “customers” and drive it into bankruptcy. Political environments are typically more permissive (Krasner, 1989; Powell & DiMaggio, 1991). Within Europe, there is nothing like a marketplace for competition among international regimes in which new market entrants can demonstrate that their efficiency (however that might be defined and measured) is greater than the EC's.

Whereas arguments based on competition are weak, learning arguments would appear to be more applicable to political environments. Indeed, Marks (1993), who has pointed to the significance of unanticipated consequences in limiting member-state control, concedes that the use of such arguments “is tricky in the context of ongoing political relationships where learning takes place” (p. 403). The process through which actors learn about gaps in control and how to address them has received little attention (McCubbins & Schwartz, 1984). However, at least on the biggest issues, intergovernmentalists can reasonably assert that member states will gradually become aware of undesired or unanticipated outcomes and will become more adept at developing effective responses over time. Learning thus seems to offer an effective mecha-

5. An alternative way to discount the significance of unintended effects would be to treat them as random “noise.” Yet although this may be appropriate in studying mass populations (e.g., the dynamics of public opinion), it seems inappropriate when single unintended effects may be quite large, and processes may be path dependent. There is little reason to think that such effects will somehow “balance out,” leaving an analyst free to study the systematic elements. To take an example discussed later in this article, it would be difficult to examine the dynamics of gender issues in Europe by treating the role of Article 119 as noise.

nism for closing gaps and returning institutional and policy designs to an efficient (from the point of view of the member states) path.

Yet the efficacy of learning argument depends crucially on the capacity of member states to fold new understandings back into the organizational design. Put differently, once gaps appear and are identified, how easy is it for principals to regain control? Here the distinction between economic and political institutions becomes crucial. In economic organizations, owners (or principals) may face few barriers to such efforts. In the political world, however (and in the EC, in particular), incorporating new understandings into institutions and policies is no simple task. The next stage of the argument, then, is to consider why gaps, even when identified, might be hard to close. There are three broad reasons: the resistance of EC institutional actors, the institutional obstacles to reform within the EC, and the sunk costs associated with previous actions. If these barriers are sufficiently high, learning will not provide a sufficient basis for correction, and member-state control will be constrained.

The resistance of supranational actors. To the extent that neo-functionalism has had an implicit argument about the difficulty of closing gaps, it has centered on supranational actors. The Court, Commission, and Parliament have accumulated significant political resources. They can be expected to use these resources to resist member-state efforts to exercise greater control over their activities. Yet neo-functionalism has failed to address the question of why, in an open confrontation between member states and supranational actors, the latter could ever be expected to prevail. Member states, after all, have substantial oversight powers, along with control over budgets and appointments. More fundamentally, they possess the legal authority to determine (and alter) the basic rules of the game, including those affecting the very existence of the EC's supranational organizations. The resources of the Court, Commission, and Parliament, such as the capacity to play off one member state against another in the agenda-setting process and perhaps exploit information asymmetries, are not trivial, but they are clearly modest by comparison. A persuasive account of member-state constraint must draw on more than the political resources of supranational actors.

Institutional barriers to reform. The efforts of principals to reassert control will be facilitated if they can easily redesign policies and institutions. In the economic realm, principals are generally in a strong position to remake their organizations as they choose. Lines of authority are clear, and the relevant decision makers are likely to share the same broad goal of maximizing profits.

In politics, however, the temporal dimension raises distinct problems. Political decision makers know that continuous institutional control is unlikely. This lack of continuous control has implications both for how institutions are designed and for the prospects of changing institutions once they are created. In particular, those designing institutions must consider the likelihood that future governments will be eager to overturn their designs, or to turn the institutions they create to other purposes. As Moe (1990) notes, the designers of institutions

do not want “their” agencies to fall under the control of opponents. And given the way public authority is allocated and exercised in a democracy, they often can only shut out their opponents by shutting themselves out too. In many cases, then, they purposely create structures that even they cannot control. (p. 125)

Thus, political institutions are often “sticky”—specifically designed to hinder the process of institutional and policy reform. This is, of course, far more true of some national polities than others (Weaver & Rockman, 1993). Yet the barriers in most national political systems pale in comparison to the obstacles present in the EC. In principle, the member states decide: They have the authority, if they so choose, to reform or even abolish the Court, Commission, or Parliament. But in fact, the rules of the game within the Community were designed to inhibit even modest changes of course. The same requirements that make initial decision making difficult also make previously enacted reforms hard to undo, even if those reforms turn out to be unexpectedly costly or to infringe on member-state sovereignty.

Efforts to employ the most radical vehicle of institutional redesign, a Treaty revision, face extremely high barriers: unanimous member-state agreement, plus ratification by national parliaments and (in some cases) electorates. Given the chances for disagreements among COGs, let alone the problems connected to ratification, the chances of achieving such a high degree of consensus are generally quite low. Use of this process is now widely recognized to be extraordinarily difficult and unpredictable. As Pollack (1995b) notes, “The threat of Treaty revision is essentially the ‘nuclear option’—exceedingly effective, but difficult to use—and is therefore a relatively ineffective and non-credible means of member state control” (p. 30).

Efforts to produce more modest changes in course confront more modest hurdles, but these remain far tougher than the obstacles facing, for example, a congressional committee trying to rein in a rogue federal agency. Member states will often be divided on significant issues, but in many policy areas, change requires a unanimous vote of the member states. In other cases, Qualified Majority Voting (QMV) is the rule. This makes reform easier, but

the standard—roughly five sevenths of the weighted votes of member states—still presents a threshold that is considerably tougher to cross than that required in most democratic institutions (Pollack, 1995a, 1995b).

The extent to which these barriers constrain member states has recently been questioned. Where it was once understood that participation in the EC was an all-or-nothing proposition, Maastricht has enhanced the prospects for a Europe à la carte, or a Europe of “variable geometries.” Britain and Denmark received opt-outs on monetary union; the 11 other member states circumvented the British veto by opting “up and out” with the Social Protocol. As Anderson (1995) summarizes the new situation, Maastricht “and attached protocols established an important precedent, opening the door to a multitrack Europe in which the treaties and resulting secondary legislation do not apply uniformly to each member” (p. 449). This new flexibility, however, refers only to *additional* treaty obligations. Member-state governments may be able to obtain opt-outs from future treaty provisions. Unless they succeed in navigating the difficult EC decision rules for reversing course, however, they are not free to review and discard the commitments of previous governments, even if those earlier governments were preoccupied by short-term goals, had quite different policy preferences, or acted in ways that produced many unanticipated consequences. And as new policies are enacted, the scope of this restrictive *acquis communautaire* continues to grow.

The rules governing institutional and policy reform in the EC create what Scharpf (1988) calls a “joint-decision trap,” making member-state efforts to close gaps in control highly problematic. The extent of the institutional obstacles will vary from issue to issue. Obviously, if the benefits of acting are high enough, member states will be able to act. But often the benefits must be quite high. In shutting out their potential successors, COGs have indeed shut themselves out as well.

Sunk costs and the rising price of exit. The evolution of EC policy over time may constrain member states not only because institutional arrangements make a reversal of course difficult when member states discover unanticipated consequences or their policy preferences change. Individual and organizational adaptations to previous decisions may also generate massive sunk costs that make policy reversal *unattractive*. When actors adapt to the new rules of the game by making extensive commitments based on the expectation that these rules will continue, previous decisions may lock in member states to policy options that they would not now choose to initiate. Put another way, social adaptation to EC institutions and policies drastically

increases the cost of exit from existing arrangements for member states. Rather than reflecting the benefits of institutionalized exchange, continuing integration could easily reflect the rising costs of “non-Europe.”

Recent work on path dependence has emphasized the ways in which initial institutional or policy decisions—even suboptimal ones—can become self-reinforcing over time (Krasner, 1989; North, 1990). These initial choices encourage the emergence of elaborate social and economic networks, greatly increasing the cost of adopting once-possible alternatives and therefore inhibiting exit from a current policy path. Major initiatives have major social consequences. Individuals make important commitments in response to government actions. These commitments, in turn, may vastly increase the disruption caused by policy shifts or institutional reforms, effectively locking in previous decisions (Pierson, 1992, 1993).

Work on technological change has revealed some of the circumstances conducive to path dependence (Arthur, 1988, 1989; David, 1985). The crucial idea is the prevalence of increasing returns, which encourage a focus on a single alternative and continued movement down a specific path once initial steps are taken. Large set-up or fixed costs are likely to create increasing returns to further investment in a given technology, providing individuals with a strong incentive to identify and stick with a single option. Substantial learning effects connected to the operation of complex systems provide an additional source of increasing returns. Coordination effects occur when the individual receives increased benefits from a particular activity if others also adopt the same option. Finally, adaptive expectations occur when individuals feel a need to “pick the right horse” because options that fail to win broad acceptance will have drawbacks later on. Under these conditions, individual expectations about usage patterns may become self-fulfilling.

As North (1990, pp. 93-95) has argued, all of these arguments can be extended from studies of technological change to other social processes, making path dependence a common feature of institutional evolution. Path dependence may occur in policy development, as well, because policies can also constitute crucial systems of rules, incentives, and constraints (Pierson, 1993, pp. 607-608). In contexts of complex social interdependence, new institutions and policies will often generate high fixed costs, learning effects, coordination effects, and adaptive expectations. For example, housing and transportation policies in the United States after World War II encouraged massive investments in particular spatial patterns of work, consumption, and residence. Once in place, these patterns sharply constrained the alternatives available to policy makers on issues ranging from energy policy to school desegregation (Danielson, 1976; Jackson, 1985). Many of the commitments

that locked in suburbanization were literally cast in concrete, but this need not be the case. Social Security in the United States became gradually locked in through its financing system, which created a kind of rolling intergenerational contract (Pierson, 1992). Institutions and policies may encourage individuals and organizations to develop particular skills, make certain investments, purchase particular goods, or devote time and money to certain organizations. All these decisions generate sunk costs. That is to say, they create commitments. In many cases, initial actions push individual behavior onto paths that are hard to reverse.

Lock-in arguments have received relatively little attention within political science, in part because these processes have a tendency to depoliticize issues. By accelerating the momentum behind one path, they render previously viable alternatives implausible. The result is often not the kind of conflict over the foregone alternative that political scientists would quickly identify, but the absence of conflict. Lock-in leads to what Bachrach and Baratz (1962) called *non-decisions*. This aspect of politics can probably be identified only through careful, theoretically grounded, historical investigation of how social adaptations to institutional and policy constraints alter the context for future decision making.

Over time, as social actors make commitments based on existing institutions and policies, the cost of exit from existing arrangements rises. Within the EC, dense networks of social, political, and economic activity have grown up around past institutional and policy decisions. In speculating about a hypothetical effort to stem the power of Court and Commission, member states must ask themselves if this can be done without, for instance, jeopardizing the single-market project. Thus, sunk costs may dramatically reduce a member-state government's room for maneuver. In the EC, one can see this development in the growing implausibility of member-state exit threats. Although "sovereign" member states remain free to tear up treaties and walk away at any time, the constantly increasing costs of exit in a densely integrated polity have rendered this option virtually unthinkable for EC member states.

Williamson's confident assertion that learning allows firms to adjust to unanticipated consequences applies far less well to an analysis of politics. Member-state learning from past events may lead, as it did at Maastricht, to greater restrictions on supranational actors in new initiatives (Dehoussé, 1994). Recapturing ground in previously institutionalized fields of activity, however, will often be quite difficult. Member states do not inherit a blank slate that they can remake at will when their policy preferences shift or unintended consequences become visible. Decision rules hamper reform, and extensive adaptations to existing arrangements increase the associated costs.

Thus a central fact of life for member states is the *acquis communautaire*, the corpus of existing legislation and practice. As Shackleton (1993) notes,

However much Member States might deplore certain aspects of Community policy, there is no question that all find themselves locked into a system which narrows down the areas for possible change and obliges them to think of incremental revision of existing arrangements. (p. 20)

As has always been true in domestic politics, new governments in member states now find that the dead weight of previous institutional and policy decisions at the European level seriously limits their room for maneuver.

The need to examine political processes over time is the crucial feature linking all the arguments presented in this section. None of these processes are likely to be captured by a snapshot view. Historical institutionalism provides a clear account of why gaps emerge in member-state authority. Member states are often preoccupied with short-term outcomes. Their decisions are certain to produce all sorts of unanticipated consequences. The preferences of member states may also shift, leaving them with formal institutions and highly developed policies that do not fit their current needs. At least as important, historical institutionalism provides a coherent account of why learning processes and fire alarms may not be sufficient to prompt the reassertion of member-state control. If member states decide that their agents have captured too much authority, they may well seek to rein them in. Gaps, however, open possibilities for autonomous action by supranational actors, which may in turn produce political resources that make them more significant players in the next round of decision making. Decision rules and the proliferation of sunk costs may make the price of reasserting control too high.

In short, historical institutionalist analysis can incorporate key aspects of neo-functionalism while offering a stronger and expanded analytical foundation for an account of member-state constraint. There are important points of compatibility between the two approaches. Both suggest that unintended consequences, including spillover, are likely to be significant for institutional development. Both point to the significance of supranational actors. A crucial difference is that neo-functionalism sees political control as a zero-sum phenomenon, with authority gradually transferred from member states to supranational actors, whereas historical institutionalism emphasizes how the evolution of rules and policies along with social adaptations creates an increasingly structured polity that restricts the options available to all political actors. What has been missing from neo-functionalism—and what historical institutionalist arguments can supply—is a more convincing analysis of member-state constraint. Intergovernmentalists challenge neo-functionalism with two key questions: Why would member states lose control, and even if

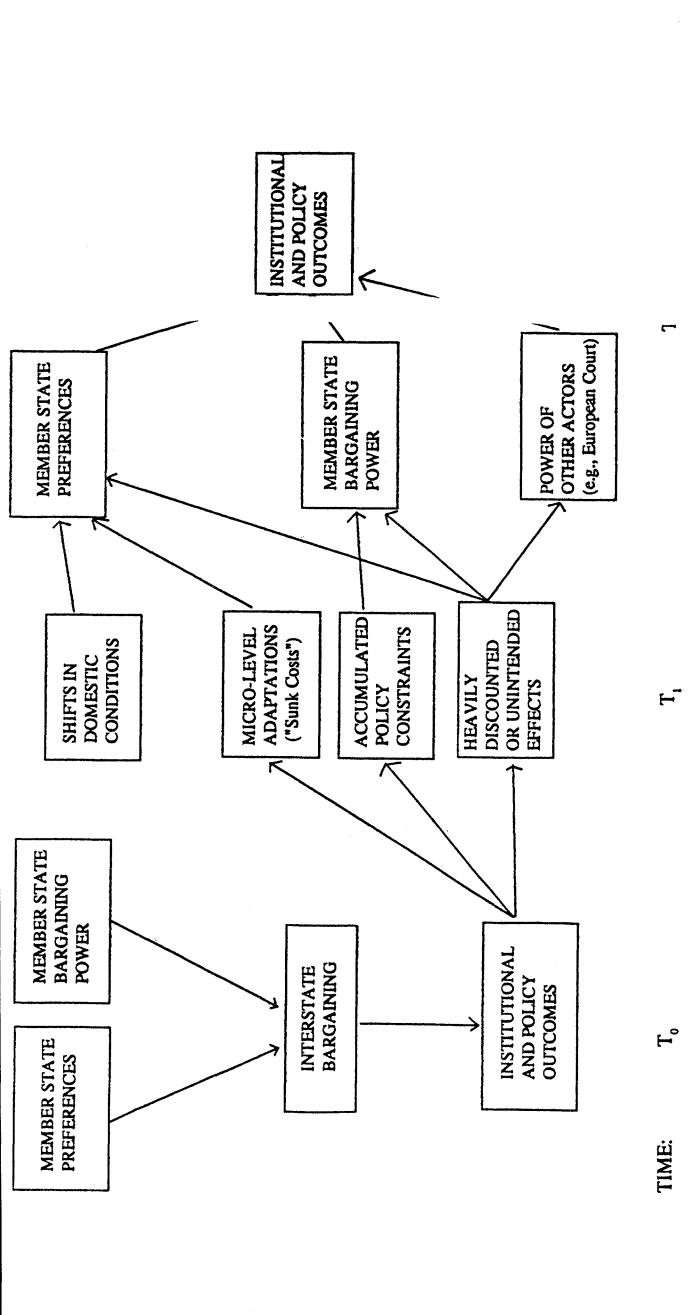
they did, why would they not subsequently reassert it? Historical institutionalism gives clear and plausible answers to both.

The crucial contrasts between an intergovernmentalist and a historical institutionalist account can be seen in Figure 2. Whereas intergovernmentalists focus on the initial bargain at time T_0 , historical institutionalists emphasize the need to analyze the consequences of that bargain over time. Doing so reveals the potential for considerable gaps in member-state control to emerge (T_1). When the time of the next grand bargain arrives (T_2), member states will again be central actors, but in a considerably altered context. Member states may dominate decision making in these intergovernmental bargains, and actively pursue their interests, but they do so within constraints (frequently unplanned and often hardly visible) created by their predecessors and the microlevel reactions to those preceding decisions. Studying processes of policy and institutional change over time reveals that gaps may well be extensive, and the prospects for recapturing lost control are often quite limited. As the next section demonstrates, this has been true in at least one significant (and unexpected) area of European policy development.

3. THE CASE OF EUROPEAN SOCIAL POLICY

Social policy is widely considered to be an area where member-state control remains unchallenged. The need for action at the European level has not been self-evident, and member states have been quite sensitive to intrusions on a core area of national sovereignty. Accounts of European social policy generally present a minimalist interpretation of European Union involvement (Lange, 1992; Mosley, 1990; Streeck & Schmitter, 1991). The European Commission's direct attempt to construct a significant "social dimension"—areas of social policy competence where uniform or at least minimum standards are set at the EC level—has been a saga of high aspirations and modest results. The debates of the past few decades have been dominated by cheap talk, produced in the confident knowledge that the requirements of unanimous European Council votes meant that ambitious blueprints would remain unexecuted (Lange, 1992).

The obstacles to an activist role for Brussels in social policy development have always been formidable. As noted, EC institutions make it much easier to block reforms than to enact them. The social forces most sympathetic to European-level activity—labor unions and social democratic parties—have had relatively little influence in the past 15 years. The member states themselves, which serve as gatekeepers for initiatives that require Council approval, jealously protect social policy prerogatives. Economic and geo-



litical changes since World War II have gradually diminished the scope of national sovereignty in a variety of domains. The welfare state remains one of the few key realms of policy competence where national governments still appear to reign supreme. Given the popularity of most social programs, national executives will usually resist losses of social policy authority. The agendas of member states generally created only narrow, market-related openings for social legislation, and then only by super-majority vote.

Yet even in this area—where an intergovernmentalist account seems highly plausible—a historical institutionalist perspective casts the development of European policy in quite a different light. Those seeking a more thorough discussion should look elsewhere (Leibfried & Pierson, 1995). Here I explore three aspects of policy development that point to significant initiatives extending beyond the firm control of member states: (a) interventions on issues of gender equality, (b) the expansion of health and safety regulations, and (c) the recent enactment of the “Social Protocol.” Each of these developments illustrates important aspects of a historical institutionalist account.

The EC and gender equality. The EC has assumed a central role in the development of policies to promote gender equality. It is clear that member states did not seek this outcome. Rather, the EC’s extensive role must be considered an unintended by-product of the Community’s original institutional design. The key development was the inclusion of Article 119 of the Treaty of Rome, requiring member states to “ensure and maintain the application of the principle that men and women should receive equal pay for equal work.” This provision grew out of a lengthy fight between Germany and France over the more general harmonization of social policy. The Germans, who rejected calls for harmonization, eventually won. Article 119 was considered “merely hortatory”—a face-saving concession to France rather than a basis for policy (Hoskyns, 1986, p. 305; Milward, 1992, pp. 209-216; Moravcsik, 1994, p. 27). Indeed, the mandate to address pay inequities lay dormant for almost 2 decades.

Article 119’s broad wording, however, offered untapped potential. An opening occurred when the policy preferences of member states shifted in the early 1970s—the high tide of social democratic sentiment in the EC and a time when women’s movements were gathering strength in many countries. Politicians eagerly sought a symbolic response to these new demands. In this context, the Council agreed to several directives that gave the equal treatment provision some content. Hoskyns (1986) summarizes the atmosphere at the time:

Directives were passed without much awareness of their consequences. Time and again interviews with national officials have shown that those who negotiated the original provisions had no idea what force they would prove to have or the legislative upheaval they would provoke. This is undoubtedly one of the reasons why governments have been so reluctant since 1978 to adopt new directives in this field. (p. 306)

This growing reluctance reflected both growing member-state awareness of unintended consequences and yet another shift in member-state policy preferences, this time accompanying the rightward drift in the ideological complexion of member-state governments after 1979.

If the member states soon became hesitant, however, their own initiatives had pushed the EC far down a path where member states could no longer fully control the evolution of policy. The passage of the directives, backed by the now far from symbolic Article 119, transferred considerable influence over gender policy to the European Court. Over the past 15 years, the Court has played a crucial activist role, spurred on by women's groups, which saw a significant opportunity to advance their agendas. The Court has turned Article 119 and the directives into a broad set of requirements and prohibitions related to the treatment of women workers (Ostner & Lewis, 1995).

The Court's expansive interpretations of Article 119 and the various directives have required extensive national reforms of social security law and corporate employment practices. The impact on one member state was described by Ireland's Joint Committee on Secondary Legislation of the EC:

The Community has brought about changes in employment practices which might otherwise have taken decades to achieve. Irish women have the Community to thank for the removal of the marriage bar in employment, the introduction of maternity leave, greater opportunities to train at a skilled trade, protection against dismissal on pregnancy, the disappearance of advertisements specifying the sex of an applicant for a job, and greater equality in the social welfare code. After farmers, Irish women in employment have probably benefited most from entry to the EEC. (quoted in Mangan, 1993, p. 72)

This conclusion may be generous, but few doubt the broad impact of EC interventions. To take just one important recent example, Court decisions have had a dramatic impact on public and private pension schemes. The Court's insistence on equal retirement ages in public pension schemes forced reform in a number of countries. When in *Barber* the European Court made a similar ruling for occupational pensions, fear that the ruling might be applied retroactively (at a cost to private insurers estimated at up to £40 billion in Britain and 35 billion DM in Germany) fueled "what is probably the most intense lobbying campaign yet seen in Brussels" (Mazey & Richardson, 1993, p. 15). In this instance, member states were in fact able to limit the

damage, but it took a lot to do so: a unanimous agreement to add a "Barber protocol" to the Maastricht Treaty. The protocol states that Barber will not be applied retroactively, thus preempting an interpretation that many agreed would be a dubious application of European law. The prospective impact of the Court's ruling, however, remains profound.⁶

There continue to be considerable constraints on EC gender policy (Ostner & Lewis, 1995). As with much European regulation, a close connection to the "market-building" project limits the range of possible interventions. Issues of gender equity that cannot be linked directly to the workplace remain out of bounds. Member-state implementation has been uneven. The point, however, is not to praise or criticize EC gender policies. Rather, it is to take note of their considerable impact and to demonstrate the historical processes through which this extension of supranational authority took place.

It is also true that member states retain the capacity, as in the case of *Barber*, to modify outcomes when these are so unacceptable that they mobilize unanimous member-state opinion. Gaps, in other words, invariably have some limit (Pollack, 1995a). Such compensatory steps, however, are likely to be rare. Member states may well wish that the Community had never become active in pursuing issues of gender equality. It is quite another thing, however, to publicly stop or reverse such efforts once they have been enacted and incorporated in national laws, have motivated thousands of firms to adjust their labor market practices, and have enhanced the monitoring and mobilizing capacities of national and transnational interest groups.

The EC has thus come to play a major role in the development of gender policies, and the European Court now determines what the often vague EC rules require. This outcome cannot have been intended or desired by either the makers of the Treaty or the current COGs of member states. Institutional designers, both in the 1950s and 1970s, were often preoccupied with the short-term and symbolic consequences of their actions; many long-term effects were either ignored or unanticipated. Changes in member-state preferences at later dates led to unexpected shifts in course that have proven hard to reverse. Other actors (notably the Court but also the Commission and European women's groups) were quick to seize these opportunities, and member states have found it difficult to close the resulting gaps. Indeed, the case of gender equality reveals all of the features of institutional evolution stressed in section 2 of this article.

6. The Court upheld the solution found in Maastricht in *Ten Oever* (Case 109/91 of October 6, 1993). Estimated costs of full retroactivity for Germany are from Berenz (1994, p. 437); for Britain, from Mazey and Richardson (1993, p. 15).

Workplace health and safety. Another instance of gaps in member-state control can be seen in the development of health and safety regulations.⁷ Openings for health and safety regulation came with the Single European Act, which allowed qualified majority voting on these issues. Policy makers were concerned that national restrictions could be trade barriers in disguise. The expansion of EC activity in this domain has been remarkable (Eichener, 1993). By late 1994, 29 new directives had been passed under the new procedures introduced with the Single European Act. Many of these were broad framework directives covering a range of more specific regulatory activity (Martin & Ross, 1994).

Even more surprisingly, a high level of standards has generally been achieved—often higher than that of any member state. To be sure, the use of qualified majority voting has been crucial. Yet the outcome of high harmonization seems difficult to explain in terms of simple intergovernmental bargaining. Constructing the single market might require harmonization of health and safety standards for *products*. There is, however, no clear need for harmonized standards for production *processes*. Here as well, however, the European Union has been highly interventionist. Nor is it clear why member states with low standards should accede to significantly higher ones.

As Eichener's (1993) detailed investigation documents, the Commission's process manager role—a delegation of authority required to pursue complex regulatory policies—appears to have been critical in this low-profile environment. Much of the crucial decision making took place in committees composed of policy experts. Representatives within these committees were often interested in innovation, having gravitated toward Brussels because it seemed to be where the action is on regulatory issues. In this technocratic context, “best practices” from many member states (and from countries then outside the EC, such as Sweden) were pieced together to form a quite interventionist structure of social regulation. At the same time, the Commission played a central part in joining together the work of different committees and incorporating concerns of other actors such as the European Parliament—while actively promoting particularly innovative proposals.

Throughout, the member states appear to have played only a loose supervisory role. This was especially true for the low-standard states of the EC's southern rim. These states had the most to lose from the enactment of high standards, because their adjustment costs would be highest (Lange, 1993). Yet these member states found their limited supplies of specialists either co-opted in the consensual committee process or overwhelmed by the enormity of the regulatory task.

7. The following account draws heavily on Eichener, 1993. See also Martin and Ross, 1994.

Health and safety policy reveals how the complexity of regulatory policy making in a setting of high issue density may generate considerable gaps in control. Thus, although the Commission, like other actors in the EC, operates under considerable constraints, it will often be able to advance its own agenda. As Eichener (1993) concludes, "the complex, opaque, and Commission-dominated decision-making process leads to results which would never be expected from simple intergovernmental bargaining within the Council" (p. 64).

The Maastricht Social Protocol. A final illustration of the historical dynamics of institutionalization can be seen in the Social Protocol enacted as part of the Maastricht Treaty negotiations. The Social Protocol grew out of continuing efforts to modestly enhance the capacity for activist social policy at the EC level. The protocol itself allows qualified majority voting on a range of important issues, including working conditions, gender equality with regard to labor market opportunities and treatment at work, and the integration of people excluded from the labor market. Already, the Commission has used the Social Protocol track to push through the long-stalled European Works Council Directive, and it is pursuing other initiatives (Falkner, 1995).

Although it is impossible to know at this stage how the Social Protocol will play out, this exercise in institutional reform again supports key parts of the historical institutionalist argument. The enactment of the Social Protocol is difficult to reconcile with a simple model of intergovernmentalist bargaining among sovereignty-focused member states (Ross, 1994, p. 191). The 11 member states acceding to the protocol were not introducing a carefully designed instrument. The member states had in fact expected Britain to sign a much-watered-down clause on social policy, but the Major government rejected all proposed versions. Faced with the prospect that British intransigence would prompt a disastrous breakdown of the Maastricht conference, the member states rushed to adopt (at Delors's suggestion) a last-minute solution. The hastily cobbled together agreement, which excludes Britain, committed the other 11 member states to a much more ambitious earlier draft on social policy. This version had been designed as a bargaining chip in the expectation that Britain would eventually accede to a contentless compromise. Member states, which had exploited Britain's expected position to engage in cheap talk, suddenly found themselves exposed.

That Britain preferred to block any agreement rather than accept the largely symbolic alternative waiting in the wings is equally instructive. It illustrates how the long-term institutional consequences of the protocol should

be seen as the by-products of a decision made to meet various short-term domestic objectives. If Major had truly wished to preserve social policy autonomy, a solution was readily available. Britain's refusal to agree appears to have had less to do with some long-sighted views of sovereignty than with Major's need to placate right-wing Tories by taking a tough public stance.

Indeed, the Major government's strategy clearly created a greater long-term threat to British autonomy. Choosing to opt out means that Britain will not participate in decisions that it will have to abide by if a future government joins the protocol.⁸ The Conservatives will likely resist pressures to sign the protocol, but a Labour government would probably reverse that choice. Thus the status quo can be maintained only if it is ratified at every British election. A *single* Labour victory would produce an institutional change that could not subsequently be reversed without provoking a constitutional crisis in Europe. In short, the Major government accepted a considerable long-term threat to British sovereignty in the sphere of social policy in return for an important short-run symbolic victory, which it needed for domestic political reasons.

Finally, one should note that the Social Protocol leaves tremendous room for unanticipated consequences (Rhodes, 1995). Rather than being an example of Williamson's "far-sighted propensity" in institutional design, the arrangement clearly reflects a harried and desperate effort to keep the Maastricht negotiations from coming unraveled altogether. Legal ambiguities abound. Not only is the whole legal basis of the protocol open to challenge but, as Rhodes (1995) notes, "the boundaries are blurred between areas subject to QMV, those subject to unanimity, and those where the agreement eleven have no competence at all" (p. 114). It is, of course, the European Court of Justice that will determine how these ambiguities are resolved. Further uncertainties include whether and when Britain will opt-in to the agreement and what the consequences will be if it remains on the outside. Even with several years hindsight, these uncertainties remain. They were clearly very much a part of the atmosphere in the short period during which the protocol agreement was reached.

It is only now becoming possible to study the stream of consequences flowing from the protocol's enactment—an important aspect of a historical institutionalist investigation (Falkner, 1995). Yet the process of institutional design itself appears to be quite in line with the general framework advanced in this article. Indeed, along with the earlier discussion of Article 119, the case of the Social Protocol reveals that historical institutionalist arguments

8. In this sense, the current situation may parallel the development of the Common Agricultural Policy, where Britain's long absence from the development of policy left it in a weak position to pursue its goal of policy liberalization within the EC (Keeler, 1996).

are relevant not only to understanding the day-to-day activities between the grand bargains but also to explaining significant aspects of the grand bargains themselves.

The evolution of European social policy. A more complete review of social policy issues would reveal further constraints on member-state autonomy. Among the most important have been spillovers from the single-market project. Encouraging the mobility of labor has not been a high-profile issue in the EC, but it has gradually prompted an incremental expansion of Community regulations and, especially, court decisions that have seriously eroded national welfare-state sovereignties (Leibfried & Pierson, 1995). Social policy cases account for a growing share of the rapidly rising Court caseload, increasing from 3.3% of total cases in 1968 to 8.1% in 1992 (Caporaso & Keeler, 1993, Table 1). Member states are now prohibited from pursuing a range of social policy options because their actions would be incompatible with the single-market project. Furthermore, as individuals, firms, and nonprofit organizations adapt to new opportunities made available by the single market (e.g., in private pensions and health services), these microlevel commitments will further restrict the policy options available to national welfare states. Member-state social policies are increasingly firmly embedded in a dense set of "hard" Community requirements and prohibitions, as well as "soft" incentives and disincentives.

Thus European integration has generated a partial but nonetheless significant development of European-level social policies. The processes that produced this outcome provide powerful illustrations of the institutional dynamics discussed in section 2 of this article. In a number of instances, the short-term preoccupations of institutional designers have led them to make decisions that undermined long-term member-state control. Unanticipated consequences have been widespread, especially as the density of EC activity has grown. Shifts in member-state preferences led to unexpected exploitation of opportunities created earlier (e.g., Article 119 in the 1970s), as well as growing frustration with previous commitments (the Gender Equality Directives in the 1980s). In short, even though social policy is widely seen as an area of firm member-state control with a minimal EC role, a historical institutionalist perspective highlights the growing significance of European policy, the influence of actors other than member states, and the mounting constraints on member-state initiative.

4. CONCLUSION

The arguments advanced in this article present major challenges to an intergovernmentalist account of European integration. By providing explicit microfoundations for an analysis that places much more emphasis on member-state constraint, historical institutionalism increases the pressure on intergovernmentalists to offer convincing evidence that the causal processes they posit are actually at work. Rather than simply inferring policy and institutional preferences post hoc from an examination of outcomes, intergovernmentalists will need to show that the desire to achieve these functional outcomes actually motivated key decision makers.⁹

In principle, important aspects of a historical institutionalist analysis could be integrated with intergovernmentalism. Indeed, this article accepts the starting point of intergovernmentalism: member states are the central institution builders of the EC, and they do so to serve their own purposes. Although it has rarely been done in practice, many intergovernmentalist arguments could incorporate a temporal dimension. Keohane (1984, p. 117), for instance, has recognized the possibility that COGs might anticipate the potential for preference shifts in successor governments. Other challenges, however, will not be so easy to reconcile, such as the possibility that COGs employ a high discount rate in making decisions about institutional design, unintended consequences are ubiquitous, and gaps that emerge are difficult to close. It is hard to see how these factors could be systematically incorporated into intergovernmentalism without undermining the three pillars of that approach: the emphasis on member-state sovereignty concerns, the treatment of institutions as instruments, and the nearly exclusive focus on grand bargains.

The challenge for those wishing to advance a historical institutionalist account is also daunting. The temporal processes outlined here would have to be carefully specified to generate clear hypotheses concerning such matters as when we should expect policy makers to employ short time horizons, when to expect that unintended consequences will be widespread, or how particular decision rules influence the prospects for closing gaps in control. As Pollack (1995a, 1995b) has persuasively argued, such analyses should focus on the factors that can explain variation in outcomes across issues and among

9. Moravcsik (1991) provides a good example of such an effort. Historical institutionalist arguments, however, suggest the need to go beyond even Moravcsik's ambitious attempt to supplement intergovernmentalism with a liberal theory of COG preference formation. Moravcsik's account considers only the *synchronic* domestic sources of COG preferences, ignoring the possibility of significant feedback effects from previous rounds of institutionalization. For a critique of his interpretation along these lines, see Cameron (1992).

institutional arenas, as well as over time. To develop the historical institutionalist line of argument will require difficult efforts to trace the motivations of political actors in order to separate the intended from the unintended. Determining the impact of sunk costs on current decision making also represents a considerable challenge. Studying political arenas in detail over long periods of time is arduous. The evidentiary requirements encourage a focus on detailed analyses of particular cases, rendering investigations vulnerable to the critique that the cases examined are unrepresentative. However, if one accepts the conclusion that intergovernmentalists must now show that the processes they hypothesize are actually at work, rather than simply inferring those processes from observed outcomes, it is not clear that their research tasks are any less formidable.

The purpose of the current investigation is not to pursue these difficult questions but to set an agenda by identifying plausible causal processes that can lead to growing constraints on COGs over time. Although it is only the first step, such an effort can be a prelude to empirically grounded research, as demonstrated by the brief discussion of EC social policy. Indeed, this first step is a significant one. Historical institutionalist arguments can provide a compelling account for a remarkable development that is widely accepted by European scholars and most Americans working in the field of comparative politics: The EC is no longer simply a multilateral instrument, limited in scope and firmly under the control of individual member states. Instead, the EC possesses characteristics of a supranational entity, including extensive bureaucratic competencies, unified judicial control, and significant capacities to develop or modify policies. Within Europe, a wide range of policies classically seen as domestic can no longer be understood without acknowledging the EC's role within a highly fragmented but increasingly integrated polity. Historical institutionalism provides the analytical tools for thinking of the EC, not as an international organization, but as the central level—albeit still a weak one—of an emergent multitiered system of governance. The power of the member states in this polity is not merely pooled but increasingly constrained.

It would be folly to suggest that the member states do not play a central part in policy development within the European Union. Rather, my point is that they do so in a context that they do not (even collectively) fully control. Arguments about intergovernmental bargaining exaggerate the extent of member state power. In their focus on grand intergovernmental bargains, they fail to capture the gradually unfolding implications of a complex and ambitious agenda of shared decision making. Although the member states remain extremely powerful, tracing the process of integration over time suggests that their influence is increasingly circumscribed. The path to European integra-

tion has embedded member states in a dense institutional environment that cannot be understood in the language of interstate bargaining.

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