

CHAPTER 1

FROM CORPORATISM TO GOVERNANCE DIMENSIONS OF A THEORY OF INTERMEDIARY INSTITUTIONS

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ABSTRACT

Intermediary institutions are a multi-faceted phenomenon which has taken many different forms in the course of social evolution. This is also being testified by the evolutionary trajectories from corporatism through neo-corporatism to governance in the European settings from the mid-nineteenth century onwards. Against this background, this chapter seeks to outline the key parameters of a theoretical framework suitable for approaching and analysing intermediary institutions. The chapter pins down five central dimensions of intermediary institutions. This is done under the headings: Context, Function, Evolution, Order, and Compatibility.

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1. INTRODUCTION

Intermediary institutions are difficult to grasp because they are always “in-between” something else. It is therefore hardly surprising that they are typically regarded as mere reflections of structures or interests located *outside* the institutions themselves. The objective of this chapter is, however, to advance an understanding of intermediary institutions as autonomous social phenomena which produce their own sources of social meaning, and thus their own forms of power and norms, thereby enabling an understanding of them as independent objects of study. This, of course, does not mean that the wider context within which intermediary institutions operate is of no relevance. As we will see and subsequently explore, the contrary is, in fact, the case, as “context construction” is one of the central contributions of intermediary institutions to society as such. This again gives intermediary institutions a strategic location in society, as they are one of the central sites where the integration of society unfolds. The reason for this is the intermediate function that they fulfil as channels of transfer between different societal spheres, and the kind of context construction which is both the *result of* and the *condition for* successful transfers.

In the following, five central dimensions of intermediary institutions are outlined under the headings: Context, Function, Evolution, Order, and Compatibility. To be sure, this is not an exhaustive list but merely a starting-point for the endeavour of establishing a theoretical framework capable of grasping the phenomenon of intermediary institutions.

2. CONTEXT: MODERNITY NOT CAPITALISM

In *The Great Transformation*, Karl Polanyi (Polanyi 2011) presents us with a historical reconstruction of the increased differentiation and detachment of the processes of economic production from the rest of society and the institutionalisation of a specific economic logic which increasingly defies attempts to introduce non-economic concerns into economic production processes. More specifically, he dates the emergence of a modern form of economic production to the liberalisation of the British labour market in the 1830s (Polanyi 2011, 84ff.). A decade before this move, Hegel had, as a contemporary observer, in his *Philosophy of Rights* (Hegel 1970), among many other things, analysed the consequences of the unfolding differentiation of the economy from the state in particular, and the rest of society in general. This diagnosis of the emerging modern society was the core reason for Hegel’s subsequent attempt to elevate the modern rational state into the central integrative structure of society upon the basis of the - at that time - novel distinction between the state

and society. Hegel's attempt to understand the state as the central integrative force of modern society was, however, based upon a fundamental and theoretically unsatisfactory paradox, since the status of the state in the Hegelian construction remains essentially undetermined. This is the case because in the Hegelian construction the state continues to oscillate between being a distinct and limited social structure, and a structure which encompasses society as a whole. A paradox which was never resolved by Hegel or his immediate followers.

The unsatisfactory status of the Hegelian attempt to put the state on the central pedestal of modernity provided the basis for Marx' attempt to turn Hegel upside down in order for him to "stand on his feet", through his insistence on seeing the forces of economic production, rather than the state, as the primary driver of societal change, a perspective which subsequently led Marxist-inspired scholarship into numerous attempts to explain the contradiction between economic determinism and the autonomous rationality of the state (for example, Poulantaz 2014). Thus, Marxist-inspired scholarship turned Hegel upside down, but the fundamental theoretical paradox did not disappear. In both cases, the attempt to reduce a single social sphere – be it the political system in the state form or the economy – to the central driving-force of modern society undermined the simultaneous attempt to understand the sphere in question as being differentiated from the rest of society.

It follows from the above that we, as also expressed in the term "political economy", can distinguish between two outlooks: One the one hand, Polanyi's and Marx's attempt to understand the core transformations of society in modernity as linked to alterations in the mode of economic production and the logic guiding economic processes and, on the other hand, the state-based Hegelian perspective which seeks to understand the central transformations of modern society as linked to a transformation in the internal composition of the political system in the state form and in the way the state structures its relations to the rest of society. These two outlooks have provided the central nexus upon which intermediary institutions have been conceptualised and analysed so far. However, both the strong focus on change in the structural composition of economic production, inherent to the Marxist- and Polanyi-inspired accounts, as well as the Hegelian focus on the state, provide a reductionist understanding of the processes which led to the breakthrough of modernity, and, with it, the emergence of new types of intermediary institutions. Not only the economy and politics in the state form, but also other social spheres, such as law, science, education, health, and art, became increasingly differentiated as part of the breakthrough of modernity. These spheres of society also became increasingly self-constituting, relying on their own resources of social

meaning, specific types of organisations, professions and social roles. In the wake of the Humboldtian revolution, the move towards an economy based upon the objective of facilitating the economy's own continued expansion through the pursuit of profit became, for example, supplemented by a new type of science in which the overriding purpose of science was the pursuit of scientific truths. In a similar manner, under the slogan "*l'art pour l'art*", or "art for art's sake", a new type of art whose sole justification was the pursuit of beauty rather than serving as praise to God or as an instrument of glorification for the political rulers of the time, emerged with the breakthrough of modernity. Thus, instead of a binary economy *versus* politics perspective, an adequate description of the modern condition implies a multi-dimensional approach which is capable of describing and analysing the increased autonomy of a whole range of societal spheres as well as the multiple overlapping and tangled relations between them. The protracted move to modernity implied a re-configuration of society away from a structural dominance of stratification in the feudal form, and towards a structural dominance of functional differentiation as the central organising principle of society through the emergence of a whole range of functionally-differentiated social processes related not only to the economy and politics, but also to areas such as law, religion, science, intimacy, art, health, and education, with each of them being characterised by an orientation towards their own self-preservation.¹ Thus, Polanyi's historical re-construction of the differentiation of the modern economic system is not fundamentally wrong, but just one-sided, and, as such, it ultimately leads to a false diagnosis of society, because it does not take into account the *co-evolutionary and simultaneous* unfolding of a plurality of processes of differentiation relating to several distinct social spheres.

One of several consequences of this is that the embedded/dis-embeddedness *problématique* advanced by Polanyi is not specific to the economic sphere. The modern system of politics in the state form, for example, is also a dis-embedded structure. In contrast to pre-modern forms of rule, the modern state is not patrimonial, but is instead a systemic structure which is distinct and characterised by an abstract legal personality which makes it separate from its members. The modern sovereign state is a structure of generalised and impersonal rule, as its rules apply to all persons within a given territory. It is a form of rule which only requires a minimum of communication towards its subjects, and only in a form which refers to specific roles that are unfolded within specific contextual settings such as the quadrennial act of voting or the form-filling encounter with the bureaucratic agents of the state (Kjaer 2011, 87-88). In a similar manner, modern science and art are also to be

understood as dis-embedded phenomena. No layman or indeed even a scientist from another discipline has the capacity to understand what is going on in a scientific laboratory, just as contemporary art is produced within very small circles and only remains accessible to a small segment of the population. The embeddedness/dis-embeddedness *problématique* is, therefore, as also highlighted by scholars as different as Rousseau, Kirkegaard and Adorno, a general feature of the modern condition, rather than a phenomenon specific to the modern economy. Thus, together with the co-evolutionary and simultaneous emergence of a whole range of functionally-differentiated societal spheres, the generality of the embedded/dis-embeddedness *problématique* indicates that modernity, rather than capitalism, needs to be the central starting-point for theoretical reflections on the emergence and evolution of intermediary institutions.²

3. FUNCTION: INTERMEDIARY INSTITUTIONS AS INTERFACES

Against the above background, the status and position of intermediary institutions in modern society becomes somewhat clearer, in so far as their emergence can be seen as a reflection of processes of differentiation involving a multitude of social spheres. The original question posed by Hegel, which was subsequently taken up by the emerging sociological discipline (Habermas 1988, 34ff), was how society can remain integrated under the condition of functional differentiation. In feudal society, the household institution had been the central framework through which integration unfolded, since one of its central functions was to combine and stabilise relations between multiple social strata, as, for example, expressed through the widespread reliance on manorialism as the central organisational form in rural areas throughout Europe. The move towards an increased reliance upon functional differentiation, however, implied a breakdown of the household as the central institutional structure through which society was to be integrated.

Although the conversion of European society into a largely functionally-differentiated society unfolded gradually through century-long processes and with substantial differences in intensity and speed within different areas of Europe, this development implied that the question of how society is integrated needed to be posed in a substantially different manner. The core question was no longer how a mutual stabilisation of exchanges and expectations between different social strata became institutionally stabilised, but rather how exchanges and expectations between different functionally-delineated social spheres became institutionally stabilised. It is this re-configuration which provides the basis for the emergence of modern types of intermediary institutions in so far as corporatist, neo-corporatist and governance

institutions share the feature that they act as interfaces *between* different societal spheres. They were - and, indeed, are - formations which bundle condensed social components, such as economic products and capital, political decisions, scientific knowledge, legal judgments and religious beliefs, which are produced within different spheres of society in order to make them compatible with other social spheres and to facilitate their transfer from one sphere to another.³

In order to be successful, such transfers require the transformation of intermediary institutions into sites where *shared* expectations involving multiple social spheres are established, thereby providing these institutions with a crucial position in society, since they become central sites where the construction of *common* contexts involving multiple social spheres unfold. It is through a *re-iterated* process of successful transfer that the institutionalisation of shared expectations, and thus the formation of an overarching framework in the form of a *common* context, emerges.⁴ Intermediary institutions are, therefore, not just “structural couplings”. The concept of structural coupling is essentially a “black box” concept, and, as such, a “non-concept”.⁵ Furthermore, the notion of transfer implies that the components in question change through their transfer, in so far as what arrives is not identical to what was despatched, thereby indicating the autonomous dimension of such structures. The Luhmannian attempt to downplay the relevance of intermediary institutions as much as possible through their reduction to mere structural couplings, therefore, provides an implausible and rather simplified understanding of their centrality in modern society. In contrast to the Luhmannian perspective, intermediary institutions must be understood as autonomous social phenomena which produce their own sources of meaning and thus their own types of power and norms. In other words: as independent objects of social scientific enquiry. The acknowledgement of the independent impact and relevance of intermediary institutions is therefore likely to lead to a substantially different societal diagnosis than the one advanced by Luhmann.

Furthermore, the context-constructing endeavour of intermediary institutions goes beyond the binary relationship between the economy and politics. Early forms of corporatism emerged in societal settings where religion played a crucial role as either a positive or negative marker. The differentiation of the economy implied the liberation of economic calculi from their embeddedness in religious belief systems, as, for example, reflected in the phenomenon of “just price” which became an integrated element of Catholic theology from Thomas Aquinas onwards. Early corporatist institutions were, therefore, in their religious

variant, oriented towards re-integrating the economy and religion, or, in their syndicalist and socialist variants, explicitly oriented towards substituting religious frameworks, a move which was further complemented by quests towards (re-) integrating social *praxis* in relation to family, intimacy, and education, for example, in the form of vocational training, into an integrated framework. Thus, rather than the state/economy nexus, the economy/religion nexus was the central theme of early corporatism, just as the freeing of the economic logic from religious-induced morality probably had just as profound consequences for the re-calibration of economic processes as the differentiation between the economy and politics. Early corporatism was, therefore, not so much about stabilising relations and expectations between politics and the economy as about the attempt towards maintaining a holistic outlook under the condition of fragmentation of meaning brought about by increased reliance on functional differentiation as the structuring principle of social processes within modern society.

The move to neo-corporatism in the post-Second World War period in Western Europe implied a stronger equivalence between intermediary set-ups and the state, through the emergence of tri-partite frameworks of co-ordination between employers, employees and the state. This development brought economic rationality and attached social-welfare perspectives to the forefront, in so far as the pursuit of increases in economic well-being became the overriding normative point of orientation of intermediary institutions at the same time as a certain state-centeredness emerged, a move which implied a metamorphosis of the functions which it included, in so far as, within the broader framework of the emerging welfare-state conglomerates, a whole range of social spheres ranging from health and education to sport and leisure activities increasingly became integrated through the institutional frameworks provided by intermediary institutions.⁶

The turn to governance, which has gradually unfolded from the 1980s onwards, implied yet another re-calibration of the central societal spheres which intermediary institutions combine and re-connect (Stoker 1998). This is most notably the case due to the increased centrality of science and science-based processes. From central banking to risk regulation within areas as diverse as food safety, consumer protection, and financial regulation, and to health prevention and environmental protection, science-based argumentation has increasingly gained status as the central role-model upon which the co-ordinating and stabilising operations of governance frameworks rely (see, for example, Ladeur 2011). The adoption of scientific practice as the central role-model upon which

regulation is based was followed by claims of neutrality, objectivity and an absence of “crude power” within science-based frameworks. The reality, of course, looks rather different, but, at the same time, the institutionalisation of specific organisational forms, vocabularies and normative yardsticks derived from scientific modes of communication implies a fundamentally different approach to society than the one advanced within neo-corporatist set-ups.⁷

It follows from the above that the three types of intermediary institutions emerged and operated in substantially different *ecological environments* understood as the structuring contexts within which they operate and to which they faced pressure to adapt. But it also follows from the above that ecological environments should not be understood as referring to the structural dominance of a single sphere of society, but rather to configurative processes which are made up of *combinations* of different social processes.⁸

4. EVOLUTION: THE EIGENSTRUCTURES OF INTERMEDIARY INSTITUTIONS

The concept of eigenstructures has been introduced into sociology by Rudolf Stichweh (Stichweh 2006). In his account, the concept is deployed in order to analyse the gradual realisation of a singular world society, and, in particular, to respond to the question of how increasingly global social processes cope with the high level of cultural diversity characterising the world. Eigenstructures are understood by Stichweh as structural patterns which *simultaneously* re-produce pre-existing forms of social diversity while increasingly marginalising such pre-existing diversity through the creation of new types of social structures. Thus, the thrust of the concept of eigenstructures is that it enables an analysis of social structures upon the basis of a cumulative model of social change, in which new structures emerge without existing structures disappearing, thereby leading to a layering and continued co-existence of different social formations. The types of social structures which Stichweh focuses upon are function systems, such as the global economy, globalised mass-media and the system of world politics, formal organisations, networks, epistemic communities, and world events such as revolutions and the Olympic Games. Common to these otherwise very different types of social structures is the fact that they have emerged and gradually become globalised types of social structures and simultaneously acquire quite specific features in different contexts. A second characteristic is that they emerged in the form of metamorphoses from *within* already existing social structures. A classic example of such processes is the emergence of modern statehood in Europe which emerged gradually

over century-long processes from within existing feudal orders. In Norbert Elias' classical analysis of the emergence of the modern French state, for example, the increased organisational complexity and spatial reach of the French monarchy led to the gradual century-long emergence of a new type of nobility, the *noblesse de robe* (nobility of the gown) or "civil servant nobility", which represented the bureaucratic structure of the emerging modern state. A kind of nobility which gradually marginalised the classical *noblesse d'épée* (nobility of the sword), thereby undermining the very structure of a nobility-based society while taking on the credentials of nobility itself. The *noblesse de robe* gradually gained the form of an eigenstructure with a fundamentally different composition and orientation to the pre-existing structures from which it grew out of, while it, in its own process of differentiation, continued to rely on and refer to these pre-existing structures (Elias 1976). Thus, the breakthrough of modernity, which was the long-term consequence of this development, contemporaneously represented both a fundamental break with *and* a perfect continuation of the existing social formations.

The distinction between fundamental break and perfect continuation also seems to fit the evolutionary trajectories of intermediary institutions in their corporatist, neo-corporatist and governance versions. Corporatist institutions emerged from within pre-existing feudal set-ups, and, to a large extent, implied a continuation of pre-modern social *praxis*. Furthermore, post-Second World War neo-corporatism implied both a fundamental break with *and* a continuation of classical forms of corporatism, just as contemporary forms of governance can be seen as both relying on and simultaneously marginalising neo-corporatist set-ups. In all three cases, we are also dealing with processes of metamorphosis in which the question of handling the tension between increases in spatial reach and the compatibility with pre-existing forms of social diversity is at the forefront.

Corporatist institutions emerged from the middle of the nineteenth century onwards and maintained their vigour until the middle of the twentieth century. In the same period, a multi-faceted, but nonetheless distinct, body of corporatist social thought emerged, and what, for example, Catholic, socialist, syndicalist and fascist forms of corporatist thinking all shared or held in common, was a holistic approach (Wiarda 1997). And these various approaches shared the objective of (re-) establishing institutional arrangements that were to be capable of (re-) integrating the social practices of economic production with, for example, religious and family-based structures, as well as a wide range of other social functions relating to areas such as education, policing and health. Such an approach was, for example,

consciously advanced by Pope Leo XIII (Wiarda 1997). As such, the emergence of corporatist structures can, as already indicated, be understood as a reaction against the increased differentiation of the economic sphere and the concordant breakdown of holistic universes of meaning in the emerging modern society. In consequence, it was common to most forms of corporatist thinking that they possessed a “reactionary” dimension. Yet, rather than possessing a simple, one-dimensional reactionary character, corporatist institutions fulfilled a dual modernising and stabilising function for society. They acted internally to stabilise new forms of economic processes which were characterised by an increase in the division of labour, the establishment of monopolistic structures, the ramification of quasi-feudal stratified orders of social class, and by the institutionalisation of collective wage bargaining. At the same time, corporate institutions were oriented towards the establishment of compatibility with other increasingly functionally-delineated segments of society, which possessed, for example, a political or religious character. In consequence, corporatist institutions can be understood as structures which simultaneously fortified and transformed the existing institutions.

By the late nineteenth century, this sort of early corporatism was a particularly strong characteristic of the part of Europe where modern statehood had not materialised or where modern statehood had not yet found a stable form or a sufficient level of abstraction to enable it to deploy a de-personalised form of power in a coherent manner across its social space. This was most notably the case in Central and Eastern Europe as well as in Southern Europe. Thus, in practice, the early forms of corporatist institutions were not national institutions, but were, instead, localistic institutions which typically were centred on or around a city and its immediate catchment area. As such, they were, to large extent, re-articulations of already existing feudal guild-based institutions. Furthermore, the fact that they maintained their relevance and centrality far into the twentieth century indicates that modern statehood did not materialise in a large part of Europe before sometime in the mid-twentieth century. The perspective advanced by Schmitter and Lembruch (Schmitter and Lembruch 1979) that early forms corporatism was essentially state-centred is, therefore, based upon a false conception of what modern statehood implies. Modern statehood rests, as also expressed in the state and society distinction, on a separation of the state from the rest of society. The contexts where early forms of corporatism gained most ground were, however, *only to a limited degree* characterised by such types of statehood, but were, instead, dominated by quasi-privatistic and highly instable forms of rule which lacked the institutional stability which characterises

modern statehood. This was also the case for the totalitarian regimes of the early twentieth century. As pointed out by Franz Neumann, totalitarianism did not imply “strong statehood”, but, rather, the dissolution of statehood and its replacement by highly obscure, essentially privatised forms of arbitrary violence (Neumann 1983, 467ff), a form of violence which gained in intensity, when compared with earlier feudal set-ups, due to the ability of such privatistic power structures to rely on modern forms of organisation (Bauman 1989), thereby highlighting the character of totalitarian regimes as transitional phenomena which thrived in the twilight between feudality and modernity.

The emergence of European neo-corporatism in the post-1945 period also took the dual form of a real-life phenomenon and a distinct body of social thought (see, for example, Schmitter and Lembruch 1979). In practice, neo-corporatism took the form of complex negotiation systems (Wilke 1992), which relied on highly-centralised peak-organisations. The organisational form of neo-corporatism was thus fundamentally different from the continuation of feudal types of organisation upon which earlier forms of corporatism had relied. The core characteristic of both, however, remained the dual function of the internal stabilisation and external compatibility of economic processes, as outlined above. Neo-corporatist structures internally frame the relationship between employers and employees not only in relation to wage bargaining, but also in relation to general working conditions. As such, the core function of neo-corporatism is very closely-related to the question of the maintenance of stability in the economic system. Although great regional variations can be observed, the task of internal ordering has, in many cases, been extended to functions such as the organisation of education, the administration of unemployment benefits, health and safety at work, and also, in some national settings, most notably Germany, workforce participation in management through work councils and co-determination. At the peak level, tri-partism between the state, employers and employees emerged as a central form of (economic) policy co-ordination between the state and neo-corporatist institutions in the post-war period. Both internal ordering in the economic sphere, and the stabilisation of relations between the economy and other spheres of society, thereby became prominent aspects of neo-corporatism.

The heyday of neo-corporatism only lasted for a couple of decades, in the time of *Les Trente Glorieuses* and the *Wirtschaftswunder*. This period was characterised by exceptional congruence between not only the economy, law and politics, but also the mass media, education and culture within the framework of national configurations, thereby providing the foundational impetus for the myth of the golden age of the nation state (Hurrelmann et al.

2007), a national framework which, however, most notably through the launch of the European integration process in the 1950s, came under sustained pressure at the very moment in which it came into being. Thus, the immediate dissolution of the state-centric society in the moment of its realisation might be considered to be the tragic fate of modern statehood (Thornhill 2011).

Governance, a phenomenon that emerged in the 1980s against the background of the steering and planning crises of the 1970s (Mayntz 2003; Mayntz 2006) and which has continued its expansion ever since, implies a dual move: a re-calibration of the organisation of economic production and its relations to the rest of society, and a dispersion of political power to an increased number of not only national, but also transnational, sites of power, a move which has led to increased incongruence between societal structures and the normative grid upon which it relies (Stoker 1998; Walker 2008).

In relation to the first dimension, a move can be observed towards a firm- or sector-specific internalisation of the functions originally associated with corporatism and neo-corporatism through the emergence of complex intra- and inter-firm co-ordination and control mechanisms, and thus internal bodies of (legal) norms. Four dimensions can be distinguished in this process. These are: the establishment of internal coherence between mother companies and subsidiaries, and the framing of relations between the employers and employees operating within them; the co-ordination of increasingly-complex supply- and distribution-chains involving a large number of different firms; industry-wide collaboration *via* trade associations and self-regulatory arrangements; the establishment of compatibility with the non-economic spheres through, for example, corporate social responsibility and lobbying frameworks. Also in this first dimension, a reduction of (nation) state-centeredness, in relation to the establishment of compatibility with the segments of society which are external to the economic system, can be observed. Lobbying, for example, is increasingly oriented towards non-state political structures such as the European Union and the World Trade Organization. Even more fundamentally, partnerships are increasingly being established directly between companies and their non-political environment, through stabilised relations with scientific and educational institutions and environmental groups. This development creates novel links which circumvent the binary relationship between the economy and politics at the same time as the dual function concerning internal stability and external compatibility remains at the forefront.

In the second dimension, the emergence and increased importance of transnational political regimes such as the EU, the OECD, the IMF and the WTO implies the emergence of new types of intermediary institutions such as Comitology and the Open Method Coordination (OMC), which are partly induced by states running in parallel with the regimes induced by multinational companies and NGOs, and partly serve as hybrid forms operating in-between the two dimensions. What is common to the two dimensions, however, is that they are focused on transfer and compatibility in a world characterised by cultural and organisational diversity. Comitology, the implementation committees of the EU, for example, serves not only as an interface through which the transfer of legislative acts from the EU legal order to Member State legal orders unfold, but also as sites in which a *common understanding* of the implications of the legislative acts in question are developed in the face of substantial linguistic, legal, political and socio-economic differences (Joerges and Neyer 1997).

Finally, the two types of governance share the feature that they reflect spatial expansions through the establishment of European-wide - as well as increasingly global - frameworks. A central driving force for the switches between corporatism through neo-corporatism to governance seems to be this expansion in reach. But, at the same time, this development does not imply eradication, but merely a marginalisation of previous forms of intermediary institutions. Local networks derived from early corporatism have retained their vigour in areas such as southern Germany and Northern Italy (Crouch et al. 2004), just as neo-corporatist networks, most notably in Germany, have successfully reformed and adapted in recent times, thereby constituting a multi-spatial world characterised by several overlapping forms of ordering.⁹

5. ORDER: THE ESTABLISHMENT OF SOCIETAL CONGLOMERATES THROUGH INTERMEDIARY INSTITUTIONS

As already indicated, early forms of corporatism combined, among others, religious, political, legal and economic dimensions: neo-corporatism, politics, law, the economy, health and education, and contemporary governance institutions, to a large extent, all serve as interfaces between politics, science, law and the economy. The sort of “higher order” which emerges is, therefore, substantially different in relation to the three types of intermediary institutions.

The type of orders which, in layman’s terms, are understood as nation states is the clearest example of such orders. Rather than being singular orders imposed by the state, they are complex configurations, consisting of a whole range of functional sub-systems, regimes,

organisations, networks, professions, and more or less intangible cultural components, all of which relate to each order in a multitude of ways. Such configurations are characterised by a dense web of mutually-reinforcing overlapping relations within a limited section of world society, which establish a convergence of expectations between multiple observers. As such, they produce a kind of localised “higher order”, which cannot be reduced to the sum of its components. Instead, they have the character of autonomous universes which, to a large extent, constitute the social reality of the individuals that inhabit them.¹⁰

Legal and political sub-systems clearly enjoy an important position within such configurations because their central societal function is to ensure the compatibilisation of the time structures of such configurations (Luhmann 1993 p. 429) But this does not mean that such configurations merely represent the sum of the legal and the political systems, or that they can be understood as structures in which other societal structures are succumbed to the primacy of the political-legal complex. A configurational web does not constitute unity in a substantialist sense, and no singular and holistic state-embedded national culture exists. Instead, it is possible to observe a multitude of mutually-reinforcing, overlapping and thus intertwined cultures in the form of, for example, national legal cultures, national political cultures, national science cultures, and – within the economy – the specific social *praxis* of “doing business”. Apart from serving as reservoirs of knowledge, and thus as a basis for learning, such cultures also act as a sort of internal environment of the respective functional systems, in the sense that they frame the horizons which are taken into account in the continued selection of their operations, thereby serving as stabilisation mechanisms which reduce the volatility of societal reproduction. They rely upon fictional semantics, in the form of, for example, foundational myths and the social constructions of languages, traditions and “vested interests”, which are specific to each sphere of society. They are abstract constructions, or, in Hegelian terms, “second natures” (Hegel 1970 § 4) which, nonetheless, remain “real”, in the sense that they have real effects in terms of which forms of communications are selected (Mascareño 2008). They serve as frames for the production of societal trust within their respective societal spheres, and, as such, provide a contribution to the internal stability of such structures, in the sense that they tend to reduce volatility. Whereas functional systems, in their core, operate upon the basis of clear-cut system boundaries and accordant internal density, system cultures are far more fluid and overlapping, and, as such, far less dense, thereby establishing a high level of inter-systemic entangledness (Kjaer 2011).

The reality of configurational webs is mainly established at the level of organisations and regimes. Thus, modern society is, to a large extent, an “organisational society”. Formal organisation is the form through which internal order is established within functionally-delineated areas, just as they, in their turn, serve as the “contact points” for inter-systemic exchange through intermediary institutions. The consequence is that a particular form of second order politics can be observed. The internal form of ordering within functional spheres becomes a question which is channelled into formalised organisational arrangements which produce collectively-binding decisions or the functional equivalents to collective decisions within their respective functional areas. It follows that successful configurations neither operate upon the basis of a total subordination of society to political rationality, nor in a form in which the political only resides in the state in the narrow sense. Instead, a certain gradualisation of the political can be observed, in the sense that some linkages between the state-based form of the political and secondary forms remain tighter than others, just as the internal degree of hierarchy within the secondary forms differs from societal area to societal area (Teubner 2012, p 114ff).

Against this background, the configurations of the golden-age nation-state might, after all, and, albeit not in a holistic sense, be understood as phenomena which possess the possibility of self-governance, since the dense webs of mutually-reinforcing and overlapping relations within a limited section of world society establishes *the experience* of a singular form of order when approached by the single individual.¹¹ In this sense, they might also be characterised as societies since, in the words of Talcott Parsons, “the most general function of a societal community is to articulate a *system* of norms with a collective organization that has unity and cohesiveness” (Parsons 1971, p. 11),¹² a form of unity and cohesiveness which, however, has increasingly been lost with the emergence of a wide number of transnational configurational webs which have progressively gained the character of forms of ordering in their own right.

6. COMPATIBILITY: INTERMEDIARY INSTITUTIONS IN A MULTI-SPATIAL WORLD

The emergence of a large number of competing sites of ordering outside national configurations implies a change in orientation for intermediary institutions. Neo-corporatist institutions are mainly serving as components of intra-configurational webs. Contemporary forms of governance are more inter-configurational in nature, in so far as they often serve as interfaces between different configurational orders in the multi-spatial world.

In this external form, governance institutions can be understood as referring to institutional frameworks which are located in-between different normative orders, and which serve the function of enabling the transfer of condensed social components between such orders, without this leading to the emergence of higher orders or holistic semantics. In the European Union context, Comitology and the Open Method of Co-ordination frameworks are, as mentioned above, examples of such structures, in that they are oriented towards the channelling of condensed social components between the legal order of the EU and the Member State legal orders, as well as between the legal orders of the individual Member States.

The successfulness of such governance structures is highly dependent on the degree to which they themselves become epistemic communities which are structured around a shared objective. Such communities are only likely to emerge, however, if they are capable of developing a sense of “cultural sensibility” which enables them to take account of more or less intangible cultural differences within the different settings that they themselves bring together. As such, their central function is to establish increased compatibility between different forms of ordering. The multitude of Corporate Social Responsibility partnerships between, on the one hand, multi-nationals, and, on the other, state bureaucracies, public and private international organisations, research institutes, and non-governmental organisations fulfil a similar function for multi-national companies (Kjaer 2009).

Governance frameworks thus become reflexivity-increasing instruments aimed at enhancing the capacity of observation and thereby the potential level of adaptability *vis-à-vis* developments unfolding in the social environments of these orders. But, at the same time, they maintain their function as the channels of diffusion through which the social components, such as the products, capital, legal acts, political decisions, and human resources, all produced by these entities are diffused into the wider society. They are double-edged structures which simultaneously serve as adaptation mechanisms and as “tools of colonisation”. One of the many consequences of this is that the “ownership” of governance frameworks is characterised by systematic uncertainty. They function as the “neutral ground” where different orders engage, and this means that the ownership question tends to be a taboo. As epistemic ramification of this is a structural condition for operationability, and, because most governance structures are characterised by an asymmetric distribution of resources and capabilities among those participating, discursive hegemony remains a permanent threat. In many cases, a limited section of participants will tend to dominate,

thereby making governance structures into one-way streets. Making this explicit through a declaration of hegemony is, however, likely to undermine such set-ups. Governance structures tend to be characterised by organised hypocrisy, since the illusion of equality has to be maintained. In less-asymmetric settings - for example, due to the existence of an elaborate set of legal safeguards aimed at reducing the impact of asymmetric relations - self-delusion tends to reign, in the sense that everyone involved tends to believe that he or she is in control.

In this sense, contemporary governance institutions might also be understood as “in-between worlds” (Amstutz 2005), since they are inter-contextual structures which are aimed at achieving an increase in the reflexivity, and thus the adaptability, of the entities which they link at the same time as they serve as dissemination channels for these entities. They are complex matrixes in which the components derived from a multiplicity of societal structures and contexts are combined. They are co-ordinating structures which stand transversal to the forms of differentiation and conflict which characterise contemporary society.

7. CONCLUSION

The “turn to governance” over the past decades indicates a profound change in the set-up and self-understanding of European society. But, at the same time, no fundamental clarity seems to have emerged concerning the long-term consequences of this development. If the “turn to governance” is viewed in a long-term perspective, it does, however, become clear that this turn is not the first of its sort. Ever since the breakthrough of modernity, the question concerning the conditions for the continued integration of society has been a central theme, just as intermediary institutions have played a central role in achieving this task through their stabilisation of exchanges between different societal spheres.

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- ¹ The move towards an increased reliance on functional differentiation emerged hand in hand with new types of stratification in the form of social classes of the industrial society and with a new type of territorial differentiation within the nation state form. See Kjaer, 2014a, p. 20ff.
- ² For similar conclusions derived from a constitutional micro-perspective, see the contribution of Grahame F. Thompson, Chapter 10 in this volume.
- ³ For the concept of transfer, see Stichweh 2005.
- ⁴ For a theoretical elaboration of the relationship between re-iteration and context construction, see Kjaer 2006, especially 70ff.
- ⁵ For the most systematic attempt to investigate the implications of the concept to date, see the contributions in: Febbrajo and Harste 2013.
- ⁶ For more on this, see also the contribution of Gert Verschragen, Chapter 7, in this volume.
- ⁷ The increased reliance on science or the increased attempt to mimic the structure of scientific discourse is also apparent within normative political and legal theory. See, for example, Habermas 1992, where the scientific discourse is seen as the role model for political consensus building.
- ⁸ For the concept of ecological environments, see, also, the contribution of Bob Jessop, Chapter 2 in this volume.
- ⁹ This section built on Kjaer 2014b.
- ¹⁰ This is also one of the central insights of the varieties of capitalism approach, although this approach remains reductionist in nature, to the extent that it only takes account of the economy and politics, and leaves out areas such as science and religion. See Hall and Soskice 2001.
- ¹¹ Going in a somewhat similar direction: Wilke 2006, p 34. See, also, the contribution of Richard Münch, Chapter 3 in this volume.
- ¹² Italics in original.