

THE EVOLUTION OF INTERMEDIARY INSTITUTIONS IN EUROPE: FROM CORPORATISM TO GOVERNANCE

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**FROM CORPORATISM TO GOVERNANCE:
DIMENSIONS OF A THEORY OF INTERMEDIARY INSTITUTIONS**

Chapter 1 ~ Poul F. Kjaer

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.

**CORPORATISM AND BEYOND?
ON GOVERNANCE AND ITS LIMITS**

Chapter 2 ~ Bob Jessop

Corporatism is dead, long live Corporatism! This could be the motto for this chapter, which explores corporatism through modern systems theory and critical political economy. It outlines a fourfold periodisation of corporatism and explains the foundations in the capitalist social matrix for its recurrence, recurrent failure, and revival in new forms. Phase four has also been described as governance but this term needs disambiguation because only networking and negotiation among several modes of governance are assimilable to corporatism. The limits of this mode of governance and responses thereto are also discussed. Attention then turns to the conditions that privilege a given principle of societalisation over others in a functionally-differentiated society where, according to modern systems theory, all systems are essential and non-substitutable. Clues from systems theory are combined with critical political economy to explain the conditions in which profit-oriented, market-mediated accumulation comes to be “ecologically dominant” in a self-organising global ecology of self-organising systems. Conclusions are drawn for future research and political practice.

**FROM NEO-CORPORATISM TO NEO-PLURALISM:
THE LIBERAL DRIFT OF MULTILEVEL GOVERNANCE**

Chapter 3 ~ Richard Münch

This chapter will focus on the replacement of national neo-corporatism by a kind of transnational neo-pluralism. Within the nation state, the co-operation of government, industrial federations and trade unions mediated the laws of the economy with the political and integrative requirements of national societies. With economic globalisation, this institutional arrangement is being replaced with an unco-ordinated plurality of international organisations serving specific functions, such as the WTO, the IMF, the World Bank, the ILO, the WHO, and specific regimes such as the climate regime. This pluralisation of governance is accompanied by the individualisation of social inclusion. The constitutionalisation of multilevel governance has to face this reality and tends, therefore, towards the establishment of a liberal and pluralistic order as against the largely collectivistic neo-corporatist order of the national welfare state. The European Union, in between the national and the global level of governance, cannot re-constitute the neo-corporatist arrangement at transnational level, but can only mitigate the liberal drift of multilevel governance somewhat.

**COLLECTIVE ACTION AND THE MAKING OF ECONOMIC POLICY:
INTELLECTUAL LINEAGES FROM THE HISTORY OF POLITICAL ECONOMY**

Chapter 4 ~ Alexander Ebner

The present chapter explores the question of how the collective action of interest groups has been perceived in the recent intellectual history of political economy. It examines the particular lines of reasoning associated with the works of John Maynard Keynes, Friedrich Hayek and Mancur Olson respectively, for they address the issues of corporatism and pluralism in a paradigmatic manner. The chapter proceeds in three sections: the first section outlines the problem of institutional neutrality in welfare economics, and approaches Keynes' views on economic policy by highlighting his affirmative perception of corporatism. The second section discusses the counter-position of Hayekian pluralism with its concern for an intermediary sector of voluntary associations settled between the private sector and government. The third section presents Olson's anti-pluralism, which actually lends support to certain types of corporatist arrangements.

**EU COMPETITION REGULATION:
A CASE OF AUTHORITARIAN NEO-LIBERALISM?**

Chapter 5 ~ Angela Wigger & Hubert Buch-Hansen

This chapter analyses the evolution of the field of EU competition regulation from the vantage point of a critical political economy perspective, and argues that EU competition regulation embodies core "authoritarian" traits: executive, judiciary and legislative powers have been fused in the politically-independent European Commission, leaving hardly any room for democratically-elected decision-makers to influence regulatory processes and enforcement practices. The chapter traces the authoritarian elements in the competition regulation field back to the early 1960s, and argues that these elements were subsequently strengthened both in the context of the ascendancy of neo-liberalism in the mid-1980s and as a result of the "modernisation" of EU competition regulation in the early twenty-first century.

**FABRICATING SOCIAL EUROPE:
FROM NEO-CORPORATISM TO GOVERNANCE BY NUMBERS**

Chapter 6 ~ Gert Verschraegen

This contribution discusses the emergence of numerical governance instruments (such as cross-national comparisons and benchmarking) within European social policies. It examines

whether, and, if so, to what extent the construction of a European social policy space existing within and across Member States is dependent on the cross-border flow of national data and the constant comparison of national systems through standardised indicators. The first part of the chapter discusses some recent changes in the governance of welfare states, which provides a backdrop to the emergence of “governance by numbers” in the European social field. The second part outlines how the massive growth in comparative, cross-national data has contributed to fabricating an autonomous European social policy field. It is suggested that European comparisons are a crucial device in re-ordering the relation between the national and the transnational, and in constructing European governance systems, which operate upon the basis of second-order measurement.

**EUROPEAN SOCIAL POLICY:
SOCIAL COHESION THROUGH COMPETITION?**

Chapter 7 ~ Eva Hartmann

This chapter seeks to contribute to the development of critical European Studies. It argues that this account of the European integration process tend to pay too little attention to the European bonds which have been established in the last decades. This also has consequences for their analysis of the current crisis. The chapter develops an analytical framework which inter-relates economic sociology with Michel Foucault’s study of Ordo-liberalism and Nicos Poulantzas’ state theory with a view to providing a better understanding of the enabling conditions of these emerging bonds. It points out the vital role of competition as a mode of integration. A case in point is the role of competition in the Europeanisation of social policy and solidarity, which in turn helps to establish a specific form of social cohesion.

**THE SHADOW OF THE LAW:
INTERMEDIARY INSTITUTIONS AND THE RULING PART OF GOVERNANCE**

Chapter 8 ~ Alfons Bora

Against the background of a long-standing debate on “governance”, the recollection of the functional nucleus of governance is suggested with the term “regulation” and with a particular emphasis on the “ruling part” of governance that feeds on legal sources. Intermediary institutions are places where regulation and its legal context become visible, even in those forms of self-regulation, where, at a first glance, the law does not play a major part. Four types of relations between self-regulation and the law will be discussed, bearing upon examples from science governance, ethics councils, and technical standardisation. They

will be characterised as substitutive, pre-emptive, initiating, and integrative relations. These forms of self-regulation can be interpreted as a rough heuristic of the influence of legal norms in governance. In each type, the specific reference to the law serves the function of regulation, namely, stabilising the expectations not only within a system, but also between different systems. Thus, even the most advanced forms of self-regulation in intermediary institutions at all levels of governance operate with the frame of “ruling” in the shadow the law.

**TAKING GOVERNANCE TO COURT:
POLITICS, ECONOMICS, AND A NEW LEGAL REALISM**

Chapter 9 ~ Sabine Frerichs

In the last decade, the governance debate has moved from comparative-institutional economics and politics to the law, where it has taken the shape of a new legal realism. However, the intellectual pedigree of the new governance semantics and the political-economic changes that it seeks to capture remain under-explored in the legal strand of the debate, which turns empirical arguments into normative arguments. Frerichs exposes the unacknowledged slippage between the economic and political modes of analysis in the “law and (new) governance” debate, which ultimately serves to legitimise profound structural changes in the political economy. This hidden function of the governance discourse is exemplified in the European political and legal context, which has been key in transforming national welfare regimes, which were once built upon a corporatist compromise.

THE CONSTITUTIONALISATION OF EVERYDAY LIFE?

Chapter 10 ~ Grahame F. Thompson

What is the relationship between everyday life, constitutionality and governance? These are the issues pursued in this chapter. Although everyday life (EDL) and constitutionality might seem only remotely connected, the chapter links these through exploring various themes associated with the imaginary and language. It suggests that this offers a way of understanding the increasing constitutionalisation of everyday organisations and institutions. It provides a new conception of citizenship associated with mundane and taken-for-granted mechanisms that organise a practical life, ones embedded in a politics of normalisation and performance. Such bottom-up politics contrasts to the usual top-down approach associated with constitutionalisation. The argument is that this chimes with a general retreat from

remote, structurally-driven accounts of our governance and provides a more satisfactory encounter with the politics of EDL.

**THE DEMOCRATIC SURPLUS THAT CONSTITUTIONALISED THE EUROPEAN UNION:
ESTABLISHING DEMOCRATIC GOVERNANCE THROUGH INTERMEDIATE INSTITUTIONS**

Chapter 11 ~ Gorm Harste

This chapter questions the very foundation of the doctrine of a so-called “democratic deficit” in the European Union (EU). Yet, in order to argue beyond nationalist myths, clear-cut concepts are necessary. Speaking about democracy in the EU, the chapter exposes four dimensions that constitute a “democratic surplus”. It offers, first, a narrative of European integration that does not insist on an identity logic of democratic sovereignty and self-determination; on the contrary, a differentiated and deconstructed constitution of a network society of intermediate institutions seems more realist. Contrary to the classical nation-state, the EU, secondly, is not built by nobles and monarchs, nor by war. Third, a separation of powers is clearly observable. And fourth, this chapter demonstrates how the EU rescued the democratic nation-state.

THE CRISIS OF CORPORATISM AND THE RISE OF INTERNATIONAL LAW

Chapter 12 ~ Chris Thornhill

This chapter examines the growth of corporatism in its classical form as the result of an expansionary construction of state legitimacy, in which, after 1914, the legitimacy of public authority was made contingent on the internalisation and mediation of deeply embedded social conflicts (especially between classes) within the political system. It explains that only rarely, under very distinctive sociological conjunctures, were states able to assume the palliative/mediating functions ascribed to them under classical corporatist doctrine. In most cases, the rise of corporatism led to an authoritarian crisis of statehood, typically marked by high levels of political reprivatization: i.e., the growth of clientelism and patrimonialism as means for sustaining state control.

The crisis of statehood caused by classical corporatism is rarely interpreted as background to the rise of international law after 1945. However, this chapter paper argues that one of the reasons why international law has assumed such importance as a normative source of state legitimacy in the processes of democratisation occurring in recent decades is that it has allowed states to confer legitimacy on laws (both primary and secondary) without

being obliged comprehensively to internalise class conflicts. The recent and ongoing rise of the transnational constitution, in which international law penetrates deep into national jurisdictions, is driven, sociologically, by the fact that it forms an alternative to corporate constitutionalism, and it alleviates and facilitates processes of legitimisation which had traditionally exposed state institutions to acute risk of fragmentation. The growth of international or transnational law has its sociological foundation in the fact that it enables states to generate legitimacy from within an existing legal system, and it diminishes requirements for external social inclusion.