

Institutional Conditions for Policy Design: Types of Arenas and Rules of the Game

Arco Timmermans
University of Twente¹
and
Ivar Bleiklie
University of Bergen²

¹ Department of Public Policy, P.O. Box 217, 7500 AE Enschede, The Netherlands
a.timmermans@bsk.utwente.nl

² Department of Administration and Organization Theory, Christiesgate 17, 5007
Bergen, Norway
Ivar.Bleiklie@los.uib.no

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1. INTRODUCTION

If politics is about who gets what when and how, then the success of actors in the policy process depends on who the actors are, what they aim for, and on when and how they try to influence policy making. Different theories of the policy process have been developed to give generalizable answers to these questions. We know much more about policy and politics than we did when Lasswell's pathbreaking study was published in 1936. Yet if we consider how much theories have been able to explain differences between countries or between policy domains within countries, then there is still much work ahead. The aim of this paper is to contribute to the comparative study of policy design.

Vining and Weimer (1998: 26) say that researchers must provide "explicit institutional framing if they wish their insights to travel well internationally." In other words, beyond actor characteristics such as beliefs and strategies that are central in existing theories of the policy process, we need more systematic attention for characteristics of the institutional context in which policy goals are pursued and strategies take shape.

In this paper we focus on institutional conditions for policy design, and we do this by considering policy arenas at two levels of analysis. First, we consider the possible variation in arenas with relevance to policy making in particular systems. This variation is a function of the general, constitutional, system type, on which the institutional literature has much to say. A comparison of policy design across both the Atlantic and the Channel requires that the scope of analysis should include separation of powers systems, Westminster twoparty systems and multiparty systems on the European mainland.

Next to types of arenas, we consider rules of the game as these exist within arenas. Such institutional features of arenas influence policy making directly, and

from an analytical perspective they help to account for the behaviour of elected politicians, public agencies, experts, and social groups. We thus seek to explain policy design —both as process and content— in terms of institutional conditions that provide opportunities and constraints for actors with ambitions of policy innovation or seeking to veto and kill policy initiatives.

We begin this paper in section 2 with the concept of policy design. In section 3 we consider actor characteristics, discussing beliefs and policy entrepreneurship. In section 4 we explicate how we see policy arenas and in sections 5, 6 and 7 we move on to discussing the institutional properties at two levels with relevance to arenas: the system context (section 6) and arena rules of the game (section 7).

2. POLICY DESIGN

Policy design can be seen both in terms of process and product. Policy design as process refers to policy making. This is not necessarily the same, as in the literature different conceptions of designing as process can be found. We describe these conceptions elsewhere (Bleiklie and Marton 1998; Bleiklie et al 1998; Timmermans et al 1998) and give the two most extreme theoretical images of policy design as an activity, which is as rational engineering with high control of the situation, or as the outcome of a process with multiple actors whose beliefs, interests and goals are in conflict. These conceptions and more nuanced positions can be found in the diverse literature on rational versus incremental policy making to which the names of Simon, Dror, Etzioni and Lindblom are related. Our position on this subject is that the nature of a design process is highly contingent on the context in which it takes place. Varying contexts result in different types of design process. Yet we agree with Goodin (1996) who argues that there is always

an intentional aspect to designing, even under polycentric and politicized conditions.

Variation in process is likely to be reflected in design as product, or policy content, but at conceptual level we think it is possible to be fairly straightforward about design as product. Policy consists of goals, instruments, and rationales that are included in authoritative decisions (Bleiklie et al 1998). Goals are intended consequences, and they are formal in the sense that they are explicated by policy makers, included in different formats such as laws, statutes or agreements. This formal status implies commitments. Instruments are the tools designed and used to achieve goals. There is a distinct body of literature on policy instruments, discussed elsewhere (Timmermans et al 1998).

We define instruments broadly, following authors such as Schneider and Ingram (1990), who include more formal institutional arrangements such as structures and procedures facilitating learning and policy making itself. Often, actors not only approach policy making in terms of substantive goals alone; they also intend to create mechanisms for sustaining policies and for implementation. Indeed this is the central point of attention in the literature on institutional design, in which institutions are the object of designing (Timmermans 1998). Finally, rationales justify the choice of goals and the selection of instruments for these goals. They may be both cognitive and normative (in the literature they are referred to also as 'policy theories'). Rationales are not necessarily internally consistent. In this sense they reflect the nature of the policy design process.

Though technically, design as process and design as product may be distinguished, they are closely related. They can both be taken as dependent variables in empirical research. We think that the most useful way of analyzing process and content requires a somewhat more complex research design, in which design as process is a set of intermediate variables. These form the elements of

what may be called the designing context. The principal components of the designing context are the independent variables. In this paper, we focus on these independent variables.

3. ACTORS: BELIEFS AND POLICY ENTREPRENEURSHIP

Beliefs: policy, truth, or profit

Beliefs are cognitive and normative images of the world. Basic beliefs structure preferences of actors (individuals) and as such they are seen to be important predictors of what positions these actors will take in policy making (Converse 1964; Putnam 1976; Young 1977). We take these positions, based on beliefs, as given (so as independent variable). The most sophisticated approach in which beliefs are central is the advocacy coalition framework developed by Sabatier and Jenkins-Smith (1988; 1993; 1998). Since its inception in the late 1980s, the ACF has become the most explicit and influential systematic attempt to analyze the role of beliefs in policy making and policy change.

Much can be said about this approach, but we concentrate on one point that may inform our thinking about actors and policy making. According to Sabatier and Jenkins-Smith, policy core beliefs are the ‘glue’ that hold coalitions of actors together—or keep them separate of course, depending on the degree of consensus. Loeber and Grin (1997) however argue that actors may have different types of belief systems relating to the different institutional spheres to which they belong. Political and other public actors may have policy beliefs, but the central driving forces for other actors such as businesspeople and other interest groups and scientific experts may be not policy but profit or truth.

This variation in belief types is relevant because it may influence the nature

of alliances between policy makers and social movements, business corporations, and experts. We would argue that alliances between these different actors are less coherent advocacy coalitions and more often 'coalitions of convenience' than Sabatier and Jenkins-Smith assume.¹

If actors have different types of core beliefs, this does not mean that actors not driven primarily by policy beliefs all turn their back to the policy process. The obvious reason is that policy often bears on the pursuit of other types of beliefs, including professional and scientific. Policies may, in the perception of private actors, threaten professional beliefs and interests², and in the view of scientific experts policies may be based on erroneous causal reasoning. Even with different types of beliefs, the potential for policy entrepreneurship extends to all kinds of actors.

Policy entrepreneurship

Beliefs alone are an insufficient condition for action. Another type of driving force is interests, and actors will also need resources to achieve whatever their beliefs and interests tell them to do. We are aware of the confusion that often exists between these concepts. We define interests as incentives for self maintenance, either of individuals or corporate actors (organizational interests), and resources as the physical or immaterial assets (competencies, expertise) of which actors dispose.

Actors that feel in some way committed to or affected by a problem of public policy may engage in policy entrepreneurship. Kingdon (1984: 151) describes entrepreneurs as actors investing different kinds of resources in order to get

¹ This critique seems less applicable to work on the role of epistemic communities, international alliances between experts sharing particular views on causes and effects in specific policy fields (Haas 1989; Sebenius 1992). This is because this conceptualizing of strategic alliances is much more focused on actors from one institutional sphere (namely science).

favoured policies in return. Mintrom and Vergari (1996) focus on the role of policy entrepreneurs in bringing about policy change. Building on work of Cobb and Elder (1972) and Baumgartner and Jones (1991; 1993) these authors argue that policy entrepreneurs influence policy making in arenas through changing images of problems and solutions (policies). In the study of Mintrom and Vergari, in which their model is applied to education policy reform in Michigan, these entrepreneurs are often but not always public agents. Policy entrepreneurs, with their specific and sometimes hidden agendas, may use developments external to a particular policy subsystem to reframe issues, and they are continuously seeking support for the ensuing problem perceptions and solutions. This is essentially how coalitions of supporters emerge and dissolve, engineered as it were at the level of venues at which policy entrepreneurs operate. Mintrom and Vergari conclude that core beliefs do not suddenly become fluid, but they are manipulable to some extent if policy entrepreneurs do some strategic timing and exploit the organizational setting in which policies are designed.

4. POLICY ARENAS

The most important type of setting in which policy entrepreneurs and other actors try to influence binding decisions is the policy arena. In his classic *Politics: Who Gets What When and How* (1936) Lasswell already mentioned arenas as loci of interaction about the distribution of values. Policy arenas are loci in which problem definitions and policy images based on beliefs are turned into policy decisions. Actors develop strategies to seek arenas where they have most chance of influencing binding policy decisions. By binding decisions, we mean that actors

² Consider the joke about the hole in the ozone layer, which business perceives as the problem causing all their trouble with constraints on production.

cannot ignore decisions taken in policy arenas without risking legal, social or political sanctions.³ These strategies may be coordinated with other actors, but often such collective action is difficult to achieve and for this reason actors are likely to follow individual strategies most of the time.⁴

System wide and policy subsystem specific arenas

Policy making may take place in arenas at political system level and in arenas that are specific for a policy subsystem in a specific policy domain.⁵ Parliament, the cabinet and general courts are formal system level arenas.⁶ Most democratic multiparty systems have also a government formation arena, which is more informal. The government formation arena is activated after elections and is closed off when a new government takes office. It is an informal arena that facilitates policy making on politically delicate issues. Further, also the electoral arena is relevant in countries where voters have direct access to decision making arrangements such as the referendum. The scope of these political system arenas includes multiple fields of policy.

This is not the case with arenas that are specific to a policy subsystem, and thus are confined to sectoral policies. Stakeholders may interact in formal or in informal arenas. Specialized regulatory agencies and courts with jurisdiction in specific policy sectors (labour, social security, health) are examples of formal arenas. In countries with a corporatist tradition semipublic policy making bodies exist, as for example the ‘tripartite’ bodies for dealing with socio-economic policy in Belgium, Germany and the Netherlands. The players in these arenas are

³ These last two categories are central in the expanding literature on problems of credible commitment and reputation in nonhierarchical relationships (Shepsle 1996; Scharpf 1997).

⁴ Individual strategies of different actors may be more or less compatible.

⁵ Important are also formal international or supranational arenas such as the International Court of Justice, the World Trade Organization and the European Commission.

spokespersons from employers' associations, organized labour and state representatives. More informal arenas may be created for negotiations between public and private actors in all fields of policy. If such arenas are new, rules may be still emerging or be the subject of negotiation.

Multiple formats of policy decisions

The policy decisions made in any of these arenas may take different forms. They may be included in programs, in formal laws or regulation issued by public agencies, in contracts or agreements which are not legally binding but involve political or professional reputations, or be court decisions. Agreements reached between public and private actors may be as important as any policy arrangement devised unilaterally by a government organization. Often not single decisions but packages of related and more or less consistent decisions ensue.

With this emphasis on policy decisions, our use of the concept of policy arena resembles but is not synonymous to the 'institutional venues' that Baumgartner and Jones (1991; 1993) consider in their work on agenda setting. Institutional venues are not only loci of policy decisions but also of changes in policy images. Changes in policy images, that is, in the depiction of policy alternatives as good or bad, influence the priority that issues have on the policy making agenda and indeed also the range of policy alternatives dealt with in arenas (Baumgartner and Jones assert that they can even trigger the buildup or breakdown of policy subsystems). Essentially, images represent beliefs and these may be influenced in many different loci, even in the private sphere. Thus stock markets and the media are institutional venues because they influence policy images, but they are not

⁶ Though in most democratic countries parliaments and governments contain committees organized according to policy fields or themes, the ultimate policy decisions are taken *in plenum*. Committees may prefigure policies, and when speaking of parliament and the government, these committees are implied.

arenas in which authoritative policy decisions are made.⁷

5. POLICY ARENAS AND INSTITUTIONAL PROPERTIES

As loci of binding policy decisions, policy arenas are more or less formalized structures and contain formal or informal procedures and rules. These structures and rules are the institutional components of a policy arena, which also make for the distinction between formal and informal arenas. The structures and rules of arenas constrain or facilitate the pursuit of substantive beliefs and preferences by actors in these arenas. The revitalization of institutionalism in political science has engendered research on effects of formal political institutions at system level (parliament, the cabinet, referendum arrangements), but arenas within specific policy subsystems have received less attention. Hence we agree with Mintrom and Vergari (1996: 424) that much can still be learned about how the adoption and spread of innovative ideas are encouraged or hindered by the structure of political (and other) institutions and by the nature of social norms supporting these institutions.

This conception of institutions includes formal political and constitutional institutions on which authors such as Immergut (1992), Thelen and Steinmo (1993) and Weaver and Rockman (1993) have shed new light. But it also includes formal or informal norms and rules in use in other types of organizational settings with relevance to policy making. These norms and rules are the focus in sociologically oriented work (Burns and Flam 1987; March and Olsen 1989, 1995) and in institutional rational choice (Ostrom et al 1990, 1994, 1998; Mayntz and Scharpf 1995; Scharpf 1997). Structures and rules may be given as an institutional

⁷ Stock markets of course do imply decisions, as they are essentially aggregates of multiple decisions taken by investors. They are however confined to the private sector.

context of policy making, but they are not static. Actors may consciously attempt to change the institutional architecture, and thus engage in institutional designing (Cf. Riker 1986; Weimer 1992; Linder and Peters 1992; 1995).

Levels of analysis

Baumgartner and Jones (1991: 1048) assert that policymakers search for favourable arenas, or venues, through a process of trial and error and not via a rational decision model. Trial and error may involve 'venue shopping', the search for an institutional venue that is receptive to advocated policy images or image changes (ibid: 1050). This may be true only to an extent, however, as actors do not seem to start an unstructured search but instead try to use their resources as efficient as possible and for this reason first select an arena that is accessible, has favourable institutional rules, or has manipulable rules. Decision rules for example can make winning easier in one arena than in another as they determine veto power (compare unanimity rule with a simple majority rule). While this type of rule tends to be formalized and robust (as we know from the experience with proposals to change decision rules within the European Union institutions), other rules of the game may be easier to change or, in some arenas, be not yet fully established.

The point to appreciate is thus that actors not only seek arenas in which their beliefs are represented but also consider the institutional conditions within these arenas. Institutional rules of the game are anticipated because they structure actual policy making within arenas. Access rules are likely to be considered first by such different actors as political leaders, representatives, bureaucrats, interest groups and professional experts. Some of these access rules will be clear cut and imply exclusions that are obvious (such as the rules for becoming a member of parliament), but some may be less well known or refer to

the conditions for boundary work of actors between two different arenas (such as executive bodies and expert committees).

Working rules within arenas are nested in the broader institutional context of the system at large. Institutional properties of individual policy arenas cannot be seen in isolation from system characteristics as these influence both the variety in policy arenas and, sometimes indirectly, the working rules within them. For this reason, we need to consider general system properties first.

6. CONSTITUTIONAL LEVEL INSTITUTIONS: SYSTEM PROPERTIES

The idea that general system features are the basis of more specific policy making structures is central in the work of Moe and Caldwell (1990, 1994). Indeed, according to these authors, political institutions designed by constitutional engineers of old times carry ‘distinctive genetic codes’ that program their structural development (1994: 193). This assertion becomes particularly interesting from a comparative perspective. The ‘genetic codes’ are seen to differ fundamentally between separation of powers systems and parliamentary systems with two parties. In addition to Moe and Caldwell’s theory, we consider insights from political institutionalism (Weaver and Rockman 1993) with its focus on macro level political institutions. The characterizations of effects of system types on arenas mentioned in the following sections are our own.

Separation of powers: pluralism in multiple arenas

To begin with, Moe and Caldwell point out that in separation of powers systems, with the U.S. as the example discussed, the legislative arena is the focus of attention of groups trying to influence authoritative decisions. If policy preferences

can be turned into legislation, these preferences are expected to survive longer because separation of powers systems have strong institutional thresholds and veto points that inhibit frequent changes of legislation.⁸ At the same time, however, compromises with other groups will be necessary to obtain majority support. The need to build legislative coalitions in Congress often cuts off some parts of the 'ideal' policy as pursued by individual groups. Opposing groups with no prospects for reaching a majority on the subject will try to change rules in other arenas, in particular the bureaucracy, to turn their chances or to 'cripple' the policies pursued by their opponents. According to Moe and Caldwell, this explains the detailed bureaucratic rules that often ensue and that hamper effective policy performance. In the separation of powers system context, the bureaucratic arena and the implementation arena thus yield alternative opportunities for actors to influence policy, be it more in terms of blockages than as policy innovations.

Two party systems: government related arenas

In Westminster two party systems, with Britain as example discussed by Moe and Caldwell, a disciplined winning party can afford to ignore opposition voice, but the policies produced by this party are relatively unprotected from institutional thresholds to revisions. A defeat in the next elections paves the way of the rival party to pass its own program in parliament. This means that the incumbent party cannot make credible commitments beyond its term in office. In Moe and Caldwell's theory, this uncertainty about policy continuity induces actors to use or form nonlegislative and informal constraints on policy change. Informal norms and reputation serve to make deals and policies as durable as possible, given that

⁸ A problem with this part of Moe and Caldwell's theory is that such barriers may also hinder formalization in the first place, and, conversely, that if actors are successful in formalizing, opposed actors may be as well later on (unless they are part of a minority with no prospect of increasing support). In an earlier essay, Moe (1990) criticized rational choice approaches to institutions for being ahistorical, but this part of the theory seems to be vulnerable to the same critique.

formalization is not as effective as in separation of powers systems. Further, actors may follow strategies of cooptation and try to be taken into the party or into the bureaucracy and influence policy from inside out (1994: 180-181).

For the set of most relevant relevant arenas to seek access to this means that social actors will be oriented toward the party organization and the bureaucracy for direct access. In their study of effects of political regime types, Weaver and Rockman (1993: 27-28, 450) point at the centralized policy making power in the party in office and argue that consultation structures have a decentralizing effect. Such structures however can be related to the incumbent party, as in the case of Labour and the trade unions (though less clearly under New Labour in the late 1990s), and they may be more enhancing policy stability than arenas of opportunity for actors seeking significant policy innovations. Dudley and Richardon (1998) argue that actors (social groups) whose beliefs are not represented strongly in the party political arena or in the bureaucracy seek alternative 'arenas without rules' to get their ideas on the policy agenda. The question they raise about this seems to be consistent with Moe and Caldwell's line of argument, which is that for consolidation —i.e. for ideas and policy images to be incorporated into policy decisions— these groups may still need access to (or allies in) established arenas with their own specific rules (1998: 746-747).

Multiparty systems: consensus building arenas

Multiparty systems with proportional representation are not considered in detail by Moe and Caldwell, but they are common in Europe. This system type produces the most variation in governments: singleparty and coalition, and both with majority or minority status (Laver and Schofield 1990: 71). Moe and Caldwell (1994: 182) assume that in coalition governments authority is divided effectively among members, party responsibility is weakened, turnover is limited, and policy

changes are difficult to make. As in separation of powers systems, actors seek formalization through access to the constitutional political arenas. Further, policy performance is weakened by constant interparty tensions within these arenas.

All this makes sense, but it does not seem to be the whole story about multiparty systems. If institutional forms “program a whole array of system features” (p. 172), these forms need not be confined to formal political system properties. This is important to many European multiparty systems, where corporatist structures or consociational (power sharing) traditions existed often *before* formal political institutions were designed. The introduction of proportional representation and the buildup of multiparty systems should be seen in conjunction with—and in part even following from—long standing corporatist and consociational policy making traditions. In their study of effects of political institutions, Weaver and Rockman (1993: 452-453) mention the relationship between multipartism and corporatism and power sharing but they too seem to confuse the historical development of both. We argue that party systems and other policy making structures have similar origins.

In this conception of policy making institutions beyond formal political arrangements, multiparty democracies with institutionalized interaction between public and private (or semipublic) actors may be referred to as *consensual* systems.⁹ These systems are not consensual only because they have multiple parties but, in terms of institutional genetics, because they have broader and inclusive policy making structures. Though consensus is a type of decision rule (which may exist within policy arenas), it should be interpreted here more generally as a policy making style that distinguishes particular systems from others on the basis of policy making traditions and institutions of policy coproduction by public and private actors resulting (note: see Richardson [1982]

about the concept of policy style). These points about consensual systems give a more specific meaning to the assertion of Moe and Caldwell (1994: 180) that normative structures are important in parliamentary systems. Other authors even argue that some West European states have entered the age of 'post-parliamentary politics' (Andersen and Burns 1996; Beck 1997).

System types and relative prominence of policy arenas

The consensual system context differs from pluralist policy making with its open and less structured pressure politics dominating the separation of powers system of the U.S. In separation of powers systems, or at least in the American system, the legislature and the courts are key policy arenas approached by social groups and other actors. Actors in consensual systems are oriented less exclusively on legal policy formats such as legislation and contracts and the arenas in which these are formed or vetoed. They seek access to other policy arenas as well. Compared with parliamentary systems producing single party governments, consensual systems have a lower degree of state autonomy and policy making power is less centralized (Weaver and Rockman 1993: 448). Interdependencies between state and nonstate actors are more institutionalized than in separation of powers and parliamentary single party government systems.

The distinction between separation of powers, twoparty parliamentary systems and consensual multiparty systems corresponds to three types of the 'negotiating state' distinguished by Scharpf (1997: 203-204). In systems with a corporatist tradition such as Germany, voluntary agreements negotiated with industrial associations are attractive compared to with the painstaking process of getting the same policy adopted and implemented within state structures. This relates directly to the limited degree of state autonomy, and the implication is a

⁹ This type is used in a different way by Luebbert (1986), who calls a system consensual if external and extraparliamentary support is needed to enhance the viability of policies made

greater diversity of policy making arenas to which actors seek access. Scharpf depicts Britain as a more statist country where state actors enjoy autonomy in policy formation. This fits the approach of Moe and Caldwell to the extent that social groups and other nonstate actors are seen to follow strategies of cooptation and seek penetration in the majority party and relevant agencies. Third, in the pluralist American system, the weakness of the two political parties and the fragmented committee structure in Congress sustain the argument that interest groups and other actors seek to influence regulation directly by federal statute, for which they approach individual Congresspersons. In this context, the relevance of the state lies in its capacity to make such regulation binding and, as also Moe and Caldwell emphasize, in the institutional thresholds for changing such regulation.

7. COLLECTIVE CHOICE INSTITUTIONS: ARENA PROPERTIES

System properties at the constitutional level form the general context in which policy making arenas acquire relevance to policy making processes. At this macro level, the important point is that, following from the argument of Moe and Caldwell, different systems show differences in relevance of arenas in policy making. These differences concern the arena orientations of pressure groups, professional organizations, and experts.

Arena orientations however are not determined exclusively by system properties. They are also influenced by specific institutional characteristics of arenas. The anticipation of institutional characteristics of specific policy arenas is thus another factor influencing arena choice. These arena characteristics not only structure the choice (if any) between different loci of policy making but also bear directly on the process and content of policy design. In arenas actors unfold

ambitions of policy innovation or try to exploit veto points in defence of the status quo. This intra-arena level may be referred to as that of collective choice (cf. Ostrom 1990: 53). We use this label with the assumption that policy arenas contain several or multiple actors involved in making policy decisions —thus making collective choices.

At this level, not only differences between system types are relevant but also differences between countries with a similar constitutional system, for example differences between policy subsystems with their specific arenas. With this in mind, a focus on institutional rules in policy arenas may not only complement belief oriented approaches (such as the advocacy coalition approach of Sabatier and Jenkins-Smith) but also give more analytical leverage to the concept of policy networks.¹⁰

One important set of institutional rules creating opportunities and constraints for actors in arenas are rules of the game. Baumgartner and Jones (1991: 1047) refer to such intra-arena rules when arguing that each venue carries a decisional bias, because participants and decision-making routines differ. The difference between sets of participants relates to rules of access (Who may play?), and the routines to which Baumgartner and Jones refer are another subset of rules and norms pertaining to interaction between represented actors (How should the game be played?). These rule types may be given and have formal status (written in the national constitution or in lower order statutes in the case of arenas specific to policy subsystems) or be informal or even be still emerging. This is another way of saying that policy arenas may be more or less institutionalized. The arenas without rules studied by Dudley and Richardson (1998) referred to earlier are an example of the latter. It is not difficult to understand why actors seek arenas without rules if the conditions in arenas *with* rules provide few

¹⁰ For a useful attempt at relating institutional analysis to the policy network approach, see Klijn (1996).

opportunities for them. Generally, lax rules may yield more opportunities for actors seeking policy change, but on the other hand strong actors opposing change may be less constrained in the exercise of power). But even institutionalized arenas may have rules that are pliable. Actors thus may not always accept rules of the game as given but instead try to build support for redesign or try to manipulate rules more covertly. Either of these two possibilities can be a route to policy change, which may or may not be followed in combination with shifts in substantive policy beliefs.

Given the possible variation of rules between arenas and taking that we should start with analyzing rules that are given, individual actors may seek access to a particular arena because rules of the game in that arena are favourable, provided that arena rules allow access in the first place. For example, voter initiated referenda (electoral arena) may differ in electoral thresholds, decision rules in legislative or executive arenas may differ, and rules for allocating gains and losses among participants may also differ widely between arenas.

Types of arena rules

For making an analytically useful distinction between types of arena rules, two different sources of literature are relevant. One is social rule system theory (Burns and Flam 1987), the other is institutional rational choice (Ostrom 1986).¹¹ Though the underlying assumptions in these two literatures differ, they provide two categorizations of rule types that are strikingly similar.

Burns and Flam (1987: 102-109) attempt to capture social institutions governing social transactions (not just policy arenas) by distinguishing 6 universal rule categories, formulated as empirical questions: 1) Who may participate; 2) Why, for what aims? 3) What activities or transactions are acceptable? 4) How are social transactions to be carried out? 5) With what means? And 6) When and

where? Ostrom and colleagues (1986 etc.) present a typology of rules for analyzing governance of common pool resources, but with broader analytical relevance.

These authors identify seven different rule types: 1) *position rules* about roles of actors; 2) *boundary rules*, conditions for access and exit; 3) *scope rules* about the appropriate actions that may affect outcomes; 4) *authority rules* about rights, duties and competencies; 5) *aggregation rules* about the ways of (collective) decision making; 6) *information rules* about channels of communication and access to and use of information; and 7) *payoff rules* about what costs and benefits are like and how these should be distributed.

Burns and Flam (1987: 101) argue correctly that a finite set of rule types allows institutions to be compared, because all institutions share these rule types. The question of course is what aspects of institutions we intend to compare.¹² Our purpose is to analyze institutional arena properties as part of an explanation of policy design across countries and subsystems. For this purpose we borrow from these authors the rule types that are most clearly rules of the game, as distinct from rules that shape actor identities and preferences (no. 2 in Burns and Flam) or contain roles (no. 1 in Ostrom et al.). We list 5 types of rules with relevance to actor behaviour in policy arenas.

1. *Access and boundary rules*

This category contain conditions for access to an arena and rules specifying when exit is possible or even compulsory. Access can mean becoming a participant. An electoral threshold for representation of a party in parliament is a formal example. Moe and Caldwell referred to rules as conditions for cooptation in Westminster systems. Another example is the rule of proportional representation in expert commissions in health policy in Germany mentioned by Döhler (1991: 277).

¹¹ Another branch is regime theory, which typically focuses on international relations.

¹² In any case, the similarity with the Ostrom rule taxonomy suggests a high validity.

Access rules may pertain also to approaching actors in a particular arena. Article 32 of the Swiss Federal Constitution for example requires economic interest groups to be consulted about legislation with economic relevance before such legislation is passed in parliament (Kirchgässner 1994: 200). This second type of access rules however will exist in fewer arenas than rules about full participation.

2. *Decision rules*

Decision rules are about the procedures for reaching binding decisions. Variation may exist between simple majority rule, qualified majority, consensus, and unanimity. Judicial decision making may be with or without the jury system. Each of these rules may be combined with rules about open or secret voting. Weaver and Rockman (1993: 33) point at the possible effects of public voting in parliamentary arenas: it is a disincentive for MPs to support policies imposing losses on social groups.

Specific veto procedures may exist, such as the alarm bell in the Belgian parliament as a constitutional check on policies that possibly deprive minorities; thresholds in votes, such as quorum requirements or percentages of voter turnout in referenda. Further, there may be rules giving different relative weight to actors in an arena, one example being hierarchy (Scharpf 1989) and another is the tie breaking power of a chairperson.

3. *Authority and resource rules*

This type states how rights, competencies and resources are used appropriately. Resource and authority rules relate directly to influence potential of actors, and dependencies, either unilateral or mutual. These are relevant to opportunities for

groups with access to the arena to become influential and create interdependencies with other actors. Authority rules also delimit the policy making competencies of actors within the arena. This type also covers the 'When and where' question mentioned by Burns and Flam, as authority rules may state whether or not it is appropriate to address an issue in the arena.

4. *Cost and benefit rules*

Rules about costs and benefits not only specify the form of payoffs but also may contain certain procedures for allocation of these payoffs in the arena. Allocation rules may range between winner takes all, proportionality and overrepresentation of small actors. Further, this category includes rules of compensation for losers, and such rules may even specify in what currency compensation is to be given. Moe and Caldwell (1994: 181) mention the inclusion of losers in design as a rule existing in parliamentary systems. We would argue that this is particularly relevant to consensual systems. Such rules structure the orientation of actors towards arenas because loss compensations may decrease the extent to which actors feel a need to shop around for favourable arenas. More informally, norms of reciprocity are relevant in arenas in which agreements are made and enforced.

5. *Information rules*

Finally, information rules are relevant in that they may constrain information provision and exchanges with actors outside the arena or make such provision and exchanges mandatory. Information rules may be formal, as is the case with the law existing in most democratic countries stating that (most) government documents should be public. Conversely, in some formal policy arenas as for example the cabinet a rule of secrecy applies. This rule of secrecy may apply also to the civil service, as Ashford (1981) reports about Britain. More generally, there

may be rules stating what sources of information are allowed and about when information is allowed to be used in an arena.

Arena regimes

These five rule types may take different forms in different arenas, but in all cases they result in a particular institutional regime within an arena. Such a regime may be the formal, dense and rigid institutional software of long established arenas or consist of rather loose rules or even be still emerging in arenas that are just designed. Depicting arena regimes is an important empirical task. It should help us to explain where and why actors have success in promoting or inhibiting policy change.

8. CONCLUSION

Policy making is not a process of persuasion or crossfertilization of beliefs alone nor exclusively a matter of naked power confrontations. Beliefs and the exercise of power are channeled through institutions. In this paper we have focused on two levels of institutions with relevance to policy making processes within countries: the political system level and, within this macro context, the institutional properties of policy arenas. Building on the seminal work of Ostrom (1990) we referred to these as the constitutional level and the collective choice level.

Variation at the constitutional level is relevant when comparing policy making in different countries, and analyzing institutional arena characteristics may also reveal differences between two or more policy subsystems within a particular country.

We do not assume that the ‘genetic codes’ of macro structures (Moe and

caldwell) lead to complete arena uniformity across policy domains, something that would deny the potential influence of different sets of actors within these subsystems and arenas. Instead we would argue that internal dynamics within policy subsystems and policy arenas may produce changes in rules of the game. This also may be the case with arenas that are general, such as legislatures, governments and constitutional courts and which are part of the constitutional design of a country. In these arenas, rules may initially be part of a constitutional ‘grand design’, but they may change over time without these changes following necessarily from the same constitutional ‘genes’. These however are assumptions to be examined empirically, and as a point of departure we consider arena rules that are given. We thus see the relationship between the constitutional level—the system properties— and the collective choice level not in terms of the specific content of rules of the game in arenas but in terms of the types of arenas that may exist or emerge. The legislature is important in separation of powers systems because that is the primary locus of bargaining over policy, with representatives being accessible to interest groups, and with bargaining results being formalized and difficult to change. In parliamentary systems, and certainly in consensual systems in Western Europe, corporatism and concociational traditions have resulted in other, semipublic, arenas that can be quite central in specific fields of policy. Whatever the precise origin of institutional rules within these arenas, the relevant point to appreciate is that these rules of the game may further narrow down or extend the range of opportunities for actors that seek to influence policy decisions. Figure 1 shows how we expect variation across systems to occur.

Figure 1:

Arena opportunities in different system types

Policy arenas

Multiple

| | | | |
|------------------------------|-------|-----------------------------|--------------------------------|
| <u>Rules of the game</u> | | Separation of powers | Consensual multiparty |
| | Tight | (Nondemocratic systems?) | Lax Westminster twoparty |

Few

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