

Institutionality: “Institution” and “Institutions Matter”

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Received November 2nd, 2013; revised December 8th, 2013; accepted December 27th, 2013

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Theories of institutions have become very popular in the social sciences. Thus, we often encounter the claim “Institutions Matter” in the new literature, which is called “institutionalism”. It is time to make a critique of this theme, asking what an institution is and what it “matters” for. “Institution” stands for two very different sorts of entities in social reality—rules and organisations—and the new institutionalism comes in two corresponding versions, economic or atomistic neo-institutionalism against sociological or holistic neoinstitutionalism. The notion of new logic of individual behaviour—a logic of appropriateness—is flawed, as it is not in agreement with basic notions in the philosophy of action.

Keywords: “Institution” as Term; Institution as Rule or Norm; Institutionalisation as Enforcement of a Rule; Agency; Institutions as Organisations; Outcomes of Institutions; Economic Neo-Institutionalism; Sociological Neo-Institutionalism; EU Institutions; Motivation as Incentives and Beliefs about Rules

Introduction

In the social sciences as well as in economics, there has been much talk about institutions lately. The relevance of institutions is emphasized in both domestic and international political theories as well as in economic thought. This movement goes under various labels: new institutionalism, neo-institutionalism, constructivism, and historical institutionalism. One encounters it in both descriptive and normative theories. These approaches challenge the predominance of the rational choice school (RC), which underlines incentives or human motivation. Institutionalism on the other hand emphasizes the role of norms in social life and economic affairs. What does the term “institution” stand for?

In new theories of institutions, one encounters highly different *denotations* of the word, as for instance:

- 1) Ground rules for competition and cooperation (North, 1981);
- 2) Conventions (Bromley, 1989);
- 3) Entitlements (Bromley, 1989);
- 4) Rules that minimize transaction costs (Barzel, 1989);
- 5) Rules of distribution of affluence and wealth (Acemoglu & Robinson, 2013);
- 6) Rights, property rights (Libecap, 2004; de Soto, 2003);
- 7) Organisations, political structures of governance (Olsen, 2002);
- 8) Thoughts or beliefs (Winch, 1984);
- 9) Rules of coordination of incentives (Campbell, 2006);
- 10) Rules for agrarian production (labour contracts, indentured labour, sharecropping, ownership of land) (Bardhan,

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1989).

Confronted with such a diverse list of items of denotation for the term “institution”, one may ask if there is any common core here. Or must one conclude that the concept of institution is complex and perhaps a source of confusion? Examining the list of key terms above, two conceptual distinctions appear relevant.

1) *Agency*: When can one say that institutions are capable of engaging in activities? To arrive at agency, it seems necessary to endorse the interpretation of institutions as organisations or political structures.

2) *Normativity*: To some scholars, institution is an internal aspect of human behaviour, i.e., thoughts about what ought to be done in various situations. To other scholars, institution is an outer aspect of human relations, i.e., actual regularities in social interaction or behaviour.

When testing claims about “institutions matter”, the above distinctions are critical for understanding the nature of institutions. Generally speaking, when testing models of institutionalism, it is vital to identify whether or not institutions are said to have agency as well as include normativity besides actual regularities in social life.

“Institution”

To get a glimpse of the multiple uses of the word “institution”, one may wish to consult a standard dictionary. The Oxford Dictionary of English language has the following entry:

Noun:

- 1 an organization founded for a religious, educational, professional, or social purpose: *an academic institution a certificate from a professional institution*;

- An organization providing residential care for people with special needs: *about 5 per cent of elderly people live in institutions*;
- An established official organization having an important role in a society, such as the Church or parliament: *the institutions of democratic government*, a large company or other organization involved in financial trading: *City institutions*;
- 2 an established law or practice: *the institution of marriage*;
- *Informal* a well-established and familiar person or custom: *he soon became something of a national institution*;
- 3 [mass noun] the action of instituting something: *a delay in the institution of proceedings*;
- Origin: late Middle English (in sense 2, sense 3): via Old French from Latin *institutio(n)-*, from the verb *instituire* (see institute).

Here, an institution could be any organisation, private or public, or a social practice guided by norms like the law. There is also the very specific meaning of an organisation that takes care of people, like a mental institution. Organisations and social practices are of course not the same kind of entities, which entails that the term here is ambiguous. Let us consult another major dictionary that also establishes the systematic ambiguity of the term, meaning either rule or social practice on the one hand or organisation on the other hand:

“Institution”:

1) an act of instituting, establishment;

2) a) a significant practice, relationship, or organization in a society or culture, the institution of marriage; something or someone firmly associated with a place or thing she has become an institution in the theater;

b) an established organization or corporation (as a bank or university), especially of a public character; also asylum

Source: <<http://www.merriam-webster.com/dictionary/>>

Here, we encounter the same ambiguity: “institution” meaning any organisation, a special organisation for caring and a social practice backed by law or norms. Going back to the list of denotations above, we can place the use of economic institutions within the social practice definition and the political structures with the organisation definition. Could there be a general theory of institutions encompassing the whole of organisations as well as the entire set of social practices guided by law? I doubt that very much.

In any case, institutions have been always central to social science but they have not been addressed with the same emphasis and manner in every epoch. Before and after the turn of the twentieth century, several scholars were writing about institutions, but they had not developed a theory of institutions yet. Most of these approaches relied heavily on the study of formal institutions (i.e. the law). Moreover, they were highly normative and, thus, prescriptive. This is often called “old institutionalism”.

Whatever definition one may chose for “institution”, one is bound to encounter the concept of a rule. When it is claimed about institutionality that “institutions matter” for real social outcomes, or that normative social or economic theories hand down best basic foundations for an economy or polity, then what is at stake are the rule of the games that make up social interaction. Rules frame the acquisitive spirit in capitalism and rules define various forms of collective choice, such as elections, parliamentary voting and ministerial competences. Institutionalists (I) and the adherents of rational choice (RC) dispute what

is most important for explaining outcomes in social life and social systems: rules or preferences. Rational choice institutionalism (RCI) is an attempt to build a bridge between institutionalism and RC.

“Institutions Matter”

The new literature on institutions and norms theorizes the relevance of rules for both the macro and micro levels. Thus, an institution as a rule or a set of rules is said to have effects upon the society as a whole, whether the polity or the economy. But institutions as rules are also claimed to somehow be a cause or be part of the cause of an action by an individual. Norms as rules figure in both descriptive and normative theories.

It is not difficult to find several interesting macro level hypotheses that conform to the format: “Institutions matter”. One may go to the literature on comparative politics or historical sociology and economic history. Let us below examine a small sample of these institutional hypotheses or theories in order to arrive at a more concrete grasp of what the thesis “Institutions matter” stands for.

But first we may quote from North, stating that institutions comprise the rules that constrain behaviour:

Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. (North, 1990: 3).

Institutions have an impact upon any actors, individuals or organisations. North makes a sharp separation between institution and organisation, stating:

Organizations include political bodies (political parties, the Senate, a city council, a regulatory agency), economic bodies (firms, trade unions, family farms, cooperatives), social bodies (churches, clubs, athletic associations), and educational bodies (schools, universities, vocational training centres) (North, 1990: 5).

The typical characteristic of an organisation is the capacity to act in order to further objectives, i.e. rationality. Organisations are “groups of individuals bound together by some common purpose to achieve objectives.” (North, 1990: 5) However, the activities of such bodies are influenced by the societal institutions. And the organization may change the institutions, thus contributing to institutional development.

For the institutional economists, the interest is much focused upon the economic rules in a society: transformational rules for converting inputs into outputs and transaction rules for making contracts and enforcing them. The basic hypothesis in RC institutionalism is that some institutional set-up, like Common Law, is more efficiency enhancing than other institutional set-ups when it comes to economizing upon transformational and transaction costs.

Thus, it may be underlined that North distinguishes sharply between institutions and organizations:

“The answer hinges on the difference between institutions and organizations and the interaction between them that shapes the direction of institutional change. Institutions, together with the standard constraints of economic theory, determine the opportunities in society. Organizations are created to take advantage of those opportunities, and, as

the organizations evolve, they alter the institutions.” (North, 1990: 7).

Institutionality

In economic neo-institutionalism, an attempt is made to extend the RC model to explain institutional evolution. Thus, the focus is upon how societies or states somehow make choices upon institutions in the long run, often by a number of minor decisions. These institutions that result tend to have long-run impact. By *institutional evolution* is meant the long-term changes in the rules that govern a country, like property rules in the economy or the constitution of the state. Examples: the decline of the Spanish Empire during the 16th century and the rise of the British Empire during the 17th century—transparency and fungibility of private property rights, little government intervention; Arab economic decline lacking the institutions of modern capitalism, like the Western created Limited Liability Company, as with Kuran’s hypothesis of the decline of the Arab partnerships; Third World poverty where ownership to houses or shacks cannot be registered; de Soto’s hypothesis about the beneficial effects of small property and mortgages.

Some puzzles in RC institutionalism include: Is there economic social teleology, meaning that the most efficient economic rules tend to prevail in the long-run? One may here consider Demsetz’ (1967) theory that 1) economic profitability defines legal rights as well as that 2) the market economy results in the efficient allocation of property rights. But are private property rights really sufficient for economic efficiency? RC institutionalism tends to emphasize transaction costs, or their minimization. Thus, countries with clear rules about patents and ownership rights would be the most successful economically. But how to explain the following institutions with the property rights argument or the transaction cost minimising approach: Nationalized industries like petrol and mining, for instance the successful Norwegian oil regime? Or industrial policy mechanisms like e.g. export orientation in the South East Asian miracles?

It should be pointed out that economic institutionalists acknowledge that countries do not always succeed in finding and implementing the most effective economic regime. Thus, RC institutionalism takes into account the consequences of making fatal mistakes about rules, especially for bad macro outcomes. Below a few such examples are rendered.

Decline of Spanish Empire: The *Mesta*

An example is the story of the economic decline of the Spanish Empire. One explanation is the concentration upon the wool industry at the expense of food production. This led to overgrazing by the Merino sheep and the import of food from other countries. Let us quote from an expert:

“As a result, a whole series of ordinances conferred upon it wide privileges and wide powers, culminating in the famous law of 1501 by which on all land on which the migrant flocks had even once been pastured was reserved in perpetuity for pasturage, and could not be put to any other usage by its owners (Elliot, 2002: 119)”.

This policy of favouring wool at the expense of food led to inefficient agriculture and costly food imports. Yet, it was sustained for at least a century. Why? There has been a huge de-

bate on the topic of Spanish decline, as one would like to understand how this universal empire of Charles V could go down the hill economically, given the immense access to silver and gold in the new colonies in Latin America. It seems to me that we have here an example of the *Dutch decease*.

Constitutional Flaws: The RSA and de Klerk’s Two Mistakes

The new constitution of South Africa outlines formally a democratic dispensation, but in reality supports the drive towards a one-party-state. Although the goal of the constitutional negotiations in the early 1990s clearly was not to introduce such a regime, the unintentional outcome was exactly that. Actually, it is easy to predict this outcome given the bad constitutional choices made, especially relating to the presidency.

The new constitution of the RSA was negotiated for a long time between the chief political players: the ANC (Mandela), the NP (de Klerk) and the Inkatha Freedom Party (Buthelezi). The player, who the most mistakes, was undoubtedly de Klerk. He accepted in reality a one-party state under the hegemony of the ANC against a vague promise of power sharing according to the consociational model by A Iijphart.

Mistake one: The presidency: Under the constitution, the RSA is a presidential democracy, but the president is elected by Parliament and not in a plebiscite. This means that the ANC will recruit the president for the foreseeable future, because it controls the national assembly with its supermajority.

Mistake two: The regional level of government: The new constitution provides for a government structure with three levels, but they are not organised according to any model of federalism. Instead, the structure is a mishmash of federal state and unitary state principles. On the one hand, the leader of the provincial government is called “Premier” and the provinces are represented in the second chamber of Parliament on the German model of federalism. On the other hand, the competencies and the taxation-budgetary powers of the provinces are narrow. Not only is the central government powerful, but the local governments provide many services in accordance with central government schemes. Besides, the ANC dominates in all provinces except Western Cape.

Constitutional democracy can only be promoted when the key constitutional articles outline counter-veiling powers. What the National Party that led South Africa during its tumultuous period of Apartheid had to do in 1994 was to make sure that a viable opposition to future ANC dominance was forthcoming. It failed to do so, gambling instead on the naive hope that they could continue to rule the country from the centre in Pretoria through consociational arrangements with the ANC.

The strategy of the ruling National Party (NP) in the constitutional negotiations is difficult to account for in rational terms. Evidently, the NP believed that the ANC needed its key personalities to run a future RSA. Thus, the NP made little resistance towards ANC hegemony, even amalgamating itself into the ANC as a party section! However, consociationalism or power sharing did not last long, as the ANC began to fill up most key position in government and bureaucracy from its own cadres.

Economic Backwardness of Arab Civilisation

Kuran (2010) rejects common apologies for the economic

plight of the Middle East, such as colonization, or the economic importance of the annual *hajj* pilgrimage. Kuran argues that the failure of Middle Eastern economics is not due to Islam itself, but to the fact that Muslims failed to reinterpret previously successful economic institutions at the onset of the Middle Ages, while the West went on with institutional innovations, like e.g. the corporation. Several Moslem countries have abandoned Qur'anic economic practices they disagree with, including the ban on interest (*riba*), and they have updated and refreshed the tax code described in the Qur'an.

Institutions and Affluence

In *Why Nations Fail* (2013), Acemoglu and Robinson argue that extractive institutions destroy a country both economically and politically, whereas inclusive institutions promote economic growth on a long-run basis. One may interpret this new distinction between *extractive* and *inclusive institutions* as close to the well-known separation between rule of law and arbitrary rule.

A political regime that runs according to rule of law would satisfy a few conditions that constrain the exercise of political power. Rule of law entails that power is exercised according to the following precepts:

- 1) Legality;
- 2) Constitutionality;
- 3) Rights and duties: Negative human rights;
- 4) Judicial independence.

The theory of good governance is based upon the hypothesis that a government adhering to these precepts will be more successful in enhancing socio-economic development than a government that fails to respect these principles. Thus, economic activity will be stimulated by legal predictability, the protection of property, and the autonomy of judges when testing cases for assumed violations of legality or constitutionality.

The link between good governance satisfying rule of law precepts 1)-4) above and socio-economic development is the integrity of contracts, i.e. the ease with which the honouring of agreements can be accomplished, from the making of a contract to its enforcement in court. When economic agents can go about their business knowing what they can contract about on the basis of certain and reasonable expectations, then the workings of the invisible hand is in place.

The rule of law regime offers constraints upon political power, whether the power of political leaders or that of bureaucrats. It counteracts a number of vices that political power often succumbs to, including:

- a) Arbitrariness;
- b) Corruption and embezzlement;
- c) Nationalisation of property;
- d) False accusations and unreasonable search and seizure;
- e) Detention without accusation;
- f) Politicised court rulings.

Thus, a country which honours rule of law upholds rules that restrain politicians and bureaucrats in an effort to promote the outcomes a)-f), which are beneficial for both economic life and political liberty.

Where the rules of rule of law 1)-4) are observed, one would not always find democracy. In general it holds that democracy implies rule of law, but the opposite may not hold. Thus, the rule of law set of rules anticipated the democratic regime from a historical perspective, in both the UK and in Continental Europe. And on the contemporary scene, one finds countries with con-

siderable amount of rule of law, although they do not practise competitive democracy with free and fair elections that may be contested by any political party whatsoever. One may map the spread of rule of law by employing a set of indicators on the respect for the rules 1)-4).

In the World Bank Governance project, one encounters the following definition of "rule of law":

Rule of Law (RL) = Capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence (Kaufmann, Kraay and Mastruzzi, 2010: 4).

RL is explicitly separated from voice and accountability, which is defined as follows:

Voice and Accountability (VA) = capturing perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media (Kaufmann, Kraay and Mastruzzi, 2010: 4).

Generally speaking, the rationale of the rule of law institutions is to solve the ever present *principal-agent problematic* in politics, i.e. to structure the interaction between population ("people") on the one hand and political elites ("les dirigeants") on the other hand in terms of rules of governance.

Now, a few economists have presented a challenging hypothesis about a crucial link between ethnic fragmentation and rule of law that would explain the meagre results for the African continent since the year of independence (Alesina et al., 2005). Moreover, in African societies with high ethnic heterogeneity there would tend to be an undersupply of so-called public goods, because the various tribes would quarrel constantly about how to contribute to goods and services that are indivisible. And public goods could be allocated so that one tribe or part of the country receives more than another. There are several hypotheses that may account for the slow economic growth rates in many African countries besides extractive institutions like civil war, anarchy and anomie as well as embezzlement or corruption.

When players make institutional change, they may fail to take the best alternative from a long-term perspective. However, the fact that players often make mistakes about institutions does not imply that institutional development sometimes could not be efficiency enhancing. Take the example of global banking regulation by means of the Basel I, II and III frameworks. One may combine RC and institutionalism in various theories, all claiming that rules matter besides preferences. However, extreme institutionalism argues that rules determine peoples' behaviour. This thesis is not acceptable within RC institutionalism, which claims that people change the rules in a rational manner, calculating the value of alternative framing of institutions. The difficulty with RC institutionalism is the implicit assumption about social teleology or beneficial evolution. It happens that countries introduce inferior institutions that hamper development. But why? Once they realise the mistake, why do they not change the institution as soon as possible? Once an institution is in place, there may exist strong interests that want to maintain it, even if it is malfunctioning. Thus, institutional evolution towards greater efficiency cannot be taken for granted.

Institutions as Political Structures of Governance

March and Olsen (2005: 4) state that “*Institutionalism, as that term is used here, connotes a general approach to the study of political institutions...*”, which for political science has meant a focus upon concrete political institutions: “*the legislature, executive, bureaucracy, judiciary and the electoral system.*” (March & Olsen, 2005: 7)

We have here the second meaning of institution from the dictionaries above, namely institution as organisation. In what is referred to as “sociological institutionalism” a radical theory of institutions is presented that is aimed at challenging rational choice. This neo-institutionalist theory suggests a whole different conceptualization of institutions and outlines a theory of human motivation that supposedly supplants the RC framework. I will discuss its two tenets:

- a) Institutions include more than rules;
- b) Human behaviour is driven by institutions.

One may consult the many publications by Johan P. Olsen, regarding himself as the perhaps key exponent of radical institutionalism. The first thesis is the ontological one, stating that society consists of institutions. The second thesis is the explanatory one, claiming that understanding individual action entails to use the “logic of appropriateness”.

The Ontological Thesis: Institutions as Real Political Structures

“Institution” denotes a set of organisations or political structures like legislatures, cabinets or governments, the judiciary and the bureaucracy. Political institutions are the basic parts of the state, consisting of thousands of individuals partaking in collaborative efforts. There are public and private institutions besides the political ones, like universities and enterprises as well as banks. Radical institutionalism offers a theory of all institutions underling their wholeness, solidarity and collectiveness. Thus, we read from March and Olsen, 2005:

“An institution is a relatively enduring collection of rules and organized practices, embedded in structures of meaning and resources that are invariant in the face of turnover of individuals and relatively resilient to idiosyncratic preferences and expectations of individuals and changing external circumstances (March & Olsen, 1989, 1995: 4).”

One may ask: What is this definition of “institution” true of? The US Congress, the Norwegian *Stortinget* or the German *Reichstag*? Actually, this definition leaves out the most important feature of legislatures, namely the actors and their preferences. The aggregation of individual preferences into a social choice is the hallmark of legislative institutions.

Political institutions, according to Olsen, have the following characteristic properties: memory, structures of meaning (?) and resources. But they also have: culture, rules, division of labour and hierarchy, which make them into social systems (Olsen, 2013). Political institutions tend almost to prevail over individuals (“idiosyncratic preferences”) to such an extent that they almost dominate the political landscape.

Thus, it is not only the case that institutions to Olsen are giant political structures like legislatures, presidencies, judicial branches and systems of bureaux. Olson also presents a framework of analysis of these public organisations that is in line with the general organisational models of bounded rationality

and garbage can, applicable also to private organisations like firms and joint-stock companies.

An alternative framework of analysis would look upon institutions as webs of contracts, underlining that organisations live under a rationality assumption (Thompson, 2003; Milgrom & Roberts, 1992). Here, the assumption is that of *Quid pro Quo*, i.e. organisations must deliver or display performances in accordance with promises, expectations and cost estimates. This approach leads to considerations of strategy and tactics as well as principal-agent deliberations about remuneration and punishment, according to the economics of information.

The ontological commitment of radical institutionalism is a strong one, amounting to a belief in institutions as actors besides individuals. Thus, the British Parliament is something more than the collection of MPs at any moment in time. Its activities mould the decisions of individuals, MPs or employees, with the result that the British Parliament has interests that go beyond those of the involved individuals. It is not easy to see how a complex notion like March and Olsen’s definition of “institution” above could be translated into testable empirical propositions about political structures. It is not on par with middle-range institutionalist hypotheses like consensus democracy (Lijphart, 1984) or presidentialism (Linz, 1994) and federalism (Riker, 1975) which satisfy the criterion of falsifiability.

This doctrine is called variously holism or emergent properties—denounced sometimes as scientism or historicism. It is probably untenable. Only human beings pursue objectives, as *methodological individualism* claims. When organisations act like government, the bureau, the university etc, then it is always a group of people who act together somehow in accordance with the rules of the organization. When the people in the organizations change, then it is probable that other actions will be taken place, reflecting new interests. To speak of Pentagon or “*Wehrmacht*” as if it was a single institution with own goals and unique agency is more confusing than clarifying. Understanding what an “institution” does means to analyse how certain key players influence the agenda of the organization and directs it towards these objectives. Take away the people and their preferences and strategic behaviour, and there is nothing left of the institution.

The Explanation Thesis: “Logic of Appropriateness”

This thesis argues that people are driven by rules. It is thus an institutionalist argument but in the first meaning of “institutions”, namely rules. When “institution” stands for organizations, then there is no assumption about what drives individuals in these organizations. The explanation of human behaviour by means of rules militates against RC, as RC would include rules in the conditions for actions, but place the emphasis upon the calculation of benefits and costs.

The major difficulty with the notion of a behavioural logic of appropriateness is that it does not square with elementary observations about how human beings relate to rules. People take the existence of rules into account—this is no doubt true, whether in order to comply or to break the rules. However, at the core of human behaviour is the calculus of benefits and costs in relation to the observation or not of rules in place. Thus, people obey rules because it is advantageous to them or because they consider the rules legitimate. They are not merely driven by rules.

In any action, existing rules may be taken into account by the

player, but it is his/her consideration to follow or disobey the rule that counts. In this deliberation about what is advantageous to do, obeying the rules is one serious consideration. Breaking a rule may bring costs to the player that are not compensated for by other benefits from disobeying the rule. It is not the rule in itself that determines the action, but the weighing of benefits and costs linked with the rule. Players figure out the rules of the games in order to work the system to their advantage.

The new institutionalism in the social sciences claims that besides the logic of consequentialism, typical of rational choice modelling, there is somehow a “logic of appropriateness”. Two major scholars in organisation theory state:

The logic of appropriateness is a perspective on how human action is to be interpreted. Action, policy making included, is seen as driven by rules of appropriate or exemplary behavior, organized into institutions. The appropriateness of rules includes both cognitive and normative components (March & Olsen 1995: 30-31). Rules are followed because they are seen as natural, rightful, expected, and legitimate. Actors seek to fulfill the obligations encapsulated in a role, an identity, a membership in a political community or group, and the ethos, practices and expectations of its institutions. Embedded in a social collectivity, they do what they see as appropriate for themselves in a specific type of situation. (March & Olsen, 2004: 3)

The idea that people would follow rules when considered legitimate could not amount to a full theory of human motivation. People act because they have *reasons*, i.e. wants and beliefs meaning incentives. Rules, or better beliefs about rule, may figure prominently in some reasons, but rules are not in themselves reasons of action. In the philosophy of action, the enigmatic problem is the link between reason and action, whether empirical or logical (Davidson, 2006; von Wright, 2004).

Working the system: But rules may enter reasons, as in the notion of “working the system”: People who succeed in life know the rules in place that constrain action and they take them into account when developing strategies in order to achieve their goals. Better to obey the norms in place than breaking them! But this does not imply that the rules determine the behaviour. The actor simply takes the belief in the legitimacy of the rules in place into account, when developing a strategy to accomplish his/her ends. There exists no logic of appropriateness, as action ensues from incentives, not rules, or beliefs about rules, in themselves.

Preferences, Beliefs and Rules

Institutionalism, or the thesis that “institutions matter” may be reconciled with the rational choice approach, underlining the role of incentives. Institutions as rules that are enforced with a certain probability restrain the set of alternatives of action, which is highly relevant when explaining the course of behaviour. However, radical institutionalism offers a stronger thesis, namely that institutions alone can explain social phenomena. In the literature, there is one main version of radical institutionalism, i.e. that of March and Olsen.

Radical institutionalism speaks of rules as the explanation of behaviour or interaction. But can a rule be *the* cause of an action. A rule involves a norm stating what to do. As social reality is replete with norms of various types, they are crucial for understanding how social activity is norm based. The strong thesis about institutionality claims that institutions offer both

necessary and sufficient conditions for an action. How is this to be understood? And how is such a thick concept of an institution to be specified?

Preferences direct behaviour, but it takes information about the rules into account in several ways:

1) Direct Rule Observation

Some actions like tax declarations for instance directly target a body of rules. The player may respect these rules or attempt to bypass them somehow. He/she may claim that they are not crystal clear, hoping to use loopholes.

2) Indirect Rule Observation

Other actions take the existence of rules into account but the main objective is not the observation of the rules. In a marriage act, people marry because they want to live together, not because they wish to follow the rules in place.

Radical institutionalism wants to replace rational choice as the main paradigm for the social sciences. It is hardly a tenable or promising approach, as human behaviour is much determined by preferences. This is why game theory has so much to teach social scientists, because it focuses upon choice and models the walk of life according to Kierkegaard’s notion of indeterminacy and personal responsibility. Actually, there is no logic of appropriateness, because human beings as players will always take the existing norms or systems into account when they act, but the driving force comes from interests or wants. Evidently, in the organisation of the Eurozone incentives have trumped any logic of appropriateness, as several countries have been driven by incentives to defect from the basic rules in the Maastricht institution.

In any form of intentional behaviour, it is incentives, expected benefits and costs that constitute motivation. Rules or norms restrain behaviour but action is never “driven by rules”, as players decide to take them into account, respecting them or reneging upon them, depending upon which strategy is most beneficial to them, in view of their incentives. To be considered “natural, rightful, expected and legitimate”, rules must be combined with an enforcement mechanism. Norms are never self-enforceable. As Weber (1907) emphasized in his painstaking critique of Stammler, one has to be careful not to commit the sin of social teleology, assuming that “natural” or “legitimate” rules are simply fulfilled because they are “rightful” norms or institutions (Weber, 1988).

Human behaviour can be analysed as intentional activity except when it is a matter of emotional behaviour or custom. It is a major philosophical issue whether the intention behind behaviour is a so-called *Humean* cause. The analysis of intentions may be expanded to include not only complex means-end chains but also beliefs. Thus, it has been argued that intentional human behaviour falls outside of the concept of causality as constant conjunction. Instead, the intention behind behaviour offers a necessary or sufficient reason for undertaking an activity. And reasons are simply not *Humean* causes. This position in the philosophy of action is rejected by philosophers who adhere to the unity of science program, which argues *inter alia* that the principles of causality, derivable from Hume, apply to all domains of reality (Davidson, 2006).

Yet, whether reasons constitute *Humean* causes or not is certainly a major problematic for the social sciences, but the point to be emphasized here is that human beings do not normally have an intention to follow a rule simply because it is part of an institution. People, whether in public or private roles, adhere or

break a rule or norm because they gain from such behaviour, at least so they believe.

Rules of the Game: Chess as Base Model

Rules may be formulated in so-called deontic sentences, stating what is allowed, obligatory and forbidden in social life. A rule when enforced constitutes an institution. The game of chess offers a most simple but convenient model of social action or interaction, comprising:

- 1) incentives, or the will to prevail or at least score even.
- 2) rules, or the norms about permissible and obligatory moves.

To enforce these rules, there is an umpire. In social and economic interaction, human motivation varies as to the strength of the incentives, as well as with regard to the transparency of the guiding rules. Often the judiciary is the ultimate umpire, especially when the rules in question are to be enforced as law. The rules of chess do not determine the course of game, nor is the will to win a sufficient condition for such an outcome. What is decisive besides rules and incentives is the capacity to make strategy and employ tactics. So it is in much of social life.

In the chess model of social interaction, the institutions of chess are the rule of the game, as laid down in international conventions and enforced as regularities by umpires. Agency only belongs to the players, who are motivated by the desire to play and perhaps win. The game itself as it unfolds in each single instance is determined by strategy and tactics.

The EU Institutions: Rules and Organisations

The institutions of the Union are made up of various entities, corresponding to the ambiguity in the concept of an institution. Thus, we have the structure of political organisations in Brussels on the one hand and the rules and social practices making up the integration of the member state countries on the other hand. EU regulation comprises thousands of rules about activities in the Euroland, including the four freedoms. It is party treaty law, legislation and court rulings, like e.g. the famous *Cassis de Dijon* decision of the European Court of Justice.

European Union decision-making produces rules for the activities of member states in accordance with its regime: institutions as regulation. One may distinguish between the rules that govern legislation in the sense of hard law, binding on the Union individual members and soft law meaning norms or policies that are recommendations or conventions: Hard Law and Regulation—the Community Method; Soft Law and Partnership—the Open Method of Coordination. By means of the governance regime for the EU, the activities—economic, environmental and social—are regulated by thousands of norms.

The EU as a structure of political institutions: To what extent is there now a theory of the European Union as a set of organizations interacting in terms of a set of rules? The two main contenders have been functionalism and inter-governmentalism. Some institutional questions on EU include:

- Is the EU a state? This is an institutional question about the nature of EU as regional mechanism.
- Is the EU a federation? Or is the EU a coming federal state?
- Does the EU have certain institutional flaws like a “joint decision trap”?
- Is the EU multi-level governance?

How can EU be reformed?

In the debate upon the EU and its institutions it is argued that the EU does not operate in an optimal fashion. The gist of the critique against the EU is that it is not strong enough to engage in community wide decision-making, either internally or externally. Some scholars blame the institutions of the EU (Scharpf), whereas other scholars envision changes in the operations of the EU Parliament (Hix), becoming a strong legislative body delivering legitimacy to the EU. Yet one may pose the question: preferences or rules—what restrain in reality the EU policy-making?

“Europeanisation”

In the neo-institutionalist literature on the EU, there has emerged a key term recently: “Europeanisation”. There is actually already a handbook on Europeanisation despite the fact that the concept(s) was constructed as late as around 2000. Examining the already large set of books and articles dealing with Europeanisation, one arrives at the following list of topics covered by this term:

- 1) The impact of EU law upon the policies and rules in member states;
- 2) The impact of EU institutions upon the political institutions in the member states;
- 3) The impact of member states’ institutions upon EU law and policies;
- 4) The impact of EU upon other regional organisations in the world, like ASEAN, UNASUR, ECOWAS, etc;
- 5) The impact of EU upon outside states in so far as they accept or introduce EU institutions, like rules about human rights or rule of law.

Two things may be pointed out in relation to this list of clearly different meanings, which must give rise to ambiguity:

- a) The meanings 1 and 2 above seems to make perfect sense, as the creation of the EU is a major event in world history, involving a lot: political bodies, budgets, bureaucracies, legal order, foreign policy, the Schengen regime, etc;
- b) Meaning 3 appear somewhat out of place, because it reverses the direction of influence postulated in means 1 and 2;
- c) Behind the meaning 4, there is the hypothesis that the EU model of regional integration is somehow the guiding one, globally speaking. Yet, this amount to a completely unfounded belief, the EU being somehow *THE* model of regional integration;
- d) “Europeanisation” meaning the acceptance of any state of rules concerning human rights in particular or rule of institutions in general is a misnomer. Both rule of law and human rights constitute a universal patrimony that cannot be designated “European”.

I would claim that only meanings 1 and 2 can be defended as promising. The findings in this literature can be summarised as follows: The impact of EU on the legal order of member states—meaning 1—is extensive, whereas there is little of any impact upon the structure of political institutions—meaning 2, with perhaps the exception of a few Eastern European countries that may have introduced their constitutional changes in the hope of thus qualifying for EU membership.

One may analyse the interactions between the EU on the one hand and its so-called partners around the Mediterranean Sea as examples of Europeanisation in action, the EU promising support on the condition of these governments accepting rule of

law and human rights. In relation to Turkey's membership application, the EU employs the enforcement of human rights as one of its basic conditions for entrance. Yet, this type of interaction for whatever it is worth does not make these institutions "European". In addition, one may remain sceptical about these reasons for endorsing universal or cosmopolitan institutions, as they may merely constitute bargaining chips for the promotion of other more mundane interests.

Conclusion

In the philosophy of the social sciences, there has been much interest in the ontological status of institutions. Thus, it has been claimed that institutionality is closely linked with normativity, constituting a rule or norm dimension that is entirely lacking in the subject matter of the natural sciences (Winch, 1984), calling for a method of explanation that is different from the covering laws approach with scholars underlining the principle of causality. When examining in depth what "institution" stands for in the emerging literature called "new institutionalism" in economics and political science, one encounters conceptual ambiguity, "institution" denoting:

- 1) Rules or social practice;
- 2) Organisations or political structures of governance.

This conceptual ambiguity is well reflected in the two major schools of neo-institutionalism: atomistic versus holistic approaches. Thus, one may theorize whether a rule like private property rights or the capacity to create house mortgages propels economic development. Or one may analyse the political institutions of a country, whether they are democratic or authoritarian, etc. Both senses of "institution" are often occurring in the literature and quite legitimate. One should not confuse these different concepts.

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