LUDWIG-MAXIMILIANS-UNIVERSITÄT MÜNCHEN

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A Complexity-Capacity Paradox? Why Constrained States Make Increasingly Complex Policies and How This Affects Democracy

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Starting Point and Research Objectives

The starting point of the project was the observation of a seemingly paradoxical development of expanding policy outputs and policy complexity in many modern democracies, although governments generally face increasing constraints when trying to extend their involvement and intervention in many policy sectors. Obviously, governments are actually trying to balance the mismatch between limitations of supply and growing demand by increased policy complexity; implying that governments might achieve less by doing more.

The central objective of the project was to investigate this general development in more detail, focusing on the comparative analysis of environmental, social, and morality policies. More specifically, two questions have been addressed:
(1) To what extent is our impression of growing policy complexity correct and how can we actually measure and explain complexity in the first place?
(2) What are the consequences of growing complexity for democratic legitimacy?

Analytical Approach and Research Design

To address the above questions, we first needed to develop an analytical concept for investigating policy complexity across countries, policy sectors and over time. In so doing, we relied on the concept of policy accumulation. We regard policy accumulation as the end result of a continuous addition of new policy elements to existing policy portfolios without the compensatory reduction of already existing policy elements. In other words, policy accumulation occurs whenever states adopt new rules without abolishing others. If lawmakers decide to replace one policy element with another, the size of the policy portfolio remains stable. Likewise, if states drop a policy element without introducing a replacement, a policy portfolio reduces in size. Accordingly, our notion of policy accumulation is strongly connected to the concept of policy layering (Schickler, 2001; Thelen, 2003). Rooted in the historical-institutionalist school of thought, policy layering describes a process of institutional evolution in which institutional arrangements are gradually enhanced with new elements while the pre-existing institutional structure, which has become entrenched through the vested interests defending it (Pierson, 2000), remains stable. In line with Thelen (2003), we argue that such processes of policy layering are pervasive in modern democracies, and while the motivations that drive policy layering are manifold, policy layering inevitably leads to policy accumulation.

Given our conceptualization of policy accumulation as the accumulation of policy elements, we need a sound operational understanding of how we conceive of policy elements. For our purposes, a policy element constitutes the combination of a policy target and a policy instrument. While policy targets define what or who is being addressed by a new policy, policy instruments define how the target is being addressed (Eladis et al., 2005). We are not interested in the restrictiveness or generosity of a certain policy – the setting of the policy instruments – since changes in instrument settings do not contribute to the size of the policy portfolio. Instead, we are interested in the introduction of new policy instruments and/or the widening of the scope of existing policy instruments to new policy targets.

The analysis of policy accumulation has been based on

the quantitative analysis of different datasets compiled in different previous projects by the researcher in residence and his group. The latter include the EU and ERC-funded projects ENVIPOLCON, CONSENSUS, and MORAPOL. In order to analyze the effects on policy accumulation, we relied on a combination of quantitative and qualitative methods (case studies).

Measuring Policy Complexity: Policy Accumulation and Democratic Overload

Systematic data on regulatory output, qualitative inquiry, and personal experience all confirm that policy accumulation is the common trend that reaches across policy sectors and democratic systems. This development is most intuitive in the context of environmental policy. While there have been only few environmental policies in the 1960s, today most developed democracies have accumulated a significant inventory of environmental rules and regulations.

Though expansion and accumulation may be unsurprising in environmental policy, it is interesting to note that this regulatory trend is evident even in the context of social welfare state policies, a sector that has been under constant consolidation and dismantling pressures due to constrained public budgets. One reason for this is that the regulatory state has in many ways 'come to the rescue of the welfare state' with the adoption of rent control measures or minimum wage provisions (Levi-Faur, 2014). Another reason is that in many instances, in order to save money, the eligibility of social programs is restricted by additional conditions and exemptions. Even in the context of so-called morality policies that comprise the regulation of prostitution or gambling, for example, the regulatory trend is one of accumulation instead of change or dismantling. This has a lot to do with the ways in which many of these areas have been liberalized. Once prohibitions on prostitution are loosened and it is treated like a regular service industry, the

sector obtains industry regulations that are similar to those of other sectors.

Generally speaking, we see that government programs, subsidies, tax-based incentives, information campaigns, offers, rules, and sanctions continue to pile up in modern democracies. And we should be happy that they do. In many ways, this accumulation of public policy measures is the hard-fought result of democratically led battles whose aims were to mitigate pressing societal, economic, or environmental problems. While Pierson and Hacker suggest that many people forget about the important benefits of regulation and government intervention (Pierson & Hacker, 2016), we are confident that most people are happy not to live in a country that still trusts in the social policy portfolio of the 1870s or the environmental policy portfolio of the 1950s. Accumulating public policies has achieved substantial improvements in public health, social protection, water quality of rivers and lakes, and many areas of individual rights.

And yet the continuous expansion and differentiation of policy portfolios is a highly ambivalent process, representing the political manifestation of progress on the one hand while demanding significant investment in administration, analysis, and communication on the other. Criticism of continuous government expansion had its heydays in the 1980s, when the political right, with Margaret Thatcher and Ronald Reagan acting as leading figures, aggressively decried the 'evils of government expansion'. While these actors described central aspects of policy accumulation, they framed the problem one-dimensionally. Essentially, this accumulation was criticized as a move towards the 'nanny state', which cuts deep into individuals' freedoms and thereby undermines entrepreneurial drive and competition as the foundation of economic prosperity. In part, this rhetoric still persists, and attempts to engage in de-bureaucratization and to cut red tape have left their institutional marks in

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most countries in the form of regulatory control boards.

The debate between proponents and opponents of deregulation seems to be largely stuck in this period of the 1980s. We believe this to be problematic for two reasons. First, the problems that come with continuous policy accumulation and rule growth are more far-reaching than is suggested by that debate. These include the economic downside of regulatory burdens on businesses that hamper entrepreneurship and business development, as well as the sheer volume and complexity of policies that threaten the timely and non-selective implementation and enforcement by frontline bureaucrats, limit our ability to engage in policy substance instead of politics, and challenge our ability to develop evidence-based refinements of highly complex policy mixes. The diagnosis of the 1980s is too narrow, however, focusing only on the problems of policy accumulation while ignoring its enormous benefits, and the prescribed treatment – large-scale deregulation – was flawed. While research into the termination of government programs and public policies has shown that deregulation is very difficult to achieve, our knowledge about the benefits of public policy leads us to question whether its achievement is, in fact, desirable. Consequently, our project proposes investing in ways to strengthen our democratic infrastructure that carries the weight of accumulating policies in order to ensure that policy accumulation is sustainable.

To some extent, this project also touches on the debate on government overload and 'ungovernability' that was prominent in the 1970s (Crozier et al., 1975; King, 1975; Rose, 1979). The central concern in this debate was that democratic governments were ill equipped to respond to the increasing and increasingly widespread demands that society directed at them. After all, democratic policy making came to be seen as being responsible for solving problems in almost every aspect of life. Overburdened with these demands, many

analytical observers feared that democracies' ability to make decisions would diminish. This in turn would undermine their perceived legitimacy and consequently lead to democracies' decline. Furthermore, democracies' legitimacy was seen to be in danger because it largely relied on the ability to equitably distribute wealth created by strong economic growth. Declining rates of economic growth would eventually leave democracies unable to develop strong political responses to the societal problems capitalist societies tend to develop. Instead, states would be restricted to incremental refinements and rearrangements of established policies, mechanisms, and programs that would be increasingly unfit to mitigate problems and generate legitimacy for democratic government (Offe, 1972).

So far, these fears do not seem to have materialized; over the past few decades, we have witnessed an increase rather than a decline in democratic governments across the globe (Huntington, 1993). In fact, democratic governments seem to have been quite resilient in the face of these pressures. They have responded to increasingly heterogeneous societal demands by branching out considerably into all aspects of life and society. And despite – and partly because off – declining rates of economic growth, they have managed to increase considerably the overall volume of law and to continuously fill their policy portfolios.

We believe that the resulting pile up of accumulated rules and policies has started to create problems of overload. In contrast to the above-mentioned overload problems discussed in the 1970s, the overload problems we focus on here do not so much affect policy makers and their ability to make decisions as they threaten to overburden our very administrative systems and the public arenas within which political discourse takes place.

Consequences: A Democratic Responsiveness Trap?

The key virtue – and problem – of modern democracies is their responsiveness to societal demands. Ignoring societal demands is not an option for democratic governments if they are interested in staying in power. While autocratic leaders can afford to bypass the popular will (at least until the threshold of rebellion is reached), democratic governments risk losing their power if they fail to live up to the expectations of the populace. Responsiveness is the main source of legitimacy for democratic governments. And despite the unavoidable criticism of not meeting societal demands, most democratic governments have been remarkably responsive and productive over recent decades. Although policy dismantling and termination has proved to be very difficult (Pierson, 1994; Bauer et al., 2012; Bauer & Adam, forthcoming), policy makers have found ways in many areas to respond to societal demands by amendment and accumulation. As we will argue, this process of continuous policy accumulation tends to come with three noteworthy side effects that threaten to undermine the input and output legitimacy of democratic government (Scharpf, 2003).

First, continuous policy accumulation has created increasingly complex policy mixes and a stock of rules and programmes that is increasingly difficult to grasp in its comprehensiveness. In other words, the substance of public policy has become more and more complex. While expert arenas of policy debate might be able to keep up with the complexity of the substance of policies, the characteristics of arenas of public debate, such as most television formats, leave them unfit to carry this level of complexity. In this way, the process of policy accumulation threatens to crowd out policy substance from public political debates. The resulting tendency to talk politics instead of policy challenges the input legitimacy of political decisions. This is where we see the responsiveness trap click first.

Second, democratic responsiveness is often focused more on the delivery of new policy outputs than on their implementation. Once individual laws and regulations are adopted, they move off the desks of policy makers and onto the desks of lower-level frontline bureaucrats, where implementation burdens accumulate, very often without adequate financial and staff resources to handle the additional workload and complexity. As implementation burdens continue to accumulate, the prevalence of administrative backlog and selective implementation increases. As the risk of generating systematically increasing implementation deficits threatens the output legitimacy of democratic governments, the responsiveness trap clicks a second time.

Third, the output legitimacy of democratic governments relies on perceptions of policy effectiveness and therefore on our interpretation of the results of policy evaluations. In order to evaluate increasingly complex policy mixes in a way that enables us to refine these mixes based on evidence, we require knowledge not only about their effectiveness collectively but also about the effectiveness of the individual elements within policy mixes – how the effects of one element within the mix are conditioned by other elements within that same mix. This knowledge is crucial to refining domestic policy mixes and to forming educated guesses about effectiveness when an element is transferred into a foreign policy mix.

To some extent, the increasing complexity of these mixes creates methodological challenges because of the growing number of policy-inherent parameters that have to be handled in such evaluations. More importantly, however, this complexity creates a communicative challenge. Conditional effects, particularly when multiple conditions apply at the same time, are inherently difficult to analyse, interpret, and communicate to decision makers. While evaluations strive to contextualize results and identify highly complex conditional effects, such efforts themselves can often

undermine the ability of these results to affect decision makers' thinking about policy effectiveness. We fear that this leads to a paradoxical situation in which increasingly sophisticated and nuanced evidence about policy effectiveness will matter less and less to policy makers' thinking because of its very sophistication and nuance. Policy accumulation calls for the identification of highly complex conditional effects. Changing policy makers' prior beliefs about policy effectiveness tends to be difficult when results are blurred by nuance and conditionality. Where it becomes increasingly difficult to interpret and communicate evidence about the effectiveness of an individual response to societal demands due to the highly complex interactions of this response with all the other responses given in the past, evidence-based refinements of complex policy mixes become increasingly difficult to achieve, and the responsiveness trap clicks a third time.

In combination, these three mechanisms tie the immediate responsiveness to societal demands to the long-term threat to the legitimacy of democratic government. From this perspective, responsiveness to societal demands appears to be a two-edged sword that leaves policy makers stuck in a responsiveness trap: being unresponsive will undermine their legitimacy, while being responsive – and thereby accumulating policies and regulations – will slowly and silently overburden the administrative, evaluative, and communicative capacities that help support the legitimacy of democratic government in the long run. Figure 1 illustrates this argument graphically.

Implications for Future Research
Our research has been conducted at a time when the worlds of politics and academia worry about democracy. These concerns are narrowly tied to the emergence of populist movements and parties, which combine nationalist, xenophobic, and protectionist tendencies with a stunning disregard for scientific evidence or factual knowledge. These populist actors are seen as exogenous threats to democratic governance. With this project, we shed light on the continuous process of policy accumulation as an endogenous threat to democratic governance. While we do not try to claim that policy accumulation promotes the emergence of populist movements, we do believe that the process of policy accumulation in many ways creates a political environment within which these populist actors can
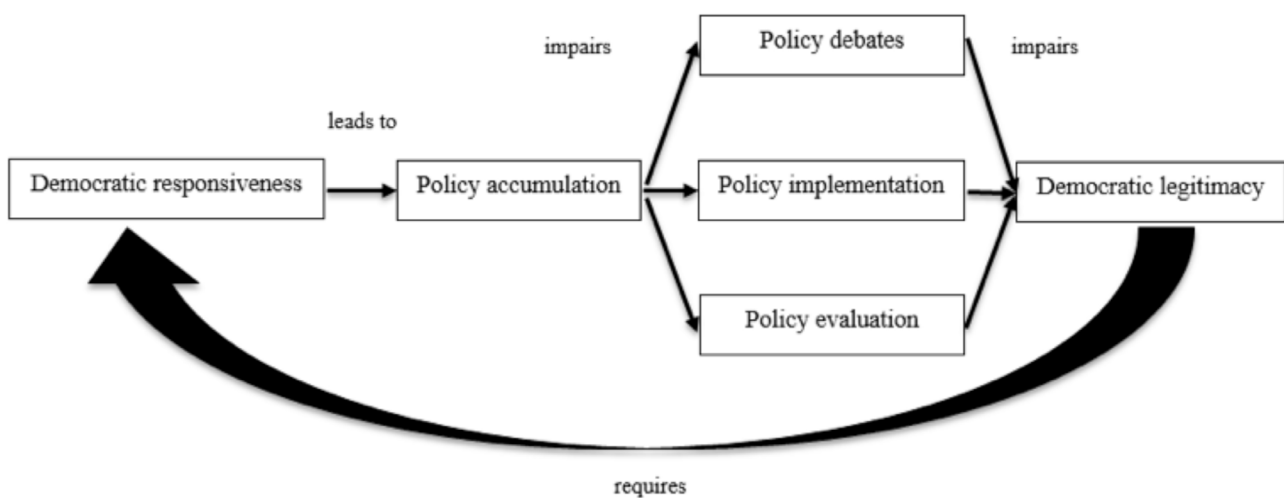

Figure 1: The Responsiveness Trap

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thrive. Where selective implementation soars, evidence is increasingly difficult to process, and as an attentive public talks politics instead of policy, specific instances of frustration with the state might very well spill over into more generalised frustration with the state as such. Against this background, we should not be too surprised that it has proven rather easy to mobilise angry, frustrated, and uninformed citizens.

Although policy accumulation has helped to create a comfortable environment for these foes of democracy, our findings should not be read as a call for policy dismantling. Policy accumulation is the result of the democratic struggle for progress and modernisation that has, in the aggregate, made our lives better. Our goal should be to enable democratic systems to promote sustainable policy accumulation. Everyone is aware of the need to improve the financial sustainability of modern democracies. A similar awareness must now extend to the dangers of a lack of regulatory sustainability.

Future research should address potential pathways of ensuring sustainable policy accumulation. In this regard we think that especially four factors should be considered in more detail: better vertical coordination between policy makers and frontline bureaucrats; investment in the public sector and its employees; civic education; and statistical literacy.

The institutionalization of enhanced vertical coordination between policy makers and frontline bureaucrats could help avoid excessive policy accumulation in areas where implementation and enforcement are most problematic. Vertical coordination is institutionalized when it takes place regularly and is acknowledged as part of the job description of relevant policy makers and frontline bureaucrats. To some extent, calculation of compliance costs already helps to achieve some level of vertical coordination. This takes place, however, rather late in the legislative process. Continuous vertical coordination that allows for the exchange of information at the early stages of the legislative or regulatory process would be more helpful in this regard. Even where additional implementation burdens cannot be avoided with this approach, it will equip frontline bureaucrats with a better chance to obtain the resources and staff necessary to appropriately implement and enforce additional policies.

Investment in the public sector and its employees – the people who bring public policies to life – is critical if we want public policies to work effectively. After all, their way of coping with increasing implementation burdens is essential to our overall ability to solve societal problems and to the experiences that citizens collect first hand with representatives of the government.

Civic education can help us carry an increasing level of policy-inherent complexity without substantial legitimacy problems. At the moment, education about democracy and politics focuses overwhelmingly on identifying political institutions and explaining how they interact. Policy-specific knowledge plays a much smaller role. How does our pension system work? How has our educational policy changed over time? And how does our tax system differ from the tax system of other countries? Many of these questions seem too complex to be taught to younger students. Yet knowledge about them is essential if we hope to raise educated citizens who are able to follow increasingly complex policy debates, ask the right kind of questions, and make informed political choices.

Finally, we believe that statistical literacy is essential. We have tried to describe the difficulties involved in interpreting complex conditional results in an appropriate way. In a world of big data, substantial policy complexity, increasing statistical and methodological sophistication, and a pressure to base policy decisions on evidence, the ability to assess the robustness of claims about cause and effect and the ability to interpret complex descriptive statistics is increasingly important. Current trends towards more sophisticated approaches in data visualization will be very helpful

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in this regard, since they help us to communicate complex results and relationships more easily. At the same time, in a world that runs on data, knowing how to analyse and interpret data analyses is a basic set of skills that we need to integrate into our school systems much more aggressively.

Guest Researchers and Workshop

During our stay at CAS, our research benefited tremendously from the exchange with a range of highly distinguished guest researchers. With Carmine Bianchi (University of Palermo), we discussed how the notion of policy complexity fits with existing research in the area of system dynamics. The established contacts with Carmine Bianchi will certainly also prove valuable for future research collaborations.

Together with Guy B. Peters (University of Pittsburgh) we drafted a paper which is currently under review at the *Journal of Comparative Policy Analysis*. In the paper, we investigate how barriers to vertical policy coordination aggravate the negative consequences of policy accumulation. The cooperation with Guy B. Peters, who is one of the most experienced and most cited researchers in public administration, was also particularly beneficial for the junior members of the research team. Furthermore, Isabelle Engeli (University of Bath) was a great source of inspiration for our book manuscript, as she provided us with many constructive comments based on her theoretical perspective on the policy process. Finally, we profited enormously from the stay of Christian Breunig (University of Konstanz) and of André Bächtiger (University of Stuttgart). Christian Breunig read the early draft of our book manuscript very carefully, and his comments helped us to improve the book significantly.

Our CAS workshop "What Next for the State? General Trends and Challenges for Democratic Policy-Making" was extraordinarily helpful for us, as it enabled us to receive final comments on our book manuscript from a distinguished set of scholars. Over the summer, we engaged with these comments and integrated them into our manuscript. Next to Christian Breunig, we received useful feedback from all participants of the workshop: Frank Nullmeier (University of Bremen), Esther Versluis (University of Maastricht), Fritz Sager (University of Bern), and Peter John (King's College London). Yet, the workshop was not only beneficial for our book project, but also helped us to establish a network of scholars whose work is closely related to our approach. The papers presented by the workshop participants spoke to the general theme of our research stay and thus were very inspirational for us.

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