Exploring Authority Migration in Systems of Multilevel Governance: 
A Historical-institutionalist Framework

Jörg Broschek
Technische Universität Darmstadt
Institut für Politikwissenschaft
Residenzschloss
64283 Darmstadt
Germany

broschek@pg.tu-darmstadt.de
phone: +49 (0)6151 / 16-2837   |   fax: +49 (0)6151 / 16-4602

Paper prepared for the PSA Annual Conference
March 25 – 27, 2013, Cardiff
Exploring Authority Migration in Systems of Multilevel Governance: A Historical-institutionalist Framework

Introduction

Against the backdrop of a stylized concept of the territorially integrated modern nation state, an increasingly diversified literature – often deliberately cutting across the intra-disciplinary boundaries between Comparative Politics and International Relations – has highlighted that multilevel governance is and has always been an important feature of politics in Europe, North America and beyond. Accordingly, the formation and evolution of the modern nation state, which has for long been the primary unit for analyzing domestic and international politics, has never followed one standardized unidirectional path (Caporaso, 2000; King & Lieberman, 2009). However, while the scholarly literature on Europeanization, multilevel governance, regionalization and federalism shares a common concern about divided authority relationships between territorially defined political units, there has not been much exchange and cross-fertilization between these pockets of scholarship so far.¹ This article seeks to address this deficit by developing an analytical framework inspired by historical institutionalism for examining the dynamics of territorial politics in systems of multilevel governance in different contextual (i.e. historical and spatial) settings. It suggests that historical institutionalism has much potential to further enrich our palette of theories applied to examine different aspects of multilevel politics (see also Bulmer, 2009; Olsen, 2009; Pierson, 1996).

Drawing on illustrative case studies from North America and Europe, the article shows that varieties of multilevel governance architectures can – first of all – be captured as a historical outcome of the larger process of “political restructuring” (Bartolini, 2005; Ferrera, 2005), often reflecting manifest or dormant center-periphery cleavages. In the light of different historical constellations and contingencies at the time of their birth, it is hardly surprising that multilevel governance architectures are manifold. Most notably, they vary in terms of their institutional composition as they differently establish authority relationships between and among territorial jurisdictions through mechanisms of self-rule and shared rule. Second, institutionalized authority relationships in systems of multilevel governance are subject to change on a more or less ongoing basis. As a consequence, authority often “migrates” between territorial jurisdictions. However, the patterns of such institutional dynamics vary in terms of their direction, pace and depth. The second section therefore considers typological criteria that can help to analytically trace patterns of authority migration over time. Third, it is argued that the degree of institutional constraints entailed within systems of multilevel governance is important to understand how demands for change are differently filtered and channeled, thus encouraging often diverging patterns of authority migration. Accordingly, the third section seeks to move beyond “mere description” (Gerring, 2012), discussing the mechanisms responsible for varying dynamical adjustments. Overall, this framework can help to put into a comparative perspective related or even similar phenomena which are often assumed to be “sui generis” (like the EU) or “exceptionalist” (like the United States).

¹For important exceptions see in particular Hooghe and Marks (2003); Hooghe et al. (2010); Piattoni (2009); Skelcher (2005).
The Historical Construction of Multilevel Architectures and the Scope for Authority Migration

The vertical differentiation of territorially bounded sites of authority has always been an important feature of political order. Historically, multilevel governance architectures have emerged as an essential part of the larger process of political structuring. The notion of political (re-)structuring refers to the development and internal differentiation of those institutions intended to accommodate peripheral “protest” resulting from center-formation processes (Bartolini, 2005; Rokkan, 1999). From this conceptual angle, systems of multilevel governance represent institutionalized authority relationships between territorially defined entities that reflect the (sometimes latent or dormant) salience of center-periphery conflicts. Institutionally, multilevel governance architectures variously combine provisions that ensure shared-rule, for example through peripheral participation and representation in decision-making processes at the center, and self-rule through delimiting spheres of autonomous action for each governmental tier. Shared rule and self-rule should be thought of as a continuum of contrasting institutional principles to accommodate center-periphery conflicts. Whereas some multilevel governance architectures empirically lean more towards the pole of self-rule, others correspond more closely with the goal of shared rule.

Once set in place, systems of multilevel governance become subject to change on a more or less ongoing basis. Like in all instances of political order, authority is never fixed once and for all, but highly dynamic (Orren & Skowronek, 2004; Olsen, 2009). The notion of authority migration nicely captures the inherent dynamics of multilevel systems. According to Gerber and Kollmen (2004: 397), authority migration can be defined as “…the movement of power within a political system – both upwards (i.e. centralization) and downwards (i.e. decentralization or provincialization).” Most basically, authority migration can surface as institutionalization and re-institutionalization (see also Olsen, 2009: 10). Vertical authority migration through institutionalization refers to the process that generates relationships between territorially defined public authorities by linking them institutionally through a distribution of competences, rules that ensure mutual participation rights and intergovernmental bodies. Typical examples include the creation of a regionalized unitary state in which regional entities retain some form of autonomy or special representation rights at the center, federalization or a confederal order. Re-institutionalization refers to dynamics that alter the functioning principle and institutional logic of established authority relationships. Through various patterns of change, existing institutional arrangements among public authorities can shift over time. This implies rearrangements concerning how territorial entities are institutionally connected with each other through the intergovernmental arena or changes applying to the direction and locus of control of institutions through processes of centralization or decentralization (table 1).

---

2 For a related but not identical attempt to boil down the varieties of institutional configurations see Gerring et al. (2011), who distinguish between direct and indirect rule.
3 Here, de-institutionalization will not be treated as a third mode of institutional change. De-institutionalization refers to the deconstruction of authority relationships. In the event that all three linkages are affected by de-institutionalization, the established order ultimately becomes subject to breakdown rather than change like in the case of secession.
Table 1: Institutional Manifestations of Authority Migration in Systems of Multilevel Governance

<table>
<thead>
<tr>
<th>Institutionalization/ institution-building</th>
<th>Re-Institutionalization/ institutional change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distribution of competences</td>
<td>Creation of new legislative/executive authorities and a catalogue of competences</td>
</tr>
<tr>
<td>Mutual participation rights</td>
<td>Entrenchment of provisions ensuring mutual participation rights (e.g. Second Chamber, dual mandates, representation of peripheries in executive)</td>
</tr>
<tr>
<td>Intergovernmental arena</td>
<td>Creation of intergovernmental bodies</td>
</tr>
<tr>
<td>Examples</td>
<td>Creation of a (regionalized or decentralized) unitary state, supranational organization, federalization</td>
</tr>
</tbody>
</table>

Exploring authority migration through an analytical lens inspired by historical institutionalism can provide for more nuanced arguments about institutional origins and change than in many prevailing accounts, allowing to develop a rather fine-grained perspective on the contextual variations of political (re-)structuring. Structural or functional explanations, for example, view institutional development as a reaction to environmental shifts. Institutions are created as an effective response to problems emanating from the rather external realm of society and the international system. As such, functionalist accounts are well suited to identify the foundational sources that build up pressure and demands for authority migration like increasing transborder mobility of goods and “bads” through boundary redrawing, gradual changes in societal cleavages, technological innovations, shifting loyalties of citizens or “shocks” such as wars, revolutions, or economic crises. However, functional claims usually neglect that such imperatives are mediated and filtered through different institutional settings, which in turn may prompt diverging patterns of adjustment. In actor-centered approaches, like intergovernmentalism, institutions emerge since they serve the interests of rational actors. From this perspective, actors deliberately design new higher level institutions because they expect gains from mere intergovernmental cooperation. But just as in the case of functionalism, purely actor-centered accounts tend to ignore that institutional designers work in an institutional and ideological environment that is always already in place. Whether actors intend to create or change institutions as a functional response or because they appear to correspond with their individual preferences, both accounts pay insufficient attention to the historically constructed, pre-established constraints they encounter and which are likely to generate diverging outcomes.

Historical institutionalists neither deny outright the importance of functional imperatives for institutional development, nor do they disregard actors’ preferences and interests per se.  

In this vein, Thelen and Steinmo (1992, p. 9) have emphasized the question of exogenous or endogenous preference formation as the core difference between actor-centered approaches on the one, historical institutionalism on the other hand. In addition, as Pierson (2004, p. 103ff.) has discussed at length, the rational design perspective does not consider unintended consequences of institutional origins and change.
Moreover, historical institutionalism shares with rational choice institutionalism a common concern for constraints on action, which basically account for variation in outcomes. However, imperatives, preferences and interests serve as a starting rather than an endpoint for analysis (Pierson, 2004, p. 108). In historical institutionalism, it is the historically constructed nature of constraints that is ultimately of causal relevance. Craig Parsons (2007, pp. 12-18) has aptly described the logic of historical-institutionalist accounts as explanations of “…what people do as a function of their position within man-made organizations and rules (and the ‘path-dependent’ process implied by man-made constraints: people’s choices at time t alter their own constraints at time t + 1).” Historical institutionalism thus highlights that at any given point in time, the political world is already institutionalized. Institutions are the man-made consequences of earlier “resolved contingencies” (Parsons, 2007, p. 14) and shape the way how actors perceive existing problems and challenges at later points in time (Orren & Skowronek, 2004; Thelen & Steinmo, 1992).

Timing and sequencing represent an important source for the evolution of path-dependent constraints. In systems of multilevel governance, early contingent alignments of institutional linkages between territorial authorities can have important long-term consequences for how actors are variously furnished with power resources to effectively challenge or defend the status quo. The historical ordering of institutional linkages thus leads to differently composed architectures of multilevel governance, which vary in terms of the “man-made” constraints they embody. These historically constructed institutional “filters” can serve as an important point of entry into the comparative analysis of the dynamics of authority migration.

Most basically, the historical-institutionalist literature seeks to account for change in two distinct ways. First, as the nature of constraints entailed within institutional linkages that incorporate territorial power holders into a system of multilevel governance varies, entrepreneurial agents have different opportunities to gradually alter the status quo. In particular, as Pierson indicates, loosely coupled institutional arrangements are less constraining since the way they allocate authority tends to be more ambiguous than in tightly coupled architectures:

“Where demarcations of authority are ambiguous, original designers may be less capable of sustaining control over long-term paths of institutional development” (Pierson, 2004, p. 163).

In addition, loosely coupled arrangements offer less veto opportunities for status quo defending actors⁵ and provide entrepreneurial agents with exit options that usually do not exist if power holders are tightly coupled (Mahoney & Thelen, 2010). As a consequence, in loosely coupled arrangements entrepreneurial agents can more easily employ gradual change strategies than in tightly coupled institutional environments. Second, highly contingent and often exogenously induced critical junctures can open up new developmental pathways since they substantially relax institutional constraints for a rather brief moment in history (Capoccia & Kelemen, 2007; Slater & Simmons, 2010; Soifer, 2012). Especially in highly rigid, tightly coupled institutional settings critical junctures thus demarcate an important condition for change, facilitating a departure from the status quo hardly achievable in “normal” times.

The pre-existing institutional order thus creates incentives that are more or less rigid, constraining and, therefore, conducive to entrepreneurial politics. The degree of institutional rigidity that shapes the prospects for authority migration is contingent on the early alignment of different types of institutional mechanisms between territorially defined actors. These can

⁵ I consider governments, political parties and bureaucracies as most important collective actors that either seek to shift authority from one level to another (as entrepreneurial agents) or to repel such efforts (as status quo defending actors).
basically be of two types (Broschek 2011; 2012). If institutional mechanisms are primarily
destined to facilitate self-rule, territorial authorities are linked through loosely coupled, inter-
institutional mechanisms. Inter-institutional mechanisms loosely couple territorial authorities
through allocating power resources rather independently from each other. They provide for
territorial autonomy and diffusion of power by assigning jurisdictions dualistically,
empowering territorial authorities to decide and to act without (or only minor) mutual
interference. Political actors might create a system of intergovernmental relations in order to
co-operate bi- or multilaterally, but in case they do not come to an agreement they are still
free to change the status quo unilaterally within the scope of their respective jurisdictions.
Moreover, a dual allocation of competences is often fraught with considerable ambiguities as
it is notoriously difficult to determine exactly where the boundaries of subjects and matters
begin, and where they end. Entrepreneurial agents can exploit this institutional ambivalence
for a strategic redeployment of a given set of rules, especially when jurisdictions are not
clearly specified like in the area of concurrent legislation. Therefore, the degree of historically
constructed institutional constraints is rather low.

Inversely, if the institutional architecture serves to firmly entrench shared rule, territorial
authorities are connected through tightly coupled, intra-institutional mechanisms that generate
entanglement and mutual dependence. Therefore, intra-institutional mechanisms severely
limit the ability of territorial actors to act autonomously. Power resources are shared among
and between them, and they jointly participate in the exercise of authority. Most notably,
political actors are tightly coupled through a functional allocation of competences, assigning
the authority to legislate on one level of government while leaving the other level with the
authority to implement. Even though implementation still affords entrepreneurial agents with
some discretion over how a given rule is to be applied, their scope for autonomous action
remains limited and exit options are barely existent. Furthermore, in the intergovernmental
arena, territorial power holders are embedded into systems of joint-decision making,
institutionally enforcing actors to negotiate the conditions for changing the status quo
(Scharpf, 1988). Finally, intra-institutional mechanisms firmly entrench veto-points, most
notably through rules that provide for mutual participation in legislation. Unlike inter-
institutional mechanisms, intra-institutional mechanisms thus tend to constrain authority
migration as they favor the position of status quo defending actors. The degree of historically
constructed constraints entailed within a tightly coupled, intra-institutional architecture is thus
comparatively high.

Patterns of Authority Migration

Processes of vertical authority migration take very different forms across time and space. It is
therefore necessary to specify useful criteria for distinguishing the range of patterns found in
systems of multilevel governance. The typology of patterns suggested here comprises three
generic categories. The foundational element describes the direction of change. Departing
from the historically established status quo, authority can move either from lower level to
higher level jurisdictions or vice versa. Depending on how authority relationships among
territorial jurisdictions shift on the vertical axis of multi-tiered systems, patterns of authority
migration can be divided into two main types: upwards versus downwards. The second and
third categories refer to the dynamic properties of shifting authority relationships. The notion
of dynamics implies processes combining continuity and change, with both simultaneously at
work and interacting with each other. Institutional dynamics, therefore, vary in terms of how
continuity relates to change within a given period of time (Benz & Broschek 2013).
Accordingly, patterns of authority migration can be further analyzed with respect to the pace of change they exhibit, that means whether authority relationships shift abruptly or gradually, and the depth of change, that means in how far authority migration eventually leads to a significant modification – or even transformation – of previously established institutional arrangements.

Table 2 displays the varieties of patterns of authority migration and considers individual cases that, by and large, match differently combined criteria. It is worth noting that cases are instances of authority migration and not countries per se. Given the conceptual nature of this article, these cases have an illustrative purpose. They can only briefly be touched upon to demonstrate the value of the analytical framework for the comparative exploration of the dynamics of territorial politics in Europe and North America. As can be seen, instances of authority migration fall into two broad categories depending on the direction of institutional change (upwards or downwards). Individual cases assigned to one of the two categories can then be further distinguished by their dynamic properties, that is the pace and depth of authority migration involved in each process.

Table 2: Patterns of Authority Migration: Selected Cases from Europe and North America

<table>
<thead>
<tr>
<th>DIRECTION: UPWARDS</th>
<th>Abrupt</th>
<th>Gradual</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weak</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>USA 1780s (Federalization)</td>
<td>(1)</td>
<td>EC/EU since 1970s (Centralization)</td>
</tr>
<tr>
<td>EC 1950s (Federalization)</td>
<td>(2)</td>
<td>USA 1877-1920 (Centralization)</td>
</tr>
<tr>
<td><strong>Strong</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canada 1860s (Federalization)</td>
<td>(3)</td>
<td>UK (1536) 1707-1800 (Centralization)</td>
</tr>
<tr>
<td>USA 1865-1877 (Centralization)</td>
<td>(4)</td>
<td>Canada 1930s-1960s (Centralization)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DIRECTION: DOWNWARDS</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weak</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy since the 1990s (Devolution)</td>
<td>(5)</td>
<td>Germany since 1990s (Decentralization)</td>
</tr>
<tr>
<td><strong>Strong</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>UK since late 1990s (Devolution)</td>
<td>(6)</td>
<td>Canada (1870s-1920 and 1995) (Decentralization)</td>
</tr>
<tr>
<td>1960-1995</td>
<td>(7)</td>
<td>Belgium since 1970 (Federalization)</td>
</tr>
</tbody>
</table>

The Direction of Change: Authority Migration Upwards versus Authority Migration Downwards

Authority migration *upwards* is characterized through a centripetal dynamic in which institution-building or institutional change yields the creation or a strengthening of territorial power holders residing on a higher tier. As a consequence, the scope of governing authority is extended from a smaller territorial community to a larger scale, covering a greater population.
and geographic area. Authority migration *downwards* takes the other direction. It involves a centrifugal dynamic by which authority is transferred from higher to lower sites of authority. This type of vertical relocation implies that the scope of authority previously exercised by higher governmental tiers over an extended territorial community tends to shrink while lower level authorities are furnished with new or additional capacities to make collective decisions within their smaller scale.6

Historically, authority migration has basically been unfolding within two broad institutional pathways: a unitary and a federal trajectory. Historical-institutionalist accounts have captured the long-term evolution of modern nation states in the Westphalian context as a process of center-formation, accompanied by increasing territorial, cultural and political integration at higher scales (Bartolini, 2005; Ferrera, 2005; Rokkan, 1999). While individual processes of state formation share an overall trend to aggregate authority at higher levels of government, in many cases antecedent conditions proved to be an important obstacle to the establishment of concentrated authority structures, engendering the emergence of different and highly contingent institutional solutions to accommodate peripheral voice. Within the framework of a unitary state, the prevalence of territorially defined cleavages urged state builders to establish rather weak and often informal institutional mechanisms that would limit the scope of authority exercised through the central state and provide for the peripheries’ representation at the central level. Territorial management in the UK, for example, provided that the center deliberately abstained from directly ruling in local matters (Bullpit, 2008). Peripheries were incorporated into the center through guaranteed representation rights in Parliament and the Cabinet as well as the creation of special institutions like Welsh or Scottish parliamentary committees and the Welsh and Scottish Offices. Until the advent of devolution in the late 1990s, intra-institutional incorporation at the center was the dominant feature of multilevel governance in the UK, which has been reflected in the continuous reconfiguration and expansion of such institutional provisions7 (Bradbury, 2006; Mitchell, 2009). In contrast, territorial politics in Italy initially survived nation state formation in the 1860s through less formal provisions that were more inter-institutional in nature. The practice of *trasformismo* and clientelism enabled peripheral elites of different regions to retain a considerable degree of local or regional autonomy within a centralized state. With the republican constitution of 1948, multilevel governance arrangements became more formalized, most notably through the entrenchment of the five special regions that were furnished with considerable legislative power (Baldi & Baldini, 2012).

The federal pathway occurred as a viable alternative to the creation of a unitary state. This second pathway usually evolved in an iterative process, generating first a confederal regime which was then turned into a federation. Typical instances are the United States under the Articles of Confederation (1777-1789), Switzerland (before 1848), the German Confederation (1815-1866) or the European Community (before 1993). Frequently, this confederal legacy manifested itself in strong intra-institutional linkages designated to protect the integrity of lower-level authorities within the newly created federal system. In the United States, the former colonists composed a complex constitutional architecture that both divided and re-

---

6 In practice, the vertical redistribution of authority does not necessarily imply a zero-sum game. Often both levels of authority retain certain powers despite the transfer of authority, which leads to concurrency or overlapping jurisdictions.

7 There are, of course, important exceptions to the rule: Inter-institutional linkages prevailed in case of Scotland, where independent institutions such as the court system or the Church have played an important additional role for maintaining territorial autonomy (Keating, 2007). Likewise, relationships with Northern Ireland were rooted in a rather inter-institutional logic until 1972. Furthermore, inter-institutional linkages between the centre and the colonies within the multilevel governance architecture of the British Empire provided that peripheries were furnished with varying degrees of self-rule rather than representation rights in Westminster.
entangled its territorially defined authorities (LaCroix, 2010). An inter-institutional allocation of competences that, at the outset, shifted a rather narrowly confined scope of authority to the federal tier through a single list approach was aligned with strong intra-institutional voice mechanisms destined to ensure peripheral representation in federal affairs. As will be seen, the highly rigid amendment formula, the Electoral College, the Senate and even the House created an adverse institutional environment for entrepreneurial politics at later points in time. In Germany and the European Union, intra-institutional mechanisms have been even more pronounced. In both cases, historical sequencing shaped authority migration upwards through the fact that the new governmental tier was layered on top of constituent units with highly developed bureaucratic and infrastructural capacities. These antecedent conditions fostered the evolution of a functional allocation of competences as an important institutional feature in both systems of multilevel governance. Lower level tiers implement, to a great extent, higher level legislation. In addition to the functional allocation of competences, constituent units’ executives maintain direct and immediate participation rights through the Council model (Hueglin & Fenna, 2006). They are firmly incorporated into the decision-making process at the center through the Bundesrat and the Council of the European Union. In contrast, the Canadian federation did not evolve from a pre-existing confederal arrangement. With the notable exception of Ontario and Quebec, former colonies were rather unconsolidated and indirectly connected with each other as parts of the British Empire. Even though a number of delegates attending the Charlottetown and Quebec Conferences in 1864 deliberately favored a strong Senate, alongside mechanisms ensuring regional representation rights in the executive, antecedent conditions were more conducive to the creation of a rather loosely coupled system of multilevel governance where governmental tiers are primarily linked through inter-institutional mechanisms (Broschek, 2012).

The literatures on the “new regionalism” in Europe, multilevel governance and comparative federalism have all emphasized a directional shift in the post-Westphalian context. Since the second half of the twentieth century, authority tends to have migrated downwards rather than upwards (Hooghe et al., 2010; Jeffery & Wincott, 2010; Keating, 2008; Loughlin, 2009). The downwards modus resurfaces primarily through decentralization in federal systems (e.g. in Canada and, to some extent, in Germany and the United States), devolution (like in the UK or Italy) or even the federalization of unitary states (e.g. Belgium). Several developments have been identified as potential sources behind these centrifugal dynamics, such as the crisis of the postwar Keynesian welfare state, impact of negative integration on the member states of the EU or territorial mobilization and resurgence of regional identities. Often overlooked and more clearly highlighted in a historical-institutionalist perspective is the nature of historically constructed institutional constraints that are responsible for the translation of such sources into concrete patterns of authority migration downwards, redirecting (often similar) stimuli of change into different dynamical trajectories.

More often than not, authority migration downwards seems to evolve within the historical boundaries of the pre-established multilevel governance architecture. Even though such processes of institutional change can significantly alter authority relationships between territorial jurisdictions or even involve the creation of new institutions, they do not necessarily lead to regime transformation. Accordingly, if downward dynamics unfold within the unitary pathway, as it has been the case in the UK and Italy, lower level jurisdictions may be created or vested with new powers. This shift of governing authority has redistributed the scope of control exercised through territorial jurisdictions, but it remains nevertheless delegated authority that can be withdrawn at any time (Hueglin & Fenna, 2006). In this respect, the Belgian case represents an important exception. Beginning with the first constitutional reform in 1970, the decentralizing dynamic gained momentum in a way that the unitary path was ultimately transformed into a federal pathway in 1993 (Deschouwer, 2009; Swenden, Brans, ...
Within the boundaries of the federal pathway, authority migration downwards has – to various extents – strengthened the position of constituent units through processes of decentralization like in Germany or Canada. With the notable exception of Belgium, therefore, the foundational constitutional scheme of multilevel governance has largely remained intact. Moreover, as will be further elaborated in the next section, these decentralizing dynamics might have a similar direction, but they vary considerably in terms of how exactly authority relationships are reconfigured between higher and lower level tiers.

The Pace of Change: Abrupt versus Gradual

While the direction of change provides a foundational typological element to distinguish two basic pathways of vertical authority migration, such patterns differ also with respect to the pace of change. As mentioned above, the historical-institutionalist literature suggests that change unfolds against the weight of historical legacies in two basic forms: abrupt or gradual.

Abrupt processes of change are closely associated with the concept of critical junctures. Critical junctures open up whenever permissive conditions generate a rather brief historical context where the impact of structural constraints is significantly reduced. Such exceptional conditions produce considerable additional leeway for entrepreneurial agents to alter the established status quo (Soifer, 2012). While antecedent conditions still confine the aims to which political actors aspire and the repertoire of strategies they might employ in order to challenge or defend the status quo, a critical juncture provides a window of opportunity for contingent alignments and path-breaking changes that might usher in a substantial reconfiguration of institutionalized authority relationships (Capoccia & Kelemen, 2007; Slater & Simmons, 2010).

Critical junctures have often preceded the creation of multilevel architectures in the Westphalian context. Federations such as the United States, Canada, Switzerland or Germany evolved as contingent outcomes of revolutions, wars or perceived threats that, for a brief moment in time, had opened up a broad range of different developmental trajectories. Such critical junctures can, however, generate quite distinct outcomes. In the German case, for example, Prussia’s victory in the Prussio-Austrian war of 1866 pushed the historical trajectory into the direction of an increasingly centralized federation endowed with strong intra-institutional mechanisms, whereas in Canada the centralizing outcome of the British North America Act (BNA Act) was soon reversed. In the United States, the foundational constitutional scheme emerged during a critical juncture that opened up through the revolutionary war. The war and its order-shattering repercussions created permissive conditions that made possible the replacement of the Articles of Confederation with the Constitution of 1787. Even though antecedent conditions proved highly unfavorable for the creation of a strong territorial center, the Constitution broke with the confederal principle by combining federal and confederal elements to form a compound democracy. Similarly, the foundational institutional framework of the EU too emerged from a critical juncture triggered by the Second World War. This exogenous shock opened up several pathways for the reorganization of the European state system (Bartolini, 2005). As the foundational scheme

---

8 It is also important to note that authority shifts are not necessarily unidirectional. While there might be an overall trend for either direction under changing historical context conditions (upwards in the Westphalian context and downwards in the post-Westphalian context), there are often developments working in the opposite direction in individual cases. In Canada, for example, dynamics have been unfolding in a cyclical rather than unidirectional pattern. Moreover, despite the current decentralist turn, we also observe significant processes of centralization like in the EU or, as Dietmar Braun (2011) has shown, in some consolidated federal systems that tend towards “over-centralization”.

---
emerged during the 1950s through the Treaties of Paris (1951) and Rome (1957), it reflected a contingent alignment of different ideas that had been associated with the project (Fossum & Menéndez, 2011; Rittberger, 2009). Analogies with the historical configuration in the United States not only pertain to the weak political-administrative center, but also in terms of political structuring more generally (Fabbrini, 2007).

Almost inevitably much attention has been paid to such bold and obvious turning points in historical sequences. However, historical institutionalists like Kathleen Thelen, Wolfgang Streeck and James Mahoney caution against underestimating the significance of slowly moving, gradual but nevertheless meaningful dynamics of institutional change (Mahoney & Thelen, 2010; Streeck & Thelen, 2005; Thelen, 1999). And indeed, more often than not, patterns of authority migration only become discernible when viewed as a “moving picture” rather than a “snapshot” (Pierson, 2004). In order to uncover the varieties of gradual institutional change, this strand of literature suggests distinguishing patterns like layering, drift, conversion or displacement, all of which bear considerable potential to systematically analyze how the boundaries and scope of authority can shift among territorial jurisdictions. Gradual change usually occurs when authority migrates within an established institutional path. Centralization or decentralization, then, results from a change in how existing rules are applied (conversion), the gradual removal and substitution of established rules (displacement), the changing impact of existing rules due to contextual shifts (drift) or the introduction of new rules on top of existing ones (layering).9

Over time, gradual patterns can produce a substantial shift of authority either within the boundaries of a broadly defined institutional pathway (i.e. unitary or federal) or even result in the switch from one path to another. The historical development of Canadian federalism provides an instructive example for the deep impact of different modes of gradual change. While the federal pathway has never been abandoned, patterns such as conversion, drift or layering had a profound impact on institutional dynamics in the federation, inducing significant rearrangements of authority. Conversion, on the one hand, enabled the federal government to temporarily reverse the decentralizing path during the first half of the twentieth century. Without engaging in explicit constitutional change, Ottawa reactivated latent institutional resources and developed the spending power doctrine. On this basis, the federal government was able to assume a more expansive role in the intergovernmental arena and to initiate fiscal transfers even in areas of exclusive provincial jurisdiction. Drift, on the other hand, contributed to authority migration downwards in Canada because competences that had appeared to be of minor importance at the time of Confederation, most notably those related to social policy, turned out to become an important resource for provincial ascendancy at later points in time (Banting, 1987; Pierson, 2004). Conversion and displacement also gradually strengthened the federal nature of the European multilevel governance architecture. Art. 308 (EC) (the former Art. 235 EC) established a residual power for the Community to legislate in all areas of the common market that are not specified through existing treaties. Until the late 1980s, this constitutional provision turned out to become an important vehicle of legislative expansion (Schütze, 2003). Through conversion, therefore, the EC was able to redirect existing institutions to new purposes (for example in environmental policy) without formal constitutional change. At the same time, the creation of a common market through negative integration often displayed the pattern of displacement. Treaty provisions furnished both the Commission and the ECJ with the authority to compel member states to revoke existing national regulations whenever they are incompatible with the common market (Scharpf, 1999). Finally, as the Belgian case reveals, the combination of layering and displacement can

---

9 It should be noted that especially displacement and layering are not necessarily limited to capture patterns of gradual institutional change. They can of course also abruptly occur as part of a critical juncture.
eventually be responsible for an incremental path transformation. In unitary or federalizing states, layering is reflected in the creation of new regional authorities like the Regions and Communities in Belgium, the National Assembly of Wales or the Scottish Parliament. Layering can have important long-term consequences if such bodies increasingly emerge as concurrent loci of authority and loyalty, triggering a dynamic of competitive state building. At least in Belgium, layering has paved the way for displacement as the former unitary state was ultimately replaced with a constitutionally entrenched federal order in 1993.

The Depth of Authority Migration: Strong versus weak

The pace of change involved in processes of authority migration is not identical with its impact. Even though the notion of a critical juncture suggests some form of encompassing change, it is not necessarily the case that it brings about a major re-institutionalization of authority relationships (Capoccia & Kelemen, 2007).\textsuperscript{10} For example, even though federalist forces in the United States were able to accomplish an important institutional innovation in 1787 when they adopted the federal constitution, federalization provided for only a limited expansion of federal authority. Quite similar to the situation in the EC/EU, antecedent conditions proved highly unfavorable for the consolidation of a strong territorial center (Fabbrini, 2007). Inversely, as has been shown, over the long term gradual change can accumulate and substantially alter the logic of an existing pathway. It is therefore important to further distinguish the depth of authority migration in order to arrive at an adequate understanding of the variety of patterns found in systems of multilevel governance.

The extent to which jurisdictions are reallocated among territorial power holders is an important indicator for the depth of authority migration. In some cases, only jurisdictions of minor significance are transferred upwards or downwards, while in others we observe more substantial shifts. The “right to act” and the “right to decide” (Braun, 2000) might be reshuffled in only very narrowly circumscribed classes of subjects, limiting the capacities of territorial entities to independently shape the living conditions of their citizens. Alternatively, the transfer of competences can span important matters such as social policy, taxing and spending powers or natural resources which are of great importance for the exercise of authority. Another indicator for the depth of authority migration is the transformative logic entailed in processes of institutional change. It is rather strong when inter-institutional linkages are substituted with intra-institutional arrangements or vice versa. Instead of claiming exclusive authority over certain jurisdictions, territorial power holders can seek to strengthen their position by obtaining the right to participate in legislation within the institutions of the other governmental tier. Legislative power then migrates to intergovernmental bodies dedicated to fostering cooperation or even joint-decision-making within certain policy domains. In Germany, for example, the federal government was able to assume several competences that had been Länder responsibilities in the post-World War Two period. In turn, Länder governments were compensated with an extension of their influence over federal legislation via the Bundesrat and other intergovernmental bodies (Benz, 1999). Alternatively, the capacity of governmental tiers to act autonomously is strengthened if existing co-decision rights are relaxed. For example, the shift from unanimity to qualified majority voting in the Council of Ministers has weakened veto-rights of individual member states in the European Union over time and, therefore, implied a rather indirect loss of

\textsuperscript{10} As Capoccia and Kelemen (2007, p. 352) point out, change is not an inevitable outcome of a critical juncture: “If an institution enters a critical juncture, in which several options are possible, the outcome may involve the restoration of the pre–critical juncture status quo.”
authority. In combination with the ongoing and extensive application of European law to enforce the common market through the Commission and ECJ, in many areas the multilevel governance architecture has, in effect, partially uncoupled itself, making it less prone to the joint-decision trap.

More generally, the depth of authority migration refers to the extent to which institutional change produces a departure from the historically established status quo. Cases from both the upwards and downwards categories vary substantially in terms of how much change is involved during individual episodes of authority migration. As noted above, the federalization of the United States and Europe led to a comparatively low transfer of authority upwards. In contrast, in Canada and Germany federalization brought about a more significant departure from the status quo. Both federal systems have in common that, at the outset, the federal level was vested with considerable powers. Whereas in Germany this centralizing trajectory became self-reinforcing and reproduced over time, in Canada the provincial rights movement successfully challenged and, to some extent, reversed the original outcome during the 1870s and 1880s. Provincial governments effectively tapped into dormant power resources built into the constitutional arrangement of the BNA Act, and launched a period of incremental, but comparatively encompassing authority migration downwards shortly after the critical juncture of 1867 (Broschek, 2012; Stevenson, 1993).

Considering more recent examples of authority migration downwards, there is a similar variety of patterns in terms of their depth. In Italy and the UK, authority migration emerged as devolution within the established framework of a unitary state. On the one hand, in both cases the depth of authority migration was apparently too weak to develop a more transformative dynamic that would have ushered in a path switch to federalization. On the other hand, a closer comparison of both processes reveals important differences. In Italy authority migration was far less substantial given that the regionalization process initiated in the early 1990s soon stagnated. After some initial efforts had been made with the introduction of the Leges Bassanini in 1997 and the constitutional reforms of 1999 and 2001, further attempts to reinforce this reform pattern – most notably the constitutional reform of 2005 – largely failed. Authority migration between the mid-1990s and 2005 brought about a modest transfer of competences downwards (including fiscal resources) and reduced existing asymmetries through an upgrading of the constitutional status of the 15 ordinary regions. Since then, however, the process appears to be caught within an erratic and cyclical sequence that displays further steps towards modest decentralization as well as attempts to re-centralize and curtail the competences of the regions (Amoretti, 2011). Devolution in the UK, in contrast, seems to have followed a more straightforward pattern of authority migration downwards. Political re-structuring reveals a more substantial transformative potential as established authority relationships between the center and the periphery became re-institutionalized. While the historical trajectory had basically followed a logic of building peripheries “in” at the center through intra-institutional mechanisms, this pattern has shifted to a logic of building peripheries “out” (Simeon, 2009). Existing institutional linkages between Westminster were either weakened or, as in the case of the Scottish Office, even abolished and authority transferred to the newly created National Assembly of Wales and the Scottish Parliament (Bogdanor, 2001; Mitchell, 2009; Trench, 2007). In the case of Scotland, devolved jurisdictions comprise highly sensitive areas such as social policy, which are well suited to foster loyalty and solidarity ties on the substate scale (Béland & Lecours, 2008; Keating, 2007).
Explaining Varieties of Authority Migration

A historical-institutional perspective cannot only contribute to illuminate the more fine-grained patterns of shifting authority relationships in systems of multilevel governance. As has been argued in the first section of this paper, it also invites to derive propositions concerning the impact of causal mechanisms behind these processes. Sequencing of institutional linkages – so the argument goes – is responsible for the historical evolution of differently composed architectures of multilevel governance, which vary in terms of the institutional constraints they embody. In loosely coupled systems featuring strong inter-institutional linkages, actors operate within an institutional environment highly conducive to change. The historically constructed institutional corridor is comparatively wide, affording agents to deploy a broad range of change strategies. In rather tightly coupled architectures, in contrast, the weight of past decision tends to be more constraining, making it rather difficult to circumvent vested interests through gradual change strategies. This pertains particularly to those types of strategies that depend on institutional ambiguities or the use of exit options. Provided that certain groups of actors are prone to prevent institutional change, authority migration, then, is more contingent on the presence of rather exceptional permissive conditions which temporarily absorb the constraining effect of intra-institutional mechanisms during critical junctures.

Patterns of authority migration upwards in the United States and Europe provide a good example. Both multilevel governance architectures reveal similarities in terms of their rather constraining institutional grammar. This does not preclude gradual patterns of change per se, which have been a feature of institutional dynamics in both cases. However, critical junctures represented an important precondition to reconfigure the basic institutional setting in a way that allowed gradual change to flourish more easily.

In the United States, a more centralized – or Hamiltonian – conception of the American state has always been an important ideational frame to mobilize support for authority migration upwards, but institutional constraints built into the foundational constitutional scheme enabled peripheral actors to thwart such attempts. As a consequence, in order to overcome the highly fragmented and incoherent state of “courts and parties” (Skowronek, 1982) that emerged during the nineteenth century, the developmental trajectory depended on two successive critical junctures posed by the outcome of the Civil War between 1861 and 1865 and the Great Depression in the late 1920s.

Both developments not only disrupted their respective contemporary order, but also led to the relaxation of institutional constraints on authority migration for a brief moment in time. Secession of the southern Confederacy, the outbreak of the Civil War and the highly contingent victory of the North paved the way for a new phase of state-building as progressive forces of the North were able to capture the institutions of the federal level and impose their economic and political agenda on the defeated South (Bensel, 1990). When permissive conditions slowly disappeared during the Reconstruction era, intra-institutional constraints were reactivated as the South was reintegrated into the multilevel architecture based on its acknowledgment of loyalty to the Union. Even though the end of Reconstruction reduced the pace of authority migration to the federal level correspondingly, modernization of the American state continued to proceed in a more gradual way (see Johnson, 2007; Skowronek, 1982). While these reforms incrementally fueled federal authority with sufficient power resources to build and enforce a national economy through negative integration, this “new” American state proved inadequate to effectively cope with the social and economic challenges of the early twentieth century. Once more, intra-institutional checks provided the status quo defending coalition, most notably white Democrats from the South, with an important
institutional resource to thwart entrepreneurial agents’ efforts to further expand the role of the federal government as an agent of positive integration, particularly in the area of social policy. The extension of federal authority during the second half of the twentieth century was rendered possible through the critical juncture of the 1930s, which Bruce Ackerman (1991) has described as the third constitutional “moment” in US history. Again, it required the order-shattering event of a deep crisis to absorb institutional constraints on authority migration for a relatively brief episode in order to reset the constitutional trajectory on which federal authority was to be exercised in the long term.

Authority migration in the EU has evolved gradually through a complex combination of institution-building and institutional change (Bulmer, 2009; Farrell & Héritier, 2007; Rittberger, 2009). Considering the relatively brief historical sequence that spans the process of European integration, there has been a remarkable, cumulative shift of authority upwards over the last 60 years. However, it is equally true that there is a widespread perception that the EU is poorly equipped to cope with increasing internal and external challenges. Quite similar to the situation in the United States during the late nineteenth and early twentieth century, the EU has been able to acquire sufficient authority to foster negative integration, but its capacity to play a pivotal role in positive integration remains limited (Scharpf, 1999). Like the early American state, the EU still relies on its strong and independent judicial and regulatory authorities as functional equivalents to substitute lacking substantial administrative capacities and fiscal resources. While the demand for change has been continuously high, intra-institutional mechanisms provide status quo defending member states with an crucial institutional device to thwart more ambitious efforts to tackle what Trechsel (2005, p. 397) has aptly called the “federal deficit”. In the light of institutional rigidities, critical junctures can become crucial to overcome opposition to institutional change and to increase the menu of realizable, yet still contingent institutional reform solutions that might otherwise be inconceivable. The adopted reforms in the area of EMU still follow, on the one hand, a gradual rather than abrupt pattern of change, despite the obvious presence of permissive conditions (Salines, Glöckler, & Truchlewski, 2012). On the other hand, it is equally true that these reforms involve a transfer of authority upwards that would hardly have been conductible without the presence of such permissive conditions as consequence of the fiscal crisis. Moreover, as has been argued above, the pace of change must not be confused with its impact. Besides the fact that far reaching reform proposals such as the Eurobonds are still in the air, it is also possible that comparatively small, incremental institutional changes that don’t seem to alter the logic of the established trajectory at first glance will have long lasting and hardly foreseeable consequences.

The retarding effect of tightly coupled multilevel arrangements also applies to processes of authority migration downwards. In Belgium and Germany, intra-institutional mechanisms have curbed the pace and intensity of authority migration. In Germany, the majority of fiscally weak Länder (often in alliance with the federal government) were able to employ their veto power in order to avert several efforts of fiscally strong Länder such as Bavaria and Baden-Württemberg to decentralize taxing powers, the social insurance scheme or regional policy. In the wake of Europeanization, especially rich Länder discovered a growing appetite for extending their scope of autonomous action in order to become more competitive. Institutional constraints, however, provided that the depth of authority migration remained weak. Through a sequence of several reform attempts between 1992 and 2006, not more than a few rather narrowly circumscribed jurisdictions have eventually been transferred to the Länder level. Moreover, the majority of fiscally weak Länder governments successfully repelled any substantial efforts to reform central pillars of fiscal federalism such as equalization or the system of taxation (Scharpf, 2009; Ziblatt, 2002). In the case of Belgium, the federalization process moved gradually, covering a time span of 23 years from 1970 to
1993, but brought about a substantial shift of authority downwards. The basic pattern reveals some similarities with devolution in the UK. It has been straightforward and unidirectional, even if it unfolded at a significantly slower pace, and also tends to follow a logic of “building out”. Institutional change was accompanied with institution-building through layering, yielding the Communities and Regions in 1970, which have emerged as the main focus for future reforms. In an ongoing process entailing four more constitutional reforms (1980, 1988, 1993 and 2001), a remarkable scope of jurisdictions (including fiscal powers) has been continuously transferred downwards, enhancing the legislative capacities of substate institutions in tandem (Deschouver, 2009; Swenden et al., 2006). However, intra-institutional mechanisms are responsible for reducing the speed of authority migration and for directing this process into an incremental pattern. Temporarily, this institutional setting has even created a joint-decision trap (Benz, 2011).

As Daniel Béland and André Lecours (2008) have shown, the impact of intra-institutional constraints has been felt particularly in the area of social policy. Francophone parties, alongside the social partners (labour unions and business associations) have successfully protected major pillars of the Belgian welfare state from decentralization efforts launched by entrepreneurial agents from Flanders. This was largely due to three types of institutional constraints entailed in the tightly coupled multilevel governance architecture of Belgian social policy: constitutional rigidities, consociational democracy and the Bismarckian nature of the welfare state itself helped status quo defending agents to prevent the migration of authority downwards as demanded by Flemish nationalists.

In contrast, such constraining institutional effects for both, authority migration upwards and downwards, have been far less pronounced in two particular cases: Canada and the United Kingdom. In both cases, institutional mechanisms seem to translate demands for change in a rather undistorted way, allowing for bold shifts in the locus and direction of control over time even in the absence of exceptional permissive conditions. The UK is well known for its flexible constitution. Due to the doctrine of parliamentary supremacy, far reaching institutional change is only contingent on a majority in Parliament. Theoretically, this low institutional threshold makes it equally easy to introduce and to reverse substantial change. In the light of nationalist mobilization processes in Scotland and Wales, the Labour government under Tony Blair was able to launch several waves of devolution reforms without facing serious institutionalized opposition. The scope of authority migration was thus, by and large, only contingent on the willingness of the parliamentary majority. Once initial steps towards an institutional transformation towards an inter-institutional architecture had been made, entrepreneurial agents such as the Scottish National Party (SNP) have capitalized on the newly established opportunity structure, pushing to further expand the role of devolved governments within their domestic affairs. In other words, institutionalizing devolution in Wales and, even more obviously, in Scotland, has turned out to become a “powerful weapon” (Bogdanor, 2001, p. 287). As a consequence, authority migration has not subsided, relegating the formal right of Westminster to unilaterally reverse this path to a rather theoretical option.

In Canada, it is the combination of Westminster-style democracy with a federal system that ties territorial entities together almost entirely through inter-institutional mechanisms. The concentration of authority in the hands of both, the federal and provincial governments provided that the contested nature of Canadian federalism has yielded several substantial shifts in authority both upwards and downwards over time (Bakvis, Baier, & Brown, 2009; Broschek, 2012). At times, these institutional dynamics were supported through the presence of permissive conditions, as it was the case with federal ascendancy in the aftermath of the Great Depression in the 1940s and 1950s. However, more often than not, substantial authority shifts have occurred without the easing effect of critical junctures. Ambiguities concerning the
division of competences allowed provinces to deploy a mixture of drift, conversion and displacement to re-establish themselves as powerful sites of authority within the federation, reversing the highly centralized constitutional scheme of the BNA Act. In particular, the property and civil rights clause (sec. 92 (13)) was given a wide interpretation. Through conversion and, therefore, without altering the wording of the constitution, provinces were furnished with an important source of authority to regulate a broad range of subjects and matters and, by the same time, to shield themselves against federal intrusion. In addition, opting out has emerged as a prominent exit-strategy since the 1960s, allowing provinces to replace federal legislation with their own programs. While gradual change thus led to an ongoing process of decentralization that became particularly discernible between the 1880s and 1890s as well as the 1950s and 1970s, federal governments frequently engaged in counteraction. The development of Canadian federalism can thus be reconstructed as an ongoing sequence of decentralization and attempts to partially re-centralize authority relationships as both governmental tiers creatively squeezed out new power resources from the highly flexible constitutional scheme that was originally set up in 1867.

**Conclusion**

This article has tapped into different strands of the historical-institutionalist literature in order to develop an analytical framework for examining the dynamics of territorial politics in systems of multilevel governance. The notion of multilevel governance holds promise as it attempts to capture various empirical developments such as decentralization or centralization in federal states, devolution or supranationalization. Nevertheless, it has remained undertheorized and fraught with considerable ambiguities. In light of this, historical institutionalism offers considerable theoretical leverage for synthesizing existing strands of research. This theoretical lens almost inevitably directs our attention to the historically constructed nature of authority relationships between territorial jurisdictions, the (structured) contingency of the institutional origins of multilevel governance architectures and various patterns of dynamic adjustment. As has been shown, historical institutionalism highlights divergence rather than convergence. Moreover, and unlike many prevailing accounts such as neo-functionalism and actor-centered intergovernmentalism, it paints a more nuanced picture of how differently composed, historically constructed institutionalized authority relationships change in and over time. Accordingly, historical institutionalism should be considered as a valuable supplement to the existing set of well-established theories in the area of territorial politics, well suited to tackle many (but certainly not all) research questions in the field.

Building on the analytical framework sketched in this paper, it is furthermore possible to historically reconstruct antecedent conditions that preceded instances of authority migration. This requires examining the exogenous or endogenous sources of change and the constellation of political actors (interest groups, territorial movements, political parties, governments) who are eager to challenge or defend the historically established status quo in systems of multilevel governance. Process tracing can help to demonstrate how the historically evolved institutional architecture provides them with power resources that promote or hinder entrepreneurial politics. From that angle, it is possible to show how the different episodes under examination always entail varying degrees of historical openness, to reconstruct contingent developmental pathways and to make plausible how causal mechanisms favor (not determine) the realization of certain options over others. In this vein, exploring multilevel governance dynamics from a historical-institutionalist perspective can not only contribute to better our understanding of the nature of many real world problems we face today. Such endeavors can also reveal how actors in the past have tried to cope with challenges similar in
scope, making it all the more possible to comprehend and even deal with those challenges we
encounter in the present.

References

University Press.

Requejo & K.-J. Nagel (Eds.), *Federalism beyond federations: asymmetry and processes of resymmetrization in Europe* (pp. 61-80). Franham: Ashgate.


McGill-Queen’s University Press.


