

7 Drift and conversion: Hidden faces of institutional change

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Until recently, institutionally minded scholars in the social sciences generally treated institutions as fixed. Whether defined as the rules of the political game, the standard operating procedures of bureaucracies, or the regularized norms guiding organizational behavior, institutions were associated with stability and were invoked as independent or intervening variables to explain persistent cross-national differences in outcomes. More recent work in the field, however, has attempted to provide greater insight into how institutions evolve and how institutional effects can change over time. Instead of seeing institutions as largely unchanging features of the political environment, these arguments seek to specify *what kinds* of institutional changes propelled by *what kinds* of social processes are most likely under *what kinds* of political configurations.

This chapter advances this more recent agenda, examining two important, common, and theoretically explicable processes through which institutional effects change over time, which we call “drift” and “conversion.” Drift occurs when institutions or policies are deliberately held in place while their context shifts in ways that alter their effects. A simple example is the US minimum wage, which is not indexed to inflation and thus declines in value as prices rise unless new federal legislation is enacted. Those wishing to effect change through drift need only prevent the updating of existing rules. Drift thus depends on how sensitive the effects of an institution are to its context, whether policies are designed in ways that foster updating in the face of changing circumstances, and whether it is easy or difficult to block such updating.

Conversion, by contrast, occurs when political actors are able to redirect institutions or policies toward purposes beyond their original intent. An

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example is the ability of corporations to use the Sherman Antitrust Act of 1890 to hinder labor unions. Passed amid widespread concern about corporate collusion, the legislation was meant to break up business trusts that were “in restraint of trade.” Yet corporations managed to convince federal courts that *union organizing* was “in restraint of trade.” In cases like these, actors who are not part of the coalition that created formal rules redeploy these rules to achieve their own (sometimes very different) goals. Conversion thus feeds off of rule ambiguity and the multiplicity of political arenas in which ambiguous rules can be reinterpreted.

In advanced industrial societies, drift and conversion are both very common and very consequential. Yet scholars have only started to pay attention to these two “hidden” forms of institutional change, when and why they happen, and how they are related to each other. In prior writings, we have explored drift (Hacker 2005; Hacker and Pierson 2010, 2011) and conversion (Streeck and Thelen 2005; Thelen 2004) largely as separate processes. In our collaboration here, we present a unified perspective that shows how drift and conversion, seen alongside each other, enhance our understanding of institutional change and challenge some of our most common conceptions of democratic politics. To begin with, these two neglected modes of change alter our conception of who is playing offense and defense in ongoing struggles over governance. When institutions are subject to drift or conversion, political actors wishing to preserve those institutions as is – who usually have the upper hand in status-quo-biased political systems – suddenly look much more vulnerable to challenge.

Drift and conversion also change our view of the political venues in which such contestation occurs and the types of actors advantaged in these struggles. Because they happen through the transformation of existing institutions, rather than wholesale institutional replacement, drift and conversion often occur beyond the bright glare of legislative politics. Not only that, the processes themselves are generally difficult for all but the most attentive political actors to anticipate, monitor, and influence. These features advantage organized interests with long time horizons and the resources to play the long game – the political actors who are most likely to be aware of opportunities inherent in existing formal rules and best positioned to act on this awareness as well as most capable of protecting their gains once drift or conversion has altered institutional operations or effects.

In stark contrast, the actors who are the main focus of contemporary theorizing about democratic politics – voters – are unlikely to be the prime movers in a wide range of critical cases of institutional evolution involving drift and

conversion. Of course, voters may play an important constraining role, and their importance rises as institutional changes become more salient. Nonetheless, voters typically enter the picture late, and then only under circumstances already heavily conditioned by processes of drift and conversion. Thus, a research program that takes drift and conversion seriously requires returning to fundamental questions about who has the power to shape outcomes over the long term in capitalist democracies. Very often, we argue, the answer to this question will be at odds with dominant perspectives in American and comparative politics that emphasize changes in voting and public opinion as the wellspring of major reform (Hacker and Pierson 2014).

Finally, this research program has important methodological implications as well. The mainstream focus on voters and public opinion – on the behavior of discrete individuals – is closely associated with statistical and experimental methods. Yet processes of drift and conversion can be observed only in analyses that are at once configurational and attentive to changes unfolding over significant periods of time. Identifying drift and conversion usually requires close examination of the interaction among multiple sites of social activity. Moreover, these interactions usually take considerable time to play out. Theoretically, this focus justifies a shift in emphasis from voters to the organized actors most likely to engage in politics across sites and over time. Methodologically, it encourages a shift toward case-based analyses of configurations and historical process. Though this chapter emphasizes the theoretical implications, the concepts of drift and conversion reinforce the larger conclusion of this volume that there is a close alignment between theories of institutional change and comparative-historical analysis.

Drift, conversion, and institutional change

The new wave of research on institutional change is concerned with two questions: first, how do institutions change, and second, what is the relationship between institutional change and political outcomes? In recent scholarship, some analysts of developing nations have documented and explained a surprising *lack* of change in political outcomes despite significant formal-institutional change.¹ In this chapter, we focus on highly developed

¹ The work of Levitsky and his colleagues, for example, has shown that in developing countries characterized by “weak” institutions, changes in formal (“parchment”) rules often do not produce the expected, or indeed *any*, change at all in established political dynamics (Levitsky and Slater 2011, 1; see also Helmke and Levitsky 2006; Levitsky and Murrillo 2009). Levitsky and Murrillo (e.g., 2009) have

democracies where formal-institutional rules are typically observed and enforced, and look at the other side of the picture: significant changes in political outcomes despite formal-institutional stability. In other words, we examine cases where the formal rules embodied in institutions remain constant but either the outcomes of these rules (drift) or how they are interpreted and used (conversion) change in politically consequential ways.

By “formal institutions,” we mean formalized rules that are in principle obligatory and subject to third-party enforcement.² Furthermore, we believe it makes sense to think of public policies as constituting formal institutions insofar as they embody legally enforceable rules, create new organizations with state-backed decision-making or enforcement power, or both (Pierson 2006).³ This conceptual expansion makes clear that some policies constitute enduring features of the political landscape that should be studied in similar fashion to traditional state institutions. It also connects theories of legislative politics (which typically focus on the production of authoritative public laws) and theories of institutional design (which are typically concerned with more encompassing political institutions).

The fundamental source of both drift and conversion is the strong status quo bias of many aspects of democratic politics. In established democracies with extensive existing policies and programs, a range of factors militate against the easy creation of new institutions. These include partisan polarization, institutional rules requiring high levels of agreement or empowering specific veto players, the presence of vested defenders of existing arrangements, and collective action and coordination problems facing those who favor reform. These and other factors make authoritatively replacing existing institutions difficult – and thus make drift or conversion relatively attractive as a pathway to institutional change. In the case of drift, the trigger for change

explored important sources of variation in the “strength” of formal institutions in various settings relating to the interaction of formal and informal rules.

² Many institutionalists follow North (1990) in adopting a broad definition of institutions that includes both formal and informal arrangements, but the work of Levitsky and Murillo shows that we are far better off if we do not conflate the two under the same heading. Only by distinguishing formal (obligatory) institutions from informal norms (based on shared understandings and conventions) can we explore the connections and relationship between the two. Thus, without denying the importance of informal conventions, the arguments we elaborate are subject to specific scope conditions; they assume institutional “strength” in Levitsky and Murillo’s (2009) sense, including the rule of law and state capacity to enforce formal rules.

³ Such policies include those that set rules for social interaction that are enforced through the exercise of public authority as well as those that establish organizations or agencies (for example, central banks in most countries) whose existence is publicly guaranteed and whose actions are backed up by state authority.

is *context discontinuity*, the occurrence of environmental shifts that existing institutions are poorly adapted to handle. In the case of conversion, the trigger is *actor discontinuity*, as actors not involved in (in some cases not even around for) those rules' creation seek to redirect them toward new ends. We consider each in turn.

Drift

Drift is defined as the failure of relevant decision makers to update formal rules when shifting circumstances change the social effects of those rules in ways that are recognized by at least some political actors (Hacker 2004, 2005; Hacker and Pierson 2010, 2011; for extensions, see Béland 2007; Falleti and Lynch 2009; Lynch 2006; Mahoney and Thelen 2010; Streeck and Thelen 2005). By formal rules, we mean the specific operating language created by authoritative public decisions. By changing social circumstances, we mean the shifting context of those rules. Drift occurs when such shifts alter rules' outcomes without a change in the rules themselves.

Drift is therefore more than just political inaction. It requires that (1) the circumstances around policies or institutions change in ways that alter the effects of those policies or institutions on the ground, (2) this change in outcomes is recognized, (3) there are alternative rules that would reduce the degree to which these shifts in outcomes occur (in other words, that the shifts are *potentially* remediable), and (4) efforts to update these rules are not undertaken or are blocked.⁴

To offer just one telling example, drift was integral to the process of financial deregulation that preceded the 2008 economic crisis in the United States. In 1997, the chair of the US Federal Reserve, Alan Greenspan, observed a growing mismatch between a dynamic financial economy and sclerotic regulatory policymaking – and applauded:

With technological change clearly accelerating, existing regulatory structures are being bypassed, freeing market forces to enhance wealth creation and economic growth . . . As we move into a new century, the market-stabilizing private regulatory forces should gradually displace many cumbersome, increasingly ineffective

⁴ This definition recognizes that democratic majorities may support the inaction that causes drift. However, in many cases the failure to update formal rules is not explained by the preferences of democratic majorities but instead by the blocking activities of intense minorities or actors possessing veto powers. In a prior formulation (Hacker and Pierson 2011), we made this second possibility part of the definition of drift, and in the present context, too, we argue that one of the most interesting features of drift is that it provides a particularly potent way for political actors to pursue change that would likely not command majority support if carried out in more overt ways.

government structures. This is a likely outcome since governments, by their nature, cannot adjust sufficiently quickly to a changing environment, which too often veers in unforeseen directions. (Quoted in Johnson and Kwak 2010, 101)

Greenspan's faith in "market-stabilizing private regulatory forces" proved badly misplaced, of course. Yet his pronouncement accurately captured the degree to which federal financial policies – failing to adjust "sufficiently quickly to a changing environment" – were simply being outflanked by shifting market realities. It is true that new laws that deregulated the financial sector played an important role in encouraging these changes. At least as important, however, was policy drift: the failure of policymakers to respond to these developments, in part because of intense lobbying by the financial industry to head off such responses.⁵

Conversion

By conversion we mean the transformation of an already-existing institution or policy through its authoritative redirection, reinterpretation, or reappropriation. Thus conversion, like drift, combines elements of constancy in institutional *form* with changes in institutional *impact*. Also like drift, conversion allows reformers to pursue important substantive changes even in the face of formidable obstacles to more direct forms of institutional reengineering. Yet, in contrast to drift, conversion requires active reinterpretation of existing formal rules to serve new ends. Conversion occurs when (1) institutions or rules are sufficiently malleable that they can serve multiple ends; (2) those ends are politically contested; and (3) political actors are able to redirect an institution or policy to serve new functions while (4) leaving its formal rules in place.

Conversion reminds us that institutions are "multipurpose tools" that can be used to different ends – and whose goals and functions are therefore contested by groups both outside and within them (Perrow 1986, 11–12).⁶ Moreover, not only do institutions have multiple possible effects, these effects are frequently unanticipated, especially if an institution endures for a long

⁵ In fact, the growing gap between regulation and reality led to pressures for post hoc adjustments to the law to accommodate these behaviors and practices (Johnson and Kwak 2010). This points to a complex but important dynamic, which we cannot explore here, in which drift can create pressures that result in further formal-institutional change. In the case of finance, rather than drift serving as a catalyst to "update" rules to restore the eroding regulatory regime, it became a justification for further deregulation of those still covered by the old rules. The result was a "deregulatory ratchet" that included elements of drift, conversion (the interpretive loosening of existing rules), and new statutes.

⁶ The reference in Perrow is to what he calls "complex organizations," but the insights apply much more generally, as we argue below.

time. This is in part because these effects are often complex, occurring as they do over long spans of time in frequently dense institutional environments, and in part because the actors charged with shaping and operating institutions are often distinct from those who create them (Pierson 2004, esp. chapter 4). Indeed, if drift requires environmental shifts, changes in the key actors who are directing an institution represent the critical trigger for conversion.

In some cases, conversion is a matter of political expediency. For example, when the Labour government came to power in Britain in 1945, it redeployed economic instruments and institutions that had been developed to wage war to pursue growth and redistributive goals in peacetime.⁷

Often, however, conversion is pursued by actors who are seeking to directly alter or even subvert an institution's original purposes or functions. The development of the European Union provides a telling example. When the member states of the (then) EEC adopted Article 234, it included a "preliminary ruling mechanism" that would allow them to use the European Court of Justice to "hold EU legislative and executive bodies in check" (Alter 2000, 491). Clearly designed as a mechanism to allow member states to resist excessive encroachments by EU bodies, domestic groups within these countries seized on this provision to challenge national policies they opposed. Their successes before the European Court of Justice transformed the preliminary ruling mechanism from a tool for reaffirming member sovereignty into one for powerfully increasing the obligations of the member states under EU law (Abbott *et al.* 2000, 438; Alter 2000).⁸ As this example suggests, conversion often involves a shift in the arena of contestation – away from more visible venues (in this case, domestic legislatures) to less visible ones (the European Court), and away from high-profile clashes of parliamentarians and parties toward low-profile struggles among groups with sufficient organization, resources, and durability to win in nonlegislative arenas.

Explaining drift and conversion

The analytic benefits of identifying drift and conversion increase if we can specify the conditions under which they are likely to take place. The focus

⁷ As Kenneth Harris, the biographer of Clement Attlee, Britain's postwar Labour leader, would later remark, many of the policies that "seemed the result of a Labour government putting socialist principles into effect, were to a great degree the legacy of a state which had been organized to fight a total war" (quoted in Judt 2008, 68–9).

⁸ Conversion strategies of this sort need not be attempts at wholesale reversals, of course. They can also take the form of changes that bend or stretch rules beyond their original intent.

on clearly defined processes of institutional change in recent scholarship has encouraged cumulative research and conceptual refinement that have greatly advanced our understanding of the institutional settings, political circumstances, and social contexts in which drift and conversion are most likely to emerge. In this section, we build on recent scholarship to develop more specific claims about what makes drift and conversion more or less probable.

What drift and conversion share: the significance of status quo bias

As already noted, drift and conversion are united by a common source – the difficulty of directly changing formal rules. A first simple proposition, therefore, is that the prevalence of drift and conversion increases with the strength of a political system’s status quo bias. But what explains variation in status quo bias? A large institutional and choice-theoretic literature speaks to this question, delineating the institutional arrangements, procedural rules, and distribution of political preferences that foster stasis in authoritative decision making. All of this work suggests that status quo bias results from the interaction of basic decision-making institutions and the distribution of preferences. Tsebelis’s work on veto players, for example, associates heightened policy stability with contexts in which more actors must accede to change, when the ideological distance between them is greater, and when they are more internally cohesive (Tsebelis 1995; see also Immergut 1992). Keith Krehbiel (1998) similarly argues that legislative politics are more likely to be stalemated when legislators are more polarized and the status quo is relatively close to the position of the “pivotal” legislators whose votes determine whether a bill becomes law.

Crucially, who is pivotal depends on institutional structures and rules – and is rarely the vaunted “median voter” within national decision-making systems. In the United States, political institutions create especially high barriers to the enactment of new legislation (Stepan and Linz 2011). The separation of powers gives rise to the possibility of divided government, and the different electoral calendars (two- versus six-year terms) and constituencies (more or less equally populated House districts and states whose populations differ by a factor of 65) foster preference divergence between the House and Senate. Add to the mix such supermajority hurdles as the Senate filibuster and presidential veto, as well as increasing levels of ideological polarization within government, and the tendencies toward political stalemate are strong. Nonetheless, the United States is not alone; the political systems of many

democracies contain multiple veto points, supermajority requirements, or both.⁹

Moreover, beyond formal governance structures democratic polities often provide opportunities for intense minorities to block change even if that change has the actual or potential support of popular majorities. Well-organized interests often enjoy blocking power through their influence on individual legislators on key committees or through their importance to pivotal political parties in proportional representation systems or through their participation in “expert commissions” charged with developing legislative proposals. In such cases, there is no guarantee that alternatives to the status quo that would garner the support of popular or legislative majorities will be put in place.

Decision-making rules and points of access are just two crucial factors affecting the intensity of status quo bias. In addition, as the literature on institutional stability has shown, replacing institutions or policies outright often involves significant costs and risks even when the political landscape is more forgiving. Among these barriers are uncertainty about the effects of institutional changes (Shepsle 1986), the vested interests created by the feedback effects of existing policies (Pierson 2000), the efforts of the original creators of the institutions or policies to “hardwire” them to reduce the chance they will be unraveled by present and future opponents (Moe 1989), the crowding of agendas that makes it difficult to revisit past decisions (Baumgartner and Jones 1993; Kingdon 1984), the collective action barriers and transaction costs of creating new coalitions and coordinating on a single reform proposal (Hardin 1989), and the ever-present danger of “collateral damage” when institutions or policies are tightly intercoupled. All of these considerations suggest that changing formal institutions or policies is a difficult task in established democracies, especially the United States, and thus that drift and conversion are likely to be common processes within such settings.

What distinguishes drift and conversion: rule design and strategies of influence

If the crucial similarity between drift and conversion is that they are encouraged by status quo bias, the crucial difference concerns the opening that an

⁹ Other federal systems often have such characteristics (as, for example, Fritz Scharpf's [2009] work on *Politikverflechtung* in Germany demonstrates) as do some parliamentary systems that feature dual executives and/or dual chambers with overlapping jurisdictions.

institution or policy creates for altering the interpretation or application of existing formal rules. Borrowing the language of legal scholars, we call this variable the “precision” of an institution or policy.¹⁰ While considerations of status quo bias call attention to the political context of formal rules, the issue of precision draws attention to the character of the rules themselves – whether, in the words of Kenneth Abbott and his coauthors, they specify “clearly and unambiguously what is expected of a state or other actor (in terms of both the intended objective and the means of achieving it) in a particular set of circumstances” (Abbott *et al.* 2000, 412). To return to our earlier examples, the rule that stipulates that employers must pay a minimum wage of at least \$7.25 per hour is precise; the rule that renders actions “in restraint of trade” illegal, much less so.

Imprecision and precision create distinctive opportunities. Policies whose provisions are ambiguous and whose effects depend on interpretation and discretion offer fertile terrain for strategies of conversion. Moreover, such strategies thrive within venues – courts, bureaucracies, “parapublic” governing bodies – where the meaning of ambiguous rules is worked out. By contrast, policies whose rules are unambiguous are far less hospitable to conversion, though potentially more vulnerable to drift. This is because what is not *in* the rule is also not covered *by* the rule. For example, treaties with the USSR about arms control were very precise; yet for this very reason, they also left unregulated all sorts of behaviors that were outside their specific provisions.

We can sum up the combined effects of status quo bias and the tradeoffs involved in rule design. Status quo bias protects policies from direct revision but makes strategies of change through drift and conversion both more attractive and more difficult to reverse. Greater precision reduces ambiguity and facilitates enforcement, but it also reduces the adaptability of rules to new circumstances, rendering them more vulnerable to drift. In contrast, less precise rules are more flexible but also more susceptible to conversion, because they require working out what the rule calls for in a specific situation. In choosing the level of precision to adopt, policy designers often find themselves caught between the Scylla of drift and the Charybdis of conversion.

We can begin to grapple with the interaction between drift and conversion by considering the limits of two archetypal political responses to the trade-offs that they pose: automaticity and delegation.

¹⁰ In previous work we have called this “barriers to internal change.” Here we adopt the concept of precision as defined by legal scholars such as Kenneth Abbott, Anne-Marie Slaughter, and Thomas Franck.

Potential remedies and their limits: automaticity and delegation

One response to the risk of unanticipated changes in the environment and the threat of future actors seeking to exploit rule ambiguity is to design policies so they feature *automaticity* – in effect hard-wiring them to change in response to specified environmental shifts.¹¹ As R. Kent Weaver (1986) argues, one of the purest cases of automaticity is indexation – the explicit tying of policies to quantifiable changes in environmental conditions relevant to policy performance, such as wage growth, inflation, and demographic change. Our earlier minimum wage example would not exist if the US minimum wage were automatically updated to reflect consumer prices. Cost-of-living adjustments are the most familiar form of automaticity, but recent pension reforms in Europe have sometimes incorporated automatic adjustments for demographic variables (such as increasing life expectancy) into calculations of future benefits. Such automatic provisions all pose the same basic trade-off: in return for giving up some measure of control over policy, legislators free themselves from the need to enact periodic updates. For this reason, automaticity generally reduces the chance of drift. When policies are hardwired to reflect shifts in the external environment, there is much less likely to be a departure from the policy's original aims as a result of contextual changes.

But automaticity is not a panacea. In many areas, it will be difficult for elected officials to anticipate all the contextual conditions that might affect the policy, let alone to secure agreement on all contingencies. Moreover, automaticity may itself generate outcomes not foreseen or desired, as when tax breaks mushroom as individuals or organizations restructure their activities to exploit them. In such instances, policymakers may wish to write into the legislation some imprecision, which brings us to the second topic: delegation.

If policymakers are not willing to hardwire policies, they may be willing to cede power to frontline officials who are charged with implementing imprecise rules in a changing environment. As the vast literature on delegation suggests

¹¹ We will put to the side one feature of policy that can obviously lead to a shift in the policy status quo without new legislation – namely, explicit limits on the duration of policies. A law may create new benefits for only ten years or require reauthorization after five. In such cases, policymakers need to pass new legislation if they wish to continue a policy. Such “temporal bounding,” however, is not equivalent to drift. Drift occurs when policy outcomes change as a result of environmental shifts. The process may be gradual and not immediately perceptible. A pure time limit is more like an on-off switch: one day the policy is in place, the next it is not. Moreover, such temporal limits are explicitly written into law and thus relatively easy to see and mobilize around. The same is generally not true of drift, which results from the over-time interaction of environmental change and often complex features of policies – including features that are *not* written into law, such as the absence of automatic inflation updates.

(for a good review, see Bendor, Glazer, and Hammond 2001), it is difficult for policymakers to specify *ex ante* what particular steps need to be taken to achieve their goals, especially when the context of policymaking is unpredictable and frontline decisions require specialized information.¹² In such circumstances, elected officials (the “principals” in the familiar principal-agent model) may wish to delegate power to bureaucratic “agents,” who can use their greater information to respond to changes in the environment. In essence, delegation involves crafting rules that give frontline agents the flexibility to adapt those rules to changing circumstances.

But what prevents these agents from deviating from the principal’s intent? The thrust of most of the literature on delegation is that the principals can handle the problem (Callender and Krehbiel 2012; McCubbins, Noll, and Weingast 1987). Using both formal legislative language and formal and informal *ex post* controls, they are able to ensure outcomes consistent with original goals. For example, lawmakers can empower affected interest groups to shape agency decisions on an ongoing basis. Or they can adopt recruitment or oversight processes that keep bureaucrats in line even as the environment shifts. In essence, the delegation literature implies that policymakers can navigate between the twin perils of drift and conversion through *ex ante* and *ex post* controls. Even without new rules or automatic provisions, legislators can get frontline actors to do what they want in the face of changing external circumstances.

Yet the solution is not that simple. To accommodate the kinds of major demographic or technological changes we have discussed, discretion would need to be exceptionally wide and flexible. Constraining frontline agents with this much latitude – agents who essentially have rule-making power – would be difficult, if not impossible. More likely, it would create an enormous amount of imprecision that frontline agents could exploit, opening the door to conversion. In other words, the level of discretion required to keep a policy on track would effectively transfer policymaking authority to bureaucrats. Policymakers avoid drift only by facilitating conversion; they avoid conversion only by risking drift.

The politics after politics

The problem is not just technical. It is deeply political. The delegation literature presents a view of policymaking in which coherent coalitions craft clear

¹² See also the vast literature on “incomplete contracting” that deals with these problems.

legislation, the effects of those policies are easily traceable, and the players in the political game are more or less constant and equally powerful across time and venue. In the real world, however, policies and institutions are frequently messy compromises abounding with inconsistencies and contradictions based on coalitions of convenience and “ambiguous alliances” (Palier 2005). Sometimes, for example, policymakers will intentionally leave aspects of a policy vague to make it easier for competing interests to “sign off” on a measure or to enhance the durability of the rule by leaving room for it to be extended and applied to new situations. Such ambiguity may facilitate agreement in the short run and often renders the formal rule less brittle, but it also provides a strategic opening for interested parties to attempt to steer substantive outcomes in their preferred direction in the implementation and enforcement phases.

More important, the political forces that shape the implementation of legislation are generally much different from those that craft the laws to begin with. For starters, public salience is almost always vastly lower, both because of the passage of time and because of the complexity and opacity of administrative and judicial processes. In addition, organized interests are usually much more active and influential (Culpepper 2011; Moe 1990). To be sure, policymakers are well aware of this reality. Still, there may be real limits to their ability to foresee or forestall future challenges, especially when these processes play out over long periods of time.

When new rules clash with the interests of powerful groups, they invite challenge, and the more ambiguous the rules, the greater the scope for influencing their interpretation. Questions of interpretation are inherently political, and actors with intense interests can be counted on to weigh in on such questions, seeking at all turns to invoke – and impose on others – their preferred interpretation. In many countries, the courts play the crucial function of providing the authoritative interpretation, but other venues – from expert commissions to quasi-public organizations with implementing power – are part of the mix, too. In these respects, as well, delegation as a “solution” to drift often opens up opportunities for conversion by moving the politics of institutional change into less visible venues where challengers with advantages in these domains seek outcomes quite distant from original intentions.

In short, neither automaticity nor delegation offers a magic bullet to policymakers seeking to retain control over institutional outcomes. To understand when and how drift and conversion occur and interact, we need to extend our gaze outward to the social context of institutions and to the organized political actors most advantaged in these hidden processes of change. In the

next part of this chapter, we carry out this investigation and, in doing so, underscore just what is lost in analyses that neglect such processes and the social forces and political organizations that bring them about.

Drift and conversion in the real world

Drift and conversion characterize much modern policymaking. In the next two sections, we trace their sources back to key features of contemporary political life and explore their implications for political analysis. We start with drift.

Drift: political stalemate, social flux

Developed democracies face dramatic economic and social changes. Yet, as public programs have matured, these polities have also experienced growing tendencies toward gridlock, making it harder to update policies. Loss of adaptability is particularly notable in the United States, where the growing polarization of American legislators and increasing use of the Senate filibuster have made legislative stalemate ever more the norm (McCarty, Poole, and Rosenthal 2006; Wawro and Schickler 2010). However, it is also a problem in other advanced democracies where polarization manifests in increasing fragmentation and sprawling coalition governments with weak mandates. Within the scholarship on American politics, gridlock is typically characterized as a source of stability, reinforcing the status quo. Yet drift suggests a large exception to this assumption: when the effects of formal rules are heavily dependent on their environment, gridlock can produce major changes in the status quo, as failure to adapt rules to their changing context produces substantial shifts in policy outcomes. In other words, doing nothing in the legislature often means doing something quite big in the world.

In their introduction to this volume, Thelen and Mahoney emphasize that a strength of comparative-historical analysis is its focus on configurations that are only visible at the meso or macro level. Indeed, one of the exciting features of drift as a concept is its potential for linking fairly circumscribed arguments about legislatures and other decision-making institutions to substantively interesting social phenomena by systematically incorporating aspects of the broader social context. As Falleti and Lynch (2009) argue, “Drift is a mechanism that can operate *only* in a system characterized by multiple layers of relevant context” (1157, emphasis added). We can say more than “drift happens.”

We can also explicate the major environmental dynamics and characteristics of formal rules that are likely to give rise to this kind of mismatch.

Drift is often difficult to anticipate and prepare for. That is because some of the major sources of drift are substantially external to politics, such as technological change and demographic shifts. Rapid technological change introduces new possibilities for social organization or interaction that can radically alter the functioning of existing policies. For example, trade unions and left-leaning politicians in many European countries are now watching with consternation and concern as new technologies and patterns of social interaction have facilitated the emergence of a “gray labor market” in a growing range of services. “Digital capitalism” has encouraged actors to aggressively probe the bounds of the existing rules as they create wholly new markets beyond the reach of current policies and collective bargaining institutions (e.g., “Minister gegen Uber” 2014). Similar to the example of financial deregulation, such developments have fundamentally changed the effects (and effectiveness) of existing arrangements by creating a parallel market whose existence outside the formal regulatory framework puts new pressures on actors inside that framework.

As with technology, so too with demography. Many policies are implicitly designed around particular distributions of actors or activities within a population. Over time, however, these distributions can undergo dramatic changes. In many democratizing nations a century ago, for example, property and income thresholds for voting were fixed only in nominal terms and assumed a small pool of wage laborers. As inflation and wage growth effectively lowered these standards and the working class grew, workers were gradually brought into the electorate without explicit expansion of the franchise.

A final powerful source of drift is differential growth rates across different parts of the affected policy landscape. Many policies fail to cover all activity in a particular issue area or cover different aspects in different ways. When these differences in coverage are associated with differential growth rates, the result can be substantial drift. In Germany, for example, so-called mini-jobs have expanded massively since 1980, contributing to the spectacular growth of low-wage employment in that country. This form of employment, characterized by low hours and low pay and without the usual social benefits, was conceived in the 1950s as a way for students, housewives, and pensioners – groups that already enjoyed benefits either as a result of previous employment or through their connection to male breadwinners – to supplement family income or earn a little pocket money. In the 1980s, however, employers in the rapidly growing service sector eagerly seized on this form of employment as a way

to reduce costs. As a result, mini-jobs have grown exponentially and at the expense of regular part- or full-time employment, diminishing the effective reach of important public policies.

Similarly, across advanced industrial economies, unionization rates have fallen steadily. The main cause in many nations is not explicit anti-union legislation, or even an overt employer offensive against organized labor. Instead, unionization (and collective bargaining coverage) have shrunk “naturally” as employment has shifted away from organized labor’s traditional strongholds in manufacturing toward services, where union presence is much weaker, especially among higher-skilled salaried employees. Much the same process has played out in the American pension system. Traditional rules grew gradually outmoded as more and more employers shifted from highly regulated defined-benefit plans offering a fixed benefit in retirement to lightly regulated defined-contribution retirement accounts like 401(k)s (Hacker 2004). In this case as in the others, the source of change was differential growth rates, and the political struggle was over whether and how to respond. Revealingly, those who wanted to update pension policies to reflect the new realities – now swimming against the tide of status quo bias – lost.

Again, comparative-historical analysis is particularly well equipped to consider these kinds of institutional changes. A shared and distinctive feature of many of these contextual shifts is that they involve “big, slow-moving processes” (Pierson 2004) that most political analyses downplay or ignore. Bringing these processes into view helps us better understand drift. It also encourages us to see political struggles within their evolving social contexts, laying bare deeper transformations of society that condition political outcomes (Hacker and Pierson 2014).

Conversion: interpretation and its venues

Drift is a strategy of holding firm while the world changes. Conversion is a strategy for actively altering what institutions do. If the possibility of drift arises when contexts change, opportunities for conversion typically arise when the players change – when political actors inherit institutions not of their own making and inconsistent with their ends.

Like drift, strategies of conversion respond to the considerable barriers to dismantling existing institutions. Yet they also reflect the distinctive challenges of constructing new institutions. Even when vested interests can be conquered, the prospect of institutional innovation can galvanize opposition from previously neutral groups who begin to contemplate how their

interests might be jeopardized by new institutional arrangements or by “collateral damage” to adjacent institutions. Previously neutral parties often emerge in defense of existing institutions or policies even if the impact of the proposed change on their own interests is indirect or unknown (Mahoney and Thelen 2010, chapter 1). For all these reasons, reformers may have strong incentives to avoid frontal assaults on existing institutions, and conversion may allow a flanking maneuver toward the goal of institutional change.

But the possibilities for conversion are not constant. Beyond the issues of rule ambiguity already discussed, they hinge on the opportunities for opponents of existing rules to pursue hidden change through authoritative reinterpretation. Democratic political systems vary greatly in the number and authority of the venues they provide for such reinterpretation. More important, political actors vary greatly in their capacity to use these venues to achieve their ends.

Like moths to a flame, political scientists are drawn to the highly visible political theater within legislatures and parliaments. Yet, as the work of Aaron Wildavsky, R. Shep Melnick, and Eric Patashnik (among others) has reminded us, “The passage of a reform law is only the beginning of a political struggle” (Patashnik 2008, 3).¹³ Conflicts over the enactment, implementation, and interpretation of the Affordable Care Act in the United States provide a particularly vivid example of the more general point. No sooner had the law passed than it was fiercely challenged in the courts and in state legislatures across the country, and in many of those states, its fate remains uncertain. Where legislative “redos” are not possible, political actors may shift their attention to other venues, including government agencies and the courts – settings in which contestation over implementation and interpretation then continue. Ironically, the multiple veto points that many institutional analyses treat as obstacles to change may become *vehicles* for change in the politics of conversion.

Bureaucratic agencies are the first crucial arena. Judith Layzer’s (2012) *Open for Business*, for example, explains how conservative interests have advanced policy change in the area of environmental regulation through “low-profile policy challenges” at the agency level. “Although conservatives have failed to repeal or revamp any of the nation’s environmental statutes,” she argues, “they have influenced the implementation of those laws in ways that increased the risks we face, prevented or delayed action on newly recognized problems, and

¹³ This point is echoed, from an international relations perspective, by Jönsson and Tallberg (1998), who note that “agreements – whether in political or legal garb, whether on national or international levels – do not put an end to political processes” (373).

altered the way Americans think about environmental problems and their solutions.” Of course, environmental groups have not idly accepted these developments; instead, they have pressured President Obama to reinterpret the powers of the Environmental Protection Agency and use those powers to fight climate change.

The courts are a second crucial arena of conversion in many countries. Saying what a law or policy calls for is precisely what courts do, and judicial rulings on such matters often have an enormous impact on substantive outcomes (Melnick 1994). A large literature on political jurisprudence has convincingly shown how statutory interpretation and judicial influence shape important areas of public policy. In the case of civil rights in the United States, for example, court decisions famously pushed public policy beyond where legislative majorities were prepared to go. The 1964 Civil Rights Act – a deeply controversial piece of legislation that outlawed various forms of discrimination – was hotly contested and very nearly failed in Congress. The compromises that had been required to get the bill passed had weakened many of its key provisions (Frymer 2003; Lieberman 2007). Once enacted into law, however, civil rights lawyers aggressively probed the bounds of the legislation by bringing a steady stream of cases before the courts. The result was to establish a “robust private enforcement regime” that transformed initially weak formal rules into one of the strongest affirmative action regimes in the world (Frymer 2007, 84).

As in this case, conversion is often a strategy employed by those on the losing end of some previous conflict. Yet the civil rights example should not be read to suggest that conversion is primarily a strategy for weak interests. To the contrary, well-organized groups and those with substantial resources and lobbying and legal capacities – such as employers and their associations – generally loom largest in the politics of conversion. For example, for decades now, Mexican entrepreneurs like the telecommunications tycoon Carlos Slim have been able to shield their companies from unwelcome intrusions by government regulatory agencies by invoking a writ of amparo, a legal provision originally designed to protect human rights (Schneider 2013, 145). Just to the north in the United States, according to a study of the politics of the Federal Communications Commission, firms have been able to change the regulatory environment in which they operate through the strategic use of litigation to “overturn potentially harmful regulations passed by federal administrative agencies” (de Figueiredo 2000, A1). Business interests in the United States have proved unusually successful under the Roberts Court in securing favorable interpretations of legislation of importance to them (Epstein *et al.* 2013,

1471 and *passim*). Sometimes David wins, but he had better be able to hire a good team of lawyers. In the politics of conversion, Goliath has the upper hand.

In sum, the concept of conversion highlights a major avenue of political influence: shifting substantive issues into arenas (or keeping them out of arenas) so as to marginalize or exclude opponents and magnify particular resource endowments. The balkanization of much contemporary political science, focusing special attention on legislatures and elections and featuring less prominent and separate literatures on “bureaucracy” and “the courts,” obscures the reality that these are not separate arenas animated by fundamentally different political forces. Instead, each is deeply imbricated in a large network of political institutions (and, often, coordinated political activity) that jointly shape substantive outcomes (Barnes 2007; Burke and Scherer 2012; Carpenter 2001; Kagan 2003; Melnick 1994).

The politics of hidden change

What are the payoffs of recognizing drift and conversion? The first, just discussed, is greater awareness and understanding of political struggles that occur outside legislatures. These crucial conflicts frequently escape not just the notice of political scientists but also the control of voters, who face acute disadvantages when policymaking moves from legislatures into less visible political arenas. Indeed, a second major payoff is a deeper appreciation of the role of organized interests – marginalized by much contemporary scholarship – in institutional and policy change. Finally, once we appreciate the politics of drift and conversion, we gain a very different picture of who is playing “offense” and “defense” in democratic politics. Conversion and drift effectively turn the tables, transforming status quo bias from an enemy of reform into its friend. When opponents of existing rules are able to block updating or to successfully convert institutions, it is the supporters of the status quo ante (the winners in the last round) who face the difficult challenge of returning those institutions to their prior state.

Looking beyond big legislative changes

When studying institutional change, it is tempting to focus on high-profile episodes of reform when formal rules are rewritten. Yet such breakthroughs are not the only way institutions evolve, nor do such reforms always endure

after the fanfare has ended. As Patashnik (2008) emphasizes in his study of major US policy reforms, “The losers from reform cannot be counted on to vanish without another fight, and new actors may arrive on the scene who seek to undo a reform to further their own agendas” (3). Well-organized and well-resourced groups that lack a large social base may in fact *wish* to avoid frontal assaults on popular institutions, preferring to seek change in “quieter” places (Culpepper 2011): the bureaucracies charged with implementing rules and the institutions (including courts) charged with interpreting them.

Venue shopping of this sort is about more than finding sympathetic ears. Postenactment fights are typically low-salience, high-information affairs. They reward actors who can monitor implementers and interpreters across multiple venues. They reward a capacity for patience, favoring contestants willing to play the long game to prevent the updating of existing rules or shape the way those rules are carried out on the ground. In short, they favor a certain breed of political animal – ones who have the “span” to pursue their ends across venues and over time. To see these actors and understand their influence, analysts have to take the long view and pay close attention to configurative and temporal processes that are usually most visible when looking across polities. This is why, we have argued, there is such a close fit between comparative-historical analysis and the kind of theorizing about institutional evolution offered in this chapter.

The role of organized interests

Who are the political actors most likely to possess the attributes just discussed? The short answer is organized interests. They, as Terry Moe (1989) puts it, “are normally the only source of political pressure when structural issues are at stake” (269). When issues are low profile and the link between legislative action (or *inaction*) and outcomes is opaque, organized interests, not voters, hold the strongest hand. Of course, these are precisely the main attributes of drift and conversion that we have charted. Evolving often slowly, rising to voters’ attention only episodically, if at all, and devilishly difficult to trace back to particular leaders, drift and conversion are processes that advantage those most capable of long-term monitoring, foresight, and coordination.

This observation carries substantial implications for how we understand democratic politics. Much contemporary research adopts a perspective that is at once fixated on voters and sanguine about the responsiveness of politicians to the electorate. Even scholars who are doubtful about political responsiveness (e.g., Bartels 2008) tend to root their explanations for nonresponsiveness

in the voter-politician nexus, focusing more on what is *not* driving political outcomes (voter preferences) than on what is (e.g., the activities of groups).

The ubiquity of drift and conversion creates serious challenges for this dominant perspective. In the politics of hidden change, the sway of organized groups will typically be greater than the pull of atomized voters. With their notoriously short attention spans and limited appetite and aptitude for technical and legal detail, voters are simply outclassed in the long-term political battles associated with conversion and drift. Indeed, because it is so hard to link the resulting changes in outcomes back to particular elected officials, drift and conversion are perhaps the least risky ways for politicians in democratic polities to cater to organized interests.¹⁴ Drift and conversion are not just mechanisms of change, in other words; they are means by which politicians can cater to such groups with limited electoral risk.

So, organized groups are likely to loom large, but which groups and why? To guide our thinking, we can draw on insights from a growing literature on policy reform and public law. In different ways, Patashnik (2008) and Stuart Scheingold (2004) have noted that even big victories are rarely sufficient to alter political outcomes. Both note the possibility of considerable slippage after legislation is passed or rulings handed down. Scheingold emphasizes the important role of social mobilization as a necessary complement to legal activism (see also Barnes and Burke 2006, 497; also Epp 1998, 2009). Without high levels of mobilization to ensure consistent and vigorous implementation and enforcement, even big legal victories may prove Pyrrhic. Patashnik (2008) draws the same conclusion in his study of legislative reforms, arguing that “even the most solid reform ideas require ongoing collective support to endure” (xi).

More important, these analyses stress that concentrated groups enjoy distinct advantages over diffuse interests in postenactment politics. A classic article by Marc Galanter (1974) makes this point powerfully in the legal realm, drawing a broad distinction between “one shotters” and “repeat players.” Galanter argues not only that repeat players enjoy myriad advantages over one shotters but also that these advantages *cumulate over time*, resulting in a gradual shift of law in favor of repeat players. Repeat players enjoy economies of scale in terms of developing in-house legal expertise. And because they

¹⁴ The legislative politics literature ignores this conditional nature of group influence in part because it assumes that both groups and voters factor into legislators’ ideal points in a more or less stable fashion. But, as a result, this work misses how legislators can shift their focus (groups versus voters) and thus their positions relatively quickly in those rare cases when voters gain the upper hand vis-à-vis groups.

have numerous cases under their belts, they are in a better position both to anticipate and head off problems (for example, avoiding lawsuits through particular contractual language) and to prevail in the cases that do arise. With this experience in turn come many opportunities to develop relationships with institutional incumbents and build a reputation that becomes an asset in itself.

As the label implies, moreover, repeat players play for the long term. This involves a cluster of strategies and accompanying advantages. They can play the odds and aim to maximize gains over a series of cases rather than go for a big victory on a single case. Crucially, they can play for rules instead of playing for immediate gains. In other words, they can settle – in poker terms, “fold” – when victory seems out of reach and the danger exists that a loss will result in unwelcome precedents. Conversely, they can accept a loss if it comes bundled with a more favorable interpretation of the rule of which they have run afoul.¹⁵

One shotters are disadvantaged on both counts. First, by definition, they lack equivalent experience. Even if they happen to command a superior grasp of the substantive issue at stake, they lack equivalent legal experience (and associated reputational effects). Second, one shotters have shorter time horizons and thus more limited strategic options. Actors who are engaged in a one-off contest obviously cannot play the odds strategically across a number of cases. Moreover, in one-shot contests the cost of defeat is likely large given the sunk investment in a single battle. Just as poker amateurs can have a good night but over the long run will lose to professionals, one shotters may win particular cases, but over time the table favors repeat players.

These insights extend beyond the realm of the courts. Elections are blunt instruments and voters are classic one shotters whose influence is felt only sporadically and in ways far removed from actual outcomes. Organized interests are repeat players par excellence. Their presence is virtually permanent, their influence is targeted at specific legislative and policy outcomes, and they are in it for the long run and well positioned to follow legislation into the implementation and enforcement stages. One shotters, even if backed up by strong social mobilization, are like the amateur poker player mentioned above. They may be able to score a victory in a particular case, but they are unlikely to have ongoing durable success unless they develop the kind of

¹⁵ An example is a Supreme Court decision on sexual harassment in which the victim won the case but the majority opinion (written by Justice Scalia) makes harassment very hard to demonstrate in subsequent rounds.

organizational capacity that could turn them into repeat players (Barnes and Burke 2006, 497).

Reconceiving defense and offense

As this discussion suggests, drift and conversion force us to reconceive who is playing offense and defense. Repeat players are advantaged not because they always win but because they have a special capacity to overcome momentary defeats. In their arsenal lies the ability to block updates to policies that are drifting in their direction or to pursue authoritative reinterpretations of existing formal rules. When successfully deployed, these distinctive strategic capacities change their political situation fundamentally. What had been a status quo they wished to change is now, through drift or conversion, a status quo they wish to preserve.

This matters a great deal, since one of the clearest findings of institutional scholarship is that there are very large differences between attacking and defending in politics. As strategies, drift and conversion capitalize on this inherent asymmetry. When policies are vulnerable to drift, the coalition that was previously seen as playing offense (attacking the status quo) finds itself in the easier stance of playing defense (blocking the updating of a drifting policy). Once the minimum wage has begun to erode, for example, workers will progressively lose ground unless their political allies can successfully remobilize to update formal rules. By the same token, once a new interpretation is in place due to conversion through agencies or courts, proponents of the original rule must remobilize to restore the prior status quo. To return to the example with which we began, the Sherman Antitrust Act, it took nearly a quarter of a century before a new law (the Clayton Act) finally protected unions from some of the specific types of judicial injunctions that had been visited upon them under the Sherman Act.

Put more broadly, a focus on drift and conversion forces us to reconsider the concept of multiple veto points – a staple of modern institutionalism. Typically, veto points are seen as strengthening the status quo by blocking change. It would be more accurate to say that multiple veto points alter, rather than simply impede, the politics of institutional change. They force politics onto alternative tracks. In doing so, they also empower those actors – typically the most organized ones – who thrive on a politics of complexity that privileges a capacity for sustained rather than intermittent activity. The effect of veto points, in other words, is conditional. They shift the balance of power among competing political actors and the

mix of institutional changes, as well as the capacity to create new formal rules.

Probing a bit more deeply, many organized interests can exert substantial influence on the social environment as well as on politics. Large employers, for instance, are not simply collective actors in the political realm; they are also capable of extensive, politically consequential action in the economic realm (Lindblom 1982; Offe and Wiesenthal 1980). For these actors, it may be possible to achieve their goals not by changing rules but by “breaking out” from them: altering their behavior while preventing the updating of law. In the late 1970s and early 1980s, for example, American employers adopted a more aggressive stance toward unions in the private sector. They backed up their private actions with a strong political push, blocking union efforts to update industrial relations law. With a crucial boost from the Senate’s filibuster rules, business successfully engineered a major episode of policy drift. Thinking systematically about these forms of private power and how they play into policymaking could give more specific content to arguments about the “structural” influence of political actors that once featured prominently in political and social analysis (Hacker and Pierson 2002).

Conclusion and implications

Until recently, institutionalism was dominated by the analysis of “comparative statics.” Stable institutional differences explained cross-national divergence. The burst of interest in institutional change usefully challenges this older tradition. Yet it has proved less successful at producing clear and systematic explanations of when, why, and how institutions change. The concepts of drift and conversion seek to provide such explanations. By focusing on one important variety of bounded innovation – strategies pursued in contexts in which a more direct and overt institutional overhaul is excessively costly or difficult – we have sought to show *what specific sorts of institutional changes* pursued by *what kinds of actors* are likely under *what kinds of conditions*.

Drift and conversion also provide a crucial link between processes of institutional change and institutional reproduction, often treated as distinct. Particularly in punctuated equilibrium models of change, scholars are prone to separate the analysis of innovation (where agency often looms large) from the analysis of subsequent institutional reproduction (where the emphasis is on structural constraints). Yet the arguments in this chapter suggest that reproduction and change are two sides of the same coin (for a more extended

argument, see Thelen 1999, 2004). Institutions do not survive long stretches of time by standing still: as the world around them changes, their survival often requires ongoing active adaptation to their political and economic environment. Drift reminds us that institutional reproduction is not a simple matter of stasis but depends upon active interventions to adapt these institutions and rules to changes in context. Conversion reminds us that institutional evolution is shaped by the adaptation of institutions inherited from the past to new purposes. These forms of change have enormous implications for how institutions evolve – and who benefits from their evolution.

Finally, drift and conversion expand our range of vision by prompting us to adjust not just what kind of change we are looking for but where we are looking for it and whom we expect to produce it. Drift, for example, can only be seen once we are attentive to the structure of policies and how those structures interact with a particular environment (Hacker and Pierson 2014) as well as the blocking strategies of political actors. By problematizing issues of interpretation and enforcement, conversion draws our attention to frequently neglected political arenas where ongoing struggles over imprecise rules often end up, especially the courts and bureaucracies. In this way, the concept offers the opportunity to tap into well-developed traditions of research on bureaucracy and jurisprudence while inviting a more sustained dialogue with scholars in public law, public administration, and public policy whose work sometimes seems disconnected from the rest of political science.

Above all, drift and conversion bring us back to fundamental questions of political economy. In a world marked by stark information and power asymmetries and vast differences in resources and organizational capacities, who actually governs (Dahl 1961)? Political contestation often pits the organized and information-rich – the political actors most able to block the updating of policies, the actors most capable of changing institutions from within – against the disorganized and information-poor (Arnold 1990; Bawn *et al.* 2012; Cohen *et al.* 2008; Hacker and Pierson 2005, 2010, 2014). By opening our eyes to drift and conversion, we can better understand not just the sources of institutional change but also the structure of power in advanced societies.

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