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Afterword

Is historical institutionalism bunk?

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INTRODUCTION

The salience of international market regulation for the study of world politics should no longer be in dispute. The proximate cause of the September 2008 Lehman Brothers bankruptcy was a cross-border regulatory disagreement. Barclays Capital was prepared to take over Lehman, even without financial assistance from the US government. The US Treasury Department and Federal Reserve Bank of New York actively brokered a private consortium of financial institutions to assist in the sale. The UK's Financial Services Authority (FSA), however, was unwilling to relax capital adequacy requirements and unable to alter corporate governance protocols to permit such a sale (Sorkin, 2009: 343–50; Paulson, 2010: 210–11). The failure in regulatory coordination between two of the world's closest allies paved the way for the acute phase of the 2008 global financial crisis. The intrinsic need to understand the inner workings of global regulatory governance could not be clearer.

Henry Farrell, Abraham Newman, and the other contributors to this special issue have done an excellent job exploring the ways in which historical institutionalism (HI) can explain the processes and outcomes of international market regulation. They have also done me a personal favor. These essays use a stripped-down version of my "market power" argument (Drezner, 2007) as the principal "null hypothesis."[1] It is certainly flattering to be part of the existing scholarship from which HI can develop contrasting hypotheses. If nothing else, I now appreciate the power of sequencing in the development of IPE ideas as well as IPE institutions. I will leave it to readers to judge whether it is better to be first or last in this particular sequence.

The sequencing of this essay will begin with praise and then proceed to some constructive criticism. Farrell and Newman's project makes several valuable contributions and critiques of the extant literature on international market regulation. For all of the progress made in these

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papers, however, there remain significant and persistent questions about the utility of the historical institutionalism approach to explaining international regulatory outcomes. The HI approach needs to address two issues in order to occupy a place in the IPE firmament that rivals more established paradigms and methodologies. First, there are profound ambiguities and inconsistencies in how policy feedbacks and sequencing affect international market regulation. Based on the articles in this special issue, it appears that feedback and sequencing can reinforce prior policy institutions, provoke resistance to those policies, or even create repellent effects that lead to alternative regulatory institutions. Unless historical institutionalism develops testable hypotheses about when institutional path dependence matters and when it doesn't, falsification becomes extremely problematic. Second, HI must consider how forum-shopping – both domestically and internationally – affects the hypotheses generated in this special issue. I close with a discussion of future tests for HI that should prove very revealing in the years to come.

THE BENEFITS OF HISTORICAL INSTITUTIONALISM

The good news: it is about time.

For the past 15 years, the study of international political economy has gravitated towards causal approaches centered around some combination of economic pluralism and rational choice institutionalism. An increasing fraction of American IPE scholarship has used this approach to explain both foreign economic policy preferences and outcomes (Cohen, 2008; Maliniak and Tierney, 2009). These intellectual currents mirror the shift in the training of graduate students in IPE towards rigorous quantitative and formal methodologies (Farrell and Finnemore, 2009). Indeed, the prevalence of this methodological approach has been so great that David Lake (2009) refers to this approach as the "single, unifying paradigm" of IPE scholarship.

At the same time, there has been a new recognition that "international market regulation" has penetrated the traditional negotiating arenas of the global political economy. As Woll and Artigas (2007: 124) observe, "empirical analysis shows that domestic regulatory policies and international economic policies are no longer independent of each other, as previous models generally assumed." The global financial crisis has clearly revealed how regulatory issues affect both the global political economy and global economic governance. With the combination of these two trends, an increasing amount of research on international market regulation has relied on an open economy politics approach (Kono, 2006; Mattli and Woods, 2009).

On the one hand, this is all to the good. Farrell and Newman observe in their essay that an increasing number of international relations scholars are devoting attention to international market regulation. The notion that this area of inquiry is merely about apolitical "technical" issues (Waltz, 1979, 1999) has persisted in international relations scholarship for far too long. These essays reinforce a point that an increasing number of IR scholars have made – the development of international market regulation is an inherently political task that has significant distributional effects. Several of the essays here stress the importance of technical capacity as a source of both power and preferences – but they also agree that these capabilities are a *political* resource. Regardless of theoretical or methodological orientation, international relations scholars are in agreement that this is an appropriate subject of inquiry.

On the other hand, it is far from clear whether open economy politics has the monopoly of wisdom in explaining international market regulation. As Mosley and Singer (2009) pointed out recently, the 2007/8 global financial crisis exposed clear gaps in IPE research trajectories. The failure to explain variations in domestic and international financial regulation is perhaps the weakest link. With some significant exceptions (Singer, 2007), open economy politics has by and large overlooked this issue. As the essays by Elliot Posner, Orfeo Fioretos, and Layna Mosley demonstrate, this is ripe territory for a historical institutionalist approach. The heuristic value of heterogeneous theoretical approaches is not inconsiderable (McNamara, 2009). The development of alternatives to open economy politics – as well as more traditional paradigms like realism and constructivism – is all to the good. The individual essays clearly add to our knowledge base on international market regulation.

The HI approach developed in these papers highlights a significant flaw in extant research programs on international market regulation. Whether realist, liberal institutionalist, or rational choice institutionalist, extant approaches to this topic rest on the fundamental premise of *equilibrium*. There is the belief that once power, preferences, ideas, and institutions are put into the theoretical blender, the result will be a stable regulatory outcome that possesses the properties of a Nash equilibrium (Nash, 1950). Absent a massive exogenous shock, no individual actor will have an incentive to deviate from the global status quo policy. Even approaches that emphasized temporal processes also possessed this quality; political institutions shaped the preferences of interest groups, which in turn reinforced the stability of the original set of policy preferences (Rogowski, 1989; Hathaway, 1998). From the outset, an express purpose of HI was to avoid the "corner solution" problem by explaining both the salience of institutions and the sources of institutional change (Thelen, Steinmo and Longstreth, 1992).

There is also a theoretical elegance to the HI approach articulated here that should be acknowledged. Most approaches to international market regulation follow the "two-step" approach (Legro, 1996; Moravcsik, 1997).

The first step is identifying the domestic actors and institutions that explain the origin of state preferences. The second step is to take those preferences as given for international interactions, and to explain the bargaining outcomes as a function of the distribution of interests and capabilities. The HI approach developed here is a one-step approach. Domestic regulatory institutions are the source of both power *and* preferences on the global stage. As these institutions evolve over time, so does international market regulation.

WHEN AND HOW DOES SEQUENCING MATTER?

The bad news is also about time – or, rather, the inconstant effect of temporality on regulatory decision-making.

Farrell and Newman (2010) stress the importance of policy feedbacks and historical sequencing in explaining international market regulation. They focus on "one classic mechanism of policy feedback – the propensity of state institutional reforms to create client groups that then have a strong incentive to push for their maintenance." They go on to note that, "states which, for whatever reason, have not developed regulatory capacity in a given sector of market governance before the advent of economic interdependence, are likely to find themselves disadvantaged in international disagreements over this sector afterwards."

The empirical content of the subsequent essays, however, suggests that the role of sequencing is fuzzy in determining later iterations of international market regulation. There appear to be three possible responses by laggard states to the articulation of policy principles by governments with greater regulatory capacity: reinforcement, resistance, or repellence. Reinforcement occurs when prior international market regulation induces weaker actors into adopting pre-existing standards. This is consistent with prior work in historical institutionalism that stresses the role of path dependence in affecting institutional and policy trajectories (Pierson, 2004). At time t, a set of rules R is codified. These rules help to shape and reinforce the preferences of the salient actors. At time t+1, the cost of switching away from R is somewhat higher. With each iteration, the reinforcement between actor preferences and the rules that bind them make it increasingly unlikely that R will be changed endogenously. Bach and Newman (2007) persuasively demonstrate the ways in which regulatory and technical capacity translate into influence over the international market regulation of pharmaceuticals and cosmetics.

Other contributors, however, come to different conclusions. Layna Mosley's article suggests that a resistance strategy at the implementation stage can negate the effect of initial regulatory capacity. When the IMF's Report on the Observance of Standards and Codes initiative geared up, the technical capacity of developing countries in the financial sector was severely constrained (Jordan and Majnoni, 2002; Rajan and Zingales, 2003). As Mosley demonstrates, however, the power of elite financial interests in these countries was sufficient to block implementation. Mosley's evidence reaffirms prior work stressing the role that domestic politics play in affecting the implementation of international market regulation (Raustiala, 1997).[2]

Other articles in this special issue stress a repelling strategy, in which actors respond to extant regulation by building up their own technical and institutional capabilities in order to develop a viable alternative to the hegemonic rules of the game. As Elliott Posner points out in his essay on accounting standards, the United States possessed both market dominance and regulatory muscle in the development of accounting standards. By the early 1990s, large European-headquartered firms were adopting US GAAP standards in their accounting. This could have severely disadvantaged European Union officials from developing a counterweight to US preferences on this issue – and yet, the reverse happened. The EU balanced against the United States.[3] Late entry and an initial lack of regulatory capabilities does not appear to have hampered the EU's ability to alter the status quo on accounting standards.[4]

If sequencing matters, it is still not clear if it matters in a consistent manner. Path dependence is an imperfect causal mechanism, in that its predicted effects are *too* powerful. Nevertheless, it does provide a forward-looking explanation of why international market regulation looks the way it does. Unless there is some way to divine whether actors will respond to prior events with a reinforcing, resisting, or repelling strategy, however, then HI remains a backward-looking explanation.

Farrell and Newman (2010) explicitly acknowledge that their version of HI does not provide a forward-looking explanation: "Historical institutionalists have few means of predicting when feedback loops will occur *ex ante*; indeed their arguments suggest that they are likely by nature to be unpredictable." As a source of possible explanation, HI might provide some useful context. As a source of prediction, however, this variant of historical institutionalism is of little use. Some might argue that the failure to predict is inherent to the ontology and epistemology of historical institutionalism. Other scholars, however, have argued that deductive theorizing and an epistemology based on analytic narratives are perfectly compatible (Büthe, 2002). Mosley's essay in this issue further demonstrates the compatibility of historical institutionalism with other methodologies.

This ambiguity raises an important concern about the connection between the underlying theoretical approach of historical institutionalism and the preferred method of using analytic narratives to process-trace the effects of temporality on international market regulation. This methodological emphasis can privilege middle-range decision-making approaches over structural theories with regard to hypothesis-testing.

Whereas the HI paradigm takes greater interest in process-level variables, other explanations such as realism (Gruber, 2000) or open economy politics (Hiscox, 2002) will focus on underlying causes, seeing institutional processes as intervening variables. Process-tracing stacks the deck in favor of theories that focus on tightly coupled cause-and-effect relationships over approaches that depend on more macrohistorical evidence.

Consider again the relationship between market power and regulatory capacity on international market regulation. It is possible that the temporal sequencing and relative strength of national regulatory capacities has pronounced and path dependent effects on outcomes (Bach and Newman, 2007). It is also possible, however, that domestic capacity acts as a process variable in a "market power" approach (Drezner, 2007). Such capacities could give an advantage to one great power over another in the short term. Over the longer term, however, all great powers will have an incentive to bolster their institutional capacities. State strength, therefore, follows on from market power and wealth. If reinforcement was the only dynamic of historical institutionalism, then the sequencing would have profound distributional effects. If resistance or repellence is a possible response, however, then the distribution of regulatory and technical capacity is less significant.

Indeed, as several of the contributors to this special issue point out, regulatory capacities are of marginal importance without market size. The European Union itself recognizes this point. In a 2007 policy paper on advancing its regulatory preferences in the global arena, the European Commission concluded that it should exploit its market size by "promoting European standards internationally through international organization and bilateral agreements." The paper further observed that "[the single market] gives the EU the potential to shape global norms and to ensure that fair rules are applied to worldwide trade and investment. The single market of the future should be the launch pad of an ambitious global agenda."[5]

Excessive attention to one causal process can blind a researcher to the possibility that there are substitutable causal processes at work – and in the process, privilege middle-range theories over more ambitious paradigms. Structural approaches will often posit substitutable causal processes through which a causal factor can affect the dependent variable (Most and Starr, 1984).

To date, historical institutionalists have consciously placed themselves as developing and testing "middle-range" theories. Perhaps this is too modest an ambition, however. Older HI approaches have been used to develop macrohistorical explanations for the varieties of capitalism (Gerschenkron, 1962; Hall and Soskice, 2001). Further work is clearly needed to provide possible explanations for the conditions under which policy feedbacks and sequencing will be mutually reinforcing or mutually repelling in the case of international market regulation. It is possible that these effects are so historically contingent that predictive models are of little utility. Nevertheless, the potential payoff from a more general model of historical processes would be significant.

THE MULTIPLICITY OF REGULATORY INSTITUTIONS

Applying historical institutionalism to explaining the role of labor standards in US trade policy should lead to an uncomplicated and straightforward prediction: there shouldn't be any role. As Susan Sell (2003) documents in her article, "institutional change and interest group formation actively co-constituted each other" in the crafting of the US position on intellectual property rights. Trade-affected industries earned an institutionalized voice in the formation of US trade policy. While labor unions and human rights advocates could initiate "baptist-bootlegger" with import-competing sectors to foster more stringent labor standards, most observers acknowledged that export-oriented industries were better represented in the USTR policymaking structures (Braithwaite and Drahos, 2000; Sell, 2003). The evidence for this can be seen in the contrast between the insertion of Trade-Related Intellectual Property Rights (TRIPs) into the Uruguay round, and the weak statement on labor standards that emerged from the 1996 Singapore Ministerial meeting (Drezner, 2007: 82–85).

As Hafner-Burton (2009) demonstrates, however, labor standards have become an important component of US trade policy. She provides an institutionalist explanation for this shift – but there was no appreciable change in either the institutional policy process at USTR or the power and preferences of labor unions and like-minded groups. The shift came from Congress. Changes in domestic politics made it impossible for political executives to negotiate trade deals as they had in the past. A minority of elected officials who held veto power over further trade integration forced executive branch officials to rethink their trade policies. Pivotal members of Congress used their control over veto points (Tsebelis, 2002) to link human and labor rights to trade legislation. Presidents agreed in order to solve the specific political problems that these new veto players posed when they requested "fast track" or Trade Promotion Authority. Because the US exercised significant amounts of economic power, and because the legislative branches locked in their negotiating positions, the United States was able to insert these clauses into most PTAs despite resistance from the developing world. The exceptions were when the potential trading partner possessed sufficient amounts of economic wealth and power to resist the issue linkage. Furthermore, these standards have improved the treatment of labor in free-trade agreement partner countries (Hafner-Burton, 2005).

Hafner-Burton's account is perfectly consistent with a historical institutionalist account – but it is not consistent with an approach that posits the importance of trade policy institutions helping to shape domestic interests. Clearly, more than one domestic institution was involved in policy formulation. When labor unions found one access mechanism to influence policy was blocked, they were able to exploit the extant political situation and create an alternative pathway via the legislative branch. To use Weberian language, when unions and human rights activists were blocked at the legal-administrative level, they accessed more traditional organizational forms to alter the status quo.

This is hardly the only example in the literature of interest groups fomenting for the creation of new domestic policymaking institutions to constrain the effects of pre-existing policymaking institutions. Judith Goldstein (1993) has process-traced how new generations of trade groups were able to create new trade institutions imbued with different sets of policymaking ideas. Michael Mastanduno (1991) looked at the multiplicity of policy bureaucracies that wrestled over US trade policy towards Japan in the late 1980s. Braithwaite and Drahos (2000) have multiple examples of competing bureaucracies battling over regulatory standards. A mere glance at the US regulatory institutions covering cross-border finance reveals a veritable alphabet soup of agencies with overlapping mandates.

The HI approach lacks an explanation for how domestic bureaucratic politics affects both the power and preferences of national actors on the global regulatory stage. Instead, there is an implicit assumption that the presence of hierarchy in domestic politics leaves clear lines of authority and jurisdiction on questions of international market regulation. No doubt, this is sometimes true. The feedback mechanisms that historical institutionalists stress, however, could lead to competing regulatory structures at the domestic level. A repellence effect would lead to conflicting regulatory mechanisms at the national level. It is also possible that different regulatory alliances could rely on their own transnational networks (Slaughter, 2004) or international governmental organizations (Drezner, 2003) to augment their domestic position. Political hierarchy is no guarantee of policy coherence at the domestic level.

As regulatory questions begin to cross multiple issue areas, the issue of nested and overlapping market regulation also emerges at the global level. An increase in issue density undoubtedly stimulates the demand for new rules, laws and institutions (Keohane, 1982). Duncan Snidal and Joseph Jupille (2005: 2) point out: "Institutional choice is now more than just a starting point for analysts and becomes the dependent variable to be explained in the context of alternative options." The current generation of institutionalist work recognizes the existence of multiple and overlapping institutional orders (Aggarwal, 1998; Helfer, 2004; Raustala and Victor, 2004; Alter and Meunier, 2006). For many issues and/or regions, more than one international organization can claim competency. Kal Raustiala and David Victor (2004: 279) label this phenomenon as regime complexes: "an array of partially overlapping and nonhierarchical institutions governing a particular issue-area. Regime complexes are marked by the existence of several legal agreements that are created and maintained in distinct fora with participation of different sets of actors."

Historical institutionalism needs to explore the effects of nested and overlapping regimes at the global level. At present, the predicted effects of this phenomenon are unclear. Raustiala and Victor (2004) suggest that technical and legal capacity would prevent the fragmentation of international regulatory regimes. It is equally possible, however, that differences in material power capabilities or the ideational attractiveness underlying these institutions will matter more. A historical institutionalist strategy should offer explanatory leverage to explain when institutional path dependence will matter at the systemic level.

FUTURE TESTS FOR HISTORICAL INSTITUTIONALISM

The authors in this special issue have stressed the explanatory rather than the predictive role of historical institutionalism. Nevertheless, there are two issues on the horizon that would seem to be well-placed for further inquiry and testing of the robustness of the HI approach in explaining international market regulation.

The first issue is how the rapid growth of China will affect the contours of international market regulation. The rise of the BRIC economies was a constant theme for the past decade, and the 2007/8 financial crisis only appeared to accelerate the catch-up of these economies. In terms of market size, however, China is the potentially important actor. Beijing has already started to throw its weight around on technical and regulatory standards. In early 2004, the Chinese government promulgated new rules mandating that all wireless products had to contain data-encryption technology manufactured by Chinese companies. In response to US protests, the Chinese reversed course (Drezner, 2007: 219).

China's incentive to take the lead in developing new technical and regulatory standards has, if anything, increased since the Great Recession. Over the past few years, China has augmented their technical capacity to set standards (Bach, Newman and Weber, 2006). Nevertheless, the communist roots of China's domestic political economy, combined with the aftereffects of the Great Recession (Scissors, 2009), have left China something short of being a "regulatory state". (Majone, 1994). While China's market power grows, their regulatory capacity has lagged behind.

From a historical institutionalist perspective, China's deficient regulatory state has manifested itself in recent regulatory developments. The government banned the use of diethylene glycol in toothpaste after its discovery, closed down roughly 8,000 slaughterhouses, and arrested more than 750 people associated with shoddy products (Yang, 2008). The Chinese government announced plans to improve its information database and overhaul health and safety inspections of all Chinese exports. On other issues ranging from aviation safety to the transparency of sovereign wealth funds, China has shifted its position in response to pressure from the United States and other actors (Yang, 2008; Drezner, 2010).[6]

A historical institutionalist approach would therefore predict that China should punch under its weight on issues of international market regulation. Chinese leaders are more likely to defer to states with greater capacity and network ties to global governance structures. An approach that prioritizes market power, however, would make a contrasting prediction. China's low per capita income combined with its large and growing market size will lead to a fragmentation of international market regulation (Drezner, 2007: 218–20).

The second issue is the manner in which the politics of international market regulation begin to transcend regulatory policy networks (Reinicke, 1998; Slaughter, 2004) and epistemic communities (Haas, 1992). While issues regarding international market regulation have always been political, the bargaining has traditionally been confined to a narrow band of actors with significant reservoirs of policy expertise. In this less-than-transparent environment, the effects of sequencing and regulatory capacity can matter a great deal.

There are many regulatory issues, however, in which audience expansion is a logical move by those who lose out on the bargaining process (Schattschneider, 1960). The mitigation and adaptation to climate change and the post-crisis state of financial regulation are among many issues that will likely pique the attention of legislatures, activists, and mass publics. These actors have the ability to subvert even the most robust regulatory capacity. For example, in the 12 years since a single 1998 *Lancet* article posited a relationship between child vaccinations and autism, an entire transnational movement has emerged devoted to that idea. The article's results have never been replicated, and it was later discovered that the primary author never disclosed financial conflicts of interest. Nevertheless, transnational activists, acting outside traditional regulatory channels, managed to force significant resources into testing the effect of vaccination; vaccination rates have fallen in both the US and UK over the past decade. In January 2010, the *Lancet* retracted the original article, but this will not necessarily hamper the anti-vaccine movement – indeed, if anything, it will foster a resistance narrative.[7]

This is hardly the only example of political activists resisting or rebelling against the policy consensus of scientists and regulators. The entire regulatory dispute over genetically modified organisms rests in part on the European public's response to a series of food safety scares 20 years ago. Although these policy mistakes had nothing to do with GMOs, they laid the groundwork for the EU's articulation of the precautionary principle (Drezner, 2007:154–57). Recent contretemps over the effects of climate change have seen a similar narrative. The Intergovernmental Panel on Climate Change (IPCC) has committed a number of political gaffes (Larson, 2010). These range from published e-mails to improper citations to exaggerating the disappearance of Himalayan glaciers to embarrassing profiles of IPCC officials. Despite a robust transnational network averring the anthropomorphic effect on global temperatures, the effect of these disclosures has been damaging to public opinion. Despite an administration and scientific community that accepts the science on global warming, American public support for vigorous action has declined dramatically – as has the public belief that a scientific consensus exists on global warming.

Regulators and scientists are not perfect. Electronic communication, search engines, and government transparency have made it much easier for non-experts to find flaws in experts. These errors don't necessarily compromise the underlying scientific arguments, but they do tarnish the political image of scientists and regulators as neutral arbiters of fact. In this way, the embeddedness of interests within regulatory networks becomes less and less relevant as a variable driving regulatory processes and outcomes.

The good news is that international market regulation is becoming an increasingly salient part of world politics. The bad news is that very salience might undercut the explanatory power of historical institutionalism.

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NOTES

1 I would not characterize my approach as unfriendly to historical institutionalism. I explicitly rely on HI scholarship to articulate national preferences over regulatory standards (Drezner, 2007: 41–43). My revisionist approach parts ways with HI in thinking of regulatory institutions as an independent source of state power.

2 It should be noted, however, that there is not a lot of institutional politics to this resistance. While Mosley cites the embeddedness of financial interests into the political system, either a pluralist account (Frieden, 1991) or an argument about the structural dependence of the state on capital (Przeworski and Wallerstein, 1988; Johnson 2009) would have provided a similar prediction.

3 The omnipresence of the European Union in this special issue is another potential source of concern about the explanatory domain of the historical institutionalist approach. It would be useful in future work to see HI scholarship focus more on emerging markets – as will be discussed below.

4 Susan Sell's essay in this issue is agnostic on the question of regulatory capacity, but her extant work on intellectual property rights suggests that both unembedded domestic actors and states with weak regulatory capacities can still have profound effects on international market regulation (Sell, 2003; Prakash and Sell, 2004).

5 Quoted in Tobias Buck, "EU Wants Rest of World to Adopt Its Rules," *Financial Times*, February 18, 2007.

6 This is not inconsistent with a market power approach either. China's market size is growing, but remains appreciably smaller than either the United States or the European Union (Brooks and Wohlforth, 2008).

7 Gardiner Harris, "Journal Retracts 1998 Paper Linking Autism to Vaccines," *New York Times*, February 2, 2010.

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