

1 *Policy Accumulation and the Democratic Responsiveness Trap*

Democratic policy making resembles a walk on a tightrope. Policy makers must balance a myriad of interests in order to bring policies from the idea side of the rope to the legislative reality side, and their legitimacy largely depends on their ability to make the trip successfully. Comparative policy research typically focuses on this balancing act; its goal is to assess the factors that contribute to the success or the failure of policy makers' efforts to cross the high wire from one side to the other.

In this book, we redirect our analytical focus away from the policy-decision balancing act and zoom in on the anchors that support the rope itself. How do the ceaseless crossings of the rope and the continuous accumulation of policies affect the stability of these anchors upon which the very legitimacy of democratic government depends? With this unusual analytical focus, this book proposes nothing less than the need for a paradigmatic change in the theorization of public policy. Comparative policy analysis has been investing the vast majority of its efforts in attempts to explain individual instances of policy change and its implications. And yet, across nearly all policy sectors and developed democracies, the most prominent development in policy output is not policy change but rather policy accumulation. This accumulation phenomenon comes to light once we stop focusing on individual policy adoptions and instead focus on the long-term and aggregate development of policy output.

Despite widespread concerns over their built-in potential for institutional gridlock, democracies have proven time and again that they are extraordinarily good at making decisions. Although democracies must balance competing demands and forge compromises, their productivity in accumulating more and more policy instruments addressing more and more policy items is remarkable. This continuous expansion of the volume of law and regulations has been described in many ways: as an increase in policy density (Knill et al., 2012), policyscapes (Mettler,

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2016), policy layering (Thelen, 1999, 2004), an emergence of complex policy mixes (Howlett & Del Rio, 2015; Howlett & Rayner, 2013), and a rising stock of rules (van Witteloostuijn & de Jong, 2008, 2010). Common to these descriptions is the general trend of continuous policy accumulation as the rate of policy production continues to exceed the rate of policy termination. Despite the prominence and near universality of this trend, we know little to nothing about its drivers or, more importantly, its implications.

This scientific neglect is disturbing, since the consequences of continuous policy accumulation could hardly be of greater political and societal significance. We see policy accumulation as a threat to three main building blocks of modern democratic governance: (1) the ability to implement, monitor, and enforce public policy in a timely and even-handed manner; (2) the ability to engage in evidence-based policy making; and (3) the ability to maintain sophisticated policy debates within the public political arena.

Due to the inherently ambivalent nature of policy accumulation, attempts to reverse this general trend and to engage in large-scale deregulation seem to be misguided. After all, policy accumulation is in many ways the direct manifestation of societal progress and modernization. Instead of joining widespread calls for deregulation, we argue that the stability of democratic systems will depend on their ability to make this process of policy accumulation sustainable. Accumulation is sustainable when it does not stand in the way of timely and even policy implementation and enforcement, sophisticated debates on policy substance, and the impact of evidence on policy makers' decisions. If, however, democracies take an unsustainable path of policy accumulation, their attempts to respond to societal demands by accumulating more and more policies will slowly but surely undermine their perceived legitimacy and stability, since administrative backlog and selective implementation, the absence of policy substance from political discourse, and the lack of understanding of policy evaluations will leave uninformed citizens angry and frustrated with the process of democratic policy making.

1.1 Accumulation and Democratic Overload

Systematic data on regulatory output, qualitative inquiry, and personal experience all confirm that policy accumulation is the common trend

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that reaches across policy sectors and democratic systems. This development is most intuitive in the context of environmental policy. While there were few environmental policies in the 1960s, today most developed democracies have accumulated a significant inventory of environmental rules and regulations.

Although expansion and accumulation may be unsurprising in environmental policy, it is interesting to note that this regulatory trend is evident even in the context of social welfare state policies, a sector that has been under constant consolidation and dismantling pressures due to constrained public budgets. One reason for this is that the regulatory state has in many ways “come to the rescue of the welfare state” with the adoption of rent control measures or minimum wage provisions (Levi-Faur, 2014). Another reason is that in many instances, in order to save money, the eligibility of social programs has been restricted by additional conditions and exemptions. Even in the context of so-called morality policies that comprise the regulation of prostitution or gambling, for example, the regulatory trend is one of accumulation instead of change or dismantling. This has a lot to do with the ways in which many of these areas have been liberalized. For instance, once prohibitions on prostitution are loosened and it is treated like a regular service industry, the sector obtains industry regulations that are similar to those of other sectors. Similarly, abortions have never been decriminalized without strings attached, but decriminalization came with detailed regulations on the precise scope conditions under which abortions are legal (or more precisely: not sanctioned) and long lists of procedural rules.

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

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

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

To some extent, this book also touches on the debate on government overload and “ungovernability” that was prominent in the 1970s

(Crozier et al., 1975; King, 1975; Rose, 1979). The central concern in this debate was that democratic governments were ill equipped to respond to the increasing demands that society directed at them. After all, democratic policy making had come to be seen as being responsible for solving problems in almost every aspect of life. Overburdened with these demands, many analytical observers feared that democracies' ability to make decisions would diminish. This in turn would undermine their perceived legitimacy and consequently lead to democracy's decline. Furthermore, democracy's legitimacy was seen to be in danger because it largely relied on the ability to equitably distribute wealth created by strong economic growth. Declining rates of economic growth would eventually leave democracies unable to develop strong political responses to the societal problems capitalist societies tend to develop. Instead, states would be restricted to incremental refinements and rearrangements of established policies, mechanisms, and programs that would be increasingly unfit to mitigate problems and generate legitimacy for democratic government (Offe, 1972).

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

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

1.2 Caught in a Responsiveness Trap

The key virtue – and problem – of modern democracies is their responsiveness to societal demands. Ignoring societal demands is not an

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option for democratic governments if they are interested in staying in power. While autocratic leaders can afford to bypass the popular will (at least until the threshold of rebellion is reached), democratic governments risk losing their power if they fail to live up to the expectations of the population. Responsiveness is the main source of legitimacy for democratic governments.

Despite the unavoidable criticism of not meeting societal demands, most democratic governments have been remarkably responsive and productive over recent decades. Although policy dismantling and termination has proved to be very difficult (Bauer & Adam, forthcoming; Bauer et al., 2012; Pierson, 1994), policy makers have found ways in many areas to respond to societal demands by amendment and accumulation. As we will argue in the subsequent chapters, this process of continuous policy accumulation comes with three noteworthy side effects that threaten to undermine the input and output legitimacy of democratic government (Scharpf, 2003).

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

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

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

To some extent, the increasing complexity of these mixes creates methodological challenges because of the growing number of policy-inherent parameters that have to be handled in such evaluations. More importantly, however, this complexity creates a communicative challenge. Conditional effects, particularly when multiple conditions apply at the same time, are inherently difficult to analyze, interpret, and communicate to decision makers. While evaluations strive to contextualize results and identify highly complex conditional effects, such efforts themselves can often undermine the ability of these results to affect decision makers' thinking about policy effectiveness. We fear that this leads to a paradoxical situation in which increasingly sophisticated and nuanced evidence about policy effectiveness will matter less and less to policy makers' thinking because of its very sophistication and nuance. Policy accumulation calls for the identification of highly complex conditional effects. Changing policy makers' prior beliefs about policy effectiveness tends to be difficult when results are blurred by nuance and conditionality. Where it becomes increasingly difficult to interpret and communicate evidence about the effectiveness of an individual response to societal demands due to the highly complex interactions of this response with all the other responses given in the past, evidence-based refinements of complex policy mixes become increasingly difficult to achieve, and the responsiveness trap clicks a third time.

In combination, these three mechanisms tie the immediate responsiveness to societal demands to the long-term threat to the legitimacy of democratic government. From this perspective, responsiveness to societal demands appears to be a double-edged sword that leaves policy makers stuck in a responsiveness trap: Being unresponsive will

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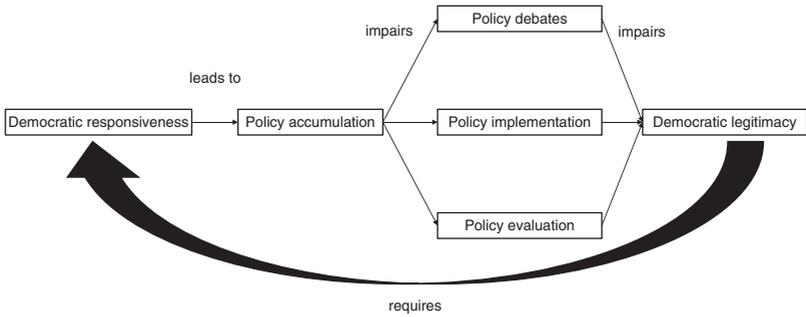


Figure 1.1 The Democratic Responsiveness Trap

undermine their legitimacy, while being responsive – and thereby accumulating policies and regulations – will slowly and silently overburden the administrative, evaluative, and communicative capacities that help support the legitimacy of democratic government in the long run. Figure 1.1 illustrates this argument graphically.

1.3 Structure of the Book

The remainder of the book is structured as follows. The following Chapter 2 conceptualizes policy accumulation, relates the concept to the existing public policy literature, and describes the measurement approach we employ in order to capture the phenomenon. Chapter 3 presents empirical patterns of policy accumulation in three highly distinct policy areas (social, environmental, and morality policy) and discusses the diverse roots of policy accumulation. Chapter 4 shows how policy accumulation affects policy debates in different arenas and how it entails a divergence of the debates led among experts and those led among the broader public. Chapter 5 analyzes the impact of policy accumulation on effective and timely policy implementation, arguing that policy accumulation produces pressures for selective implementation and increases the risk for administrative backlog. Chapter 6 turns to policy evaluation and identifies the methodological and communicative challenges that result from the need to evaluate increasingly complex policy mixes. Finally, Chapter 7 provides a brief summary of our argument and elaborates on how democracies might be able to ensure the sustainability of policy accumulation.