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**Norms, Interests and Institutional Change\***  
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**Abstract**

This article provides a norms-based account of institutional change. It compares two cases of attempted change, one successful and one unsuccessful. The argument is advanced that norm-based change occurs when the norms are congruent with the perceived interests of the actors who have the power to take the decision. Norms affect the process of institutional change not only by providing legitimacy to some forms of political action, but also by shaping the actors' perception of their interests as well their strategies. In that sense, norms, it is argued, help political actors combine Max Weber's *zweckrational* (goal-orientated) and *wertrational* (value-orientated) categories of behaviour. Empirical evidence drawn from the context of the evolving European Union supports this argument.

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## **Introduction**

The return to the study and the use of ideational arguments is an exciting development in political analysis. Since the late 1980s scholars working in various sub-disciplines have relied on ideational accounts to explain various political outcomes such as economic policy (Hall, 1989; Blyth, 2001), policy variation across nations (Katzenstein, 1993), monetary politics in Europe (McNamara, 1998) and party strategies (Berman, 1998) but a number of important issues remain that require scholarly attention. Berman (2001, p. 233) identified three sets of such issues, namely the ways in which such factors rise to political prominence, become embedded in organisations and collective identities and influence political behaviour. This article seeks to respond to the third challenge. It focuses specifically on the reform of the rules of the political process. It provides a normative account of the process of institutional change.

To specify how and when norms – construed here as principled beliefs that ‘translate fundamental doctrines into guidance for contemporary human action’ (Goldstein and Keohane, 1993a, p. 9) and like Berman’s notion of programmatic beliefs (1998, p. 21), they occupy the middle ground between ideologies and policy positions - matter, one must show that they are ‘not only consistent with some outcomes, but also inconsistent with others’ (Berman, 2001, p. 243). This article relies on process tracing, draws on documentary material and interviews with elite participants and compares two cases that unfolded between the mid-1990s and 2001 in the evolving context of the European Union (EU). It seeks to ascertain why the member states opted for significant change in one case but not in the other when the same norm-based arguments were used by the

same set of actors and the same decision rules applied (hence the case selection). What accounts for this variation? The argument is advanced that norms influence this process when the reforms that embody them are perceived to be broadly congruent with the interests of the powerful decision takers and when they resolve real political problems.

The article comprises five substantive sections. The first sets out the theoretical framework and outlines the empirical puzzle. The second establishes the presence of a coherent normative order that entails the growing importance of transparency and democratic governance at the level of the EU. The subsequent two sections discuss the two cases. Analysis focuses on the decision to *establish* the new institutional arrangements, rather than their *actual operation* which merits separate discussion. The fifth section discusses the central issue of epiphenomenality, and the limits of the distinction between ideational factors and interests. The final section concludes.

## **Norms and the Politics of Institutional Change**

### *Normative Order and Institutional Arrangements*

Institutions – defined here as the formal or informal rules, routines and procedures on the basis of which political decisions are made and implemented - are major determinants of political outcomes because they distribute power and resources between actors (Hall, 1986). This is why major political battles are fought over their shape both in the domestic and the international arenas. However, the process of *institutional change* - the process by which a shift is produced in the rules and enforcement

procedures that encourage or constrain different types of behaviour (Levi, 1990, p. 406), has not received the attention it merits, although our knowledge about the impact of institutions on actors' preferences (Wildavsky, 1987), strategies (Berman, 1998) and political outcomes has increased remarkably since the 'return' to institutional analysis (March and Olsen 1984; 1989; Evans, Rueschemeyer and Skocpol 1985; Steinmo, Thelen and Longstreth, 1992).

Institutional arrangements are embedded in a broader historically defined normative order (March and Olsen 1989, p. 107)—the prevailing ideological proscriptions and prescriptions, that is, the dominant norms, principles and ideas regarding appropriate behaviour that hold a given institutional structure together and provide both an abstract definition of standards of appropriate behaviour and the 'compass' for the assessment of attempts at change. This order consists of collectively constructed values and principles that must be protected and put into effect. It is a structure of meaning and a scheme of interpretation, a collective *référentiel* (Muller, 1995). These norms provide legitimacy to and are mirrored by the formal and informal rules of the political process and the mechanisms by which these rules are made and implemented. These rules structure the political process and take precise meaning through the actions of individual organisations. The normative order in which an institutional arrangement is couched is resistant to change. When change occurs, it consists mainly in the re-interpretation rather than the comprehensive re-definition of these norms.

The impact of the normative order on the operation of the institutional arrangement that it permeates can be direct and overt, as well as indirect and covert. It is indirect and

covert because basic norms are internalised by individuals and organisations as part of their socialisation. They become part of actors' standard operating procedures and action codes. Actors use them in order to interact with their environment. The impact of the normative order is also direct and overt especially in periods of crisis. Crisis is typically associated with failure of existing political practices and the search for alternatives. In these circumstances norms provide guidance and legitimacy in the decision making process. They are 'guidance devices' (Kratochwil, 1989, p. 11) both in the cognitive sense of the term (March and Olsen, 1995, p. 32) and in the sense that they affect the choice of strategy of political actors. They simplify decision situations by highlighting the elements that political actors must take into account and provide a legitimating basis for political action. In that sense, they combine Weber's (1921 [1972], p. 12) *zweckrational* (goal-orientated) and *wertrational* (value-orientated) categories of behaviour. In other words, norms combine problem-solving and legitimating properties.

The normative order exists and operates at a high level of abstraction. Only some of its elements are invoked in the course of the political process but changes in the environment affect which elements will be invoked and how. This is a time-sensitive process. Timing and the sequence of events affect the process of association of some elements of the normative order with the search for solutions to political problems. As Tilly put it, '*when* things happen within a sequence affects *how* they happen' (1984, p. 14, original emphasis).

### *Method, Framework and Argument*

A normative account of institutional change involves three steps. First, the existence must be established of a coherent normative order illustrated by specific norm-based arguments for change. Second, one must show that these arguments are consistent with some cases of institutional change but not with others. This means that a comparative approach is likely to be particularly useful for the discussion of norm-based arguments (King, Keohane and Verba, 1994, p. 191). Finally, the mechanism(s) must be identified by which the normative order affects change. The question of the time frame is crucial because neither the conditions in which change becomes salient and takes place, nor the alternative proposals regarding change are defined instantly. Rather, they reflect processes that unfold over time (Steinmo, Thelen and Longstreth, 1992). They emerge from existing arrangements and tend to reflect political feedback processes. This is so particularly in the area of institutional change because the effects of institutions typically unfold over time. The methodological implication is the need to use process tracing that facilitates the contextualisation of the analysis of change.

This article draws on recent work by Hansen and King (2001) on policy variation and discusses two cases drawn from the EU. Using an ideational framework Hansen and King compared the USA and the UK in an attempt to explain the differential impact of eugenic ideas (defined as programmatic beliefs with direct policy relevance) on immigration and sterilisation policies in the first four decades of the 20<sup>th</sup> century. Although eugenic ideas had garnered considerable support in both countries, the USA put in place extensive eugenicist policies whereas the UK did not (Hansen and King

2001, p. 238). Hansen and King explore this puzzle by putting forward a threefold argument that links policy variation with ideas.

First, they argued that '[t]he most important factor accounting for British failure and American success is the degree of convergence between eugenic ideas and actors' strategic interests'. Anti-immigration and the eugenics-based policies were a winning formula for politicians looking for a career defining issue in the USA. By contrast 'the strategic value of sterilization policy was far less clear for British policymakers' (Hansen and King, 2001, pp. 254-5). Crucially, the actors' *perception* that a specific set of ideas will promote their interests is more important than the specific content of these interests (p. 256).

Second, the 'degree of individual enthusiasm displayed by actors involved in determining and implementing policy' has affected the incorporation of eugenicist ideas into public policy (p. 257). While in the USA the Chairman of the House Committee on Immigration devoted his chairmanship to the promotion of eugenicist immigration policies that were also supported by the US Department of Labour, 'neither the minister of health nor anyone else within the government was willing to risk aligning himself with a controversial policy' in the UK despite support from the relevant government department (pp. 257-8).

Third, timing matters (p. 260-1; Tilly, 1984, p. 14; Pierson, 2000, p. 72). Political crises can undermine the appeal of the ideational framework and can thus initiate a search for alternatives. Timing contributes to the process of cognitive association by which we



understand the world around us. This process of association magnifies the impact of some events, by linking them to some ideas, and reduces the impact of others. In the case of the UK eugenics-based ideas and policies were discredited as a result of the excesses of the relevant laws passed by Nazi Germany. By contrast, the adoption of pro-eugenicist policy in the USA preceded by almost a decade the adoption of a compulsory sterilisation by Nazi Germany in 1934.

This article draws on Hansen and King's argument and discusses the central issue of institutional change. The issue of epiphenomenality is crucial in normative accounts of political change and will be discussed in greater detail in the penultimate section.

Suffice to state here that the association of the normative order with the interests of those who have the power to decide *boosts* change because the former provides legitimacy (to some courses of action but not to others) and guidance to political action (in the cognitive and the strategic sense of the term).

The two cases examined here concern (a) how the EU Treaty is reformed and (b) how executive decisions are made at the level of the EU. These cases are important because they concern the balance between the EU's two sources of legitimacy namely, states and citizens. In addition, these are decision making processes of systemic (as opposed to sector-specific) importance. They are comparable because they are independent of each other, they entail the use of the same decision rules (unanimity), actors (EU-level organisations and the member states), time frame (1995-2001), type of (systemic) issue and normative argument. Yet, the outcomes vary considerably. While change was substantial in the first case, it was cosmetic in the second.

The member states decided to move from the IGC model that relied fundamentally on secret bargaining between government representatives to a forum – the European Convention – which differed from an IGC in terms of membership (its members were drawn from a whole array of political organisations), operation (its sessions were open to the public) and potential for unintended consequences since the member states had not secured control over the outcome of its deliberations: ‘we never thought we would end up with a complete new treaty’ as a British official put it (interview, Whitehall, 15 March 2004) expressing a view shared by other national governments (interviews, Paris and Brussels, 29-31 March 2004). This crucial difference is rendered even more significant by the well-documented capacity of EU-level political organisations to produce unintended consequences both at the policy-making and the ‘constitutional’ levels (Pierson, 1996; Hix, 2002). By contrast, the determined efforts of the European Parliament (EP) to have a greater role in executive decision making did not bring about the result that it desired. Why did the member states opt for the former but resist the latter? The next section establishes the presence of a coherent normative order that entails the growing importance of transparency and democratic governance at the level of the EU.

### **Transparent and Democratic Governance in the EU**

Representative democracy and transparency are inextricably linked. At a minimum, democracy relies on the rule of law and a combination of certain procedural

requirements, in particular, direct or indirect citizen participation and scrutiny of political decision making. This may take a number of forms (parliamentary or other) but a degree of openness, i.e. transparent and intelligible decision making, is a condition (Weale, 2000, p. 167) for the effective implementation of the democratic principle.

Democracy goes beyond the measured translation of the wishes of a majority into public policy or institutions. It relies on 'enlightened understanding' of issues and alternative solutions (Dahl, 1994, p. 30). '[T]o know what they want or what is best the people must be enlightened, at least to some degree. Because advocates of democracy have invariably recognized this, they have also placed great stress on the means to an informed and enlightened citizenry, such as [...] public deliberation' (Dahl, 1994, p. 31). Thus, informed public (be it direct or indirect) reasoned deliberation that relies on effective access to information about alternative political options and their likely consequences (Dahl, 1998, p. 39) is a fundamental part of democratic institutions.

As Dahl notes (1994, p. 25), the transfer of the democratic principle from its birthplace, the city-state, to the nation-state has been made possible because of the idea of representation. A number of institutions and practices, such as frequent and fair elections and the scrutiny of government policy by elected officials, reflect this idea. The next transformation of democracy came with the advent of transnational systems of governance (Dahl, 1994, p. 26) that have increased the perceived distance between citizens and the *loci* where power is exercised.

The EU, the most advanced such system, relies on two sources of legitimacy, namely the nation state and the citizens of Europe but the balance of the institutions that reflect

this duality has changed over time. Although the Treaty of Rome initially favoured the organisations that represent the nation states (Council), the enhancement of the EP gradually became a political necessity. Between 1986 (Single European Act) and 2000 (Treaty of Nice) the member states have gradually delegated significant powers to the EU. This triggered the search for institutions that would improve the practice of democracy at the level of the EU. The political response to the perceived 'democratic deficit' of the EU emerged in a typically incremental way. It reflected the tendency of all political actors to respond to novel challenges in the first instance by mobilising their standard operating procedures and institutional repertoires (March and Olsen, 1989, p. 34) and the centrality of the principle of representative democracy in the normative order that underpins the institutional fabric of the EU collectively and the member states individually. It took the form of the remarkable enhancement primarily of the legislative powers of the directly elected EP, through the Single European Act and the subsequent Treaties of Maastricht, Amsterdam and Nice.

In addition, the significant delegation of power to the EU also raised the issue of access to information about the manner in which power is exercised. The 'information deficit' had become part of the 'democratic deficit' (Lodge, 1994, p. 360). Although the Commission has routinely (especially after 1985) consulted widely prior to the submission of legislative proposals, the Council has remained to a large extent a secretive forum for inter-state bargaining. The demand for more transparency in EU decision making gained momentum with the accession of Sweden and Finland in 1995. The response (Héritier, 2003, pp. 822-3) took the form of a number of measures aimed at improving the consultation process in the case of the Commission and, crucially,

through the Treaty of Amsterdam the member states agreed to make public the results and explanations of votes as well as the minutes of the Council's legislative meetings.

Thus, by the mid-1990s the issue of transparent and democratic decision making had become part of the systemic agenda of the EU and, more importantly, the EU had developed a number of institutional arrangements to deal with it. Nevertheless, two significant exceptions remained namely, the process of EU Treaty reform and the making of executive rules in Brussels. Both remained subject to opaque procedures that were under the almost complete control of the member states. As a result, the EP had blocked a number of legislative proposals on grounds of executive rule making and the member states were organising one IGC after another (three in nine years) in a desperate attempt to deal with 'left-overs' and issues – most important of which was enlargement - that the rapidly changing European continent was placing on the political agenda. The next two sections show that norm-based arguments for institutional reform led to two sharply different results.

## **The Advent of the Convention on the Future of Europe**

### *The Problem*

The 1990s can be described as the decade of IGCs. The Treaty of Nice marked the end of a series of IGCs (1991, 1996, 2000) the last two of which were meant to reform the EU and prepare it for the enlargement to Central and Eastern Europe. Neither the IGC of 1996 nor that of 2000 managed to resolve the key problem of institutional reform.

Although the context was changing rapidly, IGCs had stubbornly remained a forum for inter-state diplomatic negotiations where each national government legitimately tried to maximise its gains without necessarily taking into account the broader picture (Giscard d'Estaing, 2002, p. 14).

However, the decision to include ten new member states from Central and Eastern Europe had raised the stakes. As the EU was rapidly becoming a quasi-continental organisation, the quest for the *Finalität* of the integrative endeavour had become a political necessity. For the first time since the 1950s political leaders were aware that securing peace (the initial objective) could no longer be the only or the main objective and guiding principle of the EU. Some were explicitly in favour of opening a public debate (Fischer, 2000) that was meant to identify the idea that would mobilise European citizens. IGCs were not suited to the tasks of forming a European public sphere and improving the EU's democratic legitimacy by finding a new balance between a 'Europe of nation states' with a 'Europe of citizens' especially in the context of Treaty reform. National governments were aware of the inability of intergovernmental bargaining to go beyond a pale compromise.

Although, as Fischer and others rightly claimed, a part of the problems in Nice stemmed from very poor handling of the negotiations by the French presidency (*Süddeutsche Zeitung*, 16 December 2000, p. 6), it was clear that a large part of the problem stemmed from the IGC method *per se*, not its managers. This is why Tony Blair, one of the 'winners' of the summit, stated bluntly 'we cannot do business like this in the future' and added that changes were essential to ensure rational decision making (*The*

*Independent*, 12 December 2000, p. 1). Other European leaders shared this assessment (*Financial Times*, 11 December 2000, p. 1; *Le Monde*, 12 December 2000, p. 4). These assessments reflected the substance of the decisions as well. Flagrant and embarrassing errors surfaced soon after the Nice summit, including errors regarding the calculation of 'blocking minorities' in the Council - an issue that was meant to be resolved in Nice, and conflict between various provisions of the Treaty (*Süddeutsche Zeitung*, 16 December 2000, p. 6; *Libération*, 20 December 2000, p. 10).

#### *Normative Value and Congruence with Interests*

By unanimously agreeing in Nice to hold another IGC four years later, European leaders admitted that they had failed to reach the appropriate decisions. More importantly, they also agreed unanimously that a new method for the reform of the Treaty had to be devised. The corresponding Declaration attached to the Treaty of Nice is revealing: 'the Conference calls for a deeper and wider debate about the future of the European Union'. They agreed to 'encourage wide-ranging discussions with all interested parties: representatives of national parliaments and all those reflecting public opinion, namely political, economic and university circles, representatives of civil society, etc'. They also recognised 'the need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States'. Six months later they confirmed this decision at the Göteborg European Council meeting, after having launched in March 2001 an open broad debate on the future development of the EU. This decision was unprecedented. Previously held national debates (and referenda) focused either on a country's membership of the EU or the ratification of a Treaty (e.g. Maastricht). By contrast, this

debate concerned the future of the EU in general and was meant to be almost pan-European in scale thus mirroring the quasi-continental dimensions of the EU as well as the need to identify (or re-define) its *Finalität*.

The quest for a new institutional arrangement had started but the notion of transparency had already come to occupy a pivotal position in this debate. The answers to the compelling questions facing the EU had to be given through a transparent and open debate involving all important political and social groups. This debate ought to lead to an EU that would be intelligible and democratically constituted. This is why the European Council decided to establish the Convention on the Future of Europe.

The idea of a Convention that would combine membership drawn from a whole array of bodies and organisations beyond the representatives of national governments and a genuinely open method of deliberation was not new. A Convention had been established in 1999 by the European Council to draft the EU's Charter of Fundamental Rights. It brought together representatives of the Heads of State and Government, of the President of the Commission, the European Parliament and national parliaments while representatives of the European Court of Justice had observer status and representatives of the Economic and Social Committee, the Committee of the Regions and social groups as well as experts were invited to give their views. It was chaired by Professor Roman Herzog, former President of the Federal Republic of Germany, its Federal Constitutional Court and leading academic constitutional lawyer who was instrumental in ensuring the smooth and effective operation of this body. This debate was completed in Nice with the 'proclamation' of the final draft.



This was an unprecedented experiment in the history of the EU in two senses. First, national governments had no direct control over the content of the final document. Second, the document was the result of a transparent debate in which representatives of civil society interacted directly and openly with representatives of national and European institutions (Deloche-Gaudez, 2001). Although it has been hailed as a success (Jospin, 2001; *Süddeutsche Zeitung*, 15 November 2000, p. 7; interviews, Paris and Brussels, 29-31 March 2004) pivotal<sup>1</sup> actors like the British government did not share this view. In fact, the final outcome had surprised some member states, especially the UK (interview with a senior member of the first Convention, 31 March 2004). 'Our experience was not a happy one; the first Convention was not accountable to anybody. Member states did not have control; we found that frustrating' as one British official put it (interview, Whitehall, 9 March 2004).

Why did the national governments choose to organise another convention to prepare the IGC announced in Nice? Why did they choose to create a body they could not control – since it was composed<sup>2</sup> of fifteen representatives of the Heads of State or Government of the member states, thirteen representatives of the Heads of State or Government of the candidate states, thirty representatives of the national parliaments of the member states, twenty-six representatives of the national parliaments of the candidate states, sixteen members of the European Parliament and two representatives of the European Commission – and asked it to 'consider the key issues arising for the Union's future development and try to identify the various possible responses', effectively declaring that "nothing is a taboo" (*Financial Times*, 17 December 2001, p. 20)?

'This was the only alternative to the IGC we had not tried' as a senior national official put it. The involvement of other political actors that had hitherto been excluded from the reform process 'had become a political necessity' (interview, national permanent representation, Brussels, 7 July 2003). Although the member states retained the formal right to take the final decisions in the context of an IGC scheduled for 2004, 'nobody knew initially what the Convention was going to do and be like'. The establishment of a Convention with such broad remit was a huge leap into the unknown for a number of reasons.

First, representatives of national governments could be put in a minority. The Convention was not unlikely to 'push the member states as far as possible'. In particular, cautious members states like the UK would find it especially difficult to defend their views because of the number of 'red lines' they had to defend (interview, national permanent representation, Brussels, 7 July 2003). Second, states with coalition governments would find it particularly difficult to create, present and maintain a coherent position in public. Third, in the former French President Valéry Giscard d'Estaing the member states chose as President of the Convention an experienced but quite arrogant – 'trop louisquatorzième' (*Libération*, 15 December 2001, p. 8) for some - political operator whose last experience from a European Council meeting dated back in 1981 but who had campaigned actively for this job. Fourth, important groups of *Conventionnels* (MEPs for example) could be expected to operate as a homogenous bloc thereby increasing the likelihood of turning the Convention into a forum of

concrete political action capable of producing unintended consequences for the national governments.

The Laeken Declaration (European Council, 2001) that established the second Convention contained significant explicit indications of the political origin of the new arrangement. The Convention was established '[i]n order to ensure that participation for the forthcoming Intergovernmental Conference is as broadly-based and transparent as possible' (European Council, 2001, p. 1). The Declaration makes direct reference to transparency and notes that 'the Convention's discussions and all official documents will be in the public domain' (p. 5). It was important to analyse the problems, find the questions, and organise the debate on the basis of the 'moral authority of a Convention' as a senior Belgian diplomat put it (interview, Brussels, 30 April 2004). Other institutional characteristics of the Convention were designed to maximise transparency and this is why they were welcomed by a number of key political actors across Europe (Blair, 2001, p. 2; *Süddeutsche Zeitung*, 14 December 2001, p. 12). It comprised three phases namely, a 'listening phase', a 'deliberating phase' and a 'proposing phase' of synthesis and drafting. If some national leaders like Guy Verhofstadt and Joschka Fischer saw in the new Convention the means to revitalise the process of integration through a public debate, Tony Blair's decision to agree is puzzling given the tough domestic political environment in which he had to operate and, even more importantly, the UK's unhappy experience from the first Convention.

Two factors were at the heart of his decision to support this experiment namely, the normative argument in which the Convention model was couched and the explicitly

held beliefs about the direction of the debate. First, as Anand Menon (2003, p. 964) rightly notes, the British government made no formal effort to block the establishment of the second Convention at least in part 'because it would have been politically difficult to come out publicly against an exercise intended [...] to make treaty revisions more transparent and democratic'. British officials thought 'it was hard to say "no" to the idea of a debate' (interview, Whitehall, 15 March 2004) thus clearly demonstrating the guidance function of the normative order. The French government shared this view (interview, Paris, 29 March 2004). Second, the institutional characteristics of the second Convention cannot be separated from the perceived interests of its creators. Although it was hard to reject the idea of a public debate, 'we felt that public opinion in the member states tends to be less starry-eyed about the Union' (interview, Whitehall, 15 March 2004). Tony Blair's confident statement on the substance of the debate -- 'I believe that argument is moving increasingly in our favour' (*The Observer*, 16 December 2001, p. 19) -- reveals the direct link between the advent of a new institutional arrangement, one that resonates with prevailing norms of appropriate political action, and a degree of congruence with key actors' perceived interests. This belief was undoubtedly part of the reasons why the British government gave its assent (interviews, Whitehall, March 2004). Tony Blair (2001, p. 2) even hailed the Convention as 'an opportunity for views from all sectors of public opinion to be fed into the proceedings'.

This congruence of the appropriateness of the new arrangement with the perceived interests of the central actors, i.e. the national governments - and the impact of the failure of the pure IGC model was absent from the second case.

## **The 1999 'Reform' of Comitology**

### *The Problem*

The Treaty of Rome (1957) contained many novel provisions but in many respects it was a product of its time. The combination of legislative and executive powers essentially in one body - the Council of Ministers which represents the member states, was not surprising since it mirrored the domestic institutional arrangements in the vast majority of west European states. In turn, this reflected the increasingly technical nature of public policy, as well as the need to respond rapidly to changing market conditions and demands from citizens. This led to the widespread use of 'framework legislation' that leaves to governments the task of filling the gaps by acting as surrogate legislators (Hix, 2000, p. 62).

However, the members of the Council quickly discovered that this arrangement had increased their workload exponentially. The Council became overloaded in the early 1960s especially in the area of agricultural policy whose management entails the regular adoption of a very large number of executive measures, such as price setting etc. Thus, the delegation of executive tasks to the Commission – the EEC's other executive body - gradually became not only appealing but also necessary. Nevertheless, national governments knew that this could lead to adverse consequences. Therefore, they established a set of committees ('comitology') composed of representatives of the member states and chaired by an official of the Commission, responsible for overseeing

the exercise of executive powers in Brussels. This system excluded the EP. Despite the EP's dissatisfaction (European Parliament, 1968) this pragmatic arrangement was quickly replicated in other policy areas resulting in three broad types of committees namely, advisory, management and regulatory committees<sup>3</sup> using a total of seven procedures. This system of obscure committees operated in Brussels as a closed circuit of national and Commission officials who took significant decisions (e.g. in agriculture, telecommunications, financial markets etc.) but remained beyond the control of the public or its elected representatives at the level of the EU.

The re-launch of the single market project in the mid-1980s and the subsequent quest for more efficient executive decision making led to two important changes. First, Treaty reforms turned the Commission into the main repository of executive power in Brussels except the cases<sup>4</sup> in which the Council chose to exercise these powers directly. Second, comitology was formalised in 1987 (Council of Ministers, 1987) but the power of the member states to choose whether, when and which committees to employ and keep the EP at bay was left intact.

During the Delors era (1985-1994), the EP supported the idea of the Commission playing an autonomous role in EU executive politics but was unhappy with its own weakness in the area of comitology. However, since the mid-1990s the increasingly assertive EP gradually abandoned both the inter-institutional alliance with the Commission – and the 'unsatisfactory' (interview, European Parliament Secretariat, 5 November 2003) measures introduced by these two organisations in their attempt to increase transparency and democratic legitimacy in comitology procedures (Bradley,

1997). Instead, the EP concentrated on enhancing directly its own powers in the area of comitology. This reflected the EP's ambition to become a key player in EU decision making and the fact that in many cases the member states had, according to the EP, used comitology procedures to reform policy. The EP, which in the meantime had become a co-legislator, saw this as an assault on its legislative powers and used a variety of measures to undermine the ability of the member states to pursue this activity. These measures included threats to withhold funds for the operation of comitology and an attempt to resolve the problem through the reform of the Treaty in the context of the 1996 IGC.

The Commission seized this opportunity and made a proposal aiming to (i) simplify the system, (ii) set criteria for the choice of committee and (iii) maintain its alliance with the EP but the opposition of many member states was overt and unequivocal: 'c'était nucléaire' as a senior Commission official put it (interview, Brussels, 13 May 2003) echoing a senior official of the Council Secretariat who stated that 'even Luxembourg' was opposed to change (interview, 8 July 2003). However, they agreed to discuss the issue after the IGC and asked the Commission to submit a proposal to that effect.

Nevertheless, the EP remained the main promoter of change. It promoted '*maximum* transparency and a balanced role for the EP and the Council' (interview, European Parliament Secretariat, 5 November 2003). While the member states (i.e. one source of the EU's legitimacy) had gradually enhanced the *legislative* powers of the EP (which by the late 1990s had become a co-legislator), the asymmetry between the Council and the EP remained flagrant in the area of comitology. The EP saw it as an opaque system

'with too many committees and procedures' marked by 'an asymmetry between the Council and the EP' as an MEP put it (interview, EP, Brussels, 5 November 2003). This is why the EP even went as far as to block or reject draft legislative proposals on grounds of comitology. Using its legislative powers as a legitimating basis, the EP sought the power to suspend the application of executive measures when the executive had exceeded the limits of its powers and claimed that for this type of control to be effective it had to be exercised on the initiative of the EP itself. Its President, José Maria Gil-Robles, stated that it was essential that, in future, the EP should have 'generalized *control*, which would be triggered autonomously, over executive measures of a general measure' (*Agence Europe*, 19 March 1998, added emphasis).

Acting in an effort to promote its own interests by appeasing the increasingly assertive EP, the European Commission was another promoter of change. It floated the idea of allowing members of the EP to be present in comitology meetings. This idea was quickly rejected by a number of member states (*Agence Europe*, 8 January 1997). However, these efforts did not reflect a significant degree of dissatisfaction with the extant system. According to officials of both the European Commission and the Council Secretariat 'nobody would argue that the system was not working well' (interviews, 8 July 2003).

#### *Interests, Norms and Non-change*

Although the EP remained determined to promote change, the type of change it was promoting was unlikely to occur. This was demonstrated in the first instance by the formal proposal submitted by the Commission at the request of the member states (European Commission, 1998). The Commission -- aware of the views of the member



states – turned the issue of increased democratic legitimacy into one of secondary importance. Instead, it focused on transparency defined in a narrow way. The first objective mentioned in the proposal was the clarification of the criteria for the choice of committee and procedure. However, this was not a central consideration for the democratically elected EP since it was already involved in this stage of the process. On the contrary, the Commission's proposal highlighted the need for the regular provision of information to the EP. The Commission proposed that the EP receive the agendas of comitology meetings, draft measures discussed in these meetings and the results of votes. The dissatisfaction expressed by the EP's *rapporteur* and the EP as whole was, therefore, unsurprising (*Agence Europe*, 26-27 June 1998; European Parliament, 1998). The proposed reforms fell far short of the EP's ideal position. In particular, the EP's request for 'a *guarantee of real control* by the Parliament over implementing rules' (European Parliament, 1998, p. 2, emphasis added) was ignored.

The case of regulatory committees (the most powerful form of committee) is particularly significant in this respect. They have the power to refer back to the Council – but *not* the EP – measures that implement legislation whose adoption requires the consent of *both* organisations (co-decision). This is why the EP wanted to abolish them. This did not happen. The new framework that regulates comitology (Council of the EU, 1999) falls far short of the EP's wishes. In that sense, it departs remarkably from the established path of the gradual enhancement of the EP's powers that turned it into a co-legislator.

Although the new framework simplifies comitology by reducing the number of procedures from seven to four and improves transparency by stating explicitly the criteria to be used by the Council for the selection of procedure and by improving the access of both the public and the EP to information regarding comitology, it fell far short of the wishes of the EP. The importance of these changes must not be over-estimated for two important reasons. First, the use of these criteria is not compulsory. Rather, they simply codify the Council's pre-1999 standard practice. Second, the role of the EP remains extremely weak. This point merits further attention for it is at the heart of the comparison undertaken here.

Prior to the reform of 1999 only one branch of the EU's legislative authority, namely the Council (that represents the member states) had the right to (a) exercise executive powers directly and (b) discuss implementing measures referred to it by some committees. The EP had no substantive role in this process. The reform of 1999 did not alter this fundamental point, much to the disappointment of the EP. The EP has merely been granted the right to indicate to the Council that a proposed executive measure exceeds the limits set by the legislator (i.e. the Council and the EP). The Council is under no obligation to follow the EP's opinion. In addition, when a proposed executive measure is referred back to the Council by a management or a regulatory committee, the EP remains an outsider even if the enabling legislation has been adopted by co-decision. In other words, the balance between the two sources of legitimacy (member states and citizens) remains unchanged in this area. The 'guarantee of real control' sought by the EP has not been granted.

This decision of the member states – who in this case shied away from substantive reform – diverges sharply both from the broader pattern of institutional evolution that between 1986 and 1996 transformed the EP into a co-legislator and the first case study. What accounts for this fact? The central argument advanced in this article links the power of norms with the key actors' perceived interests. Change, it is argued, is promoted by the congruence between these two factors. Norms shape the rules of the political process by providing legitimacy and solutions to the problems that bring the issue of change on the public agenda. Prior to the Decision of 1999 comitology was not a model of transparent and democratic governance - far from it – but the central role accorded to the nation state was not couched only in the normative notion of democratic legitimacy. Rather, it reflected also the cardinal role of the member states in the implementation of EU law. The administrations of the member states are the EU's main implementing agencies. Thus, the primacy of the Council in comitology is neither surprising nor unjustified. Although the legitimacy that the EP's involvement would add to executive decision making in Brussels was beyond any doubt, this form of change was unable to respond to a concrete functional problem that could not be resolved in a manner that did not entail the 'guarantee of real control' demanded by the EP. This is why the EP's attempts failed.

### **Beyond the Norms-Interests Distinction**

The central argument developed here associates norms, interests and institutional reform: when norms are congruent with the interests of the actors who have the power

to make the final decision, more change is produced. This association of norms with interests may appear problematical. What do norms add to this analysis that cannot be explained by the interests of the key actors? This is the central criticism of epiphenomenality frequently levelled against norm-based accounts of political change. Norms boost change in two essential ways that reflect a combination of Weber's goal-orientated and value-orientated modes of behaviour. First, they confer legitimacy on some reforms but none to others. Second, they resolve some political problems but not others.

The Convention reflected the demand for a more open and transparent method of treaty reform and the obvious inability of the IGC method to provide appropriate solutions to the problem of EU reform. The legitimating effect and the problem-solving capacity of norms are inextricably linked with each other. Even if one ascribes to the Convention a purely preparatory function, it would allow alternative proposals to be expressed and debated openly and to be assessed on the basis of their merits by almost all interested parties, not only some of them (e.g. governments). Proposals would be accepted or rejected largely on that basis, not the presumed views of interested but absent actors (e.g. national parliaments). What is politically possible and what is not would be identified in a much more credible way.

One may argue that change occurred in the first case examined here because it served the interests – and *only* the interests – of the member states. This view is unconvincing for a number of reasons. It is important to distinguish between the initial decision to reform an institutional arrangement and the precise content of the reform. The initial

decision (taken in Nice in December 2000) to modify the rules of the political process *was* in the interests of the member states (since there was widespread dissatisfaction with the arrangement that was then in place) but the precise form of the *new* arrangement (formalised in Laeken a year later) cannot be explained without recourse to the norm of open and transparent government. National governments knew it was in their interests to look for a new method of treaty reform but the advent of the second Convention (i.e. the precise content of their decision) cannot be explained only through an interest-based analysis. The second Convention was established because it could improve transparency and the democratic legitimacy of the treaty reform process *and* resolve – at least in part - a real political problem. Arguably, the alternatives – namely a group of government representatives and a committee of 'wise men and women' did not have these characteristics.

The stance of important actors – like the British government - who would normally be expected to *object* to the establishment of a mechanism they were unable to control, is of central importance here. The deeply held belief that the argument was going their way cannot by itself answer this question. Taken a step further this means that they were likely to win the argument in the final stage of yet another IGC. This, however, would have been deprived of the publicness that characterised the Convention. This is the precise characteristic of the new process they seized upon that would cement what they construed as the desired outcome. The publicness of the debate would *by itself* transform the desired outcome in two ways: it would become more likely and would be elevated to the systemic level.

The explanatory power of norms goes further. Once they are deployed in the public domain they change the political opportunity structure by shaping the terms of the debate. This, in turn, locks the debate into a path that undermines the autonomy of political actors. National governments who did not like the idea of a second Convention had the power to block it (as they did in the second case) but they did not because going against a mechanism that was meant to increase transparency was a position that no national government could afford to adopt. The normative basis of the Convention effectively shaped the strategy as well as the perception of the British government about its interests. In addition, none of the alternatives (i.e. a reflection group or a group of national representatives) could combine the aforementioned institutional characteristics of the Convention.

Thus, this article contributes to a broader debate regarding the impact of ideational factors on politics and does so in two ways. First, this analysis supports the view that political scientists need not choose between ideational and material factors. Both sets of factors ought to be taken into account in the discussion of political change (McNamara, 1998, p. 8; Blyth, 2001, p. 26). Second, and more specifically, it shows that the decision makers' *perception* of their interests (Katzenstein, 1993, p. 267) as well as their choice of *strategy* are - at least in part - shaped by ideational factors. This is the essence of the guidance function of norms highlighted here. In that sense, this article gives credence to the argument (Blyth, 2001, p. 26) that ideational factors are much more than 'hooks' that resolve problems of multiple equilibria.

The two cases examined here also show the importance of timing and the sequence of events on the process of institutional change. The sequence of events affects institutional change by facilitating the association of norms with the search for appropriate institutions. The first Convention shows that there was support for this model of decision making even before national governments realised the limitations of the IGC model but it was the failure of the Nice summit that obliged European leaders to begin the quest for an alternative model. This experience made it hard for the supporters of the IGC model to remain attached to it. In other words, the failure of Nice discredited IGCs as the sole method of treaty reform precisely as the first Convention was demonstrating its capacity to deliver.

This process of cognitive association was absent from the second case. Indeed, the gradual enhancement of the power of the EP did not leave European leaders open to criticism as regards the balance of power between the two legislative authorities of the EU. There was no institutional failure and therefore, no quest for a new institutional arrangement. Thus, the second element of the role of the normative order outlined here – namely the capacity to resolve political problems in periods of crisis – did not come into play at all.

## **Conclusion**

This article sought to provide a norms-based account of institutional change. It has highlighted the fact that norms affect institutional change when the reforms that embody

them are congruent with the interests of the key decision makers. Norms do so by providing legitimacy to some reforms but none to others and by shaping the key actors' perceptions of their interests and their political strategies.

This analysis highlights two sets of issues that future research must address. The first concerns the precise relationship between norms, ideas, beliefs and principles on the one hand, and interests on the other. This article shows that political scientists need not choose between the two. Rather, we ought to explore their relationship in various contexts. The central argument presented here must certainly be tested in the study of domestic politics and over longer periods of time. In that context, research techniques that take account of the timing and the sequence of events are important because institutional change is a process that unfolds over time.

The second set of issues concerns the need to identify the precise features of norms that render them politically salient and analytically relevant. How do political actors associate particular norms with everyday political action? This is the kind of question that one must seek to answer prior to having a more complete account of the role of ideational factors in political life.

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## Notes

<sup>1</sup> Thanks to Hussein Kassim for suggesting this line of argumentation.

<sup>2</sup> The Economic and Social Committee, the Committee of the Regions, the social partners and the European Ombudsman were invited to attend as observers.

<sup>3</sup> Unlike advisory committees - of whose opinion the Commission must take utmost account, the explicit approval of draft executive measures is required when regulatory committees are used.



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Management committees occupy an intermediate position in the sense that they can refer drafts legislative measures to the Council.

<sup>4</sup> As these cases were unspecified, the Council had a significant degree of freedom to identify them.

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