

GREAT TRANSFORMATIONS IN GERMAN POLITICS: BETWEEN REFORM AND CHANGE

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German politics has been characterized in the past by concepts like ‘politics of the middle way’ (Schmidt) or the ‘joint-decision trap’ (Scharpf). Such notions point towards an overall tendency of stagnation rather than change in German politics, which has often led to ‘reform deadlock’ (*Reformstau*). These characterizations suggest that Great Transformations are not possible in Germany. Nevertheless, for one, sudden, dramatic upheavals have taken place in Germany. Moreover, incremental changes have been achieved in Germany that can – in the long run – lead to Great Transformations.

Thus, the question emerges if Great Transformations are feasible at all in Germany as well as to the relationship between Great Transformations and the German political system. Are reforms and changes only possible, if they do not bring about Great Transformations, but rather slightly adapt already-existing institutional structures? If Great Transformations are feasible despite the tendency of stagnation mentioned above, under which conditions do they take place? Is change or reform a precondition or a consequence of Great Transformations?

The panel deals with reforms and changes in German politics and explores whether those reforms and changes held the promises of Great Transformations. At the same time it will re-examine whether Great Transformations happened in the past and perhaps still happen beyond particular reforms and intended changes. These questions point to a descriptive question if a Great Transformation took place or not and an analytical question towards the relationship of reform, change, stagnation and Great Transformations.

Paper 1
Title
Abstract

Thomas D. Lancaster, Emory University, Atlanta

Political Monitoring in a Federated System: The Case of Germany

Building upon some of my recent work (2014, 2015), this paper begins by reiterating the importance of the concept of political monitoring in the study of governing institutions, building on the psychological notion that people change their behavior if someone is watching them or they think someone is. Second, the paper argues theoretically that the choice of how political monitoring is institutionalized, as a necessary element in the process of overcoming collective action problems in the governance of public goods, reflects choices in state-building, institutional engineering, and public policy. Third, the analysis then turns to a specific focus on the unique aspects of how federated systems institutionalize political monitoring, with an eye on the array of such institutionalizations. Toward this end, the paper asks how do meso-authorities “watch” each other as well as, in a collective sense, how do meso-authorities monitor the central state and its decision-makers. Fourth, the analysis illustrates such variation of the institutionalization of political monitoring with examples from the Federal Republic of Germany and considers the effects, both intended and unintended, in terms of outcomes in governance. Examples include Germany’s system of permanent representations of Länder towards the federal and the European level. The paper concludes with thoughts about how the German case assists, in an inductive manner, in better understanding both political monitoring as a scholarly concept and its importance in the study of federalism and federated systems.

Paper 2
Title
Abstract

Lena Ulbricht, Berlin Social Science Center (WZB)

Governing the big data society – the response to new regulatory challenges

The digitalization poses new regulatory challenges for governments: Conflicts arise around issues such as privacy, political participation and access to goods and (social) services. Traditional regulatory approaches in consumer and data protection policy fall short of the development and use of new technologies. This contribution examines how the German state faces the challenge of regulating the „big data society“. A first section outlines to what extent the use of „big data“ poses new regulatory challenges and why traditional regulatory approaches are insufficient in the face of big data. The second section presents a typology of new approaches for the regulation of big data that are drawn from a literature review. These will be contrasted with the actual regulation and debates about regulation of the last 6 years. This section will also highlight the function of characteristic features of the German political system deemed to hinder or slow down the political response to social challenges: the federal fragmentation which is especially relevant for data protection, and the corporatist structure which shapes consumer protection in Germany. The

results show that the German state is slow and reluctant in adopting new approaches for the regulation of the „big data society“. The corporatist system, historically seen as a way of integrating important interest groups into the policy-process, acts as an obstacle to the influence of emerging internet-specific interest groups, who stand in for new regulatory approaches. Yet the federal structure is not only an obstacle, but also leads to policy-innovation through inter-state exchange.

Paper 3	Julia von Blumenthal / Steffen Beigang, Humboldt University, Berlin
Title	Challenges but no Transformation: Religious instruction in public schools
Abstract	German state-church-relations are based on separation but also on the cooperation between the state and organized religious communities, granting the latter a set of rights and privileges. This system, which evolved over centuries in conflict and dialogue with the Christian churches, has been extremely stable over time, although it is facing two challenges: First, in more and more regions, the Christian churches no longer represent the majority of the population. This is especially true for East Germany, where after reunification the West German system of church-state relations was institutionalized despite very different conditions for its functioning. Second, Muslim religious communities claim the same rights which are granted to Christian and Jewish religious organizations. The paper uses religious instruction in public school as a case study which covers both challenges. We will show that there is incremental change inside existing institutional structures in response to these challenges, but no Great Transformation. This can be seen especially in the discussion about school classes about conducting life, religion and ethic studies (LER) in Brandenburg and the different ways of implementing Islamic religious instruction in public schools.
Paper 4	Nicolai Dose, University Duisburg-Essen
Title	Iris Reus, University of Bamberg Transformation of Federalism? Federalism Reform impact on Länder Policy-Making
Abstract	In September 2006, the Federalism Reform I became effective, one of the most important-ever German constitutional reforms, which aimed at disentangling the inter-dependent German decision-making system. Concerning the Länder level, the aim was to provide them with more legislative autonomy and thus to allow for more federal diversity. For this purpose, the reform transferred several additional legislative powers to the exclusive responsibility of the Länder. The impact of the reform, however, depends on how the Länder make use of their new legislative powers. If

the Länder voluntarily carry on to follow the path of the ‘unitary federal state’, despite the new autonomy the reform will not result in a great transformation of the federal state. The main research question is therefore: Which factors and conditions lead to fragmentation or uniformity regarding the new Länder laws? To this end, we develop a theoretical framework bringing together essential factors of federalism research and policy analysis that form potential determinants of fragmentation and uniformity. The framework is tested empirically on the basis of four selected legislative powers – ‘non-smoker protection’, shop closing time’, ‘public service law’ and ‘public sector pay’. By mainly qualitative analysis, we employ a Most Similar Systems Design including all 16 Länder and covering a time span of roughly ten years since the coming into effect of the Federalism Reform in 2006. We will argue that there is actually increased fragmentation regarding the new Länder laws, but the degree is highly differing between policy fields. With regard to the analytical framework, problem pressure and competition in combination with budgetary constraints and to some extent party differences lead to a fragmentation of laws. In contrast, uniformity is influenced by public opinion and to some extent by constitutional courts.

Paper 5
Title
Abstract

Dominic Heinz, Leibniz University, Hannover

Public Broadcasting Funding: A Mastered Great Transformation?

German public broadcasting funding is characterized by a particular institutional structure. This is illustrated for instance by institutions like the special commission for determining the financial needs of public broadcasting and the broadcasting commission of the Länder prime ministers. This institutional structure assures the independence of public broadcasting from markets and any political actors. For Länder governments this institutional structure consists of a functional compulsory negotiation system. Thus, single actors are able to block decisions for all actors and exit solutions as well as opting out solutions are not possible. This impedes Great Transformations and a prevalence of the legal and constitutional status quo. Nevertheless, an institutional reform of broadcasting policy took place and replaced the former device dependent fee by a flat fee for each household or working place. The reasons that explain why the reform of public broadcasting funding took place show that these reforms happened despite a compulsory negotiation system. At the same time it seems questionable, if the reform masters the problems of public broadcasting funding, although it can be qualified as a Great Transformation.