

Architectural Policy Design:
How Policy Makers Try to Shape
Policy Feedback Effects
When Designing Policies

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TABLE OF CONTENTS

PART I: INTRODUCTION AND EXISTING LITERATURE.....	8
1. INTRODUCTION	8
2. PROBLEMATIZATION OF THE LITERATURE.....	16
2.1 The Policy Feedback Literature and Its Historical-Institutionalist Foundation.....	21
2.2 The Policy Design Literature in the Policy Sciences and in Public Policy.....	31
2.3 The Emerging Research Field on Policy Feedback and Policy Design	37
2.4 The Deficits of the Policy Feedback Literature and the Policy Design Literature and the Promise of Combining Both Perspectives.....	40
PART II: THEORETICAL AND METHODOLOGICAL FRAMEWORK OF ARCHITECTURAL POLICY DESIGN	42
3. THEORETICAL FRAMEWORK.....	43
3.1 The Five Lenses of the Architectural Policy Design Perspective	44
3.2 Key Terms and Underlying Assumptions of the Architectural Policy Design Framework.....	54
3.3 Summary.....	62
4. METHODOLOGICAL FRAMEWORK.....	64
4.1 An Abductive Methodological Approach	64
4.2 Case Selection	68
4.2.1 <i>The Existing Literature on Case Selection</i>	<i>69</i>
4.2.2 <i>A New Approach to Case Selection in Theory Building Research.....</i>	<i>75</i>
4.2.3 <i>Applying the Approach in the Investigation of Architectural Policy Design.....</i>	<i>81</i>
4.3 The Collection of Empirical Material.....	87
4.3.1 <i>Data Sources: Available and Selected Material</i>	<i>90</i>
4.3.2 <i>Evaluation of the Generated Data Pool.....</i>	<i>95</i>
4.4 Data Analysis	100
4.4.1 <i>Methods and Process of Data Analysis</i>	<i>100</i>
4.4.2 <i>Types, Interpretation and Use of Evidentiary Material.....</i>	<i>103</i>
PART III: EMPIRICAL INVESTIGATION	109
5. THE EMPIRICAL CONTEXT.....	111
5.1 The Context of Public Policy Making in the late 1960s and early 1970s	111
5.2 The Party System and the Role of Christian Democrats, Social Democrats and Liberals	114
5.3 The Political-Institutional Context of Public Policy Making in Germany	119
6. THE CODETERMINATION ACT OF 1976.....	125
6.1 Introduction to the Case Study	125
6.2 Legislation on Codetermination Prior to 1976 and the Provisions of the Codetermination Act of 1976	132
6.3 The Programmatic Positions of Social Democrats, Liberals and Christian Democrats on the Reform of Codetermination	136
6.4 Architectural Policy Design Strategies in the Reform of Codetermination.....	141

6.4.1	<i>The Social Democratic-Liberal Policy Design Strategy: Strengthening and Unifying the Labor Movement</i>	147
6.4.2	<i>The Christian Democratic Policy Design Strategy: Weakening and Fragmenting the Labor Movement</i>	156
6.5	The Political Skirmish around the Codetermination Act of 1976: Policy Design as Strategic Political Struggle.....	162
7.	THE PAY CONTINUATION ACT OF 1969	167
7.1	Introduction to the Case Study	167
7.2	Legislation on Sickness Benefits Prior to 1969 and the Provisions of the Pay Continuation Act of 1969.....	172
7.3	The Programmatic Positions of Christian Democrats, Social Democrats and Liberals on the Reform of Sickness Benefits.....	177
7.4	Architectural Policy Design Strategies in the Reform of Sickness Benefits.....	179
7.4.1	<i>The Christian Democrats' Architectural Policy Design Strategy: Setting the Statutory Health Insurance on a Reform Path towards a Reimbursement System with Cost Sharing</i>	185
7.4.2	<i>The Social Democrats' Architectural Policy Design Strategy: Protecting Achieved Victories and Broadening the Statutory Health Insurance towards a Citizen Insurance System</i>	191
7.5	The Political Skirmish around the Pay Continuation Act of 1969: Policy Design as Strategic Political Struggle.....	199
	PART IV: IMPLICATIONS, DISCUSSION AND CONCLUSION	205
8.	THEORETICAL, METHODOLOGICAL AND EMPIRICAL IMPLICATIONS	209
8.1	Theoretical Implications: A Typology of Policy Feedback Effects Anticipated by Policy Makers.....	209
8.1.1	<i>Inward- and Outward-Oriented of Feedback Effects Anticipated by Policy Makers</i>	212
8.1.2	<i>The Different Types of Policy-Feedback Effects Anticipated by Policy Makers</i>	219
8.2	Methodological Implications: Empirical Footprints, Conducive Contexts and Dynamic Design Processes.....	224
8.2.1	<i>Empirical Footprints of Architectural Policy Design in Data Material</i>	224
8.2.2	<i>Conducive Contexts for Architectural Policy Design</i>	226
8.2.3	<i>Policy-Design Strategies as Subject and Object of Policy-Design Processes</i>	229
8.3	Empirical Implications: The Importance of Architectural Policy Design Strategies in Public Policy Making.....	230
9.	DISCUSSION AND CONCLUSION: THE CONTRIBUTIONS OF THE DISSERTATION AND A PLEA FOR AN AGENCY TURN IN POLICY FEEDBACK RESEARCH	236
9.1	The Two Key Contributions of the Dissertation.....	236
9.2	A Plea for an Agency Turn in Policy Feedback Research.....	239
	REFERENCES	244

APPENDIX	265
Overview of Accessed Empirical Material.....	265
Overview of Edited or Digitalized Archival Material	272
Description of Indicators for the Evaluation of Potential Cases.....	274
Overview of Preliminary Case Evaluations	278
ENGLISH SUMMARY	299
DANSK RESUME.....	302

Tables and Figures

Table 4.1: A Systematic Guideline for the Selection of Positive, Instrumental Cases.....	78
Table 4.2: Indicator List for the Evaluation of Potential Cases of Architectural Policy Design.....	84
Table 4.3: Evaluation of Potential Cases of Architectural Policy Design.....	87
Table 4.4: Overview of Collected Material by Archive and Selected Case	100
Table 4.5: Overview of the Process of the Empirical Investigation.....	101
Table 4.6: Overview of the Process of Data Analysis (Material from the Parliamentary Archives)	102
Table 4.7: Overview of the Process of Data Analysis (Material from Party Archives)	103
Table 6.1: Key Legislation on Codetermination Prior to 1976 (Selection)	134
Table 6.2: Key Provisions of the Codetermination Act of 1976.....	136
Table 6.3: The Programmatic Positions of Social Democrats, Liberals and Christian Democrats on Codetermination	141
Table 6.4: Policy Design Elements and Attributed Policy Feedback Effects in the Social Democratic-Liberal and Christian Democratic Policy Design Strategy	145
Table 6.5: The Proposed Policy Designs of Social Democrats, Liberals and Christian Democrats on the Reform of Codetermination Reform and the Final Codetermination Act of 1976.....	166
Table 7.1: Key Legislation on Sickness Benefits prior to 1969 (Selection).....	175
Table 7.2: Key Provisions of the Pay Continuation Act of 1969	176
Table 7.3: The Programmatic Positions of Social Democrats, Christian Democrats and Liberals on Sickness Benefits.....	179
Table 7.4: Policy Design Elements and Attributed Policy Feedback Effects in the Social Democratic and Christian Democratic Policy Design Strategy	183
Table 7.5: The Proposed Policy Designs of Social Democrats, Christian Democrats and Liberals on Key Contested Issues of Pay Continuation Debate	203
Table 8.1: A Typology of Policy Feedback Effects Anticipated by Policy Makers ...	211
Table 8.2: Conducive Contexts for Anticipations of Inward- and Outward-Oriented Policy Feedback Effects	215
Table 8.3: The Selection of Positive, Instrumental Cases and the Identification of Conducive Contexts	227

Figure 3.1: The Five Lenses of the Architectural Policy Design Perspective	45
Figure 3.2: The Formulation of Architectural Policy Design Strategies in Public Policy Making from a Strategic-Relational Perspective	50
Figure 3.3: Policy Makers' Motivations during Policy Design.....	59
Figure 4.1: Categorizing Potential Cases of Architectural Policy Design	85
Figure 6.1: The Architectural Policy Design Strategies of the Social Democratic- Liberal Government and the Christian Democratic Opposition in Codetermination Politics	144
Figure 7.1: The Architectural Policy Design Strategies of Christian Democrats and Social Democrats in Pay Continuation Politics	182
Figure 8.1: The Intertwinement of Concept Formulation and the Identification of Conducive Contexts in Qualitative Research.....	228

Abbreviations

AfA	Arbeitsgemeinschaft für Arbeitnehmerfragen (SPD working group on employee matters)
BDA	Bundesvereinigung der Deutschen Arbeitgeberverbände (Confederation of German Employers' Associations)
BDI	Bundesverband der Deutschen Industrie (Confederation of German Industry)
CDA	Christlich-Demokratische Arbeitnehmerschaft (Christian Democratic Employees' Association)
CDU	Christlich Demokratische Union Deutschlands (Christian Democratic Union of Germany)
CDU/CSU	Political alliance of CDU and CSU, who form a joint parliamentary group in the Bundestag (also referred to as "Union" or "Union parties")
CGB	Christlicher Gewerkschaftsbund Deutschlands (Christian Trade Union Federation of Germany)
CSU	Christlich-Soziale Union in Bayern (Christian Social Union of Bavaria)
DAG	Deutsche Angestelltengewerkschaft (German Salaried Employees Union)
DGB	Deutscher Gewerkschaftsbund (Confederation of German Trade Unions)
DKM	Diskussionskreis Mittelstand (Discussion Group Small- and Medium-Sized Business)
FDP	Freie Demokratische Partei (Free Democratic Party / Liberals)
MIT	Mittelstands- und Wirtschaftsvereinigung der CDU/CSU (Small- and Medium-Sized Business Association of CDU/CSU)
SPD	Sozialdemokratische Partei Deutschlands (Social Democratic Party of Germany)
ULA	Union der Leitenden Angestellten (United Leaders Association; interest organization for middle managers)
VfLA	Vereinigung für Leitende Angestellte (interest organization for middle managers)

PART I: INTRODUCTION AND EXISTING LITERATURE

1. Introduction

How do politicians use policies strategically for their own political benefit and to achieve long-term political goals, and how does such strategic behavior influence the design of policies? Answering these questions is crucial for understanding key dynamics, challenges, limitations and opportunities of public policy making, for explaining strategic choices policy makers make when they design new policies and political struggles they engage in with their opponents.

Recent attempts by Republicans to demobilize public sector unions and to undercut the Democratic Party's political base in several U.S. states offer a good example of the political phenomenon this dissertation investigates: *the long-term strategic design of public policies by policy makers*. In fact, the case has recently also received attention from scholars of policy feedback (cf. Anzia and Moe 2016; Hertel-Fernandez 2018), who study how policies influence subsequent politics but typically do not inquire systematically whether or to what degree policy makers have tried to shape these effects strategically.

When researchers want to analyze long-term strategic policy making, they must draw an important distinction, namely between *long-term political effects of public policies* and short-term substantive effects. In the given example, short-term substantive effects of public labor policies pushed by Republicans concern the ways in which unions interact with the state, how they collect dues, and how they recruit and retain members. That is, they concern the substance matter, the actual issue, problem or field that the policy is intended to regulate. Researchers must separate these short-term substantive effects analytically from long-term political effects of the policies, which – as Hertel-Fernandez discusses – policy makers can try to design strategically to achieve long-term goals. The long-term political effects concern public sector unions' political clout, the mobilization of their members, and, thus, the strength and viability of an important base of the Democratic Party. In Hertel-Fernandez's powerful formulation, Republicans essentially try to use the feedback effects of public labor policy as a "political weapon" against the Democrats.

Further examples help underline the distinction between short-term substantive and long-term political effects of policies and demonstrate the prevalence of long-term strategic policy making in different political contexts. Take U.S. Social Security. Here, policy makers tried to bind their political successors through strategic political choices they made during the design of the pro-

gram. As Jacobs (2010) argues, policy designers chose a funded, actuarial program because they wanted to prevent their successors from exploiting the program and using it to cultivate constituencies and win votes. The funded actuarial program would help them achieve this goal because it does not use current payroll contributions to finance current social expenditures but saves them to cover the costs of future outlays.

Or take the political struggle for a reform of the U.S. immigration system. Here, Democrats advocate for legislation that creates a path to citizenship while Republicans take a more restrictive stance on who and how many should be “allowed in”. The Democrats’ plans would not only legalize millions of illegal immigrants and integrate them into the U.S. labor market and social security system. It would also add millions of new voters to the political system who are traditionally affiliated with the Democrats and, thus, empower the party systematically in the long term.

Research on the effects of policies on politics emerged in the late 1980s and early 1990s primarily in the United States, but the phenomenon of long-term strategic policy making and the strategic design of feedback effects is not exclusive to the U.S. context with its highly polarized party system, or to major political issues like immigration reform. German health policy making is another fitting, yet quite different case. In German health politics, policy making is characterized by a quick succession of piecemeal reforms rather than by paradigmatic policy changes that would define the policy field for decades. As Döhler (1995) shows, also in and through piecemeal reforms, policy makers can act as “architects of political order” and strategically design policies that create, rearrange or destroy structures of interest representation. That is, through the strategic design of policies, policy makers can try to engineer the effects that health policies have on the strategies and preferences of interest groups. For example, they can strengthen federal and regional health fund associations as negotiators in order to tame competition between individual funds and in the long term balance out unequal bargaining relations between providers and health funds that result in cost increases.

Long-term strategic policy making is also not exclusive to the field of social policy, the traditional focus of policy feedback research. Take a final example from renewable energies policy. Here, early and modest feed-in tariffs can support the emergence of new industries and foster the creation of new actor coalitions under the radar of politically powerful big utilities (cf. Schmidt et al. 2018). Once the big utilities identify their new opponents, they can already draw on a solidified power base while the big utilities’ own support base has started to erode. Renewable energy policies can be locked in, and policy makers can achieve long-term political goals by strategically designing policies and their feedback effects.

The Architectural Policy Design Perspective

These are only a few of many possible examples. They demonstrate that policy makers frequently use or attempt to use policies strategically in order to achieve long-term political goals (cf. also Anzia and Moe 2016). The dissertation argues that it is necessary to develop an analytical toolkit for studying these attempts systematically in order to be able to explain crucial dimensions of public policy making, in particular policy makers' strategic choices during policy design and patterns and dynamics of strategic policy design and policy feedback processes. The literatures on policy feedback and on policy design, whose job it would be to provide such an analytical toolkit, fail to do so and do not pay sufficient attention to the phenomenon of long-term strategic policy making. Instead, the policy design literature focusses analytically on how policies can be designed instrumentally to solve objective policy problems, and the policy feedback literature focusses analytically on which feedback effects policies produce without investigating the agential sources of these effects (cf. chapter 1 for a substantial discussion). In consequence, both literatures struggle to capture, understand and explain long-term strategic policy making.

To remedy these deficits, the dissertation puts forward the concept of architectural policy design and develops an analytical approach for investigating long-term strategic policy making. In brief, this *architectural policy design perspective* understands public policies as “rules of the game” that prescribe and proscribe behavior and shape the lives and interactions of citizens and organizations. Policies are arenas of conflict in which actors constantly try to (re-)shape and (re-)interpret rules and bend these towards their priorities and preferences. Actors do this because policies are tools of power that shape, restructure, and reconfigure political processes in meaningful ways through policy feedback effects. Policy makers can therefore use policies strategically to gain power and control, further their political interests and achieve political goals in the long term.

The design of policies, policy instruments and specific rules and stipulations matters for future policy development because it shapes what feedback effects emerge from a policy. Policy makers have an acquired aptitude or working understanding of the effects different policy designs produce and can therefore act strategically in the design of policies. They try to design policies that bring about beneficial policy feedback effects in order to gain power, achieve policy goals in the long term and be electorally successful in the short term. Policy makers' strategic design attempts therefore shape future policy developments via policy feedback effects. Policy makers' design strategies themselves are structured by situational contexts of policy making according to which policy makers review, revise and reform the goals they want to achieve and strategies they follow to do so.

Existing Puzzles and Research Question

As an analytical approach, the architectural policy design perspective addresses a number of puzzles concerning long-term strategic policy making. Its purpose is in particular to explain patterns and dynamics of long-term strategic policy making and strategic choices policy makers make during policy design. The existing literature struggles to explain these key aspects of public policy making because it fails to understand the role of strategic action in policy feedback processes and policy design dynamics and because it lacks an analytical toolkit that can capture, understand and explain it.

In consequence, the literature struggles to answer basic questions about public policy making. Why do policy makers choose one policy design over another even though both designs might be instrumental in pursuing the same policy goal? What reasons do policy makers have for such choices, and what role do strategic considerations of policy feedback effects play in these decisions? Remember the example of renewable energy policies: a variety of policy instruments (e.g. feed-in tariffs, direct subsidies, CO₂ emission caps, taxation) can lead towards the targeted policy goal and increase the share of renewable energies of total energy mix, but how can one explain why policy makers choose one over another? Are choices between policy instruments only a matter of assumed instrumentality, of efficient and effective problem solution, as the analytical focus of the policy design literature would suggest? Or aren't they also *political* choices – choices in relation to which policy makers strategically consider the long-term political implications of different reform designs?

A key puzzle for the literature is how policy makers weigh short-term substantive and long-term political benefits during policy design, when they prioritize one over the other or how they try to maximize both. Relatedly, why are policy makers willing to give up certain elements of a policy design but not others in negotiations with their political opponents, i.e., which political fights do they pick and which compromises do they accept? The literature often approaches these puzzles by looking at policy making as the result of the relative political strength of political actors, interest group politics and institutional characteristics like veto barriers or gate-keeping. The dissertation understands these factors as important conditions of public policy making that shape the outcomes of policy design processes. However, explanations that do not take into account policy makers' design strategies are often underdetermined. They may be able to explain general directions of public policy making but not “within-design choices”, i.e. not the specific design elements, instruments, stipulations and policy wordings policy makers choose. Understanding those choices, however, is essential for explaining which feedback effects policies generate and how policy makers can design them strategically.

The literature also cannot explain how, under what conditions, or to what degree policy makers are actually successful in strategically designing policies and anticipating policy feedback effects in order to achieve long-term policy goals. Regarding the introductory example, why could Republicans successfully attack the political clout of public sector unions in recent years and actually demobilize their membership and weaken Democrats systematically? Again, institutional factors that structure the legislative process and give Republicans leeway to impose union-hostile legislation, and the political balance of power between Democrats and Republicans are important parts of the explanation. But how did Republicans actually do it? Institutional and contextual factors might open windows of opportunity, but policy makers need to exploit these strategically to achieve long-term political goals. The puzzle is then how “talented” policy makers are in doing so? How good are they at using policies to make politics? How extensive or limited is their understanding of long-term political consequences that emerge from different policy designs? What types of effects do policy makers have on their mind and how do they try to design those strategically?

These puzzles demand inquiry. The dissertation takes up the task and poses a *research question* that carves out the problem at heart. Concretely, the dissertation asks *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*.

Theory Building in Abductive Research

Addressing the outlined puzzles requires a particular analytical approach to the investigation of public policy making. It also requires a particular approach to the research process itself. The dissertation is based on an abductive conceptualization of the research process that is geared to build theory. The goal is not to fill a specific, well-circumscribed gap in the literature, but to explore an untrodden path and investigate an analytically neglected phenomenon for which the literature does not provide a theoretical or methodological toolkit.

The review of the existing literature presented in chapter 1 therefore follows the problematization framework. The problematization framework helps the researcher to develop new theories and frameworks because it explains deficits in the existing literature by identifying and challenging underlying assumptions in the literature instead of trying to spot or construct gaps in it. Based on this, the dissertation develops a new theoretical and methodological framework of architectural policy design, presented in chapters 3 and 1. The theoretical framework combines different elements of the existing literature as analytical lenses in novel ways and, thus, directs the analytical attention to

the phenomenon of interest: architectural policy design. The methodological framework then develops a novel procedure for case selection in theory building research and explains how to identify and choose relevant cases for the empirical investigation of architectural policy design. Furthermore, it discusses in detail what types of data material and empirical evidence to look for and how to process and analyze gathered data. The theoretical and methodological framework are then applied in two case studies of German public policy making in chapters 6 and 7, whose outcomes and implications are discussed in chapters 8 and 9.

Literature problematization, theoretical and methodological framework, case studies and the discussion of outcomes and implications are presented sequentially but are tightly intertwined in the actual research process and co-constitutive of each other. In abductive research, theorizing and empirical analysis are not two distinct steps in the research process, but they are two sides of the same coin and elements of one and the same research act. In this vein, the central concept and the analytical framework of architectural policy design are as much preconditions as they are products of the dissertation.

A Preview of the Dissertation's Contribution

The dissertation contributes to the existing literature by explaining a key dimension of public policy making, the long-term strategic design of public policies, and by providing an analytical toolkit for its investigation. In particular, the dissertation makes *two contributions*:

First, the dissertation finds that policy makers do in fact consider and try to strategically design feedback effects when designing policies. More specifically, it finds that policy makers anticipate different types of effects in different policy design situations based on their working understanding of policy feedback effects and they try to maximize both short-term and long-term political benefits when designing policies.

Second, the dissertation finds that the existing literature relies implicitly or explicitly on problematic assumptions about the nature of policy makers and policy making and that it therefore has not developed an analytical toolkit for the investigation of long-term strategic policy making. The theoretical and methodological framework of architectural policy design provides a solution to this problem that can improve our understanding of patterns and dynamics of public policy making and explain policy makers' strategic decisions during policy design.

Through these contributions, the dissertation is able to provide relevant insights into dynamics of long-term strategic policy making. It shows that policy makers consider inward-oriented feedback effects (i.e. feedback effects of a policy on its own further development) in paradigmatic policy making because

their primary focus is on designing a stable, resistant policy that will endure future political attacks. In incremental policy making, policy makers consider outward-oriented feedback effects (i.e. feedback effects of a policy on other policies/issues/policy fields) because they aim to create a beneficial reform process. Since policy makers link anticipated feedback effects to particular design elements, the analytical focus on architectural policy design strategies can explain the strategic choices policy makers make during design, which conflicts they engage in and which compromises they are willing to accept.

The dissertation also shows that policy makers are neither strategic masterminds nor only interested in winning the next election. Typically, policy makers try to maximize both long-term and short-term political benefits by carefully designing policies that bring about beneficial feedback effects while helping win elections. In a weak bargaining situation, policy makers may accept necessary compromises to contain political damage and simultaneously try to influence policy design so that it creates favorable political dynamics for reaching their long-term policy goal. In a strong bargaining position, policy makers not only celebrate a short-term victory but also try to design policies to be resistant to future retrenchment.

Hence, the dissertation also highlights that researchers risk drawing false conclusions when they do not investigate design processes and policy makers' long-term design strategies. Policy makers may "give in" in a political debate if they are in a weak bargaining position, but they can hold on to their original policy goal and try to influence policy design deliberately in order to achieve this goal in the long run via strategically designed policy feedback effects that are intended to create political dynamics in their favor. Researchers should therefore be careful when deducting policy makers' actual policy goals quickly from the positions they take during political debates and negotiations and investigate their design strategies in detail in order to understand what their long-term goals are. Doing so can also help researchers uncover when policy makers accept short-term losses in order to achieve long-term goals and to avoid misinterpreting strategic decisions of policy makers in the design of policies.

The Structure of the Dissertation

The dissertation is presented in four parts. Part I includes the introduction (chapter 1) and the problematization of the existing literature (chapter 1). Part II develops the theoretical and methodological framework of architectural policy design (chapters 3 and 1). Part III applies the framework and presents two case studies of German public policy making (chapters 6 and 7). Part IV discusses relevant theoretical, methodological and empirical implications of the

dissertation (chapter 8) and concludes with a discussion of its main contributions and a plea for an agency turn in policy feedback research (chapter 9).

2. Problematization of the Literature

The dissertation contributes to the emerging body of research on policy feedback and policy design. Treated separately, neither the policy feedback nor the policy design literature offers an agency-centered analytical perspective on and an explicit conceptualization of long-term strategic policy making that takes policy makers' considerations of policy feedback effects into account. The policy feedback literature typically ignores or contests the idea of intentional, long-term policy design and treats policy feedback effects as unintended side effects of policy making (e.g. Pierson 1993, 2000b). The policy design literature in the policy sciences focusses on the rational, knowledge-based selection of means and instruments in order to achieve desired substantive policy outcomes but sidelines non-instrumental, political considerations of policies' effects on political dynamics in a policy field (e.g. Howlett and Mukherjee 2014, 2017). The few policy design studies in public policy lack an agential perspective, especially an awareness of differences in design strategies based on policy makers' party affiliation or political-ideological orientation, and explicit conceptualizations of the role and impact of policy makers' strategic considerations of policy feedback during and on policy design (e.g. Schneider and Ingram 1993, 1997, 2005; Soss 1999; Soss and Schram 2007).

The literature is therefore not able to explain the key dimension of public policy making outlined by the research question presented in chapter 1, namely whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies. Hence, it fails to understand the role of agency in policy feedback processes and to enrich our understanding of real-world political struggles around policy design and the strategic choices policy makers face during design. For example, the literature cannot tell us why policy makers choose one design over another, even though both designs might pursue the same policy goal, and what reasons they might have for their choice. It also cannot tell us how policy makers weigh potential long-term and short-term political benefits and political and instrumental motivations during policy making, when they prioritize one over the other or try to maximize both, and why policy makers might be willing to give up certain elements of a policy design but not others in negotiations with their opponents. Lastly, the literature cannot tell us how and under what conditions policy makers are actually successful in strategically designing policies and anticipating policy feedback effects to achieve long-term policy goals and when they fail in doing so.

In order to identify the sources of these shortcomings and develop the theoretical and analytical toolkit of the literature further, this chapter takes a critical perspective on the existing literature on policy feedback and policy design.

It follows the problematization approach to identify and challenge underlying assumptions in the existing literature (Alvesson and Sandberg 2011a, 2011b, 2013). Based on this, the chapter develops *two analytical claims* that will be substantiated in the empirical investigation in Part III.

First, it argues that paying attention to feedback effects can help remedy the functionalist bias in policy design studies, improve our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design, and develop a clear concept of long-term, strategic policy making and an analytical framework for policy design studies that takes anticipated policy feedback effects into account.

Second, the chapter argues that disaggregating policies into policy instruments and design characteristics and investigating in detail design processes can give us a better understanding of how policy feedback effects emerge and whether and how policy makers can (try to) design these intentionally.

The chapter is able to develop these claims because the combination of the policy design and policy feedback perspective yields specific benefits, despite the literatures' individual shortcomings. The policy design perspective shifts the policy feedback literature's focus from policies as broad categories and bundles of different instruments and tools to policy design elements and characteristics and, thus, helps unveil how policy feedback effects emerge and how actors can (attempt to) design them intentionally through strategic policy design. Furthermore, it helps to focus more on policy makers' decisions during design processes than on contextual factors that may bring about feedback effects and shape policy development. The policy feedback perspective can render the policy design literature more political by counterbalancing its functionalist bias on instrument selection with attention to the political consequences of policies and therefore help explain the political struggles around instrumentation and policy design.

Based on the critical review and subsequent combination of elements of both perspectives, the dissertation develops an explicit concept of architectural policy design and analytical framework that takes policy makers' considerations of policy feedback into account. The dissertation is therefore part of recent scholarly efforts to bring the combined advantages of the policy feedback and policy design perspective to the forefront of public policy studies and advances our understanding of critical choices policy makers make during policy design.

The structure of chapter 1 is as follows. Before the literature review, the next two subsections introduce problematization as a distinct approach to engaging with existing literature in theory-building research and describe how the approach is applied in the dissertation. Section 2.1 discusses the policy feed-

back literature and its historical-institutionalist foundations. Section 2.2 discusses the policy design literature in the policy sciences and in public policy. Section 2.3 discusses the emerging research field on policy feedback and policy design. Section 2.4 summarizes the lessons learned and presents two analytical claims that kick off the development of the theoretical and methodological framework of architectural policy design in chapters 3 and 1.

Problematization in Abductive Research

The purpose of the problematization approach is to provide a “methodology for identifying and challenging assumptions underlying existing literature” (Alvesson and Sandberg 2011a: 247) in order to enable researchers to develop more interesting and influential theories that advance knowledge on a specific subject matter (ibid. 2011a, 2011b, 2013). Hence, the approach aims to provide methodological underpinnings for Davis’ (1971, 1986) famous thesis that “what makes a theory notable, and sometimes even famous, is not only that it is seen as true but also, and more important, that it is seen as challenging the assumptions underlying existing theories in some significant way” (Alvesson and Sandberg 2011a: 247). Problematization is therefore a common first step in abductive research processes that have the goal of developing new theories (cf. section 4.1 for a more extensive discussion of abduction).

Basically, to problematize means, the “endeavor to know how and to what extent it might be possible to think differently, instead of what is already known” (Foucault 1985: 9, in Alvesson and Sandberg 2011a: 253). As distinct approach to the engagement with existing literature, problematization is particularly critical towards so-called gap-spotting. In many fields of social science, gap-spotting is the dominant form of engagement with existing literature and finds expression in formulations like “extends this literature”, “addresses this gap in the literature”, “fills this gap”, “points at themes that others have not paid particular attention to” or “calls for more empirical research” (cf. Alvesson and Sandberg (2011a: 247) for original references). The purpose of gap-spotting is to fill identified gaps, i.e., to add something to an existing body of literature instead of identifying and *challenging* underlying assumptions in that literature and formulating new, original research questions and theories.

The point is not to disqualify gap-spotting as a research strategy. Gap-spotting research can make important contributions through crucial incremental and systematic additions to the literature and through identifying smaller and more significant gaps in existing research. Gap-spotting and problematization are also not mutually exclusive. Often, gap-spotting includes some form of problematization, while problematization necessitates a qualified scrutiny of the existing literature. However, gap-spotting is weak in terms of facilitating

the critical engagement with existing literature that challenges assumptions and leads to new, original research questions and theories.

Anzia and Moe's (2016) recent work on strategic policy making is a good example for the shortcomings of gap-spotting and the unexploited potential of the problematization approach. The authors make a similar claim as above, namely that “the strategic dimension [of policy making] has gone almost entirely unexplored, and even the most basic questions have gone unstudied” (ibid.: 763, 775). They give a cogent empirical motivation and puzzle for their research on Republicans’ use of labor law to undercut the Democrats’ political base, sketch out potential contributions of the introduction of agency into policy feedback research, and argue convincingly that policy makers will often have incentives to at least try to design policies strategically.

However, the authors fail to engage with the existing literature more profoundly and to identify the reasons for the literature’s neglect of long-term strategic policy making. In consequence, they can only make theoretical propositions on the specific research question they investigate (collective action problems in strategic policy design) and propose questions for “an untapped research agenda” (ibid.: 775), e.g. whether policy makers are aware of their opportunities to design policies strategically, that future research can address. However, because they do not challenge assumptions underlying the existing literature, the authors are not able to develop or at least sketch out a theoretical and analytical framework for this new, untapped research agenda. They are not able to identify and lay out how such a framework should differ from previous ones that failed to see and investigate the strategic dimension of policy making and, hence, they are not able to advance the theoretical and conceptual toolkit of policy feedback research substantially.

For theory-building research, it is therefore advisable to follow explicitly a different approach in the engagement with existing literature. Gap-spotting may often “only” be a communication strategy and not a true depiction of actual research processes that may include more problematization than can be read from the published text, and researchers have manifold reasons to adopt a gap-spotting rhetoric in the communication of their research irrespective of how research was conducted. Yet, as Alvesson and Sandberg correctly assess, “assumption-challenging research is of limited value if it is not clearly shown in the published research text” (Alvesson and Sandberg 2011a: 250-1; cf. also the discussion of abduction in section 4.1).

Both abduction and problematization aim to improve researchers’ ability to participate in the research community with theoretical and conceptual contributions but are not new best-practice prescriptions for how researchers ought to do research. Instead, they are helpful tools for researchers for reflecting

upon how they conduct research in their daily work, for developing methodological guidelines, especially for early phases of research that emphasize theory-building and concept formulation, and for communicating research to the broader research community.

The Guidelines of the Problematization Approach and Their Application in the Dissertation

The problematization approach makes two specific contributions to the engagement with existing literature that the dissertation takes advantage of. *First*, it describes a continuum of assumptions that can underlie existing literature on which the dissertation draws to identify assumptions underlying the policy feedback and policy design literature. *Second*, it suggests work steps researchers can consider when problematizing literature. The dissertation draws on this advice especially in the selection of reviewed literature.

The dissertation problematizes *in-house* and *root metaphor assumptions* in the policy feedback and policy design literature (Alvesson and Sandberg 2011a: 254-5). “In-house assumptions exist within a particular school of thought in the sense that they are shared and accepted as unproblematic by its advocates” (ibid.), as for example the image of policy making as inherently complex and exceeding policy makers’ cognitive capacities for the strategic design of long-term feedback effects. Root metaphor assumptions “are associated with broader images of a particular subject matter” (ibid.) underlying existing literature, for example the depiction of policy makers as notoriously myopic.

Problematization differs from literature reviews for gap-spotting research, also regarding the selection of the reviewed literature. In particular, problematization is not concerned with covering all relevant research on the subject matter. Instead, and as applied in the dissertation, the review can be narrower and more targeted, e.g. based on an in-depth reading of authoritative reviews, key texts or seminal studies. Assumptions can be identified, e.g., by scrutinizing internal debates in a field or related fields or by producing or drawing in “counter-metaphors” (e.g. myopic politicians vs. far-sight, policy-oriented politicians). After identifying underlying assumptions, researchers should first ask whether challenging an assumption has the potential to advance theory and produce new empirical insights, e.g. by asking whether an assumption contributes to a good understanding of the subject matter, and then try to develop an alternative assumption.¹

¹ Alvesson and Sandberg also suggest that researchers should consider challenged assumptions in relation to their audience and research politics (e.g., who benefits and loses from challenging an assumption or how to challenge an assumption without upsetting dominant

Coming up with alternative assumptions is a creative, rather than a predictable, or technical process, in which the researcher can draw on existing critical, reflexive literature. According to Alvesson and Sandberg (*ibid.*: 258), coming up with alternative assumptions involves in particular a dialectical interrogation between different theoretical stances and the domain of literature targeted. The dissertation applies a broader abductive approach that understands creativity as inherent in the research process and theoretical and empirical research as part of the same research act (Tavory and Timmermans 2014: 128; cf. section 4.1). Hence, the dissertation also understands problematization as an ongoing feature of the abductive research process, meaning that the researcher can revisit and revise the problematization of the literature throughout the research process.²

The following sections present the problematization of the existing literatures on policy feedback and policy design that leads to two specific analytical claims, which the dissertation investigates empirically in Part III based on a novel theoretical and methodological framework developed in continuation of the analytical claims in Part II of the dissertation.

2.1 The Policy Feedback Literature and Its Historical-Institutionalist Foundation

The first domain of literature/field of research this chapter reviews is the policy feedback literature. Research on policy feedback dynamics has grown rapidly in the past two decades.³ The concept of policy feedback is closely tied to historical-institutionalist scholarship. In essence, it describes how policies can shape, restructure, and reconfigure political processes in meaningful ways (Skocpol 1995: 58), i.e., how “new policies create new politics” (Pierson 1993: 595). The following sections discuss the historical-institutional background of

groups). Lastly, researchers can attempt to evaluate a newly developed, alternative assumption along Davis’ (1971) classification of “That’s obvious”, “It’s absurd” and “That’s interesting” before publishing their research.

² Alvesson and Sandberg (2011a) link problematization more narrowly to the formulation of research questions and do not discuss the broader implications and utility of problematization for abductive research processes.

³ Cf. e.g.: Béland and Hacker (2004); Béland (2010); Campbell (2012); Edmondson et al. (2018); Hacker (2002, 2004a, 2004b); Hacker and Pierson (2010); Jacobs and Weaver (2010, 2014); Jordan and Matt (2014); Kumlin and Stadelmann-Steffen (2014); Maor (2014a); Mettler (2002); Mettler and Soss (2004); Mettler and Welch (2004); Moynihan and Soss (2014); Oberlander and Weaver (2015); Ostner (2010); Patashnik (2003); Patashnik and Zelizer (2013); Pedriana and Stryker (1997); Pierson (1993, 2000c, 2000a, 2003, 2004); Steensland (2006); Skogstad (2017); Stryker and Wald (2009); Weaver (2010); Weaver (2015). For further references, see the review articles by Béland (2010) and Campbell (2012).

policy feedback research, problematize the policy feedback literature more specifically, and review recent historical-institutionalist approaches to the study of policy development.

Traditional Historical-Institutionalist Approaches to Explaining Institutional and Political Development

The neglect of agency and long-term strategic policy making in the policy feedback literature is closely linked to its historical-institutionalist heritage, which is therefore discussed first.⁴ Three elements of this heritage help explain why the policy feedback literature shows weaknesses in addressing questions of agency and long-term strategic design: the dominance of punctuated equilibria models, the close association of policy feedback effects with periods of institutional stability during which structural factors shape political and institutional development, and the focus on demonstrating feedback effects instead of explaining their emergence through agency-oriented, institutionally grounded approaches.

Traditionally, historical institutionalists have relegated the formative impact of agency on political and institutional developments to critical junctures (cf. e.g. Capoccia 2015, 2016a; Capoccia and Kelemen 2007).⁵ The impact of agential forces on political and institutional development itself is part of the very definition of critical junctures as “relatively short periods of time during which there is a substantially heightened probability that agents’ choices will affect the outcome of interest” (Capoccia and Kelemen 2007: 348). Hence, critical junctures are understood as “moments of openness for radical institutional change, in which a broad range of options are available and can plausibly be adopted” (Capoccia 2016a: 99).

Researchers have used the concept of critical junctures extensively in particular to explain the historical development of institutions. In doing so, they have helped popularize and substantiate models of punctuated equilibria that describe long phases of stability interrupted by brief episodes of abrupt change

⁴ Reviews of historical institutionalism are manifold, see e.g. Amenta (2012); Bell (2011, 2017); Fioretos et al. (2016); Hall and Taylor (1998); Hall (2010); Hay and Wincott (1998); Immergut and Anderson (2008); Steinmo (1992, 2008); Thelen (1999); Thelen and Steinmo (1992); Thelen (2002). The discussion in this section limits itself to characteristics of the historical-institutionalist tradition that contribute to the neglect of agency and long-term strategic policy making in the policy feedback literature.

⁵ Pierson (2006) argues convincingly that there are good reasons to treat public policies as institutions, as rules of the game that structure political life. This chapter frequently refers to *institutional* and *political* development in order to highlight that the historical-*institutionalist* approach also applies to the study of *policies* and policy making (see also section 3.1).

(cf. e.g. Baumgartner and Jones 1993). Thus, researchers have linked the concept of critical junctures with the concept of path-dependency that describes processes characterized by positive, self-reinforcing feedback effects that hold institutional and political arrangements stable. The concept of policy feedback is therefore strongly associated with periods of institutional and political stability during which structural factors uphold the status quo, while agency is considered to have a causal influence only in relatively brief periods of momentous political, social, or economic upheaval (Capoccia 2016a: 92).

In consequence, the literature uses the concept of policy feedback as an analytical tool to describe and identify different mechanisms of institutional reproduction, dynamics of increasing returns, or network effects as structural dynamics. Hence, researchers follow prominent claims to “demonstrate these effects rather than assume them” (Pierson 2004: 72) and “apply rather than invoke them” (Thelen 1999: 391) but do not seek to understand how these effects emerge from an institutionally shaped, political landscape. In fact, Conran and Thelen (2016: 56) argue that critical juncture accounts – although deeply engrained in the historical-institutionalist tradition – are actually non-institutionalist because institutions “appear to emerge from a largely non- or pre-institutional landscape”.

In sum, the historical-institutionalist tradition predisposes policy feedback research towards neglecting agency and long-term strategic action analytically because of the dominance of punctuated equilibrium models, the association of feedback effects with periods of institutional stability, and the focus on demonstrating feedback effects instead of explaining their emergence.

Problematizing the Policy Feedback Literature

The concept of policy feedback itself has received attention in excellent review articles that lay out the foundational research program of policy feedback research (Pierson 1993; cf. also 2000b, 2006), describe the historical-intellectual roots of the concept (Béland 2010) and discuss current research agendas (Campbell 2012; Mettler and Soss 2004). In a seminal *World Politics* article in 1993 (and following publications⁶), Pierson forcefully translated earlier antecedents of the concept and different research streams into a research program on policy feedback that shapes the field until today and serves as common reference point for the literature. While lacking the label of policy feedback,⁷ the idea that policy influences politics has been around for much longer

⁶ Cf. Pierson (2000a, 2000b, 2000c, 2001, 2003, 2004, 2005).

⁷ Some authors (e.g. Ingram et al. 2007; Schneider and Sidney 2009) propose to use the term feed forward effects “as we are talking about how policy changes the dynamics of future political action” (Schneider and Sidney 2009: 108). However, this position has not established itself in the literature and the dissertation therefore uses the term policy feedback or policy

though. Schattschneider (1935), Lowi (1964) and Wilson (1973) recognized how policies made their own politics long before a wave of historical-institutionalist research brought the concept of policy feedback to the center stage of public policy research (cf. e.g. Amenta 1998; Evans et al. 1994; Pierson 1996, 2001, 2004; Skocpol 1995, 2015; Steinmo 1992; Stephens 1979; Weaver and Rockman 1993; Weaver 2000; Weir et al. 1988).

The following problematization of the policy feedback literature takes its point of departure in authoritative reviews of the field in order to carve out assumptions that are broadly shared in the literature, underlie the vast theoretical and empirical work on policy feedback, and contribute to its neglect of agency and long-term strategic policy making. For this purpose, the problematization draws on Pierson's 1993 article and later additions (2000b, 2006), newer review articles by Béland (2010), Campbell (2012) and Mettler and Soss (2004), and relevant recent additions to the policy feedback field by Jacobs and Weaver (2014; cf. also Weaver 2010), which significantly extended the scope of the policy feedback research program.

In a nutshell, the review argues that policy feedback research is characterized by two underlying assumptions: politicians are notoriously myopic and mostly think about the next election rather than long-term effects of policies (e.g. Anzia and Moe 2016: 766; Pierson 2000b); and politics and policy making are inconceivably complex and exceed policy makers' cognitive capacities due to, e.g., information overload, short-termism and complex policy networks (e.g. Jacobs 2016; Pierson 2000b).

In consequence, the policy feedback literature largely treats policy feedback dynamics as coincidental side effects of policy making and often offers explanations of policy change or stability that are underdetermined and cannot explain specific policy choices because they neglect the role of agency and long-term strategic policy making. Hence, the literature neither investigates nor sufficiently explains the potentials, challenges, political struggles, and real-world patterns of long-term strategic policy making. Furthermore, it cannot sufficiently explain either where feedback effects of policies emerge from within a policy or when slight modifications in policy design can make the crucial difference for which effects are created because it usually treats policies as broad categories and rarely delves into the specificities of policy design.

feedback effects. Campbell (2012) and Jordan and Matt (2014) furthermore point out that many works on policy feedback “show the feed but not the back (or they just assume the back)” (Campbell 2012: 347) and argue that the research field should move from investigating effects to loops (Jordan and Matt 2014: 231).

Policy Feedback as Unintended Side-Effect of Policy Making

Until today, the policy feedback literature is largely organized along the distinction between material effects, when policies confer resources and/or create incentives, and interpretive effects, when policies structure meaning and information, on three kinds of actors: the government and bureaucratic elites, interest groups, and the mass public (Pierson 1993). More recently, the literature has acknowledged other relevant distinctions that describe how policies make politics in different ways, in particular the distinction between self-undermining and self-reinforcing feedback effects (Jacobs and Weaver 2014; Oberlander and Weaver 2015; Weaver 2010). Typically, the literature also focuses on policies as rather broad analytical categories, e.g. as programs or policy regimes, and rarely delves into the specificities of policy design and policy instrumentation (e.g. May and Jochim 2013; Weaver 2010; cf. for a similar criticism: Jordan and Matt 2014: 235).

However, as other authors have recently pointed out, the field has failed to explore a key dimension of inquiry, namely when and how politicians (try to) use policies strategically to make politics and create or foster such feedback effects (Anzia and Moe 2016). This is because of the field's intellectual background in historical institutionalism discussed above, its opposition to the standard model of the policy process that treats policies as outcome of politics and pervasive images of politicians and policy making.

In his programmatic article on policy feedback research, Pierson (1993) made frequent references to the role of policy design in bringing about certain feedback effects. For example, he points to the importance of visibility and traceability in creating lasting support for a policy (ibid.: 619, 622). Similar discussions are offered later by Mettler and Soss (2004) and Campbell (2012). However, all authors fail to acknowledge and explore the potential of understanding policy design as a strategic process with intentional policy choices and considerations of policy feedback effects. Pierson's (1993: 624) seminal discussion, for example, relegates the idea of intentional design to a footnote.

In consequence, the literature does not investigate whether or how policy makers can intentionally design policy feedback dynamics. Instead, the literature typically discusses policy design as an outcome and the adopted policy as a whole and almost isolated from the strategic design process that anteceded it. This is largely because the literature takes a post-behavioralist, historical-institutionalist standpoint that views policies as rules of the game and causes of political processes but not as the outcome of those processes (e.g. Pierson 1993: 595-6; cf. also Béland 2010). In doing so, the literature forcefully puts policies as causal influences on politics on the public policy research agenda and argues that policies should become the "starting points as well as the end points of analysis" (Skocpol 1995: 58). Unfortunately, the literature

treats policies almost as free-floating, given entities whose origins in strategic policy design processes are not explored systematically even though these are important for understanding a key dimension of policy feedback, namely how politicians can use policies strategically to make politics, and for understanding the strategic choices political actors face and make during policy design.

In a later, widely cited discussion of the effects of institutions and policies, Pierson (2000b) makes three explicit arguments against long-term strategic policy design, namely that policy makers may not act intentionally, that they have short time horizons, and that feedback effects will often be unanticipated. Pierson thereby reinforces an image of politicians as myopic and of politics and policy making as inconceivably complex. *First*, he argues that policy makers' choices may often not serve means-end instrumentality but instead follow a logic of appropriateness as put forward by sociological institutionalism. While the extent to which a logic of appropriateness motivates action remains disputed, according to Pierson, there is significant reason to doubt that policy makers are exclusively or predominantly motivated by instrumental concerns. *Second*, Pierson highlights the problem of short time horizons. Due to the logics of electoral politics, politicians will mostly be interested in short-term effects of policies. At the same time, Pierson questions whether possibilities to lengthen time horizons (e.g. credible commitment, overlapping generations models) will be as effective in politics as in economics. *Lastly*, Pierson points to cognitive challenges in policy making. Increased social complexity and politics involving increasing interactions among an increasing number of people characterize modern policy making, while politicians face scarcities of reliable information, the need to delegate important decisions, and time constraints in decision making. Overall, Pierson's discussion paints a picture of politicians as notoriously and necessarily myopic actors and of politics as inconceivably complex, which is mirrored by a policy feedback literature that fails to tackle the role of agency and long-term strategic policy making.

Béland's (2010) more recent discussion of the historical-intellectual roots of policy feedback research confirms the above characterization of assumptions underlying policy feedback research. Béland discusses both early and recent perspectives on policy feedback effects. For early perspectives, he distinguishes between research on state building, interest groups and lock-in effects. According to Béland, the state-building literature focusses on "how policies transform or expand state capacities" (ibid.: 570); interest group literature on how "new policies affect the social identities, goals, and capabilities of groups that struggle or ally in politics" (Skocpol 1992: 58; in ibid.: 572); and literature on lock-in effects focusses on how policy constrains future policy development through, e.g., network and coordination effects, commitments

and vested interests. All three research streams stem from historical-institutionalist thinking and show the same negligence of institutional origins and the role of agency in institutional/policy design and instead treat policies as given entities and examine their effects. The same goes for the more recent perspectives on policy feedback that investigate the impact of private institutions, how political participation of individuals is directly affected by policies and ideational and symbolic legacies of existing policies shape policy making.

Campbell (2012) cogently assesses the state of policy feedback research, in particular in regard to mass politics, but equally leaves out the question of strategic policy making and role of agency in bringing about policy feedback effects. In another widely cited review, Mettler and Soss (2004) begin their attempt to bridge the gap between political behavior and policy feedback research by asking whether “*choices* among different types of public policy matter for the vitality and functioning of democratic politics” (ibid.: 55, italics added). Subsequently, the authors make various arguments about how policies shape mass politics and which elements of policy designs are important for this influence on mass politics. However, they never take their initial question literally and discuss design *choices*. That is, the authors do not ask about policy makers’ motivations for choosing certain policy designs over others and the role potential policy feedback effects might play in this choice.

There are two key reasons for the neglect of agency and long-term strategic policy making in policy feedback research identified by the above problematization of the literature. *First*, the intellectual backdrop of policy feedback research can explain a part of the problem. Policy feedback research explicitly positions itself against standard approaches to public policy that treat “public policy as a *product* developed through a series of stages – agenda setting, formulation, implementation, and evaluation – that mirror the basic model of systems theory” (Mettler and Soss 2004: 59, italics added) and instead looks at policies as causes of political developments (Pierson 1993). This orientation is intensified because policy feedback research follows the post-behavioralist turn in historical institutionalism that emphasizes structural constraints on individual actors rather than investigating the influence of those actors on political processes (Pierson 1993: 595-6) (cf. also the above discussion). *Second*, pervasive images of politics and politicians have permeated policy feedback research from its beginning. These images depict politics and politicians as notoriously myopic, potentially irrational, and cognitively overwhelmed by the complexities of policy making and potentially unreliable, yet vast amounts of information on potential policy effects.

Taken together, these factors have made the policy feedback literature treat policy feedback effects largely as coincidental, unintended side effects of pol-

icy making and ignore long-term strategic policy design analytically. The literature does not investigate when or how policy makers consciously and strategically choose between different policy designs *because* of the specific feedback effects these policies produce, but instead often only seeks to explain under which conditions feedback effects occur. The policy feedback literature thereby misses not only the crucial role of agency in policy feedback processes but also fails to enrich our understanding of public policy making, the real-world political struggles around policy design and the strategic choices policy makers face during design.

More recent contributions to the field confirm these deficits. The most significant advancement in policy feedback research in the last decade concerns conceptualizations of self-undermining feedback effects, most convincingly advocated by Jacobs and Weaver (2014; cf. also Oberlander and Weaver 2015; Skogstad 2017; Weaver 2010). The authors discuss “longer-term processes that [...reshape] the underlying distribution of interests and policy preferences among elites and the mass public” (Jacobs and Weaver 2014: 13) but focus solely on effects that are unanticipated and not predicted by policy makers and are therefore silent on the potential origins of such feedback effects in strategic policy design. Similarly, Skogstad (2017) and Weaver (2010) discuss how self-reinforcing and self-undermining feedback effects can be present in one and the same process of policy development. However, the authors focus solely on how policy designs and contextual factors bring about policy feedback (Skogstad) or on the balance between self-undermining and self-reinforcing feedback effects (Weaver) without inquiring whether or to what degree actors try to strategically design those.

These recent developments demonstrate that the policy feedback literature has not yet overcome the problem of neglecting agency and long-term strategic policy design (section 2.3 discusses the few noteworthy exceptions in the field). A similar evaluation can be made for recent historical-institutionalist approaches to political and institutional development, as the next section shows.

Recent Historical-Institutionalist Approaches to the Study of Institutional and Political Development

Turning towards newer developments in historical institutionalism and asking whether or how those might help the policy feedback literature to overcome its weaknesses, the answer is mixed. In fact, recent developments show that scholars have recognized the deficits of historical institutionalism and the limitations of punctuated equilibrium models in explaining political and institutional developments and especially phenomena of gradual political and institutional change (e.g. Hacker 2004b, 2005; Hacker et al. 2013; Mahoney and

Thelen 2010b, 2015; Rocco and Thurston 2014; Streeck and Thelen 2005b; Thelen 2004).

On one side, the new sub-field investigating dynamics of gradual institutional change has popularized a power- and conflict-oriented approach to institutions that understands institutions as arenas of political conflict and sites of political contestation (cf. Conran and Thelen 2016; Mahoney and Thelen 2010a). From this perspective, institutions are constantly reshaped and reinterpreted by groups that struggle for power and try to bend institutions to their priorities and preferences. Institutions are vulnerable and objects of piecemeal modification, and their shape, nature and impact are subject to the influence and power of different actors (Capoccia 2016a: 101-2). This understanding of institutions bears the seeds for powerful, institutionally grounded, yet agency-focused analytical perspectives on institutional and political developments and therefore informs the development of a theoretical framework of architectural policy design in chapter 3.

On the other side, the gradual change literature falls short of taking advantage of these potentials and instead falls back on a dualistic understanding of institutionalized structures and institutional agents and prioritizes structural/institutional explanations over agential ones. This is because the literature ultimately treats actors merely as mediating factors between structural/institutional forces (in particular levels of veto barriers and institutional discretion) and the outcomes it investigates (patterns of gradual institutional change). Conran and Thelen (2016: 65) describe this attempt fittingly when stating that the literature tries “to inject agency into institutional accounts [...]”. Hence, the literature asks “how prevailing structures influence the kinds of strategies most likely to succeed in specific institutional contexts” (ibid.) and develops “propositions concerning the specific characteristics of the existing institution and of the broader political environment under which one mode of change is more likely to emerge than others” (ibid.). The most prominent example is Mahoney and Thelen’s (2010a) work on gradual institutional change, where the authors theorize four types of change agents that supposedly drive different types of gradual change. In the explanatory model, however, these change agents lack real explanatory power in themselves since they are conceptualized as mediators or “intervening step through which the character of institutional rules and political context [operationalized as the level of veto barriers and the level of institutional discretion in the authors theoretical model] do *their* causal work” (ibid.: 28; italics added). Hence, while the authors aim to ascribe agents a crucial explanatory role in change processes, the explanatory leverage remains on the level of structural/institutional factors.

In sum, this means that recent developments in historical institutionalism can contribute a power- and conflict-oriented understanding of institutions to

policy feedback research interested in the role of agency and long-term strategic policy making that the historical-institutionalist literature itself and recent policy feedback literature, however, have failed to take full analytical advantage of so far.

Summary: Myopic Policy Makers, the Complexity of Policy Making, and Historical-Institutionalist Baggage as Hurdles to Investigating Agency and Long-Term Strategic Policy Making

The problematization of the policy feedback literature has shown that the literature is characterized by two underlying assumptions that portray politicians as notoriously myopic and politics and policy making as inconceivably complex and exceeding policy makers' cognitive capacities. These underlying assumptions lead to an understanding of policy feedback dynamics as coincidental side effects of policy making and to a neglect of the role of agency and long-term strategic policy making in feedback processes. The policy feedback literature's intellectual foundation in historical institutionalism reinforces these tendencies because historical institutionalism has traditionally associated the concept of policy feedback with periods of institutional stability perpetuated by structural/institutional forces. Newer historical-institutionalist approaches provide a useful power- and conflict-oriented conceptualization of institutions that can inform institutionally-grounded and agency-focused approaches to the study of policy feedback effects. However, also the recent historical-institutionalist literature fails to develop explanatory approaches that grant political actors real causal influence on policy development and instead stick to the emphasis on structural/institutional explanations.

The policy feedback literature is therefore not able to explain important puzzles highlight in chapter 1. It cannot explain if and how policy makers (try to) use policies strategically to make politics, i.e. if and how they (try to) shape particular political dynamics via policy feedback effects. It does not investigate and cannot explain when or how policy makers strategically choose between different policy designs *because* of the specific feedback effects these policies produce and instead only seeks to explain under which conditions feedback effects occur. Hence, the policy feedback literature fails to understand the role of agency in feedback processes and to enrich our understanding of real-world political struggles around policy design and the strategic choices policy makers make during design.

For example, the literature does tell us why policy makers choose one design over another, even though both designs might pursue the same policy goal, what reasons they might have for their choice, and how attempts to shape policy feedback effects strategically via policy design might influence this choice. It also does not tell us how policy makers weigh potential long-term and short-

term political benefits during policy making, when they prioritize one over the other or try to maximize both, and why policy makers might be willing to give up certain elements of a policy design but not others in negotiations with their opponents. Lastly, the literature does not tell us how and under what conditions policy makers are actually successful in strategically designing policies and shaping policy feedback effects to achieve long-term policy goals.

2.2 The Policy Design Literature in the Policy Sciences and in Public Policy

Similar to the policy feedback literature, the policy design literature has experienced a significant growth in recent years.⁸ The following review distinguishes between a policy design literature in the policy sciences and a policy design literature in public policy and focusses on contributions/aspects in both literatures relevant for the understanding of the strategic design of policy feedback effects.⁹ For the policy design literature in the policy sciences, the review problematizes a pervasive image of policy making as rational, knowledge-based selection of means and instruments in order to achieve desired substantive policy outcomes. This image of policy making leads to a narrow conceptualization of policy design that sidelines non-instrumental, political considerations of policies' effects on political dynamics in a policy field and therefore an analytical neglect of long-term strategic policy making (e.g. Howlett and Mukherjee 2014, 2017). For the policy design literature in public policy, the review acknowledges that political implications of different policy designs, e.g. on democratic participation and citizen's' attitudes, are a central theme in the literature. However, it criticizes the fallback on contextual factors in explaining design choices and the conceptual and explanatory negligence of policy makers' strategies during policy design (e.g. Schneider and Ingram 1993, 1997; Soss and Schram 2007).

⁸ Cf. for the policy sciences, e.g.: Bason (2014); Capano (2017); Capano and Lippi (2017); Chindarkar et al. (2017); Colebatch (2017); Dryzek (2008); Eliadis et al. (2005); Howlett (2011, 2013, 2014); Howlett and Lejano (2012); Howlett and Mukherjee (2014, 2017); Howlett et al. (2015); Jordan and Matt (2014); Linder and Peters (1989, 1990); May (2003); Mintrom and Luetjens (2016); Turnbull (2017). Cf. for public policy, e.g.: Ingram et al. (2007); Schneider and Ingram (1990); Schneider and Ingram (1993, 1997, 2005); Schneider and Sidney (2009); Soss (1999); Soss and Schram (2007). For further references, see the review articles by Howlett and Lejano (2012); Howlett (2014); Howlett et al. (2015); Howlett and Mukherjee (2017); Schneider and Sidney (2009).

⁹ For a broader discussion of the policy design literature, see especially the review articles in the footnotes above.

In consequence, the policy design literature as a whole lacks a suitable concept of strategic policy making that captures policy makers' long-term strategies and their considerations of policy feedback effects during policy design. As the policy feedback literature, the policy design literature is therefore not capable of explaining important aspects of public policy making and the real-world strategic choices policy makers face during policy design.

The Policy Design Literature in the Policy Sciences

In the policy sciences, a vast literature aims to explain policy design and the choice of policy instruments. In recent years, the concept has enjoyed increasing popularity, has been developed further and applied widely (see references in footnote 8). The origins, meaning and application of the concept have been discussed thoroughly in authoritative reviews, which form the basis of the following problematization (Schneider and Sidney 2009; Howlett and Lejano 2012; Howlett 2014; Howlett et al. 2015; Howlett and Mukherjee 2017). Representative of the field, Howlett and Mukherjee (2017: 140) define policy design as

the purposive attempt by governments to link policy instruments or tools to the goals they would like to realize. The study of policy design focuses on these tools, their advantages and disadvantages and better understanding the processes around their selection and deployment in order to improve policy-making efforts and outcomes.

On the positive side, the policy design literature in the policy sciences offers a more fine-grained perspective on policy making (both the process of design and its outcome) than the policy feedback literature. As discussed above, the latter often treats policies as rather broad analytical categories, rarely delves into the specificities of policy design and therefore leaves instrumentation – i.e. the specific techniques or means through which governments attempt to attain their goals (Linder and Peters 1990; cf. Salamon and Elliott 2002: 19ff) – in the shadow (Jordan and Matt 2014: 235).

On the negative side, the literature is characterized by an idealized image of policy making as highly rational, instrumental, problem-solving-oriented process, a neglect of political design considerations (which have only recently received more attention in the literature), and a normatively laden, false contradiction between political and instrumental orientations during policy design. Combined, these characteristics prevent the literature from investigating and conceptualizing policy makers' real-world strategic choices during policy design and whether and how policy makers try to anticipate long-term policy effects and maximize both long-term political gains *and* substantive policy outcomes.

The policy sciences literature understands policy design both as noun, i.e. the policy as outcome of the policy-making process, and as verb, i.e. the process of policy making itself (May 2003). That means that the concept of policy design includes a substantive component that relates to alternative arrangements that potentially solve a policy problem and a procedural component that relates to activities that aim to secure some level of agreement among the actors involved in formulating, deciding and administering the policy (Howlett and Lejano 2012: 360-1). Importantly, the purpose of the conceptual distinction between design processes and design outcomes is for researchers to be able to, at least conceptually, divorce the design of a policy from the process that brought it about (Howlett and Mukherjee 2014: 59). In doing so, researchers can “imagine a more instrumental world and [...] consider or promote design alternatives” (ibid.) even when real-world design processes are more political or interest-driven.

Hence, the policy design literature in the policy sciences works with a strong, idealized image of policy making as a rational, knowledge-based process for the selection of means and instruments for problem-solving that sidelines real-world, non-instrumental, political considerations of policies’ effects on political dynamics in a policy field. Consequently, the policy design literature is characterized by a functionalist orientation even though real-world policy design is not only an instrumentally oriented but also a deeply political process (Lascoumes and Le Gales 2007: 2-3). The literature conceives public policy pragmatically as a political and technical approach to solving problems via instruments, and the research often focusses on the effectiveness of instruments and on which of the readily available instruments is best for problem solving (ibid.).

Policy design studies in the policy sciences therefore focus analytically on policy makers’ rational assessment of available solutions to problems and investigate whether actors rely on prior knowledge in selecting the “right” instrument, but they analytically neglect policy makers’ more *political* considerations in design processes. Howlett and Mukherjee (2014) tellingly refer to situations in which *political* considerations “outweigh” instrumental motivations in policy making as instances of “*non-design*” (italics added), mentioning bargaining, corruption or clientelism, log-rolling, and electoral opportunism as forms of such non-design. Furthermore, the authors posit an antagonism between instrumental orientations in “policy-driven” and “politically driven” design processes susceptible to purely interest-driven or political motivations and logics. In this understanding, policy makers have to choose between following *either* instrumental *or* political design considerations because the two are understood as opposites. From a normative standpoint, the literature then considers instrumental policy design to be “good” design and *political*

policy design to be “poor” design (Capano 2017; Howlett and Mukherjee 2014). Thus, the policy design literature not only reinforces an idealized image of policy making as highly rational, instrumental, problem-solving-oriented process but also supports a normatively laden, false contradiction between political and instrumental orientations in policy design. This prevents it from investigating policy makers’ real strategic choices and political struggles during policy design, where policy makers can aim to maximize both long-term political gains but also optimize short-term substantive policy effects (cf. section 3.2 on the distinction between short-term substantive and long-term political orientations).

These deficits in the policy design literature in policy sciences are particularly unfortunate since authors in the field – although few – have outlined an alternative perspective on policy design. For example, Lascoumes and Le Gales stress that policy instruments are never neutral. Instead,

instruments really are institutions, as they partly determine the way in which the actors are going to behave; they create uncertainties about the effects of the balance of power; they will eventually privilege certain actors and interests and exclude others; they constrain the actors while offering them possibilities; they drive forward a certain representation of problems (Lascoumes and Le Gales 2007: 9; cf. Salamon and Elliott 2002: 19ff).

In essence, the authors suggest an institutionalist perspective on policy instruments similar to how the policy feedback literature understands policies (typically, though, policies as a whole and broader analytical category). From this perspective, policy instrumentation and policy designs are always objects of political contestations because they (re-)structure the future process and results of policy making (Salamon 2001: 1627-8). Such a perspective calls for fine-grained analyses of the political considerations, e.g. regarding policy feedback effects, policy makers have during policy design and their relation to instrumental orientations in real-world policy design situations. However, this political perspective on policy design has not found broad recognition in the policy sciences literature, which instead sticks to the problematic image of policy design as a rational, instrumental, knowledge-based activity aimed at solving substantive policy problems.

The Policy Design Literature in Public Policy

Within the field of public policy, there is a small number of studies characterized by a more *political* understanding of policy design (e.g. Schneider and Ingram 1993, 1997, 2005; Soss 1999; Soss and Schram 2007). Soss and Schram (2007: 111) summarize this political perspective on policy design nicely:

Like good chess players, lawmakers must often “think two moves ahead” when designing policy. As they gauge how a new policy will affect relevant social problems, strategic politicians *also* consider its potential to mobilize or mollify the opposition, create pressures for further action, appease or outrage the party faithful, redistribute political resources, change the terms of political debate, and so on. In the iterative game of politics, it pays to design policies in ways that yield advantages in the next round. As a result, policies must be analyzed, not only as efforts to achieve expressed social and economic goals but also as forms of political action designed to enhance particular actors’ abilities to achieve long-term political goals. (*italics added*)

This literature shows a more balanced perspective on policy design in that it acknowledges the inherently political character of design processes and theoretically allows instrumental and political motivations to shape policy design jointly. It thereby articulates a perspective on policy making closer to the concept of architectural policy design presented in chapter 3.¹⁰ However, the literature fails to develop this promising starting point analytically and empirically and to provide a conceptual toolkit and explanatory frameworks that take an agential perspective on policy design and that can help investigate long-term strategic policy making and considerations of policy feedback effects during policy design.

Schneider and Ingram’s (1993; cf. also 1997) work is a prominent example of this. The authors propose a powerful theory of social constructions of target groups embedded in and shaped by policy designs and discuss relevant *political* implications of public policies, for example who wins and who loses or how participation levels and political orientations among target populations are affected by different policy designs. They also provide well-defined concepts of target populations and social constructions and offer an insightful discussion of the role of social constructions in public policy making and of how they influence political agendas and instruments choice.

However, while the authors convincingly show the political implications of design decisions in relation to social constructions, their framework does not unpack the black box of *political* decision making during policy design. Schneider and Ingram convincingly lay out which design choices seem logical for rational, instrumental policy makers in certain situations based on existing social constructions and the power of target groups and considering policy makers’ electoral and instrumental motivations. However, the policy makers remain “empty” and exchangeable because the theory does not account for different *political* policy design strategies that can vary between policy makers

¹⁰ In fact, Schneider and Ingram (1997: 2) also use the allegory of architecture in their seminal work on social construction of target populations but do not develop a concept of policy makers’ architectural behavior during policy design.

of different parties or with different political goals or political-ideological orientations. Hence, the theory is not capable of explaining the policy makers' political maneuvering during policy design and why policy makers of one party might favor one design and those of another party another design. When it comes to policy design choices, the explanations therefore fall back on structural/environmental factors, and a political, agential perspective on policy design is not developed.

Soss and Schramm's (2007) work shows similar deficits. The authors go one step further than Schneider and Ingram in developing an agential perspective on policy design but eventually also focus on contextual characteristics as explanatory factors for policy feedback dynamics rather than investigating the causal impact of policy makers' design strategies on policy designs and policy development. They conduct a convincing investigation of policy makers' "use of policy design as a conscious political strategy" (p.111), of how parties try to strategically achieve long-term political goals through the strategic crafting of policy and how policy makers try to shape policy feedback effects.

However, they only consider policy makers' strategic anticipations regarding mass feedback effects and, hence, exclude numerous other strategic considerations that policy makers can have regarding the impact of policies on interest groups and elected officials. Moreover, the authors only discuss the policy design strategy of one party in one case. They are therefore not able to contrast opposing design strategies, carve out how strategic considerations of different feedback effects shape policy makers' design strategies, and how policy design strategies affect political negotiations and adopted policy designs. Eventually, the authors propose a framework that explains why certain policy designs might produce – depending on the visibility and traceability of the policy – mass feedback effects, but do not explain which role different policy design strategies play during policy design processes and for bringing about policy feedback effects.

Summary: Instrumental Politicians and the Fallback on Contextual Factors in the Explanation of Design Choices as Hurdles to Investigating Policy Makers' Real-World, Strategic Decisions in Policy Making

The problematization of the policy design literature in the policy sciences has shown that the literature is characterized by an idealized, normatively laden idea of policy making as rational, knowledge-based processes aimed at solving policy problems effectively. This leads to a narrow conceptualization of policy design that sidelines non-instrumental, political considerations during design and a false antagonism between instrumental and political considerations that prevents the literature from investigating analytically and explaining real-world strategic choices policy makers have to make during policy design. The

policy design literature in public policy is more political in that it understands policies as tools actors can use strategically to create particular political effects. However, the literature does not develop an agential perspective on policy design that investigates different types of policy design strategies policy makers may follow and the causal influence of these strategies on the eventual policy designs/adopted reforms and subsequent policy development.

As for the policy feedback literature, the consequence of these problems in the policy design literature(s) is that it is not able to explore a key dimension of public policy making, namely if and how policy makers (try to) design policies strategically to make politics. The policy design literature does not investigate and cannot explain when or how policy makers strategically choose between different policy designs *because* of the political effects these policies produce and instead seeks to understand design choices as instrumentally motivated. Hence, the policy design literature fails to understand the role of *political* choices during policy design and to enrich our understanding of real-world political struggles around policy design and the strategic choices policy makers make during design. For example, the literature does not tell us why policy makers choose one design option over another, even though both might be instrumental for pursuing the same policy goal, or why they might be willing to give up certain elements of a policy design but not others in negotiations with their opponents. It does not tell us what *political* reasons policy makers have for their design choices and how considerations of feedback effects influence these, how policy makers weigh instrumental and political considerations in policy making, and if or when they prioritize one over the other or how they try to maximize both. Lastly, the literature does not tell us how and under what conditions policy makers are actually successful in strategically designing policies and shaping policy feedback effects to achieve long-term policy goals.

2.3 The Emerging Research Field on Policy Feedback and Policy Design

Soss and Schramm's (2007) work is an early contribution to an emerging research field that combines the policy feedback and policy design perspective in the investigation of public policy making (e.g. Anzia and Moe 2016; Jordan and Matt 2014; Maor 2012, 2014a, 2014b; Schmidt et al. 2018). An implied demand of this new field is that when researchers combine analyses of policy feedback with a more fine-grained policy design perspective, they should not treat policy designs only as outcomes of political processes that create or shape feedback effects. They should also investigate policy designs as processes during which strategic considerations of policy feedbacks figure and develop concepts and analytical frameworks for the analysis of such strategic public policy

making. Despite advances, the literature has not yet been able to fulfill this demand, and the dissertation therefore advances the literature by providing a theoretical and methodological framework of architectural policy design for the analysis of long-term strategic policy making.

So far, only a few scholars have explicitly combined the policy feedback and policy design perspective, but typically, they do not anchor policy feedback in specific policy design characteristics. Maor (2014a, 2014b), for example, discusses the role of policy feedback in the growth of policy bubbles. Policy bubbles are real or perceived policy overreactions that “impose objective and/or perceived social costs without producing offsetting objective and/or perceived benefits,” (Maor 2012: 232) and that are “reinforced by positive feedback over a long period of time” (ibd.). Maor suggests that the potential drivers of positive feedback are grounded in human behavior but fails to link this to specific policy design characteristics. He suggests that “bursts of public optimism” or self-perpetuating good reputation can be rooted in psychological and socio-psychological processes like overconfidence and human herding but does not discuss how these processes can be provoked through strategic policy design, and whether these effects are strategically considered during policy formulation.

In another recent study, Schmidt et al. (2018) investigate how policies can be intentionally designed to be sticky. The authors develop a model of the policy process in which positive feedback processes contribute to policy persistence and show how two elements of a policy design, intensity and specificity, contribute to policy stickiness. Yet, the prescriptive model suggests how policies could be intentionally designed to be sticky, but the authors do not investigate whether policies are or were intentionally designed to be sticky, and how such strategic considerations influence policy design.

Jordan and Matt (2014) offer the most explicit treatment of the intentional policy design. In a qualitative study, the authors trace forward the development of EU climate policy and the effects that emerge (or fail to emerge) from the policy design. They show how repeated attempts by the EU Commission to “nurture positive policy feedbacks by inserting policy adherence mechanisms to drive technological change were continually bargained down by opponents and/or thwarted by exogenous trends in the economy” (p. 242). Despite strategic design intentions, desired feedback effects therefore did not emerge. Yet, the authors demonstrate that the original policy design did affect subsequent policy development. It provided an explicit revision mechanism that well-equipped policy entrepreneurs could use to replace the original policy instrument with a new one while exploiting interpretive effects of the original policy instrument, in particular information flows that highlighted its failure. However, Jordan and Matt focus more on tracing forward potential policy feedback

effects during the approximately 10-year design and redesign process. In doing so, the authors pay less attention to the initial stage of policy design and do not map out in detail the configuration of actors' interests and motivations, policy makers' competing policy design strategies and anticipations of policy feedback effects linked to particular policy instruments or design elements.

Lastly, Anzia and Moe (2016) provide a sharp assessment of the literature's failure to investigate how policy makers can use policies strategically to make politics (however without problematizing relevant assumptions underlying the existing literature and advancing it theoretically; see the introduction to chapter 1). The authors argue convincingly that policy makers will often have incentives to try to design policies strategically and thereby lay out an important research venue for researchers interested in policy feedback and policy design. However, the theoretical framework the authors propose focusses mainly on whether policy makers have more incentives to use policies strategically when effects are policy-specific as opposed to when they concern the larger structure of partisan politics. In their empirical analysis, the authors then investigate quantitatively the strategic use of labor law by Republicans and Democrats and point to collective action problems parties face when they want to use policy strategically to their benefit. However, the authors do not discuss design processes, policy makers' motivations, competing party strategies or anticipations of feedback effects during policy design. In a related study of Republican's attempts to use public labor law as a "political weapon" to demobilize public sector unions and weaken Democrats' political base, Hertel-Fernandez (2018) equally focuses on the effects of enacted legislation on union clout and public employees' political participation but does not engage in a deeper analysis of design processes and policy makers' strategies in the design process.

Despite the promising development in the literature and the increased interest in combining the policy feedback and policy design perspective, the literature falls short of providing conceptual, theoretical and methodological tools for the analysis of long-term strategic policy making and for considerations of policy feedback effects during policy design. The following section briefly summarizes the key messages of the discussion of the existing literature, points out what questions and puzzles the literature therefore fails to explain and presents two analytical claims developed on this basis.

2.4 *The Deficits of the Policy Feedback Literature and the Policy Design Literature and the Promise of Combining Both Perspectives*

The problematization of the existing literature on policy feedback and policy design has identified crucial limitations in regards to a key dimension of inquiry in public policy summarized in the dissertation's research question, which asks whether and how policy makers use policies strategically to further particular political dynamics via policy feedback effects, and how such attempts influence policy design. Due to pervasive images of politicians as myopic, policy making as incomprehensibly complex, and policy design as a rational, instrumental process, the literature does not provide an analytical perspective and toolkit for investigating when or how policy makers consciously and strategically choose between different policy designs *because* of the specific feedback effects these policies produce.

Hence, the literature fails to analytically and empirically understand the role of agency in policy feedback processes and to enrich our understanding of real-world political struggles around policy design and the strategic choices policy makers face during design. For example, the literature cannot tell us why policy makers choose one design over another, even though both designs might be instrumental in pursuing the same policy goal, and what reasons they might have for their choice. It cannot tell us how policy makers weigh potential long-term and short-term political benefits and instrumental and political motivations during policy making, when they prioritize one over the other or try to maximize both, and why policy makers might be willing to give up certain elements of a policy design but not others in negotiations with their opponents. Lastly, the literature cannot tell us how and under what conditions policy makers are actually successful in strategically designing policies and anticipating policy feedback effects to achieve long-term policy goals and when they fail in such attempts.

Nevertheless, the combination of the policy feedback perspective with the policy design perspective provides an excellent starting ground for the development of a theoretical and methodological framework for the analysis of long-term strategic policy making and for answering the research question posed in chapter 1. As noted above, when researchers combine both literatures, they should not treat policy designs merely as outcomes of political processes that potentially create feedback effects but also as processes during which strategic considerations of policy feedbacks figure. If they do that, the policy feedback and policy design literature can inform each other regarding the importance of instrumentation and design characteristics for policy feedback and the potentials for long-term strategic policy design.

The literature review leads to *two analytical claims*: *First*, it argues that paying attention to feedback effects can help remedy the functionalist bias in policy design studies, improve our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design, and help us develop a clear concept of long-term, strategic policy making and an analytical framework for policy design studies that take anticipated policy feedback effects into account.

Second, disaggregating policies into policy instruments and design characteristics and investigating in detail the design process can give us a better understanding of how policy feedback effects emerge and whether and how policy makers can (try to) design these intentionally.

This is because the policy design literature can shift the policy feedback literature's focus from policies as broad categories to policy design elements and, thus, help us investigate how policy feedback effects emerge and how policy makers can try to design them strategically. The policy feedback perspective helps render the policy design more political by counterbalancing its functionalist bias on instrument selection with attention to the political consequences of policies and the political struggles around instrumentation and policy design.

Next, chapter 3 develops a theoretical framework of architectural policy design for the investigations of long-term strategic policy design and policy makers' considerations of policy feedback effects during policy design, which helps answer the research question posed in chapter 1.

PART II: THEORETICAL AND METHODOLOGICAL FRAMEWORK OF ARCHITECTURAL POLICY DESIGN

Part II of the dissertation develops an analytical approach for the investigation of long-term strategic policy making. The approach helps address the deficits in the literature identified in chapter 1 and answer the research question introduced in chapter 1, which asks *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*. It provides an analytical perspective that enables researchers to investigate long-term strategic policy making and to focus in particular on policy makers' strategic use of policies to make politics. Chapter 3 first develops a theoretical framework of architectural policy design. The theoretical framework combines elements of the historical-institutionalist tradition and the policy feedback literature with elements of the policy design perspective and additionally introduces the strategic-relational approach to structure and agency. It also defines key terms and discusses relevant assumptions underlying the approach. In sum, the theoretical framework makes agency and long-term strategic action in policy feedback dynamics and policy design processes analytically visible, tangible, and open to categorization and classification in empirical analyses. Chapter 4 develops a methodological framework that guides the empirical investigation of architectural policy design. The methodological framework discusses the logic of abductive research processes and lays out a script for the selection of cases, the collection of empirical material and the process and methods of data analysis.

3. Theoretical Framework

The concept of *architectural policy design* is the core of the theoretical framework. In short, architectural policy design means intentional policy making of strategic, reflexive, power-conscious, policy-driven and goal-oriented policy makers who aim to shape society in the long term by realizing policy goals that motivate their action. Policy making and policy makers' preferences, goals and actions are always influenced by the effects of previous policy, and considerations of such effects influence policy design. Policy makers are not master strategist but have a working understanding of the political implications of different policy designs. They engage in architectural policy design because they want to gain political advantages and decrease the chance that their decisions are overturned after just one electoral cycle. They thereby steer and guide future policy makers' courses of action via policy feedback effects.

Thus, the concept of architectural policy design puts policy makers' long-term strategic action in the center of public policy studies and therefore enables researchers to better understand conceptually and explain empirically how policies affect politics. In doing so, the theoretical framework addresses important deficits in the literature that chapter 1 problematized, advances the theoretical toolkit of the policy feedback and policy design literature and allows researchers to explain the real-world political struggles of long-term policy making and the strategic design choices policy makers face during policy design better.

The structure of chapter 3 is as follows: Section 3.1 presents the five core elements of the theoretical framework. The five elements can be understood as analytical lenses the researcher can use to look at the object of investigation. Together they form the architectural policy design perspective. The five elements are: (1) the understanding of public policies as institutions, (2) the understanding of institutions and policies as arenas of constant political conflict, (3) the understanding of politics as process structured in space and time, (4) the focus on strategic action as a driver of policy design, and (5) the importance of situational contexts of policy design. Section 3.2 discusses relevant terms of the architectural policy design framework and assumptions regarding policy makers' motivations during policy design and their capability to design policies strategically, which underlie the approach. Section 3.3 concludes the chapter with a brief summary of the theoretical framework.

In developing the theoretical framework, the dissertation follows Rueschemeyer's (2003: 317-8) understanding of theoretical frameworks as largely consisting of problem formulations, conceptualizations, and the reasons given for these. They may contain but are not primarily collections of testable hypotheses. They are problem-specific and immediately preparatory

to testable explanatory propositions because they spell out theoretical expectations that prepare causal analysis by pointing to factors that are likely to be relevant for a certain outcome.¹¹

The development of theoretical frameworks follows abductive reasoning that aims to allow judgements about the relative pursuitworthiness of different theories and understands empirical and theoretical cogitation as one and the same research act (cf. section 4.1). Theoretical frameworks develop throughout the research process and are revised and reformulated as new theoretical and empirical insights arise. The following presentation of the five lenses of the architectural policy design perspective and of underlying assumptions and important terms is therefore simultaneously a presentation of initial theoretical starting points *and* of results of the empirical and theoretical work conducted for the dissertation.

3.1 *The Five Lenses of the Architectural Policy Design Perspective*

The theoretical framework combines elements from the historical-institutionalist tradition and policy feedback research with elements of the policy design perspective and adds the strategic-relational approach to structure and agency. Combined, the five analytical lenses form the architectural policy design perspective, which can be summarized as follows:

The *architectural policy design perspective* understands public policies as “rules of the game” that prescribe and proscribe behavior and shape the lives and interactions of citizens and organizations. Institutions and policies are arenas of conflict in which political actors constantly try to (re-)shape and (re-)interpret rules and bend these towards their priorities and preferences. They do so because policies are tools of power that shape, restructure, and reconfigure political processes in meaningful ways through policy feedback effects. Hence, policy makers can use policies strategically to gain power and control, further their own interests and achieve policy goals in the long term.

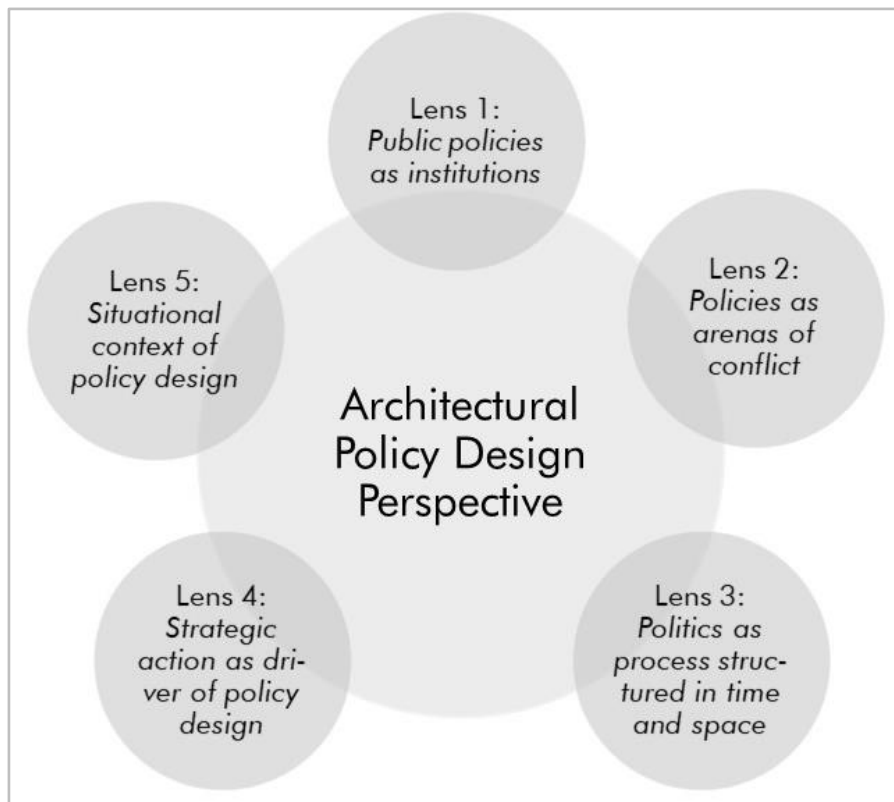
The design of policies, the instruments they include and the specific rules and stipulations they spell out matter for future policy development because they shape what feedback effects can emerge from policies. Policy makers have a working understanding of the effects different policy designs further and therefore act strategically in the design of policies. They try to design policies that bring about beneficial policy feedback effects in order to gain power and achieve policy goals in the long term and be electorally successful in the short term. Policy makers’ strategic action therefore shapes future policy developments through strategically

¹¹ Mayntz and Scharpf (1995: 40) offer a similar perspective and understand “analytical approaches” like the architectural policy design approach as “research heuristic that directs scientific attention towards particular aspects of reality”.

designed policies that shape policy feedback effects. Policy makers' design strategies themselves are structured by the situational context of policy making according to which policy makers review, revise and reform the goals they want to achieve and strategies they follow to do so.

The architectural policy design perspective allows researchers to identify policy makers' long-term strategies in policy design, to evaluate the impact of agency on policy feedback processes and to explain how policy makers can use policies to shape politics. Applying the framework makes different design strategies analytically tangible and classifiable. The following sections present the five lenses of the architectural policy design perspective in more detail. Figure 3.1 gives an overview the five lenses of the architectural policy design perspective.

Figure 3.1: The Five Lenses of the Architectural Policy Design Perspective



Lens 1: Public Policies as Institutions

Viewing public policies as institutions is essential for the architectural policy design perspective because it provides a frame of reference for analyzing the effects policies have on politics, i.e. effects policy makers can strategically attempt to design in order shape future political development and achieve long-term policy goals.

For public policy researchers, there are good reasons to treat public policies as institutions. In formal terms, one can understand institutions as “either a

single or complex set of rules which govern the interaction of political actors, i.e. guiding principles which both prescribe and proscribe behavior and are set out in the form of prescription – either formally established or tacitly understood” (Stacey and Rittberger 2003: 860). In less formalized terms, institutions are the “rules of the game” (North 1990) that shape the lives and interactions of citizens and organizations. As Pierson (2006: 115) points out, most of the politically generated rules of the game that “directly help to shape the lives of citizens and organizations in modern societies are, in fact, public policies”.

The institutionalist view on public policies is at the very heart of the policy feedback literature. As discussed above, at the outset of the policy feedback research program is the claim that policies can shape, restructure, and reconfigure political processes in meaningful ways (Skocpol 1995: 58), i.e. that “new policies create new politics” (Pierson 1993: 595; cf. section 2.1). That means not more and not less than that policy feedback research assumes that public policies have effects similar to those we usually attribute to institutions. Public policies reward and punish particular behaviors, for example through eligibility criteria for social benefits. They shape preferences and interests by creating incentives for particular behaviors, e.g. by defining which behavior or criteria qualify one for certain services or benefits and which exclude one. And they shape ideas and (self-)perceptions by defining the roles, rights, and status of different individuals, groups and organizations in society, e.g. by defining whether one is deserving or undeserving of services, benefits, rights, special protection, or other things.

In the field of labor law, which the two cases investigated in Part III belong to, the state sets rules – in the form of public policies – for the hiring and firing of employees, for employee participation in firm management and economic decision making, for occupational health and safety, for types and levels of benefits to which employees are entitled (or not) in case of sickness, unemployment, or other work or life risks, etc. Through public policies, the state shapes the business strategies of employers, affects their economic success, affects unions’ bargaining tactics, and shapes employees’ interests, their material status, and feelings of deservingness, recognition and equal treatment.

The extensive research on policy feedback in the last two decades has empirically demonstrated the “institutional” effects of public policies, in recent years especially regarding feedback effects on the mass public, and has shown the fruitfulness of analyzing public policies as institutions (e.g. Campbell 2012, 2003, 2002; Mettler 2002; Mettler and Soss 2004; Mettler and Welch 2004; Soss and Schram 2007; cf. section 2.1).

Lens 2: Institutions and Policies as Arenas of Constant Political Conflict and Instruments of Power

Adding to the above, it is essential for the architectural policy design perspective to view policies as instruments of power and as constantly contested institutions – or arenas of constant political conflict – because this helps expose the different, often opposed goals and interests policy makers pursue and understand what decisions they make during policy design.

Like institutions, policies have crucial effects on the lives, interests and material well-being of citizens and organizations and are therefore constantly contested. In recent years, historical institutionalists have advanced a conceptualization of policies and institutions as arenas of conflict in which actors constantly try to (re-)shape, (re-)interpret and bend rules towards their priorities and preferences (Mahoney and Thelen 2010a; Streeck and Thelen 2005a; cf. Conran and Thelen 2016; Moe 2005; Pierson 2016).¹² They locate sources of institutional and political change not only in “external shocks” or irritations coming from the environment of institutions and policies as previous approaches to explaining institutional and policy change did (e.g. Baumgartner and Jones 1993, 2002) but see them also within constantly contested institutions and policies themselves.

Furthermore, they understand institutions and policies as distributional instruments laden with power implications (Mahoney and Thelen 2010a). Institutions and policies are “fraught with tensions because the inevitably raise resource considerations and invariably have distributional consequences” (ibid.: 8) among different groups of actors. Institutions and policies therefore become instruments of power, and political contestation is not only a battle to gain control over political authority but also “a struggle to use political authority to institutionalize advantage – that is, to lay the groundwork for future victories” (Pierson 2016: 131; cf. Moe 2005). Through policies and institutions, policy makers can gain “positional power” (Nørgaard 1997: 72). That is, policies become instruments of control and influence that help policy makers achieve their ultimate policy goals (Nørgaard 1997: 14-7, 71-2).

Hence, policy makers have strong incentives to engage strategically in policy design because the right policy design can advance their interests in the short term and in the long term through policy feedback effects. Strategically designing policy does not only mean that policy makers have particular preferences for policies as a whole and that they would rather implement one policy than another. As the policy design literature emphasizes, policies consist of a variety of instruments, tools, and specific regulations that together make

¹² Cf. e.g. Hall and Taylor (1996) for a discussion of major approaches to the study of institutions.

up the policy and define which effects emerge from it. Because policies are results of ambiguous political compromises between actors with differing interests, goals and motivations, and because environments change rapidly and create new interests, incentives and coalitions, the individual elements of policies do not always further the same political dynamics. Hence, policies may contain or develop competing or contradictory logics and not always privilege one group clearly over another. The nature of policies and institutions as political compromise and the possibility of “external irritations” then means that they rest on shifting coalitional dynamics between political actors. Therefore, their meaning, application and enforcement often remain contested also after adoption because political coalitions may be fragile, the “winners” of policy making may lose power or allies and “losers” may gain influence or new supporters (Mahoney and Thelen 2010a).

Understanding policies as ambiguous, constantly contested political compromises and as instruments of power directs one’s attention to the different goals policy makers pursue during policy design, the strategies they follow and the decisions they make to achieve these goals in the long term despite typically necessary compromises with political opponents in the short term.

Lens 3: Politics as a Process Structured in Space and Time

From the two elements discussed above follows the third element of the theoretical framework. The architectural policy design perspective understands politics as a process structured in space and time because this helps capture the intertemporal effects of policies and understand how policy makers’ strategies and the policy designs they choose not only shape immediate outcomes but also impact political processes in the long term.

The understanding of politics as a process structured in space and time is at the heart of the historical institutionalist tradition and an important background foil for the concept of policy feedback, which more specifically describes pathways through which intertemporal effects of policies on politics occur (cf. e.g. Mahoney et al. 2016; Pierson 2000c, 2004; Thelen 2000; cf. section 2.1). As Hall (2016: 31) puts it, “in addition to examining how events affect the immediate outcome of interest, [...historical institutionalism] considers how they restructure the institutional or ideological settings so as to condition outcomes at later periods in time.” Accordingly, politics is better captured in “moving pictures” that situate a given outcome within a broader temporal framework than in “snapshots” based on cross-sectional data (Pierson 2000c, 2004; Thelen 2000).

Hence, historical institutionalists acknowledge the impact of particular economic, social, and political structures in which actors are embedded on political action and are interested in how the impact of these structures unfolds

and plays out over time. They have therefore developed multiple approaches and concepts for the study of timing and sequence in policy and institutional development. Early and still dominant concepts were critical junctures (e.g. Capoccia 2015, 2016a; Capoccia and Kelemen 2007; Krasner 1984) and path dependence (e.g. Bednar et al. 2012; Clemens and Cook 1999; Garud et al. 2010; Greener 2005; Pierson 2000a, 2000c; Page 2006), which have recently been supplemented by other conceptualizations of intertemporal causality like reactive sequences (Daugbjerg 2009; Howlett 2009; Mahoney 2000; Mahoney et al. 2016; Rixen and Viola 2014).

The architectural policy design perspective adopts historical-institutionalists' "time-sensitive" approach to politics in that it is interested in how policy makers' policy design choices affect political developments further down the line. Following the historical-institutionalist approach is thereby especially helpful because it highlights implications of policies at different points in time – especially immediate, substantive policy effects emphasized by the policy design literature against more long-term, political consequences emphasized by the policy feedback literature – and policy makers' motivations in the pursuit of short- and long-term political benefits.

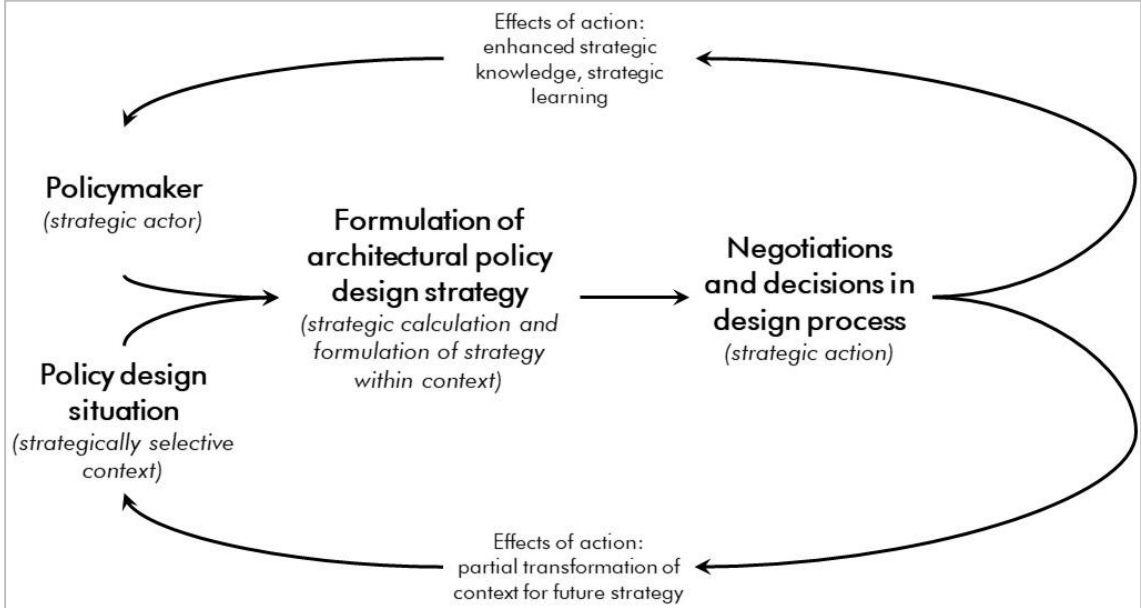
Lens 4: Strategic Action as Driver of Policy Making

At the center of the architectural policy design perspective is the understanding of strategic action as a driver of policy making. Here, the architectural policy design perspective introduces an important new element to the policy feedback and policy design literature. The focus on strategic action is the crucial response to the problematization of the existing literature. The problematization has shown that both the policy design and the policy feedback literature are not able to analytically tackle issues of agency and long-term strategic action in policy feedback dynamics and policy design process and therefore fail to explain real-world political struggles around policy design and the strategic choices policy makers make during design (cf. chapter 1). Putting strategic action in the analytical focus helps remedy these weaknesses. Moreover, it advances historical institutionalism's understanding of structure and agency and prevents researchers from "having to choose" between structural/contextual explanations (recently, the literature has highlighted in particular the level of veto barriers and institutional discretion (Mahoney and Thelen 2010b), cf. section 2.1) and agential explanations, as traditional approaches to structure and agency suggest.

To be able to focus analytically on strategic action, the architectural policy design framework draws on the strategic-relational approach developed by Jessop and Hay (Hay 2002: 89-134; Jessop 1990, 1996; 2001; cf. Figure 2,

below). Contrary to much of the existing literature, the strategic-relational approach views the distinction between structure and agency to be purely analytical. Ontologically, both structure and agency are simultaneously present in any given situation and completely interwoven in practice. Hence, the terminology of the structure/agency debate itself, which implies an analytical *and* ontological dichotomy, is misleading. The strategic-relational approach therefore replaces the abstract theoretical terms of structure and agency with the better fitting conceptual terms *strategically selective context* (i.e. the policy design situation, for example characterized by the impact of previous policies, institutional discretion and veto barriers) and *strategic actor* (i.e. policy maker), which enable researchers to “concentrate instead upon the dialectical interplay of structure and agency in real contexts of social and political interaction” (Hay 2002: 127). The existence of strategically selective contexts and strategic actors is relational and dialectical, meaning that the two are mutually constitutive and their interaction, which yields strategic action, is not reducible to the sum of contextual and agential factors.

Figure 3.2: The Formulation of Architectural Policy Design Strategies in Public Policy Making from a Strategic-Relational Perspective



Note: Adapted from Hay (2002: 131).

Introducing this terminology is more than a conceptual exercise because it comes with a key benefit: it puts *strategic calculation* (formulation of policy design strategy by policy maker in specific policy design situation) and *strategic action* (negotiations and decisions in design processes) at the center of analyses of public policy making and policy development. Strategic action is yielded by the interplay of strategic actors and strategically selective contexts. Strategy is then “intentional conduct oriented towards the environment in

which it is to occur. It is the intention to realize certain outcomes or objectives which motivates action” (Hay 2002: 129). This action must be informed by a knowledgeability and strategic assessment of the relevant contextual factors in order to have any chance of realizing the underlying intentions.

Hence, strategic actors/policy makers are, as in rational-choice institutionalism, modelled as conscious, reflexive and strategic. They act strategically and seek to realize complex, contingent and often changing goals in contexts that favor certain strategies over others. Their preferences are, unlike what rational-choice institutionalism suggests, not fixed or determined by material circumstances but constantly reviewed, revised and reformed over the course of time as material or ideational influences change. Similarly, monitoring the consequences of their actions, strategic actors/policy makers can modify or revise their chosen means, as well as potentially their original intentions upon which the choice of means was based. Policy design strategies are therefore not fixed, given paths of action, but *situationally* given (see Lens 5, below).

Strategic actors/policy makers are situated in contexts that can be modelled largely in institutionalist terms, meaning that contexts are structured by formal and informal rules and procedures that guide human behavior and ascribe benefits and costs to different kinds of action. These contexts are *strategically selective* because they favor certain strategies over others in the interplay with strategic actors’/policy makers’ goals. A strategically selective context is an “unevenly contoured terrain which favors certain strategies over others and hence selects for certain outcomes while militating against others. Over time, such strategic selectivity will throw up a series of systematically structured outcomes” (Hay 2002: 129), i.e. the social scientifically interesting patterns researchers are interested in explaining and understanding.

In sum, the strategic-relational approach changes the analytical focus in the study of public policy making in a key respect because it puts policy makers’ strategic action and the formulation of policy design strategies in the center of public policy analysis.¹³ Figure 3.2, over, illustrates how strategic actors/policy

¹³ Another approach that tries to overcome the dichotomy between structure and agency and replace it with a “dual perspective” on actors and institutions is the “actor-centered institutionalism” approach developed by Mayntz and Scharpf (1995; cf. Scharpf 1997). While actor-centered institutionalism shares similarities with the analytical approach developed here, e.g. in regards to the conceptualization of actors, the institutionalist perspective or the emphasis on situational contexts, Mayntz and Scharpf eventually prioritize institutional explanations over actor- or (strategic) action-based explanations. The authors suggest that researchers can often deduce “action orientations” from institutional and situational contexts and only if actors did not act as predicted should researchers delve into actors’ actual motivations and orientations. Only in periods of crisis do situational and individual factors gain more importance while institutional contexts lose their guiding functions (ibid.: 66-67). Hence, the authors replicate institutionalists’ focus on structural/institutional explanations

makers embedded in strategically selective contexts/policy design situations formulate policy design strategies and, based on these, negotiate and make decisions in design processes. Such strategic action has repercussions for both the strategically selective context (e.g. through a partial transformation of contextual structures) and the strategic actors (e.g. through enhanced knowledge and strategic learning), which one can try to understand by drawing on the policy feedback literature's conceptualizations of different types of feedback effects (e.g. resource and incentive effects or ideational effects).

Lens 5: The Importance of Situational Contexts of Policy Making

The fifth element of the theoretical framework highlights the importance of situational contexts of policy making because explanations of long-term strategic policy making need to be sensitive to their particular political, economic and societal environment, to institutional structures, and to actor constellations.

Historical institutionalists are traditionally interested in contextualized, mid-range theories that try to explain concrete empirical phenomena in bounded populations rather than in grand theories like structuralism or functionalism that aim to explain society as a whole (Thelen 1999). Hence, the explanations they produce are often limited to particular times, regions, policy fields, etc. Furthermore, as Falleti and Lynch (2009) emphasize, causation lies in the interaction between identified mechanisms and relevant contextual attributes of a particular setting. Theory-building and the identification of “transportable” mechanisms and concepts therefore necessitate attention to contextual attributes that are likely to affect the functioning or meaning of the mechanisms involved in the causal process (ibid.). In the study of long-term strategic policy making, it is therefore important to identify conceptually and empirically these relevant contextual attributes that select for and militate against certain policy design strategies in particular settings instead of aiming for generalistic explanations of long-term strategic policy making.

Contextual attributes highlighted by recent historical-institutionalist approaches to the study of policy development as causal factors explaining policy change are the level of veto barriers in the political environment and the level of institutional discretion of an institution or policy that is to be changed (Mahoney and Thelen 2010a). Both elements can be seen as important determinants of how “permissive” a particular situation is to change, where low veto barriers and high levels of discretion create permissive situations and

and push the explanatory weight of agential factors to critical junctures (similar to punctuated equilibrium models) instead of focusing on strategic action that emerges in situational contexts based on the interplay of strategic actors and strategically selective contexts.

high levels of veto barriers and low levels of discretion less permissive situations. In the empirical analysis, the dissertation will pay particular attention to these contextual attributes. In contrast to the existing literature (cf. chapter 1), however, the architectural policy design perspective does not see such contextual attributes as main causal factors that explain change. Instead, it investigates how they contribute to the particular strategies that particular policy makers following particular policy goals develop in policy design situations characterized by different levels of veto barriers and institutional discretion.

Using the language of the strategic-relational approach, one can think of policy development as a sequence of strategic action (policy design negotiations and decisions) and strategic calculation (formulation of architectural policy design strategies) by strategic policy makers (strategic actors) embedded in particular policy design situations (strategically selective context). Such a temporally disaggregated view on policy development also allows for variation in the policy design strategies policy makers follow and therefore more realistic concepts and fitting analyses of policy design processes during which policy makers often adapt their goals and strategies to new contextual developments (cf. section 8.2).

Hence, *situation* becomes a central category in the analysis of public policy making. While not explicated by Hay and Jessop, the assumptions underlying the strategic-relational approach presuppose a temporally disaggregated perspective on policy development that pays attention to the processual, dialectical interplay between strategic actors/policy makers and strategically selective contexts/policy design situations.¹⁴ This disaggregation is also necessary because human action does not follow “predefined ends, but particular ends-in-view emerge concretely out of situations,” as Joas (1996, in Jackson 2005: 231-2) emphasizes it in his criticism of simple, teleological means-end-schemes of intentional action. Jackson (2005: 231-2) explicates further that

[e]nds-in-view are based on judgements and assumptions about the type of situation and the possible actions that flow from it. Conversely, the situation itself is not a fixed objective given. Situations are interpreted and defined in relation to our capacities for action. Starting from the situation, action follows a series of various ends-in-view that remain relatively undefined at first, but are specific through ongoing reinterpretation and decisions about means. Actors test out and revise their course of action as each end-in-view itself becomes a means for a further end-in-view. Means and ends flow in a continuous stream – the distinction between them is only an analytical and temporal one.

¹⁴ Cf. also Mayntz and Scharpf (1995) for a similar emphasis on situation as concept capturing contextual attributes relevant for action.

In the analysis of long-term strategic policy making, one must therefore allow for variation in strategic action on the temporal dimension because policy design strategies are situationally defined by conscious, reflexive, policy-driven and strategic policy makers.

Summary: The Concept of Architectural Policy Design

The five analytical lenses presented above circumscribe the architectural policy design perspective. In sum, they allow the formulation of a core concept that describes and defines the kind of empirical phenomenon the dissertation aims to investigate (cf. section 4.2.3 for how such phenomena can be identified empirically). This core concept is termed *architectural policy design* and can be defined as follows.

Architectural policy design describes the intentional design of policies by policy makers that are strategic, reflexive, power-conscious, policy-driven and goal-oriented. Policy makers want to realize the policy goals that motivate their action in the long term in order to shape society in the long term. What policy designs they choose and what preferences, goals, strategies and actions policy makers take is always influenced by the effects of previously adopted policies. Policy makers' considerations of such effects influence in turn the strategies they follow and the designs that emerge from design processes. Policy makers are not masterminds who follow grand design strategies, but they have a working understanding of the political implications of different policy designs based on the different elements and instruments these designs combine. Policy makers engage in architectural policy design because they want to gain political advantages and minimize the chance that their decisions and policies are overturned after the next election. In consequence, their strategic action produces policy designs that steer and guide future policy makers' courses of action via policy feedback effects.

To reiterate, the theoretical framework of architectural policy design and the core concept formulated based on it are not meant to spell out testable hypotheses. As a loose, yet problem-specific framework, the architectural policy design perspective guides the empirical analysis of long-term strategic policy making in Part III (cf. Miles et al. 2014: ch. 2). It shapes data generation by suggesting to the researcher where to look and what to look for (cf. chapter 1), and it allows mid-range theories to develop in the course of the abductive research process (cf. chapter 8).

3.2 Key Terms and Underlying Assumptions of the Architectural Policy Design Framework

The problematization of the existing literature in chapter 1 demonstrated that it is important that researchers are aware of assumptions underlying theoret-

ical frameworks if they want to encourage a productive dialogue between different theoretical approaches and advance theory development. This section therefore makes transparent and discusses two important assumptions underlying the architectural policy design framework, namely assumptions concerning policy makers' motivations during policy design and concerning their capability to design policy strategically. Before the discussion of the two assumptions, the next section defines key terms of the framework.

Key Terms

In the formulation of the core concept and the five lenses of the architectural policy design perspective as well as in the empirical analysis in Part III, a number of analytical terms are used that will briefly be defined below (in alphabetical order):

Long-Term political (policy feedback effect/strategic consideration): Long-term/political refers to consequences of policies on politics (policy feedback effects) or anticipations thereof that materialize not immediately after reform adaptation, or whose vigor only accumulates over a longer period. The literature typically thinks of policy feedback effects as *long-term* effects and uses the concept to capture intertemporal causality in policy development. While it makes sense to think of policy feedback effects as effects that often materialize only in the long term, analytically it is more appropriate to think of them as effects than are of a *political* character.¹⁵ The political character of a feedback effect refers to the impact of a policy on subsequent politics, i.e. its power-political implications and whether it redistributes resources (e.g. rights, benefits) or reconfigures political landscapes (e.g. actors' networks, resources, interests or ideas). By shaping future politics, an adopted policy becomes an instrument of control and influence that helps achieve long-term policy goals. Long-term political effects can also be thought of as indirect effects of a policy on a policy goal via shaping politics. Long-term political effect is used synonymously with policy feedback effect and is the opposite of short-term substantive effect (see below). Since the literature commonly refers to policy feedback effects as long-term effects, the dissertation adapts this terminology and uses *long-term* to describe *long-term/political/indirect* effects of policies.

Policy design situation: Policy design situations are the material and ideational settings in which policy making takes place. As contexts, they can be modelled largely in institutionalist terms, i.e. as structured by formal and informal rules and procedures that guide human behavior and ascribe benefits and costs to

¹⁵ In that sense, policy feedback is a temporal concept, but not necessarily a long-term concept. Hertel-Fernandez (2018) makes a similar distinction between long-term political and short-term substantive effects but uses the terms immediate/first-order and knock-on/downstream/second-order effects.

different kinds of action. Policy design situations are strategically selective and favor certain strategies over others in the interplay with policy makers' substantive policy goals. They are "unevenly contoured terrain[s] which favor[] certain strategies over others and hence select[] for certain outcomes while militating against others. Over time, such strategic selectivity will throw up a series of systematically structured outcomes" (Hay 2002: 129).

Policy design: Policy design can refer to the outcome of policy design (the adopted policy) or the process of strategic policy formulation by policy makers who aim to realize policy goals in the short and long term. Policy design becomes *architectural* if and when long-term political considerations (see above) are analytically and empirically identifiable in the strategies policy makers develop and follow (cf. concept formulation in section 3.1).

Policy maker: Policy makers are conscious, reflexive and strategic actors who seek to realize complex, contingent and often changing goals. They are policy-driven and aim to shape society by realizing policy goals in the long run. Policy makers can use policies as instruments of power to achieve their long-term goals (see discussion of *Underlying Assumptions*, below). Their preferences are not fixed or determined by material circumstances, but policy makers constantly review, revise and reformulate them as material and ideational influences change. Monitoring the consequences of their actions, policy makers can modify or revise their chosen means as well as their original intentions upon which the choice of means was based. Analytically, the dissertation focusses on collective actors like parties or organized interests as policy makers.¹⁶ Primarily in the presentation of

¹⁶ The dissertation focusses on parties and organized interest groups as collective actors because the collective identity and interests, the shared political-ideological heritage and orientation, and the strategic relation to other parties and organized interest groups to a large degree determines how individual actors as representatives of collective actors behave. For Germany (the empirical context of the study; cf. section 4.2), parties can be characterized as strataarchical, meaning that "organizational units within parties can possess a significant degree of autonomy, and that simple hierarchical paradigms no longer represent the reality of party structures" (Carty 2004: 7; cf. Bukow and Poguntke 2013: 187; Mair 1994; Poguntke 1994). Hence, parties as collective actors are themselves composed of smaller-sized collective actors that define the political strategies of their members/followers. Parties' capacity for strategic action as collective actors depends largely on the existing convergence of policy-relevant perceptions and preferences among its members and the capacity for conflict resolution (Scharpf 1997: 59). The researcher should decide based on her knowledge of the case and context whether it is reasonable to treat parties as collective actors or whether to focus on important sub-groupings within a party or on important individual, influential members. Like parties, organized interest groups can be treated as collective actors. Even more than parties, organized interest groups are groups of like-minded people who share interests in a particular policy field or societal, economic or political context and are often efficiently organized to represent these interests in public policy making.

the case studies in Part III, the term may also refer to individual actors/members of parliament.

Short-Term substantive (policy feedback effect/strategic consideration): Short-term substantive refers to the effects of a policy in relation to its policy goal, i.e. the substantive outcome of a policy in its policy field (e.g. the effects on job activation policies on unemployment numbers). Short-term substantive policy effects can also be understood as direct policy effects since they refer to how successful or unsuccessful a policy is in achieving the substantial policy goal it was designed to achieve, whereas indirect effects achieve a policy goal via shaping politics (see Long-Term political, above). Empirically, substantive policy effects may also only materialize or accumulate in the long term (e.g. the effects of economic policies on economic growth or of environmental policy on the level of CO₂ emissions). Since the literature commonly refers to policy feedback effects as long-term effects, the dissertation uses short-term/substantive effects as contrasting concept.

Strategy: Strategy is defined as the “intentional conduct oriented towards the environment in which it is to occur. It is the intention to realize certain outcomes or objectives which motivates action” (Hay 2002: 129). Policy design *strategy* is then the goal-oriented, policy-driven conduct of policy makers in policy design situations.

Working understanding: A working understanding describes policy makers’ acquired aptitude to anticipate policy feedback effects. Policy makers face substantial practical and cognitive challenges in correctly anticipating the overall long-term effects of a policy reform on future political development. Through their political and legislative experience, policy makers develop heuristics and acquire an aptitude, talent or sense that helps them anticipate which type(s) of effect(s) different elements of a policy design might or might not bring about. Policy makers themselves may be more or less aware of their own aptitude to do so and can draw on external expertise to improve or extend it. A working understanding does not mean that policy makers are political masterminds who follow grand strategies of policy design, but that policy makers make specific links between individual elements of policy designs and potential feedback effects they might cause (see discussion below).

Underlying Assumptions

The theoretical framework of architectural policy design rests on two assumptions regarding policy makers’ motivations during policy design and their capacity for long-term strategic policy design. In order to allow for a productive dialogue with the existing literature, this section makes these assumptions explicit.

What Drives Policy Makers during Policy Design: Policy, Power, and Elections

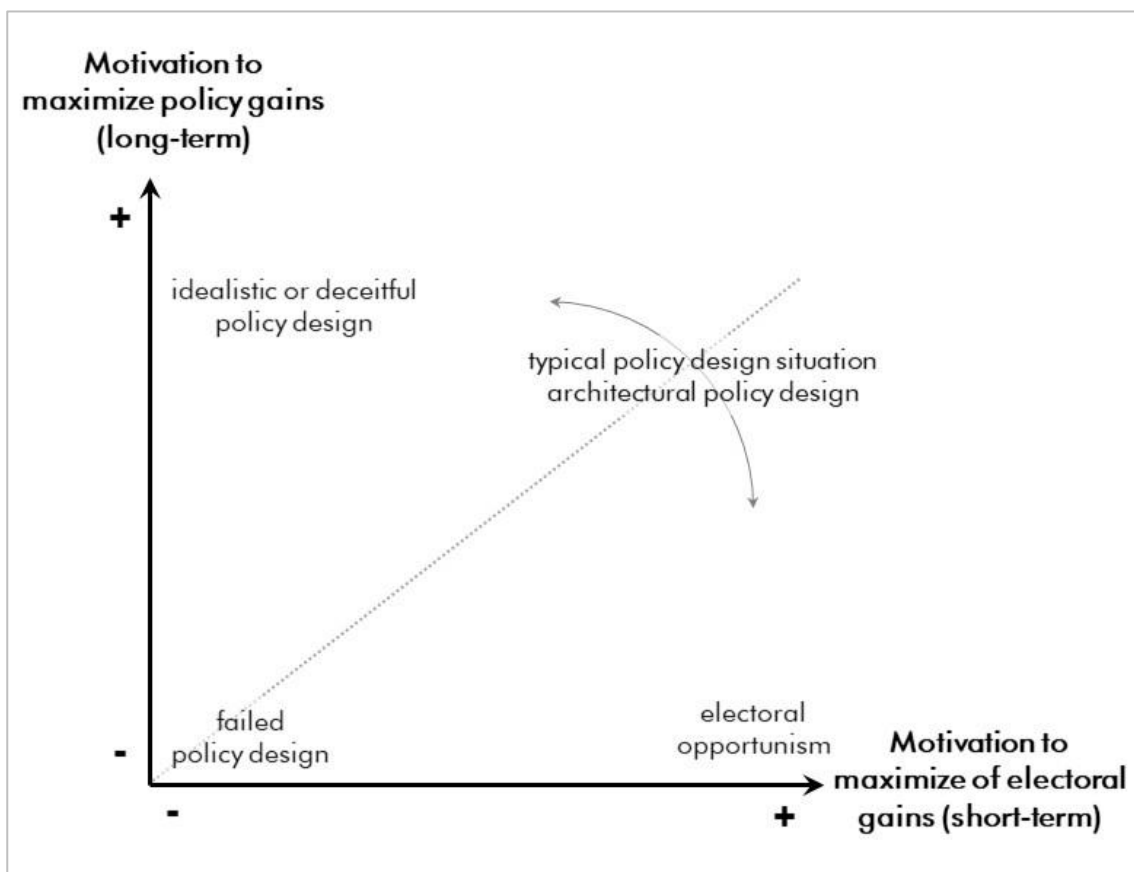
The political architecture framework is based on a view on policy makers as power-oriented, policy-driven agents who aim to achieve certain social outcomes that public policies can generate or facilitate. As Jacobs (2011: 32) notes, politicians may pursue or cling to public office, but they do so “for the unparalleled opportunity that office holding provides to shape society via state action.”

Hence, policy makers can follow two motivations during policy design: maximize electoral gains (short-term) or maximize policy gains (long-term).¹⁷ The architectural policy design framework posits that in a *typical policy design situation* policy makers will *try to maximize both short-term and long-term gains* and therefore focusses on these types of policy design situations.

Figure 3.3 illustrates the occurrence of architectural policy design in such typical policy design situations. In practice, policy design strategies may deviate towards more electorally oriented policy making (resembling electoral opportunism) or towards more policy-oriented policy making (resembling idealistic or deceitful policy design) because policy makers need to make compromises with political opponents or adapt to situational contexts (e.g. public opinion, issue salience) that render adaptations in their strategy necessary. Design decisions may also maximize only one of the two gains while affecting the other one negatively. In principle, one can assume that policy makers’ typical orientation in policy making is to maximize both short-term electoral and long-term policy gains, even though the simultaneous realization of both can be challenging.

¹⁷ Because most of the social outcomes policy makers aim to shape can only be affected in the long term (e.g. poverty, climate change, economic growth), the orientation towards policy gains qualifies as long-term orientation. See also Anzia and Moe (2016), who emphasize that interest groups will in many instances pressure policy makers to focus on policy outcomes and not only electoral outcomes.

Figure 3.3: Policy Makers' Motivations during Policy Design



In practice, this means that policy makers want to design policies that help them achieve policy goals, shape society according to their views and preferences, and help them be electorally successful in the next election. Even when substantive policy goals could be reached in the short term before an upcoming election, policy-driven policy makers are likely interested in ensuring the realization of their policy goals not just during their own term but also in the long term (Moe 1990; cf. Jacobs 2010). Hence, policy makers will try to ensure that their policies are not revoked by the next government, that they have a long “political half-life”. Policy makers are thus policy-driven and power-oriented actors. They can try to use policy in order to gain “positional power” (Nørgaard 1997: 72). Power-oriented policy makers can use policies as instruments of control and influence in order to achieve their ultimate policy goals (Nørgaard 1997: 14-7, 71-2).

The pursuit of long-term policy gains therefore gives policy makers incentives to pursue strategic, architectural policy design. In agency-based terminology, this means that policy makers’ strategic action has a “projective element” that captures their attempts to anticipate and shape the power and behavioral implications of policies on future actors and future trajectories of action (cf. Araujo and Harrison 2002; Emirbayer and Mische 1998). Through

the strategic design of policies, policy makers shape these future trajectories, steer, constrain or empower future actors to follow or abstain from certain paths of action, to make certain choices or adopt certain strategies that are in line with their own intent. This means that political actors can intentionally design policies in ways that, in institutionalist terms, reward certain actions with benefits and punish others with costs. They can operate as “architects of political order” (Döhler 1995) who deliberately create strategically selective contexts that privilege the endurance of their own policies over alternative policies.

This view of policy makers is in contrast to the policy design literature’s idealized description of policy makers as highly instrumental and rational. Indeed, policy making is a rational, knowledge-based process, but policy makers do not only seek to design effective policies that solve objective problems. Policy makers’ instrumental efforts are steered by the long-term *policy* goals, ideals and strategic considerations, and influenced by electoral and power-political considerations. The “architectural” view of policy makers is also in contrast to the policy feedback literatures’ depiction of policy makers as notoriously myopic. Indeed, policy makers are interested in winning the next election and in holding office, but they do so for a “larger purpose” and the achievement of *policy* goals and ideals, which the policy feedback literature tends to neglect.

Hence, the architectural policy design framework adopts a balanced and realistic view on the motivations that policy makers follow during policy design, which enables it to investigate the role of agency in design processes and policy feedback dynamics and to explain the real-world political struggles, strategic choices and compromises policy makers make during policy design.

What Capabilities Do Policy Makers Have for Long-Term Strategic Policy Design: A Working Understanding of Policy Feedback Effects

Policy makers may have reasons to design policies strategically, but that does not mean that they are always capable of doing so and that they succeed in their long-term strategic design attempts. The architectural policy design framework builds on the concept of a *working understanding* of policy feedback effects (see also above) in order to explain how capable policy makers are in anticipating and strategically designing the long-term, political implications of policies. The concept of working understanding itself has emerged from the abductive research process and is informed by the empirical and theoretical analysis of the two cases presented in Part III.

In essence, a working understanding means that policy makers have an acquired aptitude to anticipate policy feedback effects, e.g. which actors benefit

or lose from a policy, which incentives for mobilization they provide, which ideas and ideals they promote or weaken, through their professional experience as policy maker.

This does not mean that policy makers are political masterminds or grand strategists. Policy makers face substantial practical and cognitive challenges in correctly anticipating such effects, e.g. because policy making is an inherently complex process with many involved stakeholders and because of the need to delegate important decisions and the implementation of policies. The dissertation suggests that these challenges are particularly strong in the case of self-undermining feedback effects because these effects require greater cognitive capacities, can be unpredictable, and do not match policy makers' ambition to extend the "political half-life" of "their" policy. In contrast, policy makers' working understanding seems more attuned to positive feedback effects because they are interested in achieving and protecting the policy goals that motivate their action in the long term and therefore focus such positive feedback effects (cf. above and section 8.1.1). Furthermore, as discussed above, long-term policy goals are not the only motivation policy makers follow during policy design, and their attempts to be strategic, the time and effort they can spend on devising clever long-term strategies may be dampened by short-term electoral considerations.

However, through the political and legislative experience that policy makers gain during their professional work life, they acquire aptitude, talent or sense to strategically design policies. The more experience policy makers have, the more developed their working understanding will be. Policy makers can also draw on external expertise (e.g. lobbyists, consultants, legal experts) to improve their aptitude. Policy makers' aptitude helps them anticipate which type(s) of effect(s) different policy design might or might not bring about. Since the effects of policies as a whole are harder to anticipate than those of individual policy elements or instruments, policy makers' anticipations likely concern the effects of individual design elements or instruments.

Policy makers themselves may be more or less aware of their own aptitude to do so. The more aware they are, the more they might act as grand strategists who try to make sense of the different effects a policy design might facilitate and to combine those strategically to achieve the overall desired outcome. The less policy makers are aware of their own aptitude, the more they will only implicitly draw on heuristics they developed through their experience when designing policy.

While the dissertation is able to claim that policy makers' working understanding is more developed in regards to positive, self-reinforcing policy feedback effects than to negative, self-undermining effects, future research should

try to empirically determine differences in the capabilities of policy makers to anticipate different types of feedback effects described in section 8.1.2.

3.3 Summary

The architectural policy design perspective developed above provides a theoretical and analytical approach to investigating long-term strategic policy making and answering the dissertation's research question, namely whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies.

Taking the problematization of the existing literature as a point of origin, the architectural policy design framework combines different elements of the policy feedback and the policy design literature with the strategic-relational approach. It understands public policies as institutions that prescribe and proscribe behavior and shape the lives and interactions of citizens and organizations. Due to their distributional consequences, policies are arenas of constant political conflict that actors try to bend towards their own priorities and interests. Because policies shape, restructure and reconfigure political processes, power-conscious policy makers can use them as instruments of control and influence to further their own interests and achieve policy goals in the long term. Policy makers are embedded in particular policy design situations, and try to design policies strategically and to include design elements and instruments they assume will bring about policy feedback effects that are beneficial to them, i.e. that help them achieve long-term policy goals and be electorally successful in the short-term. Through strategic policy design, policy makers therefore shape future policy development.

The theoretical framework allows the formulation of a core concept of *architectural policy design*, which describes and defines the phenomenon the dissertation investigates. Architectural policy design means intentional policy making by strategic, reflexive, power-conscious, policy-driven and goal-oriented policy makers who aim to shape society in the long term by realizing policy goals that motivate their action. Policy making and policy makers' preferences, goals and actions are always influenced by the effects of previous policy, and considerations of such effects influence policy design. Policy makers are not master strategists, but they have a working understanding of the political implications of different policy designs. They engage in architectural policy design because they want to gain political advantages and minimize the chance that their decisions are overturned after just one electoral cycle. They thereby steer and guide future policy makers' courses of action via policy feedback effects.

The architectural policy design framework lays out a theoretical perspective on long-term strategic policy making targeted at answering the research question developed in chapter 1, which asks whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies. The following chapter develops a methodological framework for the empirical investigation of architectural policy design that translates the theoretical perspective into a hands-on analytical strategy. It develops guidelines for the identification and selection of cases of architectural policy design, a strategy for the collection and identification of relevant empirical materials, and a strategy for the process and methods of data analysis.

4. Methodological Framework

This chapter lays out the methodological framework developed and followed in this dissertation and discusses how architectural policy design can be investigated empirically. The chapter is divided into four sections: Section 4.1 outlines the overall methodological approach and discusses the abductive logic of research and how it is reflected in the dissertation. Section 4.2 describes the process of case selection. Section 4.3 discusses the collection of empirical material, and section 4.4 concludes the chapter with a discussion of the process and methods of data analysis and types and interpretation of evidentiary material.

4.1 An Abductive Methodological Approach

The central goal of the dissertation is to build theory. It is based on an abductive approach to the conduct of social science research, and the abductive nature of the dissertation is reflected throughout the different chapters of the book. The methodological framework reflects the abductive approach from the engagement with existing literature to the selection of cases for the empirical investigation, the collection of empirical material, the process and methods of data analysis, and the conclusions and implications drawn from the study. Before section 4.2 discusses the more specific task of case selection, this section introduces the concept of abduction as an apt depiction and conceptualization of the research process and discusses how the abductive logic is reflected in the dissertation.

Abduction as a Way of Conceptualizing the Research Process

Abduction, as a way of conceptualizing research processes, can be characterized by two core elements: first, problematization as a starting point; second, a non-linear, unpredictable research process. Originally, the concept of abduction goes back to Charles Peirce, for whom it “is the process of forming an explanatory hypothesis” (Pierce 1934a: 171-21, in Swedberg 2014a: 101). The emphasis is not only on the explanation itself but “on the process of coming up with an explanation or how to get there” (Swedberg 2014a: 101). The concept of abduction breaks with the ideal-typical dichotomy of induction and deduction that seemingly describes all possible ways of doing social science research and of relating theory and empirics to each other. According to this dichotomy, the researcher either moves inductively from empirics to theory, i.e., from the particular case to the general law, or she moves deductively in clear and identifiable steps from theoretical reasoning to empirical tests of hypotheses.

Abduction, in contrast, is often interpreted as describing a constant oscillation between theory and empirics. Research moves “in an iterative-recursive fashion between what is puzzling and possible explanations for it” (Schwartz-Shea and Yanow 2012: 27; cf. also Bates 1998: 15-17). In the researcher’s daily work, these iterative-recursive movements between theoretical reasoning and empirical observation become closely intertwined and cannot simply be reflected in either inductive or deductive terms. Understood like this, abduction points especially to the practical problems of disentangling analytically separate steps within the process of research.

Going beyond this “soft interpretation” of the concept of abduction, one can understand abduction as a *conceptual and analytical critique* of the very distinction between induction and deduction, between a rigorous, scientific context of justification and a context of discovery in which researchers somehow come up with new ideas (Tavory and Timmermans 2014: 6).¹⁸ For example, Tavory and Timmermans argue that “creativity is inherent in the research process” and that “any division of labor between creativity and the rigorous checking of theories against observations is empirically wrong: researchers theorize on the go” (ibd.). Instead, “justification and discovery are part of the same research context” (ibd.: 121), and the strict division between the two needs to be overcome.

This is, first, because the idea of a dualism between theory and empirics, and the pressure to translate research processes into deductive or inductive steps, make researchers struggle in their daily work, where the real research process poses itself as much more messy, chaotic, and unpredictable than the ideal-typical conceptions of induction and deduction. Second, it prevents researchers from being able to communicate well how new ideas and theories arise. As Tavory and Timmermans go on, “the problem of theory currently is not that there is too much of it, but that it is considered a distinct subfield, and something that only established scholars play with. [...But] theory should not replace or be replaced by empirical research; it is part of the same act.” (ibd.: 128)

Overall, the concept of abduction is therefore a more apt conceptualization of real-world research processes than ideal-typical inductive and deductive models of research. It is not a new best-practice prescription for how researchers ought to do research but helps researchers reflect upon how they conduct

¹⁸ Others, like Swedberg (2014a), hold on to the distinction between a context of discovery and a context of justification and draw on the concept of abduction to try to understand and conceptualize what happens in the context of discovery and how social scientists build theory.

research in their daily work, develop systematic methodological guidelines especially for the early phases of their research that emphasize theory building and concept formulation, and improve their ability to participate in the research community with theoretical and conceptual contributions.

The *first* core element of the abductive conception of research processes emphasizes that research starts from a puzzle, a surprise, or a tension that the researcher seeks to explicate and make “less surprising” (ibid.: 27-28). For example, a research puzzle can concern how foreign fighters influence the internal dynamics of civil wars (Schwampe 2018) or how pupils’ health identities are formed and transformed in the encounter with teachers and health policies in the public school (Cecchini 2018). This dissertation investigates the puzzle of long-term, strategic policy design and asks *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*.

The surprises that motivate research can emerge from a misfit between what researchers expect to find in a case or data and what they actually observe. What researchers then typically do is to model the existing literature in a way so that they can identify – and close – a corresponding gap. An alternative way that better reflects what often triggers research is problematization. As discussed and illustrated in chapter 1, problematization means that the researcher identifies and challenges underlying assumptions in existing research. In this dissertation, challenged assumptions concern the image of policy makers as notoriously myopic and of public policy making as inconceivably complex in the policy feedback literature, and the image of policy making as a rational, knowledge-driven, highly instrumental process in the policy design literature (cf. chapter 1). Often, researchers do not make these problematizations explicit but instead choose to communicate their research as closing a gap (Alvesson and Sandberg 2011a, 2011b). The concept of abduction highlights that research processes do not have to start from an atheoretical point rooted solely in empirical observation (as in inductive research) or purely from logical reasoning on the theoretical level disconnected from empirical observation (as in deductive research processes). Instead, research is in a constant dialogue with existing research and problematizes generalizations produced by others. Therefore, “[t]heorizing is not the end, but part of a process of intellectual dialogue” (Tavory and Timmermans 2014: 128).

The *second* core element of abduction emphasizes that research does not follow pre-given steps, that it is not linear and does not lead towards an ex-ante known goal. Dubois and Gadde (2002: 556) describe research as a “non-linear, path-dependent process of combining efforts with the ultimate objective of matching theory and reality”. Path-dependent here means that depending on which pieces the researcher adds to solve a puzzle, different patterns or

solutions form. At the same time, research processes have “no obvious patterns. Our efforts to match theory and reality can take us in various directions. There is never one single way of matching. On the other hand, it can be argued that some ways turn out to be better than others are. This is a result of the process and cannot be known in advance” (ibd.). Hence, abduction highlights that decisions we make early on in our research, e.g. during case selection or data generation, greatly influence later outcomes and the implications we draw (Schwartz-Shea and Yanow 2012: 30-31). The constant matching effort is not a series of discrete inductive and deductive steps, but “the researcher is *simultaneously* puzzling over empirical materials and theoretical literature” (ibid.: 27, italics added). Both theory and empirics develop throughout this process, and especially in the early phases research might not be based on clear-cut concepts and hypotheses. For example, researchers frequently have to choose cases while they develop, modify, and adapt their concepts and theoretical propositions, a challenge that section 4.2 addresses explicitly.

The Abductive Fingerprint in this Dissertation

This dissertation and its methodological framework reflect the abductive conception of research processes in multiple ways: *First*, chapter 1 problematized the existing literature on policy design and policy feedback. It tried to make criticism towards important assumptions in the literature explicit in order to facilitate a better dialogue between this study, previous research and future research rather than “merely” carving out a gap and adding this project to a fixed body of pre-existing research.

Second, chapter 3 did not develop a set of precise hypotheses to be tested through empirical investigation but formulated an initial theoretical framework and concept of architectural policy design. This framework guides the empirical investigation. It is open to “surprises” and new insights gained during the research process, which lead to refinement or reformulation rather than disproof and discard. As mentioned in chapter 3, the theoretical framework can therefore also be understood as a result of the dissertation and not only as a precondition for its conduct. *Third*, section 4.2 develops a procedure for case selection for research that aims to build theory and that is based on an initial framework and concept rather than on clear, narrow, testable hypotheses.

Fourth, the collection, selection and analysis of empirical material, discussed in sections 4.3 and 4.4, emphasize the value and instrumentality of empirical material and evidence for theory-building purposes rather than for the understanding of the particular cases that are investigated. *Fifth*, the case studies presented in Part III of the dissertation are not conducted as historical analyses of the two cases but in order to develop theoretical implications and

to reformulate and refine the initial theoretical framework. Of course, in doing so the dissertation does shed new light and does offer a new understanding of the two cases in comparison to existing analytical and theoretical frameworks. Section 8.3 discusses the new understandings of the two cases and highlights and exemplifies the empirical benefits of applying the developed analytical and theoretical framework.

Sixth and lastly, the core result of the dissertation therefore does not lie in distinct empirical knowledge about the two particular cases that were studied or in generalized claims about empirical relations in a particular universe of cases, but in developing distinct theoretical and analytical implications. These implications, presented in chapter 8, comprise a typology of different policy feedback effects anticipated by policy makers in different policy design situations and a discussion of conditions for long-term strategic policy design. These will hopefully inform future research on policy feedback and policy design, be applied or “tested” in different empirical contexts and increase our understanding of the investigated instances and contexts, raise criticism from other scholars, and be developed further.

4.2 Case Selection

This section develops a procedure for case selection for research that is in its early phases and aims at theory building, i.e. when concepts are formulated and expectations developed, and it shows how this procedure was applied in the dissertation. Swedberg calls this stage of research a *prestudy* and argues that *prestudies* should be given distinct and sizeable space in the overall research process, but he does not give any advice on how to select cases or empirical material for these *prestudies* (Swedberg 2014a: 26).¹⁹ Chapter 3 developed an initial theoretical framework that can guide empirical investigations of a research question that asks *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*. The chapter also put forward a concept of architectural policy design that describes the phenomenon of interest as “intentional policy making by strategic, reflexive, conscious, policy-driven and goal-oriented policy makers who aim to shape society in the long term by realizing policy goals that motivate their action”. With this initial research question and key concept being formulated, the next step is to develop both further through engagement with increasingly consciously chosen literature and through empirical studies that can improve the understanding of and insight

¹⁹ Swedberg also notes that the boundary between *prestudy* (more aimed at developing concept, hypotheses and theories) and *main study* (following a more rigorous research design and aimed at answering a specific research question) is often fluent (Swedberg 2014a: 27).

into architectural policy design and help concept (re-)formulation and theory building.

However, identification and selection of one or more good cases for these empirical studies face two problems. First, one cannot easily observe the cause (policy makers' strategic considerations of policy feedback) or a positive or negative outcome (strategically designed policy) without conducting at least a pilot study on each case, which makes case selection based on an independent or dependent variable impossible. Second, case selection cannot be based on an expected mechanism since the empirical investigation is not based on a specific hypothesis regarding the *how* of architectural policy design.

These problems are not unique to the investigation of architectural policy design but are characteristic of research that cannot draw on established, precise concepts, hypotheses, causal models, etc. from the literature and, therefore, aims and needs to build theory and formulate concepts in the simultaneous engagement with theory and empirics. The next section discusses in more detail typical case selection strategies presented in the case study literature and why they are insufficient when the challenge is to select one or more cases in the early stages of research when concepts and hypotheses are being developed or cause and outcome are unobservable.

4.2.1 The Existing Literature on Case Selection

The aim of this section is not to provide a full review of the extensive case study literature but to give a coarse depiction of common case selection strategies and case study types and to carve out their deficits regarding case selection in abductive, theory-building research.²⁰ It is organized around the common distinction between idiographic (inductive or theory-guided) case studies, plausibility probes, process tracing, hypothesis-testing case studies, and hypothesis-generating case studies (cf. e.g. Levy 2008).

Idiographic Case Studies

Idiographic case studies come in two different forms: The first type are idiographic, inductive case studies, common for example in historical research. They lack an explicit theoretical framework that guides the investigation but focus on a specific case they aim to explain in its totality, presenting all possible aspects of the particular case and their interconnections. The analytical value of these descriptions can be limited when no attempts are made to ana-

²⁰ For more extensive discussions of case study methods, cf. e.g., Beach and Pedersen (2016a); Blatter and Haverland (2012); Byrne and Ragin (2009); Eckstein (1975); Ragin and Becker (2000); Rohlfing (2012); Seawright and Gerring (2008); Yin (2012, 2014, 2016).

lytically abstract from the particular case to more general patterns of causation or co-constitution. Consequently, this type of case study may not offer explicit lessons for research that aims to build theory and concepts.

Grounded theory, more common in sociology and ethnology, also follows an inductive approach. The researcher starts the investigation without theoretical preconceptions but deliberately builds theory through deep immersion in the data “from the ground up” through systematic conceptualization and constant comparison with similar and distinct research areas (Tavory and Timmermans 2014: 9-19; cf. Glaser and Strauss 1967; Glaser 1978, 1992, 1995). Huge emphasis is placed on coding techniques, memoir practices, and similar tools for fieldwork and the handling of large amounts of qualitative data (e.g. Charmaz 2014). However, grounded theory does not give advice on how to select cases in the first place, and the idealized entering of the empirical field without theoretical preconceptions hinders the conceptualization of an adequate process for theory building. Tavory and Timmermans argue that denying or suppressing prior theoretical knowledge disables the researcher from relating different theoretical concepts to each other or from identifying tensions between existing theories and empirical observations from which new insights can arise. Grounded theory therefore sidelines theory and amplifies existing notions of the world by broadening the database without telling the researchers which objects to focus on and how to link them to each other (2014: 9-19; Timmermans and Tavory 2012). Inductive idiographic case studies therefore offer little advice on how to systematically select cases in the context of discovery.

The second type of idiographic case studies, theory-guided case studies, does not renounce theoretical preconceptions but uses these as guidelines in the investigation of a case. As Levy points out, “social scientists’ explicit and structured use of theory to explain discrete cases often provides better explanations and understandings of the key aspects of those cases than do less structured historical analyses” (2008: 4-5). However, two caveats remain: First, the process of theorizing and coming up with theoretical explanations is usually not explicated and communicated analytically. While it is “the constant dialogue between theory and evidence that constitutes the comparative advantage” (Rueschemeyer 2003: 312) of such studies, it is often the reader’s tasks to retrospectively recreate what took place in the research process. Second, theory-guided case studies typically start with a particular case that is worth studying due to its historical importance and utilize existing theory to explain this case. Therefore, the literature does not give advice on how to systematically select cases when research is not motivated by one specific case but by a broader puzzle or phenomenon of interest or by tensions between

theoretical arguments, an unsatisfactory review, or a problematization of existing research.

Plausibility Probes

Plausibility probes are similar to pilot studies in experimental research designs; they help sharpen hypotheses, refine the operationalization or measurement of variables, or test the suitability of a case for research before starting costly fieldwork or quantitative data collection. They are nomothetic in their orientation since the purpose of the probes is to advance a broader theoretical argument (Eckstein 1975; Levy 2008). The middle position of plausibility probes in-between hypothesis-testing and hypothesis-generating case studies has recently contributed to their rising popularity. However, Levi criticizes that they often serve as a residual category and that the label is used too often and too loosely as a legitimizing device in reaction to growing demands for theoretically and methodologically self-conscious research practices. Furthermore, the literature on plausibility probes is typically silent on how to select cases for probing theoretical arguments and instead presupposes a clear hypotheses that is to be probed and an already given case (i.a. Beach and Pedersen 2016a: 288-9; Eckstein 1975).

Process Tracing

Similar to plausibility probes, process-tracing studies are often driven by a strong interest in accounting for a specific outcome (Beach and Pedersen 2013: 156) and therefore do not discuss case selection strategies since the case is already given. For other variants of process-tracing studies, i.e. theory-testing and theory-building process-tracing, methodological advice on case selection does exist. However, here case selection is based on results of existing large-N analysis or on knowledge about a population of cases and the presence or non-presence of causes and outcomes (Beach and Pedersen 2013: ch. 8). Hence, for theory-building research, where concept formulation is still ongoing and where cause and outcome are not yet defined, process-tracing methodology offers no insights into how to select cases.

Hypothesis-Testing Case Studies

Similar to plausibility probes, hypothesis-testing case studies are increasingly common in qualitative research that aims to perform valid, reliable tests of theoretical arguments. The generalizability of causal claims is often the central concern in such studies, with causal inference following a probabilistic reasoning that infers from a representative case or sample to a population of cases delimited by scope conditions. Therefore, methodological advice focusses in

particular on how to define scope conditions as narrowly as necessary (in order to make valid inferences) and as broadly as possible (in order to make good, broad generalizations).²¹ Case selection strategies are an explicit element of the research designs. In particular, research designs deal with issues like selection bias, the number of cases, and the choice of good cases for comparison. Case selection on the dependent variable is, for example, often considered a frequent source of selection bias, and several counter-measures are suggested to alleviate the problem (Levy 2008: 8-9). For the selection of comparable cases, it is crucial to correctly identify independent and potential causal variables, causal configurations of variables, and the dependent variable (Levy 2008).

Hence, the advice given requires a high level of certainty and clarity of theoretical expectations as a precondition that researchers typically have not achieved in the early stages of their research. In simple terms, when the cause(s) of the phenomenon of interest is not identified yet, when scope conditions are unclear and no clear hypotheses formulated, it is not possible to pick cases according to the above rules. This is not to say that these rules are of no use at all. On the contrary, they should be followed when the researcher aims to test a hypothesis by means of a (comparative) case study. However, researchers typically start engaging with cases and empirical material *before* they have formulated a clear hypothesis, but the literature gives no advice for case selection in this phase of research.

The literature on hypothesis-testing case studies does, however, still offer some lessons for case selection in the early phases of research. A common selection strategy for hypothesis-testing studies is the choice of most-likely cases which “show a relatively high probability of confirming the proposition under scrutiny” (Rohlfing 2012: 84). Beach and Pedersen note that it is more suitable to speak of cases in more or less *conducive* circumstances in case-based research that relies on ontological determinism and not ontological probabilism (Beach and Pedersen 2016a: 47-48; cf. also Schneider and Ingo 2013). While the concept of the “most-likely” case suggests a need for high certainty and clear theoretical expectations, it is possible to transfer the basic logic to theory-building research that is in the process of formulating concepts and developing theoretical expectations. That means that even without *clear* propositions in the form of precise hypotheses, the researcher always carries some theoretical hunches or vague assumptions, and these theoretical expectations can guide the identification of promising cases, i.e. cases in conducive circumstances, that we investigate at the early stages of our research. In other words,

²¹ Cf. for detailed discussions of different case selection procedures Levy (2008); Rohlfing (2012); Seawright and Gerring (2008).

case selection in theory-building research should aim to identify cases where the roughly described phenomenon of interest is expected to be present, even when clear hypotheses on causal relations, mechanisms or scope conditions cannot be formulated yet. As will be shown below, this requires fleshing out the initial concept of the phenomenon of interest and of conducive conditions in order to identify potential causes, related phenomena, or scope conditions that in turn help identify and define more precisely instances of the phenomenon of interest.

Hypothesis-Generating Case Studies

The purpose of hypothesis-testing case studies is, according to Levy, to suggest “additional explanatory and contextual variables, causal mechanisms, interaction effects, and scope conditions” (2008: 5). Often, they are deviant cases that do not conform to an existing theory but help “refine and sharpen existing hypotheses in any research strategy involving an ongoing dialogue between theory and evidence. A theory guides an empirical analysis of a case, which is then used to suggest refinements in the theory, which can then be tested on other cases [...]” (ibd.). Hence, the starting point of research lies in an already established theory with clear propositions that can be refined, sharpened, or amended. Since hypothesis-generating case studies follow deductive research designs that necessitate clear concepts and hypotheses before engagement with the empirics, the literature does not offer much advice for researchers in the context of discovery.

Other interpretations of hypothesis-generating case studies fall back on inductive research designs. For example, Rohlfing defines hypothesis-generating case studies as building hypotheses “from scratch“ when the researcher develops a hypothesis “only after exploratory process tracing” (2012: 9) and without drawing on elaborated theory. Here, the problem is that this inductive approach to theory building or hypothesis generation neither offers advice on case selection nor provides an adequate conceptualization of research in the context of discovery.

Summary

The discussion of the existing literature has shown that it does not give adequate guidance on how to select cases in the early stages of research when concepts and theories are built. It follows either the logic of scientific confirmation in deductive research designs or the inductive building of “grounded theories” from empirical observations. Deductive research designs reduce the emergence of new theoretical expectations to spontaneous flashes of wit or unpredictable inspiration. They help researchers conduct an investigation

once concepts are formed and hypotheses formulated, but not when these pre-conditions are not fulfilled. Inductive research designs either do not aim at developing theory beyond the particular case, or they fall short in giving advice on how to select cases and in conceptualizing an adequate process of scientific work that facilitates theory building. Often, they assume that the case is already given when the research design is developed.

Many researchers will acknowledge that the discussed case selection procedures are ideal-types that do not necessarily reflect how research is conducted in real life, and that researchers in fact often do work in an abductive way. This is certainly true, and as pointed out above, the argument is not that abduction is a *new* prescription for how to do research, but that it is a more apt description of real research processes, and that it is important to make these abductive processes more explicit. This may not only be important for reaching a better understanding of how a particular theory came to be, what inspired the author, and how her ideas developed throughout the process. More generally, it is important for a better understanding of how theory building works and for being able to create systematic guidelines that can help, for example, case selection in abductive research.

Many seminal works in political science have produced insightful and rich theories that inspired an abundance of subsequent research, but they are rather silent on important aspects of the research design/research process. For example, Baumgartner and Jones' seminal work *Agendas and Instability in American Politics* (1993) draws on a variety of case studies of different policy issues but does not allow the reader to comprehend and retrace the process of how those cases (and not others) were selected and came to be part of the study and process of theorizing.²² This criticism is not meant to discredit the value of Baumgartner and Jones' work. Yet, more transparency and better communication of the process of theory-building behind this insightful work would be of great value to the research community.

For case study researchers, the conclusion of this section is that there is ample advice for systematic case selection in ideal-typical deductive research designs, but no guidance on how to select cases in an abductive research process and in the early phases of research when the researcher starts engaging with empirical material while developing concepts and theoretical expectations.

Nevertheless, two lessons can be learned from the existing literature: First, theory-guided, idiographic case studies describe a dynamic research process that oscillates between theory and evidence and that has the potential to build novel theory, but the process is not made analytically explicit. Second, case

²² The book has been criticized for having "little rationale for the selection of cases" (Cohen 1994: 1165).

selection in the early phases of research can be informed by a relaxed version of most-likely/most conducive case studies.

4.2.2 *A New Approach to Case Selection in Theory Building Research*

Since the existing case study literature does not do so, this section develops guidelines for systematic case selection in the early phases of research. First, the concept of instrumental case studies is introduced; then, the theory-guided selection of positive instrumental cases developed and suggested. The subsequent section shows how the guidelines were applied in this dissertation. The case selection procedure developed and presented here can be seen as a friendly addition and practical guide to what Ragin describes as “casing” (cf. e.g. Ragin 2000: esp. ch. 2; Ragin and Becker 2000; Ragin 2009). In Ragin’s words,

[...] “casing” is a more-or-less routine research act, especially in the social sciences. Researchers “case” their evidence in order to bring closure to difficult issues in conceptualization and research design and thus allow analysis to proceed. Empirical evidence is infinite in its complexity, specificity, and contextuality. Casing focuses attention on specific aspects of that infinity, highlighting some aspects as relevant and obscuring others. For example, it matters greatly whether a set of actions by a group of individuals is characterized as “dissonance reduction,” “collective behavior,” “collective action,” “resource expenditure” by a “social movement organization,” or “incipient institutionalization.” Different casings provide different blinders, different findings, and different connections to theory, research literatures, and research communities. Casing locates research in the vast domain of social science, linking it to the efforts of some researchers and severing its connections with others (Ragin 2009: 523-24).

In short, this dissertation understands casing as the continuous, interlinked process of concept formulation, population delimitation and the formulation of causal expectations. That means that cases, or *casings*, are momentary snapshots of the ongoing process of concept formulation and reformulation that characterizes research processes. Concept formulations are momentarily fixed definitions of what does (and does not) constitute a case and therefore define the (again momentarily fixed) borders of the case population. As Ragin also highlights, while many social science-relevant populations are preconstituted (e.g. by population surveys), others must be theoretically defined and constituted by the researcher. The question of cases and populations is therefore not only an issue of classification but also of theoretical advancement. This is also because there is a close interplay between concept formulation and population definition and causal analysis in case studies, meaning that a “causally relevant feature of a case can be interpreted as a condition for the

operation of a cause or as a cause” (Ragin 2000: 56). For example, in this dissertation, initially theorized indicators that are meant to describe and identify the core phenomenon of interest and help case selection (cf. section 4.2.3, Step 2) will later on be discussed as potential conditions for architectural policy design (cf. chapter 8).

The Concept of Instrumental Case Studies

The concept of instrumental case studies was originally proposed by Stake (Grandy 2010; Stake 1994, 1995). According to Stake, a case study is instrumental when the case or cases studied are vehicles, i.e. instruments, for a different purpose. The instrumental case serves to “provide insight into a particular issue, redraw generalizations, or build theory. In instrumental case studies the case facilitates understanding of something else” (Grandy 2010: 474).

Instrumental cases play a supportive role in addressing the puzzle, tension, or surprise that motivated the research or in problematizing the existing literature. The investigation does not aim to deductively test a priori defined hypotheses but to produce novel theoretical implications, develop new hypotheses, and yield new theoretical and empirical insights during the course of the research. The case and its contexts are therefore examined in depth and described in rich detail in order to create opportunities for a better understanding of the phenomenon of interest. The focus of the case study is known beforehand and does not emerge inductively from the case, but an evolving theoretical framework and the empirical investigation guide each other. Hence, the case is not chosen by its historical significance or a deductive logic of hypothesis testing but through careful theoretical consideration of learning opportunities about the phenomenon of interest.

Similar to the way that abduction is not a prescription of how to do research but a more apt description of real research processes (see discussion section), the concept of instrumental case studies is a more apt description of how many researchers think about the case(s) they study. Again, Baumgartner and Jones’ work (1993) is a useful example. While the authors, as mentioned above, do not allow for much insight into the process of case selection, their approach qualifies well as instrumental. As the authors themselves briefly note, they chose a wide variety of issues (i.e. cases) that showed the phenomena they were interested in, and this choice was guided by the availability of good, careful case studies that allowed them to discuss several issues over longer periods and to be able to be sensitive to the many details that can be important to policy development (ibid.: 23). In following this strategy, Baumgartner and Jones chose cases that were instrumental for their theory building.

Reflecting on case study research from the perspective of the instrumental case study, it is possible to think more clearly about which role the case plays

in the overall research process and how it can be systematically selected. The concept of instrumental case studies highlights that the motivation for research neither rests within one particular case (as in idiographic case studies or Rohlfing's understanding of hypothesis-generating case studies), nor is it based purely in theoretical reasoning (as in deductive, hypothesis-testing case studies or Levi's understanding of hypothesis-generating case studies). It points out that the role of the case often lies in between those two extremes. The particular case is not elementary to motivate the inquiry, but it is a case of something bigger, a population that is defined and redefined throughout the casing process. It represents a conceptual interest, a puzzle or tension between theories and empirical observation, or a problematic assumption in the literature that the researcher challenges. Cases are, especially when one builds theory, not chosen deductively based on clear and precise concepts and hypotheses but according to theoretical hunches and vague concepts, which are developed through theoretical and empirical readings that inspire our case selection. The early engagement with a case then shapes the subsequent research path and the coevolution of the theoretical framework and empirical database. In that sense, the case itself also shapes what it is a case of.²³

Guidelines for Systematic Case Selection in the Context of Discovery

Case selection should therefore be based on a careful theoretical consideration of potential learning opportunities a case might provide. In contrast to conventional views on case selection, the instrumental case is not selected to represent an a priori defined population of cases but to maximize learning opportunities about the phenomenon of interest. Case selection is therefore not a problem of correct sampling, representativeness, and generalizability but of population definition and concept formulation. In order to maximize learning opportunities, *positive* cases are selected. These cases are expected to show the phenomenon of interest as well as assumed potential causes, affinitive phenomena or mechanisms that the researcher is interested in investigating or has hunches about.

Here, the approach is similar to the concept of most conducive case environment that will most likely "produce" the phenomenon of interest. The crucial difference between the selection of positive cases in theory-building research and traditional most likely/most conducive case studies is the absence of precise theoretical propositions for positive cases. Instead, a positive case

²³ More precisely, one could say that the case (meaning the empirical phenomenon looked at) influences the casing (meaning the momentarily fixed formulation of what analytical concept the empirical phenomenon represents) and therefore what it is a case of (meaning what population of cases it belongs to).

in theory-building research relies on vague concepts and theoretical hunches that are specified in and through the process of case selection or casing itself. In practice, this means a five-step process of case selection, which will be illustrated empirically in section 4.2.3. In abstract terms, the five steps can be described as follows below. Table 4.1 summarizes the five steps of the case selection process in a concise overview.

Table 4.1: A Systematic Guideline for the Selection of Positive, Instrumental Cases

Step 1	Clarify main concept and underlying assumptions
Step 2	Develop indicator list through cursory literature reviews
Step 3	Systematize/categorize indicators
Step 4	Develop evaluation scheme
Step 5	Systematically evaluate cases through cursory literature reviews and select best evaluated cases for in-depth study

Step 1: Clarify main concept and underlying assumptions

The researcher builds her knowledge of the phenomenon of interest in the early and cursory engagement with empirical and theoretical/conceptual literature in order to develop an open, initial concept, a list of potentially related phenomena, causes, mechanisms, scope conditions, etc.

Step 2: Develop indicator list through cursory literature reviews

The initial concept helps the researcher increasingly to refine her theoretical hunches and limit the number of potential cases to investigate via observable scope conditions, mechanisms, causes, etc. In the process of refining the initial concept through readings of abstract as well as more and more case-specific literature, the researcher develops a list of observable indicators that are assumed to help identify positive cases of the phenomenon of interest. Indicators do not have to be identified across all readings and potential cases but may only appear relevant in one specific context. However, at the end of this step of the case selection process, the researcher summarizes a list of indicators that all potential cases will be confronted with.

Step 3: Systematize / categorize indicators

The researcher systematizes or categorizes the list of indicators in a meaningful way depending on the research topic.

Step 4: Develop evaluation scheme

The researcher develops an evaluation scheme that indicates how cases are evaluated based on their scores on different indicators, e.g. as suitable, promising or ideal cases for further empirical investigation of the phenomenon of

interest. The key dimension for categorizing different cases is their *instrumentality* for investigating the phenomenon of interest in further empirical research. Typically, the more indicators a case scores positively on, the more *instrumental* it is for learning about the phenomenon of interest.

Step 5: Systematically evaluate potential cases through cursory literature reviews and select best evaluated cases for in-depth study (includes consideration of pragmatic research constraints)

The researcher evaluates potential positive cases for empirical investigation based on the list of indicators. Potential positive cases have been identified earlier in the case selection process, especially in Step 1 and Step 2, when the researcher engages with theoretical and empirical literature related to the phenomenon of interest. In particular, vague scope conditions help to distinguish between irrelevant cases and *potentially* positive cases. The evaluation of potentially positive cases is not intended to measure each case on each indicator in a definite way but to qualify a potential case based on a cursory reading of case-specific literature. The result of Step 5 is a list of potentially positive cases ranked according to their instrumentality for learning about the phenomenon of interest. The type of case study and related selection procedure is therefore termed *positive instrumental case study*.

Step 5 also includes the consideration of pragmatic research constraints that delimit the range of “selectable” cases. For example, such pragmatic considerations can pertain to language qualifications or the accessibility of empirical material (archives, interviewees, etc.). Ultimately, these pragmatic considerations reflect the researcher’s ambition to find the most conducive empirical material for her study. That is, when the researcher is interested in the internal procedures of policy making, archives might offer more accessible material and better evidence on instances dating further back in time than on recent instances, for which material might be classified. Pragmatic limitations and considerations during case selection might also have an impact on the implications that can be drawn from the investigation. For example, if the researcher chooses Germany or Austria due to language considerations, she should evaluate the results of the investigation carefully and discuss whether characteristics of these countries (e.g. parliamentary system, corporatism) should be interpreted as potential scope conditions.

Summary

In response to a critical evaluation of the existing literature on case studies and case selection, the above sections have developed a concept of *positive instrumental case studies* and proposed guidelines for systematically selecting such cases. The guidelines can be understood as a friendly addition and

practical explication of what Ragin has called “casing”. In a nutshell, researchers are advised to select *positive* cases that likely show the phenomenon of interest as well as potential, vague causes, mechanisms, or affinitive phenomena. The researcher can use her initial concept of the phenomenon of interest in order to develop a set of indicators that help identify likely positive cases and rate their *instrumentality* for empirically investigating the phenomenon of interest. Indicators are developed through readings of theoretical and empirical literature, with the researcher constantly oscillating between theory and empirics, and help the researcher quickly evaluate instances of the phenomenon of interest in cursory literature reviews. Cases can then be sorted into categories of suitable, promising, or ideal cases for further empirical investigation of the phenomenon of interest and, hence, for gaining a deeper understanding of it and developing more precise theoretical propositions.

The case selection strategy has been applied in this dissertation and makes a general contribution to the literature. The contribution lies in providing a strategy for systematic case selection in theory-building research, for which the existing literature gives no methodological advice. The literature follows either the logic of scientific confirmation in deductive research designs or the inductive building of “grounded theories” from empirical observation. For case study researchers, this means that there is ample advice on how to systematically select cases in ideal-typical deductive research designs or as what type of case study a given study can be qualified. However, researchers have no guidance on how to select cases in in reality often quite messy research processes. Researchers also have no guidance on case selection for early phases of research, when researchers start engaging with empirical material while developing concepts and theoretical expectations.

By developing new methodological advice for systematic case selection in theory-building research, the methodological framework of this dissertation improves our ability to develop new theories, frameworks, and concepts. It responds to a growing awareness among social scientists that the ability to produce new theories and to communicate the process behind theory building is limited.²⁴ The approach therefore demands, facilitates, and supports more self-awareness about consequential decisions made in early phases of research and advances the growing literature on abductive reasoning. It emphasizes that abduction should not be understood as a new, prescriptive approach to doing research better but as a more apt description of how most researchers

²⁴ See, e.g., Alvesson and Sandberg (2011a, 2011b); Carleheden (2016); Dubois and Gadde (1999, 2002, 2014); Friedrichs and Kratochwil (2009); Kilduff (2006); LePine and Wilcox-King (2010); McKaughan (2008); Schwartz-Shea and Yanow (2012); Swedberg (2012, 2014b, 2014a, 2016); Tavory and Timmermans (2014); Timmermans and Tavory (2012).

already do research. Specifically, it adds to the literature on abduction-systematic guidelines for case selection that fit the core elements of abductive reasoning well.

4.2.3 Applying the Approach in the Investigation of Architectural Policy Design

This section illustrates how the outlined case selection strategy was applied to identify positive instrumental cases for the study of architectural policy design.

Step 1: Clarify main concept and underlying assumptions

Since the concept of architectural policy design describes a mode of policy making that, without further theorizing, might occur in almost any case of public policy making, the challenge was first to identify irrelevant cases and demarcate the universe of potential cases by carving out some underlying assumptions of the concept. Through reading of theoretical and empirical literature, two preconditions that were implicit in the concept could be identified: the intentionality and capability of political actors in policy making. First, policy feedback needs to be the result of intentional action and not a side effect or unintended consequence of policy making. This is in contrast to most existing literature on policy feedback and poses a challenge since actors' intentionality cannot simply be read retrospectively from the resulting feedback effects. Second, the idea of architectural policy design requires that actors are capable of designing policies intentionally. They need to have the capability and invest time and effort in strategically designing policies and policy feedback (cf. chapter 3). This capability can, e.g., be reduced when policy making happens in a "state of emergency" under extraordinary or unanticipated circumstances like natural disasters or abrupt economic crises.

Step 2: Develop indicator list through cursory literature reviews

While this demarcation helped to think more clearly about what architectural policy design is, it still did not help to narrow down the number of cases sufficiently to identify suitable cases for empirical studies. In a second step, a number of indicators were theorized that could help to evaluate at a first cursory look whether an instance of policy making might show elements of architectural policy design, i.e., whether it might be a *case of* architectural policy design. In other words, indicators were supposed to help assess whether a case is a positive case and instrumental in studying architectural policy design. Each indicator can be seen as representing a question that instances of policy making could be confronted with in cursory literature reviews in order to de-

termine whether they might show elements of architectural policy design. Table 4.2, p. 84, provides an overview of all indicators grouped in dimensions and sub-dimensions (see Step 3). Additionally, it lists a guiding question for each indicator that potential cases of political architecture were confronted with in initial rounds of case evaluation. A detailed description of the individual indicators can be found in the Appendix, p. 274. In brief, the indicators addressed aspects of policy makers' resources during policy making, of the potential impact of a reform, and of the political conflict characterizing the reform debate. More specifically, the indicators addressed policy makers' level of funding or financial means they can draw upon during policy making, the qualifications and capability of policy makers and their staff, the political networks policy makers are part of and their access and inclusion in formal decision-making processes, and the political pressure that policy makers might be able to create. Furthermore, the indicators addressed the degree of redistribution caused by a policy, the degree to which a policy reconfigures and reshapes the political landscape, the timing of a policy reform, electoral considerations of policy makers regarding whether or to what degree a policy is vulnerable to future withdrawal, and whether political alternatives/different reform proposal are debated.

Step 3: Systematize/categorize indicators

In the next step, the 16 indicators were grouped into three dimensions: a resource dimension, a conflict dimension, and an impact dimension. The resource dimension is related to political actors' capability for architectural policy design, and its indicators helped evaluate how capable and resourceful political actors are in terms of long-term, strategic policy making. Specifically, indicators in the resource dimension ask *whether political actors possess resources that enable them to conduct long-term, strategic policy design*, covering four kinds of resources (financial resources, personnel, networks/ access to formal decision-making, and creation of political pressure). Taken together, the four indicators in the resource dimension should give a good impression of the resources political actors possess regarding long-term, strategic policy design in concrete cases of policy making. Partially, the indicators can overlap in certain cases, for example regarding funding and personnel. At the same time they allow for a differentiation between different kinds of resources that political actors might possess.

The conflict and impact dimension related to political actors' intentionality and the indicators helped evaluate the likeliness of intentional, long-term policy design. The impact dimension specifically asks *how likely it is that a policy will affect the future development in the policy field*. This complex question

can be broken down into three sub-dimensions that look at *redistribution* (access and level of social benefits/social rights), *reconfiguration* (how a reform might affect political actors' resources as discussed in the resource dimension), and *timing* (whether there is a window of opportunity for a reform). Combined, the three sub-dimensions and their nine indicators in the impact dimension should give a good impression of whether a policy is likely to affect the future development in a policy field. Importantly, it needs to be reiterated that the goal is not to definitely assess the exact, future effects of a policy but to get a sense of and grip on what effects could potentially flow from a policy and could be considered by policy makers. The conflict dimension tries to assess *whether or to what degree a policy is vulnerable to future withdrawal*. In particular, it asks whether actors fear losing control over "their policy" (by being voted out of government or excluded from decision-making processes) and how contested a reform is (i.e. whether there are political alternatives and how salient a reform is to voters).

In sum, the 16 indicators served as a valuable guide in cursory investigations of potential cases (cf. Appendix, p. 274, for a detailed description of all indicators, dimensions and sub-dimensions). They were not meant to measure cases precisely on different dimensions or variables but to help get a grip of "what might be going on in a case" and to evaluate and sort cases according to how promising they seemed for closer investigation in empirical studies that would support and facilitate theory development. All indicators were identified through simultaneous theorizing and engagement with empirics throughout the case selection process.

Table 4.2: Indicator List for the Evaluation of Potential Cases of Architectural Policy Design

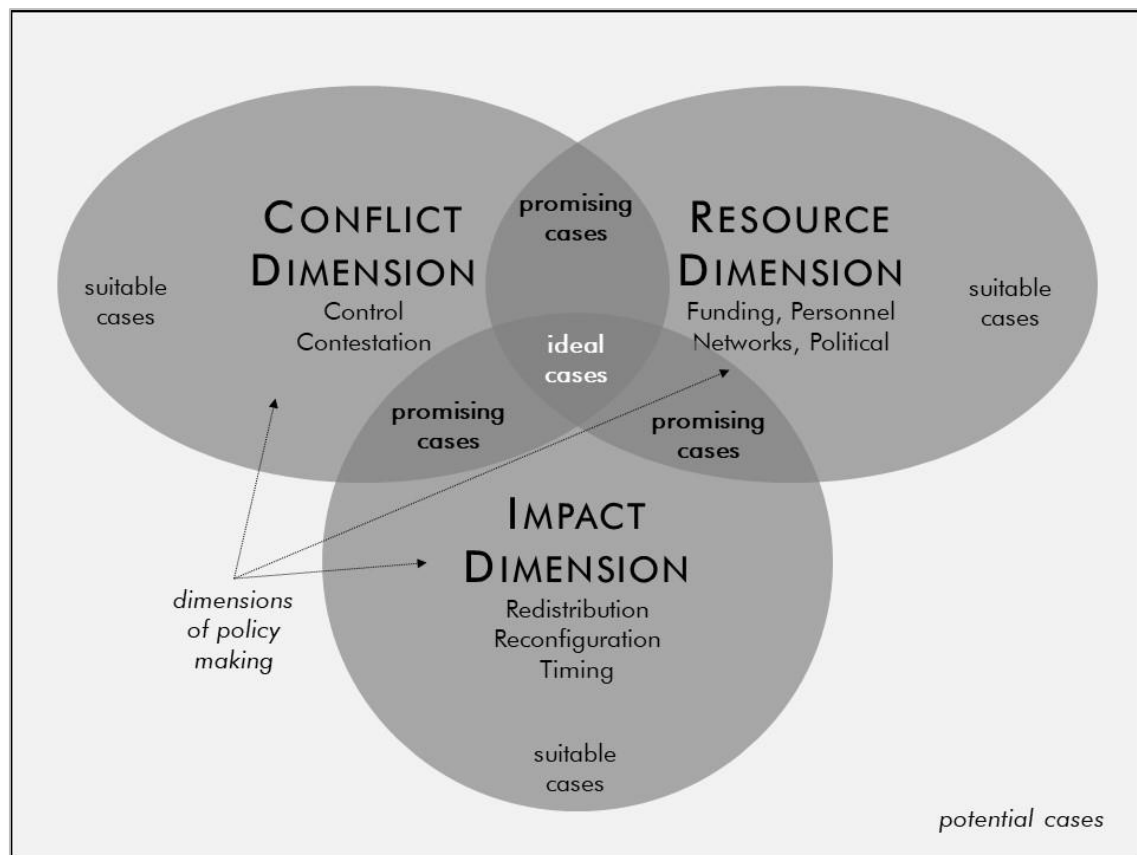
Dimension	Sub-dimension	Indicator
Resources <i>Do the actors involved in policy making possess resources for strategic, long-term policy design?</i>	-	Funding: <i>Can actors financially afford to devise policies and/or evaluate policy drafts?</i>
	-	Personnel: <i>Are actors capable/qualified to devise and/or evaluate policy drafts?</i>
	-	Networks: <i>Are actors included or heard in formal decision-making processes?</i>
	-	Politics: <i>Can actors create political pressure on formal decision makers?</i>
Impact <i>Is the policy likely to affect future developments in the policy field?</i>	Redistribution <i>Does the policy redistribute resources among citizens?</i>	Benefit access: <i>Does the reform affect or change citizens' access to benefits?</i> Social rights: <i>Does the reform affect or change citizens' social rights?</i> Benefit level: <i>Does the reform affect or change levels of benefits?</i>
	Reconfiguration <i>Is the policy likely to reconfigure the political landscape?</i>	Funding: <i>Does the reform affect or change the financial base of an agency or organized interests?</i> Personnel: <i>Does the reform affect or change bureaucratic or organizational capacities?</i> Networks: <i>Does the reform affect or change decision-making procedures?</i> Politics: <i>Does the reform affect or change mobilization prospects or patterns?</i>
	-	Timing: <i>Does a "window of opportunity" allow for unusually far-reaching policy reform?</i>
Conflict <i>Is the policy vulnerable to future withdrawal?</i>	Control <i>Do actors fear losing power over "their" policy?</i>	Electoral: <i>Do actors fear being voted out of positions with formal decision-making power?</i> Network: <i>Do actors fear being excluded from formal decision-making processes?</i>
	Contestation <i>How contested is the policy issue?</i>	Policy alternative: <i>Are there viable alternatives that could replace the policy?</i> Issue salience: <i>Is the issue of high importance to voters?</i>

Step 4: Develop evaluation scheme

Figure 4.1 illustrates how these indicators helped evaluate and categorize cases of policy making. The square box comprised all potential cases of political architecture, that is, all instances of policy making that fulfilled the two basic preconditions of intentionality and capability (Step 1). Cases that were positively evaluated on several or all indicators from all dimensions constituted *ideal* cases. Cases that were positively evaluated on a majority or all indicators from two dimensions but negatively on all indicators from the third dimension constituted *promising* cases. Cases that were positively evaluated

on only a few indicators from one dimension and none of the others constituted *suitable* cases.

Figure 4.1: Categorizing Potential Cases of Architectural Policy Design



Step 5: Systematically evaluate potential cases through cursory literature reviews and select best evaluated cases for in-depth study (includes consideration of pragmatic research constraints)

In the final step, relevant instances of policy making were evaluated using the complete list of indicators. Relevant means that the cases fit pragmatic research limitations and that they became prominent during the case selection process. For pragmatic reasons, the universe of potential cases was limited to Germany and the period from 1966 to 1985. Case selection was limited to German public policy making due to language proficiency and geographical proximity. The considered period was set to begin (counting backwards) in 1985 and end in 1966. The year 1985 was chosen because records in the archives of political parties and the German parliament are available only 30 years after

their manufacture (cf. section 4.3). The year 1966 was chosen to limit the period to a manageable length and ensure variation regarding government coalitions, respectively government-opposition constellations.²⁵

Important policy reforms of those years were identified by reading literature on policy making in Germany from 1966 to 1985 (e.g. Borowsky 2002; Faulenbach 2011; Pape 1982; Pridham 1977; Rummel 1969; Wewer et al. 1998; Zohlnhöfer 2001). The literature typically discusses reforms that are considered key achievements or failures of the respective government or that created or reflected intense political debates and conflicts. For evaluating the instrumentality of these repeatedly mentioned reforms for further empirical investigation, more targeted, reform-specific literature or excerpts were drawn upon in cursory reviews. In total, nine such important reforms were reviewed as potential instances of architectural policy design. For each reform, a brief description of the policy content and the political context and an indicator-by-indicator evaluation of the reform was prepared. The nine case evaluations can be found in the Appendix, p. 278. Table 4.3, below, summarizes the results. Four reforms were evaluated as “promising to ideal”, three reforms as “promising” and two reforms as “suitable to promising”.

For the first case study, one of the reforms with the highest evaluation, the *Codetermination Act of 1976*, was selected to study architectural policy design in a case/context that is expected to be most conducive. Later in the research process, the *Pay Continuation Act of 1969* was selected as a second case. This act was chosen because of its medium-level evaluation and, thus, increased diversity and potentially allowed for new learning opportunities and insights due to its lower evaluation than the *Codetermination Act* while still ensuring that the phenomenon of interest could likely still be studied. Furthermore, the *Pay Continuation Act* was selected because it is from the same policy field as the *Codetermination Act* (labor/industrial relations). This makes it easier to present the two cases and their historical and political-institutional context in a stringent manner and to focus on the policy design situation itself when comparing both cases since “context noise” is reduced. A short description and introduction to both cases can be found at the beginning of each case study in chapters 6 and 7. Indicator-by-indicator evaluations of both cases are included in the Appendix, p. 278.

²⁵ From 1966 to 1969, Germany was ruled by a Grand Coalition of Christian Democrats and Social Democrats; from 1969 to 1982 by Social Democrats and Liberals; and from 1982 to 1998 by Christian Democrats and Liberals.

Table 4.3: Evaluation of Potential Cases of Architectural Policy Design

Evaluated cases										
		Pay Continuation Act, 1969 ³	Works Constitution Act of 1972	Codetermination Act, 1976 ³	Employment Promotion Act, 1985	Pension Reform, 1972	The Child-Raising Allowance Act, 1985	The Reform of Paragraph 218, 1976	22. Act to Change the Basic Law, 1969	Framework Act for Higher Edu., 1976
Dimensions and Indicators										
Re-sources	Funding	++ ¹	++	++	++	++	++	o	++	+
	Personnel	++	++	++	++	++	++	-	++	+
	Networks	++	++	++	++	++	++	+	++	++
	Political	++	++	++	++	++	++	++	++	++
Impact (redistribution, reconfiguration, timing)	Benefit access	++	--	--	--	++	++	--	--	--
	Social rights	++	++	++	++	++	++	++	--	++
	Benefit level	+	-	-	-	++	++	--	--	--
	Funding	++	++	--	++	++	-	-	++	++
	Personnel	--	++	++	-	--	-	-	++	++
	Networks	--	+	++	-	--	--	--	++	++
	Mobilization	o	++	++	++	+	-	-	--	++
Timing	++	+	-	++	++	++	++	++	+	
Conflict	Electoral	o	++	o	+	++	+	++	--	++
	Network	o	++	++	o	--	o	++	--	++
	Policy alternative	++	++	++	o	++	o	++	o	+
	Issue salience	+	++	++	++	++	o	++	--	o
Overall evaluation		o²	+	+	o	+	o	-	-	o

Notes: 1) Indicator evaluation: ++ = positive, + = positive to ambiguous, o = ambiguous, - = negative to ambiguous, -- = negative; 2) Overall case evaluation: + = ideal, +o = promising to ideal, o = promising, -o = suitable to promising, - = suitable; 3) Grey shaded columns show the two selected cases.

4.3 The Collection of Empirical Material

The next step after case selection concerns the collection of empirical material, in particular the identification of potential data sources and the selection of relevant material. As discussed previously, both steps are interlinked since an awareness of the availability and accessibility of potential data sources affects case selection, and case selection affects the definition and demarcation of potentially relevant data sources.

In principle, one can base the investigation of architectural policy design strategies on two types of empirical material. *First*, the researcher can investigate architectural policy-design strategies “in the here and now”, that is,

where, while and when they unfold or shortly thereafter. In order to do so, the researcher can for example conduct interviews with policy makers (broadly understood as actors actively involved in the legislative process or actors who have a stake in a reform) or execute a participatory study, e.g. take part in parliamentary committee meetings during the legislative process. Such studies enable the researcher to look at recent or unfolding instances of public policy making and to get direct access to involved actors' immediate experiences, evaluations and personal views on the process of policy design in order to study architectural policy design.

The *second* type of empirical material pertains to more “historical” cases of architectural policy design, that is, instances of public policy making that date further back in the past and where data collection via interviews faces greater challenges in the recollection of past events, opinions, strategic considerations, etc. In contrast to the above, the researcher can then base the investigation on written records (which are often not available for more recent cases) and collect relevant material, e.g., in archives of involved institutions, personal collections, secondary literature, or media outlets/archives. Such studies enable the researcher to go back in time and investigate long passed but nevertheless interesting or relevant instances of public policy making and to base the investigation on material that may be, to some degree, less “subjective” but more “objectified” (e.g. transcripts of committee meetings produced by stenographic staff in parliament or official policy documents).

The objective of this chapter is not to enter into a lengthy discussion of the benefits and pitfalls of archival versus interview-based research²⁶ or to rate the two alternatives or qualify one as generally superior, since both options have their own inherent strengths and weaknesses, challenges and opportunities. While the empirical investigation conducted for this dissertation is solely based on written, archival records, it is always up to the responsible researcher to decide which collection strategy suits the research project best. Furthermore, the two options are not mutually exclusive. Studies of more recent events can also be based on written, archival material if available, and studies of past policy making can include retrospective interviews if involved actors can be recruited.

For this dissertation, the “archival route” was chosen in order to base the investigation on a broad empirical foundation and to have a wide range of cases to choose from. Therefore, the study is primarily based on a large number of primary archival records collected in three archives in Germany: the Archive for Christian-Democratic Policy (ACDP) in St. Augustin, the Archive

²⁶ Cf. e.g. Frisch et al. (2012); Thies (2002); McCulloch (2004) on archival research in political science and Gubrium (2012) on interview-based research.

of Social Democracy (AdsD) in Bonn, and the Parliamentary Archives of the German Bundestag in Berlin (PA). For matters of completeness, it should be mentioned that the empirical study is also based on a large array of secondary literature on the 1969 Pay Continuation Act and the 1976 Codetermination Act (respectively, the topics pay continuation and codetermination) and on the political and socio-political context of policy making in Germany in the 1960s and 1970s.^{27,28}

For both data collection strategies, a key challenge lies in investigating policy makers' strategies and intentions in policy design. This is because policy makers' long-term, strategic goals cannot necessarily be read off the material easily, and the researcher needs to constantly ask herself how intentional policy makers' actions or decisions are and how explicit policy makers are about their long-term goals and strategies. For example, one should ask whether parties or MPs have a reason to hide specific long-term goals or intentions, maybe because they impose losses on an important constituency, or whether they are open and frank about them because these effects lie in a distant future or are too difficult to understand and grasp for the public. One could also ask whether policy makers would put these goals and strategies in writing (and if so, where or how they would do so) and whether they would talk about them during the design process or only in hindsight, maybe because they are politically too controversial.

Again, this chapter does not claim that one data collection strategy is generally superior to the other but acknowledges that different strategies can be used to address and cope with these challenges in both interview-based and archival research. Section 4.3.2 discusses how the chosen "archival route" responds to the challenge of investigating policy makers' long-term goals, strategies, and intentions. Furthermore, section 4.3.2 evaluates the extent and quality of the generated data pool and discusses how the specific selection of relevant material affects the conclusions drawn from the empirical analyses. Before that, section 4.3.1 gives an overview of the material accessed in the three archives and the selection strategies applied to identify and collect relevant material.

²⁷ See Sager and Rosser (2016) on the importance of secondary literature in historically oriented political science research.

²⁸ All quotes of non-English secondary literature and archival material presented in the dissertation have been translated or paraphrased by the author.

4.3.1 Data Sources: Available and Selected Material

This section gives a brief description of archives accessed during field trips and of the material collected there. Exhaustive lists of the accessed material can be found in the Appendix, p. 265.

The Parliamentary Archives of the German Bundestag

The Parliamentary Archives of the German Bundestag collects all documents related to acts announced in the Federal Law Gazette (*Bundesgesetzblatt, BGBl.*) in so-called “act documentations” (*Gesetzesdokumentationen*), i.e. documentations of the legislative process of an act. These documentations contain five types of material:

- (1) All publicly available material like protocols of plenary discussions (verbatim), printed matters of the Bundestag, e.g. act proposals, motions to amend and questions to the government and government replies.
- (2) All documents of parliamentary working groups in which the proposed act was discussed and which are typically not available to the public, for instance protocols of working group meetings (verbatim or condensed) and expert hearings,²⁹ motions to amend, resolutions, and working documents like synopses of competing drafts.
- (3) Protocols (verbatim or condensed) and resolutions from the second chamber of parliament, the *Bundesrat*, both of its general plenary assembly and of involved working groups.
- (4) A broad range of policy papers, press releases, correspondence, and submissions made by interest groups either during the formal policy making process or as part of their public relations work.
- (5) Selected press material on the issue that were not explicitly mentioned during the legislative process but are important in the public discussion.

In the process of case selection described above, nine such documentations were accessed. The volume ranged from one to 16 bound volumes, each containing approx. 250-500 pages of material (cf. Appendix, p. 265, for an overview). In the selection of relevant material, priority was given to documents from types 1 to 3. Plenary discussions were collected completely as well as draft acts and motions to amend introduced to parliament. Protocols from working groups were collected completely for the leading working group, for other working groups only longer protocols of more extensive discussions were collected, but not protocols of meeting with a more administrative character (e.g. discussions of meeting agenda or timelines). For types 4 and 5, a selection of material was collected. The focus was placed on material from/

²⁹ Protocols of expert hearings are in some instances made publicly available if the working group makes the expert hearing open to the public.

about important interest groups like unions or employers' federations (e.g. DGB, BDI, BDA) instead of material from/about individual unions or employers' organizations (e.g. DAG, ULA, craft associations), which was only collected when the individual union or branch played an especially important role (e.g. the interest organization of managerial employees). Material collected in the Parliament Archives proved especially important and fruitful in the investigation of the 1976 Codetermination Act but only produced few insights into strategic policy design strategies in the 1969 Pay Continuation Act. In order to counter this imbalance, material on the Pay Continuation Act was prioritized higher in the party archives (cf. section 4.3.2 and section 4.4).

Archives of Political Parties in Germany

Archives of the political parties are another major source of empirical material. All major parties in Germany run archives that collect, preserve, and make accessible material from the parties, their parliamentary groups, and various other party groupings or affiliated organizations on the federal, state or local level. Material can include, e.g., transcripts of meetings or result protocols, position papers, drafts and working papers, speeches, personal and official correspondence, memos, press clippings, press releases, legal documents, and public relations material. Both archives also hold printed transcripts of all meetings of the parties' parliamentary groups. However, these materials were not collected in the archives since they are almost completely available in edited volumes published by the *Kommission für Geschichte des Parlamentarismus und der Politischen Parteien e.V., KGParl* (see Appendix, p. 272, for a full list of these publications) and/or as pdf-files via the website fraktionsprotokolle.de (last access: December 2017). The volume and systematics of classification in the archives – and therefore the accessibility of material – can vary drastically from archive to archive and can depend on, e.g., the covered time frame or the organizational unit. As a rule of thumb, documents are more easily accessible through systematic classification of the inventory the more recent they are and the more professionalized the organizational unit was. Furthermore, accessibility to material can be limited by practical user guidelines defined by the archives. For example, both archives visited for this dissertation limit the number of copies or scans users may make and, thus, limit the amount of material that can be analyzed in depth once the archive visit is completed.

The sheer volume of available material and the practical limitations in accessing it necessitate a thought-through search strategy. In both archives, the same search strategy was applied. Relevant material was identified via searches in digital databases or printed indexes of the inventory. Primary

search words were *Lohnfortzahlung/Lohnfortzahlungsgesetz* (pay continuation/pay continuation act) and *Mitbestimmung/Mitbestimmungsgesetz* (codetermination/codetermination act), secondary search words were *Lohnpolitik* (wage politics), *Krankenversicherung/Krankenversicherungsreform* (health insurance/health insurance reform), and specifications of codetermination like *paritätisch* (based on parity) or *überbetrieblich* (corporate).

Due to the breadth of the topics pay continuation and codetermination, which affected the fields of social policy, labor policy, health policy, and industrial relations, and due to the long duration of the political debates from the early Federal Republic until the adoption of acts in 1969 respectively 1976, not all identified material was physically accessed. For example, a search for the keyword *Lohnfortzahlung* in the archive of the Confederation of German Trade Unions, DGB, which is part of the Archive for Social Democracy (AdsD), gives more than 100 hits that direct the user to binders with approx. 50-250 pages of material each; of which some address the topic *Lohnfortzahlung*. Therefore, identified material was strategically selected based on four considerations:

- (1) Material with clear hits for the primary key words, i.e. where pay continuation or codetermination were at the center of the archival record and not a minor issue, were preferred since they were expected to contain a wide variety of very issue-specific documents. Such material could include documentations on pay continuation or codetermination or of commissions set up to discuss these reforms/topics.
- (2) Material that was chronologically closer to the adoption of the acts or the second and third plenary debates in the Bundestag were preferred over material further away from those dates since the former was expected to reflect the political conflicts over the adoption and design of the policies more clearly.
- (3) Material related to actors or groups with a stake in the reforms and/or expertise on the issue (e.g. the different party wings within the Christian Democrats, party or parliament working groups/commissions) were preferred over material of groups that were less affected by and more distant from the political issue, since they were expected to include particularly clear expressions of opinions on and evaluations of competing policy designs.
- (4) Material on pay continuation was given slightly more weight in party archives than material on codetermination, since the analysis of documents from the Parliamentary Archives (which was conducted first) had been more conclusive for the Codetermination Act than for the Pay Continuation Act. Material on pay continuation was therefore more necessary to fill gaps in the parliamentary material and give additional insights into the policy design process.

After an initial familiarization with material of different kinds (e.g. personal collections, correspondence, commissions, protocols), time periods, and organizational units (e.g. national party, intra-party groupings, parliamentary

working groups), the selection strategy was continuously updated during archival visits in order to discover documents with the highest value for the empirical investigation. For example, personal collections of politicians identified as important during early stages of archive visits were included in the search for relevant material later on during the visit. The accessed material was then skimmed to identify documents that gave insight into political positions and strategies regarding the reforms and their policy design and to discard documents that only repeated information already covered by other material, were unrelated to pay continuation of codetermination, or, e.g., were of more administrative character like committee invitations. The selected material was then copied for further analysis.

The sections below give a brief overview of the material accessed in the archives of the Christian Democrats and the Social Democrats, in particular which organizational units of the two parties the material belonged to. Exhaustive lists of all accessed material can be found in the Appendix, p. 265.

The Archive for Christian-Democratic Policy, ACDP

The Archive for Christian-Democratic Policy (ACDP) in St. Augustin holds the material of the Christian Democrats as well as personal collections and material of important groupings within the party, e.g. the Christian Democratic Employees' Association (*Christlich-Demokratische Arbeitnehmerschaft*, CDA), the Discussion Group Small- and Medium-Sized Business (*Diskussionskreis Mittelstand*, DKM) and the Small- and Medium-Sized Business Association of CDU/CSU (*Mittelstands- und Wirtschaftsvereinigung der CDU/CSU*, MIT). The accessed material can be grouped into seven categories (cf. Appendix, p. 265, for a complete list of accessed material):

- (1) Material from the national party, e.g. related to working groups, the CDU leadership, the social policy department, or issue-specific documentation;
- (2) Material of the CDU/CSU parliamentary group, esp. meeting protocols;
- (3) Material from working group IV on family, youth, health, labor, and social affairs of the CDU/CSU parliamentary group, esp. issue-specific collections of material;
- (4) Material from the party's employee wing, the Christian Democratic Employees' Association (*Christlich-Demokratische Arbeitnehmerschaft*, CDA), e.g. on their annual meetings, board meetings, working groups, or chairmen;
- (5) Material from the Small- and Medium-Sized Business Association of CDU/CSU (*Mittelstands- und Wirtschaftsvereinigung der CDU/CSU*, MIT), e.g. on their annual meetings and ad-hoc commissions;
- (6) Material from the Discussion Group Small- and Medium-Sized Business (*Diskussionskreis Mittelstand*, DKM), the MIT's affiliate in the CDU/CSU parliamentary group, esp. issue-specific collections;

(7) Material from personal collections of politicians who played important roles in the party or its subgroupings or in the debates on pay continuation and codetermination: Franz Deus (trade unionist and chair of working group IV); Adolf Müller (chair of the parliament working group on social policy from 1956 to 1969 and vice-chair and chair of the CDA group of the CDU/CSU parliamentary group from 1972 to 1987); Klaus Scheufelen (founding member of the Economic Council of Germany (*Wirtschaftsrat der CDU e.V.*), an independent organization representing the interests of small- and middle-sized firms with close ties to the CDU); Gerhard Schröder (minister in the federal government in different positions from 1953 to 1969); Franz-Josef Wuermeling (minister in the federal government from 1953 to 1962) and Otto Zink (CA chairman in the state of Hesse).

The Archive of Social Democracy, AdsD

The Archive of Social Democracy (AdsD) holds the collection of the SPD as well as a large collection of material on the German labor movement, including material from the German Trade Union Confederation, DGB. The material accessed in the AdsD can be grouped into five categories (cf. the Appendix, p. 265, for a complete list of all accessed material):

- (1) Material from the German Trade Union Confederation, in particular from its social policy division on the issue of pay continuation, as well as material from the federal board of the DGB and correspondence on codetermination;
- (2) Material from the SPD parliamentary group in the Bundestag, in particular meeting protocols and material from the office of chairman Herbert Wehner;
- (3) Material from the parliamentary group's working group III on economic policy on codetermination;
- (4) Material from working group IV on social policy on codetermination and health insurance/pay continuation; and
- (5) Material from the executive board of the SPD, in particular its meetings and commissions.

The Archive of Liberalism, ADL, and the Archive for Christian-Social Policy, ACSP

The Liberal party's and the Christian Democrats' sister party CSU's³⁰ archives were excluded from the collection of empirical material for the following reasons. First, while the CSU runs its own archives, both parties form a common parliamentary group in the German parliament, and material from the Christian Democrats' archive gives sufficient insight into the positions and role of CDU/CSU in the political and legislative process prior to the 1969 Pay Continuation Act and the 1976 Codetermination Act. Second, the Liberals' archive is considerably smaller and contains less material, and the party played almost

³⁰ See footnote 46 in chapter 5.

no role in the design process around the Pay Continuation Act, which was the focus of material collection in party archives. For the Codetermination Act, material collected in the Parliament Archives gives sufficient insight into the Liberals' positions and design strategies.

Lastly, much of the collected material does not only present the respective authors' position, strategy, etc., but also the respective authors' assessment of other actors' positions, strategies, etc. For example, internal memos written by party staff in the Christian Democrats' party headquarter also report on the situation in the Liberal party, what positions it articulated, and what strategies it seemed to follow. While such "indirect" reports from the Christian Democrats on the Liberals are not as close to the source as one could wish (i.e. written by the Liberals themselves), they are not generally biased. Such internal documents can generally be seen as honest attempts to correctly describe and assess the positions and strategies of the Liberals so that the Christian Democrats themselves can react appropriately to the situation, adapt their own strategy, etc. Hence, material from the Christian and Social Democrats archive can also be used to gain knowledge on and investigate the Liberals' policy design strategies.³¹

4.3.2 Evaluation of the Generated Data Pool³²

Table 4.4, p. 100, gives an overview of where and how much material was collected for each of the selected cases. The total data pool covers approx. 2,000 pages of copied material from the three archives. Additionally, digitalized transcripts of all parliamentary debates on the Pay Continuation Act and the Codetermination Act were retrieved via the Parliamentary Material Information System, DIP.³³ Transcripts of parliamentary group meetings of Social Democrats, Christian Democrats and Liberals were retrieved via the *Kommission für Geschichte des Parlamentarismus und der Politischen Parteien e.V., KGParl*, either as edited book volumes or in digitalized versions.³⁴ The table also roughly indicates what share of the total material was collected in which archive and on what case. In brief, the investigation of the Codetermination Act was built on more material from the Parliamentary Archives than from each of the party archives, whereas the investigation of the Pay Continuation

³¹ Similarly, material from Social and Christian Democrats on each other was included in the case studies.

³² The term "data pool" is used instead of database to avoid the misunderstanding that a digitally searchable database was generated.

³³ Website: http://www.bundestag.de/en/documents/parliamentary_documentation (last access: March 2017).

³⁴ Website: <https://fraktionsprotokolle.de/> (last access: December 2017).

Act was based on more material from the party archives, especially the Christian Democrat archives, than from the Parliamentary Archive. In total, a close to equal amount of material on each of the cases and around 50 percent more material from the party archives than from the Parliamentary Archives (ratio 3 to 2) was used in the empirical analysis. Furthermore, slightly more material from the Christian Democrats' archive than from the Social Democrats' archive was used (ratio 3 to 2).

Hence, the theoretical claims produced in Part IV might reflect this slightly uneven division in the way that they might be more stereotypical for the way Christian Democratic policy makers think about architectural policy design than how Social Democratic policy makers think about it. As discussed in section 4.1, research processes are not pre-defined but influenced by decisions made throughout the research process. Hence, decisions, constraints and opportunities coming up during the collection of material influence the conclusions drawn from the investigation.

Yet, there is little reason to believe that the theoretical implications drawn from the empirical investigation and the typology of feedback effects considered by policy makers (see Part IV) are systematically biased in a way that they only represent how policy makers from a particular party think about long-term, strategic policy making. First, the difference between the amount of material from Christian Democrats and Social Democrats is not exorbitant and there is sufficient material from the Social Democrats alone (approx. 500 pages from their archive plus material from the Parliamentary Archive) to allow for a productive investigation of the Social Democrats' policy design strategy. Second, while the two parties differ in many respects (cf. chapter 5.2), both had a stake in the political debate and were interested in the outcome in the short and long run. The Social Democrats' motivation might have been more driven by ideology or belief, especially since both reforms concerned policy areas of central importance to the party, and the Christian Democrats' motivation might in some respects have been more pragmatic (e.g. to get the codetermination topic off the political agenda and hold on to government power). However, the Christian Democrats also faced complicated internal debates between its different party wings that represented a broad ideological spectrum of positions of codetermination and pay continuation and for which the issues had high salience. Hence, both parties had an interest in the short- and long-term implications of the reforms and the slightly smaller volume of archival material on the Social Democrats should not lead to one-sided or "uneven" conclusions.

It is, however, generally possible that policy makers do not always take considerations of policy feedback effects into account when designing a policy (cf. section 3.2). This could be due to the resources they have available (knowledge

about previous/other reforms or policy fields, assistance by professional staff, etc.) or because electoral considerations might outweigh long-term considerations in particular situations. However, the empirical analysis indicates that policy makers try to “maximize” long-term effects even when short-term considerations limit their freedom of action (cf. also section 3.2). While Part IV discusses potential conditions for long-term strategic policy design, the investigation of these conditions is not the key focus of this dissertation and should be a topic of future research.

A key challenge mentioned earlier concerns the investigation of policy makers’ strategies and intentions, with the particular question being whether and how the collected archival material gives insight into policy makers’ design strategies at the time. Here, the variety of material collected in the three archives offers a crucial advantage. The key distinction can be drawn between “public” material and “internal” material. First, public material includes parliamentary debates, press statements, interviews, etc., as well as transcripts from parliamentary committees. Material from parliamentary committees is not truly public since committee debates are usually not open to the public, but in all mentioned materials policy makers make statements to an audience, i.e. the general public and/or political opponents.

In assessments of policy makers’ strategies, this material must be interpreted with care since policy makers’ might have multiple objectives when articulating their goals and strategies in front of an audience. For example, if policy makers want to win public support or threaten their political opponent, extensive case knowledge helps to evaluate public statements of policy makers and to try to distinguish between a potential public “façade” and true intentions and strategies.

The second kind of material – internal material – is particularly helpful in this regard. The extensive material collected in the archives of Social and Christian Democrats contains numerous internal memos, correspondence between party officials, committee reports etc., that is, material that the parties produced only for internal use and that was never meant to be read by someone outside the party. In these documents, the authors, be they individual MPs or party groupings, typically try to provide an honest, truthful assessment of their own and/or other parties’ goals, strategies, conflicts, and debates in order to develop an appropriate response to the strategic situation as it presents itself. Hence, for these kinds of material, the authors have no incentive to hide or distort their intentions, goals, and strategies. The broad data pool with diverse types of documents therefore provides good opportunities to investigate policy makers’ strategies and intentions, which is nevertheless a challenging research endeavor.

Regarding the quality of the gathered data base, external and internal source criticism are important criteria (Sager and Rosser 2016). From the perspective of external source criticism, the collected material is considered to generally be authentic. The data base consists mainly of documents written directly by important actors in the policy design process, e.g. members of the involved parliament committees, key representative from parties, government or interest organizations (e.g. party secretaries, ministers, union leaders, heads of formal party wings) or by the institutions/collective actors themselves. Most documents refer directly to the policy design process of the two acts and only few represent more general policy statements.

Internal source criticism concerns the credibility and certainty of sources. Here, it is assumed that the collected documents generally give a truthful representation of policy makers' assessment of the situation and their strategic policy design considerations and that they do not contain false or deceiving statements. In the interpretation of the material, the investigation has nevertheless taken into account that statements made during political processes can intentionally overemphasize or understate particular aspects, for example due to electoral considerations. However, most of the analyzed documents have not been generated for a public audience but for internal use within the party or parliament, limiting the extent of such "tampering".

Regarding the credibility and certainty of the used sources, it is also important to emphasize that the dissertation's goal is to build theory and not to conduct a historical study of the two acts. The goal of the latter would typically be a detailed, empirically rich account of the unfolding of the design process that gives insight into, e.g., the role of particular policy makers during this process. In contrast to this, the goal of the former is to produce theoretical implications, meaning for example theoretical claims (or hypotheses) regarding architectural policy design or conditions that influence it in certain ways, or the formulation of ideal types of architectural policy design strategies. The credibility and certainty of the used sources therefore concern whether they give a truthful account of or insight into policy makers' strategic policy design considerations. Again, the general assumption is that the used material does not contain false or deceiving statements.

Furthermore, the goal of theory building also renders policy makers' statements about the intentions, goals and strategies of other actors a valuable source of information. For example, a historical study could not easily make a claim about policy maker A's policy design strategy based on a statement made by policy maker B on policy maker A's strategy. From the perspective of theory building, such a statement gives valuable insight into the strategic considerations that policy makers *in general* might have when designing policies.

Hence, the dissertation is also able to base its empirical analysis and conclusions on these kinds of “indirect” sources on policy makers’ strategic policy design considerations.³⁵

Overall, the collected material from the Parliamentary Archives and the archives of political parties forms a broad and unique data pool that offers unique insights into the political and legislative processes leading up to the adoption of the 1969 Pay Continuation Act and the 1976 Codetermination Act. First, they make it possible to trace the development of a bill from the first ministerial or parliamentary group draft via several rounds of working group discussions, amendments and potential revisions up to its final adoption in the Bundestag. Hence, the design process and modifications of individual paragraphs and the exact policy wording can be reconstructed in detail.

Second, the material gives insight into the positions of different parties, individual MPs, and interest groups on the content and goals of a bill, its policy design, and the individual stipulations it contains. Thus, beyond the technical reconstruction of the legislative process, the material also helps a more *political* reconstruction of the activities and motives of involved policy makers, that is, of the political-architectural strategies of policy makers.

Third, the immersion in the archival material allows the researcher to gain a deep understanding of the cases beyond isolated, citable facts and informs the political-architectural interpretation and evaluation of the cases as well as further theorizing on architectural policy design (cf. Part IV).

Furthermore, the large number of primary sources and the density of the archival records on codetermination and pay continuation make it possible to build a data pool that in this form is not comparable to other methods of data generation, e.g. via secondary literature on the cases or retrospective interviews. Some qualifications are warranted, however: first, due to the amount of the material available in the archives, the empirical investigation was not based on an analysis of all available material in the archives but of an intentionally and strategically biased selection of relevant material, as described above. Hence, the empirical investigation cannot, and does not, claim to provide a full account of the development of both cases as historical analyses would do but primarily serves the purpose of theory building. Second, the analysis excludes potential additional data sources, such as interviews with policy makers involved in both cases or documents from the Federal Archives of Germany (*Bundesarchiv*) where ministerial documents are collected. These omissions are, however, justifiable.

³⁵ Where the empirical analysis contains empirical claims about policy maker’s architectural policy design strategies, it makes visible whether those claims are based on such “indirect” sources.

First, generating interview data poses two challenges: the long time lag since the adoption of the reform, which might affect recollection, and the limited number of policy makers still alive. Second, ministerial documents are not expected to offer information that is not already covered by the material in party and the Parliamentary Archives since these archives also collect a great deal of official correspondence between ministries, MPs, and interest organizations, and of legal documents on policy drafts, evaluations, and synopsis produced by ministerial staff. Third, and finally, as in any other research project, limited time and personal and financial resources pose restrictions to the duration and extent of data generation.

Table 4.4: Overview of Collected Material by Archive and Selected Case

Archive and Practical Limitations for Archive Users	Material on Codetermination	Material on Pay Continuation	Total
Parliamentary Archives Unlimited number of copies	27.5% / 550pp ¹	10 / 200	37.5 / 750
ACDP (Christian Democrats) “Appropriate” number of copies / scans	12.5 / 250	25 / 500	37.5 / 750
AdsD (Social Democrats & DGB) Max. 500 copies / scans per project	12.5 / 250	12.5 / 250 ^{2,3}	25 / 500
Total	52.5 / 1050	47.5 / 950	100 / 2000

Notes:

- 1) Numbers indicate the approximate share of the total empirical material and the number of pages collected on the respective case in the respective archive.
- 2) Material of the party executive board (*Parteivorstand*) was not searchable via the key word *Lohnfortzahlung* (pay continuation) and therefore not accessed.
- 3) Access to documents of the parliamentary groups’ executive board (*Fraktionsvorstand*) was not granted for this dissertation.

4.4 Data Analysis

The following section discusses how the generated data pool was analyzed throughout the empirical investigation. Section 4.4.1 discusses the overall process and methods of data analysis; section 4.4.2 discusses more concretely the different types of evidentiary material that substantiate the presentation and interpretation of the case studies in Part III of the dissertation.

4.4.1 Methods and Process of Data Analysis

The data pool described above was generated and investigated in multiple rounds of analysis. Table 4.5, below, gives an overview of the process of the empirical investigation conducted for this dissertation. First, and simultaneous to engaging in the literature, an initial pre-study of the Works Constitution

Act of 1972 was conducted based on material available online from the Parliamentary Archives in order to inform the formulation of the initial theoretical framework. Then, material on nine initially considered cases was collected in the Parliamentary Archives. After the final selection of the first case study, the material on the Codetermination Act was analyzed. After this first case study, a second case was chosen and material from the Parliamentary Archives analyzed. In order to gain a deeper understanding of both cases, and because the material on the Pay Continuation Act from the Parliamentary Archives did not yield conclusive results, additional material was collected in party archives and analyzed subsequently. After the analysis of this new material, the previously collected material from the Parliamentary Archives on both cases was re-analyzed. At the end of the empirical investigation, the results of both case studies were reviewed and interpreted from a comparative perspective.

Table 4.5: Overview of the Process of the Empirical Investigation

Work step	Concerned cases	Approx. time frame
Pre-study based on online material from Parl. Archives	Works Constitution case	09/16-02/17
Collection of material in the Parl. Archive (ca. 3.300 pages)	Nine cases (cf. section 4.2)	12/16
Final case selection , first case	Codetermination case	02/17
Analysis of material Final case selection , second case	Codetermination case	02/17-10/17 ¹
Analysis of material from the Parl. Archive	Pay Continuation case	10/17
Collection of material in party archives, ca. 1250 pages	Pay Continuation and Co-determination case	10/17-11/17
Analysis of material from party archives	Pay Continuation case	12/17
Re-analysis of material from Parl. Archives	Pay Continuation case	01/18-03/18
Analysis of material from Party Archives	Pay Continuation case	02/18-03/18
Re-analysis of material from Parl. Archives	Codetermination case	03/18-05/18
Re-analysis of material from Parl. Archives	Codetermination case	03/17-05/18
Comparative analysis and interpretation based on all material	Pay continuation and co-determination case	03/17-05/18
		04/18-06/18

Notes: 1) break from 04/17-07/17

Analysis of Material from the Parliamentary Archives and Party Archives

The analysis of the material collected in the Parliamentary Archives proceeded in four steps from an initial, open reading towards a closer, systematic reading

of informative extracts of the material and condensed notes. During this process, analytical categories were developed and continuously refined similar to procedures of open and focused coding in qualitative content analysis (cf. e.g. Bryant and Charmaz 2007; Charmaz 2014). Since most material was only available in print, the analysis was conducted by hand.

Table 4.6, below, gives a brief summary of the four analytical steps. The investigation *first* started with an initial, open reading of plenary debates of the draft bills as well as on expert hearings (if conducted) and selected working group meetings of the leading working group. Those documents were chosen because they were expected to give a good impression of the general debate and conflict lines and policy makers’ arguments for or against certain proposals. *Second*, the same material was analyzed more thoroughly through a systematic, close reading. During this reading, extensive notes of the material were written, analytical categories developed, crucial, informative parts of the material identified and “extracted” and less informative material discarded.

Table 4.6: Overview of the Process of Data Analysis (Material from the Parliamentary Archives)

Analytical steps	Purpose/Outcome
<p>Initial, open reading plenary debates of the draft bills, expert hearings, selected working group meetings of the leading working group</p>	Develop impression of general political debate, conflict lines, policy makers’ arguments; develop analytical categories
<p>Close reading (same material as above)</p>	Compose notes; develop and refine analytical categories; extract informative and discard uninformative material
<p>Reading of legalistic material draft bills, motions to amend, legal synopses produced by parliament staff, printed working group matters</p>	Develop overview of competing policy designs and design elements
<p>Systematic, focused reading extracted material, composed notes, additional working group protocols and submissions/position papers by interest groups</p>	Refine analytical categories; identify key policy design elements and anticipated long-term implications of reform proposals; identify argumentative links between policy design elements and long-term implications

In a *third* step, documents of a more legal character (e.g. draft bills, motions to amend, legal synopses produced by parliament staff, printed working group matters) were analyzed, summarized, and compared in order to develop an overview of the competing policy designs. In the *fourth* and final analytical step, the extracted material and composed notes were revisited based these overviews and the initial analytical categories and more focused analytical categories were developed. Additionally, protocols of working group meetings, submissions and position papers made by interest groups were included in the

analysis in order to develop overviews of different actors' positions on competing policy designs and their elements. Throughout the different steps of the analysis, the analytical categories were refined in an attempt to identify argumentative links between policies' long-term consequences and specific elements of the reform drafts. Analytical categories focused on, e.g., characteristics of the policy proposals and anticipated long-term implications of policy proposals or their elements.

Similar to the procedure applied in the Parliamentary Archives, the collected material from party archives was *first* subject to an initial, open reading, which was, however, informed by the knowledge and analytical categories developed through the analysis of material from the Parliamentary Archives. Therefore, all material was included already in this first step. Informative material was extracted, less informative material discarded. In a *second* step, the material was subject to a closer, systematic reading that supplemented and complemented the analysis of parliamentary documents and the overviews of competing policy designs and positions on policy designs. During this reading, extensive notes of the material were written and analytical categories developed further. The *third* step is similar to the last step in the analysis of the material from the Parliamentary Archives.

Table 4.7: Overview of the Process of Data Analysis (Material from Party Archives)

Analytical steps	Purpose / Outcome
<p>Initial, open reading (informed by analysis of materials from the Parl. Archives) all material</p>	<p>Develop and refine analytical categories; extract informative and discard uninformative material</p>
<p>Close reading (informed by analysis of materials from the Parl. Archives) all material</p>	<p>Compose notes; develop and refine analytical categories</p>
<p>Systematic, focused reading extracted material, composed notes, additional working group protocols and submissions/position papers by interest groups</p>	<p>Refine analytical categories; identify key policy design elements and anticipated long-term implications of reform proposals; identify argumentative links between policy design elements and long-term implications;</p>

4.4.2 Types, Interpretation and Use of Evidentiary Material

The final section of the methodological framework presents and discusses the types and interpretation of evidentiary material the subsequent case studies are based on. The key objective in the investigation of the collected data pool

is to carve out policy makers' strategic, long-term intentions and considerations in the design of policies.³⁶ Ideal evidence could be, for example, a policy makers' statement that "We need to include *policy instrument A* in the reform because it will help us to achieve *goal B* in the long run via *mechanism C*, even though it will cost us *D* in the short run". Such a statement, made for instance at an internal meeting or in correspondence with fellow policy makers, would clearly show an intention to achieve a specific long-term goal, it would show how the policy maker thinks this goal would be achieved (i.e. a type of policy feedback), and it would even show that the policy maker prioritizes this long-term goal higher than some short-term benefits. Irrespective of whether the anticipated mechanism or long-term goal is achieved, such material would be ideal evidence for theorizing which strategic considerations policy makers have, which types of feedback effects they consider, and which architectural policy design strategy they follow.

Types of Evidentiary Material

However, policy makers' intentions are hard to study and can rarely be "read off" the material at hand in such a simple matter, no matter how extensive the empirical data pool is. The empirical investigation draws on "direct" and "indirect" evidentiary material. In the interpretation of both types of evidentiary material and of policy makers' strategies and intentions, one needs to keep in mind the distinction between "public" and "internal" material discussed in section 4.3.2.

First, "direct" evidentiary material is used when attempting to uncover policy makers' strategic intentions through statements that these policy makers made about themselves. Statements about policy makers' long-term goals are in fact manifold and occur in all types of investigated documents (e.g. policy paper, plenary debate, working group protocol). For example, Social Democrats rightly admit in a parliamentary debate that the reform of pay continuation aims at "equal treatment of workers and salaried employees in case of sickness."³⁷ Equally easy to uncover are the policy designs (and their elements) that policy makers favor. They can be investigated simply by reading the official reform proposal/draft act introduced into parliament,³⁸ or they can be investigated via plenary debates or working group meetings where reform proposals are discussed in detail. Statements that give insight into how policy makers link a particular element of a reform proposal to a long-term policy

³⁶ Here, "policy makers" means both individual and collective actors (e.g. parties, party wing, interest groups). Cf. section 3.2.

³⁷ BT-PA, Drs. V/227, p. 12514A.

³⁸ E.g. BT-PA, Drs. V/3985; BT-PA, Drs. V/3985.

goal via a specific process or mechanism they expect will unfold after the reform has been implemented are more rare. The following two statements from documents of the working group on social policy of the Christian Democrats' parliamentary group give a good example:

The Christian Democrats' proposal [which included particular cost sharing measures discussed earlier in the document] offers the opportunity to gain experiences and makes it easier for the legislative to pass further reform steps in the next legislative period as part of a permanent reform process.³⁹

It must be noted that a contribution refund scheme has the disadvantage, compared to direct co-payments, that it has a lower impact on the respective decisions made by the insured in case of sickness, because the use of medical services and its financial impact on the insured fall apart temporarily. However, the contribution refund scheme is the more practical procedure in a benefits-in-kind system and can contribute to the transition towards a reimbursement system with direct co-payments.⁴⁰

Here, the statements show that a specific policy design element (*contribution refund scheme*) and kind of mechanism (*gaining experience*) links this reform to an intended long-term outcome (*further reform steps in a permanent reform process; transition towards a reimbursement system with direct co-payments*). Based also on additional knowledge of the political debate and the goals of Christian Democrats, the following informed interpretation of the statements is possible: "The Christian Democrats' *long-term goal* was to transform the statutory health insurance from a benefits-in-kind structure to a reimbursement structure with cost sharing. In achieving this goal, the Christian Democrats strategically selected *certain cost-sharing measures* over others. In particular, they chose to pursue a contribution refund scheme over direct co-payments, even though the latter would be more effective in the short run. The Christian Democrats' anticipation was that the introduction of at least this cost-sharing measure would *increase policy makers' experience* with cost-sharing measures and, thus, *facilitate the introduction of more cost sharing in the future*, which would contribute to the achievement of the Christian Democrats' overall goal in the long run."

The *second* type of evidentiary material is "indirect" in the sense that it tries to show policy makers' strategic intentions through statements policy makers make about each other, i.e., statements that policy makers from one party, or one side of the political debate, make about policy makers from another party, or another side of the debate. When made in public or in direct negotiations

³⁹ ACDP, 08-005-061/1; Argumentation paper, 12.04.1969.

⁴⁰ ACDP, 08-005-092/3; On the reform of health insurance, no date.

with the other party (e.g. in parliament committees), such statements are typically accusatory. For example, in the debate about codetermination, a Social Democrat argues that the “actual political goals and purposes” of the Christian Democrats were to give the “small and smallest splinter groups in companies [...] a special advantage via low [election] quota.”⁴¹ Specifically, the Social Democrats feared that marginal, ineffective splinter groups would gain seats in electoral committees or supervisory boards and that this would empower small employee associations like the ULA, hinder employee representation via big union federations like the DGB, and, thus, make effective codetermination of the whole workforce improbable.

Such “indirect” evidentiary material must be clearly labelled when one makes statements about the policy design strategies of the “accused” party, and contextual knowledge must be drawn into the interpretation and evaluation of whether the accusation has a solid basis. Despite these challenges in the use of “indirect” evidence, the material provide valuable information on what elements of a policy design (here: low election quota) policy makers link to particular effects of a reform (weakening of big union federations and effective codetermination) and is therefore highly informative for theorizing architectural policy design strategies. Furthermore, indirect statements cannot be used to assess the goals and strategies of not only the “accused” party but also of the accuser who typically reveals his or her own goals and strategies when accusing the counterpart. In the example above, the Social Democrat’s statement suggests that his own preference is not to give power and influence to small “splinter groups” but to big trade unions and union federations like the DGB.

The Use of Evidentiary Material

Both examples demonstrate that long-term strategic considerations can be carved out of the collected material especially after one has familiarized oneself deeply with the respective case. Examples like the above are used throughout the empirical investigation as evidentiary material that substantiates the analysis and interpretation of the two cases. In some instances, a snippet of material is easy to identify as evidence; in others, interpretation relies more on immersion in the empirical material and the case-specific knowledge gained through it. Similarly, some interpretations and analytical conclusions have a more stable base in evidentiary material than others where the interpretation is more bold. Therefore, the empirical investigation is presented in

⁴¹ PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16025.

a transparent way that should enable the reader to evaluate and assess the narrative and conclusions that are presented.

The value of evidentiary material is determined by the degree to which it facilitates the development of analytical insights. Hence, the empirical analysis is not primarily concerned with counting specific statements that illustrate an analytical point or with discussing in depth the uniqueness or certainty of evidence from a process-tracing perspective (cf. e.g. Beach and Pedersen 2013, 2016a). While both aspects were considered in the interpretation and use of evidentiary material, the primary concern regarded the instrumentality of the material for developing theory. The subsequent case studies and Part IV of the dissertation reflect this concern by highlighting the analytical conclusions that can be drawn from the analysis rather than the particular empirical knowledge about the two analyzed cases.

The cases are therefore mostly based on “supporting” evidence, that is, evidence that supports the theoretical claim that policy makers do consider long-term implications of policy design and that gives insight into *how* they do so. This is because the primary goal of the dissertation is to develop a theory of architectural policy design and to derive analytical insights into policy makers’ strategic long-term considerations from the empirical investigation. In simple terms, one can only learn about the *how* of long-term considerations in policy design when studying long-term consideration, not when studying, for example, short-term considerations. As Beach and Pedersen put it, “one does not go moose hunting in Manhattan. If one wants to have any chance of shooting a moose, one should go hunting where they can in principle be present, such as the backwoods of Alaska or Maine” (Beach and Pedersen 2016b: 28). Consequently, while moose hunting, one looks for traces (supporting evidence) of moose on the ground, where one would find them, and not for birds’ nests in the trees. The reliance on supporting evidence also reflects the asymmetric causal claims case-based research typically relies on. Consequently, the assumption that policy makers’ strategic, long-term considerations lead to a specific policy design does not mean that the absence of these considerations leads to the absence of this policy design or that these considerations are the only potential cause for this policy design (Beach and Pedersen 2013: 24-26).

While empirical claims about the investigated cases are not the core objective of the dissertation, it does put forward such claims. When it does so, it tries to formulate these claims convincingly and to include potentially contrary evidentiary material. Empirical arguments are then based on analytical narratives and a sort of twofold counterfactual reasoning, meaning that policy makers could have set different priorities in the policy design process and that, had they done so, the final reform would have had a different design (Bates

1998: ch. 1; Capoccia 2015; Capoccia and Kelemen 2007). Importantly, analytical narratives need not be exclusive because different narratives can fit the empirical data and be internally coherent. Instead of aiming for simple falsification, the strategy is therefore to combine and subsume different explanations, when possible, rather than to arbitrate between them (Bates 1998: 17). In the presentation of the case studies, the dissertation therefore tries to allow the reader to evaluate how much confidence they can have in the presented narrative and conclusions and to evaluate those in relation to competing narratives. Overall, the case studies therefore emphasize and highlight empirical evidence that supports the claim that policy makers do strategically consider long-term effects of different policy designs. They do so to substantiate the problematization of the existing literature presented in chapter 1, to highlight that these considerations play an important role in policy design, and to find out how they do so. Yet, as outlined in the theoretical framework in chapter 3, the dissertation does not theoretically assume and claim that these considerations are the sole driver of policy making under any and every circumstance.

Next, Part III of the dissertation presents two case studies of German public policy making that apply the architectural policy design framework on the two cases selected according to the case selection procedure described in section 4.2.

PART III: EMPIRICAL INVESTIGATION

Part III of the dissertation comprises two case studies of architectural policy design that investigate the policy design processes of the Codetermination Act of 1976 and the Pay Continuation Act of 1969. The presentation of each case follows an identical template that the next paragraphs briefly introduce.

Each case study investigates the research question introduced in chapter 1, which asks *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*. The case studies start with an introductory section that presents the policy issue at stake in general terms and in the German context. Furthermore, the introductory sections point out the significance of architectural policy design in codetermination and pay continuation politics and give overviews of the argument and contribution of each case study (6.1 and 7.1). Next are sections that describe the history of the respective policy field prior to the adoption of the investigated reform and the key characteristics of the Codetermination Act and the Pay Continuation Act (6.2 and 7.2). Sections 6.3 and 7.3 then outline the political goals and programmatic positions of the three key parties (Social Democrats, Christian Democrats and Liberals) on the two policy issues.

The subsequent sections 6.4 and 7.4 form the core of the empirical analysis and present the architectural policy design strategies in the two cases. They respond in particular to the second analytical claim made in chapter 1 of the dissertation, which argued that the disaggregation of policies into policy instruments or design elements and the fine-grained investigation of design processes helps us understand better how policy feedback effects emerge and whether and how policy makers can (try to) design these intentionally. The sections investigate in detail the architectural policy design strategies that policy makers followed during policy design:

First, they give an overall characterization and juxtaposition of the overall policy design strategies that Christian Democrats and Social Democrats (respectively, the Social Democratic-led coalition with the Liberals)⁴² followed. *Second*, they “dissect” these strategies into their individual elements and show in great empirical detail how policy makers linked specific elements of the policy designs to specific, anticipated policy feedback effects. While sections 6.4 and 7.4 first present overall design strategies and then dissect these, the investigative procedure was the other way around. Individual elements of the

⁴² For different, case-specific reasons, the Liberals are not attributed distinct architectural policy design strategies in either case study (cf. sections 6.1.1 and 7.1.1 for further discussion).

design strategies were investigated first; then, analytically derived overall design strategies were imposed on the empirical material (cf. also section 3.2 on *working understanding*).

Following the fine-grained empirical analyses of the different elements of the design strategies, sections 6.5 and 7.5 “zoom out” of these micro-political details to offer a broader perspective on and discussion of how the identified policy design strategies played out during the political skirmishing around the design of the two acts. The sections discuss, for example, which compromises parties made, how considerations of policy feedback effects influenced the choice of design, and which policy designs eventually emerged from the debates. The two sections complete the presentation of the case studies and respond in particular to the first analytical claim made in chapter 1, which argued that attention to feedback effects helps remedy the functionalist bias in policy design studies and improves our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design.

Following the two case studies, Part IV concludes the dissertation with a discussion of the methodological, empirical and theoretical implications of the dissertation that will also set the lessons learned in the two instrumental case studies in relation to each other.

5. The Empirical Context

Before diving into the empirical investigation of the Pay Continuation and the Codetermination Act, this chapter briefly describes the context of policy making in the 1960s and 70s in Germany⁴³. It does so because it is important to provide foundational knowledge of the empirical context that is necessary to follow the case analyses in the subsequent chapters. The chapter comprises three sections: Section 5.1 provides a brief characterization of the zeitgeist of the 1960s and '70s and lays the base for an understanding of how the broader societal and political climate of the time influenced parties' political agendas in both reform debates and how these agendas were translated into concrete reform proposals. Section 5.2 discusses the structure of the party system in the 1960s and 1970s and the role of Christian Democrats, Social Democrats and Liberals as key public policy makers in order to understand determinants of parties' strategic behavior and the parties' relations to each other. The final section 5.3 discusses two relevant characteristics of the political-institutional context of policy making identified in the historical institutionalist literature (cf. section 2.2), namely the levels of veto barriers and institutional discretion. In doing so, it provides a background for understanding how these political-institutional characteristics shaped the policy makers' decision-making environments.

5.1 The Context of Public Policy Making in the late 1960s and early 1970s

The Pay Continuation Act of 1969 and the Codetermination Act of 1976 were passed only seven years apart from each other. The zeitgeist surrounding both political debates is therefore similar in most respects and the following description mainly focusses on the mid-1960s to mid-1970s.⁴⁴ During this brief period, both debates culminated and – as history later showed – important legislation was passed, even though both policy issues had been debated since the establishment of the Federal Republic in 1949.

The 'older' of the two reforms, the Pay Continuation Act of 1969, was one of the last acts passed under Germany's first so-called grand coalition, a governing coalition formed by the two big people's parties CDU/CSU and SPD. The coalition was in office from 1966 to 1969 and commanded an impressive 90 %

⁴³ For reasons of simplicity, *Germany* refers to the *Federal Republic of Germany*, i.e. the Western part of the divided Germany after 1945.

⁴⁴ Cf. for a broader discussion of the political, economic, and societal developments during the 1960s and 1970s: e.g. Borowsky (1985, 2002); Ellwein (1989); Müller and Meyers (1996); Rummel (1969); Schmoeckel (1991); Schmollinger (1980); Solms (2014).

majority in the Bundestag, leaving the liberal FDP with roughly 10 % of the seats as the only party in the opposition ranks. The coalition also commanded a majority in the second chamber of parliament, the *Bundesrat*, which gave it considerable political power (cf. the discussion of veto barriers in section 5.3) and allowed it to pass a number of substantial economic and fiscal policies. Among them a constitutional reform that rearranged the responsibilities and financial relationships between the federal government and the states to the benefit of the former, whose financial capacities and political competencies were extended.

At the beginning of the coalition's turn in 1966, Germany faced an unexpected economic downturn, which was partly the very reason for the collapse of the previous conservative-liberal government and the formation of the grand coalition. In reaction to this, the new government, which for the first time since 1949 included the Social Democrats, followed a more Keynesian approach to economic and social policy making. In contrast to the previously followed ordo-liberal approach, Keynesianism believed in the state's ability and obligation to intervene in and steer economic development in a joint effort with capital and labor. Unions therefore played a more important role and had more influence on social and economic policy making than before. An important instrument of German Keynesianism was the so-called "concerted action" (*Konzertierte Aktion*), an informal discussion group consisting of representatives of federal government and state government, the federal bank, unions, employer federations and researchers, formed in 1967. The concerted action, though never institutionalized, represented the belief that economic growth, price stability, balanced trade and high employment levels could be guaranteed through a joint, corporatist effort of the state, labor and capital.⁴⁵

The mid-1960s to mid-1970s can therefore be characterized as a period of exceptional labor movement strength that opened a window of opportunity for labor-friendly economic and social policies. Politically and publically, unions' and Social Democrats' goals of granting more rights and benefits to workers therefore stood a better chance of being fulfilled than in previous years, when the Christian Democrats and their liberal-conservative coalition partners held government power. The Christian Democrats and the Liberals, on the other side, faced a *zeitgeist* that was less and less compatible with their own political orientation (cf. section 5.2). The Christian Democrats therefore had to make difficult programmatic compromises so that they would not lose too much public support. In the Liberal party, a group of young reformists

⁴⁵ The concerted action came to an end 10 years after its formation in 1977/78, when union representatives left the group in reaction to the employer federation's legal suit against the Codetermination Act of 1976 (Müller and Meyers 1996: 379).

came to influence, steered the party on a social-liberal path and thereby prepared it for a reform-oriented government coalition with the Social Democrats.

Despite the growing influence of the political left in the late 1960s, the grand coalition was not one of major social policy reforms. In fact, the Pay Continuation Act is rather an exception in this regard and the government's record is more characterized by an emphasis on economic policies. Driven by the popular Social Democratic Minister of Economic Affairs, Karl Schiller, these policies led to a quick recovery of the German economy with growth rates jumping above 5 % again in the late 1960s. Despite this success, the government's strong position in parliament, and an agreement on important policy issues, the grand coalition was not the preferred choice of any of the political parties, and conflicts between the coalition partners increased over the years. Already before the coalition came into office in 1966, Social Democrats and Liberals had negotiated a potential social-liberal coalition and mainly dismissed this option due to its slim, though present majority in parliament. Facilitated by the Liberals' programmatic turn to social liberalism, the late 1960s then showed that both parties could find political compromises on many relevant policy issues. Furthermore, the grand coalition's reputation and popularity suffered from the lack of an effective opposition in parliament and rising concerns about democratic stability and accountability under a 90 % majority government. It therefore also contributed to the emergence of the so-called extra-parliamentary opposition (*Außerparlamentarische Opposition*, APO), which bundled various societal demands for "inner reforms", e.g. a democratization of the educational system.

Consequently, the grand coalition only lasted one term, and after the 1969 election, Social Democrats and Liberals formed a new social democratic-liberal government that stayed in office for 13 years until 1982. The new government under chancellor Brandt commenced its term with an ambitious agenda of inner reforms covering a broad range of policy fields and a new orientation in the politics towards the East (*Ostpolitik*), but it rested on a slim 12-seat majority and faced substantial criticism from within, especially among the Liberals. By 1972, the conflicts over the politics towards the East had diminished the government's majority to only two seats due to several defectors, and an early parliamentary election was therefore announced. To the surprise of many observers, the election clearly confirmed the social democratic-liberal coalition, and both partners could increase their share of votes. The coalition now commanded a comfortable majority in parliament and could further pursue its reform agenda. In the field of social policy, the government had already implemented important reforms like the Works Constitution Act of 1972 dur-

ing its first term. After the successful elections of 1972, the reform of codetermination was then one of the government's key projects. It introduced draft bill into parliament in 1974, but the negotiations between the coalition partners and with the opposition stretched over two years until 1976, when the Codetermination Act was eventually passed.

Overall, the zeitgeist of the 1960s and '70s can be characterized as a "social awakening" of an encrusted, conservative society and a slowly opening window of opportunity for the political left, which aimed to broadly modernize German economy, society and politics. For the first time in the Federal Republic, the political left shared government responsibility on the federal level and could push labor-friendly policies from within the Social Democratic-led government. Outside government, unions' political demands became increasingly accepted in the mass public, and union representatives gained more influence on public policy making through the adoption of a Keynesian approach to social and economic policy making. These developments had important consequences for the structure of the Germany party system, the role of the three major parties, the Christian Democrats, Social Democrat and Liberals, the relations between the parties, and the parties' contexts for strategic decision-making.

5.2 The Party System and the Role of Christian Democrats, Social Democrats and Liberals

The German party system of the mid-1960s to mid-1970s was dominated by the three parties: the Christian Democrats⁴⁶ as a people's party on the center-right of the political spectrum, the Social Democrats as a people's party on the center-left, and the Liberals as a small, ideologically more flexible party in the middle, which was important for forming majority coalitions. The following three sections give a brief overview of the parties' political-ideological roots, important aspects of their internal organization, and their strategic decision-making environment from the mid-1960s to the mid-1970s.

⁴⁶ In federal parliament, the Christian Democrats (CDU) form a common parliamentary group with the CSU (Christian Social Union of Bavaria), called CDU/CSU or Union. Both parties cooperate based on a "non-compete clause", meaning that the CSU partakes in local, state, and federal elections only in Bavaria, the CDU in the 15 other states (prior to 1990: 10 states plus West Berlin). In this dissertation, the analysis focusses on the CDU as the bigger of the two "sister parties" and only discusses the CSU explicitly when it is necessary for the understanding of the debates on codetermination and pay continuation, for example if/when the positions of CDU and CSU diverged gravely or if/when conflicts with the CSU influenced CDU/CSU's overall strategy. For reasons of simplicity, the dissertation uses the term Christian Democrats when discussing the behavior of the CDU/CSU parliamentary group in the federal parliament.

*The Christian Democrats: The “Natural Government Party” on the Defense*⁴⁷

The discussion of the zeitgeist already pointed out that the Christian Democrats were a governing party on the defense, struggling to retain political room for maneuver in the light of an opposition that was steadily growing stronger. In this process, the programmatic discussions on pay continuation and code-termination further challenged the party in finding compromises between its different wings and preserving party unity, so that it would not lose a considerable share of their followers.

In early post-war Germany, the Christian Democrats quickly became the dominant party in German politics. It united socially conservative Catholics with liberal-conservative Protestants and thereby bridged the former denominational divide and established a powerful center-right party. Christian Democrats also prided themselves on being responsible for the successful rebuilding of Germany, a revived and even thriving economy, and the integration into a free Europe and the Western Alliance. This founding myth of the CDU underpinned its electoral success, supported by a population averse to political experiments and paradigmatic reforms. The CDU therefore developed into a chancellor party (*Kanzlerpartei*) that showed a strong orientation towards and reliance on the chancellery and the government, while the internal structure and organization of the party and its membership base were rather weak.

From the first federal election in 1949 until 1969, the CDU headed different government coalitions (with a brief interregnum of single party governance), most of which included the Liberals. Twenty years of continuous Christian Democratic government responsibility let many view the CDU as the “natural government party”, a perception many of its higher representatives still shared even after being voted out of government in 1969 following the grand coalition. However, already in the 1960s, the CDU’s main competitor, the Social Democrats, experienced a continuous rise in voter popularity reflected in improved election results, while the Christian Democrats’ decline slowly set in. Only in the mid-1970s, after having lost another federal election in 1972, did the Christian Democrats’ party establishment start to acknowledge that the party had lost touch with societal developments during the 1960s and failed to adapt to changed realities and modern political trends.

⁴⁷ Cf. on the Christian Democratic Party’s origins, ideological roots, historical development, and political goals: e.g. Bösch (2002); Haungs (1990); Hintze (1995); Kleinmann (1993); Kohl et al. (1993); Pridham (1977); Walter et al. (2014); Zolleis (2008). The following discussion is primarily based on Haungs (1990); Kleinmann (1993); Pridham (1977); Zolleis (2008) and archival materials.

The history and self-perception of the CDU as *the* government party increased the challenges it faced when it was voted out of government in 1969 and attempted a programmatic and organizational reform. In the early opposition years until 1972, the parliamentary group of the CDU developed into the party's center of power that viewed itself and acted like a government in reserve. The CDU as an independent party organization – regardless of its role in government, chancellery and parliament – only gained in importance when reformists around the later Chancellor Kohl became more influential in the wake of the 1972 election defeat. Kohl, who became CDU chairperson in 1973, pushed both organizational and programmatic reforms and turned the CDU into a modern people's party that some observers characterized as fundamentally different from the “early” CDU.

The Christian Democratic party was therefore not used to conflictual programmatic debates up until the early 1970s. Instead, the party was characterized by a kind of “negotiating decision making” (*Aushandlungsdemokratie*) (Zolleis 2008: ch. 6) that tried to preserve party unity by finding compromises that pleased the important party groupings, i.e. the employee wing (*CDA*) and the employer wing (*MIT, DKM*), and united them behind their government. Both the pay continuation and the codetermination debate posed challenges to this mode of decision-making.

In summary, the Christian Democrats in the mid-1960s to mid-1970s can be characterized as a governing party on the defense. Split into an employee and an employer wing, the party used to preserve its unity through the shared focus on its government responsibility. In the wake of the election defeats of 1969 and 1972, the party strengthened its own organizational base independent of ministries and chancellery, and growing membership numbers meant a more majoritarian way of decision making, putting the employer wing at an advantage over the employee wing. This shift was also reflected in the debates on pay continuation and codetermination, which were characterized by strong internal conflicts. In the latter, the employer wing could more easily enforce its stance on codetermination due to its strength in numbers. In the former, the employee wing could use its strategical advantage to pressure the employer wing and the party majority into a pay continuation-friendly agreement.

*The Social Democrats: From the Opposition Benches to Government Power*⁴⁸

In contrast to the Christian Democrats, the Social Democrats enjoyed a steady growth in popularity in the early Federal Republic and increased their election results by more than a half between 1949 and 1972, from just below 30 % to 45 %. Established already in 1863, the Social Democratic Party is Germany's oldest political party with a continuous history since the German Empire (*Deutsches Kaiserreich*).

The Social Democrats were traditionally a classic mass party that integrated its working class members in a tight net of associations and clubs. Because the party historically did not have much influence in state structures (as opposed to the Christian Democrats as a natural government party), it had to rely on its own organizational strength as working class party to increase its political influence. Only in 1966 did the Social Democrats join government for the first time since the establishment of the Federal Republic under a Christian Democratic-led grand coalition. Three years later, in 1969, the Social Democrats led a successful election campaign and formed a government coalition with the Liberals.

The Social Democrats' organizational strength and programmatic homogeneity were supported by the fact that no other left-wing party managed to establish itself in the party system of the early Federal Republic, which left the Social Democrats as the only influential party on the political left. Throughout the 1950s and 1960s, however, the party was challenged by the beginning disappearance of classic worker milieus due to industrialization and automation and the success of the welfare state. In 1959, the Social Democrats reacted to those new realities and drastically reformed their party program in order to get on par with the Christian Democrats in terms of election results. The Social Democrats turned away from Marxist lines of thinking and instead accepted the success of the social market economy, which laid the foundation for the party's later successful economic policy in the grand coalition. At the same time, the party strongly emphasized codetermination and the strengthening of unions and the labor movement as key political goals and fought for these goals during the debates around the Pay Continuation Act and the Codetermination Act.

⁴⁸ Cf. on the Social Democrats origins, ideological roots, historical development, and political goals: e.g. Arend (1975); Bahr (1980); Braunthal (1994); Decker (2017); Faulenbach (2011); Klönne (1999); Miller (1978); Miller and Potthoff (1981); Müller-Rommel (1982); Ott (1978); Schmitt (1990). The following discussion is primarily based on Decker (2017); Schmitt (1990).

Overall, the Social Democrats can be characterized as a traditional working class party that fought for classic workers' issues like codetermination and pay continuation. While struggling with a waning working class milieu, the Social Democrats successfully approached new voter segments in the 1960s and made their way into government and chancellery. Putting strong emphasis on programmatic debates and having experienced various split-offs historically, the Social Democrats nevertheless stood comparatively united on their core policy issues such as pay continuation and codetermination.

*The Liberals: Programmatically and Ideologically Flexible "Party of Second Choice"*⁴⁹

In addition to Christian and social democracy, liberalism is historically seen as the third big political movement in Germany's political landscape. Before World War II, the liberal movement was strongly fragmented, but after 1945, the liberal FDP successfully incorporated two important streams of liberalism: national-conservative liberals, who historically emphasized the goal of German unity over fulfilling liberal democratic values and achieving parliamentary democracy, and progressive liberals, whose emphasis lay vice versa. The FDP did so by not developing a strong and unified party program uniting both wings, but by demonstrating an ideological vagueness and organizational weakness on the federal level that allowed the subordinate state parties to follow different political trajectories. The competing party wings only agreed on a cohesive party program in 1957, which was based on a formal compromise that emphasized the rights of responsible citizens to self-fulfillment and self-determination.

The party's programmatic core, however, continued to stay vague and open to different interpretations, and the party often concealed its internal conflicts by allowing one or the other party wing to dominate the party's political position in a certain policy field. Economic and social policy, the policy domain under which pay continuation and codetermination fall, was a stronghold of the national conservatives, who emphasized capitalist and market principles, represented business and employers' interests and mistrusted the influence of unions.

While the FDP remained relatively small in terms of election results and parliament seats, it nevertheless gained exceptional influences over German

⁴⁹ Cf. on the Liberals' origins, ideological roots, historical development, and political goals: e.g. Albertin (1980); Broughton and Kirchner (1984); Dittberner (1987, 2005); Kirchner and Broughton (1988); Kirchner (2009); Vorländer (1990). The following discussion is primarily based on Dittberner (1987); Kirchner and Broughton (1988); Vorländer (1990).

politics and government. This was due to its role as “majority maker” (*Mehrheitsbeschaffer*; a small party needed by a bigger party to reach an absolute majority in parliament) and the successful incorporation of the competing streams of liberalism into one, ideologically flexible party. Since absolute majorities are rare in the German parliament, the Liberals became an indispensable coalition partner whose influence in government coalitions often exceeded the party’s strength in terms of election results. Only from 1966 to 1969 could the party not capitalize on its strategic middle position but was relegated to the opposition benches during the grand coalition government of Christian and Social Democrats.

The brief years on the opposition benches gave the party time to reorient itself programmatically. During the late 1960s, the internal power balance had tilted towards the progressive wing who led the party on a social-liberal path, most famously manifested in the Freiburg theses, the party program adopted in 1971.⁵⁰ With the traditional division of labor in the party, the conservative party wing still dominated the party’s economic and social policy profile, which often brought the Liberals in conflict with their coalition partner, the Social Democrats.

Overall, the Liberals can be characterized as a “party of second choice” (Dittberner 1987) that Christian or social democratically-leaning voters strategically voted for in order to bring one of the big parties in government and at the same time provide for an opposition within the government against either Christian or Social Democrats, as in the debate on codetermination. The Liberals’ influence on government policies therefore often exceeded its real strength in numbers and overplayed the relative weakness of the party’s own membership base. Only during the grand coalition from 1966 to 1969 were the Liberals close to irrelevant for public policy making.

5.3 The Political-Institutional Context of Public Policy Making in Germany

Parties’ political strategies are not only circumscribed by their political-ideological roots, their internal modes of decision making and their relations to each other, but also by the political-institutional context of policy making. As mentioned in chapter 1, two characteristics of the political-institutional context are identified in the literature as particularly important in shaping processes of institutional and policy change: the level of veto barriers and the level

⁵⁰ Social liberalism denotes the attempt to combine liberal and left political ideologies, emphasizing that the freedom of the individual must not be reduced to legally guaranteed rights of freedom, but that individual freedom must be translated into equal opportunities in everyday life.

of institutional discretion defined by previous policies. The two following sections discuss the two characteristics in the above order for both the pay continuation and the codetermination case.

The Level of Veto Barriers

The concept of veto barriers signifies whether actors have institutional or extra-institutional means of blocking change. Veto barriers can derive from particularly powerful veto players in a political system, e.g. institutional veto players like chambers of parliament or constitutional courts, or partisan veto players like parties in government coalitions. Alternatively, they can derive from veto points, that is, points in the legislative chain of decisions at which agreement is needed (Immergut 1990; Tsebelis 2002). If there are actors that possess means to block policy change, veto barriers are high; if not, veto barriers are low.

The Constitutional Court

From a comparative perspective, observers have often characterized the German political system as one with rigid institutional constraints, a semi-sovereign state with intertwined politics and a consensual democracy (Katzenstein 1987; Lijphart 1999; Scharpf et al. 1976). The most prominent veto players in the German political system are the second chamber of parliament, the *Bundesrat*, and the constitutional court, the *Bundesverfassungsgericht*.⁵¹ The latter, Germany's highest court, can function as a "conditional veto player" (Kneip 2011: 225) *ex post facto*.⁵² Once the Bundestag passes a law, opponents can challenge it in front of the court, which then evaluates the law's constitutionality. Hence, the court can be strategically 'used' – typically by the opposition or interests groups who oppose a law passed by government – as a downstream institutional veto player. Frequently, threats "to go to Karlsruhe" (Wesel 2004), where the court is physically located, are already made during political debates in order to discourage the government from pursuing certain legislation and to "prepone" the veto power of a potential court trial into the process of policy formulation.⁵³

⁵¹ In a coalition government, the parties in government can formally be considered (partisan) veto players as well. However, since they are also agenda setters, this terminology can be misleading (Merkel 2003: 6).

⁵² Kneip (2011: 225) refers to the *Bundesverfassungsgericht* as a "conditional veto player" or "triggered veto player" since the court cannot become active by itself, but needs to be activated by other actors.

⁵³ This phenomenon is also referred to as a "passive judicialization" of policy-making (Kneip 2011: 223; cf. also Landfried 1994).

In the case of the *Codetermination Act*, the constitutionality of the government's proposal was subject to intense debate among policy makers and legal scholars (Faulenbach 2011: 442).⁵⁴ In particular, the employer federation BDA publicly questioned the act's constitutionality.⁵⁵ Since an expert hearing in parliament did not bring clarity, the conflict was never resolved and the BDA eventually challenged the act in front of the constitutional court after parliament passed it. In doing so, the BDA's main goal was less to see the act repealed by the court than to have the court set clear constitutional limits to any potential further extension of codetermination rights. However, in 1979, the court decided against the plaintiffs and declared the act compatible with the *Grundgesetz*, the Basic Law of the Federal Republic (Borowsky 2002). Despite the government's success in court, the continued debate on the constitutionality of the act functions as an early limitation to what the government perceived as possible in the codetermination reform and led the government to revise its reform draft substantially between 1974 and 1976.⁵⁶

In contrast to the Codetermination Act of 1976, the constitutionality of the *Pay Continuation Act* was never challenged and the constitutional court therefore did not play the role of an actual or preponed veto barrier.

The Second Chamber of Parliament

The second important veto player mentioned above was the second chamber of parliament, the *Bundesrat*. In the legislative process, the Bundesrat's approval of legislation passed by the Bundestag is necessary in approximately every second case, depending on the substance of the respective law.⁵⁷ Since

⁵⁴ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974; Parliament Archive, PA-DBT 4000 VII 400 lfd. 31: Bundestag committee on labor and social policy, public expert hearing, 04.11.1974; Parliament Archive, PA-DBT 4000 VII 400 lfd.33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974

⁵⁵ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30 (supplementary document): statement of the Employer Federation's (BDA) working group on codetermination, 06.12.1974, p. 12-14.

⁵⁶ Bundestag Printed Matter 07/2172: government proposal for Codetermination Act, 29.04.74; Bundestag Printed Matter 07/4787: Bundestag committee on labor and social policy, revised pro-posal for Codetermination Act, 23.02.1976; Parliament Archive, PA-DBT 4000 VII 400 lfd. 17 (supplementary document): legal synopsis about changes between different reform proposals, 28.01.1974; Parliament Archive, PA-DBT 4000 VII 400 lfd. 41: legal synopsis about changes between different reform proposals, 16.2.1976.

⁵⁷ Historically, the Bundesrat's approval has been necessary for slightly over half of the bills passed by the first chamber, the Bundestag. For the other half of the bills, the Bundesrat can object to legislation coming from the Bundestag, but this objection can be outvoted by the Bundestag in a second vote (Merkel 2003: 5-7; cf. Heyer 2015; Website:

majorities in the Bundestag and Bundesrat are often not in agreement, and since major legislation typically necessitates approval by the Bundesrat, Germany has previously been referred to as a “grand coalition state” in which Social Democrats and Christian Democrats are often forced to cooperate, even when they do not form a government together (Schmidt 2015).⁵⁸ As Merkel (2003: 5-6) emphasizes, it is therefore important to determine the veto power of the Bundesrat in each case depending on the policy field or issue, since the second chamber is not a consistent veto player.

In the case of the *Pay Continuation Act*, the government actually consisted of Social Democrats and Christian Democrats, who had a clear majority in both chambers of parliament. Furthermore, no specific state interests were at stake in the case of pay continuation, which would potentially set an SPD- or CDU-governed state in opposition to the federal government, and the nature of the act would only have allowed the Bundesrat to delay its adoption but not to block it. Hence, the Bundesrat effectively did not play the role of a veto player.

In the case of the *Codetermination Act*, the question of whether the Bundesrat’s consent to the act was necessary was subject to disagreement between government and opposition. The Christian Democratic opposition held a slight majority in the Bundesrat, which it could potentially use to try to force the government to make concessions if the act was declared to require the Bundesrat’s consent. Naturally, the government wanted to avoid this situation and therefore negated that the second chamber’s consent was necessary for passing the act in its initial proposal.⁵⁹ While the Bundesrat, in its statement to the government proposal, declared it viewed the act as requiring consent, the government subsequently replied that this was not the case since its substance matter was within the prerogatives of the Bundestag.^{60,61} Importantly, the government could draw on established jurisprudence that was in support

<https://www.bundesrat.de/SharedDocs/downloads/DE/statistik/gesamtstatistik.html>
(last access: Maj 25, 2018)).

⁵⁸ Merkel notes, though, that political parties have developed “enormous creativity in splitting up single bills strategically [into parts that require consent and part that do not] to avoid their introduction into the Bundesrat” (2003: 5-6).

⁵⁹ Bundestag Printed Matter 07/2172: government proposal for Codetermination Act, 29.04.74.

⁶⁰ Ibid.

⁶¹ Historically, the Bundesrat has frequently taken the position that acts (like allegedly the 1976 Codetermination Act) that change a previous act that required the consent of the Bundesrat also require the consent of the Bundesrat. However, according to the constitutional court and established jurisprudence, not all such acts require the Bundesrat’s consent. Instead, the act itself must be evaluated in terms of whether it necessitates consent by the Bundesrat.

of its position. Since the final Codetermination Act was eventually passed with the support of the Christian Democratic opposition after the government had revised its proposal, the dispute on the Bundesrat's consent to the act was resolved without further political or legal arguments, and the Bundesrat can be considered to not have been a veto barrier for the government.

Overall, this allows us to characterize the veto barriers in both the pay continuation case and the codetermination case as low, even though the social-liberal government faced some challenges regarding the legislation's constitutionality in the codetermination case.

The Level of Institutional Discretion

The level of institutional discretion typically describes how much freedom of action institutional rules leave for rule takers in implementing or interpreting said rules. In the analysis of architectural policy design strategies, the concept more specifically refers to institutional discretion as describing how much "room to maneuver" previous legislation on a particular issue leaves to political actors for a reform of this legislation or to the passage of new legislation on the issue in question.

For the *pay continuation case*, the level of institutional discretion was comparatively low. As the historical overview of legislation on sickness benefits will show in section 7.2, an established system for compensating sick workers had already existed before the 1969 Pay Continuation Act. This system of sick pay was deeply rooted in the German social insurance system, where health funds covered workers' sick pay since the late 19th century. It was continuously adapted to rising demands of workers and political criticism from Social Democrats and the labor movement. Important involved actors, in particular employers, had vested interests in its continuity, and it granted workers – with only few limitations – the same rights and benefits as legislation pertaining to salaried employees. Hence, in 1969 policy makers could not exploit a regulatory gap, nor was the existing system for workers' sick benefits easy to change without disturbing the current arrangement. In their efforts to formulate a reform in 1969, policy makers were therefore in a context of low discretion where the existing policy sets rather narrow limitations to reforms.

For the *codetermination case*, the level of institutional discretion was comparatively high. As the historical overview of legislation on codetermination will show in section 6.2, there was a considerable regulatory gap in codetermination legislation. While previous acts at first sight covered the largest part of the German labor force, the extent and depth of employee rights varied drastically between sectors covered by different laws. For example, the Works

Constitution Act of 1952 was broad in its coverage, but the extent of codetermination rights and the depth of regulation were rather limited.⁶² The Works Constitution Act of 1972, as another example, focused exclusively on regulating codetermination on the firm level but did not address employee participation on the company level. Hence, limited coverage, restrictions in the extent of codetermination and lacking depth of legislation in combination add up to a comparatively high level of institutional discretion for policy makers aiming for a reform of codetermination.

⁶² Only two out 89 paragraphs in the act concerned employee participation on the company level, leaving many regulatory issues unaddressed. In contrast, the later 1976 Codetermination Act contained 41 paragraphs.

6. The Codetermination Act of 1976

6.1 Introduction to the Case Study

The subsequent sections present the first case study of architectural policy design, following the structure outlined at the beginning of Part III, and investigate the Codetermination Act of 1976. The reform was selected as an ideal instrumental case of architectural policy making because it was situated in a context evaluated as most conducive to architectural policy design (cf. section 4.2.3).

The Issue of Codetermination

Codetermination means, broadly speaking, that employees and management participate in determining business policy and is a central element of labor relations regulation. More specifically, one can understand codetermination as the

direct influence of employees on the management of economic processes. *Direct* means that employees exercise this influence within the economic system itself in their role as employees and not in their role as citizens in the political system through parties, parliaments, governments and bureaucracies. [...] *Influence* means every form of influencing the economic process, every step with which employees transcend the complete dependence on the management's will and with which they set their own will in opposition to the management's will, from the most moderate complaint or information request up to the participation in firm management itself. (Oertzen 1965: 7, italics added; in Barthel and Dikau 1980: 9)

Hence, the regulation and extent of codetermination goes to the heart of the economic system. It addresses the question of who decides on business policies and the balance or imbalance of power between capital and labor (i.e. shareholders and employees). For the labor movement, the issue of codetermination is of exceptional importance because it is the closest it will get to a socialist economic and societal order. The conflict between capital and labor has characterized modern societies like Germany since the onset of the industrial revolution, and it is still reflected in party systems and in the structure of the interest group landscape. Codetermination can be understood as a means for taming or resolving this conflict, even though codetermination itself has long been highly contested. Codetermination can tame the conflict between capital and labor in different ways depending on how the concept is interpreted and fleshed out with concrete regulatory content.

In a simplified fashion, one can make out two poles in the interpretation of codetermination and the way it can resolve the conflict between capital and labor: one is by integrating the workforce into a capitalist economy, the other

by democratizing the capitalist economy and overcoming the capitalist system (cf. on concepts and degrees of codetermination: Mayer 1976: 37-41). The *first* pole understands codetermination as a means to resolve the conflict between capital and labor by allowing for employee participation in economic decision making without harming shareholders' right to make final decisions. From the perspective of the labor movement, this means "sedating" employees and "luring" them into a model of partnership with shareholders that does not grant them substantial rights but that guarantees a "functional" economy, as business representatives would say. The goal is to contain and cool down the conflict between capital and labor in a model of social partnership that prevents employees from fundamentally questioning or opposing the economic order but that stabilizes the capitalist economic system.

The *second* pole understands codetermination as anti-capitalistic and radical-democratic and sees it as one of many means necessary for limiting the influence and power of capital owners and their disposal over employees. Codetermination, in this perspective, serves the creation of an effective, countervailing power of the labor movement that can control capital owners and oppose their claim to power. Codetermination then goes hand in hand with the socialization of big corporations and national economic planning systems and helps to overcome the capitalist economic order to the benefit of workers' self-management.

Codetermination in Germany

Codetermination cannot only be understood in different ways, it can also be applied at different levels of the employee-employer relationship, namely the shop-level and the corporate level. In the German context, codetermination on both those levels is a core characteristic of the labor market, corporate governance and labor relations.

First, on the shop level, employees in almost all companies have the right to elect work councils (*Betriebsrat*) that represent their rights towards the employer in social, personnel and economic matters. In personnel and social matters, work councils practically have the possibility to block employer decisions (due to the mandatory consent between partners; *Konsenspflicht*), and rights are therefore more extensive than in economic matters, where work councils cannot block decisions but have the right to be consulted and included in dealing with consequences of, e.g., shop closures. In the public sector, employees are able to participate via a similar scheme through so-called staff councils (*Personalrat*). *Second*, on the corporate level, employees have the right to elect representatives for corporate supervisory boards (*Aufsichtsrat*). Depending on the number of employees, they can elect either a third or

half of the board members. Through supervisory boards, employees participate in corporate decision-making, in the election of the members of the board of directors (*Vorstand*) and in the control of the management of the company.

Both levels of codetermination have early roots in the late 19th and early 20th century. In the Federal Republic, major codetermination reforms that prescribed the above regulations were implemented in the 1950s and 1970s (e.g. Works Constitution Act of 1952 and Works Constitution Act of 1972; cf. section 6.2). While the two levels of codetermination are closely related to each other, the case study follows the political-legislative separation between corporate level codetermination and shop level codetermination and focusses on the Codetermination Act of 1976 alone.

Architectural Policy Design in German Codetermination Politics

The broad spectrum of how one can understand the concept of codetermination allows for a variety of different political positions on codetermination that the political debate in Germany in the 1960s and '70s also reflected. Roughly speaking, the constellation of positions was as follows (cf. section 6.3 for a more detailed description): *First*, Social Democrats were – supported by the labor movement – clearly in favor of far-reaching codetermination regulations. Their aim was to introduce codetermination with “full parity” (i.e. an equal number of seats for employee and shareholder representatives) in big corporations in all sectors of the economy, similar to previous legislation on codetermination in the mining and steel industry.

Second, the Liberals were, despite their recent shift towards social liberalism, skeptical of far-reaching codetermination rights for employees and therefore preferred a solution that extended the rights of the middle management as a “third factor” in labor relations, i.e. elevating the middle management as a distinct third player next to employees and shareholders. Since Liberals and Social Democrats formed a government coalition, the parties faced the challenge of finding a compromise between their conflicting positions.

Third, the Christian Democrats were, as described earlier, split into two wings. The employee wing favored a reform along the lines of the Social Democrats' position; the employer wing stood closer to the position of the Liberals and opposed too far-reaching codetermination rights for employees. As a

whole, the party therefore eventually argued for an extension of codetermination, but in a weaker form compared to the 1952 legislation, i.e. without full parity (ensuring shareholders the decisive, final vote).⁶³

At a first glance, the differences between these proposals quickly boil down to the immediate, substantial consequences they would have for employees and shareholders, in particular, the question of how extensive the rights granted to employees would be. Because this question is of great importance, the reform debate was often heated and highly confrontational through the 1960s and 70s.⁶⁴ Important points or questions of conflict were, for example: How many seats should employee representatives receive? Should employee representatives effectively be able to veto management decisions or “only” to voice their opinion? Are extensive codetermination rights in line with the constitution, or do they violate shareholders’ property rights? What status should managerial employees have? Should they be treated as a distinct, third group and receive “their own” seats on supervisory boards?

However, questions like the above, the intensity of the political conflict, the animosity between the counterparts, and the focus on the immediate effects of a reform can easily obscure another more “subterranean” dimension of the political conflict. This subterranean dimension concerns the long-term implications that different reform options and policy designs would have on future dynamics of codetermination and labor relations politics. While these long-term implications are less obvious to the uninformed observer, they were on the minds of policy makers and played an important role during policy making. In this regard, the important question is why and how the differences between the three reform options – some of them only technical at first sight – affect the politics of codetermination and labor relations in the long term. For example, how does codetermination policy affect the influence and organizational strength of unions? How does it affect inter- and intra-union relations? How does it affect employees’ awareness, desire, and possibility to organize and seek representation? How does it affect the balance or imbalance of power between employees and shareholders?

The answers to these questions and to how policy makers thought about them will be given in the subsequent case study. From the perspective of the

⁶³ The actual number of reform proposals extended well beyond the count of three. In addition to the Social Democrats, Liberals and Christian Democrats, several interest groups, individual members of parliament, and groupings within the three parties made their own proposals to influence the political debate.

⁶⁴ Cf. e.g. the plenary debates in the Bundestag on the reform of codetermination: Bundestag Printed Matter 07/230: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976; Bundestag Printed Matter 07/110: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974.

theoretical framework on architectural policy design, the guiding case-specific research question asks *how or to what extent the politics of codetermination can be a case of architectural policy design?* In other words, *were policy makers aware of the different political implications of the competing reform designs at the time of policy formulation, and if so, how did strategic considerations of these implications shape the policy formulation and design?*

Preview of the Argument and Contribution

The answer to the above research question is not a simple one-liner. The case study presented in the following chapters responds to this question based on a thorough investigation of the available empirical material described earlier in section 4.3. In doing so, it will substantiate the two analytical claims made in chapter 1. To reiterate briefly, the *second analytical claim* argued that the disaggregation of policies into policy instruments and design characteristics and the fine-grained investigation of the design process gives us a better understanding of how policy feedback effects emerge and whether and how policy-makers can (try to) design these intentionally.

Typically, policy feedback studies would seek to identify feedback effects that originate in past labor regulation policies in order to explain the persistence of the codetermination model, which has been largely unchanged since the 1976 Codetermination Act. These studies would point to factors that sustained the policy regime over time, e.g. the adaptive behavior of involved actors, feelings of entitlement to codetermine in the workforce or participation in economic decision-making by worker representatives. They would trace these effects back to critical junctures in policy development and path-generating reforms in order to explain path dependence.

However, the studies would not investigate the design process or explain whether these formative choices were strategically made, nor would they investigate whether and how policy instrumentation and design characteristics shaped feedback effects. The argument proposed here is not that traditional approaches to policy feedback are not able to uncover and identify feedback effects correctly, but that they cannot tell us, for example, whether or to what degree policy feedback is caused by strategic policy making, which elements of policy design actually create and shape feedback effect, or whether the feedback effects that materialize match those anticipated or intended by policy makers at the time of policy design. In order to substantiate this claim and respond to the research question, the case study delves into the design process of the Codetermination Act and investigates policy makers' struggle over slight modifications in the design of the act and the architectural policy design strategies they followed.

The *first analytical claim* argued that attention to feedback effects helps remedy the functionalist bias in policy design studies and improve our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design. Typically, policy design studies in the policy sciences would investigate the Codetermination Act's suitability for solving the challenge of organizing employee participation in economic decision-making. Studies would inquire whether actors rationally followed existing knowledge when selecting instruments, how mixes of different policy instruments work together, whether the final policy design was effective and efficient, or how the act related to legislation elsewhere.

However, these studies would typically not investigate the *political* considerations during the design process but sideline them as aspects of "non-design". More political perspectives on policy design, as discussed in section 2.2, would typically not include considerations of policy feedback effects among potential political factors shaping policy design or be based on well-developed concepts of strategic policy making.

In sum, policy design studies would therefore not explain the political struggle and strategic conflict between the involved parties during the four-year negotiations and only offer a partial understanding of the design process and outcome. In order to substantiate the second claim and respond to the research question, the case study investigates more closely the political skirmishing around policy design characteristics that offhand may seem trivial but that policy makers expect to be of great importance for ensuing feedback effects.

The case study presented in this chapter argues that the debate on codetermination featured *two strategies of architectural policy design* that were supposed to either unify the labor movement and strengthen unified trade unions like the DGB or to fragment the labor movement and weaken unified trade unions⁶⁵. As discussed in chapter 3, architectural policy design strategies are not completely static but develop and change throughout the political debate as policy makers adapt to changing environments and incentives. The short description here and the extensive empirical investigation in sections 6.4 and 6.5 aim to identify the essential features of policy makers' design strategies. This means that the descriptions of parties' overall design strategies do not match exactly one specific policy proposals or reconstruct a secret master

⁶⁵ The term *unified* trade unions (*Einheitsgewerkschaften*) refers to "trade unions open to all workers regardless of their ideological leanings or political convictions", as opposed to so-called *Richtungsgewerkschaften*, i.e. "trade unions with more concrete ideological or political party links" (Dribbusch and Birke 2012: 2). For simplicity, the dissertation typically refers to *unified* trade unions as trade unions/labor unions but indicates when *Richtungsgewerkschaften* are discussed.

strategy paper produced by government or opposition at a specific point during the design process, but that they analytically try to get to the core of policy makers strategies in the design process.

The *first strategy* was followed by the Social Democratic-led government (supported by the labor movement) and represented a compromise between Social Democrats and Liberals. The government's policy design included full parity on supervisory boards, the introduction of intermediate electoral committees, the inclusion of external union representatives, limited group rights for the middle management⁶⁶, and the installment of a labor director on the board of directors. Policy makers anticipated that this would create four types of policy feedback effects (self-reinforcement effects, infection effect, spillover effect, entrenchment effect) that would shape the political dynamics in codetermination politics and labor relations towards a more unified labor movement with powerful unified trade unions.

The *second strategy* was followed by the Christian Democrats (supported by employer federations) and included the introduction of group rights for the middle management, direct elections of supervisory boards, a rejection of external union representatives and codetermination "below" full parity, i.e. with a guaranteed shareholder majority. This design was envisioned to create four types of feedback effects (precedence effect, spillover effect, entrenchment effect, self-reinforcement effect) that would facilitate a political development towards a fragmented labor movement and weakened unified trade unions.⁶⁷

By uncovering and investigating these policy design strategies, this study contributes to the existing literature and shows that policies are designed not only based on concerns for optimal problem solution and or short-term political benefit, as most literature typically assumes, but also based on considerations of their long-term effects on political dynamics. It thereby improves our understanding of which types and elements of policy design may produce which types of policy feedback effects from the perspective of policy makers

⁶⁶ The role of the middle management in codetermination was an important point of conflict between Social Democrats and Liberals and of particular importance regarding anticipated long-term policy effects. Sections 6.4 and 6.5 discuss this issue in detail since Liberals and Social Democrats ideally proposed policy designs that would lead to opposite policy feedback effects.

⁶⁷ The Liberals are not ascribed a distinct policy design strategy, but their influence on the Social Democratic-Liberal government is discussed throughout the case study. Ideologically closer to the Christian Democrats on the issue of codetermination, the Liberals' role as small coalition partner limited their ability to push through their own policy proposal. However, the Liberals successfully curtailed the Social Democrats' "ideal" design strategy and moved the government's joint reform proposal closer to the position of the Christian Democrats and thereby made it easier for government and opposition to eventually reach a compromise between their conflicting reform proposals.

(cf. Part IV). The study thereby helps to outbalance the functionalist bias in policy design studies and give a better understanding of the real-world patterns, struggles, potentials and challenges of strategic policy design.

These contributions and the two broad architectural policy design strategies are substantiated in a more fine-grained analysis of specific policy feedback dynamics that policy makers considered in the reform of codetermination. In particular, the analysis shows policy makers' explicit consideration and attempt to influence the structure of the system of interest representation through public policy making. The study thus also goes beyond previous research that has shown that public policy does influence the structure of interest representation in the long term through policy feedback effects (e.g. Campbell 2003, 2012; Mettler 2002; Mettler and Welch 2004) or policy legacies (Döhler 1995). It also goes beyond research on the impact of parties' political strategies in shaping society, political mobilization and long-term policy development (cf. e.g.: Rothstein 1996; Esping-Andersen and Korpi 1984) in that it shows based on a detailed empirical analysis of archival documents how policy makers try to realize long-term political strategies in and through the design of political reforms. Thus, it adds stronger evidence of policy makers' strategic consideration of feedback effects during policy design and their attempts to design long-term feedback effects intentionally.

6.2 Legislation on Codetermination Prior to 1976 and the Provisions of the Codetermination Act of 1976⁶⁸

The reform of codetermination was the second big reform project of the Social Democratic-Liberal government in the field of labor relations. Four years earlier, the new coalition had already passed the Works Constitution Act of 1972, which had reorganized and extended employee participation on the shop level. The joint goal of both reforms was pushed in particular by the Social Democrats and was to reform the structure of labor relations in post-war Germany and to extend the influence of employees in the economy. Today, both reforms qualify as milestones in German labor relations legislation.

Prior to the 1970s, three legislative acts shaped labor relations and workers' participation in corporate decision making in the Federal Republic: the Works Constitutions Act of 1952, the Coal and Steel Codetermination Act of 1951, and the Codetermination Amendment Act of 1956. The historical roots of codetermination date even further back. Already in the mid- to late-19th century were

⁶⁸ Cf. e.g. Kißler et al. (2011); Lauschke (2006); Page (2011); Thum (1982); cf. also: ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 24.07.1967, and <https://www.boeckler.de/34796.htm> (last access: April 27, 2018).

voluntary forms of employee participation through work councils a part of labor law. Throughout the first half of the 20th century, these regulations were gradually extended to cover more, i.e. smaller, firms and oblige firms to establish worker councils (instead of only spelling out the possibility to do so). Under the Nazi Regime, all forms of codetermination were abolished and could only be reestablished after the defeat of Germany in World War II.

The three acts that regulated codetermination in the early Federal Republic before the 1970s were limited in their scope. *First*, the Coal and Steel Codetermination Act of 1951 and the Codetermination Amendment Act of 1956 only targeted companies, as the title indicates, in the mining and steel industry with more than 1000 employees as well as parent companies whose objectives were defined by their daughter companies in the mining and steel industry. The acts prescribed what is known in Germany as *paritätische Mitbestimmung*, that is, codetermination based on “full parity” (i.e. an equal number of seats on supervisory boards) between employee representatives and shareholder representatives. While the passage of the first act in 1951 was a major victory for the labor movement, the act did not apply to large parts of the German economy and was therefore, from the perspective of the labor movement, only an intermediate step towards full workers’ participation as advocated by most unions.

Second, the Works Constitution Act of 1952 encompassed all sectors of the economy and regulated shop level codetermination in all companies with more than four employees, but regulations regarding codetermination on the corporate level covered only larger companies with more than 500 employees and prescribed only so-called *Drittelparität*, literally meaning “one-third-parity”. According to the act, workers’ representatives received only one third of the seats on company supervisory boards while shareholder representatives occupied the other two thirds. Hence, for the bigger part of the German economy, the regulations regarding workers’ participation fell well behind what the labor movement had achieved in the coal and steel industry. Therefore, unions continuously lobbied for a reform and an extension of codetermination legislation into other sectors of the economy.

The labor movement achieved a first success in 1972 when the newly elected Social Democratic-Liberal government introduced major changes in employee participation with the reform of the Works Constitution Act. While the reform extended employee rights in shop-level codetermination, the coalition deliberately excluded codetermination on the corporate level from the reform. The government announced that it was planning to introduce separate legislation to regulate workers’ participation in companies’ supervisory boards in the following legislative period. It could only fulfill this promise four years later in 1976 when it passed the Codetermination Act of 1976 after an unusually long

legislative process. Before presenting the key provisions of the act in more detail, Table 6.1, below, gives a summary of key legislation on codetermination prior to 1976.

Table 6.1: Key Legislation on Codetermination Prior to 1976 (Selection)

Year	Act	Key Provisions
1891	Commercial Code of the German Reich (<i>Novelle zur Reichsgewerbeordnung, 01.07.1891</i>)	Voluntary establishment of worker councils (<i>Arbeiterausschüsse</i>)
early 19 th c.	e.g. Prussian Mining Act (<i>Gesetz vom 05.07.1905 betreffend die Abänderung des Allg. Berggesetzes vom 24.06.1865/92</i>); Act on the Delegation of Work Council Members to Supervisory Councils (<i>Gesetz über die Entsendung von Betriebsratsmitgliedern in den Aufsichtsrat, 15.02.1922</i>)	Obligatory establishment of worker councils in mining companies with more than 100 employees; Delegation of 1-2 members of worker councils to supervisory boards
1951	Coal and Steel Codetermination Act (<i>Gesetz über die Mitbestimmung der Arbeitnehmer in den Aufsichtsräten und Vorständen der Unternehmen des Bergbaus und der Eisen und Stahl erzeugenden Industrie, BGBl. 1951, Nr. 24, 23.05.1951</i>)	“Full parity” on supervisory boards in corporations in coal and steel industry with more than 1000 employees
1952	Works Constitution Act (<i>Betriebsverfassungsgesetz, BGBl. 1952, Nr. 43, 14.10.1952</i>)	Shop-level Codetermination in all sectors of the economy in firms with more than 4 employees; one-third-parity on supervisory boards (outside coal and steel industry)
1956	Codetermination Amendment Act (<i>Gesetz zur Ergänzung des Gesetzes über die Mitbestimmung der Arbeitnehmer in den Aufsichtsräten und Vorständen der Unternehmen des Bergbaus und der Eisen und Stahl erzeugenden Industrie, BGBl 1956, Nr. 38, 08.08.1956</i>)	Extension of regulations of the 1951 Act to parent companies whose objectives are defined by those companies covered by the 1951 Act
1972	Works Constitution Act (<i>Betriebsverfassungsgesetz, BGBl. 1972, Nr. 2, 18.01.1972</i>)	Extension of codetermination regulations of 1952; Regulation of codetermination on the corporate level left to subsequent reform

The Key Provisions of the Codetermination Act of 1976

Besides the continuous lobbying efforts of the labor movement, two other factors opened a window of opportunity and facilitated a reform of codetermination. *First*, the political and economic climate of the 1960s and 1970s led to a changed approach to economic policy and gave unions more leverage in policy making (cf. chapter 5). The establishment of an expert commission on codetermination was a part of this changed approach. The commission submitted its final report in 1970 shortly after the election of the new Social Democratic-Liberal government. In the report, it argued for an extension of codetermination beyond the legislation of 1952, but not to the extent of codetermination

with full parity in the mining and steel industry.⁶⁹ *Second*, the newly elected Social Democratic Chancellor Brandt ran a campaign that promised progressive social reforms and more opportunities for participation for employees. With the Social Democrats in government, post-war Germany also got its first center-left government, which was comparatively more labor-friendly than the previous governments.

After long-lasting negotiations between government and opposition as well as within the government coalition, a reform of codetermination on the corporate level was passed in 1976. The Codetermination Act of 1976 extended codetermination rights for employees substantially compared to earlier legislation. Important stipulations concerned in particular five issues: *First*, the act regulated in detail the *election procedure* for employee representatives on supervisory boards, introducing different election procedures for big and small companies. Both procedures were based on proportional representation of three different employee groups: workers, salaried employees,⁷⁰ and middle managers.⁷¹ *Second*, the act entitled the *middle management* to mandatory representation and granted it group rights in the election procedure and other stipulations. *Third*, the act regulated the *composition and internal order of supervisory boards* and prescribed an equal division of seats between employee and shareholder representatives. The seats of employee representatives were divided into “external seats” (for external union representative) and “internal seats” (for members of the corporation’s workforce), which had to represent the three employee groups proportionally. *Fourth*, the act regulated the resolution of potential *impasses* on supervisory boards by giving a double voting weight to the chairperson in case of an impasse. *Fifth*, the act introduced a so-called *labor director* as an equal member of the board of directors. Contrary to previous legislation, the act did not define particular tasks and responsibilities or a particular election procedure for the labor director. Table 6.2, below, summarizes the key provisions of the 1976 Codetermination Act.

⁶⁹ Bundestag Printed Matter 06/334: report by expert commission on codetermination (“Mitbestimmung im Unternehmen”), 04.02.1970.

⁷⁰ Cf. section 7.1 on the distinction between workers and salaried employees.

⁷¹ Middle managers (*leitende Angestellte*) are employees with managerial functions, e.g. the power to hire and fire employees or to act and sign on behalf of the firm.

Table 6.2: Key Provisions of the Codetermination Act of 1976

<p><i>Election procedure:</i></p> <ul style="list-style-type: none"> - direct elections in companies with under 8000 employees, intermediate electoral committee in companies with more than 8000 employees - proportional representation of workers, salaried employees and middle management on electoral committee; separate election of delegates - high quotes for candidate proposals - election of supervisory board members based on proportional representation - proportional representation of all employee groups on supervisory boards - external union representatives on supervisory boards elected based on proportional election <p><i>Labor director:</i></p> <ul style="list-style-type: none"> - introduction of “labor director” as member of the board of directors - no specification of tasks, competences or election procedure (as in legislation of 1951) 	<p><i>Middle management:</i></p> <ul style="list-style-type: none"> - mandatory representation of middle management on supervisory boards - group rights for middle management in election procedure <p><i>Composition of supervisory boards:</i></p> <ul style="list-style-type: none"> - 50 % of seats for employee representatives, 50 % for shareholder representatives - mandatory external union representatives - proportional representation of different employee groups among internal employee representatives - chairman and vice chairman elected by 2/3 majority (if no 2/3 majority: shareholders elect chairperson, employees elect vice-chair by simple majority) <p><i>Impasse resolution:</i></p> <ul style="list-style-type: none"> - double voting weight for chairperson in case of impasse
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6.3 *The Programmatic Positions of Social Democrats, Liberals and Christian Democrats on the Reform of Codetermination*

The legislative process of the 1976 Codetermination Act, during which Social Democrats, Liberals and Christian Democrats tried to find a political compromise between their conflicting programmatic positions, stretched over an exceptionally long period of almost four years. This section briefly highlights the key differences between the positions of the three parties on the reform of codetermination in order to prepare the analysis of architectural policy design strategies in section 6.4.

The Social Democrats' Position

Codetermination had long been a core political goal for the Social Democrats, and nearly all election programs and party platforms since 1949 list demands for its introduction or extension (SPD 1949, 1953, 1957, 1959, 1961, 1965, 1969, 1972, 1976). In the early years of the Federal Republic, the political fight for codetermination had been linked to demands for central economic planning and the socialization of big industries like coal and mining. Only at the end of the 1950s did the Social Democrats turn towards a more moderate policy path. In the new party platform, they emphasized in particular the role of unions in the economy and in codetermination. The party pointed out the positive role of unions for and in the democratic society, their contribution to workers' fight for democratic and economic participation, and highlighted the employees'

right to organize in unions and unions' right to call for strike. Codetermination on the shop and the corporate level was seen as an essential element of democratic societies and the Coal and Steel Codetermination Act of 1951 as the appropriate starting point for an extension of codetermination to other sectors of the economy.

During the grand coalition, the Social Democrats followed up on their party platform by presenting a draft bill on "corporate constitution" (*Unternehmensverfassung*).⁷² In the proposal, the Social Democrats laid out their vision of a reform of codetermination. The draft proposed the introduction of a so-called *Unternehmensversammlung, UV* (a council of up to 200 employee representatives elected by the workforce), in big corporations. The UV was to elect employee representatives to supervisory boards and enjoy information and consultation rights in corporate management. Supervisory boards were composed of an equal number of employee and shareholder representatives with an additional "neutral man" who neither belonged to the employee side nor to the shareholder side. Half of the employee representatives were to be external union representatives. Lastly, the proposal prescribed that among employee representatives, salaried employees and workers had to be represented "appropriately".

The proposal later became part of the Social Democrats' election campaign (SPD 1969), which brought the party into office together with the Liberals. After the inauguration, the new SPD chancellor Brandt announced in his first government statement that the Social Democratic-led coalition would aim for a reform of codetermination on both the shop level and the corporate level based on previous draft bills and the outstanding report of the expert commission on codetermination instituted by the previous coalition (Brandt 1969).

The Liberals' Position

In the preparation of this reform project, the Social Democrats had to find a compromise with their coalition partner, the Liberals. During their years in opposition from 1966-69, the Liberals had reoriented themselves, and the internal power balance had tilted towards the progressive wing, which led the party on a social-liberal path. However, the conservative party wing still dominated the party's economic and social policy profile, which caused conflicts with the Social Democrats. The Liberals' standpoint on codetermination illustrated the party's programmatic-ideological belief in the self-fulfillment and self-determination of the individual. The party argued for an extension of the individual rights of employees rather than collective rights of the workforce

⁷² Bundestag Printed Matter 05/3657: proposal for an Act on Corporate Constitution, Social Democratic Party.

and/or labor unions. The Liberals therefore also suggested strengthening shop level codetermination as legislated by the Works Constitution Act of 1952 and encouraging joint responsibility and cooperation between employees and firm management while avoiding a concentration of union power. Furthermore, the Liberals opposed full parity in codetermination and emphasized the rights of minorities within the workforce (FDP 1969).

Two years into the new government, the Liberals developed a new party platform and a more detailed codetermination proposal (FDP 1971). Here, the party reiterated its opposition against an extension of corporate level codetermination in the form of full parity as legislated by the 1951 Steel and Coal Codetermination Act and demanded by the Social Democrats. For the Liberals, this codetermination model showed practical flaws and was inherently incompatible with liberal principles like self-fulfillment and self-determination of the individual employee.

The goal of the Liberals' proposal was to overcome the conflict between shareholders and employees by introducing a "third factor", meaning to grant the middle management the right to representation on supervisory boards. The role of the middle management was to represent the inherent interests of the company as a whole, as opposed to the particularistic interests of both shareholders and employees, and to mediate in cases of conflict between the two in order to secure the productivity and profitability of the company and prevent paralyzing stalemates. More concretely, the Liberals suggested a 6-4-2 model for the composition of supervisory boards with six seats for shareholder representatives, four seats for employee representatives (of which none were to be external union representatives), and two seats for the middle management. Based on this proposal, the Liberals went into negotiations with their Social Democratic coalition partner to find a coalition compromise.

The Coalition Compromise of the Social Democratic-Liberal Government

Due to the differences between Liberals and Social Democrats and the salience of the issue, it took the coalition until 1974 to present a first reform draft and two more years to revise the draft after a first reading and expert hearing in parliament.⁷³ The government's reform proposal presented in 1974 reflected

⁷³ Since the goal of this study is not a detailed analysis of coalition dynamics, this section limits itself to outlining the key characteristics of the government's reform proposal and to describing how this relates to Social Democrats' and Liberals' individual policy positions. Furthermore, the two government parties did act unitarily and introduced a joint reform draft into parliament despite important differences between their programmatic positions on codetermination. The main conflict in the legislative process was therefore between Social Democratic-Liberal government and the Christian Democratic opposition. Therefore,

the Social Democrats' policy goals, first, in that it prescribed full parity on supervisory boards. Second, it instituted an electoral committee in the election of supervisory board members similar to the UV and based the election of board members on a simple majority vote. External union members were granted three out of ten seats for employee representatives, for which only unions could nominate candidates. With these policy design elements, the Social Democrats could include important, labor union-friendly elements of their original proposal into the government's joint proposal.

At the same time, the Liberals' fingerprint shows in the government's proposal. In particular, the Liberals managed to guarantee the middle management certain group rights in the election of the electoral committee and supervisory board members. In the former, the middle management was entitled to set up separate lists for delegates; in the latter, the middle management had to be represented by at least one board member. Furthermore, a majority of employee representatives had to come from the workforce itself.

Due to strong opposition from the Christian Democrats and doubts about the constitutionality of the first government proposal and due to the Liberals' increasingly critical stance on codetermination, the government revised the proposal in the following two years. The updated proposal represented a "weaker" extension of codetermination than the first proposal. For example, the middle management was not only allowed to set up lists of delegates for the electoral committee; elections were held separate for workers and salaried employees (incl. the middle management), increasing the middle management's own influence on who represented their interests.

The Christian Democrats' Position

In its 1968 party platform, the Christian Democrats expressed a reluctant approval of codetermination (CDU 1968c). The party supported an extension of codetermination in the spirit of partnership, not conflict. In particular, it argued for a better utilization of the 1952 Works Constitution Act, opposed the schematic transfer of the 1951 Coal and Steel Codetermination Act to other sectors of the economy and criticized the increased influence of labor unions. However, this vague compromise between employer and employee wing only held for a limited time.

After the election defeat in 1969, the Christian Democrats decided to update the party platform, and since the influence of the employer wing had steadily grown within the party, the updated platform took a more critical stance on

the Social Democrats and Liberals are not attributed individual policy design strategies, but a Social Democratic-Liberal design strategy is discussed in section 6.4.

codetermination (CDU 1971b; cf. CDU 1971a). Rather than employees' participation, it emphasized the importance of an efficient and competitive economy. The Christian Democrats clearly opposed full parity and argued for a shareholder majority on supervisory boards. A maximum of two external union representatives was allowed but had to be elected by the workforce. The adoption of the updated platform marked a clear defeat for the employee wing. The following 1972 election program continued on this path and repeated the rejection of full parity (CDU 1972). Even more, the party explicitly denounced the Social Democrats' proposal for codetermination and this increased the conflict with the government.

Encouraged by the disappointing election result and growing awareness of the need for an organizational and programmatic reform, the employee wing fought harder for a more codetermination-friendly position. At a party convention in 1973, the employee wing introduced a proposal in open confrontation with the employer wing, which was, however, not willing to back down either. Since the party faced a showdown at the convention, the leadership intervened and introduced a compromise model that was meant to satisfy both wings and portray the party as reform-friendly. This was made easier because the new party leadership no longer viewed a reform of codetermination as a central political topic but as an issue that should be taken off the agenda as soon as possible because the party image suffered under the constant confrontation between the employee and employer wing.

The compromise model adopted by the party convention formally proposed full parity on supervisory boards (a concession to the employee wing) but ensured shareholder dominance in cases of impasse (a concession to the employer wing). Furthermore, the influence of unions was limited to proposing external candidates who then had to be elected in direct elections by the workforce instead of delegating them directly to supervisory boards (CDU 1975; cf. also: CDU 1973a; CDU 1973b). The compromise model ended a yearlong struggle between different wings of the party and allowed the party to have more influence on the final Codetermination Act of 1976, as the subsequent analysis will show.

Summary

Table 6.3, below, summarizes the parties' programmatic positions on codetermination based on party and election programs as well as reform proposals introduced into parliament that spelled out party positions more specifically. As discussed in earlier, party positions are not steady, and they are not always supported by all factions of a party. In particular, the Christian Democrats were internally split and could only find a compromise after years of internal conflicts. Similarly, Social Democrats and Liberals were under pressure to not

only articulate their own position but also allow for a compromise with the coalition partner. The table attempts to summarize the essential characteristics of the parties' positions on codetermination. Furthermore, party positions also reflected the positions of important interest groups. Labor unions mainly supported their political ally, the Social Democrats, whereas employer federations supported the Christian Democrats and Liberals.

Table 6.3: The Programmatic Positions of Social Democrats, Liberals and Christian Democrats on Codetermination

	Social Democrats	Liberals	Christian Democrats
Political-Ideological Orientation	democratic socialism freedom, equity, solidarity, catch-all center-left	self-responsibility and self-determination of the individual	social Catholicism, liberal conservatism, catch-all center right
Programmatic Position on Codetermination	strong support for far-reaching codetermination rules and strong role of trade unions in codetermination	group rights and special role for managerial employees; limitation of union influence; emphasis on profitability and competitiveness of corporations	support for extension of codetermination while maintaining shareholder dominance and constraining union influence

6.4 Architectural Policy Design Strategies in the Reform of Codetermination

The programmatic differences between Social Democrats, Liberals and Christian Democrats reflect what different policy options were debated and which option policy makers deemed the “best solution” for the problem or challenge of codetermination reform. They reflect considerations regarding the immediate effects of different reform designs, in particular the extent of rights granted to employees in corporate management. Both perspectives are also typical for the literature on policy design and policy instruments, which often aims to compare policy instruments and designs based on their efficiency (cf. section 2.2). Furthermore, the programmatic differences also reflect and add up to different long-term strategies in codetermination and labor relations politics.

These strategies can be distinguished, *first*, by the different end goals that parties pursued. The Christian Democrats aimed to fragment the labor movement and weaken big, unified trade unions as a political and economic player. The Social Democrats, on the other side, worked (to the extent possible in the coalition with the union-critical Liberals) for a reform that would strengthen

labor unions and unify the labor movement. *Second*, the strategies can be distinguished by the policy feedback effects they relied on. These feedback effects can, for example, be based on the creation of vested interests in a constituency (called *entrenchment effect*), the generation of legislative experience among government elites regarding policy design and implementation (*experience effect*), or the stimulation of expectations for further reforms among the public (*spillover effect*).

Eight types of policy feedback effects considered by policy makers were identified during the investigation of both cases, and their empirical manifestations will be described in detail throughout both case studies. Following the abductive design of the study, the empirical investigation will be followed by a theoretical discussion of the different types of feedback effects in Part IV, which will also set them in relation to each other in a typology of anticipated feedback effects. The discussion of different types of anticipated feedback effects will also reflect that policy makers themselves need not be aware of what analytical type of feedback effect they anticipate, but that they have a working understanding of the political dynamics that different policy designs facilitate (cf. section 3.2).

In the codetermination case, the Christian Democratic strategy built on *entrenchment effects*, *self-reinforcement effects*, *spillover effects* and *precedence effects*. The strategy of the Social Democratic-Liberal coalition built on *self-reinforcement effects*, *infection effects*, *spillover effects* and *entrenchment effects*. Below, Figure 6.1 and Table 6.4 illustrate and summarize both strategies and the feedback effects they built upon. Figure 6.1 illustrates the various policy feedback effects that policy makers attributed to different elements of the policy designs. Table 6.4 provides more details on the respective policy design elements and feedback effects and includes a list of references to empirical manifestations of the anticipated feedback effects in the analyzed archival material. Both Figure 6.1 and Table 6.4 show the feedback effects that are central to the parties' strategies in black and less important feedback effects in grey.

Before diving deeper into the analysis of the parties' policy design strategies, five qualifications are in order: *First*, discussing a "Social Democratic-Liberal" and a "Christian Democratic" architectural policy design strategy serves the purpose of using adequate labels for two competing, long-term architectural policy design strategies. However, it does not mean that any one party had a copyright on these strategies or that real-world strategies are always neat and tidy and easily ascribed to a specific political actor. In particular, the Social Democratic-Liberal strategy described here was already the product of extensive negotiations between the coalition partners and therefore presents neither the Social Democrats' nor the Liberals' strategy in their pure form. In the

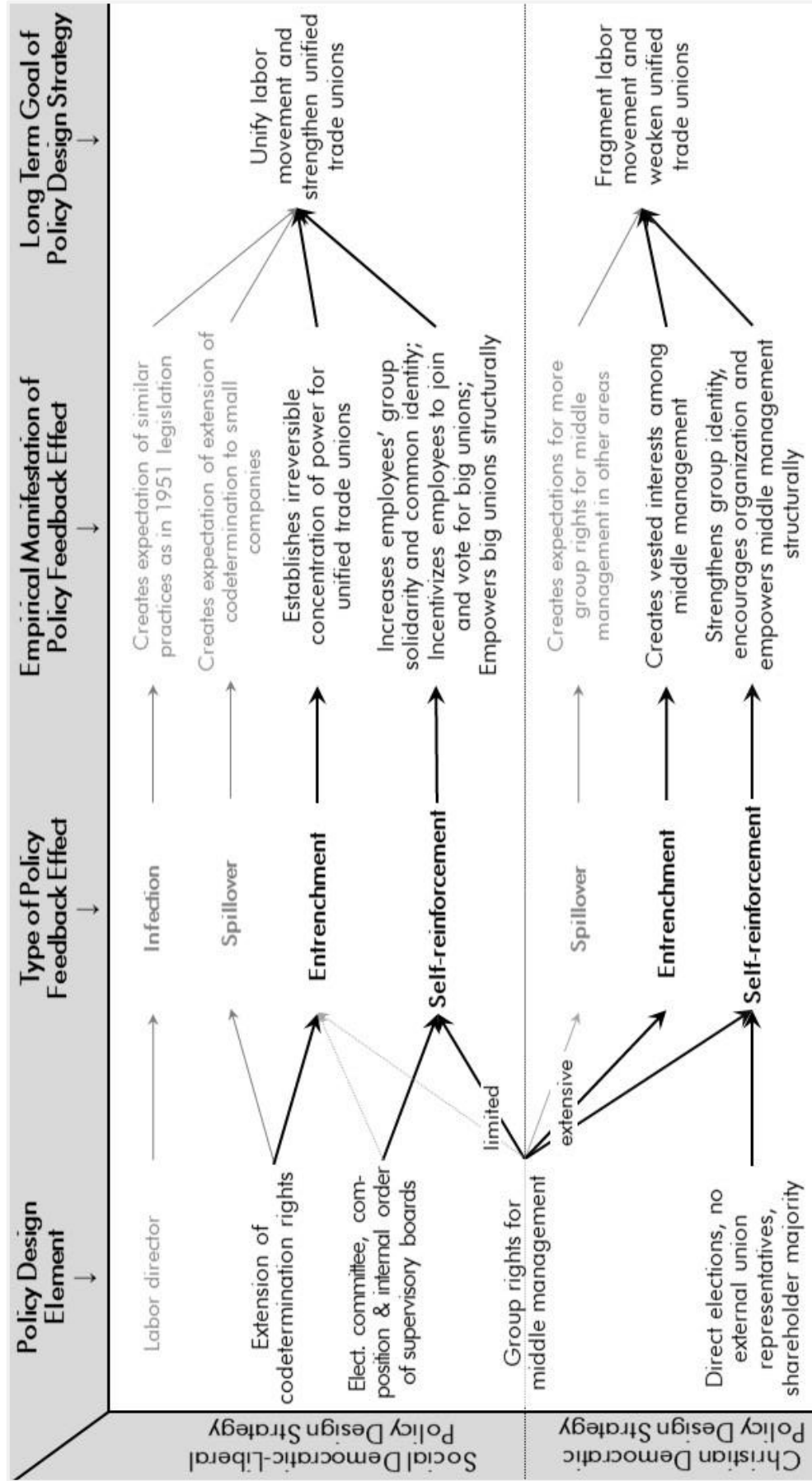
presentation of the policy design strategies, the case study aims to strike a balance between the pure, idealistic strategies policy makers might have wanted to pursue (e.g. the Social Democrats' reform proposal of 1968) and the more pragmatic, realistic strategies they actually followed during policy making (i.e. the government proposal of 1974/76).

Second, interest groups like labor unions and employer federations followed and supported in part the same strategies, with the labor unions standing on the side of the Social Democrats and the employer federations on the side of the Christian Democrats. *Third*, the comparison of the two strategies does not mean that both parties always stood uniformly behind these strategies, as especially the discussion of the Christian Democrats and the competing employer and employee wing has shown. *Fourth*, while the two strategies are composed of different types of policy feedback effects, one does not need to assume that those feedback effects are necessarily fully understood by policy makers in their analytical sense, but that policy makers have a working understanding of the political dynamics that different policy design facilitate (cf. section 3.2).

Fifth, overall architectural policy design strategies as depicted in Figure 6.1 are imposed on the empirical material after a fine-grained investigation of the individual elements of the design strategies (i.e. the links between policy design elements, anticipated feedback effects, and the long-term goal). That means that the investigation is based on the assumption that policy makers have a working understanding of what feedback effects different design elements might produce, but that policy makers did not necessarily devise a "master plan" in some secret, undiscovered document for an architectural policy design strategy that compares all possible feedback effects and prioritizes certain effects over others. While policy makers do not necessarily develop this kind of strategy, the empirical material shows that certain considerations (those depicted in black in Figure 6.1 and Table 6.4) seemed more important to policy makers than others (those depicted in grey), which will be reflected throughout the following discussion.

The structure of section 6.4 is as follows: first, sections 6.4.1 (on the Social democratic-liberal policy design strategy) and 6.4.2 (on the Christian Democratic policy design strategy) introduce an overview of the different anticipated feedback effects that made up the parties' design strategies, since those effects are the analytically interesting category. Then, the sections conduct a fine-grained empirical analysis along different policy design elements that policy makers assumed could produce these feedback effects. The empirical analysis reflects how policy makers think about potential policy feedback effects, starting from different design elements going to potential feedback effects.

Figure 6.1: The Architectural Policy Design Strategies of the Social Democratic-Liberal Government and the Christian Democratic Opposition in Codetermination Politics



Note: Feedback effects more central to the parties' strategies are depicted in black, feedback effects less central to parties' strategies are depicted in grey.

Table 6.4: Policy Design Elements and Attributed Policy Feedback Effects in the Social Democratic-Liberal and Christian Democratic Policy Design Strategy

Policy Design Element	Social Democratic-Liberal Policy Design Strategy: Policy Design and Attributed Feedback Effects	Christian Democratic Policy Design Strategy: Policy Design and Attributed Feedback Effects
Labor Director	Introduction of labor director with specification of responsibilities, but without specification of election procedure ... Infection effect ¹ : ... creates expectations among employees towards labor-friendly implementation as in previous legislation	- -
Extension of Codetermination Rights	Extension of participatory rights for employees on the corporate level... Entrenchment effect ² : ... creates power base for trade unions Spillover effect ³ : ... creates expectations for further extension	- -
Electoral Procedure, Composition and Internal Order of Supervisory Boards	Introduction of electoral committee, external union representatives, full parity* (*only partially achieved) ... Self-Reinforcement effect ⁴ : ... increase group solidarity and common identity of employees, incentivize employees to join and vote for trade unions and empower big unions structurally Entrenchment effect ⁴ : ... creates power base for trade unions	Direct elections, external union representatives dependent on workforce, shareholder majority ... Self-Reinforcement effect ⁶ : ... strengthen the group identity of the middle management and encourage organization of the middle management outside trade unions
Group Rights for Middle Management	Recognition of the middle management as employee group, but limitation of group rights ... Self-Reinforcement effects ⁵ : ... increases employees' group solidarity and common identity, incentivizes employees to join & vote for big unions and empowers big unions structurally Entrenchment effects ⁵ : ... creates power base for trade unions	Privileges for the middle management in the electoral procedure and on supervisory boards ... Entrenchment effect ⁷ : ... creates vested interests among the middle management Self-Reinforcement effect ⁸ : ...strengthens the group identity of the middle management and encourage organization outside trade unions Spillover effect ⁹ : ...creates expectations for more group rights in other areas

Notes: Feedback effects more central to the parties' strategies are depicted in black, feedback effects less central to parties' strategies are depicted in grey.

Sources (selected empirical manifestations):

- ¹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 22: Bundestag committee on economic affairs, committee meeting, 11.02.1976, p. 78/40; Parliament Archive, PA-DBT 4000 VII 400 lfd. 44: Bundestag committee on labor and social policy, committee meeting, 18.02.1976, p. 97/71; AdsD/DGB archive, 5/DGAK000042: memo on coalition compromise on codetermination on Dec. 9, 1975, 22.12.1975; AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976; Parliament Archive

- ² Parliament Archive, PA-DBT 4000 VII 400 lfd. 13b: supplementary document, DGB leaflet “Mitbestimmung jetzt – und keine halben Sachen”, 1974; Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 4-6, 8; Parliament Archive, PA-DBT 4000 VII 400 lfd. 31 (supplementary document): position paper from the association of the middle management (VfLA), 03.12.1974
- ³ ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 24.07.1967; ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 16.10.1968; Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 3-6; ACDP, 07-001-1446: meeting between CDU presidium and German Confederation of Skilled Crafts (ZDH) on codetermination, 24.3.1965
- ⁴ Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7470; Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974, p. 114; Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16021, 16024-25; Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 32-36, 46; Parliament Archive, PA-DBT 4000 VII 400 lfd. 31: Bundestag committee on labor and social policy, public expert hearing, 04.11.1974, p. 7; AdsD, 2/PVAs000599: protocol coordination group between SPD and DGB on codetermination, 25.09.1974; Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 4, 8; AdsD, 2/PVCO00079: federal conference of SPD working group on employee matters, 19.-21.10.1973
- ⁵ ACDP, 04-004-109-2: draft speech written by head of the association of the middle management (VfLA), 01.05.1976; Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7511CD, 7521C; Parliament Archive, PA-DBT 4000 VII 400 lfd. 44: Bundestag committee on labor and social policy, committee meeting, 18.02.1976; Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 31-53, esp. 35
- ⁶ Parliament Archive, PA-DBT 4000 VII 400 lfd. 31: Bundestag committee on labor and social policy, public expert hearing, 04.11.1974, p. 31; Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16022-4; Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974; Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 43; Parliament Archive, PA-DBT 4000 VII 400 lfd. 43: Bundestag committee on labor and social policy, committee meeting, 11.02.1976 (MP Gansel)
- ⁷ AdsD, 2/PVAs000599: protocol coordination group between SPD and DGB on codetermination, 25.09.1974; AdsD/DGB archive, 5/DGAO001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964
- ⁸ Parliament Archive, PA-DBT 4000 VII 400 lfd. 12: cf. Bundestag Printed Matter 07/2172, p. 24; Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974; Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7464D, 7465AB; Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 7; AdsD/DGB archive, 5/DGAK000042: position paper 06.03.1974; AdsD/DGB archive, 5/DGAO001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964; AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976, p. 5
- ⁹ AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976; ACDP, 04-004-109-2: draft speech written by head of the association of the middle management (VfLA), 01.05.1976; 2/BTFG000606 BTF 7. WP Brief Vetter and Wehner, 02.02.1976, p. 5

6.4.1 *The Social Democratic-Liberal Policy Design Strategy: Strengthening and Unifying the Labor Movement*

The policy design strategy of the Social Democratic-Liberal government had one central goal that was pushed mainly by the Social Democrats and remained contested between the coalition partners. The goal was to implement a reform that would strengthen the role of labor unions in codetermination, labor relations and economic decision-making. This was to be achieved by immediately granting employees more participatory rights in corporate management and by ensuring unions' crucial influence in the participation of employees in firm management through seeming technicalities in the policy design. However, since the Liberals' political convictions were critical towards extensive union influence, they tried to "water down" the Social Democrats' proposals. The government's eventual policy design strategy described below therefore represents a classic political compromise and exemplifies that policies often do not only bear one but competing logics, interpretations and incentives.

The Policy Feedback Effects of the Social Democratic-Liberal Policy Design Strategy in Brief

The Social Democratic-Liberal policy design strategy was based on four types of policy feedback effects – an infection effect, a spillover effect, an entrenchment effect, and two self-reinforcement effects – of which the latter two types were more central to the design strategy than the former two types.

First, the government could expect a so-called *infection effect*, meaning that the mentioning of a "labor director" (a member of the board of directors with particular responsibility for personnel matters) would "infect" the Codetermination Act with the meaning, interpretation and expectations linked to this particular term. The term had already been used in previous codetermination legislation in the coal and steel industry where it was tied to more specific, union-friendly stipulations on the election procedure for labor directors. Without introducing these potentially conflictual stipulations into the new codetermination act, the government could hope to create a union-friendly political dynamic that would draw on previous frames provided by other legislation.

Second, the government could expect a so-called *spillover effect*. The spillover effect means that the government could hope – and that the Christian Democrats did fear – that any extension of codetermination in big corporations would create expectations among employees and/or the mass public that further extensions of employee participation in smaller companies were to come as well. Even worse for the opposition, codetermination could lead to

some form of employee or union participation in national economic decision-making. Hence, the Codetermination Act had the potential to spill over into other political issues and lead to more participatory rights for employees there as well. Thus, it would substantially affect the structure and political dynamics of labor relations and the power (im-)balance between labor and capital in the long term.

Third, the government could expect a so-called *entrenchment effect*. This type of feedback effect means that the codetermination reform will be hard to retrench due to vested interests and a sense of entitlement among employees and unions. The strategic facilitation of this type of feedback effect conforms with the short-term goal of granting rights to employees and unions in a straightforward way. However, it goes beyond it in expecting that these rights will create a sizeable constituency that would develop a sense of entitlement to certain rights, which would be extremely hard to work against politically in the future.

Fourth, the government could expect *self-reinforcement effects*, meaning that the codetermination act would create coordination effects and adaptive expectations that would reinforce its own logic over time. For example, the particular formulation of the election procedure and the internal order and composition of supervisory boards would create incentives for employees to join and vote for big unions, increase group solidarity and a common identity of the workforce and empower unions structurally. Similarly, the government expected limited rights for the middle management to be decisive for such self-reinforcing dynamics.

Together with the entrenchment effect, the self-reinforcement effects built the core of the government's architectural policy design strategy for a unified and strengthened labor movement. At the same time, the design elements to which these effects were attributed were the most contested issues between Social Democrats and Liberals. The very reason for this might lie in the combination of the two parties' different programmatic positions on codetermination and policy makers' awareness of the political implications that these design elements might produce in the long term. While it is hard to determine to which degree each party succeeded in pushing through its own design ideas, it seems fair to characterize the government's overall strategy as dominated by the Social Democrats and curtailed by the Liberals.

The Policy Design Elements of the Social Democratic-Liberal Reform Proposal and the Feedback Effects Policy Makers Attributed to Them

The four anticipated policy feedback effects of the Social Democratic-Liberal policy design strategy were linked to four elements of the policy design: (1) the introduction of a labor director; (2) the extension of codetermination; (3) the

electoral procedure and internal order and composition of supervisory boards; and (4) the limitation of group rights for the middle management.

(1) The Introduction of a Labor Director and the Attributed Infection Effect

The first policy design element that policy makers considered to have an impact on future political dynamics was the introduction of a labor director. As mentioned above, a so-called labor director was prescribed by the 1951 Coal and Steel Codetermination Act, which stipulated that the labor director had to be an equal member of the board of directors and could not (unlike other boards members) be elected against the votes of employee representatives on supervisory boards. Though not spelled out in the 1951 act, the labor director's primary responsibility was "personnel matters", i.e., to broaden the economic-technical orientation of the board of directors with regard to the personnel policy dimension and to incorporate personnel and social aspects in the company policy and board decisions.⁷⁴ The government's reform proposal in 1974 now took the opposite approach and defined the responsibilities of the labor director more precisely but did not prescribe a particular election procedure that was different from that of other board members.

The government might have hoped to avoid political conflict and public opposition to the proposal while at the same time "infusing" the new Codetermination Act with the meaning and expectations that were linked to the earlier legislation. According to this *infection effect*, the term labor director would tap into the discursive frame of previous legislation that granted unions more influence precisely because the labor director could not be elected without the approval of employee representatives. The expectation – or fear – of an infection effect was particularly strong among the Christian Democrats, who criticized the government's proposal in clear terms because of this potential feedback effect.

A Christian Democratic policy maker noted in a parliamentary committee meeting that "the term labor director is *linked to particular expectations* among employees".⁷⁵ The policy maker goes on to respond to a Social Democrat who criticized the Christian Democrats for wanting to "keep codetermination out of the board of directors"⁷⁶, if "the labor director is to be interpreted

⁷⁴ Cf. website: https://www.boeckler.de/5544_33349.htm (last access: May 2018).

⁷⁵ Parliament Archive, PA-DBT 4000 VII 400 lfd. 22: Bundestag committee on economic affairs, committee meeting, 11.02.1976, p. 78/40; cf. also Parliament Archive, PA-DBT 4000 VII 400 lfd. 44: Bundestag committee on labor and social policy, committee meeting, 18.02.1976, p. 97/71).

⁷⁶ Parliament Archive, PA-DBT 4000 VII 400 lfd. 22: Bundestag committee on economic affairs, committee meeting, 11.02.1976, p. 78/40.

as a means of codetermination, then something is said here [in the committee negotiations; PP] that is not written in the act, but that is *supposed to be brought into the act via the term labor director*".⁷⁷ Therefore, one must assume that the government had "other intentions" than the ones written in the government proposal and that "the labor director should have dependencies different to those of other board members",⁷⁸ namely those spelled out in the legislation of 1951.

The Christian Democrat's suspicion is likely based on his knowledge of the labor movement's and Social Democrats' long-standing support for the institute of the labor director,⁷⁹ and he is obviously assuming that the government's true strategy was to copy, if not the wording, then at least the effects of the 1951 legislation. However, Social Democrats and labor unions themselves seemed to be more skeptical of the impact of this strategy. For example, the labor unions' internal evaluation of the coalition proposal was critical, stating that the introduction of the labor director "merely had semantic meaning".⁸⁰ Policy makers from the Christian Democrats' employee wing, who supported the unions in the fight for codetermination, also feared that the mere terminological introduction of the labor director would not fulfill the employees' expectations and demanded that the accompanying stipulations regarding the election of the labor director should be included in the new act.⁸¹

These statements show that maybe not all policy makers thought that employees' expectations to the term labor director would have enough impact on the implementation of the act in corporations and on how labor directors would be elected in practice. Nevertheless, the empirical material shows that potential feedback effects linked to the term labor director were part of policy makers' considerations and that these considerations influenced policy design. In this regard, the example of the labor director provides valuable analytical insight into policy makers' considerations of feedback effects, but the importance of the labor director as policy design element in the government's policy design strategy should not be overstated.

⁷⁷ Ibid., italics added.

⁷⁸ Ibid., p. 78/39.

⁷⁹ E.g. Parliament Archive, PA-DBT 4000 VII 400 lfd. 13b: supplementary document, DGB leaflet "Mitbestimmung jetzt – und keine halben Sachen", 1974; AdsD/DGB archive, 5/DGAK000042: position paper 06.03.1974; AdsD/DGB archive, 5/DGAK000042: position paper 23.01.1974.

⁸⁰ AdsD/DGB archive, 5/DGAK000042: memo on coalition compromise on codetermination on Dec. 9, 1975, 22.12.1975; AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976.

⁸¹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 44: Bundestag committee on labor and social policy, committee meeting, 18.02.1976, p. 97/71.

(2) The Extension of Codetermination and the Attributed Spillover and Entrenchment Effects

The second policy design element that policy makers considered to have an impact on future political dynamics concerned the extension of codetermination rights more generally, i.e. the overall policy goal of the government's reform proposal.

Policy makers anticipated that the extension of codetermination rights would spill over into other policy fields or issues, i.e. that a *spillover effect* would occur. This expectation or fear was again particularly pronounced among the Christian Democratic opposition. Already in the late 1960s, when the debate on a reform of codetermination was heating up, Christian Democrats were aware of a potential spillover effect. For example, an internal memo for the Christian Democrats' general secretary warned that the extension of codetermination from the coal and steel industry to other sectors was only a first step, and that an extension to small companies was to be expected.⁸² This view was supported by the fact that the "purely schematic extension of codetermination from the coal and steel industry to big corporations in other sectors of the economy"⁸³ that unions and Social Democrats demanded was already an instance of such a spillover effect. Employer and industry representatives expressed similar concerns, fearing that the codetermination reform would create demands for more employee participation in smaller firms and potentially on the national level concerning economic planning, and that it would harm free collective bargaining (*Tarifautonomie*), which was based on a balance of power between unions and employer federations.⁸⁴

Policy makers also anticipated an *entrenchment effect*, meaning that the extension of codetermination would create an irreversible concentration of power in the hands of unions, deeply entrench the policy and render it irrevocable. Many policy makers acknowledged that the conflict around codetermination was essentially a power-political struggle pursued by the labor movement, which was fighting for more political and economic influence in the long term. Unions themselves openly confirmed that they wanted "to break the pre-

⁸² ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 24.07.1967.

⁸³ ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 16.10.1968.

⁸⁴ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 3-6; ACDP, 07-001-1446: meeting between CDU presidium and German Confederation of Skilled Crafts (ZDH) on codetermination, 24.3.1965.

dominance of capital” and “to push employee interests through via codetermination”.⁸⁵ Employer federations shared the impression and criticized that codetermination had become a deeply power-political question.⁸⁶ The professional association of the middle management was most vocal about the feared consequences of the extension of codetermination, stating that “the effective shift of power to their [the unions’; PP] benefit was not justifiable from a political or societal standpoint and [...] *eventually irreversible*.”⁸⁷ Hence, the political conflict between labor and capital, between government and opposition concerned not only whether the rights given to employees and unions were too extensive, but whether these rights would be deeply entrenched in the long term and therefore practically irrevocable.

(3) The Electoral Procedure, the Composition and Internal Order of Supervisory Boards and the Attributed Self-Reinforcement Effect

The third policy design element that policy makers thought to have an impact on future political dynamics was the electoral procedure and the composition and internal order of supervisory boards. Policy makers assumed that these policy design elements would not only *entrench* the Codetermination Act but create a *self-reinforcing effect* by empowering unions structurally, increasing group solidarity and creating/strengthening a common identity among employees, and by incentivizing employees to join and vote for big, unified trade unions.

This political dynamic would come at the expense of smaller unions or professional associations like the ULA, the association of the middle management. A Christian Democratic policy maker therefore accused the government’s proposal for the election procedure of being an “*instrument of manipulation* in order to disenfranchise the workforce”⁸⁸ seeing that it incentivized employees to vote for big trade unions. In particular, Christian Democrats criticized that high quota for candidate lists and majority votes for members of

⁸⁵ Parliament Archive, PA-DBT 4000 VII 400 lfd. 13b: supplementary document, DGB leaflet “Mitbes-timmung jetzt – und keine halben Sachen”, 1974.

⁸⁶ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 4-6.

⁸⁷ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 8; Parliament Archive, PA-DBT 4000 VII 400 lfd. 31 (supplementary document): position paper from the association of the middle management (ULA), 03.12.1974, italics added.

⁸⁸ Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7470; Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974, p. 114, italics added.

the supervisory board did not provide appropriate protection and representation for minorities like the middle management and that the electoral committee would harm the direct influence of employees on their representatives.⁸⁹ The Christian Democrats claimed that the government followed a “nebulous ideology of *solidarity*”⁹⁰ that did not recognize the plurality and diversity of interests within the workforce but wanted the workforce to unite as one.⁹¹ In an internal meeting with the Social Democrats, a trade union representative confirmed this strategy, stating that “choosing the right approach, the middle management could be won over for the trade unions”.⁹² In an expert hearing, a ULA representative explicitly criticized that the government proposal would “*privilege the unions* [i.e. unified trade unions]” and cause an “*effective shift of power*” from associations like the ULA to bigger unions, and that this shift would be irreversible in the long run.⁹³

The Christian Democrats also argued that the government’s design of the composition and internal order of supervisory boards would reinforce an agglomeration of power on the side of unions. For example, they feared that unions would no longer be dependent on the support and confidence of employees if external union representatives were guaranteed seats on supervisory boards without having to compete with internal candidates from the workforce, as the government proposed.⁹⁴ This reflected the Social Democrats’ intentions quite well. A resolution from a conference of the Social Democrats’ working group for employee matters stated that external union representatives must be represented on supervisory boards because they are “independent of internal matters” and can “represent the interest of the whole workforce

⁸⁹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16021, 16024-25; Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 34-35, italics added.

⁹⁰ Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16026D.

⁹¹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, 16026D-27A; Parliament Archive, PA-DBT 4000 VII 400 lfd. 31: Bundestag committee on labor and social policy, public expert hearing, 04.11.1974, p. 7.

⁹² AdsD, 2/PVAS000599: protocol coordination group between SPD and DGB on codetermination, 25.09.1974.

⁹³ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 8; Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 32-33, 36, 46, italics added.

⁹⁴ Parliament Archive, PA-DBT 4000 VII 400 lfd. 43: Bundestag committee on labor and social policy, committee meeting, 11.02.1976.

in corporate politics.”⁹⁵ The special role and privilege given to big trade unions would allow them to “remote control” the German economy and create an “independent power basis”, which was a horror scenario for most Christian Democrats and employer federations.⁹⁶

The most drastic accusation in the debate went so far as to call the government’s proposal an “enabling act”, a historically laden term in Germany that inevitably caused a political outcry.⁹⁷ While such statements certainly carried some political rhetoric and bluster, they are valuable expressions of political positions and concerns that help identify which long-term effects policy makers ascribe to different policy design elements. In the codetermination case, Christian Democrats’ concerns pertained to the anticipated gain in power for trade unions that would result from the governments’ policy design. In essence, Christian Democrats feared that the government design would grant unions too extensive rights in codetermination, unify workers in opposition to shareholders and incentivize them to join trade unions and start a self-reinforcing dynamic to unify and strengthen the labor movement.

(4) The Limitation of Group Rights for the Middle Management and the Attributed Self-Reinforcement Effect

The last policy design element policy makers considered to have important implications for future policy development was the role and rights of the middle management. For policy makers from all parties, this was one of the central questions in the reform of codetermination. The issue of how to deal with the middle management in the reform cut across several design elements and was therefore closely linked to the above discussed policy design elements (2) and (3) and their anticipated feedback effects. Due to the significance and controversial nature of the issue, also within the government, it deserves a separate discussion.

The central feedback effect that policy makers attributed to this design element was a *self-reinforcement effect*. For Social Democrats and the labor movement, limited group rights for the middle management would incentivize all employees, especially the middle management, to seek representation via unified trade unions instead of particularistic professional associations. This would create a self-reinforcing dynamic that would strengthen the power base of those trade unions and make it even more attractive for employees to join

⁹⁵ AdsD, 2/PVCO00079: federal conference of SPD working group on employee matters, 19.-21.10.1973.

⁹⁶ Parliament Archive, PA-DBT 4000 VII 400 lfd. 30,: Bundestag committee on labor and social policy, public expert hearing, 16.10.1974, p. 4.

⁹⁷ Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 16 07.11.1974.

them. For the Liberals, the political hope was contrary, namely that more extensive group rights would incentivize the middle management to build and strengthen their own interest organization. This would weaken unified trade unions as a political force but ensure employee participation the way the Liberals wanted it to be. The final coalition proposal considered these contrary positions and included a compromise solution. The middle management was to be represented proportionally in the election process and allowed to make own candidate proposals, and at least one representative on supervisory boards had to come from the middle management.

This proposal was not satisfactory for Christian Democrats and professional associations like the ULA because it still bore dangerous long-term implications. The opposition accused the government of ignoring minority rights and favoring a concentration of power in the hands of big unions. The ULA did not want to be “lumped together” with the general workforce, where the majority of employees was organized in bigger unified trade unions but wanted recognition of the middle management as a distinct group of employees. What the ULA feared was the unified trade unions’ claim to sole employee representation, as expressed drastically by one traded union representative: “It is our goal to reduce all societal forces to the conflict between capital and labor. All ‘third factors’ [like the ULA] will be fought without mercy.”⁹⁸

The Christian Democrats shared the ULA’s concerns. Since the interests of the middle management were often closer to shareholders’ interests than to the interests of the general workforce, the Christian Democrats’ sided with the ULA and tried to limit trade unions’ influence and defend shareholders’ dominance on supervisory boards. The Christian Democrats therefore also argued that the interests of the middle management were ignored and criticized that big trade unions were given the sole responsibility for employee representation⁹⁹. The Christian Democrats’ found that middle management’s interests were “thrown overboard”¹⁰⁰ and the reform was tailored to big unions’ needs,¹⁰¹ which would privilege and empower these in the long term.

A representative of the smaller Christian Trade Union Federation (CGB) criticized the privileging of big trade unions through the election procedure

⁹⁸ ACDP, 04-004-109-2: draft speech written by head of the association of the middle management (VfLA), 01.05.1976.

⁹⁹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7511CD.

¹⁰⁰ Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7521C.

¹⁰¹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 44: Bundestag committee on labor and social policy, committee meeting, 18.02.1976.

and warned explicitly against the effects of the policy design. “The consequence of this artfully crafted election procedure would in the opinion of the CGB be that candidates [not coming from unified trade unions] will be in a hopeless position if they do not preemptively adapt to the will of the unionized majority in a firm. [...] As soon as the futility of the election will be demonstrated, these candidates will *refrain from taking part in the election and leave the field* to those who have gained enough support by pleasing big trade unions.”¹⁰² Here, the CGB representative clearly pointed out that the election procedure would create incentives for employees to seek representation via big trade unions while strongly discouraging organizing through other associations or smaller unions.

The Social Democrats were not fully satisfied with the coalition compromise on the role of the middle management but acknowledged that “a compromise [on the Codetermination Act] with Liberals was not possible without granting the middle management participatory rights”.¹⁰³ The party was happy that the middle management was not treated as an entirely separate group of employees but as a sub-group of salaried employees, because this would “protect employee interests”¹⁰⁴ on supervisory boards from particularistic interest representation and contribute to achieving the Social Democrats’ long-term goal.

6.4.2 The Christian Democratic Policy Design Strategy: Weakening and Fragmenting the Labor Movement

In contrast to the policy design strategy of the Social Democratic-Liberal government, the Christian Democrats’ design strategy aimed to undermine unified trade unions, fragment organized labor and thereby weaken the labor movement as a political player in codetermination and labor relations politics. This goal was to be achieved by directly denying employees participatory rights and by undercutting unified trade unions’ influence and status among the workforce while empowering smaller, more particularistic interest organizations through the design of the codetermination act. Hence, government and opposition had squarely opposite long-term goals and ideals of how codetermination and labor relations politics should develop, which helps explain the intensity of the political debate.

¹⁰² Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 31-53, esp. 35, italics added.

¹⁰³ AdsD, 2/BTFG000604: description and evaluation of coalition compromise in codetermination, no date, p. 6-7.

¹⁰⁴ Ibid.

Types of Policy Feedback Effects behind the Christian Democratic Policy Design Strategy

The Christian Democrats' policy design strategy was based on three types of anticipated feedback effects – a spillover effect, an entrenchment effect, and a self-reinforcement effect – of which the latter two were most central to the design strategy.

First, the Christian Democrats could hope to create a *self-reinforcement effect* that would strengthen the group identity of the middle management and encourage its members to organize outside unified trade unions. This strategy resembled the government's attempt to create coordination effects and adaptive expectations that would reinforce themselves over time, except that what was to be reinforced was employee organization and representation via smaller, more professionalized associations, not via unified trade unions. Both extensive group rights for the middle management and the specific stipulations for the electoral procedure and the composition and internal order of supervisory boards were anticipated to contribute to such a self-reinforcement effect.

Second, the Christian Democrats could also expect an *entrenchment effect* to emerge through extensive group rights for the middle management. The effect is similar to the *self-reinforcement effect*, but the emphasis lies on vested interests and a sense of entitlement among the middle management to specific groups rights that would be hard to retrench in the future. The entrenchment effect and self-reinforcement effect together built the core of the Christian Democrats' architectural policy design strategy.

Third, and lastly, granting the middle management extensive group rights could also be expected to create a *spillover effect*. If the middle management is granted group rights in corporate level codetermination, the consequence could be that it would also demand group rights in shop level codetermination, where the 1972 Works Constitution Act denied the middle management of representation and participation.

The feedback effects attributed to the Christian Democrats' policy design largely mirror the feedback effects attributed to the Social Democrats' design, as Figure 6.1, p. 144, illustrates. For the Social Democrats, limited group rights for the middle management were important for creating a self-reinforcing dynamic and entrench a trade union-friendly codetermination reform. For the Christian Democrats, extensive group rights for the middle management were important for creating a self-reinforcing dynamic and entrench a reform to the benefit of smaller employee organizations. In both strategies, these feedback effects were also supported by stipulations of the electoral procedure and the

internal order and composition of supervisory boards (direct elections vs. electoral committee; shareholder majority vs. full parity; no external union representatives vs. obligatory external union representatives).

The Design Elements of the Christian Democrats' Reform Proposal and the Feedback Effects Policy Makers Attributed to Them

The three policy feedback effects of the Christian Democrats' policy design strategy were linked to two elements of the policy design: (1) extensive group rights for the middle management and (2) the stipulations of the electoral procedure and the composition and internal order of supervisory boards.

(1) Extensive Group Rights for the Middle Management and Three Attributed Feedback Effects

The first policy element that policy makers considered to have an impact on future political dynamics concerned the introduction of extensive group rights for the middle management. As mentioned, the anticipated effects of this policy design element in the Christian Democrats' design strategy mirrored the anticipated effects discussed in connection with the Social Democratic-Liberal design strategy with limited group rights for the middle management.

First, policy makers anticipated a *self-reinforcement effect* to emerge that would strengthen the group identity of the middle management and encourage its organization outside unified trade unions. The Social Democrats were worried that this potential split within the workforce and labor movement would reinforce itself over time. The party therefore argued that employee representatives on supervisory boards had to represent the whole workforce and not only special interests of subgroups of the workforce, i.e. that the middle management should not have a special representative.^{105,106} Granting the middle management too many rights, as proposed by the Christian Democrats, would harm the balance of power between capital and labor,¹⁰⁷ could lead to

¹⁰⁵ Parliament Archive, PA-DBT 4000 VII 400 lfd. 12: cf. Bundestag Printed Matter 07/2172, p. 24; Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974.

¹⁰⁶ As the discussion above has shown, the Social Democrats themselves had to agree to an obligatory representative of the middle management on supervisory boards in the government proposal in order to reach a compromise with the Liberals. However, the Social Democrats made sure that this representative would have to be elected by all salaried employees, not only the middle management, in order to bind him or her not only to the interests of the middle management but of all salaried employees.

¹⁰⁷ Parliament Archive, PA-DBT 4000 VII 400 lfd. 13: Bundestag plenary debate, 1st reading of Codetermination Act, 20.06.1974, p. 7464D, 7465AB.

shareholder dominance¹⁰⁸ and, thus, stand in contrast to the Social Democrats' goals in the reform of codetermination.

Union representatives supported the Social Democrats and argued that group rights for specific employee groups could lead to internal conflicts within the workforce and harm solidarity among employees.¹⁰⁹ In an internal memo, a trade union representative criticized that “special rights for the middle management are [...] worrisome because they *split the workforce* and harm unified interest representation”.¹¹⁰ Group rights for the middle management would furthermore lead to an “*organizational stabilization* of the ULA”,¹¹¹ a development that would threaten trade unions' established role in codetermination and labor relations. In a personal letter to a leading Social Democrat, a union leader complained that the current debate about group rights for the middle management would “relativize the principle of unified trade unions in an unprecedented form. Instead, it seems that more and more are inclined to *strengthen tendencies that undermine unified trade unions*.”¹¹² These statements clearly show that policy makers were afraid that extensive rights for the middle management would initiate a dynamic that would weaken unified trade unions and strengthen smaller professional organizations in interest representation.

Social Democrats and labor unions also feared that the strengthening of the middle management would *spill over* into other policy fields. Only four years before the adoption of the Codetermination Act, the government passed the 1972 Work Constitution Act, which regulated codetermination on the shop level and excluded the middle management from representation. Now, union representatives feared that the introduced group rights for the middle management “would not make it easier to counter the demand for shop level codetermination for the middle management”.¹¹³ In a drafted speech, a representative of the Christian Democrats' employer wing points out that the gentle but steady recognition of the middle management as a distinct group of employees would now justify recognizing the middle management officially and granting

¹⁰⁸ Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974, p. 112.

¹⁰⁹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 7.

¹¹⁰ AdsD/DGB archive, 5/DGAK000042: position paper 06.03.1974.

¹¹¹ AdsD/DGB archive, 5/DGAO001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964.

¹¹² AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976, p. 5.

¹¹³ AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976.

it special group rights.¹¹⁴ That this process would not necessarily end with the Codetermination Act, but that it could even render possible the legal recognition of the middle management's professional organization as a union that could propose candidates for the seats of external union representatives, was another concern expressed by union representatives.¹¹⁵

Lastly, policy makers linked an *entrenchment effect* to the granting of extensive groups rights for the middle management. This as most clearly expressed by a union leader, who – in an almost desperate way in a coordination meeting with the Social Democrats said: “If the ‘institute of the middle management’ was established now [meaning if the middle management was recognized as a distinct employee group with codetermination rights], this would have incalculable consequences. *How should one be able to get away from that again later?*”¹¹⁶ Social Democrats and unions furthermore saw the danger of a long-lasting “division of the workforce”¹¹⁷ that would harm the unitary representation of employee interests. Clearly, the expectation was that the recognition of the middle management and the granting of group rights were steps that could not easily be rewound later, since that would mean to actively disenfranchise a group of employees.

(2) The Electoral Procedure, the Composition and Internal Order of Supervisory Boards and the Attributed Self-Reinforcement Effects

The second policy design element of the Christian Democrats' design strategy that policy makers considered to have an impact on future political dynamics was the electoral procedure and the composition and internal order of supervisory boards. Again, the anticipated feedback effect mirrored what policy makers attributed to the Social Democratic-Liberal policy design strategy, just in the opposite direction. This means that policy makers expected a *self-reinforcing feedback effect* that would strengthen the group identity of the middle management, encourage its organization and empower it structurally.

The Social Democratic-Liberal government criticized the Christian Democrats' proposal vehemently. It argued that the proposed election procedure would intentionally harm employee representation because direct candidates would not be able to present themselves to a workforce that is spread over

¹¹⁴ ACDP, 04-004-109-2: draft speech written by head of the association of the middle management (VfLA), 01.05.1976.

¹¹⁵ 2/BTFG000606 BTF 7. WP Brief Vetter and Wehner, 02.02.1976, p. 5.

¹¹⁶ AdsD, 2/PVAS000599: protocol coordination group between SPD and DGB on codetermination, 25.09.1974.

¹¹⁷ AdsD/DGB archive, 5/DGAO001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964.

multiple work places in the country.¹¹⁸ The government saw its own concept of an electoral committee as necessary precondition for transparent elections of supervisory board members.¹¹⁹ Low quota for candidate lists, as proposed by Christian Democrats, would lead to a fragmentation of the interests of employees and harm their democratic representation in the electoral committee and on supervisory boards,¹²⁰ while the principal purpose of the electoral procedure was “to prevent the danger of a fragmentation of interests”¹²¹ from the Social Democrats’ point of view. A Social Democratic parliamentarian criticized that the “actual political goals and purposes” of CDU/CSU were to allow marginal, ineffective splinter groups to gain seats in electoral committees or supervisory boards in order to empower small associations like the ULA, hinder employee representation via big DGB unions, and, thus, make effective codetermination of the whole workforce improbable.¹²² With this fragmentation, the risk of extreme groups and opinions endangering democratic representation would rise.¹²³

Union representatives sided with the government in criticizing the Christian Democrats’ proposal, since its experience with direct elections showed that these led to conflicts within the workforce, which “affect the cohesive representation of employees on supervisory boards negatively”¹²⁴. Hence, policy makers clearly expressed their anticipation that the stipulations of the Christian Democrats’ proposal, in particular the rules of the electoral procedure, would fragment the workforce, empower and strengthen smaller interest organizations and thereby weaken unified trade unions. In addition, this development would be facilitated by the composition and internal order of supervisory boards. The Social Democrats claimed that the Christian Democrats’ proposal would harm the unions’ position in codetermination because it would

¹¹⁸ Parliament Archive, PA-DBT 4000 VII 400 lfd. 31: Bundestag committee on labor and social policy, public expert hearing, 04.11.1974, p. 31.

¹¹⁹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16022-4.

¹²⁰ Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974, p. 112.

¹²¹ Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976, p. 16025.

¹²² Ibid.

¹²³ Parliament Archive, PA-DBT 4000 VII 400 lfd. 10: plenary debate, Bundesrat, 05.04.1974.

¹²⁴ Parliament Archive, PA-DBT 4000 VII 400 lfd. 33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 43.

effectively hinder external union representatives from being elected to supervisory boards because they would compete with internal candidates.¹²⁵ Overall, the analyzed material shows that Social Democrats and unions expected the Christian Democrats' design to lead to a fragmentation of the workforce, incentivize workers, in particular the middle management, to join small, specialized unions instead of big DGB unions, and therefore erode the solidarity among employees and their effective interest representation.

6.5 The Political Skirmish around the Codetermination Act of 1976: Policy Design as Strategic Political Struggle

Following the fine-grained empirical analysis of the architectural policy design strategies, this section “zooms out” of the micro-political details again and focuses on a broader interpretation of how the Christian Democrats' and the government's policy design strategies played out during the political skirmish around the design of the Codetermination Act. It discusses, for example, which priorities the parties set, which compromises they had to make, and which policy design eventually emerged from the debate. The section responds in particular to the first analytical claim made in chapter 1, which argued that attention to policy makers' considerations of feedback effects helps remedy the functionalist bias in policy design studies and improve our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design.

As discussed in the earlier, parties' political-ideological roots can help explain the design of competing reform proposals. They shape the perception of policy problems, which policy design actors perceive as suitable, instrumental solutions to the problem of codetermination and, thus, the selection of policy instruments and policy design. Sections 6.3 and 5.2 have shown how the design proposals in the codetermination case are rooted in parties' programmatic positions and political-ideological orientations. For example, the Social Democrats' traditional emphasis on democratic socialism, equity and solidarity let the party stress the role of collective interest representation and strong, unified trade unions in codetermination. On the other side, the Liberals' tradition and emphasis on self-responsibility and self-determination let the party stress individual rights rather than collective rights in codetermination and helps explain why it opposed external union representatives on supervisory boards and supported the representation of the middle management as a distinct group within the workforce. Policy design, however, is not solely instru-

¹²⁵ Parliament Archive, PA-DBT 4000 VII 400 lfd. 43: Bundestag committee on labor and social policy, committee meeting, 11.02.1976 (MP Gansel).

mental, and compromise seeking in politics not only about finding an effective, efficient, instrumental solution. It is also about “thinking two moves ahead” in the “iterative game of politics” (Soss and Schram 2007: 111). In other words, policy design strategies are not solely rooted in political-ideological orientations but involve strategic political considerations.

Table 6.5, p. 166, offers an overview of the codetermination proposals made by Social Democrats, Christian Democrats and Liberals, compares those to the final design 1976 Codetermination Act, and includes the key characteristics of parties’ political-ideological roots. The table shows again that parties’ political goals on codetermination differed substantially. Christian Democrats showed moderate support for an extension of employee rights while preserving shareholders’ rights and interests, aiming to please their different constituencies as center-right catch-all party. However, the Christian Democrats were strongly polarized and internally split, and over time, codetermination became a pragmatic issue for the party leadership that it wanted to remove from the party’s internal debates. The Social Democrats, on the other side, showed clear, united support for an employee- and union-friendly regulation of codetermination. Codetermination was of fundamental importance to the party’s self-image rooted in democratic socialism and the pursuit of freedom, equity, and solidarity. The Liberals had a more skeptical position on codetermination. Despite a recent shift towards social liberalism and the entrance into a coalition with the Social Democrats, the party was a longstanding representative of economic interest and the German *Mittelstand* (mid-sized business) and emphasized self-responsibility, self-determination and individual rights of collective rights for workforces and unions.

In order to understand how the final Codetermination Act emerged from these opposing positions, the following section discusses the strategic situations of Social Democrats, Christian Democrats and Liberals in the political debate, which priorities the parties set, which compromises they accepted, and which role long-term considerations played in these strategic decisions.

Even though the Social Democrats were heading government, they were substantially limited in what they could achieve politically in the reform of codetermination due to the coalition with the Liberals, who had a very different position on codetermination. These differences expressed themselves both in more short-term, immediate considerations, e.g. how many group rights the middle management should be granted, and in more long-term, strategic considerations regarding the role of unions in codetermination and labor relations. There was a substantial conflict between the Liberals’ emphasis on individual freedom and responsibility and the Social Democrats’ emphasis on the importance of the collective representation of employees’ interest in the face of employers’ predominance.

The Social Democrats were well aware of the constraints imposed by the coalition with the Liberals, and both coalition proposals consequently show considerable differences to the Social Democrats' original codetermination proposal presented in 1968. As mentioned, the Social Democrats knew that "a compromise [on the Codetermination Act] with Liberals was not possible without granting the middle management participatory rights".¹²⁶ Still, the Social Democrats were not willing to give up the issue but negotiated hard to limit the middle managements' group rights. Union representatives also pressured them to do so, e.g. arguing that the introduction of a labor director "could not be viewed as compensation" in regard to the role of the middle management, and that the "problem of the middle management needs to be discussed with the Liberals again".¹²⁷ Eventually, the Social Democrats had to make substantial concessions to the Liberals to hold the coalition together and to the Christian Democrats in order to get the Codetermination Act safely past the second chamber of parliament, where the opposition held a majority, and strengthen its position in a potential lawsuit in the constitutional court.¹²⁸

Yet, the Social Democrats still evaluated the coalition compromise as a success: "The new coalition agreement brings what is now and in the near future achievable with the coalition partner. While the result might not convince from the social democratic perspective of equal codetermination, it is nevertheless a success considering the current political environment."¹²⁹ The codetermination act's final design was also not a complete defeat for the Social Democrats and the labor movement, despite frustration with the outcome. For example, the Social Democrats successfully insisted on the introduction of external union representatives and of electoral committees for big companies and high quota for candidates, stipulations that advantaged unions in employee representation and shaped, as discussed above, feedback effects and mobilization patterns to the benefit of big unions, contributing to the path dependence of the Codetermination Act.

Overall, the final Codetermination Act prescribed a codetermination model that was based largely on a proposal made by the Christian Democrats in 1973. It extended codetermination substantially in regard to the coverage of firms and the extent of employee rights, granted employees 50 percent of seats on

¹²⁶ AdsD, 2/BTFG000604: description and evaluation of coalition compromise in codetermination, no date, p. 6-7.

¹²⁷ AdsD, 2/PVAS000599: protocol coordination group between SPD and DGB on codetermination, 25.09.1974.

¹²⁸ AdsD/DGB archive, 5/DGAO001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964.

¹²⁹ Ibid.

supervisory boards, gave board seats to external union representatives and installed electoral committees for their election. At the same time, it secured shareholders' dominance by favoring them in the election of the board chair and granting the middle management seats among employee representatives.

The Christian Democrats' proposal could serve as a blueprint for an agreement between government and opposition since the Christian Democrats themselves were challenged with finding an intra-party compromise between the party's two wings. In the early 1970s, the party had been ridden by intense conflicts between its employer- and employee-wing, and the party's internal debate functioned as a proxy for the conflict between all parties. While the employer-wing remained structurally stronger, the party leadership was forced to seek a compromise that was also bearable for its more social-democratically oriented employee-wing. With its final proposal, the Christian Democratic party leadership succeeded in two regards. Not only was it able to take the topic, which threatened the party's internal unity, of the party's political agenda. It also offered its employee-wing and the Social Democrats an acceptable model with substantial extensions of employee rights while trying to ensure its own political success by limiting feedback effects that would empower unions.

The Christian Democrats did so by pushing through that the middle management, whose interests were often aligned with those of the shareholders, received board seats on the side of employee representatives and by favoring shareholders in the election of the board chair, who furthermore had double voting weight in case of a tie. With these specifications in the policy design, the Christian Democrats tried to ensure shareholders' dominance on supervisory boards despite the formal introduction of full parity and to curtail feedback effects that would advantage unions. For example, until today, no employee representative and union member has ever been elected chairman of a supervisory board, depriving unions of valuable prestige, ideational resources, and influence on economic decision making. Had the Social Democrats' original proposal, according to which the middle management did not receive own representatives and shareholders were not favored in the election of the board chair, been implemented, unions would likely be able to draw on such ideational and decision making resources in their work and be in a stronger position today.

In sum, the discussion shows that the final policy design of the Codetermination Act cannot be explained by solely drawing on instrumental reasoning of policy makers shaped by their political-ideological beliefs. Parties' codetermination proposals are rooted in their political-ideological orientation, but this link is influenced by strategic political factors. Among these strategic political factors, considerations of policy feedback effects play an important role

because policy makers try to anticipate and steer how policy design shapes future political dynamics.

Table 6.5: The Proposed Policy Designs of Social Democrats, Liberals and Christian Democrats on the Reform of Codetermination Reform and the Final Codetermination Act of 1976

		Social Democrats	Christian Democrats	Liberals	Codetermination Act
Political-Ideological Roots	Political-Ideological Orientation	democratic socialism freedom, equity, solidarity; catch-all center-left	social Catholicism; liberal conservatism; catch-all center right	self-responsibility and self-determination of the individual	-
	Programmatic Position	strong support for labor union; full parity	moderate support for labor rights while conserving shareholder dominance	emphasis on individual rights of employees, profitability and competitiveness of corporations	-
Programmatic Positions on Codetermination	Composition and Internal Order of Supervisory Boards	Full parity, external union representatives, electoral committee, high quota for list proposals	Shareholder majority, external union representatives dependent on workforce, direct elections, low quota for list proposals	no parity, middle management as third group on supervisory board, no external union representatives	Full parity, but double voting weight for chairman in case of impasse, electoral committee in companies with 8000+ employees, seats for external unions representatives
	Group Rights for Middle Management	limited	extensive	extensive	medium
	Labor Director	introduction with specification of responsibilities, no specification of electoral procedure	no labor director	no labor director	introduction with specification of responsibilities, no specification of electoral procedure

Sources: Bundestag Printed Matter 07/2172: government proposal for Codetermination Act, 29.04.74; Bundestag Printed Matter 07/4787: Bundestag committee on labor and social policy, revised proposal for Codetermination Act, 23.02.1976; Bundestag Printed Matter 07/110: Bundestag plenary debate, 1st reading of the Codetermination Act, 20.06.1974; Bundestag Printed Matter 07/230: Bundestag plenary debate, 2nd and 3rd reading of the Codetermination Act 18.03.1976

7. The Pay Continuation Act of 1969

7.1 Introduction to the Case Study

The subsequent sections present the second case study of architectural policy design, following the structure outlined at the beginning of Part III, and investigate the Pay Continuation Act of 1969. The reform was selected because it showed a medium-level evaluation and thus increased diversity of the investigated cases. It allowed for potentially new learning opportunities and insights due to its lower evaluation than the Codetermination Act while making likely that the phenomenon of interest could be studied (cf. section 4.2).

The Organization of Sickness Benefits: Sick Pay and Pay Continuation

Pay continuation, or sick pay, refers to provisions made for periods when employees are unable to work due to sickness. Today, such schemes are integral in many welfare states to varying degrees and in different forms. They differ, for example, regarding the level and duration of sickness benefits or the monitoring of sickness absence, and patterns of sickness and disability policies largely reflect welfare typologies and welfare regime taxonomies developed elsewhere in the literature, e.g. Esping-Andersen's *Three Worlds of Welfare* (Esping-Andersen 1990). From a comparative perspective, sickness benefits in Germany are relatively generous and easily accessible, and coverage is almost universal (OECD 2010). In fact, Germany's expenditure for sickness programs is more than 50 % higher than the OECD average of 0.8% of the GDP, even though the recent decrease in sickness programs in Germany has been more pronounced than the OECD average (ibid.: 58).

A crucial design characteristic of sickness benefits concerns the funding mode or source and the obligations and burdens that employees and/or employers have to bear via taxes, social insurance contributions, or direct funding. There are two different types of sickness benefits: *sick pay* and *pay continuation*. Both types can practically mean the same for sick employees in terms of the level, accessibility and duration of benefits they receive during periods of sickness, but the two labels describe legal provisions of different characters. (1) *Sick pay* means that employees receive wage compensation during periods of sickness in the form of social benefits directly from the state or through a social insurance scheme, e.g. statutory health insurance, in order to compensate for the loss of wage or salary. These benefits may be paid from the first day of sickness or after a waiting period; they may compensate for the full wage or salary or a certain percentage thereof; and they may be paid for different lengths of time. (2) *Pay continuation* means that employers are obliged to continue wage or salary pay during periods of sickness. Similar to

sick pay, these schemes may also differ in terms of potential waiting periods, the level of wage or salary payments, and the duration of pay continuation. Additionally, they may or may not include compensation schemes for employers' expenses that cover employers and their expenses to different extents.

Sickness Benefits in Germany

Germany is an interesting case in regard to sickness benefits because both schemes existed simultaneously for over three decades. Before the passage of the Pay Continuation Act in 1969, workers had been covered by a sick pay scheme as part of the statutory health insurance system, while salaried employees had already been entitled to pay continuation (cf. section 7.2). The parallel existence of the two schemes is a consequence of a long-standing division of the German labor market. Historically, a distinction between blue-collar, wage-earning workers (*Arbeiter*) and white-collar, salaried employees (*Angestellte*) has characterized the German labor market, based on the idea that workers did manual work, while salaried employees did mental work (Meine 2005). Both groups were for a long time treated differently in many matters of social legislation and labor law (for example, the two groups paid into different health and retirement funds) as well as in tariff agreements. In most matters, this was to the disadvantage of workers, who had, e.g., shorter notice periods for job termination and significantly lower levels of compensation during sickness until the 1960s. Only about 10 years ago, in 2005, did the Bundestag remove the last remaining legal differences between both groups (ibid.).

The distinction between workers and salaried employees reflects Germany's corporatist, status-segregated social policy, which was designed to reward loyalty and traditional privilege and discourage wage-earner unification. As Esping-Andersen and Korpi (1984) highlight, the political right has historically favored such "attempts to divide the population through the creation of separate programs and institutions for different sectors and groups", while the labor movement strived for institutions and policies that unified as large sectors of the population as possible into one context (p. 181). Hence, the distinction between workers and salaried employees not only disadvantaged individual workers but it also weakened the labor movement in general. Whether the political left succeeded or failed in unifying the labor movement was therefore not only influenced by its relative strength towards employers; it also shaped the distribution of power resources in social policy making.

The pay continuation debate was thus part of a long-lasting, fundamental political conflict between Social Democrats and Christian Democrats, where any reform would bear important implications on how and to whose advantage this conflict evolved. The subsequent case study will show that the

strategies of the political left and right described by Esping-Andersen and Korpi hold true not only from a macro-comparative perspective on social policy making but also in an empirical investigation of architectural policy design strategies on the micro-level, where Social and Christian Democrats' strategic considerations of policy feedback effects will be uncovered.

Lastly, the issue of pay continuation/sick pay was not only a matter of labor politics but also a matter of health politics, since the German sick pay scheme for workers used to be administered by the occupationally and regionally organized health funds. Hence, the pay continuation debate was situated within an inherently complex policy field with multiple stakeholders, diverse interest and competing or contradicting political goals and values.

Architectural Policy Design in Pay Continuation Politics

Due to, first, the linkage of sick pay with the statutory health insurance and, second, the long-standing division of the German labor market into workers and salaried employees covered by two different schemes of sickness benefits, the pay continuation debate was loaded with much symbolic meaning and caused intense conflicts around the immediate effects of a reform. Furthermore, an eventual reform would have important long-term political implications. Indeed, the key argument for a reform of sickness benefits supported by all involved actors, even the opponents of pay continuation, was that the equal treatment of workers and salaried employees in sickness compensation was long overdue. While all actors therefore recognized the need for a reform, the *how* of a reform was not uncontested.

Basically, two reform options were available: (1) a further extension and adaption of the sick pay scheme to reduce remaining inequalities between workers and salaried employees, or (2) the introduction of pay continuation for workers, potentially alongside a more substantive reform of the statutory health insurance system. At first glance, the differences between both options seem – on the substantive level – like nothing more than different ways of financing benefits for sick employees who can receive equally high or low benefits through either of the two schemes. Indeed, the political debate to a large extent focused on very *immediate effects* of a potential reform: How high would the financial burden on employers be if pay continuation were introduced for workers, and could they bear it? Should pay continuation be tax-exempt in order to lower the financial burden on employers? How would a reform affect economic growth? Would inflation rise if pay continuation were introduced? If the statutory health insurance were reformed, how high could or should copayments be? How much should patients contribute to their own healthcare coverage? How would a reform influence the demand for and the quality and effects of medical treatment?

Policy makers had other considerations on their minds during policy formulation. The political debate on pay continuation and the short-term effects of a reform misses the *political dimension* of a reform of sickness benefits and the *long-term implications* different reform options and policy designs would have on future pay continuation and healthcare politics. The question is why and how seemingly unimportant technical differences between reform proposals matter for the politics of sickness benefits. Is the difference between sick pay and pay continuation just a technicality regarding the funding mode of sickness benefits, or does it set the health insurance system on a particular reform path? Does it really matter what type of cost sharing is introduced in the statutory health insurance, and if so, how? Or, what are the implications of different reform designs for the strength of employers and unions, for employment and industrial relations, or for health politics, and were policy makers aware of these implications?

The answers to these questions will be given in the subsequent case study. From the perspective of architectural policy design, the case-specific research question for the empirical investigation asks *how or to what extent the politics of sickness benefits can be a case of political architecture?* In other words, *were policy makers aware of the different political implications of the competing reform designs at the time of policy formulation, and if so, how did strategic considerations of these implications shape the policy formulation and design?*

Preview of the Argument and Contribution

As for any *how*-question, the answer to the above research question is not simple. The case study presented in the following chapters responds to this question based on a thorough investigation of the available empirical material described earlier. It will substantiate the two analytical claims made in chapter 1: *first*, that attention to feedback effects helps remedy the functionalist bias in policy design studies and improves our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design; *second*, that the disaggregation of policies into policy instruments and design characteristics and the fine-grained investigation of the design process improves our understanding of how policy feedback effects emerge and whether and how policy-makers can (try to) design these intentionally.

Substantially, the case study argues that the debate around the Pay Continuation Act featured *two overall architectural policy design strategies* that were supposed to either lead towards a citizenship-based health insurance

system or towards a reimbursement system with direct copayments.¹³⁰ The *first strategy* was followed by Social Democrats, unions, and in part supported by the Christian Democrats' employee wing. The design strategy included the introduction of pay continuation for workers and a simultaneous extension of rights for salaried employees in the statutory health insurance without any further reforms, in particular cost-sharing measures, to the statutory health insurance. This policy design was envisioned to create four types of policy feedback effects (precedence, spillover, entrenchment, cover-up) that would shape the political dynamics in health politics towards a reform path leading to a citizenship-based health insurance system. The *second strategy* was followed by the Christian Democrats, employer federations, and in parts received sympathy from the Liberals. Here, the policy design featured the introduction of pay continuation with a simultaneous reform of the statutory health insurance system, in particular the introduction of specific cost-sharing measures. Through this policy design, policy makers hoped to create two types of feedback effects (experience and kick-off) that would create and facilitate a reform path leading towards a reimbursement system with direct copayments.

By uncovering and investigating these policy design strategies, this case study contributes to the existing literature by showing that policies are designed not only based on concerns for optimal problem solution and or short-term political benefit, as most literature typically assumes, but also based on considerations of their long-term effects on political dynamics. It also gives us a better understanding of which types and elements of policy design may produce which types of policy feedback effects from the perspective of policy makers. The study thereby helps to outbalance the functionalist bias in policy design studies and improve our understanding of the real-world patterns, struggles, potentials and challenges of strategic policy design.

These contributions and the two broad architectural policy design strategies are substantiated in a more fine-grained analysis of specific policy feedback dynamics that policy makers considered. *First*, whether employers are obliged to continue wage pay during sickness or sick employees receive cash benefits from the state or through a social insurance scheme was assumed to matter not only materially for employees but also to shape *feelings of entitlement*. Importantly, employees may not simply feel generally entitled to some form of compensation during sickness but may “direct” this entitlement at a specific

¹³⁰ Since the Liberal party was without much political influence during the grand coalition (cf. section 5), it did not introduce a comprehensive reform proposal but demonstrated its position via individual motions to amend that stood no chance of being realized. Therefore, the Liberals are not ascribed a distinct policy design strategy here and play a subordinate role in the analysis of architectural policy design strategies in this case.

addressee, e.g. their employer or the broader social insurance community. Such feelings of entitlement created by policies can implicate subsequent political debates and therefore also policy makers' reform considerations. Beyond that, this study shows that policy makers can be aware of such effects and strategically consider them during policy formulation.

Second, symbolic policy effects also affect beneficiaries' perceptions of self-worth and political efficacy and *shape political demands*. That is, whether sick employees are made supplicants who need to apply for sick benefits from the state or social insurance, or whether policies make them both feel legally entitled and also factually legally entitled to continued pay from their own employers affects their sense of political influence and efficacy. This may even be more true if not all employees fall under the same regulations, but some receive sick pay while others receive pay continuation, offering employees a direct and visible comparison to a potentially better way of being treated than they are. Overall, both symbolic and potential material inequalities in sickness compensation can shape political demands, mobilization and conflicts between and within unions, employers, and political parties.

Third, the analysis shows policy makers' awareness and consideration of the lock-in effects of different policy designs and their potential to create path-dependent policy developments. By linking the issues of sickness compensation to a broader reform of health insurance, policy makers intended to take the first step towards a specific policy path where incremental reforms would help to reach a more substantial policy change in the long run.

Fourth, and lastly, the analysis gives insights into policy makers' awareness of two distinct types of "path dependence effect" of policies: On one side, policy makers take into account that social benefits create strong stabilizing or self-reinforcing feedback effects that make a policy hard to withdraw. On the other side, they assume that social burdens should be introduced gradually in the beginning in order to create adaption effects among the constituency/mass public and to allow for political learning among the bureaucracy and government, so that the intended long-term policy goal can be reached.

7.2 *Legislation on Sickness Benefits Prior to 1969 and the Provisions of the Pay Continuation Act of 1969*¹³¹

As discussed above, the debate around sickness benefits culminated in the late 1960s but was in fact part of a long-standing political conflict between the po-

¹³¹ Cf. Clade (1969); Immergut (1986); Meine (2005); Ruhnke (2005); Webber (1988, 1989); ACPD 08-001-296/2: short protocol of the Parliament Committee on Labor, Statement of Ministerial director Schelp (Federal Ministry of Labor), 19.03.1963; AdsD, 669: letter from

litical left and the political right. Therefore, it is important to provide an overview of the regulation and reforms of sickness benefits before 1969 in order to understand the conflict lines and reform discussion in 1969.

Prior to the 1969 Pay Continuation Act, workers were considerably disadvantaged compared to salaried employees when it comes to sickness benefits. Already in 1861, salaried employees gained the right to two weeks of continued pay in case of sickness. Similar regulations had existed since the mid-19th century but were not mandatory and could be varied by agreements between employers and unions/employees. For workers, sickness benefits were not legally prescribed but were subject to negotiation with their employers, and sickness was often followed by an immediate cancellation of the contract. In 1930/31, pay continuation for salaried employees was extended to 6 weeks by two emergency decrees of the Reich president, mainly in order to improve the financial situation of the statutory health insurance.¹³² Workers remained without legal claim to sickness compensation from their employers. In contrast to the regulations on pay continuation for salaried employees, blue-collar workers were referred to the statutory health insurance, which paid them 50 % of their regular previous wage as sick pay (*Krankengeld*) after a waiting period of three days.

After World War II, the regulations on workers' sick pay were gradually improved, the level of sick pay raised and the waiting period reduced, but equal treatment for blue-collar workers and salaried employees was not achieved until 1969. In 1955, the Social Democrats introduced a bill to the Bundestag, which aimed to introduce six weeks of pay continuation for workers, but the bill was rejected by the conservative-liberal government majority. In reaction to this, the metal workers' union in the northern state of Schleswig-Holstein started one of Germany's longest strikes in order to push for better protection of sick workers.¹³³ The strike lasted 16 weeks and led to a reform that substantially improved workers' sick pay. According to the 1957 reform, workers continued to receive sick pay through health insurance funds, but the level of sick pay was raised to 65 % of their regular previous wage and the waiting period shortened to two days. Additionally, employers were to supplement health funds' sick pay, which brought workers' benefits up to 90 % of their regular

MP Schellenberg (head of SPD working group on social policy) to SPD parliamentary group, 20.03.1969.

¹³² ACDP, 08-001-296/2: short protocol of the Parliament Committee on Labor, 19.03.1963.

¹³³ Website: https://www.fes.de/archiv/adsd_neu/inhalt/stichwort/metallarbeiterstreik.htm (last access: Feb. 2., 2018).

previous net wage. In another reform in 1961, the waiting period was shortened to one day, and the employer supplement raised to 100% of the regular previous net wage.

Hence, workers now had the same protection as salaried employees in terms of the level and length on sick benefits, with the exception of one waiting day. Besides the waiting period of one day, a few other differences remained, e.g. the fact that workers contributed to the funding of their own sick pay through their contribution to health funds, while pay continuation for salaried employees was entirely funded by employers. Additionally, sick pay for workers did not cover contributions to the statutory pension scheme, meaning that workers were disadvantaged in the calculation of their pensions compared to salaried employees. A beneficial effect of sick pay for workers was that they could under certain circumstances benefit from longer periods of sickness through the annual adjustment of their income tax (*Lohnsteuerjahresausgleich*).

Nevertheless, unions and Social Democrats kept on arguing for the introduction of pay continuation for workers in order to achieve equal treatment of workers and salaried employees during periods of sickness. The conservative-liberal government acknowledged the need for a reform and responded to the political pressure from Social Democrats and unions by introducing a reform proposal. However, this first attempt to introduce pay continuation for workers failed in 1965 after two years of negotiations because the government insisted – despite strong public and political opposition – on the simultaneous reform of child benefits and the statutory health insurance, in particular the introduction of copayments, alongside the introduction of pay continuation. Social Democrats and the labor movement therefore continued their campaign for workers' pay continuation in the following years, and the formation of the grand coalition between Christian Democrats and Social Democrats only one year after the failed 1965 reform provided a new window of opportunity, and the German Bundestag finally passed the Pay Continuation Act of 1969.

Table 7.1, below, gives an overview of key acts and provisions on sickness benefits up to the 1969 Pay Continuation Act.

Table 7.1: Key Legislation on Sickness Benefits prior to 1969 (Selection)

Year	Act	Key Provisions
1861	German Commercial Code (<i>Allgemeine Deutsche Handelsgesetzbuch; Gesetz vom 24.06.1861, Art. 60, GS Preußen 1861, 449 (491)</i>)	Six weeks' pay continuation for clerks if prevented from attending work through no fault of their own
early 20 th c.	e.g. Civil Code §616 (§616 BGB)	Extension to all white-collar employees, not mandatory
1930/31	Emergency decrees of the Reich president, 01.12.1930 and 05.06.1931 (<i>RGBl. I, S. 517 and RGBl. I, S. 279</i>)	Six weeks' pay continuation for all white-collar employees now mandatory; blue-collar employees receive 50 % of their regular wage as sick pay via health funds after a 3-day waiting period
1955/57	Act on the Improvement of Workers' Protection in Case of Sickness (<i>Gesetz zur Verbesserung der Sicherung der Arbeiter im Krankheitsfalle; Arbeiterkrankheitsgesetz, BGBl. 1957, Nr. 28, 28.06.1957</i>)	Sick pay increased to 65 % of previous wage; supplemented by employer contribution to 90 % of previous wage; waiting period reduced to 2 days
1961	Amending Act (<i>BGBl. 1961, Nr. 50, 18.07.1961</i>)	Employer supplement increased to 100 % of previous wage; waiting period reduced to 1 day
1963/65	Social Package (<i>Sozialpaket</i>)	Attempted introduction of pay continuation (failed), copayments in statutory health insurance (failed), reform of child benefits (adopted)
1969	Pay Continuation Act (<i>Gesetz über die Fortzahlung des Arbeitsentgelts im Krankheitsfalle und über Änderungen des Rechts der gesetzlichen Krankenversicherung, BGBl. 1969, Nr. 67, 30.07.1969</i>)	Six weeks' pay continuation for workers; co-cost sharing introduced in statutory health insurance

The Pay Continuation Act of 1969 and its Key Provisions

The Pay Continuation Act of 1969, which was passed by parliament only briefly before the end of the grand coalition's turn, was a great victory for Social Democrats and the labor movement. In the last year of the government's term, the Social Democratic Minister of Economic Affairs, Schiller, put the topic back on the political agenda, arguing at a union congress that the current government should now solve the issue of pay continuation since it fit the economic landscape (Clade 1969: 14). What followed was a short but intense political debate that revived old conflict lines regarding a reform of sickness benefits and the statutory health insurance between Social Democrats, the labor movement, and the CDU employee wing on one side, and employers' federation, Liberals, and the CDU employer wing on the other side. At the end of the political negotiations (described in more detail in section 7.5), the 1969 Pay Continuation Act was passed by parliament following a controversial debate at the beginning of which Social Democrats and Christian Democrats introduced own proposals instead of a joint government proposal.

The 1969 act stipulated, *first*, that workers were legally entitled to six weeks of continued wage pay by their employers in case of sickness, similar to salaried employees. According to the act, employers were obliged to pay the full gross wage including social insurance contributions to all sick workers except those on contracts shorter than four weeks or with less than 10 hours per week or 45 hours per month without a waiting period. On the third day of sickness, workers were obliged to provide a sick note to their employer in order to prove their inability to work. Insurance funds were obliged to initiate an examination of workers' inability to work in cases of doubt regarding the inability to work or when it was necessary to ensure the restoration of the workers' ability to work. Furthermore, the act introduced a compensation scheme for employers with max. 20 employees, who were to pay into a compensation fund that reimburses them for 80 % of their expenses related to pay continuation.

Second, the act introduced a number of changes to the statutory health insurance mainly due to pressure from the Christian Democrats, who wanted to enter a "first phase of healthcare reform". Therefore, the act raised copayments for prescription medicine and introduced a contribution refund scheme, meaning that insured persons could receive a limited refund of their contributions if they did not use their insurance for three months (*Beitragsrückerstattung*). Furthermore, it raised the income ceiling for compulsory insurance of salaried employees, meaning that more salaried employees were entitled to employer contributions to their healthcare (*Versicherungspflichtgrenze*¹³⁴).

Table 7.2: Key Provisions of the Pay Continuation Act of 1969

<p>Pay Continuation for Workers:</p> <ul style="list-style-type: none"> - Duration: six weeks - Waiting period: none - Coverage: all workers except those on contracts shorter than four weeks or with less than 10 works hours per week/45 hours per month - Employer compensation scheme: <ul style="list-style-type: none"> o obligatory for employers with max. 20 employees; employers with min. 20 employees may apply for inclusion o employers reimbursed for 80 % of expenses due to pay continuation o compensation scheme funded by partaking employers 	<p>Reforms of the Statutory Health Insurance (selection):</p> <ul style="list-style-type: none"> - Income ceiling for compulsory insurance of salaried employees raised - Contribution refund for insured in case of non-use of health insurance - Co-payments for prescription medicine
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¹³⁴ The *Versicherungspflichtgrenze* determines from which level of the annual salary a salaried employee does not need to be insured in the statutory health insurance but can choose to be insured either privately or in the statutory health insurance.

7.3 The Programmatic Positions of Christian Democrats, Social Democrats and Liberals on the Reform of Sickness Benefits

As indicated in section 7.1, the passage of the Pay Continuation Act was not the result of a conflict-free political process. This section briefly highlights the key differences between the positions of Christian Democrats, Social Democrats and Liberals on the reform of sickness benefits in order to prepare the analysis of architectural policy design strategies in section 7.4.

The Christian Democrats' Position

As the above description of the Christian Democrats showed (cf. section 5.2), the party was historically more pragmatically oriented towards preserving its position in government. It frequently avoided taking clear-cut positions on individual policy issues and instead worked out compromises that pacified often contradictory interests within the party. The party therefore only presented an official position on sickness benefits in its 1968 party program, shortly before the political debate on pay continuation reached its peak, whereas previous party or election platforms did not touch upon the topic (CDU 1953, 1947, 1949, 1957, 1961, 1965).

In the Berlin program, the party proclaimed that equal treatment of workers and salaried employees in case of sickness could only be achieved via a simultaneous reform of the statutory health insurance and that employers' expenses should be compensated via equalization funds. The program text itself did not explicitly state whether equal treatment of workers and salaried employees was to be achieved via pay continuation or increased sick pay. However, the debates on the party convention in Berlin and an earlier draft of the program (CDU 1968c: Nr. 84, 88, 89; 1968b: Nr. 59; 1968a), which formulated a clear position in favor of pay continuation, demonstrated that the CDU had already acknowledged that it could not prevent the implementation of pay continuation against the Social Democrats and its own employee wing. The employer wing successfully insisted on linking pay continuation to a reform of the statutory health insurance, where the party argued that individual responsibility should take precedence over collective risk insurance, a principle the party aimed to implement in all branches of the social insurance system. Consequently, the party program argued for the transparency of health insurance contributions, benefits, rights and expenses, and for the introduction of bearable copayments for the insured, so that contributions to collective health funds could be lowered. This position was also repeated in the 1969 election program, after the Pay Continuation Act had already been passed in parliament (CDU 1969: Nr. 19).

Hence, the programmatic position of the Christian Democrats on pay continuation reflected the strategic dilemma of the party, which despite strong

doubts of the employer wing against pay continuation could not risk alienating voters and the employee wing and potentially cause the introduction of pay continuation by an alliance between Social Democrats and the employee wing. To outbalance the acceptance of pay continuation, the party therefore emphasized the need for a simultaneous reform of the statutory healthcare system.

The Social Democrats' Position

Consistent with their ideological orientation, the Social Democrats argued in their party programs for equal treatment of workers and salaried employees almost from the beginning of the Federal Republic. In their 1957 election platform and the 1959 party manifesto of Bad Godesberg, the Social Democrats stated that it was time to treat workers and salaried employees equally (SPD 1957), and that medical care in case of sickness was to be supplemented by full economic protection (SPD 1959). In the election programs of 1961 and 1965, the Social Democrats formulated a more detailed position on healthcare and healthcare reform, clearly opposing copayments for the insured that CDU and FDP argued for (SPD 1961, 1965).

In the 1965 platform, the Social Democrats furthermore granted the issue of pay continuation its own chapter, demonstrating how important the issues were to the party. The party emphasized that a Social Democratic-led government would introduce pay continuation for workers based on three principles: first, expenses for employers would be fully covered through a equalization fund; second, pay continuation would not be linked to other reforms of the social insurance system like direct or indirect copayments; third, a social medical service in collaboration with the attending physician would assess sick workers' ability to work. In the 1969 election platform, the Social Democrats highlighted their fight for pay continuation and equal treatment of workers and salaried employees. However, the party avoided the previously clear statements against any form of direct or indirect copayments in the statutory health insurance, potentially fearing that it would have to break this promise if it came to lead the government.

The Liberals' Position

In the 1950s and early 1960s, the Liberals made few explicit statements on sickness benefits or health insurance reform. However, the general statements regarding limited state activity and the protection of individual freedom and entrepreneurial activity in the programs illustrate the party's opposition against pay continuation and its preference for cost sharing and a reimbursement system instead of a benefits-in-kind system (FDP 1957, 1961, 1969, 1953). During the reform debate on sickness benefits under the grand coalition, the Liberals therefore did not produce a coherent reform proposal but

worked on the basis of motions to amend that the party introduced in parliament in order to clarify its positions on individual aspects of the reform. Only in the election campaign of 1969, just after the introduction of pay continuation, did the FDP clearly formulate that the “solidarity principle in statutory healthcare is to be rebuilt, e.g. through a reimbursement scheme or a contribution refund system” (FDP 1969).

Summary

Table 7.3, below, summarizes the parties’ positions on a reform of sickness benefits based on party and election programs as well as reform proposals introduced into parliament that spell out party positions more specifically. As discussed earlier, party position here means the majority position of a party. In particular the Christian Democrats were internally split, and the employee wing strongly sympathized with the positions of the Social Democrats. The employer wing of the Christian Democrats, on the other side, sympathized with the position of the Liberals. Furthermore, party positions match the positions of important interest groups, with Social Democrats and unions (and the Christian Democrats’ employee wing) on one side and Christian Democrats (in particular the employers’ wing), Liberals and employer federations on the other side.

Table 7.3: The Programmatic Positions of Social Democrats, Christian Democrats and Liberals on Sickness Benefits

	Social Democrats	Christian Democrats	Liberals
Political-Ideological Orientation	democratic socialism freedom, equity, solidarity catch-all center-left	social Catholicism liberal conservatism catch-all center right	self-responsibility and self-determination of the individual
Programmatic Position on Reform of Sickness Benefits	strong support for pay continuation for workers and equal treatment of workers and salaried employees in all respects; strong opposition to cost sharing in healthcare	reluctant acceptance of pay continuation; strong emphasis on cost-sharing reforms in healthcare as compensation	opposition to financial burdens for employers and schematic-legalistic equalization of workers and salaried employees; support for structural reform of health insurance towards reimbursement system

7.4 Architectural Policy Design Strategies in the Reform of Sickness Benefits

The programmatic differences between Christian Democrats, Social Democrats and Liberals reflect the different policy options that were debated and which option policy makers deemed the “best solution” for the problem or challenge of sickness benefits reform is. Moreover, they reflect considerations regarding the immediate effects of different reform designs, e.g. the financial

burden on employers, as highlighted in the introduction to this case study. Both are also a typical perspective in the literature on policy design and policy instruments, which often aims to compare policy instruments and design based on their efficiency (cf. chapter 2.2).

The programmatic differences also reflect and add up to different long-term strategies in health politics. These strategies can be distinguished, *first*, by the different end goals the parties pursued. The Christian Democrats aimed at transforming the statutory health insurance from a benefits-in-kind system to a reimbursement system with direct co-payments in the long run.¹³⁵ The Social Democrats worked for a reform that would in the long run render a citizenship-based health insurance system more easy to achieve, and they tried to implement a pay continuation reform that was hard to retrench. *Second*, the strategies can be distinguished by the policy feedback effects they utilized. The Christian Democratic strategy built on experience effects, kick-off effects and a cover-up effect, even though the design proposal was also linked to entrenchment and spillover effects favored by the Social Democrats. The Social Democrats' strategy built on precedence effects, entrenchment effects, a spillover effect, and a cover-up effect. Below, Table 7.4 and Figure 7.1 illustrate both strategies.

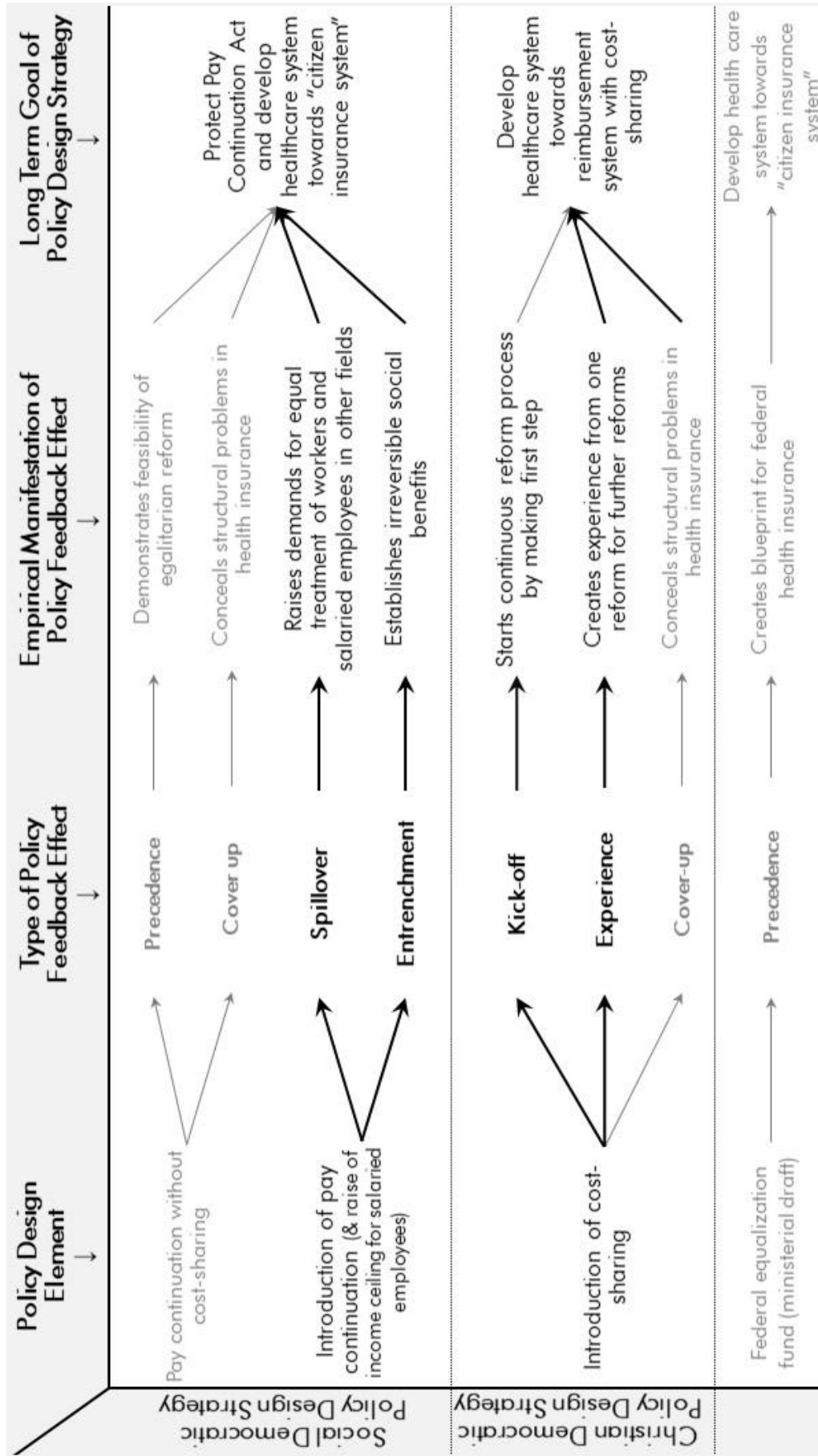
Before diving deeper into the analysis of the strategies, four qualifications are in order as in the case study of the Codetermination Act above: *first*, discussing a "Social Democratic" and a "Christian Democratic" architectural policy design strategy serves the purpose of using apt labels for two competing, long-term political strategies, but it does not mean that the parties had a copyright on these strategies, so to speak. In fact, the Social Democrats' strategy was largely shared by labor unions, and the Christian Democrats were supported by employer federations and could count on the sympathy of the Liberals regarding their long-term goals. *Second*, the comparison of the two strategies does not mean that both parties always stood uniformly behind these strategies, as especially the discussion of the Christian Democrats and the competing employer and employee wing has shown. *Third*, while the two strategies relied on different types of policy feedback effects, those feedback effects are not necessarily fully understood by policy makers in their analytical meaning. The assumption that policy makers have a working understanding (cf. section 3.2) of the feedback effects of different types of policy design is sufficient for the subsequent analysis.

¹³⁵ In a benefit-in-kind system, the insured receive medical treatment from medical professionals who directly charge the responsible health fund. In a reimbursement system, the insured first pay for treatment and are reimbursed in full or partially for their expenses later (meaning direct copayments).

Fourth, overall architectural policy design strategies as depicted in Figure 7.1 are imposed on the empirical material after a fine-grained investigation of the individual elements of the design strategies. The investigation is based on the assumption that policy makers have a working understanding of what feedback effects different design elements might produce, but that policy makers do not necessarily devise a “master plan” for an architectural policy design strategy that compares all possible feedback effects and prioritizes certain effects over others (cf. section 3.2). While policy makers do not necessarily develop this kind of master strategy, the empirical material shows that certain considerations (those depicted in black in Figure 7.1 and Table 7.4) seemed more important to policy makers than others (those depicted in grey), which will be reflected throughout the following discussion.

The structure of section 7.4 is as follows: sections 7.4.1 (on the Christian Democrats’ architectural policy design strategy) and 7.4.2 (on the Social Democrats’ architectural policy design strategy) first introduce overviews of the different anticipated feedback effects that made up the parties’ design strategies, since those effects are the analytically interesting category. Then, the sections conduct a fine-grained empirical analysis along different policy design elements that policy makers assumed could produce these feedback effects. The empirical analysis reflects how policy makers think about potential policy feedback effects, starting from different design elements going to potential feedback effects. Following the discussion of the Christian Democrats’ and the Social Democrats’ policy design strategies, section 7.4 briefly discusses anticipated feedback effects that were linked to policy design elements that neither Social Democrats nor the Christian Democrats favored.

Figure 7.1: The Architectural Policy Design Strategies of Christian Democrats and Social Democrats in Pay Continuation Politics



Note: Feedback effects more central to the parties' strategies are depicted in black; feedback effects less central to parties' strategies are depicted in grey.

Table 7.4: Policy Design Elements and Attributed Policy Feedback Effects in the Social Democratic and Christian Democratic Policy Design Strategy

Policy Design Element	The Social Democrats' Policy Design Strategy: Policy Design and Attributed Feedback Effects	The Christian Democrats' Policy Design Strategy: Policy Design and Attributed Feedback Effects
<p>Principle of Sick Benefit & Income Ceiling for Salaried Employees</p>	<p>Introduction of pay continuation for workers Income ceiling: increase to 100 % of the assessment limit for the statutory pension system until 1972 (stepwise)**</p> <p>Spillover effect¹: Salaried employees will demand equal treatment with workers regarding compulsory insurance⁴</p> <p>Entrenchment effect²: Social benefits once introduced extremely hard to retrench again⁹</p>	<p>Introduction of pay continuation for workers Income ceiling: increase to 55 % of the assessment limit for the statutory pension scheme by 1970**</p> <p>Spillover effect¹: Salaried employees will demand equal treatment with workers regarding compulsory insurance⁴</p> <p>Entrenchment effect²: Social benefits once introduced extremely hard to retrench again⁹</p>
<p>Reform of Statutory Health Insurance / Introduction of Cost Sharing</p>	<p>No copayments for prescription or hospital treatment; no contribution refund scheme</p> <p>Precedence effect³: Introduction of Pay Continuation without simultaneous healthcare reform might lead to citizen health insurance-models⁸</p> <p>Cover-up effect⁴: Individual introduction of pay continuation without health care reform delays healthcare reform (in direction of cost sharing)¹¹</p>	<p>2DM copayment per prescription; 3DM copayment per day for hospital treatment; partial contribution refund (in case of non-use of health insurance for 1 year)</p> <p>Kick-off effect⁵: Gentle introduction of copayments in order to kick off process of “permanent reform” towards reimbursement system with direct co-payments⁶</p> <p>Experience effect⁶: First reform step supposed to help gain experience for further reforms⁷</p> <p>Cover-up effect⁷: Cost sharing covers up more fundamental problem in health insurance and prevents their reform¹⁰</p>

Sources (selected empirical manifestations):

- ¹ACDP, 08-008-264/2: letter from crafts association representatives to MP Gewandt, 29.10.1968; AdsD/DGB archive, 5/DGA001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964; AdsD, 667: position paper from local SPD branch in Westliches Westfalen, no date; AdsD, 2/BTFD000198: undated memo from the materials of the Social Democrats working group on social policy in the 4. Bundestag (1961-65);
- ²ACDP, 07-001-19701: election correspondence 1969; Bundestag Printed Matter 05/237: Bundestag plenary debate, 3rd reading of Pay Continuation Act, 12.06.1969, p. 13147D
- ³ACDP, 08-005-092/3: paper “on the reform of health insurance”, no date, no author
- ⁴AdsD, 669: position paper from the association of small and medium-sized enterprises (Deutscher Gewerbeverband), 18.03.1969; AdsD, 667: article from the German insurance journal (Deutsche Versicherungszeitschrift), October 1968
- ⁵ACDP, 08-005-060/2: BDA paper, no date; ACDP, 08-008-264/2: letter from MP Ruf (Wirtschaftsrat/MIT) to MP Gewandt (DKM head), 17.03.1969; ACDP, 01-858-027/2: protocol attachment, 07.01.1969; ACDP, 08-005-061/1: commission report on Pay Continuation, 04.02.1969; ACDP, 08-005-061/1: memo from commission on Pay Continuation 17.01.1969; ACDP, 08-005-092/3: paper “on the reform of health insurance”, no date, no author; ACDP, 08-005-061/1: commission report on Pay Continuation, 04.02.1969; ACDP, 08-005-061/1: argumentation paper, 12.04.1969

⁶ ACDP, 08-005-060/2: BDA paper, no date; ACDP, 01-858-027/2: protocol attachment, 07.01.1969; ACDP, 07-001-19701: Rentnerdienst 1969; ACDP, 08-005-061/1: argumentation paper, 12.04.1969; ACDP, 08-005-061/1: commission report on Pay Continuation, 04.02.1969; ACDP, 08-005-061/1: argumentation paper, 12.04.1969; ACDP, 08-005-061/1: memo from commission on Pay Continuation 17.01.1969

⁷ Parliament Archive, PA-DBT 4000 V368 lfd. 11: Bundestag committee on social policy, committee meeting, 24.04.1969, p. 28

7.4.1 *The Christian Democrats' Architectural Policy Design Strategy: Setting the Statutory Health Insurance on a Reform Path towards a Reimbursement System with Cost Sharing*

The Christian Democrats' strategy can be qualified as an attempt to kick off a self-reinforcing reform process that would eventually lead to a transition to a reimbursement system with direct copayments in Germany's statutory health insurance. Since the Christian Democrats realized that it was hopeless to oppose pay continuation in general due to the potential alliance of Social Democrats with the CDU's employee wing, the party's strategic focus was henceforth on realizing as much of their reform ambitions regarding the statutory health insurance system as possible. In this struggle, the Christian Democrats not only faced opposition from the Social Democrats but also had to secure a necessary level of internal party unity since the CDU employee wing was critical of far-reaching cost-sharing measures. Furthermore, the Christian Democrats were aware of the substantial political and practical hurdles to a paradigmatic health insurance reform in the current legislative term and to a major reform in general.

The Christian Democrats' strategy therefore built on the idea of a permanent reform. The aim was a paradigmatic shift from the benefits-in-kind system to a reimbursement system with direct copayments through a gradual, incremental reform process involving numerous small reforms and adaptations of health insurance policies. This strategy relied on "activating" three types of feedback effects that will be briefly outlined and then investigated in more detail.

The Policy Feedback Effects of the Christian Democrats' Policy Design Strategy in Brief

First, the Christian Democrats hoped that an *experience* effect would emerge after the implementation of at least some form of cost-sharing measure. That is, future governments would be able to draw on practical and legislative experience with the introduction of cost sharing and could utilize that experience in extending cost sharing and eventually transforming the benefits-in-kind into a reimbursement system. The Christian Democrats also hoped to that the insured through exposure to gentle cost-sharing measures would learn to understand the high costs of medical treatment and their own responsibility in not overburdening the insurance community. The party evaluated which type(s) of cost-sharing measures would be most effective in achieving these *experience* effects, as the more detailed analysis below will show.

Second, and closely related to experience effects, the Christian Democrats' strategy was built on a *kick-off effect*: They aimed to design the Pay Continuation Act in a way that would facilitate political experience among government elites and the population in order to develop a pool of knowledge for further reforms; and they aimed to design the reform in a way that would start this permanent reform process. For example, policy makers envisioned (but failed to implement) an expert committee that would accompany a reform process in the future and could, once established, keep a reform process going. Another possibility would be to base a kick-off effect on positive evaluations of the first reform step that would make subsequent reform steps easier to implement. Both the kick-off effect and the experience effects were crucial to the Christian Democrats' design strategy.

The *third* feedback effect, the *cover-up effect*, was less important than the former two. That means that, at least in the eyes of the Social Democrats, the Christian Democrats hoped that the introduction of cost-sharing measures would conceal structural problems in the statutory health insurance like its limited coverage of, in particular, well-paid, often privately insured, groups. The implementation of some form of cost sharing would, from this perspective, help frame the problems of the statutory health insurance in terms of more/less cost sharing instead of more/less private insurance.

The final design proposal of the Christian Democrats furthermore supported a spillover and an entrenchment effect that were actually an original part of the Social Democrats' design strategy. The reason lies in the above-mentioned strategic dilemma of the Christian Democrats, who feared an alliance between Social Democrats and their own employee wing and therefore had to take over a part of the Social Democrats reform design, i.e. accept the introduction of pay continuation. The Christian Democrats therefore contributed to establishing policy feedback effects that ran counter to their own long-term goals and instead facilitated political dynamics in favor of the Social Democrats' agenda (discussed in more detail in section 7.4.2).

The Design Elements of the Christian Democrats' Reform Proposal and Which Feedback Effects Policy Makers Attributed to Them

The Christian Democrats based their design strategy on one specific policy design element that was supposed to facilitate the policy feedback dynamics outlined above, and that is the *introduction of cost-sharing measures*. During the reform debate, the potential introduction of some form of cost sharing led to intense political conflicts between Social Democrats and Christian Democrats. Crucially, this was not only due to immediate consequences of cost sharing like the financial burden on low-paid parts of the population but also due to the long-term political implications of such cost-sharing measures. From the

perspective of the Christian Democrats, cost sharing produced a *kick-off effect*, an *experience effect* and, though less crucial, a *cover-up effect* that would lead towards a reimbursement system with direct copayments in the statutory healthcare system. Furthermore, the Christian Democrats consciously prioritized cost-sharing measures that would create beneficial, long-term feedback dynamics over measures that would introduce more far-reaching cost sharing immediately.

As discussed in section 7.3, the Christian Democrats insisted on linking the introduction of pay continuation to a so-called “first step of healthcare reform”. What they effectively meant was the introduction of cost-sharing measures and not, for example, structural reforms of the statutory health insurance. In particular, the employer wing of the Christian Democrats insisted on only passing pay continuation in a package deal together with some cost-sharing measures.¹³⁶ Just as Social Democrats could be sure of the unions’ support in opposing cost sharing, the Christian Democrats knew that representatives of mid-sized business, employer federations and “all economic forces” were on their side in the fight for cost sharing.¹³⁷ The Christian Democrats therefore originally proposed the introduction of three different measures of cost sharing or, respectively, cost transparency: copayments for prescriptions, copayments for hospital treatment, and a contribution refund scheme according to which the insured received a share of their health insurance contributions back if they did not use their health insurance for more than one year.

The goal of these measures was, as the Christian Democrats argued publicly, to make citizens more aware of the cost of medical treatment so that they would be incentivized to use their health insurance more conservatively, for example by paying a fixed percentage of the total expenses.¹³⁸ Since this pedagogical effect would be stronger the more costs insured would have to cover and only weak for the contribution refund scheme where no actual costs were levied on the insured, the Christian Democrats’ original preference in the negotiations was to achieve the introduction of copayments. In March 1963, a leading member of the Christian Democrats’ employers wing called copayments for hospital treatment a “*conditio sine qua non*” when negotiations with

¹³⁶ See e.g. a press release of the employer wing (MIT) from July 28, 1969 (ACDP 08-008-246/2) or a resolution proposal for an MIT delegate conference on September 27, 1969 (ACDP 04-004-005/5).

¹³⁷ ACDP, 08-008-264/2: memo from MP Kalinke (CDU) to MP Müller-Herrman (CDU), 14.01.1969.

¹³⁸ ACDP, 08-005-060/2: BDA paper, no date.

the Social Democrats were at their peak.¹³⁹ In another memo, the same MP concluded that a reform proposal (which did not include copayments but only a contribution refund scheme) simply was “not a first step of healthcare reform”.¹⁴⁰

However, the Social Democrats were strongly opposed to copayments due to their social consequences. They were more flexible in negotiating a contribution refund scheme since that would mean a relief for some insured (though typically upper class) without an increase for all insured.¹⁴¹ The final Pay Continuation Act therefore included a compromise and did not introduce copayments for hospital treatment, limited copayments for prescription medicine to 20 % and a maximum of 2.50DM, and introduced a contribution refund scheme.

As mentioned, policy makers considered three types of policy feedback linked to the introduction of cost sharing: a *kick-off effect*, an *experience effect*, and a *cover-up effect*. *First*, the introduction of cost-sharing measures was supposed to produce a *kick-off effect*. In practice, this means that Christian Democrats aimed at gently introducing cost sharing in order to steer the path of health insurance reform towards their intended long-term goal. A commission on pay continuation of the parliamentary group of CDU/CSU concluded, for example, that the

[...] first step [of a reform] should include elements of cost sharing and *not hinder further reforms in that direction* or in its practicalities an agreement with the coalition partner. [...] In the long run, a permanent reform should be the goal, according to the ideas of the minister accompanied by a board of advisers on health insurance reform.¹⁴²

The excerpt shows that policy makers wanted the Pay Continuation Act to not hinder further reforms in the direction of cost sharing and reimbursement. Hence, the party prioritized long-term goals over potential short-term political gains, which can also be seen in another memo. Here, a CDU/CSU working group explicitly states that “considering the political circumstances [i.e. the danger of the SPD introducing a pay continuation reform without any linked health insurance reform], there is a very strong tendency to *accept a moderate*

¹³⁹ ACDP, 08-008-264/2: letter from MP Ruf (Wirtschaftsrat/MIT) to MP Gewandt (DKM head), 17.03.1969.

¹⁴⁰ ACDP, 01-858-027/2: protocol attachment, 07.01.1969.

¹⁴¹ ACDP, 08-005-060/2: memo for MP Barzel, 12.11.1968.

¹⁴² ACDP, 08-005-061/1: commission report on Pay Continuation, 04.02.1969, italics added.

first step of healthcare reform. It is, however, essential that this step is implemented in such a way that it can form the basis for further health insurance reforms".¹⁴³

Therefore, policy makers considered the introduction of a contribution refund scheme beneficial in the long run, even though it meant that the Christian Democrats would not achieve direct copayments to the extent they hoped for in the short run. A working paper on health insurance reform from the CDU/CSU parliamentary working group on social policy illustrates these considerations well. It says that the "contribution refund scheme [as a form of cost sharing; PP] is – in a benefits-in-kind system – the more practical way of cost sharing and *can contribute to preparing the transition towards a reimbursement system with direct copayments*"¹⁴⁴ because the insured will be made aware of the real costs of medical treatment regularly, incentivized to economical usage of their insurance and acceptance of their individual responsibility to the insurance community.¹⁴⁵ Hence, policy makers carefully considered the implications of different cost-sharing measures in the short and long term and how these could affect a reform process towards more cost sharing and, eventually, a reimbursement scheme with direct copayments. Importantly, in this calculation process, policy makers seemed to have consciously prioritized a policy design with beneficial long-term implications instead of fighting for a design that would represent a bigger political victory immediately after its passage, for example including co-payments for hospital treatment.

Second, policy makers considered an *experience effect*, which is closely linked to the kick-off effect. After the passage of the final reform, when the Christian Democrats were under criticism due to the limited cost-sharing measures, the party justified and defended the value of the Pay Continuation Act by pointing towards this *experience effect*. In the eyes of CDU/CSU, the first reform step would help to leave the level of "merely theoretical considerations" and instead make real and practical experiences necessary for the implementation of the overall reform in the future.¹⁴⁶ Already before the 1969 act was passed and the policy design still debated, Christian Democrats pointed towards this experience effect. For example, an argumentation paper from April 1969 defends the Christian Democrats' reform design and argues that "the CDU/CSU proposal offers the opportunity to *gather experience* and makes it easier for the legislative branch to take further steps on the way to a

¹⁴³ ACDP, 08-005-061/1: memo from commission on Pay Continuation 17.01.1969, italics added.

¹⁴⁴ ACDP, 08-005-092/3: paper "on the reform of health insurance", no date, no author, italics added.

¹⁴⁵ Ibid.

¹⁴⁶ ACDP, 07-001-19701: Rentnerdienst 1969.

permanent reform of health insurance in the coming legislative period”.¹⁴⁷ Hence, policy makers were aware of the practical experience the implementation of their policy design would help create, anticipating that further reforms in the direction of a reimbursement system with direct copayments would be easier to adopt and implement if legislators could draw on the legislative, administrative and practical experiences of previously passed cost-sharing reforms.

Third, policy makers considered a *cover-up effect*. This cover-up effect means that an introduction of at least some form of cost sharing would be able to conceal structural problems of the statutory healthcare system and thereby decrease the pressure to address those problems. This effect, however, seems less important to Christian Democratic policy makers since the analyzed empirical material shows it less frequently and less clearly. Nevertheless, the material shows that Social Democrats saw the danger of a cover-up effect. As a Social Democratic parliamentarian argued in a committee debate, “the increase of copayments for prescriptions does not stimulate a health insurance reform. On the contrary, it could create the impression that in principle a step in the right direction has already been made”.¹⁴⁸ Importantly, the cover-up effect does not necessarily conceal “real” structural problems in the statutory health insurance (even though that is surely possible). Instead, the effect illustrates that policy formulation is also a struggle over the framing of problems and potential solutions and that each policy design comes with a particular frame that may suppress other frames.

Overall, the Christian Democrats hoped the introduction of cost sharing would be the start of a “permanent reform process”.¹⁴⁹ Instead of aiming to reform the statutory health insurance in one big reform, the Christian Democrats tried to start a gradual reform process that was supported by the three described feedback effects, in particular a kick-off effect and an experience effect, and would ultimately lead to their desired goal, a reimbursement system with direct copayments.

¹⁴⁷ ACDP, 08-005-061/1: argumentation paper, 12.04.1969, italics added.

¹⁴⁸ Parliament Archive, PA-DBT 4000 V368 lfd. 11: Bundestag committee on social policy, committee meeting, 24.04.1969, p. 28.

¹⁴⁹ ACDP, 08-005-061/1: commission report on Pay Continuation, 04.02.1969; ACDP, 08-005-061/1: argumentation paper, 12.04.1969; ACDP, 08-005-061/1: memo from commission on Pay Continuation 17.01.1969.

7.4.2 *The Social Democrats' Architectural Policy Design Strategy: Protecting Achieved Victories and Broadening the Statutory Health Insurance towards a Citizen Insurance System*

The Social Democrats' architectural policy design strategy had two goals. First, it attempted to implement and protect a pay continuation reform that would be hard to retrench. Second, it aimed to facilitate a reform path that would broaden the statutory health insurance in the direction of a citizen insurance system that would not distinguish between workers and employees and would potentially overcome the occupationally and regionally segregated structure of the statutory health insurance. The Social Democrats' strategy therefore had a more "defensive" character than the Christian Democrats' strategy, which was more "offensive" or "transformational" at its core in regard to healthcare reform (even though the Christian Democrats were in a strategically weaker position). As discussed in previous chapters, the Social Democrats were more united as a party than the Christian Democrats and enjoyed the support of the labor movement in the pay continuation debate. In 1969, the party was in a strategically advantageous position knowing that the Christian Democrats' employee wing shared their goal of introducing pay continuation for workers. This strength of the Social Democrats is also reflected in the final policy design of the Pay Continuation Act, where the party was able to successfully implement pay continuation and limit cost-sharing measures to a tolerable degree (cf. chapter 7.5).

The Policy Feedback Effects of the Social Democrats' Policy Design Strategy in Brief

The Social Democrats' policy design strategy was based on four types of policy feedback: a precedence effect, a spillover effect, an entrenchment effect, and a cover-up effect.

First, the Social Democrats counted on a *precedence effect*, meaning that the introduction of pay continuation without or with only limited cost-sharing measures would be a signal that progressive, egalitarian social policy could be successfully passed without too many political sacrifices. For future, similar reform attempts, such a precedence case could be a political advantage in negotiations with opponents, and it could motivate and mobilize the Social Democrats' followers and supporters, even when the parties' strategic situation is less advantageous.

The *second* feedback effect was a *spillover effect*. The spillover effect means that Social Democrats could hope, and that Christian Democrats feared, that a worker-friendly introduction of pay continuation would have effects on related political issues. Specifically, granting workers rights and benefits that were previously limited to salaried employees would likely increase demands

among salaried employees to subsequently be granted those benefits and rights to which only workers were previously entitled. Hence, the Pay Continuation Act had the potential to spill over into other political issues and create a domino effect that would lead to more egalitarian treatment of workers and salaried employees and, thus, contribute to the transformation of the occupationally segregated health insurance system towards a citizenship-based insurance system.

The *third* effect that the Social Democrats' strategy incorporated was an *entrenchment effect*. This feedback effect conformed well to the Social Democrats' more short-term focus on the introduction of pay continuation after 20 years of political struggle for it. Nevertheless, policy makers were well aware of the obstacles to abolishing existing social benefits. The Pay Continuation Act would immediately create a sizeable constituency that came to enjoy its benefits as well as a sense of entitlement on the side of workers that would be extremely hard to work against in the future. This sense of entitlement can be understood in a material sense as "entitlement to social benefits" and in an ideational sense of "entitlement to fair and equal treatment of workers with salaried employees". The spillover effect and the entrenchment effect combined formed the core of the Social Democrats' architectural policy design strategy.

Fourth, and last, Social Democrats counted on a *cover-up effect*. The Social Democrats' cover-up effect mirrors the cover-up effect discussed above for the Christian Democrats. That means that, at least in the eyes of the Christian Democrats, the Social Democrats hoped that the introduction of pay continuation and the raise of the income ceiling for compulsory insurance of salaried employees without cost-sharing measures would conceal structural problems in the statutory health insurance, e.g. the sharp increase in costs for medical care. From this perspective, the raised income ceiling and the failure to introduce cost sharing would help frame the problem of the statutory health insurance as one of a too narrow insurance base instead of one of uncontrolled expenses.

The Design Elements of the Social Democrats' Reform Proposal and Which Feedback Effects Policy Makers Attributed to Them

The policy feedback effects of the Social Democratic policy design strategy were linked to several design elements: the introduction of pay continuation, the raised income ceiling for compulsory insurance of salaried employees, and the limitation of or opposition to cost-sharing measures.

(1) The Introduction of Pay Continuation and the Attributed Spillover and Entrenchment Effects

The *first policy design element* that Social Democrats considered to have substantial implications for future politics concerns the introduction of pay continuation combined with a raised income ceiling for salaried employees. As discussed above, the Social Democrats had supported the introduction of pay continuation for workers since the early 1950s, while Christian Democrats only accepted it in the late 1960s when the party realized its strategic dilemma. The skepticism and resistance of the Christian Democrats, in particular its employer wing, to the introduction of pay continuation and the hesitation to compromise with the Social Democrats on the issue can be understood more easily when one considers the long-term feedback effects that policy-makers attributed to it. *Two feedback effects* were particularly concerning to Christian Democrats: a potential spillover effect and an entrenchment effect.

(1) The *spillover effect* concerns the equal treatment of workers and salaried employees. Both groups were traditionally treated differently in many matters of social legislation and labor law, and workers were typically disadvantaged compared to salaried employees. In the pay continuation debate, all involved parties supported ending this unequal treatment of workers and salaried employees. The Social Democrats wanted to introduce pay continuation and raise the income ceiling for compulsory health insurance for salaried employees substantially, so that more salaried employees were entitled to employer contributions to their health insurance.^{150, 151} The Social Democrats aimed to grant workers rights that previously only salaried employee enjoyed and vice versa.

Christian Democrats, Liberals, and employer federations also acknowledged and supported equal treatment of workers and salaried employees, but their strategic behavior suggested that they did so with less conviction and tried to limit the rights that either group would be granted. The danger of introducing pay continuation for workers, i.e. taking a first step towards equal treatment of workers and salaried employees, was that this measure would *spill over* into other areas of unequal treatment and lead to demands for more

¹⁵⁰ See, e.g., a letter from MP Schellenberg (head of working group on social policy) to the SPD parliamentary group from May 08, 1969, in which Schellenberg reports that Social Democrats and Christian Democrats agreed on a compromise regarding the raise of the income ceiling for salaried employees. For the Social Democrats, this compromise did not go far enough, and the question of how high the income ceiling should be raised became a topic in the upcoming election (AdsD, 1535).

¹⁵¹ Only if salaried employees' income was below this ceiling were they entitled to employers' contribution to their health insurance. Workers had the right to receive employer contributions to their health insurance irrespective of the level of their salary.

equal treatment, e.g. regarding a further increase of the income ceiling for compulsory insurance.

A letter from the consortium of local handicraft organizations in Germany's largest state, North Rhine-Westphalia, to the head of the CDU Discussion Group on Mid-Sized Business (DKM) in October 1968, expressed this concern in a straightforward way:

A further indirect burden [on employers] was unavoidable after the introduction of pay continuation, since *salaried employees will demand equal treatment with workers* in regard to employer contributions to health insurance, as already announced now. Employers will then have to pay half of the health insurance contributions for salaried employees earning more than 900DM a month.¹⁵²

Certainly, this fear was not unfounded. Already in 1963, Social Democratic policy makers considered the implication of an introduction of pay continuation, stating that “through the introduction of pay continuation, the system of [occupationally and regionally segregated] health funds would have to be liquidated in the long run” in favor of a single health fund (*Einheitskasse*).¹⁵³ In addition, the union federation DGB deemed a link between the introduction of pay continuation and an increase in the income ceiling necessary, so that as few as possible salaried employees were excluded from employers' contribution to their health insurance, a right that all workers already enjoyed.¹⁵⁴

During the reform debate under the grand coalition, Social Democrats still considered the introduction of pay continuation and demands for equal treatment of workers and salaried employees in the statutory health insurance (i.e. raising or abolishing the income ceiling for the latter) “inextricably linked”,¹⁵⁵ as a position paper of an SPD district in the Social Democrats' heartland Western Westphalia shows. Hence, even if the Social Democrats did not succeed in raising the income ceiling for salaried employees as high as they wished, the introduction of pay continuation was certainly considered a first step towards equal treatment of workers and salaried employees that could spill over to other fields and create demands for raising the income ceiling further later on.

(2) A second concern for Christian Democrats regarding the Social Democrats' policy design related to the potential *entrenchment effect* of the pay con-

¹⁵² ACDP, 08-008-264/2: letter from crafts association representatives to MP Gewandt, 29.10.1968, italics added.

¹⁵³ AdsD, 2/BTFD000198: undated memo from the materials of the Social Democrats working group on social policy in the 4. Bundestag (1961-65).

¹⁵⁴ AdsD/DGB archive, 5/DGA0001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964.

¹⁵⁵ AdsD, 667: position paper from local SPD branch in Westliches Westfalen, no date.

tinuation reform. Here, Christian Democrats were aware of the obstacles policy makers generally face in taking back reforms that grant benefits to a sizeable population. That this in the literature broadly discussed type of feedback effect is a real concern for policy makers becomes apparent in a number of written replies by the Christian Democrats' national party bureau sent to voters in the impending election campaign of 1969.¹⁵⁶ In the letters, the Christian Democrats tried to defend the coalition compromise to introduce pay continuation for workers by highlighting that "taking back once introduced progressive regulations is almost impossible in politics." The letters go on, "if pay continuation for salaried employees cannot be rolled back into sick pay, then sickness compensation for workers must take over the pay continuation principle."

Even though it was not the original goal of the Christian Democrats to introduce pay continuation for workers, these letters show policy makers' awareness of the political obstacles of retrenching pay continuation once it is introduced. Thereby, they also highlight the extent of the Christian Democrats' defeat in the pay continuation debate because not only did they lose the conflict around pay continuation in 1969, they would not be able to reverse the result of this conflict.

While there is no direct evidence in the Social Democrats' materials on an intentional, strategic design of this entrenchment effect, it is reasonable to assume that policy makers from all parties are aware of the hurdles they face when attempting to retrench social benefits, both in the specific case of the pay continuation act and in general. That policy makers were aware of the importance of the introduction of pay continuation for workers is also apparent in the parliamentary debates. Here, several members of parliament highlighted the historical significance of the reform for workers,¹⁵⁷ e.g. referring to it as a "historical milestone", a wording that policy makers would likely not use if they considered a reform easily "retrenchable".

Together with the spillover effect, the entrenchment effect can be considered the core of the Social Democrats' architectural policy design strategy. The spillover effect is the most "offensive" feedback effect that emerges from the Social Democrats policy designs, with which the party could try to shape subsequent policy development beyond the Pay Continuation Act itself. On the other side, the entrenchment effect is a strong "defensive" tool to protect pay continuation beyond the passage of the reform in 1969.

¹⁵⁶ ACDP, 07-001-19701: election correspondence 1969.

¹⁵⁷ Bundestag Printed Matter 05/237: Bundestag plenary debate, 3rd reading of Pay Continuation Act, 12.06.1969, p. 13147D.

(2) The Avoidance of Cost-Sharing and the Attributed Precedence and Cover-Up Effects

Two additional, though less crucial, policy feedback effects were produced by a *second policy design element*: the avoidance of cost-sharing measures. As discussed above, Social Democrats as well as unions had traditionally opposed any form of cost sharing and therefore tried to limit it as much as possible if they could not prevent it. Due to their advantageous strategic position in 1969, Social Democrats succeeded in “cutting down” the Christian Democrats’ proposals on cost-sharing considerably, avoiding any copayments for hospital treatment, reducing copayments for prescriptions and accepting a contribution refund scheme, which had the smallest negative impact on typical Social Democratic voters in the working class.

Two feedback effects were linked to an avoidance of cost-sharing measures: a precedence effect and a cover-up effect. (1) First, the introduction of pay continuation without the simultaneous introduction of cost sharing would create a *precedence effect* that would lead to further demands for equal treatment of workers and employees and, thus, lead the way towards a citizenship-based health insurance system instead of a reimbursement system with copayments.

The Christian Democrats feared this development and saw an almost natural link between the introduction of pay continuation and equal treatment of salaried employees and workers in terms of employer contributions to the statutory health insurance.¹⁵⁸ The Christian Democrats were especially afraid that the occupationally segregated, multi-payer health insurance system would be replaced over time by a more centralized, egalitarian healthcare system that the Social Democrats wanted to achieve, if pay continuation was implemented on its own.

The essence of the precedence effect lies in the fact that the Social Democrats would create the experience that a progressive welfare reform to the benefit of workers (the introduction of pay continuation) can be successfully implemented without having to make substantial concessions in other fields (introduction of cost-sharing). This effect builds less on rising expectations among salaried employees (as the spillover effect discussed above) than on the positive experience of Social Democratic lawmakers in achieving this reform. While the empirical material does not offer direct evidence for this distinction between raised awareness in the public and gained experience for policy makers, the importance of the policy issues to Social Democrats suggests that policy makers knew that its successful implementation would leave a lasting mark on the parties’ history and that it could be used in the future to motivate followers and policy makers.

¹⁵⁸ ACDP, 08-005-092/3: paper “on the reform of health insurance”, no date, no author.

(2) The avoidance of cost-sharing measures was also linked to a *cover-up effect*. This cover-up effect would work as the one discussed above for the Christian Democrats but in the opposite direction. That means that the introduction of pay continuation and the raise of the income ceiling for compulsory insurance of salaried employees *without* any cost-sharing measures would conceal structural problems (from the perspective of Christian Democrats, Liberals and employers) in the statutory health insurance like the sharp increase in costs for medical care. The increase in the income ceiling and the avoidance of cost-sharing measures would then help frame the problem of the statutory health insurance as one of a too narrow insurance base instead of one of uncontrolled expenses.

For example, an interest organization of small- and mid-sized firms warned that the passage of the pay continuation act “would probably jeopardize the chances of a real reform [of the statutory health insurance; PP]”, criticizing that the introduction of pay continuation alone could not solve the financial problems of the statutory health insurance.¹⁵⁹ In the same vein, a magazine published by the insurance industry argued that the pay continuation act would substantially decrease the prospects for a structural health insurance reform, not least because it would give away the compensation (i.e. pay continuation) for such a reform that would burden the insured with some form of cost sharing.¹⁶⁰ Hence, a successful introduction of pay continuation with only limited cost-sharing measures (or none at all) would not only prevent cost sharing at that moment but also lower the likelihood of an introduction of cost sharing in the future.

Policy Design Elements and Attributed Feedback Effects Not Entailed in the Christian Democrats’ or the Social Democrats’ Design Strategy

Before summarizing the Christian Democrats’ and the Social Democrats’ design strategies, this section briefly discusses another potential feedback effect that policy makers considered but that was not part of either of the two discussed strategies. Instead, this feedback effect was linked to an early ministerial draft that included a proposition to establish a federal equalization fund that would compensate employers for their expenses in relation to pay continuation for workers. As discussed above, the purpose of the equalization fund was to make the economic burden employers had to carry in case of the introduction of pay continuation more predictable. The equalization fund was to be

¹⁵⁹ AdsD, 669: position paper from the association of small and medium-sized enterprises (Deutscher Gewerbeverband), 18.03.1969.

¹⁶⁰ AdsD, 667: article from the German insurance journal (Deutsche Versicherungszeitschrift), October 1968.

financed solely by employers and, depending on policy proposal, to cover all employers and refund their full expenses (according to the Social Democrats' proposal) or only small businesses with max. 20 employees and only 80 % of their expenses (according to the Christian Democrats' proposal). The Christian Democrats furthermore proposed substantial federal aid to subsidize the equalization fund in the first years of its operation. Administratively, both proposals recommended that each health fund would operate its own equalization fund and that employers would receive compensation from the fund operated by the respective sick workers' health fund.

In replicating the structure of multi-payer healthcare system, both parties opted for a policy design that avoided a potential *precedence effect*. This is because the other potential solution for the administrative set-up of the equalization fund(s) that was suggested by an early ministerial draft¹⁶¹ – establishing a single, independent equalization fund on the federal level that would use existing health funds only as “payment agencies” – would set a precedent for the centralization of Germany's multi-payer social insurance system.

The Confederation of German Employers Associations (BDA) warns about this potential development in a response to the ministerial draft that outlined different options for the administrative structure of an equalization fund.¹⁶² According to the BDA, a federal equalization fund that “degraded” health funds to mere payment agencies that are unable to set contribution fees for employers independently taking into account sickness rate in individual firms and the health funds' membership would be a danger for the German multi-payer healthcare system in the long run. In the BDA's word, “[t]aking into account the current trend of centralization in the whole social insurance system, such a federal equalization fund would without a doubt be a *dangerous precedent* for the abolishment of the multi-payer healthcare system,” so the BDA, which also questions the constitutionality of a federal equalization fund.¹⁶³ In the expert hearing on the Christian Democrats' and the Social Democrats' proposal, BDA representatives added that the establishment of an equalization mechanisms across companies and under *public* law for the compensation of *private* wage claims would have unknown consequences for the legal system.¹⁶⁴

¹⁶¹ ACDP, 08-008-264/2: BDA statement on Ministerial draft of Dec. 17, 1968; early 1969; also: ACDP, 01-858-027/2: protocol attachment, 07.01.1969.

¹⁶² Ibid.

¹⁶³ ACDP, 08-008-264/2: BDA statement on Ministerial draft of Dec. 17, 1968; early 1969, italics added.

¹⁶⁴ Parliament Archive, PA-DBT 4000 V368 lfd. 20: Bundestag committee on labor policy, public expert hearing on pay continuation, 05.05.1969, p. 30.

While the empirical material does not show whether it was the BDA's arguments that prevented Social and Christian Democrats from supporting a federal equalization fund, the BDA's statements in the parliamentary expert hearing and to the ministerial draft demonstrate the organization's – and likely also policy makers' – awareness and consideration of the potential long-term implications of such a federal equalization fund. Furthermore, the example of the ministerial draft strengthens this dissertation's analytical claim that policy makers consider potential long-term feedback effects of different policy designs, not only as part of their own policy design strategy but also in evaluating potential alternative design options.

7.5 The Political Skirmish around the Pay Continuation Act of 1969: Policy Design as Strategic Political Struggle

The first analytical claim made in Chapter 1 said that attention to policy makers' considerations of feedback effects helps remedy the functionalist bias in policy design studies and improve our understanding of the potentials, challenges, political struggles, and real-world patterns of strategic policy design. In order to substantiate this claim, this section offers an overall discussion of how the Social and Christian Democrats' strategies played out during the political skirmishing around the design of the Pay Continuation Act. The chapter discusses which priorities the parties set, which compromises they had to make, and which policy design eventually emerged from the debate as Pay Continuation Act of 1969.

Policy design studies in the policy sciences would typically investigate the Pay Continuation Act's suitability for or efficiency in solving the challenge of compensating sick employees (cf. chapter 1). Studies would inquire whether policy makers rationally followed existing knowledge when selecting policy instruments, how mixes of different policy instruments work together, whether the final policy design was effective and efficient, or how the act related to existing legislation. However, these studies would typically not investigate the political considerations during the design process but sideline these as aspects of "non-design". More political perspectives on policy design would typically not include considerations of policy feedback effects among potential political factors that shape policy design, or they would not be based on well-developed concepts of long-term strategic policy making. In sum, policy design studies would therefore not explain the political struggle and strategic conflict between the involved parties during the negotiations around the Pay Continuation Act and therefore only offer a partial understanding of the design process and its outcome.

In contrast to this common approach, this chapter summarizes the previous discussion of architectural policy design strategies and investigates more

closely the political skirmishing around seemingly trivial design characteristics that policy makers expected to be of great importance for ensuing feedback effects. In particular, the chapter discusses two questions: First, can one explain final policy design solely by drawing on policy makers' instrumental reasoning or are there other factors that influence policy design? Second, which role might considerations of policy feedback effects play among such factors?

From the outset, the positions of the Social Democrats, the Christian Democrats and the Liberals represented the broad spectrum of preferences on sickness benefits. The Liberals advocated for a reform of the statutory health insurance in the direction of a reimbursement system with direct copayments, opposed the "schematic-legalistic" equal treatment of workers and salaried employees, and criticized the financial burden on employers. These positions were well in line with the parties' basic political-ideological orientation that emphasized self-responsibility and self-determination of the individual. As discussed above, the party was, however, without much political influence during the grand coalition and therefore had no chance of implementing its policy goals. Consequently, the Liberals abstained from introducing a full-fledged reform proposal into the legislative process and instead worked with a number of motions to amend that nevertheless gave the party a chance to illustrate its policy position to the public and to its opponents.

The Social Democrats' position on codetermination had been clear since the establishment of the Federal Republic. The party consistently argued for the introduction of pay continuation for workers and extended this position to argue also for equal treatment of workers and salaried employees in the statutory health insurance. Furthermore, the party strictly opposed cost sharing as a form of individualizing the risks of medical treatment to the disadvantage of those in need.

The Christian Democrats went through a more difficult process before settling on their position on pay continuation. As in the codetermination case, the party was split between its employer and employee wing. Roughly speaking, the employer wing had the same position as the Liberals; the employee wing the same as the Social Democrats. The latter also actively threatened their own party to side with the Social Democrats and introduce pay continuation for workers if the Christian Democrats would not develop an acceptable position on the issue.

Table 7.5, below, offers a detailed overview of the reform proposals made by the Social and Christian Democrats and the motions to amend introduced by the Liberals. Furthermore, the table shows the final design of the Pay Continuation Act of 1969 that the Bundestag eventually adopted. The overview is structured along four key elements of the proposed policy designs: the mode of sickness benefits, the equalization fund, the income ceiling for compulsory insurance of salaried employees, and cost-sharing measures. In order to understand how the final Pay Continuation Act emerged from these opposing reform proposals, the following paragraphs discuss the strategic situations of Social Democrats and Christian Democrats in the political debate, which priorities the parties set, which compromises they accepted, and which role long-term considerations played in these strategic decisions. As discussed above, the Liberals are excluded from the discussion since they played no major role in the design of the final Pay Continuation Act.

For the Social Democrats, there was little pressure to make substantial concessions to their coalition partner. Since the party knew about the Christian Democrats' employee wing's sympathy for its own proposal, the Social Democrats never showed a sign of doubt regarding the introduction of pay continuation. The introduction of pay continuation was not only the essence of the reform with substantial, immediate effects on workers, but also created important feedback effects in the long run, as the discussion above showed. In this respect, Social Democrats counted especially on an entrenchment effect and a spillover effect that were meant to protect the reform from potential re-trenchment and to carry its underlying goal and principles into other areas of social policy.

On the other side, the Social Democrats showed some willingness to compromise with the Christian Democrats in regard to cost sharing and raising the income ceiling for compulsory insurance for salaried employees. This was, first, because the Social Democrats knew that the Christian Democrats might themselves find a compromise that would prevent their employee wing from siding with the Social Democrats. Hence, despite their strategic advantage, the Social Democrats could not insist on 100 % of their demands. Second, it was because the feedback effects associated with abstinence from cost sharing were less important to the Social Democrats. That means that, as discussed above, the Social Democrats' design strategy was more focused on the potential entrenchment and spillover effect than on a precedence and cover-up effect. Lastly, the Social Democrats were able to enforce a compromise regarding cost sharing that limited copayments while introducing a contribution refund scheme with no immediate negative effects on their voters. Overall, this means that the Social Democrats prioritized certain policy feedback effects over others in their long-term, architectural policy design and that they were

willing to partially sacrifice the less important long-term effects for short-term political gain.

The Christian Democrats were in a more defensive situation. Due to the potential alliance between its own employee wing and the Social Democrats, the party had to accept the introduction of pay continuation. As discussed above, this was not only a major political defeat in the short run but in the long run since the Christian Democrats knew of the hurdles to retrenchment once pay continuation was introduced. At the same time, the party tried to “make the best” out of its difficult situation and immediate defeat.

First, it enforced some design elements that were of little importance to the Social Democrats but that the Christian Democrats could advertise as compensation for its immediate defeat. An important example is the equalization fund for employers, where the final Pay Continuation Act took over (with slight modifications) the proposal made by the Christian Democrats. As far as the income ceiling for compulsory insurance of salaried employees, the Christian Democrats could also put the Social Democrats off with a more modest increase compared to what the Social Democrats originally demanded.

Second, the party tried to “optimize” the long-term effects of a policy design negotiated with the Social Democrats. Here, the party tried to implement a measure of cost sharing that was more acceptable to the Social Democrats but still produced important feedback effects like a kick-off effect and an experience effect. Hence, the Christian Democrats sacrificed potential short-term gains in order to achieve a long-term goal because they prioritized the introduction of a contribution refund scheme over the introduction of more extensive copayment, e.g. for hospital treatment.

The Pay Continuation Act of 1969 thus combined the introduction of pay continuation for workers with an employer equalization fund, modest cost-sharing measures, and a modest increase of the income ceiling for compulsory insurance of salaried employees. Both Christian Democrats and Social Democrats could agree to this compromise because it included elements that were important to the two parties. For the Social Democrats, short-term political losses (cost sharing) were minimized while certain long-term effects were maximized (via entrenchment and spillover effects). For the Christian Democrats, short-term political losses had to be accepted (introduction of pay continuation) in an attempt to maximize long-term gains (via a kick-off and an experience effect).

Table 7.5: The Proposed Policy Designs of Social Democrats, Christian Democrats and Liberals on Key Contested Issues of Pay Continuation Debate

	Social Democrats	Christian Democrats	Liberals	Pay Cont. Act
Mode of sickness benefits	Pay continuation	Pay continuation	Sick pay	Pay continuation
Employer equalization fund	Equalization of 100 % of expenses for all employers, organized by health funds; unspecified transition aid by health funds	Equalization of 80 % of expenses for employers with max. 20 employees, organized by health funds; substantial federal transition aid for equalization fund until 1972		<i>Identical to Christian Democrats' proposal</i> (additional voluntary inclusion of employers not automatically covered by equalization fund)
Compulsory insurance of salaried employees	Stepwise increase to 100 % of assessment limit for the stat. pension system until 1972*	Increase to 55 % of assessment limit for the stat. pension scheme by 1970*	Increase to 65 % of assessment limit for the stat. pension scheme by 1970*	Increase to 11,880DM from July 1969, to 14,400DM from 1970
Cost-Sharing in health insurance	No copayments, no contribution refund scheme	2DM copayment/prescription; 3DM copayment/day for hospital treatment; contribution refund scheme	(no motion to amend; general position in debates: pro reimbursement system)	20 %/max. 2.50DM copayment/prescription, contribution refund, no hospital copayment

Sources: Bundestag Printed Matter 05/3983: proposal on Pay Continuation Act introduced by Social Democratic Party, 1969; Bundestag Printed Matter 05/3985: proposal on Pay Continuation Act introduced by Christian Democrats, 1969; Bundestag Printed Matter 05/236: Bundestag plenary debate, 2nd reading of Pay Continuation Act, 11.06.1969; Bundestag Printed Matter 05/237: Bundestag plenary debate, 3rd reading of Pay Continuation Act, 12.06.1969

* limit for the statutory pension scheme in 1969: 20.400DM, in 1972: 25.200DM

PART IV: IMPLICATIONS, DISCUSSION AND CONCLUSION

The dissertation explains a key dimension of public policy making, namely *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*. It aims to understand the potentials, political struggles, challenges, and real-world patterns of long-term strategic policy making and to explain the strategic choices policy makers make during policy design. As discussed in chapter 1, the existing literature is not able to explain this key dimension of public policy making. It fails to understand the role of agency in policy feedback processes and to enrich our understanding of real-world political struggles around policy design and the strategic choices policy makers face during policy design because of pervasive images of politicians as myopic, policy making as incomprehensibly complex, and policy design as a rational, instrumental process.

In consequence, the literature cannot answer basic questions about public policy making. For example, it cannot explain why policy makers choose one policy design over another, even though both designs might be instrumental in pursuing the same policy goal, what reasons policy makers have for such choices and what role strategic considerations of policy feedback effects play in these decisions. The literature also cannot explain how policy makers weigh long-term and short-term political benefits and instrumental and political motivations during policy making, when they prioritize one over the other or how they try to maximize both, and why policy makers may be willing to give up certain elements of a policy design but not others in negotiations with their opponents. Lastly, the literature cannot explain how, under what conditions, or to what degree policy makers are actually successful in strategically designing policies and anticipating policy feedback effects to achieve long-term policy goals, and when they fail in such attempts.

The theoretical and methodological framework of the dissertation provides means and tools that help answer these questions. The empirical and theoretical results of the dissertation are an important step along the way and give relevant insights into dynamics of long-term strategic policy making. *First*, the dissertation demonstrates that policy makers do consider long-term implications of different policy designs and that they try to anticipate and strategically shape policy feedback effects through policy design. Policy makers' considerations of policy feedback effects help explain policy makers' strategic design choices, why they favor particular policy designs over other solutions and

which priorities they set in negotiations and bargaining with their political opponents.

Second, policy makers are not solely myopic and focused on winning the next election but try to achieve long-term political goals while being electorally successful. In a weak bargaining situation, policy makers accept necessary compromises to contain damage and simultaneously try to influence policy design so that it creates favorable political dynamics for reaching their long-term policy goal. In a strong bargaining position, policy makers not only celebrate a short-term victory but also try to design policies to be resistant to future retrenchment.

Third, policy makers try to design policies strategically both in incremental policy making and in the case of paradigmatic policy reforms, but they do so in different ways to respond to different challenges and goals of incremental and paradigmatic policy making. In incremental policy making, policy makers mainly consider outward-oriented feedback effects (i.e. feedback effects of a policy on other policies/issues/policy fields) because they aim to create a beneficial reform process. In paradigmatic policy making, policy makers mainly consider inward-oriented feedback effects (i.e. feedback effects of a policy on its own further development) because their primary focus is on designing a stable, resistant policy that will endure future political attacks.

Fourth, policy makers anticipate policy feedback effects in relations to particular elements or instruments included in policy designs. Policy makers need not be strategic masterminds who follow a grand design plan and evaluate the exact interplay of different, potential policy feedback effects but they have precise expectations regarding the effects of particular elements or instruments of policy designs. Increasing complexity could therefore be a challenge for policy makers' success in long-term strategic policy design.

Fifth, the dissertation demonstrates that researchers risk drawing false conclusions when they do not investigate design processes and policy makers' long-term design strategies. As mentioned, policy makers may "give in" in a political debate if they are in a weak bargaining position, but they can hold on to their original policy goal and try to influence policy design deliberately in order to achieve this goal in the long run via strategically designed policy feedback effects that are intended to create political dynamics in their favor. Hence, researchers should not deduct policy makers' policy goals quickly from the positions they take during political debates and negotiations but investigate their design strategies in detail in order to understand what their long-term goals are. Doing so can also help researchers uncover when policy makers accept short-term losses in order to achieve long-term goals and to avoid misinterpreting strategic decisions in public policy making.

The architectural policy design approach presented in the dissertation lays out a script researchers can follow to dig deeper into policy design processes, to explain why policy makers choose certain designs or design elements over others, and to uncover the long-term design strategies they follow and the policy feedback effects they try to shape.

By providing these analytical tools, the dissertation wants to facilitate an agency turn in policy-feedback research. An agency turn in policy-feedback research is necessary because the field has so far not paid appropriate attention to long-term strategic policy making because it tends to view policy makers as notoriously myopic, policy making as incomprehensibly complex, and policy design as a rational, instrumental process. It therefore relegates the causal impact of agency on policy development to critical junctures and treats policy feedback effects as unintended byproducts of policy making.

In practice, an agency turn means that researchers should take long-term strategic policy making seriously, investigate policy makers' strategic calculations regarding policy feedback effects, scrutinize how policy makers weigh long-term and short-term gains and losses, and evaluate the causal impact of such strategic considerations on what design is adopted eventually. Researchers should also take policy makers' own perspective on policy-feedback dynamics more seriously, develop and apply analytical categories of policy-feedback effects that reflect policy makers' own experience, knowledge and assumptions about long-term implications of policies. As the dissertation demonstrates, such an approach helps develop productive and applicable analytical categories that show what types of strategic considerations policy makers have in different policy-design situations and increase our understanding of policy-design processes and public policy making.

The contribution of the dissertation is summarized and condensed in a typology of policy-feedback effects anticipated by policy makers during policy design. With the typology, the dissertation specifically responds to the two analytical claims developed in chapter 1. *First*, the typology and its application in two case studies demonstrate that the architectural policy design approach helps us understand the strategic choices policy makers make during policy design better. It helps us understand what types of long-term reform implications they consider, how they try to design policies strategically in order to achieve long-term political gains, how they weigh short-term and long-term benefits of policies during policy design and how they try to maximize both.

Second, it demonstrates that the fine-grained investigation of policy-design processes and the disaggregation of policies into policy-design elements helps us to a better understanding of how policy makers try to design policy feedback effects strategically and from which policy-design elements feedback ef-

fects might emerge. Specifically, it shows what types of feedback effects (inward/outward-oriented) policy makers consider in different design situations (incremental/paradigmatic reforms).

The Structure of Part IV

The structure of Part IV is as follows: Chapter 8 discusses relevant theoretical, methodological and empirical implications of the study. The main emphasis lies on the typology of anticipated feedback effects, presented in section 8.1. Section 8.2 discusses three relevant methodological implications of the dissertation: how traces of strategic policy making can be identified in empirical material; how contexts conducive to strategic policy making can be identified building on the selection of instrumental cases; and how research can respond to the Janus-faced character of policy-design strategies as both subject and object of design processes. Section 8.3 discusses the empirical implications of the study and shows what insights the architectural policy design approach produces in empirical analyses of public policy making. Chapter 9 summarizes the main contributions of the dissertation, rounds it off with a discussion of agency in policy feedback dynamics and argues for an agency turn in policy feedback research.

8. Theoretical, Methodological and Empirical Implications

8.1 Theoretical Implications: A Typology of Policy Feedback Effects Anticipated by Policy Makers

This section discusses the key output of the dissertation: a typology of policy feedback effects anticipated by policy makers. The two case studies in chapters 6 and 7 conducted detailed empirical analyses of parties' architectural policy-design strategies in the reform of codetermination and sick benefits. The case studies showed in particular how policy makers linked specific elements of proposed policy designs to specific political dynamics that these elements would facilitate, i.e. policy makers anticipated certain policy-feedback effects to emerge after reform passage. The dissertation argued and showed that policy makers need not be political masterminds, follow an ingenious design strategy and have an exact analytical understanding of the mechanisms that link policy design and long-term policy-feedback effects. What they need is a "sense" of the implications of different policy designs, i.e. a working understanding of policy-feedback effects that informs their decisions and strategic choices during policy design (cf. section 3.2). For example, policy makers may sense that granting rights to a particular group of the population in one policy domain might create demands by that group in another policy field as well. Or policy makers may sense that granting benefits to a significant part of the population may be a decision that will be hard to reverse in the future.

This section brings together different types of policy feedback effects that policy makers anticipate during policy design and that were discovered and described in detail in the two case studies. In doing so, the section weaves together the insights gained in empirical analyses into an analytical template, a typology of feedback effects anticipated by policy makers organized along a dimension of inward/outward-orientation of feedback effects. The typology describes the core characteristics of anticipated feedback effects, gives a useful and concise definition, carves out the mechanisms behind them and gives short empirical examples that illustrate how the feedback effects would look like in other contexts. The different types of anticipated feedback effects are organized along the dimension of inward/outward-orientation of feedback effects already mentioned above. An inward orientation describes feedback effects of a policy on its own further development, an outward orientation describes feedback effects of a policy on other policies/issues/policy fields.

The typology prioritizes diversity over parsimony. That means that some of the described feedback effects share the same key characteristic or that key characteristics can be similar, but all feedback effects are based on different

mechanisms or combinations of mechanisms. The benefit of this diversity orientation is that the typology provides many connecting points for related or further research on long-term strategic policy making because it presents a fine-grained “breakdown” of different feedback effects policy makers anticipate during policy design. At the same time, the typology is as a tool for future research open to revision, restructuring or simplification if applied in different contexts.

Table 8.1 under gives an overview of the typology. Section 8.1.1 first introduces the organizing dimension of the typology, the distinction between inward- and outward-orientated feedback effects. Section 8.1.2 describes the eight types of anticipated feedback effects in detail.

Table 8.1: A Typology of Policy Feedback Effects Anticipated by Policy Makers

Orientation of Feedback Effect	Inward-Oriented Feedback Effects			Outward-Oriented Feedback Effects				
	Self-Reinforcement Effect	Entrenchment Effect	Cover-up Effect	Experience Effect	Kick-off Effect	Precedence Effect	Spillover Effect	Infection Effect
Intuitive Definition The anticipation that...	...a policy will strengthen its own logic over time.	...a policy will be hard to retrench.	...a policy will conceal the need for another reform.	...a policy will start or facilitate reforms in a particular direction.	...a policy will start or facilitate further reforms in a particular direction.	...a policy or its goal will set an example and be copied in another policy field.	...a policy or its goal will set an example and be copied in another policy field.	...a policy will import a discursive frame from another policy field.
Key Analytical Characteristic	Creation of increasing returns	Protection of achieved policy	Diversion of attention	Facilitation of reform process	Inducement of reform process	Transfer of policy or policy goal	Transfer of policy or policy goal	Transfer of a frame
Mechanism The feedback effect works through...	...the coordination effects and adaptive expectations.	...the creation of vested interests or a sense of entitlement among the target population.	...the suppression of awareness among the public or elimination of arguments for opponents regarding the need of another reform.	...the generation of experience regarding policy design and implementation.	...the generation of experience regarding policy design and implementation and the demonstration of the political feasibility.	...the creation of awareness of political feasibility among government elites.	...the stimulation of expectations among the public.	...the framing of the policy using a preexisting frame.
Example	Subsidies for solar energy	Contributory social insurance systems	Pilot projects	Stepwise privatization of public services	Introduction of private pension pillar	Privatization	Extension of social benefits to new/different constituency	Social Constructions of target groups
Case Study Observations	Codetermination	Codetermination Pay Continuation	Pay Continuation	Pay Continuation	Pay Continuation	Pay Continuation	Codetermination Pay Continuation	Codetermination

8.1.1 *Inward- and Outward-Oriented of Feedback Effects Anticipated by Policy Makers*

As mentioned above, the typology distinguishes between inward- and outward-oriented anticipated feedback effects. The following sections explain the distinction between the two kinds of feedback effects, suggest which contexts are conducive to anticipations of inward- or outward-oriented feedback effects and relate the approach to common typologies of feedback effects in the literature, and argue for its usefulness in policy feedback research.

Distinguishing Inward- and Outward-Oriented Feedback Effects

On one side, the distinction captures anticipations of *inward-oriented feedback effects* like self-reinforcement or entrenchment that *concern the future development of a policy itself*. That is, these feedback effects describe how policy makers imagine the policy they are currently designing will evolve in the future.

An important motivation for policy makers to follow architectural policy-design strategies is their ambition to render policies ‘robust’ to attacks from political opponents (cf. section 3.2). It is therefore not surprising that they devote considerable time and energy to anticipate the fate of a policy they are designing and whether it will entrench itself or even self-reinforce its own logic. Furthermore, it is logical that these strategic long-term considerations concern *positive* feedback effects like entrenchment and self-reinforcement, i.e. feedback effects that strengthen the designed policy.

The empirical investigation of the Pay Continuation Act and the Codetermination Act provides evidence for policy makers’ primary concern with positive feedback effects (both inward- and outward-oriented; see below). Both case studies only uncovered positive feedback effects but no reactive or self-undermining feedback effects, which the literature has discussed more extensively in recent years (cf. e.g.: Jacobs and Weaver 2010, 2014; Mahoney 2000; Oberlander and Weaver 2015; Skogstad 2017; Weaver 2010). There are three reasons for expecting that the assumption that policy makers mainly consider positive feedback effects during policy design also holds beyond the two case studies of the dissertation: limited cognitive capacities, unforeseeable future developments and policy makers’ motivations, which will be explained below just after the discussion of outward-oriented feedback effects.

On the other side of the inward/outward-distinction lie *outward-oriented feedback effects* like the infection effect, the spillover effect, the kick-off effect, the precedence effect and the experience effect. For these types, policy makers’ anticipations of the feedback effects *concern how the policy that is being de-*

signed could affect other policies/issues/policy fields and not its own development. As for inward-oriented feedback effects, the two case studies have only uncovered anticipations of *positive* outward-oriented feedback effects. That is, all anticipated outward-oriented feedback effects illustrate policy makers' considerations of how a policy could either facilitate a reform process that leads in a *particular* direction in line with the original policy/policy goal or how the policy/policy goal could be transferred to other policies/issues/policy fields. For example, policy makers consider how a policy generates experience (regarding legislation and implementation) with a particular type of policy instruments that can then be applied more broadly in the future, or they consider how the successful implementation of that policy or policy instrument can support a subsequent reform process by demonstrating its political feasibility. Similar to the above, limited cognitive capacities, unforeseeable future developments, and policy makers' motivations give reasons to believe that policy makers mainly consider positive outward-oriented feedback effects also in other cases.

Inward- and Outward-Oriented Feedback Effects as Positive Feedback Effects

There are three good reasons to believe that the assumption that policy makers mainly consider *positive* feedback effects during policy design also holds beyond the two studied cases.

First, the anticipation of negative or self-undermining feedback effects challenges policy makers' cognitive capacities because it demands a more refined understanding of the political dynamics that might emerge from a reform than a simple working understanding. That is because positive feedback effects have a clear target in that they strengthen the very policy policy makers are in the process of designing or that they facilitate one specific reform path with a defined policy goal. In contrast, negative, self-undermining feedback dynamics increase complexity, create new uncertainties and demand new solutions. For policy makers, it is less challenging to design a policy and anticipate its implications if the policy is supposed to be stable or reinforcing in the long term or create a specific reform path. It is more challenging to design a policy and anticipate its implications if the policy will undermine itself, diminish in the long term and demand new solutions to emerging problems.¹⁶⁵ Take the example of pay continuation. If policy makers designed a policy with low

¹⁶⁵ Here, it is important not to confuse undermining policy feedback effects with *self*-undermining policy feedback effects. For example, Hertel-Fernandez (2018) demonstrates the strategic use of policies by advocacy groups and policy makers to undercut the political opponents' political base. Hence, undermining feedback effects which do have a clear target may well be part of policy makers' strategic "toolkit" during policy design.

benefit levels, that policy might not create a stabilizing group of supportive recipients with vested interests but instead lead to public disappointment that could undermine support for the policy. What would the implications of that be? How would beneficiaries and the population react, what new solutions would they demand, what new coalitions would form? For policy makers, such open developments are harder to anticipate and less convenient to (try to) steer than positive feedback dynamics that reinforce an existing policy or reform path.

Second, some negative or self-undermining feedback effects like menu expansion can be nearly impossible to anticipate in advance for policy makers because they are the result of unforeseeable future events. New solutions to political, societal, economic or environmental problems can arise, for example, from the diffusion of expertise or experimentation in subordinate/culturally proximal units without this being foreseeable at an earlier point (cf. Jacobs and Weaver 2014). How these developments might affect a policy already in place, underlying coalitions of supporters and involved actors' interests is therefore equally impossible to anticipate for policy makers and cannot be taken into account during policy design.

Third, as noted above, an important motivation for policy makers to conduct architectural policy design is their ambition to render policies 'robust' to attacks from political opponents (cf. chapter 3.2). Policy makers therefore likely consider positive feedback effects generally more than negative feedback effects because positive feedback effects help render a policy robust, while negative feedback effects render it more vulnerable.

In principle, positive outward-oriented feedback effects leave room for simultaneous negative inward-oriented feedback effects, i.e. a policy could facilitate a certain reform process or transfer its goal to a different policy while it is undermined itself. However, since policy makers consider positive feedback effects not for the sake of the policy itself but in order to achieve a certain policy goal, one can assume that when policy makers anticipate positive outward-oriented feedback effects, they simultaneously expect that the original policy itself will stay in place. This is illustrated by the cover-up effect that combines inward- and outward-orientation in a positive way. The cover-up effect shows an outward-orientation in that policy makers expect that a policy will suppress other reform options. At the same time, it shows an inward-orientation and the anticipation is that a policy will stabilize or protect itself and the original policy goal (cf. section 8.1.2).

Overall, the results of the dissertation suggest that the policy-feedback literature should pay attention to the varying impact of agency and long-term strategic policy design in relation to positive/self-reinforcing feedback dynam-

ics and negative/self-undermining feedback dynamics instead of only investigating the simultaneous existence and balance between the two types of feedback dynamics (e.g. Skogstad 2017; Weaver 2010).

Conducive Contexts for Anticipations of Inward- and Outward-Oriented Feedback Effects

Different contexts, or policy design situations, are more conducive to inward- than for outward-oriented feedback effects, and vice versa. The dissertation proposes that policy makers are more concerned with *inward-oriented feedback effects* when they consider a reform to be of *paradigmatic* significance, i.e. reforms that signify radical changes in the overarching terms of policy discourse, including changes in instrument settings, instruments and the hierarchy of policy goals behind a policy (Hall 1993; cf. Palier 2010a: 29). When policy makers consider a reform to be an *incremental* step in a longer, gradual reform process that works on the level of policy instruments and setting but with potentially transformative outcomes (cf. Streeck and Thelen 2005a), then they are more concerned with *outward-oriented feedback effects* (cf. Table 8.2, under).

Table 8.2: Conducive Contexts for Anticipations of Inward- and Outward-Oriented Policy Feedback Effects

Conducive Context / Policy Design Situation	Dominant Type of Anticipated Feedback Effect
Design of a paradigmatic reform	Inward-oriented
Design of an incremental reform	Outward-oriented

The two case studies presented in Part III illustrate this pattern. The Pay Continuation Act included elements of incremental policy making in regard to the reform of statutory health insurance and elements of paradigmatic policy making in regard to the introduction of pay continuation for workers. Policy makers' design strategies were mainly outward-oriented. They included one inward-oriented anticipated feedback effect (entrenchment), four outward-oriented feedback effects (spillover, kick-off, experience, precedence) and two simultaneously inward/outward-oriented feedback effects (2 x cover-up effect). Of the four anticipated feedback effects, most are outward-oriented. Distinguishing between the paradigmatic and the incremental elements of the reform, one can observe the following pattern. For the paradigmatic element of the reform (the introduction of pay continuation), policy makers considered one inward- and one outward-oriented feedback effect (entrenchment, spillover). For the incremental element of the reform (reform of statutory health insurance), policy makers considered three outward-oriented feedback effects

(kickoff, experience, precedence) and two inward/outward-oriented feedback effect (2 x cover-up). Overall, this means that the Pay Continuation Act shows an uneven pattern of anticipated inward- and outward-oriented feedback effects where anticipations of outward-oriented feedback effects were more closely linked to incremental policy making.

The Codetermination Act can be categorized as a case of paradigmatic policy making where all policy makers were aware of the historical significance of the act and its likely formative impact. Policy makers' design strategies were mainly inward-oriented. They included anticipations of three outward-oriented feedback effects (infection, 2 x spillover) and four inward-oriented feedback effects (2 x entrenchment, 2 x self-reinforcement). Of the four anticipated feedback effects that were central to policy makers' design strategies, all were inward-oriented feedback effects. Overall, this means that the Codetermination Act is an example of paradigmatic policy making with anticipations of inward-oriented policy feedback effects.

There are good reasons to believe that this pattern also holds in other cases. *First*, it seems natural that policy makers will be strongly concerned about the fate of a policy and try to protect it against potential future retrenchment when they are aware of the historical significance and potential formative impact of the policy on future politics. Furthermore, political conflict and the lack of a clear majority for one policy design (both characteristics that render a context more conducive to architectural policy design) can increase policy makers' doubt about the longevity of the reform and incentivize them to consider and design positive, inward-oriented feedback effects. In such situations, policy makers' considerations of potential policy feedback effects are therefore likely more inward-oriented concerning entrenchment and self-reinforcement than they are outward-oriented concerning spillover, experience, etc.

Second, when policy makers consider a reform to be only a step in a longer incremental reform process, it seems natural that they are less preoccupied with the fate of this exact reform than with the overall reform process. Hence, their considerations of feedback effects likely show a stronger outward orientation than, e.g., concerns about whether the policy facilitates or induces a reform process successfully or whether the policy goal is successfully transferred to another policy/issue/policy field.

Investigations of other paradigmatic reforms confirm this pattern. For example, the case of Obamacare confirms the conjunction between anticipations of inward-oriented feedback effects and paradigmatic policy making. Proponents of the historic act were expecting an entrenchment effect, potentially even a self-reinforcement effect, once millions of Americans would come to enjoy the benefits provided by the act. Democrats even actively tried to design

the act so that such inward-oriented feedback effects would materialize (Oberlander and Weaver 2015).

Researchers interested in policy feedback dynamics and the role of agency and long-term strategic policy making can use the proposed relationship between paradigmatic reform and anticipations of inward-oriented feedback effects and incremental reforms and anticipations of outward-oriented feedback effects to achieve a better understanding of the long-term strategic concerns and motivations policy makers have during policy design. Furthermore, the proposition points out what types of long-term strategies policy makers follow in “ordinary”, incremental policy making and makes it easier to identify and investigate agency in gradual policy change. The historical-institutionalist literature tends to see agency matter for policy development mainly at critical junctures (cf. e.g. Capoccia 2015, 2016a; Capoccia and Kelemen 2007) or does not conceptualize the role of agency properly in periods outside these critical junctures (Mahoney and Thelen 2010a; see the discussion in chapter 3). However, the dissertation shows that policy makers spend a great deal of time and effort trying to shape future policy development during periods of incremental policy making and provides a guideline for the investigation of agency in gradual change processes by outlining specific feedback dynamics policy makers consider.

Conducive Contexts for Architectural Policy Design

Besides the proposed differences in what types of policy feedback effects policy makers anticipate in different contexts, the dissertation proposes characteristics of policy-making situations that make these more conducive to long-term strategic policy making in general. In particular, the dissertation proposes that contexts are conducive to long-term strategic policy making when they are characterized by *resourceful policy makers, policies that policy makers consider impactful* and *a lack of political consensus and a clear majority*. Regarding long-term strategic policy making, Anzia and Moe (2016: esp. 776) suggest that policy makers have more incentives to strategically “make politics” when the *political* consequences, i.e. policy feedback effects, are policy-specific, as opposed to when they involve the larger balance of power between political parties. By proposing the three above characteristics, the dissertation goes beyond this broad argument about when one can expect to observe long-term strategic policy making and specifies which characteristics of policy-making situations render contexts conducive to long-term strategic policy making.

The resourcefulness of policy makers is related to their capability for architectural policy design. It concerns whether policy makers possess the necessary resources to conduct long-term strategic policy design. Resources can be

financial resources (*can policy makers financially afford to devise policies and/or evaluate policy drafts?*), personnel resources (*are policy makers and/or their staff capable of/qualified to devise and/or evaluate policy drafts*), networks and access to formal decision making (*are policy makers included or heard in formal decision-making processes?*), and the ability to create political pressure (*can policy makers create political pressure on formal decision makers?*). If policy makers command such resources, the policy-design situation is more conducive to long-term strategic policy making.

The second characteristic that makes policy-making situations more conducive to long-term strategic design concerns policy makers' assumptions about how likely it is that a policy will affect the future development in the policy field. Such assumptions may concern the redistributive impact of the policy (*whether or to what degree a policy redistributes resources like benefits and social rights among citizens*), the reconfigurative impact of the policy (*whether or to what degree a policy reconfigures the political landscape and affects actors' resources*), and the timing of policy making (*does policy making take place in a "window of opportunity" that allows policy makers to implement unusually far-reaching policy reforms?*). If policy makers believe a policy has a strong impact on future policy development, the policy design situation is more conducive to long-term strategic policy making.

The third characteristic concerns whether policy makers assume a policy is vulnerable to future withdrawal. The potential vulnerability of a policy is crucial since it likely increases the attention policy makers pay to the long-term effects of a policy, as well as their strategic consideration of how those effects can render a policy more resistant to withdrawal. Vulnerability of a policy concerns issues of control over a policy (*do policy makers fear losing control over "their" policy, e.g. after losing the next election or because they might be excluded from formal decision making?*) and contestation (*how contested is a policy issue, are there political alternatives, and is the issue salient to voters?*).

Below, section 8.2.2 discusses in more detail how the three characteristics were identified in continuation of the selection of instrumental cases of architectural policy design. The Appendix, p. 274, provides a more detailed description of the three characteristics and of indicators that help to evaluate whether policy-making situations show them.

The Distinction between Inward- and Outward-Oriented Feedback Effects as Relevant Criterion for the Investigation of Long-Term Strategic Policy Making

Returning to the distinction between inward- and outward-oriented feedback effects, the typology of anticipated feedback effects presented here contributes

to the policy-feedback research in an important way. As discussed in chapter 1, the policy-feedback literature is guided by the distinction between interpretive and resource/incentive effects made 25 years ago by Pierson (1993). Resource/incentive effects focus on policies as packages of resources that affect interest groups, state capacities and mass publics; interpretive effects focus on policies as new sources of information that affect patterns of cognition, understanding and meaning. This distinction has been applied widely and has inspired a great deal of research on policy-feedback dynamics (cf. section 2.1). Some authors have adapted it and added “institutional supports” as a third feedback mechanism (Patashnik and Zelizer 2013) or contributed with the conceptualization of self-undermining feedback effects as opposed to self-reinforcing feedback effects (cf. section 2.1).

However, the literature lacks a conceptualization and categorization of policy feedback effects grounded in policy makers’ anticipations to policy-feedback effects that may emerge from a reform (cf. chapter 1). The typology presented above is grounded in policy makers’ assumptions about feedback dynamics and therefore has great potential to advance the ongoing debate on agency in historical institutionalism (e.g. Capoccia and Kelemen 2007; Capoccia 2015, 2016b, 2016a; Hay 1995; Hay and Wincott 1998; Hall and Taylor 1998; Hay 2009; Mahoney and Thelen 2010b), contribute to the emerging research agenda on the role of agency in policy feedback processes (Anzia and Moe 2016; Hertel-Fernandez 2018) and improve our understanding of long-term strategic policy making.

In short, it helps us understand policy makers’ strategic choices in policy-design processes by pointing towards different anticipations of long-term feedback effects policy makers have. In particular, the architectural policy design perspective sheds light on policy makers’ strategic calculations regarding policy-feedback effects and the weighting of long-term, indirect effects of reforms and – sometimes contrary, sometimes conforming – short-term, substantive effects of reforms. Chapter 9 delves deeper into the discussion of agency in policy-feedback processes and historical institutionalism and carves out how the dissertation contributes to this discussion. First, section 8.1.2 presents the eight different types of feedback effects in detail, section 8.2 presents relevant methodological implications of the study, and section 8.3 discusses empirical implications of the architectural policy-design approach.

8.1.2 The Different Types of Policy-Feedback Effects Anticipated by Policy Makers

Eight types of anticipated feedback effects have been identified in the two case studies and mentioned in the above discussion: a *self-reinforcement effect*

and an *entrenchment effect* as inward-oriented feedback effects; an *experience effect*, a *kick off-effect*, a *precedence effect*, a *spillover effect*, and an *infection effect* as outward-oriented effects; and a *cover-up effect* as simultaneously inward- and outward-oriented feedback effect. This section describes the eight types in the above order, gives an intuitive definition of each effect and carves out their key analytical characteristics and basic mechanisms. This section thus enables researchers to identify anticipations of different policy-feedback effects in other cases and investigate long-term strategic policy making.

(1) The *self-reinforcement effect* describes policy makers' anticipation that a policy will strengthen its own logic over time. In the codetermination reform, policy makers expected such a feedback effect to emerge from the specific formulation of the electoral procedure and the internal order and composition of supervisory boards, which could incentivize employees to join either unified trade unions or smaller, professional interest organizations. The more employees would do one or the other, the more the effect would grow in strength and reinforce the policies logic. Hence, the key characteristic of the self-reinforcement effects is increasing returns, extensively discussed elsewhere and an often-used concept in the policy-feedback literature (Pierson 2000a; cf. also: Boas 2007; Drezner 2005; Gingrich 2015). Four features are typically discussed in relation to increasing returns: large set-up or fixed costs, learning effects, coordination effects and adaptive expectations. Based on the investigation of the Codetermination Act, policy makers seem to pay particular attention to adaptive expectations and coordination effects, which are the mechanisms behind particular patterns of employee mobilization policy makers linked to different designs of the Codetermination Act. Another example of an anticipated self-reinforcement effect is subsidy policies, e.g. for solar energy. Subsidies for a new industry can facilitate its growth, establish a network of actors that coordinate with each other, shape investment decisions and business plans, etc. (cf. Schmidt et al. 2018).

(2) The *entrenchment effect* describes policy makers' anticipation that a policy will be hard to retrench in the future. In the case of the Pay Continuation Act, policy makers anticipated an entrenchment effect in connection with the introduction of pay continuation for workers, which would establish irreversible social benefits for workers that could not be taken away from them later. Hence, the key characteristic of the entrenchment effect is the protection of an achieved policy/policy goal. The mechanisms to achieve this are vested interests or a sense of entitlement among a policy's target population. Other examples concern, e.g., contributory retirement schemes, in which contributors develop a sense of entitlement and strong reasons to protect the policy from any

reform since this might endanger their retirement level (cf. Moe 2015; Pierson 1996).

Both the *self-reinforcement effect* and the *entrenchment effect* are *inward-oriented feedback effects* that concern the future development of a policy itself. The following five types of anticipated feedback effects (*infection effect*, *spillover effect*, *kick-off effect*, *precedence effect*, *experience effect*) are *outward-oriented feedback effects* and concern how the policy that is being designed could affect other policies/issues/policy fields and not its own development.

(3) The *experience effect* describes policy makers' anticipation that a policy will facilitate further reforms in a particular direction. The Pay Continuation case illustrated this type of anticipated policy feedback effect in connection to the introduction of cost sharing measures. Here, the Christian Democrats strategically sacrificed more far-reaching cost-sharing measures and instead focused on pushing through some modest cost-sharing initiatives, hoping that practical experience with the introduction and implementation of cost sharing would ease further reforms in the same direction. Hence, the key characteristic of this type of feedback effect is the facilitation of a particular reform process through a first reform that generates experience regarding policy design and implementation (as mechanism). A different example is the stepwise privatization of certain public services, for example the widespread privatization of national telecommunication companies, which provides experience for the privatization of other sectors (e.g. railway companies). The above example of prestigious pilot projects can also be a source of design and implementation experience if a government intends to use the gathered experience strategically to proceed on a long-term reform path. The fact that pilot projects can serve as an example of both the cover up and the experience effect also illustrates that policy reforms or policy-design elements can be the sources of different feedback effects. Which of those materialize might depend on the broader packaging of the policy design and a variety of internal and external circumstances. Which effect is anticipated or intended by policy makers to materialize can be investigated by applying the perspective of architectural policy design.

(4) The *kick-off effect* describes policy makers' anticipation that a policy will start or facilitate further reforms in a particular direction. In the reform of pay continuation, the Christian Democrats were hoping that this type of feedback effect would kick in after the introduction of a "first step of healthcare reform" that was meant to facilitate a constant reform process in the healthcare system towards a reimbursement system with cost sharing. The key characteristic of the kick-off effect is the inducement of a reform process. The mechanism is a

combination of generation of experience regarding policy design and implementation (similar to the experience effect) and demonstration of the political feasibility of a reform (similar to the precedence effect, discussed below). An example is the introduction of a private pension pillar alongside the public pension system with the goal to replace the public system in the long run. The kick-off and the experience effect share many characteristics. The remaining difference is that the kick-off effect lies earlier in a gradual reform process than the experience effect and that it is based on demonstrating political feasibility, since it is the first reform of a certain type (e.g. private old-age provisions). The kick-off effect includes an experience effect but shows additional features similar to the precedence effect.

(5) The *precedence effect* describes policy makers' anticipation that a policy will set an example and be copied in another policy field. Chapter 7 featured the example of the introduction of pay continuation without an accompanying cost-sharing reform, which demonstrates the feasibility of reforms with an egalitarian aim. The key characteristic of this type of feedback effect is the transfer of a policy or policy goal from one policy to another, and it is based on creating awareness of the political feasibility of certain policy goals or policy "blueprints" among government elites. Another example of a precedence effect has already been given above and concerns the privatization of public services. Here, the privatization of, for example, a national telecommunication provider can provide a blueprint for the privatization of the energy sector.

(6) The *spillover effect* describes policy makers' anticipation that a policy reform (or an element thereof) will be "copied" in another policy field. This policy-feedback effect is similar to the precedence effect, but it is based on a different type of mechanism. The example of the codetermination reform illustrates this difference. Here, policy makers anticipated that the introduction of group rights for middle management in the codetermination reform would create expectations for more group rights for middle management in other policy fields (e.g. firm-level codetermination). Hence, the key characteristic of this feedback effect is also the transfer of a policy or policy goal, but the effect is based on the stimulation of expectations among the public more than it is based on creating awareness of political feasibility among government officials, even though both can be present simultaneously. Another example of a spillover effect is subsidies or social benefits for a certain constituency (e.g.

childcare institutions) that not only create an entrenchment effect in that constituency but may also create and foster demands among other constituencies (e.g. demands for financial compensation for stay-at-home parents).¹⁶⁶

(7) The *infection effect* describes policy makers' anticipation that a policy will import a discursive frame from another policy. For example, in the reform of codetermination, Christian Democrats feared that the mere mentioning of a "labor director" would "load" the Codetermination Act with meaning and expectations linked to this particular term that were created through previous codetermination legislation, without actually copying this previous legislation. The key characteristic of the infection effect is therefore the transfer of a frame from one policy to another. The new policy is then framed drawing on the previous policy's frame. Strictly speaking, the infection effect is an "odd man out" since it does not concern anticipation of a policy-feedback effect that might emerge from the policy being designed but how this policy itself might draw on previous policy and be the endpoint of a policy-feedback effect. Nevertheless, it is included in the discussion since it reflects a type of anticipation of policy feedback held by policy makers. Other examples of a spillover effect is the conscious use of social constructions in policy designs, which import a pre-existing set of meaning and expectations into new policies (cf. Schneider and Ingram 1993, 1997, 2005).

(8) The last type of anticipated feedback effect, the *cover-up effect*, is simultaneously *inward- and outward-orientated*. It describes policy makers' anticipation that a policy will conceal the need for another/a different reform. In the pay continuation case, policy makers anticipated that the introduction of pay continuation for workers without a simultaneous introduction of cost-sharing measures would conceal structural problems in the statutory health insurance by relieving health funds from a substantial amount of their expenses without addressing the health funds' inherent problems (e.g. bureaucratic structures; ageing insured population). Hence, the key characteristic of this anticipated policy-feedback effect is the diversion of attention from the need for another/a different reform towards the benefits of the adopted reform or by eliminating the grounds for the other/different reform entirely. The mechanism behind this feedback effect is the suppression of awareness among the public regarding the need for further reforms or the elimination of arguments that political opponents could use to argue for further/different reforms. Other examples of a cover-up effect is the popular thesis of diversionary foreign policy, where international interventions cover up domestic political

¹⁶⁶ For a different use of the term spillover effect, see Cruz et al. (2018) and Moynihan and Soss (2014: 324), who use it to describe how effects of citizens' bureaucratic experiences spill over to affect citizens' broader political lives.

problems (cf. Mueller 1970) or, from the field of public policy, the introduction of prestigious new pilot projects or policy ideas that disguise that some structural problems are not approached. For instance, with the German “excellence initiative”, the state introduced a public competition among universities for extra funding for excellent research without addressing the structural underfunding of German universities (Kehm 2013; Kehm and Pasternack 2009). The cover-up effect is outward-oriented in that policy makers expect that a policy will suppress other reform options, and it is inward-oriented in that the policy will stabilize or protect itself and the original policy goal.

8.2 Methodological Implications: Empirical Footprints, Conducive Contexts and Dynamic Design Processes

The following sections link back to chapter 1, which described the methodological framework of the dissertation, and present three relevant methodological reflections regarding the investigation of architectural policy design strategies. Section 8.2.1 starts with a discussion of how architectural policy design strategies and anticipations of different policy feedback effects can be identified in empirical material on policy-making processes. Section 8.2.2 discusses how conducive contexts for long-term strategic policy making (discussed above) can be identified. Section 8.2.3 discusses how researchers can tackle the Janus-faced character of policy design strategies as both subject and object of policy design processes.

8.2.1 Empirical Footprints of Architectural Policy Design in Data Material

Anticipations of policy-feedback effects can be hard to identify in empirical material. As section 3.2 discussed, policy makers need not be political masterminds who devise grand theories for policy design, and they need not have a deep analytical understanding of the actual mechanisms through which policies shape politics. However, it can be hard to identify policy makers’ working understanding of the implications of difference policy designs, since it is not clearly expressed in empirical material of policy-design processes, irrespective of which type of source, material or evidence (cf. sections 4.3 and 4.4) the researcher works with.

The dissertation is able to contribute to research on long-term strategic policy making with specific advice on how to identify policy makers’ anticipations of feedback effects in empirical material. Through the abductive approach to research that understands the practical methods of analysis as evolving throughout the research process and, thus, allows for emergent methodological insights (cf. section 4.1), competences and techniques for identifying policy makers’ anticipations of feedback effects could be improved through critical reflection throughout the analytical process and the various readings of the

empirical material (cf. section 4.4). Consequently, this section can give specific, advanced advice on analytical strategies for identifying policy makers' considerations regarding political implications of policy reforms.

The proposed strategy is the search for verbs and nouns describing processes. When policy makers express anticipations or assumptions concerning policy-feedback effects, they often use verbs, nouns or verbal nouns that describe processes. Especially when policy makers use nouns or verbal nouns, the inexperienced researcher might overlook at first sight that policy makers actually refer to particular political dynamics they expect to unfold without explicating these dynamics in length or detail. An example from the codetermination case illustrates this point. In an expert hearing in parliament, a high-ranking union representative commented on the role of the middle management and stated verbatim:

Because of this, we think that middle managers as defined by the Federal Labor Court do not belong on supervisory boards as employees. For the big segment of lower-level salaried employees [...], we think that they can represent their interests much better if they are integrated in the workforce and that we should not allow a *split* because that would also cause complications between groups within the workforce [...]¹⁶⁷

The crucial word in this statement from the perspective of architectural policy design is *split*. It indicates that the union representative expects that the particular policy design he is referring to will actively contribute to splitting the workforce into potentially conflicting subgroups. Drawing on the broader knowledge of the case, the researcher can then deduct how the policy design (from the perspective of the union representative) might alter incentive structures and interests that would cause such a split and conflict between interest groups. In the example, the policy maker likely anticipates that, once middle managers have their own representative on supervisory boards, this incentivizes middle managers to organize outside unified trade unions and express their own distinct interest in firm management more clearly, irrespective of what the interests of the broader workforce are.

Hence, when analyzing archival material, interview transcripts or participant-observational notes, researchers should pay particular attention to verbs and nouns that describe processes. An advisable additional strategy is to keep a logbook of the verbs and nouns identified in the material and of the processes they describe. The logbook can help keep track of the different dynamics policy makers anticipate and support the systematic, focused reading of the material in later stages of the analytical process (cf. section 4.4.1).

¹⁶⁷ Parliament Archive, PA-DBT 4000 VII 400 lfd.33: Bundestag committee on labor and social policy, public expert hearing, 07.11.1974, p. 7.

8.2.2 *Conducive Contexts for Architectural Policy Design*

The second methodological reflection goes one step further and develops a proposition regarding how contexts that are conducive to long-term strategic policy making can be identified. This section links back to the case-selection procedure presented in chapter 1, which addressed an important shortcoming in the case-study literature, developed and explicated a detailed procedure for case selection in theory-building research, for which the literature hitherto gave no advice. The benefits of the developed selection procedure for positive, instrumental case studies extend beyond the identification of cases for empirical investigation of architectural policy design and methodological transparency. The method also provides a springboard for the identification of conducive contexts (via scope conditions) for architectural policy design. This section explains how the developed case selection method helps identify conducive contexts in the concrete example of architectural policy design and formulates these insights as general methodological advice (cf. Table 8.3 and Figure 8.1, under).

As discussed in section 8.1.1, the dissertation goes beyond existing claims that policy makers have more incentives to strategically “make politics” when the *political* consequences are policy-specific, as opposed to when they involve the larger balance of power between political parties (Anzia and Moe 2016: esp. 776). It argues that conducive contexts for long-term strategic policy making are characterized by three factors: *resourceful policy makers*, *policies that policy makers consider impactful*, and *a lack of political consensus and a clear majority*.

Section 4.2.3 identified these contextual characteristics in the search for instrumental cases for the development of the concept of architectural policy design and its empirical investigation. As Ragin highlights, causally relevant features of a case can be interpreted as conditions for the operation of a cause or as a cause (Ragin 2000: 56). Similarly, attributes of a phenomenon of interest (i.e. a core concept) can serve as defining characteristics of that phenomenon (attributes of the concept) or they can serve as scope conditions that help describe conducive contexts for the occurrence of said phenomenon of interest.

In the case of architectural policy design, this means, for example, that the item “resourceful policy makers” can be a defining attribute of the concept of architectural policy design, or it can be a scope condition circumscribing conducive contexts for architectural policy design. In the former, architectural policy design is defined as an activity that *only* resourceful policy makers can carry out; in the latter, one assumes that architectural policy design is more likely to be carried out if policy makers are resourceful than if they are not. Furthermore, this opens up the possibility of different types of architectural

policy design/different specifications of the concept; one carried out by resourceful policy makers, another by policy makers who are not resourceful.

In general methodological terms, this means that the selection strategy for positive, instrumental case studies developed in section 4.2 can be extended to include three further steps regarding the identification of conducive contexts. In addition to the five steps developed earlier, one can use, likely after having conducted a first investigation of the phenomenon of interest (Step 6), the categorized/systemized indicator list (Step 7) to identify conducive contexts. Then, one can conduct a comparative case study that investigates the phenomenon of interest in different contexts in order to evaluate the conduciveness of certain scope conditions or develop sub-varieties of the core concept. Table 8.3, below, shows all eight steps in the selection of positive instrumental cases and the identification of conducive contexts. Figure 8.1, further under, illustrates the intertwinement of concept formulation and the identification of conducive contexts and shows how concept attributes can become scope conditions, and vice versa.

Regarding the example of architectural policy design, the investigations of the Pay Continuation Act and the Codetermination Act (Step 6 in Table 8.3) confirm that positive or promising evaluations based on the indicators developed during the case selection procedure help identify conducive contexts and lead to insightful investigations of architectural policy design.

Table 8.3: The Selection of Positive, Instrumental Cases and the Identification of Conducive Contexts

Step 1	Clarify main concept and underlying assumptions
Step 2	Develop indicator list through cursory literature reviews
Step 3	Systematize/categorize indicators
Step 4	Develop evaluation scheme
Step 5	Systematically evaluate cases through cursory literature reviews and select best evaluated cases for in-depth study
Step 6	Conduct investigation(s) of best evaluated case(s)
Step 7	Identify scope conditions for conducive contexts via categorized/systemized indicator list (Step 3)
Step 8	Conduct comparative case study to evaluate conduciveness of identified scope conditions and/or develop sub-varieties of the core concept

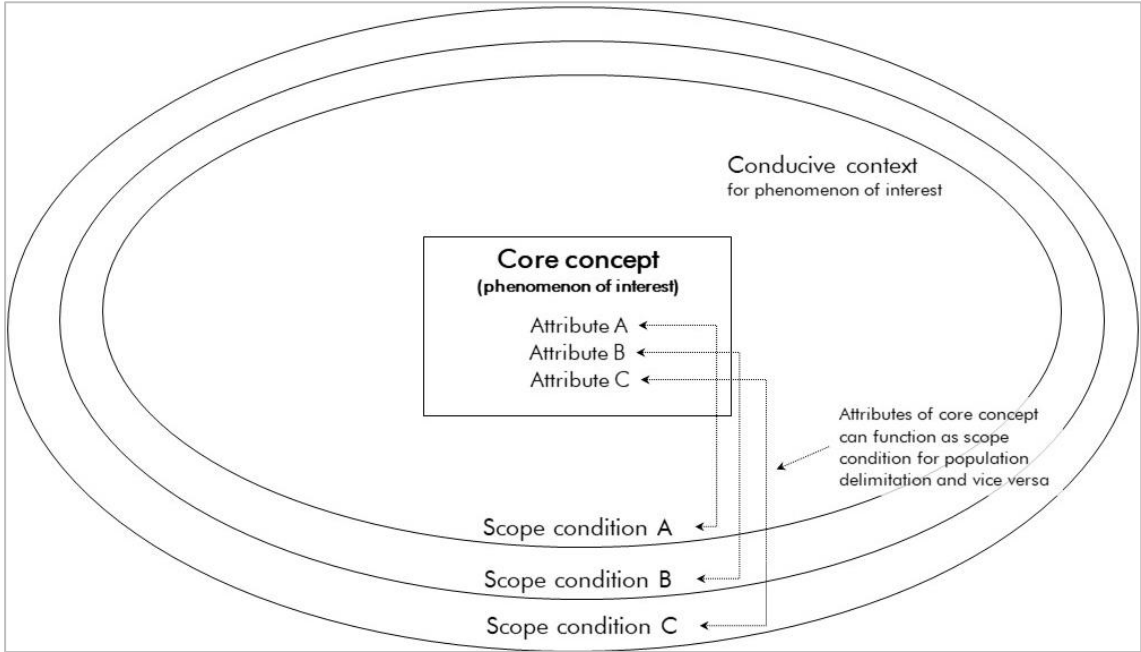
Notes: Extension of Table 4.1.

Following the proposed procedure, future research on long-term strategic policy making could select cases for comparative studies taking the list of described indicators, dimensions and sub-dimensions in section 4.2.3 as a starting point (Step 7 and 8). In doing so, researchers could determine if indicators

are conducive to architectural policy design or if they are necessary or sufficient conditions. While comparative studies of long-term strategic policy making in different countries, policy fields, or times pose significant challenges and demand careful research designs, the potential insights gained through such research make the effort worthwhile.

One relevant question comparative studies could investigate is which characteristics of policies render context more conducive to architectural policy design. More concretely, does the (anticipated) redistributive impact of a reform create more incentives for policy makers to strategically “make politics” than the (anticipated) reconfigurative impact, because the latter is harder to identify and anticipate for policy makers? Or is it the other way around and policy makers have more incentives to use policy to make politics when they only have a slight suspicion that a policy might reconfigure the political landscape? This could be because such reconfigurative effects, e.g. on decision-making structures, are more meaningful to policy makers than feedback effects that are channeled through the mass public, e.g. entrenchment effects of social benefits. The results of such research could tell us whether policy makers are more inclined to use “rules about rules” (Sheingate 2010) as long-term policy-design strategy and as means to achieve long-term political goals or whether they rather instrumentalize the mass public and its reaction to policies for that purpose.

Figure 8.1: The Intertwinement of Concept Formulation and the Identification of Conducive Contexts in Qualitative Research



8.2.3 *Policy-Design Strategies as Subject and Object of Policy-Design Processes*

The third and final methodological reflection broadens the perspective on architectural policy design strategies. So far, architectural policy-design strategies have been discussed as a potential causal influence on policy designs. However, policy-design strategies are themselves shaped in and throughout the process of policy design because policy makers constantly update their preferences, interests and goals in reaction to changes in the strategic environment. In short, one can look at policy-design strategies as both subject of design processes (steering the process) and object of design processes (being shaped by the processes).

This Janus-faced nature of policy-design strategies demands methodological and analytical awareness when one investigates long-term strategic policy making and when one tries to make statements about causal relationships in design processes. Below, two responses to this challenge are outlined. The first looks at policy-design strategies as subjects of design processes, the second looks at them as objects. Depending on the goal of research, both approaches can be combined to form a more complete picture of a case.

First, one can treat design strategies as subject and carve out the “essence” of a policy design strategy. Here, essence means those central elements of a policy design strategy that remain constant throughout the design process even though the design strategy is adapted to changing situational contexts. Central, constant elements can be crucial policy goals or ideals, specific policy instruments, or the direction of policy development aimed for with the design. In many cases, a suitable way to identify and carve out the essence of a policy design strategy is to contrast multiple design strategies, set them in relation or opposition to each other and thereby identify the distinguishing elements of the individual strategies.

This approach was also applied in the two case studies in Part III, where policy design strategies of the Christian and Social Democrats were distinguished along different long-term goals (and the policy design and feedback effects supposed to achieve these goals). The advantage of this approach is that one is able to treat policy design strategies as subjects in the design process and as causal influences on the resultant policy design that eventually emerges from the design process. It also allows one to highlight the role of agency in policy-design and policy-feedback processes and underline the causal influence of strategic policy design on policy feedback and policy development.

Second, one can treat policy-design strategies as objects that change throughout the design process. The case studies presented in Part II have done so to a limited degree by illustrating what programmatic positions parties had

on the issues of codetermination and pay continuation and which compromises they had to agree to in order to find a policy design that could gain a majority in parliament. If one was more interested in understanding how design strategies developed throughout the design process and what caused them to change, one could zoom in on which reasons policy makers give for adapting their strategies. If such an investigation was to be based on archival material, the researcher would reasonably first have to develop a solid understanding of the essence of a design strategy. Then, the researcher could establish a timeline of changes in design proposals and more purposefully try to identify empirical material that can shed light on the reasons behind changes in policy makers' strategies. Such material could be, for example, protocols of internal party meetings, materials from the party leadership, or protocols of meetings with interest groups that might exert pressure on policy makers.

Research following this approach could help answer a number of relevant questions for our understanding of public policy making and democratic accountability: For example, how much influence do organized interests have on policy makers design strategies? Do policy makers shape their design strategies more along the interests of powerful organized groups, or do they consider the opinion of the mass public, their voters or party base? In an era in which political campaigns receive more and more funds from private donors and business organizations and associations, research pursuing this line of inquiry could provide valuable insights into the effects of such contributions and patterns of accountability in the political process that run counter to democratic ideals.

8.3 Empirical Implications: The Importance of Architectural Policy Design Strategies in Public Policy Making

The case studies of the Pay Continuation Act and the Codetermination Act show how the architectural policy design approach can be applied in empirical investigations and demonstrate that it can contribute to a refined understanding of policy design processes and long-term strategic policy making. Primarily using the case of the Pay Continuation Act as example, this section highlights general empirical implications of the dissertation; in particular that researchers ought to pay more attention to policy makers' long-term strategies in policy making.

Researchers should do so because policy makers spend a great deal of time and energy considering potential feedback effects – also, importantly – in contexts of incremental policy making. However, the literature tends to neglect agency as an influential factor for policy development and therefore cannot explain how strategic policy makers attempt to shape policy development. Furthermore, researchers should pay more attention to policy makers' long-

term strategies because policy makers' anticipations of potential feedback effects seem to be quite accurate in terms of which political dynamics will emerge after reform passage.¹⁶⁸

If researchers neglect policy makers' long-term design strategies, they risk drawing false conclusions about policy makers' strategic decisions during policy design. For example, they might misinterpret policy makers' decisions in political negotiations and see it as a defeat when policy makers "give in" in a weak bargaining position and overlook how policy makers might hold on to their original policy goal and try to influence policy design strategically in order to achieve this goal in the long run. Hence, what can seem like a political defeat could be a political victory in the long term.

Today, the introduction of pay continuation for workers in 1969 is often considered a milestone in German social legislation. Pay continuation is an important characteristic of the German welfare state and symbolizes its relative generosity compared to sickness benefits in other countries (OECD 2010: ch. 3.2). For the labor movement, the Pay Continuation Act is of high symbolic value since it represents an important victory in the fight for equal treatment of workers and salaried employees (cf. e.g. Meine 2005: 78). Below, two policy developments that policy makers already anticipated and debated in the design process of the Pay Continuation Act will be discussed briefly: the entrenchment of pay continuation policy and the stepwise privatization of health care costs.

The Entrenchment of Pay Continuation

Since 1969, barely any attempt to reform the core of the Pay Continuation Act (the introduction of pay continuation for workers) has been made, which speaks for the existence of a strong entrenchment effect that keeps the policy in place. Such an entrenchment effect was already anticipated by policy makers in 1969 and part of the Social Democrats' design considerations. Not even employer federations, who strongly opposed the introduction of pay continuation for workers in the 1950s and 1960s, insisted on the retraction of the act in the years after its adoption.¹⁶⁹

In fact, it took almost 25 years for pay continuation to come under serious political pressure. In 1993, the sitting Christian Democratic-Liberal government proposed a reform of pay continuation as part of a larger legislative package. Justified by court rulings that declared elements of the existing legislation

¹⁶⁸ This section points towards relevant policy developments in health politics since the adoption of the Pay Continuation Act in 1969. However, it is beyond the scope of this dissertation to conduct a detailed empirical analysis of policy development and feedback effects in health politics since 1969.

¹⁶⁹ ACDP, 08-005-060/3, Memo to MP Schäuble (CDU), 08.12.1977.

unconstitutional, the government attempted to cut back pay continuation and (re-)introduce a waiting period of two days in order to reduce abuse of the scheme and increase the competitiveness of German companies on international markets. However, the government's proposal provoked strong resistance and was eventually withdrawn and replaced by a weakened proposal, which only reduced pay continuation minimally in case of sickness on public holidays (Ruhnke 2005: 18-20).

Only two years later, the government launched another attack on pay continuation and proposed a reduction of pay continuation to 80 % of the previous wage and the introduction of a four-week waiting period for newly employed. Again, the proposal created strong opposition among unions, Social Democrats and the Christian Democrats' employee wing while employer federations, Liberals and the Christian Democrats' employer wing supported a reform. Despite strong opposition and public protests, the government succeeded this time, and parliament passed the proposed substantial cutbacks in pay continuation (Ruhnke 2005: 20; Zohlnhöfer 2001: ch. 6.2). However, the reform lasted only briefly and was retracted by the newly elected Social Democratic-Green government in 1998. The Social Democrats had used the issue of pay continuation already during their election campaign and promised to cancel cutbacks in social benefits introduced by the Christian Democratic-Liberal government (Egle and Henkes 2003: 74).

This short abridgement of the development of pay continuation politics suggests that a strong entrenchment effect, which was part of the Social Democrats' design strategy, materialized after the implementation of the Pay Continuation Act. Workers had grown accustomed to a generous pay continuation system with broad coverage and low entry thresholds and reacted to potential retrenchment with protest and opposition. The labor movement and Social Democrats stood side by side to defend its previous victory and vested interests and consistently opposed retrenchment plans throughout the 1990s. Consequently, the new Social Democratic-led government cancelled the previous government's cutbacks only a few weeks after coming into office.

The argument is not that the entrenchment effect was the only factor shaping policy development. For example, party competition and electoral dynamics can render cutbacks more or less likely. Similarly, entrenchment effects can potentially be "overridden" by other factors like problem pressure due to weak economic performance and high unemployment (as the brief retrenchment between 1996 and 1998 indicates), especially when the government itself is ideologically not inclined to protect the policy. However, the strong opposition to retrenchment plans in the 1990s and the immediate retraction of the 1996 reform indicate the importance of a strong entrenchment effect in pay continuation politics. Hence, the case of the Pay Continuation Act gives reasons to

believe that policy makers are capable of correctly anticipating possible inward-oriented feedback effects like an entrenchment effect in cases of paradigmatic policy making.¹⁷⁰

Furthermore, the example demonstrates that researchers might misinterpret policy feedback effects as coincidental side effects of public policy making that happen to emerge from critical junctures during which policy makers' choices weigh heavily, even though policy makers might strategically shape these feedback effects. Hence, they do not see the crucial influence of strategic policy makers on feedback effects and are not able to explain these policy makers' decisions and policy development if they do not go back in time to investigate the policy design strategies policy makers followed during policy design.

The Gradual Privatization of the Health Care Costs

The second relevant policy development concerns the slow but steady increase in co-payments in the German healthcare system (cf. e.g. Carrera et al. 2008; Gerlinger 2010; Gerlinger and Schmucker 2009; Rosenbrock and Gerlinger 2009). Observers often date a paradigmatic shift in German healthcare policy back to the mid-1990s. Gerlinger (2010: 118-120) assesses that risk and cost privatization in health care started in the mid-1970s and accelerated in the mid-1990s mainly due to external pressures and internal problem accumulation.

However, the literature typically does not view reforms from before the 1990s or mid-1970s, like the Pay Continuation Act, as important elements of this policy development. Moreover, the literature does not inquire whether the seeds of such long-term developments might already have been sown long before such incremental developments gained attention and whether policy makers had the intention to strategically create these developments. Instead, external development like rising unemployment and financial pressure are often identified as driving factors of early, smooth privatization measures (e.g. Hinrichs 2010; Palier 2010b).

¹⁷⁰ To find out how much an entrenchment effect of the Pay Continuation Act of 1969 actually influenced policy makers' choices, researchers could conduct a detailed empirical investigation of legislative records of the reform attempt of 1993, the reform of 1996 and its retraction in 1998. Such an investigation could ask: Did policy makers refer to previous legislation in committee debates or internal party documents? Did they mention public resistance to cutbacks or feelings of entitlement as a reason to consider different reform options? Did, maybe, Social Democrats internally accept the Christian Democrats' premise that employers were burdened by excessive expenses and that cutbacks in pay continuation could solve this problem, but at the same time acknowledge that they could not support such measures because employees were too accustomed to and felt too entitled to the existing regulations? Empirical evidence of a positive answer to these questions would be strong evidence of the impact of an entrenchment effect produced by the Pay Continuation Act.

The results of the investigation of the design process behind the Pay Continuation Act give reason to question this common picture in the literature. As the case study shows, in particular the Christian Democrats strategically debated which forms of co-payments to fight for in the reform debate in order to achieve a transformation of the statutory health insurance in the long term. Even though the party knew that it was in a politically weak position in the pay continuation debate, it carefully considered which type of co-payment instrument could secure a long-term policy development in their interest and therefore pushed for a contribution refund scheme (cf. section 7.4.1). Surely, the Christian Democrats' design strategy did not get the party to its long-term goal, a reimbursement system with direct co-payments. This could be because the effects linked to the chosen co-payment instruments were too weak to facilitate more paradigmatic reforms because they did not change incentive structures or produce new coordination effects. However, the German health-care system has experienced a number of privatization reforms since the 1970s, and the financial burden shifted towards the insured, which speaks for some success of the Christian Democrats' design strategy.¹⁷¹

Generally, the case study of the Pay Continuation Act gives reasons to believe that the developments in German health politics were not only due to external pressures (as the literature often assumes), but that policy makers work strategically also in the design of small, incremental reforms in order to achieve long-term political goals. Researchers should therefore investigate agency and strategic policy making in incremental reforms in more detail, ask which long-term strategies policy makers follow, which feedback effect they intend to design and how incremental reforms are strategically designed to shape subsequent policy development. As demonstrated by this dissertation, the architectural policy design approach and the typology of feedback effects anticipated by policy makers are helpful analytical tools in this endeavor. The typology presented above provides a well-developed analytical guideline for empirical investigations of strategic policy making because it spells out which types of feedback effects policy makers likely consider in contexts of paradigmatic and incremental policy making.

If the literature does not apply the approach, it risks misinterpreting policy developments and policy makers' decisions during policy design. What can

¹⁷¹ In order to evaluate the strength of feedback effects that emerged from the Pay Continuation Act, researchers could investigate whether or how policy makers referred to the act during subsequent reform debates. For example, researchers could evaluate an experience effect and try to determine whether or to what degree the concrete experience with early cost-sharing legislation as prescribed in the Pay Continuation Act shaped policy makers' design choices and potentially prepared and enabled further privatization reforms (as outlined by the Christian Democrats' design strategy).

seem like a political defeat at first sight might turn out to be a victory in the long term if policy makers successfully influence policy design in a way that creates beneficial policy-feedback effects for them even when they have to accept short-term losses and agree to a compromise with the political opponent. Furthermore, the literature might overlook the important influence of strategic policy makers and their design strategies on gradual policy development, i.e. when policy makers strategically develop policy incrementally but try to achieve more paradigmatic long-term policy goals.

9. Discussion and Conclusion: The Contributions of the Dissertation and a Plea for an Agency Turn in Policy Feedback Research

The aim of this dissertation was to explain a key dimension of public policy making, namely *whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies*. The dissertation aimed to help the literature to understand better the potentials, political struggles, challenges, and real-world patterns of long-term strategic policy making and to explain the strategic choices policy makers make during policy design. In response to these goals, the dissertation makes two main contributions. Section 9.1 presents these two contributions. Section 9.2 concludes the dissertation with a plea for an agency turn in policy feedback research.

9.1 *The Two Key Contributions of the Dissertation*

Contribution 1: Policy makers do consider and try to strategically design policy feedback effects during policy design. They anticipate different types of effects in different policy design situations based on their working understanding of policy feedback effects and try to maximize both short-term and long-term political gains.

The first contribution of the dissertation concerns the insights it provides into dynamics and patterns of long-term strategic policy making. The dissertation demonstrates that policy makers do consider long-term implications of different policy designs and that they try to strategically shape policy feedback effects through policy design. It shows that policy makers link anticipated feedback effects to particular elements of policy design and that they consider different types of feedback effects in different types of policy design situations based on the challenges these situations pose. In incremental policy making, policy makers mainly consider outward-oriented feedback effects (i.e. feedback effects of a policy on other policies/issues/policy fields) because they want to create a beneficial reform process. In paradigmatic policy making, policy makers mainly consider inward-oriented feedback effects (i.e. feedback effects of a policy on its own further development) because their primary focus is on designing a stable, resistant policy that will endure future political attacks.

The dissertation also demonstrates that policy makers are not solely myopic but try to achieve long-term policy goals while being electorally successful.

This helps us understand policy makers' strategic decisions during policy design and how they try to maximize long-term and short-term gains in bargaining with the political opponents. Policy makers in a weak bargaining situation may accept necessary compromises to contain damage but simultaneously try to influence policy design so that it creates favorable political dynamics for reaching their long-term policy goal. Policy makers in a strong bargaining position not only celebrate a short-term victory but may also try to design policies to be resistant to future retrenchment.

Furthermore, the dissertation demonstrates that researchers risk drawing false conclusions when they do not investigate design processes and policy makers' design strategies in detail. Policy makers may "give in" in a political debate if in a weak bargaining position, as just said, but they can hold on to their original policy goal and try to influence policy design deliberately in order to achieve this goal in the long run. Researchers should therefore not deduct policy makers' policy goals quickly from their positions during political debates and negotiations but investigate policy-design strategies in detail in order to understand the policy makers' long-term goals. Doing so can also help researchers uncover when policy makers accept short-term losses in order to achieve long-term goals and avoid misinterpreting strategic decisions in public policy making.

Contribution 2: The existing literature relies implicitly or explicitly on problematic assumptions about the nature of policy makers and policy making and has therefore not developed an analytical toolkit for the investigation of long-term strategic policy making. The theoretical and methodological framework of architectural policy design provides a solution to this problem that can improve our understanding of patterns and dynamics of public policy making and policy makers' strategic decisions during policy design.

The second contribution of the dissertation lies in the cogent problematization of the existing literature on policy feedback and policy design and the development of a novel analytical framework of architectural policy design. The dissertation carves out problematic assumptions in the existing literature and thereby explains what prevents policy feedback and policy design research from understanding the key dimension of long-term strategic policy making. Because of pervasive images of politicians as myopic, policy making as incomprehensibly complex, and policy design as a rational, instrumental process, the literature has failed to investigate when or how policy makers strategically

choose between different policy designs because of the specific feedback effects these policies produce and to develop analytical tools for the investigation of long-term strategic policy making.

By purposefully identifying problematic assumptions in the existing literature, the dissertation also demonstrates the benefits of the problematization approach and abductive research compared to gap-spotting in the development of new theories and frameworks and the advancement of existing research.

Based on the problematization of the literature, the dissertation develops a novel theoretical and methodological framework for the investigation of long-term strategic policy making. The methodological framework contributes to the existing literature by outlining a detailed script for the investigation of long-term strategic policy making. It provides guidelines for case selection, data generation and data analysis and advice for the identification of conducive contexts for long-term strategic policy making and for the handling of policy design strategies as subjects and objects of design processes. The methodological framework also demonstrates how political scientists can fruitfully engage in archival research and that valuable insights can be generated from digging deep into archival records.

Furthermore, the methodological framework makes a specific contribution to the case selection literature and the literature on abductive research by providing systematic guidelines for case selection in theory-building research and early phases of research projects, when researchers start engaging with empirical material while developing core concepts and theoretical assumptions.

The theoretical framework of the dissertation is based on two analytical claims developed in response to the critical review of the literature. The first claim is that paying attention to feedback effects can help remedy the functionalist bias in policy design studies, help researchers better understand the potentials, challenges, political struggles, and real-world patterns of strategic policy design, and develop a clear concept of long-term strategic policy making and an analytical framework for policy-design studies that take anticipated policy-feedback effects into account. The second claim is that the disaggregation of policies into policy instruments and design characteristics and the detailed investigation of design processes can help researchers better understand how policy feedback effects emerge and whether and how policy makers can (try to) design these intentionally.

The theoretical framework combines insights from the policy feedback and the policy design literature. It can do so because the policy design literature can shift the policy feedback literature's focus from policies as broad categories to policy design elements and, thus, help investigate how policy feedback

effects emerge and how policy makers can try to design them strategically. The policy feedback perspective helps render the policy design more political by counterbalancing its functionalist bias on instrument selection with attention to the political consequences of policies and the political struggles around instrumentation and policy design.

Three elements form the analytical core of the theoretical framework. It is based on (1) a historical-institutionalist understanding of policies as important rules that structure subsequent policy development and on (2) a conflict-oriented understanding of politics that sees institutions and policies as arenas of conflict in which actors constantly try to (re-)shape and (re-)interpret them and bend them towards their priorities and preferences. Furthermore, it is based on (3) a refined understanding of strategically selective contexts and strategic actors that bring about strategic action as driver of change.

Based on these elements, the theoretical framework develops a concept of architectural policy design. Architectural policy design means intentional policy making by strategic, reflexive, conscious, policy-driven and goal-oriented policy makers who aim to shape society in the long term by realizing policy goals that motivate their action. Policy making and policy makers' preferences, goals and actions are always influenced by the effects of previous policy, and considerations of such effects influence policy design. Policy makers engage in architectural policy design because they want to gain political advantages and decrease the chance that their decisions are overturned after just one electoral cycle. They thereby steer and guide future policy makers' courses of action via policy feedback effects. The concept of architectural policy design puts policy makers' long-term strategic action in the center of policy design studies and enables the literature to better understand and explain how policy affect politics.

In sum, theoretical framework contributes to the existing literature by providing an analytical lens that makes agency and long-term strategic action in policy feedback processes and policy design visible, analytically tangible and open to categorization and classification. Furthermore, the theoretical framework is a strong reminder of the need for an agency turn in policy feedback research.

9.2 A Plea for an Agency Turn in Policy Feedback Research

The role of agency has long been neglected in policy feedback research, and only few authors have recently recognized the need for more engagement with the strategic use of policies to make politics. The dissertation argues for an agency turn in policy feedback research and makes concrete suggestions for improving our understanding of policy feedback dynamics, long-term policy development and real-world policy making.

Concretely, it argues that researchers should take long-term strategic policy making seriously. That means they should investigate policy makers' strategic calculations regarding policy feedback effects, scrutinize how policy makers weigh long-term gains or losses in relation to short-term gains or losses, and evaluate the causal impact of such strategic considerations on policy designs. Furthermore, researchers should take policy makers' own perspective on feedback effects seriously. That is, they should develop and apply analytical categories of policy feedback effects that reflect policy makers' own experience, knowledge and assumptions about long-term implications of policies. As the dissertation has demonstrated, such an approach helps develop productive and applicable analytical categories that show what types of strategic considerations policy makers have in different policy design situations and increases our understanding of policy design processes.

Researchers can employ manifold approaches to explain the outcomes and dynamics of reform processes, but often these approaches do not go beyond accounting for the overall direction of reforms. For example, researchers investigate quantitatively when political parties prioritize public investments (Kraft 2018), which types of policy instruments governments use in welfare state expansion or welfare state cutbacks (Jensen et al. 2017), or what social policies unions favor as opposed to left-wing governments (Jensen 2012). While these studies show which factors make certain policy outcomes more likely, they do not dig deeper into the policy design process itself and explain, for example, why a left-wing government chooses a *particular* type/design of old-age pension or why unions support *certain* types/designs of unemployment protection but not others. More case-oriented studies of public policy making may offer richer accounts of instances of public policy making and explain actors' motives and strategies (e.g. Jordan and Matt 2014; Oberlander and Weaver 2015; Soss and Schram 2007). However, these studies lack a conceptual framework and analytical focus that puts strategic action at its center and advances agency-oriented approaches to policy-feedback research.

An agency turn in policy feedback research is necessary to address these deficits and because the field so far has not paid attention to and does not understand long-term strategic policy making. As discussed earlier, historical institutionalists tend to understate the impact of agency on political developments, limit it to critical junctures, or portray actors as mere mediators without real agency that translate structural conditions into political or institutional change. Policy feedback research more specifically tends to see narrow constraints on policy makers' chances of influencing long-term political developments due to, e.g., the short time horizons policy makers face in electoral politics, their limited cognitive capacity in the face of increasingly complex policy making, and the scarcity of reliable information (cf. chapter 2.1).

However, as Anzia and Moe (2016: 763) argue, if policy makes politics, rational politicians have reasons and opportunities to use policy for their own political advantage. Surely, policy makers are not strategic masterminds, they may be myopic, face information scarcity, or be unaware of their chances and possibilities to make politics via policy, or they may fail in their attempt to do so (cf. section 2.3 and 3.2). However, policy makers will often have incentives to at least try to use policy to make politics (ibid.: 765-6). Yet, as Anzia and Moe correctly assess, this dimension of long-term strategic policy making has gone almost entirely unexplored. Indeed, works that translate the central claim of policy feedback research, namely that policy makes politics, into an agency-based research program and investigate how policy makers can *use* policies to make politics are scarce and each has its weaknesses (e.g. Anzia and Moe 2016; Oberlander and Weaver 2015; Patashnik 2008; Patashnik and Zelizer 2013; Soss and Schram 2007; cf. section 2.3 for a more detailed discussion).

The policy feedback literature is therefore not equipped to answer questions of elementary relevance not only for understanding policy feedback processes but for a sound understanding of public policy making and policy development in general. Do policy makers use policy to make politics? If so, under what conditions? How does this affect the choices policy makers make during design processes and the policy designs that emerge? How successful or unsuccessful are policy makers in using policy to make politics?

The architectural policy design approach lays out a script researchers can follow to dig deeper into policy design and explain why policy makers choose certain designs or design elements over others. The case studies presented in Part III have demonstrated the empirical contributions that can be made using the approach and investigating long-term strategic policy making in detail. Take the Pay Continuation Act of 1969 and its regulations on the reform of the statutory health insurance as an example. Why did the Christian Democrats agree to introduce a contribution refund scheme instead of more far-reaching copayments for hospital treatment or higher copayments for prescription medicine, as described in sections 7.4 and 7.5? All three policy instruments make the individual insured accountable and responsible for expenses related to her or his health care.

Yet, they have different political consequences. Copayments burden patients directly with a share of the costs of their medical treatment, making this form of privatization highly visibly, likely unpopular, and therefore politically vulnerable. A contribution refund scheme incentivizes potential patients to refrain from using their insurance, not by the threat of copayments, but by financial benefits in case of non-treatment. It has the same substantive goal (to reduce public expenses for medical treatment) but it pursues this goal without

putting visible burdens on a particular constituency and is therefore politically more stable and defensible. Therefore, it made sense for the Christian Democrats to favor this policy instrument since it would still help them reach their long-term goal while raising less opposition from the Social Democrats.

At first sight, the introduction of a contribution refund scheme in the Pay Continuation Act of 1969 could easily be interpreted as a big defeat for the Christian Democrats because it did not introduce a visible cost shift from the statutory health insurance to the insured individual. As the case study has shown, such a conclusion is premature. The Christian Democrats were far away from giving up their political agenda, and the introduction of a contribution refund scheme was not a total defeat but also the result of a long-term political strategy. That is, the Christian Democrats tried to respond strategically to the situational context, adapt their long-term strategy, and change their design proposal accordingly.

The example illustrates that false conclusions can arise when researchers do not look into the long-term strategic design process behind adopted policies. First, giving up specific policy instruments or design elements during the process of policy design (potentially even before formulating an official policy draft) does not necessarily mean that a party shifted its policy goal. Instead, it might mean a shift in strategy and situationally adaptable preferences while the actual policy goal remains. This means that one should refrain from deducing policy makers' goals from the reforms they pass or proposals they make and instead go back in time and investigate the design strategies policy makers followed during policy formulation.

Second, policy makers may accept short-term losses for achieving long-term goals (cf. (Jacobs 2011, 2016)). Again, research risks misinterpreting political decisions when deducing policy goals and preferences from passed legislation or official policy drafts because policy makers might intentionally sacrifice short-term political benefits (in the above example: copayments) in order to achieve a long-term goal (the reduction and individualization of health care costs) through alternative means (the contribution refund scheme).

The example also illustrates that researchers should carefully investigate agency and long-term strategic policy making in order to understand what feedback effects policy makers consider, what design choices they make, and how those affect what reforms are adopted. If researchers take into account long-term policy design strategies, they can get a better understanding of how policies come about, how policy makes politics, and how policy makers use policy to make politics.

As dissertation shows, putting the analytical focus on long-term policy design strategies means two things. First, it means to investigate empirically how policy makers try to realize long-term policy goals in and through the design

of policies instead of deducing policy makers' strategies and goals from adopted policies. Second, it means that researchers should take policy makers' own perspective on feedback effects into account. That is, they should develop and apply analytical categories of policy feedback effects that reflect policy makers' own experience, knowledge and assumptions about long-term implications of policies.

As the dissertation has demonstrated, taking such an approach helps develop productive and applicable analytical tools that uncover what types of strategic considerations policy makers have in different policy making contexts and thereby increase our understanding of public policy making, policy design and policy feedback processes.

The above example demonstrates the benefits of an agency turn in policy feedback research. The dissertation is a first step in that direction. It aims to provide a theoretical and methodological framework for the investigation of long-term strategic policy making and proposes a typology of policy feedback effects anticipated by policy makers. As analytical tools, the framework and typology help researchers understand which types of strategic long-term considerations policy makers have in different policy design situations and uncover how policy makers weigh long-term feedback effects and political gains in relation to – sometimes contrary, sometimes conforming – short-term policy effects and political gains.

In sum, an agency turn in policy feedback research is a needed response to widespread weaknesses in the literature. Taking long-term strategic policy making and policy makers' own perspectives on policy feedback effects seriously can advance our understanding of crucial choices policy makers make during policy design, how those choices affect what policy is adopted, what feedback effects emerge from policies and how policies develop over time.

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¹⁷² The complete list of all archival material accessed for the empirical investigation can be found in the Appendix, p. 245.

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Parliament Archive, PA-DBT 4000 VII 400 lfd. 44: Bundestag committee on labor and social policy, committee meeting, 18.02.1976
Parliament Archive, PA-DBT 4000 VII 400 lfd. 49: Bundestag plenary debate, 2nd and 3rd reading of Codetermination Act, 18.03.1976

***Parliament Printed Matters of the German Bundestag*¹⁷³**

Bundestag Printed Matter 05/227: Bundestag plenary debate, 1st reading of Pay Continuation Act, 23.04.1969
Bundestag Printed Matter 05/236: Bundestag plenary debate, 2nd reading of Pay Continuation Act, 11.06.1969
Bundestag Printed Matter 05/237: Bundestag plenary debate, 3rd reading of Pay Continuation Act, 12.06.1969
Bundestag Printed Matter 05/3657: proposal for an Act on Corporate Constitution, Social Democratic Party
Bundestag Printed Matter 05/3983: proposal on Pay Continuation Act introduced by Social Democratic Party, 1969
Bundestag Printed Matter 05/3985: proposal on Pay Continuation Act introduced by Christian Democrats, 1969
Bundestag Printed Matter 06/334: report by expert commission on codetermination ("Mitbestimmung im Unternehmen"), 04.02.1970
Bundestag Printed Matter 07/110: Bundestag plenary debate, 1st reading of the Codetermination Act, 20.06.1974
Bundestag Printed Matter 07/2172: government proposal for Codetermination Act, 29.04.74
Bundestag Printed Matter 07/230: Bundestag plenary debate, 2nd and 3rd reading of the Codetermination Act 18.03.1976
Bundestag Printed Matter 07/4787: Bundestag committee on labor and social policy, revised proposal for Codetermination Act, 23.02.1976

Archive for Christian-Democratic Policy (Archiv für Christlich-Demokratische Politik, ACDP):

ACDP, 01-858-027/2: protocol attachment, 07.01.1969
ACDP, 04-004-005/5: resolution proposal for delegate conference of the MIT, 27.9.1968
ACDP, 04-004-109-2: draft speech written by head of the association of the middle management (VfLA), 01.05.1976
ACDP, 04-013-066/2: draft statement of the CDA, 1963
ACDP, 04-014-042/2: letter from MP Blüm (head of CDA) to MP Barzel (chair of CDU/CSU parliamentary group), 21.02.1969
ACDP, 07-001-1446: meeting between CDU presidium and German Confederation of Skilled Crafts (ZDH) on codetermination, 24.3.1965

¹⁷³ Bundestag Printed Matters are available online: <http://pdok.bundestag.de/> (last access: May 2018).

ACDP, 07-001-1642: summary of a conference of the heads of parliamentary groups of the CDU in the Bundesländer, 05.-07.02.1969

ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 24.07.1967

ACDP, 07-001-19002: memo for federal minister Heck (CDU) on codetermination, 16.10.1968

ACDP, 07-001-19701: election correspondence 1969

ACDP, 07-001-19701: Rentnerdienst 1969

ACDP, 07-001-8708: correspondence/letters, no date

ACDP, 07-001-9072: DKM press release, 03.12.1968

ACDP, 08-001-296/2: short protocol of the Parliament Committee on Labor, 19.03.1963

ACDP, 08-005-060/2: BDA paper, no date

ACDP, 08-005-060/2: memo for meeting with DGB representatives, 11.10.1968

ACDP, 08-005-060/2: memo for MP Barzel (head of CDU/CSU parliamentary group), 02.10.1968

ACDP, 08-005-060/2: memo for MP Barzel, 12.11.1968

ACDP, 08-005-060/3: memo to MP Schäuble (CDU), 08.12.1977

ACDP, 08-005-061/1: argumentation paper, 12.04.1969

ACDP, 08-005-061/1: commission report on Pay Continuation, 04.02.1969

ACDP, 08-005-061/1: memo from commission on Pay Continuation 17.01.1969

ACDP, 08-005-061/1: memo from the Commission on Pay Continuation, 17.01.1969

ACDP, 08-005-092/3: paper "on the reform of health insurance", no date, no author

ACDP, 08-008-246/2: MIT press release 28.07.1969

ACDP, 08-008-264/2: BDA statement on Ministerial draft of Dec. 17, 1968; early 1969

ACDP, 08-008-264/2: letter from crafts association representatives to MP Gewandt, 29.10.1968

ACDP, 08-008-264/2: letter from MP Gewandt (head of DKM) to MP Barzel (head of CDU/CSU parliamentary group), 09.06.1969

ACDP, 08-008-264/2: letter from MP Ruf (MIT) to MP Gewandt (DKM chair), 17.03.1969

ACDP, 08-008-264/2: letter from MP Ruf (Wirtschaftsrat/MIT) to MP Gewandt (DKM head), 17.03.1969

ACDP, 08-008-264/2: memo from MP Kalinke (CDU) to MP Müller-Herrman (CDU), 14.01.1969

ACPD, 08-001-296/2: Short protocol of the Parliament Committee on Labor, Statement of Ministerial director Schelp (Federal Ministry of Labor), 19.03.1963

Archive of Social Democracy (Archiv der Sozialen Demokratie, AdsD)

AdsD, 1535: letter from MP Schellenberg (head of SPD working group on social policy) to SPD parliamentary group, 08.05.1969

AdsD, 2/BTFD000198: undated memo from the materials of the Social Democrats working group on social policy in the 4. Bundestag (1961-65)

AdsD, 2/BTFG000604: description and evaluation of coalition compromise in codetermination, no date

AdsD, 2/BTFG000606: letter from Vetter (head of DGB) to Wehner (head of SPD parliamentary group), 02.02.1976

AdsD, 2/PVAS000599: protocol coordination group between SPD and DGB on codetermination, 25.09.1974

AdsD, 2/PVCO00079: description and evaluation of coalition compromise in codetermination, 09.12.1975

AdsD, 2/PVCO00079: federal conference of SPD working group on employee matters, 19.-21.10.1973

AdsD, 667: article from the German insurance journal (Deutsche Versicherungszeitschrift), october 1968

AdsD, 667: position paper from local SPD branch in Westliches Westfalen, no date

AdsD, 669: letter from MP Schellenberg (head of SPD working group on social policy) to SPD parliamentary group, 20.03.1969

AdsD, 669: position paper from the association of small and medium-sized enterprises (Deutscher Gewerbeverband), 18.03.1969

AdsD/DGB archive, 5/DGAK000042: memo on coalition compromise on codetermination on Dec. 9, 1975, 22.12.1975

AdsD/DGB archive, 5/DGAK000042: position paper 06.03.1974

AdsD/DGB archive, 5/DGAK000042: position paper 23.01.1974

AdsD/DGB archive, 5/DGAO001325: memo on meeting between representatives of the DGB and the Social Democrats, 30.10.1964

Appendix

- Overview of Accessed Empirical Material, p. 265
- Overview of Edited or Digitalized Archival Material, p. 272
- Description of Indicators for the Evaluation of Potential Cases, p. 274
- Overview of Preliminary Case Evaluations, p. 278

Overview of Accessed Empirical Material

Accessed Archival Records: Parliamentary Archives of the German Bundestag (Parlamentsarchiv des Deutschen Bundestags)

Signature	PA-DBT	Year	Vol- umes	Bill / Publication Title and Date in the Federal Law Gazette (Bundesgesetzblatt, BGBl.)
...V368		1969	2	Pay Continuation Act (<i>Gesetz über die Fortzahlung des Arbeitsentgelts im Krankheitsfalle und über Änderungen des Rechts der gesetzlichen Krankenversicherung vom 27. Juli 1969, Bundesgesetzblatt vom 30.07.1969</i>)
...V/324		1969	9	22. Act to Change the Federal Law (<i>Zweiundzwanzigstes Gesetz zur Änderung des Grundgesetzes vom 12. Mai 1969, Bundesgesetzblatt vom 14.05.1969</i>)
...VI/234		1972	9	Works Constitution Act (<i>Betriebsverfassungsgesetz vom 15. Januar 1972, Bundesgesetzblatt vom 18.01.1972</i>)
...VI/323		1972	11	Pension Reform (<i>Gesetz zur weiteren Reform des gesetzlichen Rentenversicherung und über die fünfzehnte Anpassung der Renten aus den gesetzlichen Rentenversicherungen sowie über die Anpassung der Geldleistungen aus der gesetzlichen Unfallversicherung (Rentenreformgesetz – RRG) vom 16.10.1972, Bundesgesetzblatt vom 18.10.1972</i>)
...VII/152 and ...VII/406		1974/6	3	Reform of Paragraph 218 (<i>Fünftes Gesetz zur Reform des Strafrechts (5. StrRG) vom 18. Juni 1974, Bundesgesetzblatt vom 21.06.1974, Fünfzehntes Strafrechtsänderungsgesetz vom 18. Mai 1976, Bundesgesetzblatt vom 21.05.1976</i>)
...VII/366		1976	10	Framework Act for Higher Education (<i>Hochschulrahmengesetz (HRG) vom 26. Januar 1976, Bundesgesetzblatt vom 29.01.1976</i>)
...VII/400		1976	6	Codetermination Act: (<i>Gesetz über die Mitbestimmung der Arbeitnehmer (Mitbestimmungsgesetz – MitbestG), Bundesgesetzblatt vom 08.05.1976</i>)

...X/125	1985	4	Employment Promotion Act (<i>Beschäftigungsförderungsgesetz 1985 (BeschFG 1985) vom 26. April 1985, Bundesgesetzblatt vom 30.04.1985</i>)
...X/182	1985	2	The Child-Raising Allowance Act (<i>Gesetz über die Gewährung von Erziehungsgeld und Erziehungsurlaub (Bundeserziehungsgeldgesetz –BerzGG) vom 6. Dezember 1985, Bundesgesetzblatt vom 12.12.1985</i>)

***Material Accessed in the Archive for Christian-Democratic Policy
(Archiv für Christlich-Demokratische Politik, ACDP)***

ARCHIVE SIG.	TIME FRAME	SHORT DESCRIPTION
<i>CDU National party</i>		
07-001:1446	1962-66	CDU presidium, documents
07-001:1551	1960-68	CDU presidium, contact meetings
07-001:1642	1969	Conferences of chairmen of parliamentary groups
07-001:19002	1967-68	Political departments
07-001:19701	1968-70	Social policy department
07-001:19702	1968-70	Social policy department
07-001:3047	1952-62	Documentation on labor market policy
07-001:3050	1959	Documentation on site groups
07-001:3105	1953-61	Documentation on health insurance
07-001:5122	1968-69	Federal election 1969, press material
07-001:8708	1960-63	Working group on social policy
07-001:8711	1963-68	Working group on social policy
07-001:8712	1964-65	Working group on social policy
07-001:8713	1965-66	Working group on social policy
07-001:9072	1968-70	Commission on codetermination
<i>CDU/CSU Parliamentary group in the German Bundestag</i>		
08-001:1038/1	1974	Meeting protocols
08-001:1039/1	1974	Meeting protocols
08-001:1043/2	1975	Meeting protocols
08-001:296/2	1963	Labor rights
08-001:345/2	1969-70	Correspondence
<i>CDU/CSU Parliamentary Group in the German Bundestag: Working group IV (i.a. Social Policy)</i>		
08-005:060/1	1960-64	Pay continuation
08-005:060/2	1968	Pay continuation
08-005:060/3	1971-77	Pay continuation
08-005:061/1	1969	Pay continuation
08-005:092/3	1955-69	Pay continuation
08-005:120/1	1971-73	Pay continuation
<i>Christian Democratic Employees Association (Christlich-Demokrat. Arbeitnehmerschaft, CDA)</i>		
04-013:030/2	1966-67	Working group on social policy and family policy
04-013:042/2	1-5/1969	General correspondence
04-013:053/2	1962,69-72	Chairman Hans Katzer
04-013:063/3	1969-73	Chairman Hans Katzer
04-013:066/2	1962-63	“Social package” proposed by federal government
04-013:070/1	1959-63	“Social package” proposed by federal government
04-013:079/2	1959-65	Working group Christian Democratic DGB trade unionists

ARCHIVE SIG.	TIME FRAME	SHORT DESCRIPTION
04-013:016/1	1961-63	10. Annual meeting
04-013:017/1	1963	10. Annual meeting
04-013:006/2	1963-65	Federal board meetings
<i>Small- and Medium-Sized Business Association of CDU/CSU (Mittelstands- und Wirtschaftsvereinigung der CDU/CSU, MIT)</i>		
04-004:109/2	1974-76	Advisory board middle management
04-004:178/1	1971-72	Drafts, chairman Lampersbach
04-004:187/5	1976-77	Middle management and codetermination
04-004:014/1	1971-73	Ad-hoc-commission codetermination/works constitution
04-004:016/1	1969-72	Advisory board middle management
04-004:016/2	1972	Advisory board middle management
04-004:016/3	1972-73	Advisory board middle management
04-004:013/4	1971-73	Ad-hoc-commission on pay continuation
04-004:005/5	1968	13. Annual Meeting
04-004:013/5	1970-71	Ad-hoc-commission codetermination/works constitution
<i>Discussion Group Small- and Medium-Sized Business (Diskussionskreis Mittelstand, DKM)</i>		
08-008:259/3	1974-76	Codetermination
08-008:260/3	1970-74	Codetermination
08-008:260/4	1975-80	Codetermination
08-008:260/5	1969-82	Pay continuation
08-008:263/1	1971-74	Codetermination
08-008:264/2	1965-69	Pay continuation
<i>Personal collections</i>		
01-221:026	1967	“Who should we trust?“ (“Wem sollen wir noch vertrauen”) (Würmeling, Franz Josef)
01-416:033/1	1969-71	CDA (Müller, Adolf)
01-416:033/2	1971-73	CDA (Müller, Adolf)
01-416:036/2	1967-76	Correspondence (Müller, Adolf)
01-416:046/3	1973-80	Middle Management (Müller, Adolf)
01-483:024/1	1957-59	Correspondence (Schröder, Gerhard)
01-491:014/2	1967-69	Correspondence (Zink, Otto)
01-491:058	1972-82	Pay continuation (Zink, Otto)
01-561:002/3	1955-82	CDA (Deus, Franz)
01-858:027/2	1968-69	German economic council (Wirtschaftsrat der CDU e.V.) (Scheufelen, Klaus)
01-858:041	1981-82	German economic council (Wirtschaftsrat der CDU e.V.) (Scheufelen, Klaus)
01-858:108/2	1968	CDU Bonn (Scheufelen, Klaus)

Material Accessed in the Archive of Social Democracy (Archiv der Sozialen Demokratie, AdsD)

ARCHIVE SIG.	TIME FRAME	SHORT DESCRIPTION
German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB)		
5/DGAI000006	1956-68	Federal board, Chairman Richer
5/DGAI000015	1969	Federal board, Chairman Vetter
5/DGAK000021	1971-73	Social policy division, advisory council on social policy
5/DGAK000040	1972-73	Social policy division, working group on codetermination
5/DGAK000041	1973-74	Social policy division, correspondence, codetermination
5/DGAK000042	1973-76	Social policy division, codetermination act
5/DGAK000059	1972-75	Social policy division, working group on codetermination
5/DGAK000166	1973	Social policy division, internal correspondence Heinz Vetter
5/DGAK000192	1971	Social policy division, internal correspondence
5/DGAK000264	1974-75	Social policy division, correspondence, codetermination
5/DGAK000284	1971-73	Social policy division, correspondence, codetermination
5/DGAK000601	1968-73	Social policy division, correspondence, codetermination staff
5/DGAO000811	1961-63	Federal board, social policy division, commission on pay cont.
5/DGAO000847	1953-66	Federal board, social policy division, pay continuation
5/DGAO000857	1962-67	Federal board, social policy division, pay continuation
5/DGAO001055	1968-69	Federal board, social policy division, pay continuation
5/DGAO001066	1956-57	Federal board, social policy division, pay continuation
5/DGAO001083	1961-63	Federal board, social policy division, pay continuation
5/DGAO001092	1960-67	Federal board, social policy division, pay continuation
5/DGAO001259	1963-69	Federal board, social policy division, pay continuation
5/DGAO001271	1969-71	Federal board, social policy division, pay continuation
5/DGAO001319	1969	Federal board, social policy division, circulars
5/DGAO001325	1962-66	Federal board, social policy division, pay continuation
5/DGAO001345	1958-69	Federal board, social policy division, health insurance reform
5/DGAO001353	1954	Federal board, social policy division, pay continuation
5/DGAO001704	1968-69	Federal board, social policy division, pay continuation
5/DGAO001705	1964	Federal board, social policy division, pay continuation
5/DGAY ¹⁷⁴	1958-66	Federal board, bargaining politics division
5/DGCU000078	1969-70	Federal board member Stephan
5/DGCY000113	1957-66	Federal board, Tacke, talks with BDA

¹⁷⁴ Incomplete record.

ARCHIVE SIG.	TIME FRAME	SHORT DESCRIPTION
<i>SPD Parliamentary group in the German Bundestag</i>		
2/BTFC000624	1960-61	Federal elections 1961, Willy Brandt
2/BTFC000631	1960-61	Federal elections 1961, Willy Brandt
2/BTFC000645	1960-61	Federal elections 1961, FDP
2/BTFE001534- 5	1969	Pay continuation (working group VII: judiciary)
2/BTFE001935	1967-69	Office Herbert Wehner, correspondence
2/BTFE001992	1965-69	Office Herbert Wehner
2/BTFG000001	29.11.1972	Short protocol of group meeting, codetermination
2/BTFG000004	18.12.1972	Short protocol of group meeting, codetermination
2/BTFG000032	24.10.1973	Short protocol of group meeting, codetermination
2/BTFG000043	22.01.1974	Short protocol of group meeting, codetermination
2/BTFG000045	19.02.1974	Short protocol of group meeting, codetermination
2/BTFG000050	19.03.1974	Short protocol of group meeting, codetermination
2/BTFG000077	08.10.1974	Short protocol of group meeting, codetermination
2/BTFG000079	15.10.1974	Short protocol of group meeting, codetermination
2/BTFG000081	12.11.1974	Short protocol of group meeting, codetermination
2/BTFG000088	14.01.1975	Short protocol of group meeting, codetermination
2/BTFG000096	08.04.1975	Short protocol of group meeting, codetermination
2/BTFG000101	13.05.1975	Short protocol of group meeting, codetermination
2/BTFG000104	01.06.1975	Short protocol of group meeting, codetermination
2/BTFG000105	17.06.1975	Short protocol of group meeting, codetermination
2/BTFG000109	23.09.1975	Short protocol of group meeting, codetermination
2/BTFG000113	04.11.1975	Short protocol of group meeting, codetermination
2/BTFG000124	10.02.1976	Short protocol of group meeting, codetermination
2/BTFG000128	16.03.1976	Short protocol of group meeting, codetermination
2/BTFG000603	1974	Office Herbert Wehner, codetermination
2/BTFG000604	1974-76	Office Herbert Wehner, codetermination
2/BTFG000605	1975	Office Herbert Wehner, codetermination
2/BTFG000606	1975-76	Office Herbert Wehner, codetermination
2/BTFG000607	1976	Office Herbert Wehner, codetermination
2/BTFG003790	1973	SPD party convention in Hannover
2/BTFG003793	1974	Documentation SPD
272 (old sig- nuature)	1967-69	Parliamentary management board
1535	1969	material from SPD working group on Law
<i>SPD Parliamentary Group: Working Group III Economic Policy</i>		
2/BTFG002335	1973	Working group on codetermination
2/BTFG002336	1973	Working group on codetermination
2/BTFG002337	1974	Working group on codetermination
2/BTFG002338	1976	Working group on codetermination
<i>SPD Parliamentary Group: Working Group IV Social Policy</i>		
2/BTFC000085	1958	Working group meetings
2/BTFC000170	1957-58	Magazine Sozialer Fortschritt

ARCHIVE SIG.	TIME FRAME	SHORT DESCRIPTION
2/BTFC000171	1959-61	Magazine Sozialer Fortschritt
2/BTFD000198	1963-65	Social policy of the government
2/BTFD000199	1962-63	CDU/FDP negotiations on „social package“
2/BTFD000216	1963	Health policy, health insurance
2/BTFD000217	1962-64	Health policy, health insurance
2/BTFD000218	1962-64	Health policy, health insurance
2/BTFE000671	1969	Health policy, health insurance
2/BTFE000711	1966	Codetermination
2/BTFE000712	1967	Codetermination
2/BTFE000713	1-11/1968	Codetermination
2/BTFE000714	12/1968	Codetermination
2/BTFE000715	12/1968	Codetermination
2/BTFE000716	12/1968	Codetermination
2/BTFE000717	1968-69	Codetermination
2/BTFE000718	1969	Codetermination
631	1968	Correspondence Schellenberg / Bartholomäi
661	1965-66	Health policy / statutory health insurance
662	1966	Health policy / statutory health insurance
666	1968	Health policy / statutory health insurance
667	1968	Health policy / statutory health insurance
668	1969	Health policy / statutory health insurance
669	1969	Health policy / statutory health insurance
670	1969	Health policy / statutory health insurance
671	1969	Health policy / statutory health insurance
<i>SPD executive board</i>		
2/PVBY000078	1976	AfA conference
2/PVAI000642	1966-67	Commission on codetermination and works constitution
2/PVAI000643	1968	Commission on codetermination and works constitution
2/PVAS000592	09.09.1973	Federal party board meeting
2/PVAS000599	08.02.1974	Federal party board meeting
2/PVAS000602	08.03.1974	Federal party board meeting
2/PVAS000618	16.02.1975	Federal party board meeting
2/PVAS000640	20.02.1976	Joint meeting of different party boards
2/PVCO00079	1973-1976	AfA conferences, documents and correspondence
2/PVALT03322	1968-69	Presidium, office Castrup

Overview of Edited or Digitalized Archival Material

Meeting protocols of parliamentary groups have been edited and published, based on the original archival documents, by the *Kommission für Geschichte des Parlamentarismus und der Politischen Parteien e.V. (KGParl)* as part of the series *Quellen zur Geschichte des Parlamentarismus und der politischen Parteien: Vierte Reihe: Deutschland seit 1945*. Protocols can also be accessed online via the website www.fraktionsprotokolle.de for selected periods.

Edited or Digitalized Material from the Christian Democrats: edited volumes for the 1st to 6th Bundestag (1949-1972), digitalized for the 4th to 6th Bundestag (1961-72).

Edited or Digitalized Material from the Social Democrats: edited volumes for the 1st to 6th Bundestag (1949-1972), digitalized for the 4th to 6th Bundestag (1961-72).

Edited or Digitalized Material from the Liberals: edited volumes for 1st to 5th Bundestag (1949-1969), digitalized for 1th to 4th Bundestag (1949-69). Additionally: edited volumes of the Party's Federal Board (*Bundesvorstand*) for 1st to 4th Bundestag (1949-1965).

Reference list for individual volumes:

Volume 7/I: FDP-Bundesvorstand. Die Liberalen unter dem Vorsitz von Theodor Heuss und Franz Blücher 1949–1954. Edited by Udo Wengst. Leinen, Düsseldorf 1990. ISBN 3-77400-5159-9

Volume 7/II: FDP-Bundesvorstand. Die Liberalen unter dem Vorsitz von Thomas Dehler und Reinhold Maier 1954–1960. Edited by Udo Wengst. Leinen, Düsseldorf 1991. ISBN 3-7700-5163-7

Volume 7/III: FDP-Bundesvorstand. Die Liberalen unter dem Vorsitz von Erich Mende 1960–1967. Edited by Reinhard Schiffers. Leinen, Düsseldorf 1993. ISBN 3-7700-5175-0

Volume 8/1: Die SPD-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1949–1957. Edited by Petra Weber. Leinen, Düsseldorf 1993. ISBN 3-7700-5171-8

Volume 8/II: Die SPD-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1957–1961. Edited by Wolfgang Hölscher. Leinen, Düsseldorf 1993. ISBN 3-7700-5172-6

Volume 8/III: Die SPD-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1961–1966. Edited by Heinrich Potthoff. Leinen, Düsseldorf 1993. ISBN 3-7700-5177-7

Volume 8/IV: Die SPD-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1966–1969. Edited by Bettina Tüffers. Leinen, Düsseldorf 2009. ISBN 3-7700-5177-7

Volume 8/V: Die SPD-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1969–1972. Edited by Sven Jüngerkes. Leinen, Düsseldorf 2016. ISBN 978-3-7700-5334-6

Volume 11/1: Die CDU/CSU-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1949–1953. Edited by Helge Heidemeyer. Leinen, Düsseldorf 1998. ISBN 3-7700-5206-4

Volume 11/II: Die CDU/CSU-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1953–1957. Edited by Helge Heidemeyer. Leinen, Düsseldorf 2003. ISBN 3-7700-5211-0

Volume 11/III: Die CDU/CSU-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1957–1961. Edited by Reinhard Schiffers. Leinen, Düsseldorf 2004. ISBN 3-7700-5212-9

- Volume 11/IV: Die CDU/CSU-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1961–1966. Edited by Leinen, Düsseldorf 2004. ISBN 3-7700-5253-6
- Volume 11/V: Die CDU/CSU-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1966–1969. Edited by Stefan Marx. Leinen, Düsseldorf 2011. ISBN 3-7700-5298-1
- Volume 11/VI: Die CDU/CSU-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1969–1972. Edited by Kathrin Zehender. Leinen, Düsseldorf 2016. ISBN 978-3-7700-5332-2
- Volume 15/I: Die CSU-Landesgruppe im Deutschen Bundestag. Sitzungsprotokolle 1949–1972. Edited by Andreas Zellhuber and Tim B. Peters. Leinen, Düsseldorf 2011. ISBN 978-3-7700-5307-0
- Volume 16/I: Die FDP-Fraktion im Deutschen Bundestag. Sitzungsprotokolle 1949–1969. Edited by Volker Stalman. Leinen, Düsseldorf 2017. 978-3-7700-5338-4

Description of Indicators for the Evaluation of Potential Cases

Resource Dimension

Indicators in the resource dimension ask *whether political actors possess resources that enable them to conduct long-term, strategic policy design*. Specifically, one can think of four kinds of resources.

(1) The first concerns actors' *funding*. The question is *can they financially afford to devise policies and/or evaluate policy drafts?* Since policy making is a highly complex process, and policy makers face great uncertainty and complexity, the process of devising and evaluating policies or policy drafts requires substantial financial resources, for instance to pay for qualified staff that evaluates previous policies, looks beyond national borders in attempts to learn from experiences, failures, and successes elsewhere, or consults with other experts or researcher. All these tasks require time and sufficient funding. Big unions or parties, for example, can run their own think tanks or foundations that develop and evaluate policy concepts, while small NGOs or newcomers in parliament will lack the means to be on par in this regard.

(2) The second kind of resource concerns the *personnel*, and the question is *whether political actors are capable/qualified to devise and/or evaluate policy drafts*. As suggested above, financial resources are not sufficient for long-term, strategic policy design, but collective political actors also need qualified staff that can carry out the complex task of policy design. The intricacies of the design process and the potential, anticipated, or intended effects of policies require extensive expertise, knowledge, and qualifications that not all parties or interest groups can provide.

(3) The third kind of resource concerns *networks*, or *whether or to what degree actors are included or heard in formal decision making processes*. Simply put, good funding and qualified staff are helpful for drafting and evaluating policies, but political actors also need to be able to feed their ideas and suggestions into the formal political system. Sometimes, big unions might have well-developed political concepts, possibly even ready-to-use policy drafts, but they can be shut out of decision making if a more employee-friendly government does not consider their position or objections.

(4) In such cases, it can also be helpful to consider a fourth kind of resource that I call *political* and that asks *whether or to what degree actors can create political pressure on formal decision makers*. One example is mobilization potential. Can a union, even if shut out of the decision-making process, create political pressure by bringing its members and supporters on the streets? Or

are actors influential due to their long affiliation with established political actors, as one can for example assume is the case in many countries for churches and conservative parties, or for unions and social-democratic parties.

Combined, these four elements should give a good impression of the resources political actors possess regarding long-term, strategic policy design in concrete cases of policy-making. The indicators may overlap in certain cases, for example regarding funding and personnel. At the same time they allow for a differentiation between different kinds of resources that political actors might possess or not.

Impact Dimension

The impact dimension asks *how likely it is that a policy will affect the future development in the policy field*. This complex question can be broken down into three sub-dimensions that look at *redistribution, reconfiguration, and timing*.

(1) Indicators on *redistribution* try to answer *whether or to what degree a policy redistributes resources among citizens*. Redistribution is important for long-term policy development in its own right since it greatly affects the living conditions and future prospects of citizens. Redistributive policies are therefore likely to receive much public attention and political discussion about their long-term effects. But redistributive policies can also affect the future development of a policy field in more indirect ways. They can affect, for example, mobilization patterns by disadvantaging certain parts of the population. Or they can create meaning and identities by turning citizens into recipient of a specific benefit, implicitly encouraging self-organization and network building among previously independent groups.

Specifically, we can think of three indicators regarding the redistributive effects of policies. (1.1) The first indicator concerns *access to benefits* and asks *whether a reform affects or changes citizens' access to benefits*. Does a reform, for example, change eligibility requirements for unemployment insurance or another social service? (1.2) The second indicator concerns broader *social rights* and asks *whether a reform affects or changes citizens' social rights*. For example, does a reform increase or decrease training opportunities for unemployed? Does it change reintegration support for sick or disabled people? (1.3) The third indicator concerns the *level of benefits* and asks *whether a reform changes or affects the level of benefits citizens receive*. Does a reform, for example, increase or decrease the level of unemployment support or pension payments? Combined, these indicators give a good impression of how large a distribute impact a reform has on citizens and subsequently possibly on the development of the policy field.

(2) Indicators on reconfiguration try to answer *whether or to what degree a policy reconfigures the political landscape*. They concern more directly the impact of a policy reform on the political dynamics in a policy field and are essentially about policy feedback effects. As discussed above, it is impossible for political actors involved in policy making to fully anticipate and design the effects of a policy. Equally, it is impossible for any researcher to look at a policy at the time of policy making and objectively and correctly assess its future effects.

Nevertheless, we can specifically think of how a policy affects the resources political actors possess and theorize four different indicators on reconfiguration. (2.1) The first indicator concerns *funding* and asks *whether or to what degree a reform affects or changes the financial base of a government agency or of organized interests*. Does a reform, for example, cut down funding for a government agency responsible for monitoring CO₂ emissions and, thus, harm its ability to effectively monitor and implement climate protection policies? Or does a reform affect the funding base of an organized interest group, for example by changing the taxation of income through membership contributions? (2.2) The second indicator concerns the *personnel* and asks *whether or to what degree a reform affects or changes bureaucratic or organizational capacities*. For example, does a reform not just cut funding for a government agency but also staff? Or does it extend or decrease the scope of an agency's responsibilities and tasks? (2.3) The third indicator concerns *network* resources and asks *whether or to what degree a reform affects or changes decision making procedures*. Does a policy, for example, include or exclude third parties from consultation processes? Or does it change actors' roles in such processes, for example from participation to approval? (2.4) The fourth indicator concerns *politics, or mobilization*, and asks *whether or to what degree a reform changes or affects mobilization prospects or patterns*. Does a policy, for example, politicize an issue, increase protests and civil engagement, and thereby strengthen some political actors against others? All in all, the four indicators on reconfiguration give a valuable impression of a policy's potential impact on the future dynamics in a policy field.

(3) Lastly, the impact dimension contains an indicator on *timing* that asks *whether a "window of opportunity" allows for unusually far-reaching policy reform*. Has a new government won by a landslide victory that allows it to push far-reaching reforms through parliament, assisted by public support? Or does a government control both houses of parliament or rule by a two-third majority? Alternatively, external circumstances may frame a window of opportunity, for example when an economic down-turn allows actors to push for more far-reaching reforms than just incremental adjustments.

Combined, the three sub-dimensions and their nine indicators in the impact dimension should give a good impression of whether a policy is likely to affect the future development in a policy field. Importantly, I want to reiterate that the goal is not to definitely assess the exact, future effects and impact of a policy but to get a sense of and grip on what effects potentially flow from a policy.

Conflict Dimension

Finally, indicators in the last dimension, the conflict dimension, try to assess *whether or to what degree a policy is vulnerable to future withdrawal*. The potential vulnerability of a policy is crucial since it likely increases the attention political actors pay to the long-term effects of a policy, as well as their strategic consideration of how those effects can render a policy more resistant to withdrawal. We should therefore confront policies in the initial phase of case selection with questions regarding control and contestation.

(1) Indicators on *control* ask *whether actors fear losing control over “their” policy*. Specifically, this concerns *electoral* considerations and *whether actors fear being voted out of positions with formal decision-making power*, as well as *network* considerations and *whether actors fear being excluded from formal decision making processes*. Is a government, for example, facing declining support rates and low prospects of reelection? Or are organized interests concerned that a future government might abolish their participation rights in the legislative process? In both cases, actors are likely to want to secure current achievement and make “their” policies resistant.

(2) Indicators on *contestation* ask *how contested a policy issues is*. Specifically, this concerns *issue salience*, i.e. *whether a policy issue is of high importance to voters*, and the existence of *political alternatives*, i.e. *are there viable alternatives that could replace a policy*. For example, if a government is able to pass a reform on an issue that is highly salient to the public, and political opponents suggest an alternative solution, the government would likely fear future withdrawal and replacement of their policy. Hence, they can try to secure their policy by strategically designing its policy effects. If the government is in a strong position and will likely be reelected, or if a reform is passed by a grand coalition between government and opposition, such strategic policy design is less needed.

Overview of Preliminary Case Evaluations

The following case evaluations are a work product of the case selection process. They were written in Step 5 of the case selection process (cf. section 4.2) prior to conducting the empirical investigations presented in Part III of the dissertation. The table below, taken from section 4.2, gives an overview of the individual case evaluations

Evaluated cases		Dimensions and Indicators									
		Pay Continuation Act, 1969 ³	Works Constitution Act of 1972	Codetermination Act, 1976 ³	Employment Promotion Act, 1985	Pension Reform, 1972	The Child-Raising Allowance Act, 1985	The Reform of Paragraph 218, 1976	22. Act to Change the Basic Law, 1969	Framework Act for Higher Edu., 1976	Indicator
Resources	Funding	++ ¹	++	++	++	++	++	●	++	+	<i>a</i>
	Personnel	++	++	++	++	++	++	-	++	+	<i>b</i>
	Networks	++	++	++	++	++	++	+	++	++	<i>c</i>
	Political	++	++	++	++	++	++	++	++	++	<i>d</i>
Impact (redistribution, reconfiguration, timing)	Benefit access	++	--	--	--	++	++	--	--	--	<i>e</i>
	Social rights	++	++	++	++	++	++	++	--	++	<i>f</i>
	Benefit level	+	--	--	--	++	++	--	--	--	<i>g</i>
	Funding	++	++	--	++	++	--	-	++	++	<i>h</i>
	Personnel	--	++	++	-	--	-	-	++	++	<i>i</i>
	Networks	--	+	++	-	--	--	--	++	++	<i>j</i>
	Mobilization	●	++	++	++	+	-	-	--	++	<i>k</i>
Timing	++	+	-	++	++	++	++	++	+	<i>l</i>	
Conflict	Electoral	●	++	●	+	++	+	++	--	++	<i>m</i>
	Network	●	++	++	●	--	●	++	--	++	<i>n</i>
	Policy alternative	++	++	++	●	++	●	++	●	+	<i>o</i>
	Issue salience	+	++	++	++	++	●	++	--	●	<i>p</i>
Overall evaluation		● ²	+	+	●	+	●	-	-	●	

Notes:

- 1) Indicator evaluation: ++ = positive, + = positive to ambiguous, ● = ambiguous, - = negative to ambiguous, -- = negative;
- 2) Overall case evaluation: + = ideal, +● = promising to ideal, ● = promising, -● = suitable to promising, - = suitable;
- 3) Grey shaded columns show the two selected cases.

The Works Constitution Act of 1972

The 1972 Works Constitution Act (WCA) (Borowsky 2002; Emmenegger 2014; Faulenbach 2011; Hockerts 2011; Metzler 2003; Ruf 1971a, 1971b) reformed one of the central pieces of legislation regulating the cooperation and

coordination between employers and workers, and their respective representative bodies. The WCA was first introduced in 1952 and regulated the role of work councils in firms, their composition, election procedure and responsibilities, the cooperation between work councils and employers, the participation of workers' representatives in supervisory boards of companies, etc. Even though it granted workers substantial rights, the labor movement considered the 1952 WCA a step back compared to regulation in force earlier in the 20th century. Twenty years after the passage of the WCA, the Social Democrats led, for the first time in post-war Germany, a coalition government with the Liberal Party and placed huge emphasis on a "politics of inner reforms" and "daring more democracy", thus, fueling unions' hopes to achieve major improvements in work-place regulation. Furthermore, both Social Democrats and Christian Democrats acknowledged the need for a reform of the law. Despite this shared acknowledgement and extensive inter-party negotiations, the final act was not passed unanimously but was opposed by the Christian Democrats in parliament.

I now evaluate the reform along the list of theorized indicators. Overall, the cursory investigation of the case suggests that it is an *ideal* case since it can be evaluated positively on most indicators. In the *resource dimension*, which concerns the resources political actors possess for long-term, strategic policy design, I evaluate the case positively on all four indicators. The main actors in policy making in this case, as in labor-market politics in general, are the government, formed by Social Democrats and Liberals, the opposition, formed by Christian Democrats, and unions and employers and their respective collective organizations. I expect all these actors to possess the financial means to engage in policy design and evaluation (a),¹⁷⁵ to be staffed with qualified, experienced personnel (b), to be or have access to formal decision makers (c), and to be able to create political pressure on formal decision makers (d). The three parties, Social Democrats, Christian Democrats, and Liberals, are well-established political players with consolidated membership bases (a), parliamentary experience (a, b, c), varying degrees of governing experience (b) and affiliated party foundations that engage in political education and consulting.

Even though the coalition government (1969-1972) under Chancellor Brandt was the first headed by the Social Democrats, the party is one of the two *Volksparteien*, it has consistently won more than 30 percent of parliament

¹⁷⁵ For reasons of analytical transparency, comprehensibility, and accountability, I indicate, whenever possible, in brackets to which specific indicator I link an aspect of a case. However, in this cursory investigation of cases, the evaluation of individual indicators may often also be based on the overall impression gained through the literature review as well as on common knowledge about political actors and/or policy fields.

seats since 1961, and gained experience in the previous Grand Coalition from 1965 to 1969 (b). For the first time, the Christian Democrats were not in government, but they still formed the biggest group in parliament with substantial policy-making experience and political influence (b, d). Overall, none of the involved parties were newcomers to the political business lacking prior experience, political expertise, influence, or organizational resources (a, b, c, d), and I therefore expect them to possess the resources to engage in long-term strategic policy design.

The main political actors outside legislative and executive are the unions and employers, as well as their respective federations. They are backed by millions of workers, respectively thousands of well-heeled member companies (a), and are traditionally considered to be important actors in the field of labor market policy (b) with a good standing that enables them to pressure political parties both directly in policy-making and publicly through protests or media campaigns (c, d). They have close ties to each of the main parties; unions are more closely affiliated with the Social Democrats, and employers with the Christian Democrats and the Liberals (c). I therefore consider them to have the financial resources, the organizational experience and expertise, and the relevant access and political influence to engage in long-term, strategic policy design.

In the *impact dimension*, I evaluate most indicators positively as well. While the WCA reform does not concern citizens' access to certain benefits or benefit levels (e, g), codetermination directly affects fundamental social rights for millions of workers, i.e. their representation and collaboration in firm management (f). Furthermore, the reform seems to likely impact the future development in the policy field. Regulations on codetermination directly affect unions' organizational and financial strength (h, i) because they affect their ability to influence managerial decisions and to organize, recruit, and mobilize members. Consequently, they also impact unions' strength vis-à-vis employers and political decision makers (j, k). Employers, on the other side, fear a curtailment of managerial freedoms, harmed economic growth (h), a weakening of their position vis-à-vis unions (k), and subsequently a loss of influence and prestige in the policy field (j, k). Regarding the timing of the reform, I assume that the circumstances were rather friendly towards far-reaching reforms. As noted earlier, the need for reform was generally acknowledged by all big parties. Furthermore, the Social-Liberal coalition coincided with a general breakup of the German society that was shaken up by student protests, and with a political climate that favored steps towards a democratization of workplace relations (l).

Finally, I evaluate the case positively on all indicators in the *conflict dimension*. The Social-Liberal coalition was the first of its kind, but while it did fit

the zeitgeist, Social Democrats and Liberals won the election only by a slight margin. The Christian Democrats still formed the biggest group in parliament (m), and the Social-Liberal government and policies were far from unchallengeable both in the moment and in the future (n). Additionally, the reform was high on the political agenda, had been discussed for years, and was of direct relevance for millions of workers (p), and different policy options were proposed by government and opposition (o).

Overall, the cursory description and evaluation of the 1972 WCA reform suggests that it is an *ideal* case of political architecture. All eight indicators in the resource and conflict dimension are evaluated positively, as are a majority of the indicators in the impact dimension.

The Pay Continuation Act of 1969

The Pay Continuation Act of 1969 (Borowsky 2002; Ck. 1969; Immergut 1986; Trieschmann 1969; Webber 1988) stipulated that employers have to continue to pay full wages to workers during the first 6 weeks of sickness. The act was one of the major structural reforms in social protection enacted under the Grand Coalition (1966-69) in 1969, taking effect in 1970 just after the election of the first Social-Liberal Coalition. Before its enactment, social protection for sick workers had been improved incrementally, and multiple reforms in the 1950s and 1960s raised the amount of sick payments to workers to 100 percent of net wages. However, the sick pay for workers was mainly financed by sickness funds, and employers only subsidized the payments. For white-collar employees, a regulatory scheme had been implemented as early as 1931 that required employers to continue wage payments to sick employees for six weeks. These differences in the financing and organizational structure of the two schemes led to a number of undesirable consequences that Social Democrats and Christian Democrats wanted to address before the general election of 1969. Particularly, workers, compared to white-collar employees, suffered from lower pensions (since their contributions were paused during sick times) and higher payments to their health care funds (since these had to finance the lion's share of sick payments to workers).

Assessing the reform indicator by indicator, the overall evaluation suggests a *promising* case of political architecture. In the *resource dimension*, I evaluate the case positively on all four indicators. Similar to the two other cases in labor market politics just discussed, the main actors are the unions, employers, and the three political parties in parliament, and I assume all to possess the resources for strategic, long-term policy design (a, b, c, d; see the discussion above).

In the *impact dimension*, the Pay Continuation Act shows some differences to the two previous cases. It directly affects access to benefits (e), benefit levels

(g), and social rights (f). The effect on benefit levels is more indirect, however (g). Since the level of sick pay had already been raised to 100 percent of the net wage through earlier reforms, there are no real implications in this regard. But, as noted above, the reform does affect workers' pension levels as well as the level of their payments to health insurance funds (g). In regards to social rights, we can see that the reform does not merely concern the access to and level of sick payments, but that it is also about equal treatment for workers and white-collar employees (f). I therefore evaluate the reform positively or as ambiguous to positive on all three indicators on distribution.

The indicators on reconfiguration give a more mixed picture. The reform might improve unions' ability to collect members' contributions if their income is not affected negatively by sickness periods, and it affects the employers' financial burden in terms of social security, which is why I evaluate the reform positively in that regard (h). At the same time, I evaluate the reform as not affecting the organizational capacities (i) or decision-making procedures (j). Regarding mobilization prospects and patterns, the evaluation is ambiguous (k). The reform does not directly affect the ability of unions or employers to mobilize their members. While it increases the financial burden on employers, other reforms under the Grand Coalition compensated for this burden. Additionally, employers enjoyed record profits due to an economic boom. The issue had also already lost some of its mobilization potential since earlier reforms had increased sick pay to 100 percent of the net wage and the Pay Continuation Act meant little immediate differences for workers (k).

The timing of the reform was rather beneficial, and I evaluate the reform positively on this indicator (l). Both Social and Christian Democrats agreed on the need for reform and shared common goals. Additionally, the government pursued a consensual, corporatist mode of policy making by including unions and employers in the decision-making process from early on. One of the involved policy makers stated that the conditions for a reform had never been as favorable (l).

In the *conflict* dimension, most evaluations of the case are ambiguous. The Pay Continuation Act was passed under a Grand Coalition in which Social Democrats and Christian Democrats agreed on the main goals of the reform. However, the coalition partners could not reach compromises on all aspects of the reform and its individual stipulations, and both parties submitted own legislative drafts to the formal vote in parliament (o). Due to these differences, I evaluate the two indicators on control as ambiguous (m, n). Practically, it is impossible that an opposition government not including any of the two coalition partners would take over and repeal the act, which would suggest a positive evaluation. However, due to the differences in detail, the parties might not

have been entirely sure that their current coalition partner would stick to the common agreement in a future center-left or center-right government (m, n).

As mentioned above, the issue of pay continuation had been discussed for years, but earlier reforms had already improved the situation for workers to a degree that rendered the direct effects of the act rather negligible to the mass of workers, which suggests a negative evaluation in that regard. However, the higher ranks of parties and unions showed a continued, substantial interest in a reform of sick pay, and I therefore evaluate the case as neutral to positive on the indicator (p).

Overall, the cursory investigation of the Pay Continuation Act of 1969 along the theorized indicators suggests a *promising* case of political architecture. All indicators in the resource dimension as well as a majority of the indicators in the impact and conflict dimensions are evaluated positively.

The Codetermination Act of 1976

The Codetermination Act of 1976 (Borowsky 2002; Faulenbach 2011: 440-45) is in many ways a “sibling” of the reform of the WCA. While the original WCA of 1952 regulated the relationship between workers and employers both at the firm and at the corporate level, the reform of 1972 limited the WCA to regulations pertaining to the firm level. The relationship between workers and employers at the corporate level was meant to be subject of separate legislation. Only in the mining and steel-producing industry, a separate regulatory scheme, which granted labor full codetermination in corporate management, had been established in the 1950s. For other industries, the WCA of 1952 gave labor only one third of the votes on corporate boards. Already in 1967, the Grand Coalition commissioned an expert report to evaluate different options for regulating codetermination at the corporate level. However, the political debate around the issue continued for almost 10 years before the Codetermination Act was eventually passed in 1976.

The systematic evaluation of the Codetermination Act largely mirrors the evaluation of the 1972 WCA reform. As in the above case, I consider the Codetermination Act of 1976 to be an *ideal* case. Since both acts are very similar regarding policy issue, the involved actors, the timing of the reform, and the political context and discussion, only 3 of 16 indicators are evaluated differently. In order to not repeat the arguments just made, I will only discuss these differences. The first difference regards the potential impact of the reform on the funding base of organized interests (h). The 1972 WCA concerns codetermination on the firm level and directly affects unions’ recruitment opportunities and, hence, their funding base. The Codetermination Act, in contrast, regulates the relationship between capital and labor on a much more abstract

level from the perspective of the normal worker with few implications for unions' recruitment opportunities and funding base.

On the other side, the potential impact of the Codetermination Act on political networks is bigger than that of the WCA (j). The Codetermination Act affects the balance of power between capital and labor in corporate management, grants unions influential and prestigious roles in corporate management, and, hence, affects their status as political player in macro-economic policy making more directly. At the same time, employers are afraid of losing their role as clear and sole decision makers in corporate management and as first contact for political actors.

The third difference concerns the timing of the two reforms (l). The Codetermination Act was passed in 1976, four years later than the WCA, under the Social-Liberal Schmidt government. While one can argue that the Social-Liberal government had lost some of its reform impetus by 1976, two more important differences concern coalition dynamics and electoral support. In 1976, the government was hindered from pushing a far-reaching reform in one or the other direction by internal disagreements on the issues between Liberals and Social Democrats. Additionally, the government witnessed an incipient decline in electoral support. In the early 1970s, the Social Democrats lost votes in a number of state elections, and in the federal election of 1976, the Christian Democrats almost won a majority of the seats in parliament on their own.

Overall, the evaluation of the Codetermination Act of 1976 suggests an *ideal* case of political architecture, since all four indicators in the resource dimension as well as a majority of the indicators in the impact and conflict dimensions are evaluated positively.

The Employment Promotion Act of 1985

The Employment Promotion Act of 1985 (König 1992: 180-215; Zohlnhöfer 2001: 110-20) was one of the key reforms pushed by the newly elected Christian Democratic-Liberal Coalition under Chancellor Kohl. After the breakup of the Social-Liberal Coalition in 1982, the Liberal Party formed a new coalition with the Christian Democrats, which was strengthened in the advanced general elections of 1983. The new government promised an "intellectual and moral turnaround" in Germany, with focus on a retreat of the state and a parallel strengthening of the market. The state's role, according to the new government, was to concentrate on regulatory policies, while direct state interventions in society and economy should be minimized.

The Employment Promotion Act of 1985 combined a variety of measures in labor market policy that were meant to deregulate the labor market and make it more flexible. Among other things, the government aimed at changing regulations on part-time work, temporary work contracts, work cancellation, and

overtime. These goals were not only opposed by Social Democrats, who found themselves on the opposition benches after 13 years of Social-Democratic chancellorship, but also caused debates and negotiations within the coalition and within the Christian Democratic party where the “employer wing” voiced strong criticism. Additionally, there were conflicts between the federal government and the, also Christian Democratic-dominated, Bundesrat, the second chamber of parliament.

The indicator-by-indicator evaluation of the reform suggests that it is a *promising case* of political architecture with a majority of positive evaluations on the individual indicators. As in the cases in the field of labor market politics, I evaluate the case positively on all four indicators in the *resource dimension* (a, b, c, d) since there are no differences between the main actors.

In the *impact dimension*, the overall picture is a bit more mixed, but half of the evaluations are still positive. The three indicators on redistribution receive one positive and two negative evaluations. Concerning benefits access, I evaluate the case as negative since many stipulations in the reform do not directly affect access to social benefits but pertain to the structure and organization of the labor market instead of social benefits (e). However, the reform does have implications for the social rights of employees, especially in the sense that the deregulation of employment forms renders standard employment relationships, the so called *Normalarbeitsverhältnis*, harder to achieve (f). Similar to benefits access, I evaluate the case negatively on the indicator in benefit levels. While the reform includes some stipulations with implications on benefit levels, e.g. on the recognition of the training of apprentices in craft jobs, the effects on benefits levels are minimal in comparison to other cases evaluated (g).

The indicators on reconfiguration give a mixed picture. I evaluate the indicator on funding (h) and the indicator on mobilization (k) positively since the increase of atypical forms of employment at the expense of standard employment relationships has implications for the funding of unions, which mainly rests on contributions from employees working under such standard employment relationships (h), and for their mobilization potential since workers in atypical forms of employment are likely harder to mobilize in labor conflicts (k). On the indicators on personnel (i) and networks (j), I evaluate the reforms as negative to ambiguous. The reform does not have direct implications for bureaucratic or organizational capacities and does not alter decision-making procedures either. However, since effects on funding and mobilization, particularly for unions, seem likely, these might also spill over and affect their organizational strength and influence in political decision making, and I therefore evaluate the reform as negative to ambiguous on the two indicators (i, k).

The last indicator in the impact dimension receives a positive evaluation again. The timing of the reform was beneficial for the government not only

due to its strong results in the 1983 federal election but also because the Christian Democratic-Liberal coalition could build on a similar majority in the Bundesrat, the second chamber of parliament. It therefore did not have to fear a blocking minority of the Social Democrats and could push its own policy goals (l).

In the *conflict dimension*, evaluations are positive to ambiguous. While the government was in an exceptionally strong position, the German political system and culture are more characterized by frequent changes of government between Social Democratic-headed and Christian Democratic-headed governments, as opposed to, e.g., Austria with its strong tradition of Grand Coalitions between the two big parties.¹⁷⁶ Therefore, I evaluated the case as positive to ambiguous on the electoral indicator (m). On the network indicator, I evaluate the reform as ambiguous since it does not affect decision-making procedures but might influence the political strength of unions, as discussed above (n). The two indicators on contestation are evaluated as ambiguous or positive. After the change from a Social Democratic to a Christian Democratic government, economic policies and labor-market policy were at the center of the new government's program, and the Employment Promotion Act of 1985 was the key policy reform in the legislative period. Therefore, I evaluate the case positively on the indicator on issue salience (p). The indicator on policy alternatives receives an ambiguous evaluation since the opposition (as well as critical groups within the government) favored different policy solutions but did not introduce an own, elaborate reform proposal (o).

Overall, the cursory investigation of the Employment Promotion Act of 1985 along the theorized indicators suggests a *promising* case of political architecture. All indicators in the resource dimension are evaluated positively. In the impact dimension, half of the indicators receive a positive evaluation while the rest receive negative or negative to ambiguous evaluations. In the conflict dimension, one indicator is evaluated positively, the rest as ambiguous or ambiguous to positive.

The Pension Reform of 1972

The history of the Pension Reform of 1972 (Borowsky 2002; Hockerts 2011: 150-180) is characterized by an overbidding contest between Social Democrats and Christian Democrats. Already in 1969, and with the newly formed Social-Liberal coalition's assumption of office, pension policy became a major topic in the political debate and the involved actors considered the issue to be

¹⁷⁶ However, policy making in Germany is often described as rather consensus-oriented rather than highly conflictual (Schmidt 2015).

of significant strategic importance. This is understandable since pension policy redistributes enormous sums and therefore often gains much political attention.

The Pension Reform of 1972 does not make an excuse in this regard. On the contrary, it was even considered to be the “second *big* pension reform” since World War II. It expanded pension coverage to self-employed and homemakers, introduced a flexible retirement age, and raised low pension expectancies. Overall, it constituted a significant expansion of social policy in Germany, an expansion that was fueled by intense party competition between Social Democrats and Christian Democrats in the light of the oncoming, advanced federal elections of 1972. Since prognoses projected that pension funds would accumulate a gigantic surplus of almost 200 billion Deutsch Marks over the following 15 years, both government and opposition tried to distribute these benefits to potential voters and outbid each other with competing proposals, at a time when most political actors still trusted the state’s capacity to steer and regulate the economic and societal development.

In parliament, the Christian Democrats were still adjusting to their new opposition role, and for the time being their philosophy was to try to drive the government in front of them by introducing competing reform drafts into the legislative process. Since the majority of the Social Democratic-Liberal coalition in parliament was standing on feet of clay, the opposition even succeeded in passing some of their reform proposals in the Bundestag against the unstable government majority. Before the crucial stages of the legislative process, the Social-Liberal government changed its strategy and decided to follow a more consensual approach and included important aims of the Christian Democrats in its own reform proposal. The Pension Reform of 1972 was passed almost unanimously in the Bundestag since it combined the “election gifts” of both government and opposition.

The evaluation of the Pension Reform of 1972 suggests that is a promising to ideal case of political architecture since it can be evaluated positively on a vast majority of the 16 indicators theorized above. In the *resource dimension*, I evaluate the case positively on all four indicators. As in labor-market politics, the main political actors are the three parties in parliament and, outside of legislative and executive, unions and employers. As discussed above, I consider all these actors to possess the resources to participate in architectural policy design (a, b, c, d).

In the *impact dimension*, the evaluation is positive overall. The three indicators on redistribution are evaluated positively since pension reforms directly affect the level of benefits, access to benefits, and regulations and welfare commitments constituting social rights (e, f, g). The evaluation of the case on the indicators on reconfiguration is more mixed. I evaluate the reform as

positive regarding implications on funding since pension policies affect, mainly through contribution rates, the finances of workers and companies, i.e., the rank and file of unions and employer federations (h). In contrast, I evaluate the case negatively on the indicator in personnel since the reform does not affect organizational capacities, neither of unions or employers, nor does it affect state capacities (i). Likewise, I do not see an effect of the reform on decision-making procedures and therefore evaluate the case negatively in this regard (j). The remaining indicator on reconfiguration is evaluated as ambiguous to positive since the reform, especially through the extension of pension coverage, has potential implications for mobilization patterns and group formation (k). The final indicator in timing is evaluated positively. As the above discussion has shown, this was mainly a “race to the top” in which Social and Christian Democrats tried to outbid each other, creating a dynamic that allowed for an unusually far-reaching pension reform (l), despite intense partisan conflict around the reform.

In the conflict dimension, I evaluate the reform positively on three of four indicators. The case description has shown that the instable majority of the Social-Liberal coalition and the upcoming federal election did not provide the government a perspective of prolonged decision-making power (m). On the other side, employers and unions did not fear being excluded from decision-making processes since the reform did not affect them (n). Due to the heightened partisan conflict and the prominence of the issues on the political agenda (o), government and opposition competed by proposing different policy solutions (p), and the government eventually took over key proposals of the Christian Democrats.

Overall, this evaluation suggests a *promising* case with 12 positive, one ambiguous to positive, and three negative evaluations.

The Child-Raising Allowance Act of 1985

With the Child-Raising Allowance Act of 198 (Münch 2004), the newly-elected Christian Democratic-Liberal government introduced a major reform in family politics that turned out to become one of the most important reforms in the policy field enacted in the 16 years of Helmut Kohl’s chancellorship. The reform introduced an allowance paid to mothers and fathers who stayed home to raise a child. The stay-at-home-parent received 600DM for 18 months and had the right to return to his or her old job at the end of the reference period, if he or she had worked before.

Only 6 years after the Social-Liberal coalition introduced a maternity leave scheme, the Kohl government thus substantially shifted the emphasis in family politics. In contrast to the earlier scheme, the monthly allowance paid out

to parents was lower, but the entitlement period was substantially extended, and mothers who had not worked previously were also included in the scheme.

The goal of the Christian Democratic-Liberal government was to reorient family politics by emphasizing the role of the family as a whole and a community as opposed to the alleged “family *member* politics” of its Social-Liberal predecessor. Hence, while the Christian Democrats had modernized their political program and become more accepting of a diversity of forms of familial cohabitation, they still viewed the traditional family as the most important form of community in modern society. With the Child-Raising Allowance Act, the government wanted to improve the economic situation of families, acknowledge and accredit parents’ efforts in raising their children, reduce the number of pregnancy conflicts due to economic circumstances, and react to changed employment patterns and new orientations of men and women regarding the balance between work and family.

For the Christian Democrats, family politics was one of a core area where they found that an “intellectual and moral turnaround” was necessary after 13 years of Social-Liberal governance. Naturally, Social Democrats and the newly elected Greens opposed the reform. However, especially the Social Democrats were not in a strong position in the public debate on family politics. The main opposition to the reform therefore came from within the governments’ own camp, i.e. the Liberal Party and employers.

The indicator-by-indicator evaluation of the Child-Raising Allowance Act of 1985 suggests that it is a *promising case* for architectural analysis, scoring positively on 8 indicators, but also showing negative or ambiguous evaluations for 8 out of 16 indicators. In the *resource dimension*, I evaluate the reform positively on all four indicators (a, b, c, d). Even though I discuss the reform under the heading of family politics, it is in fact closely linked to labor market politics as well. With its aim to reconcile familial obligations with gainful employment, the reform has direct implications for parents’ employment prospects and for employers’ hiring and firing practices. Actor constellations are therefore similar to reforms in labor market politics discussed above, extended by actors who are more “at home” in family politics, as for example churches. Important players in the reform discussion are the parties in parliament, which, since 1983, also includes the Green Party, as well as unions as representatives of working parents and employers and their collective federations. As the above description has indicated, especially the latter group opposed the reform strongly. Similar to evaluations in other cases, I assume that

all actors have the resources to participate in long-term, strategic policy-making (a, b, c, d).¹⁷⁷

In the *impact dimension*, 4 out of 8 indicators are evaluated positively, 4 negatively or as ambiguous to negative. The three indicators on redistribution all receive positive evaluations, since the reform directly affects the level of child-raising allowance (e) and includes regulations on the access to said allowances, i.e. extending it to women who had not worked before (g). Furthermore, the reform has a social rights dimension since it aims at reconciling familial obligations with professional careers, thus potentially creating more equality between men and women, and since it extends the child allowance benefits to women without prior employment (f).

None of the 4 indicators on reconfiguration receives a positive evaluation. The child allowances are not funded by employers' or employees' contributions but through the federal government's general budget. Hence, the costs of the program are widely dispersed, and the financial burden on, e.g., employers is much smaller than in other cases, e.g. the Pay Continuation Act, which is why I evaluate the case negatively on the indicator (h). Similarly, the reform likely has no or only few implications on bureaucratic or organizational capacities since it merely "extracts" employees from the labor market with a guaranteed return option. However, it potentially increases the female work force and can in the long run broaden unions' membership base. This potential effect was controversially debated, and I therefore evaluate the case as negative to ambiguous on this indicator (i). I suggest a similar reasoning and evaluation for the indicator in mobilization where direct implications are unlikely but can unfold over time if the female work force increases (k). The last indicator on reconfiguration receives a negative evaluation since the reform does not affect decision making procedures (j).

Finally, the indicator in the impact dimension, the timing indicator, is evaluated positively. As in the case of the two reforms in labor market politics discussed above, I evaluate the Child-Raising Allowance Act positively since the Kohl government held a strong position in both houses of parliament, which enabled it to aim for a far-reaching reform without having to fear a Social-Democratic blocking minority (l).

In the *conflict dimension*, none of the indicators receives a clear positive evaluation. Similar to the case of the Employment Promotion Act of 1985, I evaluate the electoral indicator on control as ambiguous to positive, since the

¹⁷⁷ The Green Party could be mentioned as an exception here, since it was first elected to the Bundestag in 1983 and therefore arguably did not have much legislative experience. However, family politics only played a minor role in the Green's party program in the 1980s, and the party therefore did not play an important role in the reform debate.

government is in an exceptionally strong position but aware of this positions' fragility (m). On the indicator on networks, the case receives an ambiguous evaluation since the reform does not affect decision-making procedures (n). The two indicators on contestation are evaluated as ambiguous. While the Kohl government viewed family politics as one of the core areas that needed an "intellectual and moral turnaround", the policy field was still not at the top of the political agenda (p). Potentially, this was also due to the limited resistance the Social Democrats were able to generate in the debate, even though they introduced an alternative reform proposal (o).

Overall, this evaluation suggests that the case of the Child-Raising Allowance Act of 1985 is a *promising* case with 8 positive evaluations, 2 negative evaluations, and 6 evaluations in-between.

The Reform of Paragraph 218 of 1974/1976

One of the fiercest political debates during the Social-Liberal era concerned the reform of the "abortion paragraph 218" (Borowsky 2002; Faulenbach 2011). Since 1871, abortions at any time during the pregnancy were considered a criminal act under German law, unless there was a danger to the life of the pregnant woman. In the 1960s and 1970s, a growing progressive and feminist movement demanded a reform or abolition of paragraph 218. Critics argued that it violated women's right to self-determination and encouraged illegal abortions, either abroad for the more affluent, or in Germany for the less well-off, often under medically questionable conditions. Proponents of the law feared that "abortion counselling" rather than "family or motherhood counselling" would endanger the moral foundations of the family in case of far-reaching liberalization.

During the political and public debate, it became obvious that a reform of the paragraph was necessary and supported by all parties, but ideas about how to reform the law differed substantially. In 1974, the parliament adopted a reform with government majority, but shortly after, Christian Democratic Lander governments appealed to the constitutional court, which revoked the government's reform. Two years later, in 1976, a revised reform that conformed to the demands of the court took effect.

The evaluation of the reform along the list of theorized indicators suggest that it is a *suitable case*. In the *resource dimension*, I rate the case as ambiguous on most indicators. Besides the political parties, that is, the Social Democratic-Liberal government and the Christian Democratic opposition, interest groups or social movements played a large role in the political and public debate. In the 1960s and 1970s, a growing, vocal feminist movement demanded a reform of paragraph 218. On the opposite side, the churches, especially the Catholic Church, opposed a reform completely or tried to keep the abortion

law as strict as possible. While the churches traditionally had close ties to the Christian Democrats, the feminist-progressive movement could not build on equally established ties but still saw a parliamentary ally in the new Social-Liberal coalition. However, none of the groups had a formal role or say in the decision-making process, and I therefore qualify the reform as ambiguous to positive on the network indicator (c). I also qualify the case as ambiguous on the funding indicator. The churches possessed substantial financial resources that enabled them to engage politically; the feminist movement was very vital and vocal but in the funding dimension not comparable to an institution like the church (a). On the personnel indicator, I rate the case as negative to ambiguous. Similar to the above argument, the feminist movement likely did not possess extensive policy-making expertise, while the church was a more established actor also on the political stage, even though it is likely less capable or politically savvy than, for example, unions or employer federations in labor-market policy (b). The only indicator in the resource dimension on which I rate the case positively is the politics indicator. Both groups, the churches and the feminist movement, were likely capable of creating substantial political pressure on decision makers, the churches both publicly and through their established connection to the Christian Democrats, the feminist movement mainly through campaigns that frequently created public controversies (d).

In the *impact dimension*, I qualify the case negatively on a majority of the indicators. Of the three indicators on redistribution, only the social rights indicator scores positively. The right to, or prohibition against, abortion directly concerns an elementary civil and social right of women (f), but it does not affect the access to or levels of social benefits (e, g). The indicators on reconfiguration receive either negative or negative to ambiguous qualifications. Due to the partial liberalization of abortions with the reform of paragraph 218, a network of counselling centers for pregnant women and their partners was established. Consulting these centers was obligatory before an abortion. I rate the case negative to ambiguous on the funding and personnel indicator on reconfiguration since the reform created this new organizational structure with qualified staff. However, I do not see these centers as important actors in their own right in the political or public debate and, hence, do not assume that their creation will have a great effect on future policy developments (h, i). Similarly, the reform has no implications for decision-making procedures (j) and at best minor implications for the mobilization of interests regarding abortion regulation (k). The second and last positive evaluation in the impact dimension concerns the timing of the reform. With the newly elected Social-Liberal government, the emerging feminist movement, and the general breakup and liberalization of the German post-war society, the circumstances were very favorable for a substantive reform of the abortion law (l).

The indicators in the conflict dimension draw a more positive picture of the case. The intense, conflictual, and emotionally loaded debate around the reform of paragraph 218 suggests that issue salience was exceptionally high (p). Furthermore, multiple reforms were debated and pushed by different actors, and, not least the interference of the constitutional court forced the government to consider different policy solutions in reforming the paragraph 218 (o). Lastly, I qualify the reform positively on the two indicators on control. The Social Democratic-Liberal coalition was the first of its kind, and while it did fit the zeitgeist, Social Democrats and Liberals won the election only by a slight margin (m), the Christian Democrats still formed the biggest parliament fraction (m), and the Social-Liberal government and policies were far from unchallengeable in the moment and in the future (n).

Overall, the cursory investigation of the Reform of Paragraph 281 of 1974/76 suggests a *suitable* case. All indicators in the conflict dimension are evaluated positively, while a majority of the indicators in the impact and resource dimension is evaluated negatively.

The 22nd Act to Change the Basic Law of the Federal Republic of Germany of 1969

The introduction of the federal competence to issue framework legislation concerning the higher education system was part of a larger package of legislation enacted under the Grand Coalition (1966-69) (Borowsky 2002; Hoymann 2010). The reform package, enacted as the 22nd Act to Change the Basic Law (Grundgesetz) of the Federal Republic of Germany, restructured the responsibilities of the Bundesländer and the federal government and the financial relationships between the two. Prior to the act, the federal government had practically no say in any matter in education policy because the Basic Law of 1949 considered education the sole domain of the states.

However, The 22. Act to Change the Basic Law granted the federal government the competence to issue framework legislation concerning “the general principles of higher education” in order to secure comparability and a necessary degree of congruity in higher education in the Bundesländer. The vague formulation concealed the lack of a shared definition and understanding of the scope of this new federal competence. In fact, the political actors did not even agree on what “higher education” included. A reason might be that education policy had originally not been within the scope of the reform. It only entered the reform debate in 1967 due to a proposal made by the Liberal Party, which had been a long-time supporter of more federal responsibilities in education policy. However, before the Liberals’ proposal for more federal competencies, education policy had already gained increasing attention on the national level during the 1960s. Critics proclaimed a state of emergency in education due to

insufficient funding and inadequate performance in German schools and universities. Others considered stronger engagement in education policy imperative since education was a fundamental civic right. Other factors that facilitated the reform were the apparent limits of the financial capabilities of the Bundesländer, the new experience of economic slow growth in the 1960s, and the formation of the Grand Coalition with a marginalized opposition in Bundestag or Bundesrat.

The indicator-by-indicator evaluation of the reform suggests that it is a *suited* case of political architecture. In the *resource dimension*, I evaluate the case positively on all four indicators. The important actors were the Social and Christian Democrats in government, as well as the Bundesländer through which the Liberal Party also gained some influence and leverage. Doubtlessly, all these actors possessed the financial resources, the expertise, and the organizational experience necessary for long-term, strategic policy design (a, b). The Bundesländer, who were the main potential opponents to the federal government's attempt to gain more influence in education policy, had to be included in the reform deliberations since changes to the Grundgesetz require approval by the second chamber of parliament, the Bundesrat, through which they can block legislation or create political pressure on the federal government (c, d). The role of other actors and interest groups in education policy seems to have been rather negligible, since the reform's main focus was on restructuring the relationship between federal government and Bundesländer and not on substantive education policy. Only seven years later, the federal government utilized this new competence and passed the actual Framework Act for Higher Education.

In the *impact dimension*, the indicator-by-indicator evaluation gives a mixed picture. As just pointed out, the 22nd Act to Change the Basic Law only laid the groundwork for future federal framework legislation regarding higher education. Hence, the reform itself did not affect or change citizens' access to benefits (e), the benefit levels (g), or citizens' social rights (f), and I therefore evaluate the three indicators regarding distribution negatively. The indicators on reconfiguration give an opposite picture. Except the indicator on mobilization prospects (k), I evaluate all indicators positively (h, l, j). Since the reform explicitly aims at reconfiguring the relationship between the federal government and the Bundesländer, there are direct implications for the financial strength of the different levels of government, especially the Bundesländer (h).¹⁷⁸ Therefore, the reform also affects the bureaucratic and organizational

¹⁷⁸ Here, I refer to the overall scope of the 22nd Act to Change the Basic Law and not specifically to the paragraphs that address the role of the federal government in education policy, which do not have immediate financial implications.

capacities, especially by granting the federal government more codetermination rights in education policy, potentially leading to a relocation of capacities from the Bundesländer to the federal level (i). The effect of the reform on decision-making procedures is obvious as it subordinates the higher education policies of the Bundesländer to a federal framework (j). Regarding mobilization prospects or patterns, I evaluate the case negatively. Even though the reform does subordinate Bundesländer legislation to a federal framework, the overall role of the Bundesländer in the German political landscape and their potential to block federal legislation in the Bundesrat do not change substantively (k).

Lastly, I evaluate the indicator on timing positively. The formation of the first Grand Coalition substantially increased the government's opportunity for far-reaching policy reforms. Not only did the government command over a 90 percent majority in the Bundestag; all Bundesländer governments were headed by either Social Democrats or Christian Democrats, which largely eliminated party politics from the reform process (l).

In the *conflict dimension*, I evaluate most indicators negatively. The explicit goal of Christian Democrats and Social Democrats was to agree on a long-term restructuring of the federal-Länder relationship that would last more than just a few years. Additionally, both parties could assume to stay politically influential through Bundesländer governments, whose majority would be needed for a withdrawal of the reform, even if they were no longer part of the federal government. I therefore evaluate the indicators on control negatively (m, n). Regarding political contestation, education policy only entered the reform debate around the 22nd Act to Change the Basic Law rather late. The reform also had few implications for citizens, and the political debate around education was not focused on the relationship between Bundesländer and federal government but on more substantive policy issues. Issue salience was therefore low (p). And while the Liberal Party originally advocated for a more far-reaching involvement of the federal government in education policy, this policy alternative was discarded by the coalition partners early in the legislative process (o). I therefore evaluate the indicators on issue salience as negative (p) and the indicator on policy alternatives as ambiguous (o).

Overall, the cursory investigation of the 22nd Act to Change the Basic Law along the theorized indicators suggests a *suitable* case of political architecture. All indicators in the resource dimension are evaluated positively, but a majority of the indicators in the impact dimension and three out of four indicators in the conflict dimension are evaluated negatively; the fourth is ambiguous.

The Framework Act for Higher Education of 1976

Seven years after the change of the Basic Law enabled the federal government to pass framework legislation on higher education, the Bundestag eventually passed the Framework Act for Higher Education (Borowsky 2002; Hoymann 2010). In fact, the legislative process leading up to the enactment started immediately after the change of the Basic Law in 1969.

Preparations for a framework act had started under the Grand Coalition, but due to imminent federal elections, these preparations were only meant to provide some groundwork for the subsequent government. After the election, the Social Democratic-Liberal government quickly proceeded with the legislative process despite fundamental conflict regarding the interpretation of the new federal competencies in higher education policy (cf. the discussion above). Especially the states under Christian Democratic rule interpreted the federal competencies narrowly in order to thwart the Social Democratic-Liberal federal government's reform ambitions, while the federal government, backed by Social Democratic state governments, saw more room and authority for federal legislation.

These formal conflicts partially covered up the substantive points of contention between government and opposition. Specifically, there were disagreements regarding the form of representation and co-determination to be practiced at universities, the organizational structure of universities, admission restrictions to manage rising student numbers, introduction of an administrative law for universities, and reform of academic study programs. Despite these conflicts, the legislative process was interrupted in 1972 due to advanced federal elections and were reinitiated in 1973 under a strengthened Social Democratic-Liberal coalition. At the same time, two decisions of the Constitutional Court, the *Bundesverfassungsgericht*, regarding two of the contentious issues changed the conditions for the political negotiations in important ways.

In one case, the constitutional court strengthened the role of professors in university boards and committees based on the principle of academic autonomy and freedom and, thus, set a limit to the government's intention to democratize higher education. In another case, the court decided that it was the federal government's responsibility to devise rules and regulations for admission restrictions at universities in order to guarantee fair and equal treatment of applicants and, thus, strengthened the federal government against the Christian-Democratic-governed states. With these court decisions in mind, the legislative process continued under Chancellors Brandt and Schmidt (from 1974 onwards), closely accompanied by alert interest groups whose expertise was appreciated in parliamentary deliberations, even though their influence did not go as far as changing political actors' principal beliefs and

ideas. In 1976, the government finally passed the Framework Act for Higher Education after seven years of legislative work.

The evaluation of the Framework Act for Higher Education of 1976 suggests that the reform is a *promising* case of political architecture. In the *resource dimension*, I evaluate the case positively on most indicators. As in the above case, the Bundesländer acted as the main opponents of the federal government in policy-making. Especially Christian-Democratic state governments demanded different political solutions and sometimes even devised rival higher education policies for their own state (a, b, c, d). But in contrast to the above case, interest groups also played an important role in the reform process. They were heard and included in deliberations early on (c), their expertise was valued when getting to the nitty-gritty of policy formulation (b), and particularly the student movement was capable of creating substantial public pressure through demonstrations (d). Compared to other interest groups like big unions and employer federations in labor market politics, though, many of the interest group could not build on established organizational structures and only formed during the emerging debate around education policy in the 1960s and 1970s. Particularly student and non-professorial academic employees were traditionally weakly organized formally, but also professorial interests group were often newly formed. I therefore evaluate the case as ambiguous to positive regarding funding and personnel (a, b), and as positive regarding networks and politics (c, d).

The evaluation of the nine indicators in the *impact dimension* is mixed. One out of three indicators on redistribution is evaluated positively, two negatively, since the Framework Act had direct implications for access to higher education and the representation and influence of different status groups at universities (f) but did not affect benefit levels (g) or access to benefits (e). I evaluate all four indicators on reconfiguration positively. With its focus on organizational reforms and changes in the form of representation and co-determination, the reform had direct implications for the role of different groups at universities. Substantial improvements regarding students and non-professorial academic employees rights of codetermination and their formal status were debated with important implications for their organizational and financial capacities (h, i). Such improvements would not just ease the collective organization of their interests but also affect their standing in political debates (k) and change decision-making procedures in higher education and at universities (j). On another level, the continuous debate around the scope of the new competencies of the federal government in higher education politics shows the eminent implications of the reform for the relationship between states and federal government and for who sets the tone in the policy field (h, I, j, k).

Lastly, I evaluate the indicator on timing as positive to ambiguous. Not only did the Social-Liberal government appear strengthened after the 1972 federal elections; its principal goals in higher education policy were shared by a, partially radicalized, student movement that was able to create considerable public pressure and paralyze many universities temporarily, and that characterized the late 1960s and 1970s like few other social movements (l).

The indicators in the *conflict dimension* are evaluated as either positive or ambiguous to positive. While the Social-Liberal government was strengthened in the general election of 1972, the Social Democrats faced a number of defeats in state elections in the subsequent years and a growing conservative opposition in the Bundesrat. These developments likely made the government aware of its fragile position (m). The indicators on conflict are evaluated as positive or ambiguous to positive. Over the course of the legislative process, various proposals had been discussed, and government and opposition clearly had different goals in higher education policy. However, the Christian Democrats did not introduce an own policy draft into parliament but instead tried to change the government proposal towards their own position. Therefore, I evaluate the indicator on policy alternative as ambiguous to positive (o). Issue salience is evaluated as ambiguous as well since education policy was an important election topic emphasized by the Social-Liberal coalition but not a key issue in the political debate (p)

Overall, the cursory investigation of the Framework Act on Higher Education suggests a *promising* case of political architecture. All indicators in the resource dimension are evaluated positively, as is a majority of the indicators in the impact and conflict dimension, even though those dimensions also include two negative and three ambiguous or ambiguous to positive indicators.

English Summary

The dissertation investigates policy makers' strategic use of policies to make politics. It asks whether and how policy makers strategically try to shape policy feedback effects during policy design and how such attempts influence the design of policies. Finding answers to these questions is crucial for understanding key dynamics, challenges, limitations and opportunities of public policy making, for explaining strategic choices policy makers make when they design new policies and political struggles they engage in with their opponents.

The dissertation makes *two key contributions* to the policy feedback and policy design literature: *First*, the dissertation finds that policy makers do consider and try to strategically design policy feedback effects when designing policies. Specifically, it finds that policy makers anticipate inward-oriented feedback effects in paradigmatic policy making and outward-oriented feedback effects in incremental policy making. Policy makers' attempts to strategically design policy feedback effects are based on a working understanding of policy feedback dynamics and policy makers' desire to maximize both short-term and long-term political gains.

Second, the dissertation finds that the existing literature relies implicitly or explicitly on problematic assumptions about the nature of policy makers and policy making and that it therefore has not developed an analytical toolkit for the investigation of long-term strategic policy making. As a solution to this problem, the dissertation develops a theoretical and methodological framework of architectural policy design that improves our understanding of patterns and dynamics of public policy making and policy makers' strategic decisions during policy design.

The literature on policy feedback and on policy design, whose job it would be to provide an analytical toolkit for the investigation of long-term strategic policy making, fails to do so and does not pay sufficient attention to the phenomenon. Instead, the policy design literature focusses analytically on how policies can be designed instrumentally to solve objective policy problems, the policy feedback literature typically understands policy feedback effects as unintended by-products of policy making and focusses analytically on which feedback effects policies and institutional contexts actually bring about without investigating the agential sources of these effects.

In consequence, the literature fails to capture, understand and explain long-term strategic policy making and cannot answer basic questions about public policy making. For example, it cannot explain why policy makers choose one policy design over another, even though both designs might be instrumental in pursuing the same policy goal, what reasons policy makers have for such

choices and what role strategic considerations of policy feedback effects play in these decisions. The literature also cannot explain how policy makers weigh long-term and short-term political benefits during policy making, when they prioritize one over the other, or how they try to maximize both. Lastly, the literature cannot explain how, under what conditions, or to what degree policy makers are successful in strategically designing policies and anticipating policy feedback effects to achieve long-term policy goals.

The *architectural policy design perspective* developed by the dissertation provides a theoretical and methodological framework that helps answer these questions. It understands public policies as “rules of the game” that prescribe and proscribe behavior and shape the lives and interactions of citizens and organizations. Institutions and policies are arenas of conflict in which political actors constantly try to (re-)shape and (re-)interpret rules and bend these towards their priorities and preferences. They do so because policies are tools of power that shape, restructure, and reconfigure political processes in meaningful ways through policy feedback effects. Hence, policy makers can use policies strategically to gain power and control, further their own interests and achieve policy goals in the long term.

The design of policies, the instruments they include and the specific rules and stipulations they spell out matter for future policy development because they shape what feedback effects can emerge from policies. Policy makers have a working understanding of the effects different policy designs further and therefore act strategically in the design of policies. They try to design policies that bring about beneficial policy feedback effects in order to gain power and achieve policy goals in the long term and be electorally successful in the short term. Policy makers’ strategic action therefore shapes future policy developments through strategically designed policies that shape policy feedback effects. Policy makers’ design strategies themselves are structured by the situational context of policy making according to which policy makers review, revise and reform the goals they want to achieve and strategies they follow to do so.

The methodological framework lays out a detailed script for the empirical application of the architectural policy design perspective. It demonstrates how abductive research aimed at building new theory can be conducted practically, starting from the critical, systematic problematization of the existing literature and moving to the development of a novel procedure for case selection in theory-building research. Furthermore, the methodological framework includes a detailed discussion of the collection of empirical material and the process and methods of data analysis for the investigation of long-term strategic policy making.

The dissertation applies and substantiates the architectural policy design approach in two case studies of German public policy making. Based on extensive archival records from the Parliamentary Archives of the German Bundestag and the archives of Christian Democratic Party and Social Democratic Party, the dissertation reconstructs architectural policy design strategies followed by the two parties in the design of the Codetermination Act of 1976 and the Pay Continuation Act of 1969. Based on the two cases studies, the dissertation presents a typology of policy feedback effects anticipated by policy makers during policy design, which summarizes and condenses the analytical insights and contributions of the dissertation laid out above.

By developing the architectural policy design perspective, the dissertation wants to facilitate an agency turn in policy-feedback research. An agency turn in policy-feedback research is necessary because the field has so far not paid appropriate attention to long-term strategic policy making because it tends to view policy makers as notoriously myopic, policy making as incomprehensibly complex, and policy design as a rational, instrumental process. It therefore relegates the causal impact of agency on policy development to critical junctures and treats policy feedback effects as unintended byproducts of policy making.

In practice, an agency turn means that policy feedback researchers should take long-term strategic policy making seriously, investigate policy makers' strategic calculations regarding policy feedback effects, scrutinize how policy makers weigh long-term and short-term gains and losses, and evaluate the causal impact of such strategic considerations on what design is adopted eventually. Researchers should also take policy makers' own perspective on policy feedback dynamics into account, develop and apply analytical categories of policy feedback effects that reflect policy makers' own experience, knowledge and assumptions about long-term implications of policies. As the dissertation demonstrates, such an approach helps develop productive and applicable analytical categories that show what types of strategic considerations policy makers have in different policy-design situations and increase our understanding of policy-design processes and public policy making.

Dansk resume

Afhandlingen undersøger politikernes strategiske brug af politikker til “at føre politik”. Den spørger, om og hvordan politikere strategisk forsøger at forme policyfeedbackeffekter, når de designer politikker, og hvordan sådanne forsøg påvirker det endelige politik design. Vi er nødt til at kende svarene på disse spørgsmål for at forstå centrale dynamikker, udfordringer, begrænsninger og muligheder for politisk beslutningstagning, forklare politiske beslutningstageres strategiske valg når de designer nye politikker og de politiske kampe de tager med deres modstandere.

Afhandlingen leverer to vigtige bidrag til policyfeedback- og policydesignlitteraturen: For det første finder afhandlingen, at beslutningstagere overvejer og forsøger at udforme feedbackprocesser strategisk, når de designer politikker. Specifikt finder den, at politiske beslutningstagere forudser indadrettede feedbackeffekter i paradigmatiske politiske beslutningstagninger og udadvendte feedbackeffekter i trinvis beslutningstagning. Politiske beslutningstageres forsøg på strategisk at udforme politiske feedbackeffekter er baseret på en forståelse af feedbackdynamikker og beslutningstageres ønske om at maksimere både kortsigtede og langsigtede politiske gevinster.

For det andet finder afhandlingen, at den eksisterende litteratur er implicit eller eksplicit baseret på problematiske antagelser om politikere og politisk beslutningstagning, og at den derfor ikke har udviklet analytiske værktøjer til at undersøge langsigtet strategisk politisk beslutningstagning. Som en løsning på dette problem udvikler afhandlingen en teoretisk og metodologisk ramme for *architectural policy design* (arkitektonisk policydesign), der kan give os en bedre forståelse af mønstre og dynamikker i politisk beslutningstagning og beslutningstageres strategiske beslutninger, når de designer politikker.

Litteraturen om policyfeedback og policydesign giver desværre ingen opskrift på analyser af langsigtet strategisk politik og har kun begrænset fokus på fænomenet. Det analytiske fokus i policydesignlitteraturen er snarere, hvordan politikker kan designes målrettet for at løse objektive politiske problemer. Policyfeedbacklitteraturen forstår typisk policyfeedbackeffekter som utilsigtede biprodukter af politisk beslutningstagning og fokuserer analytisk på, hvilke feedbackeffekter politikker faktisk producerer uden at undersøge de potentielle kilder til disse effekter.

Konsekvensen er, at litteraturen ikke kan opfange, forstå og forklare langsigtet strategisk politisk beslutningstagning eller svare på grundlæggende spørgsmål om offentlig politik, fx hvorfor beslutningstagere vælger et policydesign over et andet, selvom begge designs peger mod samme politiske mål, hvilke grunde politiske beslutningstagere har for sådanne valg, og hvordan

strategiske overvejelser om policyfeedbackeffekter påvirker disse beslutninger. Litteraturen kan heller ikke forklare, hvordan politikere vejer langsigtede og kortsigtede politiske gevinster under politisk beslutningstagning, hvornår de prioriterer den ene eller den anden, eller hvordan de forsøger at maksimere begge dele. Endelig kan litteraturen ikke forklare, hvordan, under hvilke forhold, eller i hvilken grad det lykkes politiske beslutningstagere at udforme politikker strategisk og forudse policyfeedbackeffekter for at nå langsigtede politiske mål.

Afhandlingens perspektiv på *political architecture* udgør en teoretisk og metodologisk ramme, som hjælper os med at besvare disse spørgsmål. Det forstår offentlige politikker som "spilleregler", der foreskriver og forbyder adfærd og former borgeres og organisationers tilværelse og interaktioner. Institutioner og politikker er konfliktarenaer, hvor politiske aktører konstant forsøger at (om)forme og (gen)fortolke regler og bøje disse i forhold til deres prioriteter og præferencer. Politikker er magtværktøjer, der former, omstrukturerer og rekonfigurerer politiske processer på meningsfulde måder gennem policy feedbackeffekter, og derfor kan politikere strategisk bruge politikker til at opnå magt og kontrol, fremme egne interesser og nå politiske mål på langt sigt.

Udformningen af politikker, de instrumenter de indeholder, og de specifikke regler og bestemmelser som de udspiller, er vigtige for fremtidig politikudvikling, fordi de er afgørende for, hvilke feedbackeffekter politikkerne producerer. Politiske beslutningstagere har en forståelse af, hvilke effekter forskellige politiske designs fremmer, og handler derfor strategisk i udformningen af politikker. De forsøger at udforme politikker, der skaber fordelagtige policyfeedbackeffekter, for at opnå magt, nå politiske mål på langt sigt og høste stemmer på kort sigt. Politiske beslutningstageres strategiske handlinger former derfor fremtidige politiske udviklinger gennem strategisk designede politikker, som danner policyfeedbackeffekter. Politiske beslutningstageres designstrategier er struktureret af den situationelle kontekst, og baseret på denne kontekst gransker og reviderer de mål og strategier.

Den metodologiske ramme udgør en detaljeret drejebog for empirisk anvendelse af det *political architecture* perspektiv. Abduktiv forskning med henblik på formulering af ny teori starter rent praktisk med kritisk systematisk problematisering af den eksisterende litteratur og udvikling af en ny procedure for case udvælgelse i teoribyggende forskning. Endvidere indeholder den metodiske ramme en detaljeret diskussion af empirisk dataindsamling samt dataanalyseproces og -metoder i studier af langsigtet strategisk politikfremstilling.

Afhandlingen anvender og underbygger det *political architecture approach* i to tyske cases vedrørende beslutningstagning inden for offentlig politik. Baseret på omfattende materiale fra den tyske forbundsdays parlamentariske arkiv og det kristelige demokratiske partis og det socialdemokratiske partis arkiver rekonstrueres arkitekturen i de to partiers policydesignstrategier i designprocesserne for medbestemmelsesloven fra 1976 og sygelønsloven fra 1969. Baseret på de to cases præsenterer afhandlingen en typologi for policy-feedbackeffekter, som beslutningstagerne anticiperer, når de designer politikker, som opsummerer og komprimerer afhandlingens analytiske indsigter og bidrag.

Ved at udvikle en *architectural policy design* tilgang til studiet af politik, forsøger afhandlingen at facilitere et fokus på agens i policy feedback litteraturen. Et fokus på politikeres agens er nødvendigt, fordi litteraturen indtil videre ikke har fokuseret tilstrækkeligt på langsigtet politisk beslutningstagning, da forskere inden for feltet har en tendens til at antage at politikere er notorisk kortsigtede, at politiske beslutningsprocesser er uforståeligt komplekse samt at policy design er en rationelle og instrumentel proces. Resultatet er, at politikeres agens ift. politikudvikling reduceres til "critical junctures" og policyfeedbackeffekter opfattes som uintenderede sideeffekter af politisk beslutningstagning.

I praksis betyder ændret praksis, at policyfeedbackforskere bør tage langsigtede strategiske beslutningsprocesser alvorligt, undersøge politiske beslutningstageres strategiske vurderinger af policyfeedbackeffekter, hvordan de vejer langsigtede og kortsigtede gevinster og tab, og evaluere årsagssammenhængen af sådanne strategiske overvejelser om, hvilket design der vedtages i sidste ende. Forskere bør også tage politikernes eget perspektiv på politikfeedbackdynamikker mere alvorligt, udvikle og anvende analytiske kategorier af politikfeedbackeffekter, som afspejler politikernes egne erfaringer, viden og antagelser om langsigtede konsekvenser af politikker. Som afhandlingen demonstrerer, hjælper en sådan tilgang med at udvikle produktive og anvendelige analytiske kategorier, der viser, hvilke typer strategiske overvejelser beslutningstagerne gør sig i forskellige politiske designsituationer, og øge vores forståelse af politiske designprocesser og beslutningstagning inden for offentlig politik.