

P A R T I V

PRODUCING PUBLIC
POLICY

CHAPTER 10

THE ORIGINS OF POLICY

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1. POLICY, DIVERSITY, AND HIERARCHY

Where do policies come from? Take the 1889 *Invaliditäts- und Altersversicherungsgesetz*, one of the key pieces of Bismarck's social legislation. We might say that it "originated" in the Imperial Office of the Interior. We might seek its origins in its antecedents such as in earlier voluntary schemes of insurance, in the reforms set in train earlier by the 1883 *Krankenversicherungsgesetz*, in Bismarck's state-building strategy, in the Kaiser's notion of a "social emperorship," or even in a longer tradition of social responsibility among German monarchs found in Frederick the Great among others. The measure can be explained as part of a wider strategy of heading off working-class discontent and thus viewed as a product of capitalism in general, as the consequences of a particular transition from a pre-industrial to an industrial society (Moore 1967), or as a response to emerging socialism. We may even agree with Dawson (1912, 1) that it is "impossible to assign the origins of the German insurance legislation, definitely to any one set of conditions or even to a precise period." None of these answers is clearly right or wrong (for a discussion of the novelty of Bismarck's social legislation, see Tampke 1981; for a comparative discussion, see Heidenheimer, Hecllo, and Adams 1990). They appear to be answers to slightly different questions.

Insofar as they arise from conscious reflection and deliberation, policies may reflect a variety of intentions and ideas: some vague, some specific, some conflicting, some unarticulated. They can, as we will see, even be the unintended or undeliberated consequences of professional practices or bureaucratic routines. Such intentions, practices, and ideas can in turn be shaped by a vast array of different environmental circumstances, ranging from an immediate specific cue or impetus to

a more general spirit of the time or even a belief in a self-evident universal truth. How can we talk about the origins of something as diverse as policy?

The core simplification used in the study of the origins of policy is the analogy of the business meeting. Policies first come into being through being put on an agenda—a notional list of topics that people involved in policy making are interested in, and which they seek to address through developing, or exploring the possibility of developing, policies. Kingdon's (1995) approach to understanding the development of agendas and approaches associated with it (Cobb and Elder 1978; Cohen, March, and Olsen 1972; Baumgartner and Jones 1993), have served to shape thinking about the early origins of policy. Such authors are well aware of the limitations of the agenda analogy for describing the origins of policy because of the possibility of infinite regress: for any idea, proposal, or practice there is an idea, proposal, or practice that helped give rise to it. The value of the notion of agendas is that it provides a framework that allows one to outline the proximate causes that lead to attention being devoted to an issue: how an issue comes to emerge from relative obscurity to becoming something that is being discussed as a serious contender for legislation or some other policy measure.

However, there are two limitations to using the agenda literature to help understand the origins of policy. First, because the analyses on which the leading studies are based are concerned with legislative policy making, they cannot be expected to throw light on policies that have been developed, or better that emerge, without having been the subject of deliberation or without the formal approval of legislative and executive authorities. Second, and perhaps most importantly, the dominant theoretical models have been developed primarily to apply to the United States, and this makes their direct application as generalized descriptions of policy development problematic. The model Kingdon (1995) proposes is highly pluralistic with a plurality of different "important people" in the legislative branch (Congressmen and -women, congressional staffers) and outside (interest groups, consultants, and parties) all with roles to play in placing items on the political agenda. What makes this highly distinctive, from a European perspective, is not the range of people involved, but the fact that the system lacks the hierarchy found in systems of fused legislative and executive branches with party government. As Kingdon (1995, 76) points out:

A complex combination of factors is generally responsible for the movement of a given item into agenda prominence. For a number of reasons a combination of sources is virtually always responsible. One reason is the general fragmentation of the system. The founders deliberately designed a constitutional system to be fragmented, incapable of being dominated by any one actor. They succeeded. Thus a combination of people is required to bring an idea to policy fruition.

However, the same degree of fragmentation found in the US system does not always prevail in executive-dominated systems with party government (whether in coalitions or majorities) where it is possible for one group—those around the chief executive—if not to dominate the entire system then to have a disproportionate

effect on what issues get consideration. In addition, the core executive also has a powerful influence on, if not control of, the process by which alternatives are discussed. We will examine the implications of this more fully below, but if the agenda model has largely been developed as a US model we might expect it to be somewhat less useful as a framework for offering an account of how policies develop elsewhere. Consequently the discussion below is hardly pointing out issues that Kingdon and other US theorists dealing with agendas do not appreciate; rather it is highlighting points, some of which are discussed as possibilities in the US system, as having much greater importance outside the USA for telling the story of how policies come into existence.

What is the significance of executive dominance in a party system for the agenda model? Executive dominance does not mean that interest groups are powerless, that governments do not come to rely on the advice and suggestions of such groups, or that individual members of legislatures never develop significant policy initiatives or propose private members' legislation in much the same way as the US agenda literature suggests (see Richardson and Jordan 1979). Rather it means that for the most part those seeking to influence policies, and above all agendas, have to convince one audience above all which has disproportionate influence on the policy process: the political members of the core executive. In some polities the system of policy development has a degree of hierarchy within it that, while not absent in the USA, is entirely routine in most European countries. As Rose (1980, 305) put it in a slightly different context, in European countries there is both government and subgovernment, in the United States there is subgovernment without government (see also Hecló 1978; Truman 1971). Once executive-dominated governments are committed to agendas, they have the constitutional and political capacity to stick with them. They can *commit* to courses of action. Indeed, once commitments have been made in such systems it can be hard to stop the momentum they generate.

The greater potential for hierarchical structuring of the policy process in systems outside the USA means that governments are more easily able to make general commitments that shape a range of policies—from the commitment to a meta-agenda of broad approaches they seek to develop (albeit that they may face severe political opposition such as in the case of “Agenda 2010” in Germany or “Agenda 2006” in France) to the micro-detail of how clauses within legislation are structured and those delivering the policies are instructed to go about their work (as, for example, with the ability of UK Ministers to instruct immigration officials to interpret regulations in a particular way). Thus in such systems it is important to examine the origins of policy in venues somewhat removed from legislative policy making, the focus of US accounts of agendas. This chapter sets out four levels of abstraction and discusses how policies can emerge at each level, and each level has distinctive characteristics.

2. CLARIFYING THE DIFFERENCES IN POLICY ORIGINS

One of the basic problems involved in setting out the origins of policy is that we do not know precisely what a policy is. The term “policy” can refer to a constructed unity imposed on diverse and disparate measures—we may look at the totality of measures on, say, education and talk of the “education policy” of a particular country. A book on “education policy” is further unlikely to exclude the institutions that shape and deliver it. Or the term “policy” may refer to a particular law or measure—perhaps even a government circular or some other “soft law” instrument. Even if we insist on defining policy narrowly, as a particular law or other instrument, it is likely that several distinct measures, not even necessarily related, will be bundled together such that the description of it as a policy is dubious—“omnibus” bills in the USA or “portmanteau” bills in the UK combine diverse measures in one law.

As suggested in the introduction to this chapter, policies can be described at a variety of degrees of specificity—any one of Bismarck’s social policy laws might be seen itself as a collection of specific measures, as a policy in its own right, or as part of a body of measures and laws that is much larger. To help remove this level of ambiguity about what constitutes a policy it is worth considering what we mean by “policy” (though we must avoid elaborate discussion of the many meanings of the term—for a useful discussion see Hogwood and Gunn 1984, 13 ff.). Policies can be considered as *intentions* or *actions* or more likely a mixture of the two. It is possible for a policy to be simply an intention. The proposals of a party unlikely to gain office or participate in a coalition are “policies” even though they have no chance of being put into action. Moreover, it is possible for a policy to be simply an action or a collection of actions. Where, for example, immigration officials do not look closely at dubious applications for entry into a country we might describe immigration *policy* as “lax.”

We can, on this basis, specify four levels of abstraction at which policies can be viewed. Intentions and actions can each be divided into two distinct groupings of things, each of which can be described as “policy.” Intentions can be relatively broad. A range of terms can be used to describe intentions. Policy intentions might take the form of *principles*—general views about how public affairs should be arranged or conducted. Candidates for principles might include privatization, deregulation, consumer choice, care in the community, services “free at the point of delivery,” or “best available technology.” Such principles need not necessarily be easily defined or even coherent, but should be a set of ideas that are capable of application in some form or another to diverse policy topics. Something as broad as an ideology—a body of ideas that incorporate discrete principles—might also be interpreted as an even broader statement of intentions. Notoriously difficult to define in precise terms, we know that ideologies such as socialism are capable of generating an array of different principles—public ownership, the role of party in government, workers’ rights, and so on. We can include, albeit at a somewhat different level of aggregation, other ideas that contain bundles of different principles as ideologies: Thatcherism, Reaganomics, New Public Management, and “the Third Way.”

The intentions might not be quite so broad—they may refer less to an overarching set of principles or even ideology and more to goals related to the specific issue or problem that a policy seeks to address. Let us call these rather specific intentions “policy lines” since they refer to strategies (or lines) to take in regulating or dealing with particular topics. Typically laws contain several lines. Taking the UK’s Adoption and Children Act 2002 as an example, one policy sought to increase the number of potential adoptive parents, another line on “intercountry adoption” addressed the problems posed by lax adoption laws in other countries. Yet another line was to develop registers of adoption agencies, and there were several other distinct lines in this broad law.

When we move to actions, there are also two levels at which we may conceptualize policies. *Measures* are the specific instruments that give effect to distinct policy lines: the legal requirements to be met by people entering the country with children not their own is one measure, inserting a new clause in the law prohibiting homosexuality as a barrier to adoption is another. Measures have attracted some attention in the literature as the tools of government (Hood 1983). They are not invariably laws. “Tools” include financial incentives, forms of exhortation or recommendation, or the direct deployment of public personnel—nodality, authority, treasure, and organization in Hood’s (1983) NATO scheme.

Practices are the behavior of officials normally expected to carry out policy measures. The term includes implementation in its narrow sense: how officials at ports of entry treat families returning to the UK and how adoption counselors change the way they place children. While this aspect of policy is treated as “implementation” of policy (see Pressman and Wildavsky 1973), practices are not invariably implementation in the sense that they are produced by the measures that seek to give effect to policy. In fact, a large part of the study of implementation looks at how a policy interacts with existing practices within an organization to shape its implementation. Indeed, in the original implementation study, the US Economic Development Administration’s general desire to spend its money shaped its plans to spend money aimed at increasing the employment of ethnic groups. Herbert Kaufman’s (1960) classic study of the forest ranger highlighted the fact that it was the set of norms and practices of the employees of the forestry service that shaped the character of the service, and these norms were not “implementing” any particular piece of legislation.

3. POLICY ORIGINS AND LEVELS OF ABSTRACTION

3.1 Overview

It is possible for the origins of policy to be discussed at each of these four levels of abstraction, and for some policies concentrating on one level offers a more plausible account of policy origins than concentrating on another. While we will examine this

proposition in detail, let us outline some initial justification for it. As regards *principle*, we might reasonably say that the range of initiatives adopted in the United States in the area of “workfare” after the 1980s suggests that the origins of policy can be reasonably sought in thought about the relationship between social welfare and the obligations of recipients. Of course, how and why that thought was taken up in federal and state legislation is an important part of the story, but since we are interested in origins, it is reasonable to start with principle as an important part of the origin (King 1999). Much of the work surrounding agenda setting concentrates on the origins of what I have termed *policy lines*—specific sets of intentions relating to a particular issue. Kingdon’s (1995) empirical analysis in his seminal book on the subject takes as its base policy lines such as proposals or federal funding of health maintenance organizations or the deregulation of freight transport.

Measures might at first appear as unlikely candidates for the origins of policy, but they are in fact common stimuli to developing policy—the specific measures developed in connection with some policies can lead to the development of different policies. This argument was given particular prominence in Wildavsky’s (1980, 62–85) elaboration of “policy as its own cause” according to which “policies tend to feed on each other: the more there are, the more there have to be to cope with the new circumstances, effects on other policies and unexpected consequences. New legislative amendments and new administrative regulations become a growth industry as each makes work for the other.” Elaborating on Wildavsky’s ideas, Hogwood and Peters (1983, 1) argue that true innovation in policy development is rare and that “most policy making is actually policy succession: the replacement of an existing policy, program or organization by another.” This is in part a result of the “crowding” of the “policy space,” by which they mean that increasing aspects of human interaction have become subject to some form of public policy. In consequence “the problem to be tackled by a ‘new’ policy proposal may not be the absence of a policy, but problems resulting from existing policies or unforeseen adverse consequences arising from the interaction of different programs” (Hogwood and Peters 1983, 3). Specific measures can initiate new policy lines or measures. The ill-fated poll tax had an impact on the British local government system long after it had gone: “The long term harm done to local government by the poll tax system is not in the poll tax itself, but in the raft of measures that accompanied its rise and fall. Three stand out in particular: the nationalization of the business rate, the enforcement of universal capping of councils’ spending and the establishment of the Local Government Commission” (Butler, Adonis, and Travers 1994) which led to the large-scale restructuring of local government. *Practices* may also be origins of policy, not least because the behavior of some officials or politicians can lead to the development of policies aimed at remedying them—the development of affirmative action and gender and minority employment programs can be seen in part as a response to the practices established in personnel recruitment in earlier times.

We may well find all four levels of abstraction as significant parts of the story of many “policies”—Pressman and Wildavsky’s (1973) discussion of the Economic Development Administration’s program for Oakland explains the policy as a mix

of principles, lines, measures, and actions. Moreover, it may be possible to construe almost any “policy” as involving all four levels; for example, increasing the cost of posting letters by 10 per cent might be seen as a reflection of the principle or even ideology that people should pay for services they receive as well as a measure designed to raise income. Yet for the purpose of offering an account of the *origins* of policies it is unlikely that all four levels will be helpful, although it cannot be stated in the abstract what determines how helpful any level or combination will be. Nevertheless, we can point to some distinctive features about each level as regards its role in the origin of policy.

3.2 Principles

Principles are generally easy to grasp: privatization, the reduction of the role of the state, the development of choice or even slightly lower-order principles such as the compilation of performance league tables and “naming and shaming” are ideas capable of application to a wide array of contexts and can be enacted in a wide variety of different types of measures. In what ways can principles be the origin of a policy? In many respects we might find that principles themselves are artefacts—*post hoc* labels or rationalizations given to an array of different practices, measures, or policy lines. For example, the development of “privatization” as a general doctrine after 1979 was shaped in the UK in part by the experience of one particular policy line—the sale of council houses—and became a progressively more generalized doctrine. Similarly, “new public management” as a general principle was a name applied to a variety of distinct emerging practices in public sector reform (Pollitt and Bouckaert 2000).

In the origins of policy, principles are particularly powerful as cross-sectoral and cross-national spreaders and generalizers of policy initiatives, possibly more than as actual originators. Cross-sectorally the popularity of policy principles can send powerful signals to policy makers and officials involved in developing policy that policy lines, measures, and practices consistent with such principles have political support. Even the most politically unappealing of policy lines can get additional support through its relationship to a government-supported principle—in Britain the land registration reforms of 2002 built on twenty years of attempts to change the system, but such reforms had found it hard to gain the support necessary to find parliamentary time and resources. The fact that the reform could be linked successfully to a New Labour theme of “modernization” (mainly through one particular policy line—putting land registration on the Web) was decisive in securing its place on the parliamentary timetable (see Page 2003). The favor with which measures are likely to be met by political leaders can also serve as a powerful cue for officials developing them much lower down in the hierarchy. In my study of delegated legislation in the United Kingdom, I showed how such officials took general signals that “deregulation” was good as cues to develop and shape particular measures to

relieve regulatory burdens. While, for example, the gambling industry is often assumed to be a powerful lobby, it was bureaucratic initiative rather than industry pressure that led Customs and Excise to reduce regulatory practices in the 1997 Gaming Duty Regulations (Page 2001, 71).

Borrowing from other jurisdictions is commonly argued to have become more important in recent decades as an explanation of policy origins (see Dolowitz and Marsh 1996 for an overview), and studies of borrowing and related concepts tend to underline the power of principles in the spread of policies. Hintze's (1962/1924, 216) suggestion that the turn of the nineteenth century marked the decisive break after which European countries started consciously to learn from each other might question the timing of this common argument, but it affirms the power of principles and ideas in the process since he goes on to say that the modern development of municipal government, for example, is "strongly, indeed decisively, influenced by theories as they emerged above all in France" among the enlightenment thinkers of the late eighteenth century. More recently Walker's (1969, 882) pioneering study of patterns of innovations in US states shows how *ideas* spread, "not the detailed characteristics of institutions created in each state to implement the policy" (see also Gray 1973; Collier and Messick 1975; for an overview of the "diffusion of innovation" literature see Rogers 2003).

The role of principles in the spread of policies is demonstrated especially strongly in studies of cross-national policy "transfer" or, more accurately, policy learning. As Rose (1993, 2005) shows, lesson drawing in public policy requires a precise understanding of how a policy works in another jurisdiction, a clear and rigorous definition of the lessons to be drawn, and a "prospective evaluation" of the requirements to make the policy work in the jurisdiction hoping to apply the lesson. Yet studies of cross-national policy borrowing in practice have tended to emphasize the importance of "labels" as what travels. Perhaps the clearest illustration of this feature of principles as the source of policy is found in Mossberger's (2000) study of the adoption of UK-style Enterprise Zones (EZs) in the United States. The idea of EZs was to remove taxation and regulatory burdens in particular geographic areas in order to stimulate firms to locate and/or start up there, inspired, in turn, by the notion of "freeports" as found in Hong Kong. What actually emerged in the UK was a system of rather limited tax exemptions and a simplification of regulatory procedures rather than more substantial liberalization. However, this did not prevent the idea attracting lots of attention in the United States and the EZ principle was applied in some form in most US states. But Mossberger found that different states had borrowed not a set of specific measures or even policy lines modeled on UK practice, but diverse sets of initiatives with "wide differences in program designs and goals." The idea of the EZ thus "represented a policy label, because it loosely categorized what was in reality a variety of policy solutions, and because it symbolized state intentions to assist distressed areas" (Mossberger 2000, 128).

Such "labels" are what tend to travel best—zero tolerance policing, workfare programs, "evidence-based policy," and "new public management" are examples of principles that have managed to start governments in one country developing

policies that appear to have originated in another. Even the injunctions from international organizations, such as the World Bank, which are argued to have an increasing role in shaping domestic policy, frequently on closer inspection contain broad labels rather than specific measures to be implemented. Walt, Lush, and Ogden (2004) highlight the difficulties for policies framed as anything other than general principles to travel. The Directly Observed Treatment Shortcourse (DOTS) was an effective intervention against tuberculosis. Conscious effort was put into simplifying DOTS as a “one size fits all” set of procedures pushed by the World Health Organization (WHO) that individual countries should adopt. The DOTS strategy was forced to reject the strict adherence to its procedures and became a more general principle of ensuring that drug treatments are administered under observation. The strategy gained greater acceptance once the WHO guidelines were loosened.

Domestically, we would expect principles to play a more consistent role in the development of public policy in systems of party government with a fusion of executive and legislative power, as found in many European countries but notably not in the United States. Certainly, general principles can be found at the heart of policy programmes in the USA since their domestic impact depends to a substantial degree on the ability to mobilize legislative and executive power in support of them. General principles can clearly be found to underpin policy development in the USA—the “New Deal,” the “Great Society,” and “New Federalism”—as well as in US foreign policy. Moreover, Kingdon’s (1995, 9–10) own study shows how agendas (as with deregulation) gain momentum and develop into principles applied to different policy areas. However, themed programmes of domestic legislative and other measures are more easily pursued by governments which, through parties, control the executive and legislative process.

3.3 Policy Lines

The development of policy lines is perhaps the level of abstraction for which our knowledge is most extensive, as much discussion of the policy agenda is at this level. The literature on policy agendas tends to present, based on the US example, a highly pluralistic model of how items come to be, from just one of countless issues in the “primeval soup,” something that “important people are talking about” (Kingdon 1995). Sometimes agendas might be shaped by routines (such as the budgetary cycle) or by other events very difficult if not impossible for policy makers to alter (such as requirements that laws be re-enacted after a specified time), so here we may concentrate on what Walker (1977) terms the “discretionary” parts of the agenda (see also Hogwood and Gunn 1984, 67). There is substantial agreement on the main features of the process of agenda setting and the things that help account for the creation of policy issues from nonentities. Accounts of agenda setting usually include as a significant variable *the skill of the policy activist or policy entrepreneur* in identifying and

exploiting opportunities for a policy. Thus, for example, the US Advisory Committee on Intergovernmental Relations in its mammoth 1980 study of the growth of government identified the “policy entrepreneur” as the main instigator of the growth of the federal role in the federal system. In one of its studies it identifies Senator Magnuson as one of the main reasons for the expansion of the federal involvement in fire prevention and firefighting in two laws in 1968 and 1974 (ACIR 1980, 75).

The character of the policy area—its intrinsic ability to engage the interest of wider audiences and publics—is a second variable accounting for the rise of an issue to the policy agenda. As Hogwood and Gunn (1984, 68) argue, features of a problem commonly argued to shape whether a new issue reaches the agenda include, as well as the magnitude of its effects, its “particularity,” referring to the degree to which a particular issue stands for a more general problem (in the way that, for example, saving the whale stands for saving the planet from ecological disaster), its emotional appeal (some problems, such as suffering endured by children, are traditionally more promising material from which to create a case for sympathy from publics and policy makers), and the ease with which it can be linked, either in substance or semantically, with other items already on the political agenda (see also Cobb and Elder 1977; see Nelson 1984, 127 for a discussion of child abuse policy and its links with civil rights, welfare rights, and the feminist agenda).

Chance and the impact of events is central to many discussions of the political agenda. Downs (1972) goes so far as to place a major event as *the* decisive factor in putting items on the political agenda. His “issue attention cycle” postulates that an issue moves from a *pre-problem stage* which “prevails when some highly undesirable social condition exists but has not yet captured much public attention, even though some experts or interest groups may already be alarmed by it” to *alarmed discovery and euphoric enthusiasm* when:

following some dramatic series of events (like the ghetto riots in 1965 to 1967) or for other reasons, the public suddenly becomes both aware of and alarmed about the evils of a particular problem. This alarmed discovery is invariably accompanied by euphoric enthusiasm about society’s ability to “solve this problem” or “do something effective” within a relatively short time. (Downs 1972, 39)

The subsequent stages stress fatalism (“realizing the cost of significant progress,” “gradual decline of intense public interest,” and “the post-problem stage”), but the model places events as the main method of placing items on the agenda. For Kingdon (1995, 94–100) such events are described as “focusing events” and are not the sole route by which items reach the policy agenda. Moreover he highlights the importance of the skills of the policy activist. However, his memorable analogy of policy activists as surfers with their surfboards at the ready to “ride the big wave” as it comes along (Kingdon 1995, 165) also points to the importance of features, like sea tides and conditions outside the control of individuals, as shaping what hits the political agenda. Ideas, issues, and events mingle to provide opportunities, “windows,” for policy action which need to be identified and handled skillfully by anyone who wants to shape public policy.

Such trajectories for policy lines becoming agenda items stress the competitiveness of the process. Chance plays a part, but the skill of entrepreneurs to seize the moment and persuade others, or maneuver their issue into prominence before the moment is lost, is also prominent in such accounts. However they might have to be modified somewhat in political systems where there is a stronger monopoly of political authority as found in systems of party government with a fused legislative and executive power. The United States is one of the few countries with a clear separation of legislative and executive power. Policy entrepreneurship in the USA might be accurately described as mobilizing the support of a diverse and internally differentiated legislature as well as executive. Moreover, it is possible to identify similar processes of interest groups struggling to place items on the agenda via contacts with the executive or even through private members' legislation in executive-dominated systems such as the UK (see Norton 1993; Richardson and Jordan 1979; Griffith 1974) or other European countries (see Richardson 1982). Yet entrepreneurship in such fused executive-legislative systems under party government generally means getting the support or acquiescence of leading figures within the governing party—an "executive mentality" permeates the system (Judge 1993, 212). As Mayntz and Scharpf (1975, 136–7) suggest, in Germany interest groups "rarely offer fullfledged program proposals or try to initiate policy. This may not hold for some ... but most interest organizations tend to react to the initiatives or proposals ... rather than tak[e] ... the initiative themselves." In the German "active policy making structure" the federal ministries "are the most important ... policy makers. ... [T]he federal bureaucracy also controls, collects and processes most of the information relevant to policy decisions" (Mayntz and Scharpf 1975, 131). This is not to suggest a monocratic "coordinated" central government. As Hayward and Wright (2002, 272) point out in the case of France, "governing from the centre(s) should not be confused with obsessively integrated government," even though the "core executive" (or as Hayward and Wright prefer, "core executives") is the prime arena for the "initiation, agenda-setting and formalization stages of decision making."

If we examine the development of one legislative initiative in the UK—the development of Anti-Social Behaviour Orders (ASBOs)—one can offer an example of a less competitive agenda process of the kind found commonly outside the United States. ASBOs allow courts to require individuals to submit to conditions (such as restricted movement) even though they may not be guilty of a criminal offence. As Burney (2002, 470) describes it, the idea arose from a series of publicized prosecutions which "created the paradigm of the neighbourhood blighted and terrorised by the outrageous behaviour of one or two families, groups or individuals, apparently beyond the reach of the law." The issue became Labour policy following a speech by Jack Straw (later to become Home Secretary) to the Labour Party Conference in 1996, and ASBOs were introduced in the Crime and Disorder Act 1998 soon after New Labour was elected in 1997.

In some senses it is possible to see the agenda-setting model in this development: a clear public concern, the activities of several groups (above all the Social Landlords' Crime and Nuisance Group). But this policy was maintained and driven by the party

in government to the extent that it is extremely difficult to envisage that any group would be able to mobilize effectively against it. It became anchored, in part, because it reflected a general principle that Labour wanted to project—that New Labour was “tough” on disorder and would no longer “be influenced by ‘liberal pressure groups,’” but also because the policy line itself had become such an object of commitment within the party that the process of deliberation became exceptionally heavily skewed in support of Labour’s stated position:

The headline horrors still dominated the debate: the original cases cited in the Labour Party document of 1995 were recycled in Home Office guidance ... published four years later without any further attempt at assessment of the nature, extent and severity of the kind of behaviour being targeted. Such information as there was came almost entirely from a housing management perspective. (Burney 2002, 472)

Moreover, through the toughening and extension of the system, including through the the Anti Social Behaviour Act 2003, ASBOs and their development can be accurately viewed as primarily a New Labour phenomenon—a desire to use the tool as a means of cracking down on anti-social behaviour—rather than a response to group or any distinct public pressures.

Party government makes the agenda-setting process less competitive in the sense that once a party, or a leading group or individual within it, has become converted to a particular policy, it can retain its importance as the validity of the line as a means of addressing a problem becomes an issue of faith which can take over as the impetus for its development.

3.4 Measures

The idea that policies can originate in measures might seem implausible. The form of measures that can initiate a policy discussed in the early part of this section might be interpreted as something of a sleight of hand—“policy as its own cause” refers to policy creating unanticipated problems or consequences that then have to be addressed by other policies. While the initial push that started the policy process rolling might have been the measures passed in pursuit of an earlier policy, the manner in which the issue gets handled may, in fact, be at the level of policy lines, principles, or even ideologies—the “bonfire of controls” or initiatives seeking to rid us of “red tape” on which governments occasionally embark may be stimulated by the accumulated mass of measures generated in the pursuit of diverse policies in the past, but the idea gains momentum primarily as a principle (of reducing regulatory burdens) that governments seek to apply across different policy areas. While measures may be an impetus to policy development elsewhere, in what sense can policies be seen to originate as distinct measures?

Despite recognition that “implementation” can shape policy, the notion that there is some funnel of causality in the development of public policy still obtains when it comes to understanding how the precise measures designed to give effect to the

intentions behind policy lines are elaborated: first the broad principles of policy are settled and then the specifics are progressively narrowed down (Hofferbert 1974). Devising the measures to give effect to established policy lines, according to this view, becomes closer to a routine, mechanical even, working through the logical consequences of a policy commitment and translating it into specific laws or other measures and securing the necessary budgetary, manpower, or other resources to carry it through. It is, of course, difficult to find a clear statement that the development of measures—the design and application of tools of government (Hood 1983)—is generally regarded as unimportant. The main justification for stating this is the almost complete absence in the literature on public policy of empirical evidence about how the basic tools of government are used by those whom one might expect to be policy craftsmen and -women (see Page and Jenkins 2005). Between a firm commitment by a government to do something about an issue and the set of specific measures to do it with—laws, guidance, budgetary allocations, and the like—is a huge gap. Policy announcements and the commitments made by politicians are rarely enough on their own to guide the hand of legal drafters and those with similar policy enactment roles. Despite the assumption in some of the US literature, such as the study by Huber and Shipan (2002), that politicians shape legislation in detail, to the extent of deciding how much discretion should be left to the bureaucracy in implementing a law, the evidence suggests that politicians rarely get involved in determining the detail of legislation.

If working out the detail of legislation and the other measures needed to give effect to general commitments about policy lines were routine, we would be unable to say that policy starts life here. What have elsewhere been termed “policy bureaucracies” (Page and Jenkins 2005)—parts of the administrative system (whether attached to the legislative, executive, or judicial branch, or even to non-governmental bodies such as interest or professional organizations) given responsibility, among other things, for giving effect to policies—would at best be finishing shops for policy rather than the design studio. Yet they are not. Since relatively little is known about this aspect of the origins of policy, my examples are confined to the UK, although there is little reason to think that the phenomenon of policy starting life as measures developed by “policy bureaucrats,” often relatively junior officials, is entirely a UK phenomenon.

Instructions to policy officials to write legislation and other measures to give effect to policy are almost always vague and require the development of lines of policy to enable them to produce the detailed measures required for a coherent law. Talking of the role of the legal drafters of bills to be presented to Parliament, one UK policy bureaucrat who was giving instructions to the lawyer on the policy to be included in the draft pointed out (Page 2003, 662):

It is common for them to come back with a number of questions on the instructions, to clarify just what it is that the policy aims to achieve. It is by no means uncommon for substantial issues of policy to arise at this stage often generated by a series of “but what if...?” questions through which either the instructions or the early drafts are tested to destruction (an interesting process, though not always a comfortable one). It is largely for this reason that

discussions . . . on the draft are frequently more than a straight check that he or she has done what we asked.

To develop policy measures, not only do policy lines have to be clarified, in some contexts they have to be developed for the first time. Fundamental policy line issues can develop from the attempt to develop policy measures. In legislation aimed at civil recovery of criminal assets (“civil forfeiture” in US terminology), the details of the whole legal framework for civil recovery (i.e. how to use the civil courts to take away assets believed to be the proceeds of crime even if there has been no criminal conviction) was left to officials to develop and this involved selectively borrowing from practices in Ireland and South Africa, among other places. Deciding the range of assets that could be recovered was one major policy question. As an official involved put it:

We had a broad scheme but we had to make sure that it exempted some things we wanted it to exempt. Crown Property could be by some quirk a part of crime property. We had to think about pensions and pension funds – could they be ransacked for proceeds of crime? These were hugely complex questions. (quoted in Page 2003, 662)

The question of what types of property and assets could be seized required the development of distinct lines of policy as officials sought to devise ways of making the idea of civil forfeiture work.

Indeed the origins of this same piece of legislation, the Proceeds of Crime Act 2002, are to be found in policy officials seeking to develop measures for making earlier legislation on the seizure of criminal assets work (see Page 2003). Developing measures for earlier policy lines can lead to the initiation of other lines. The law started life in 1998 within the Home Office as the Third Report of the Working Group on Confiscation. Some of the officials working on this report recognized that new legislation was needed if the government’s intentions of using civil procedures to seize assets were to be achievable. The initiative gained political momentum not least because it was subsequently taken up as a priority by the policy unit close to the Prime Minister (the Performance and Innovation Unit, the report of which was partly written by two of the Home Office officials who had served on the original Working Group and later on the team writing the legislation). The issue, though it started life as the work of policy bureaucrats seeking to develop measures to give effect to a particular policy line, also featured in Labour’s 2001 election manifesto.

3.5 Activities: Policies without Agendas

The notion of an “agenda” implies that issues are to be subjected to some form of deliberation. However it is possible for policies to be in place without ever being consciously deliberated on. One traditional version of this form of policy is the “non-decision” in the formulation of Bachrach and Baratz (1962). It is quite possible that unconscious (or at least unremarked on) inaction is a form of policy making—the classic case here is Gary, Indiana’s failure to introduce pollution legislation despite

the high levels of air pollution identified in Crenson's (1971) landmark study *The Unpolitics of Air Pollution*. The cause of this "un-policy" was, according to Crenson, the corporate power of US Steel, a dominant employer in the town, which managed to keep clean air laws off the political agenda. The central problem with this argument is empirical rather than theoretical. The range of items that could potentially be on the political agenda is to all intents and purposes infinite. Determining whether an item is not on the agenda because someone *kept* it off or because it was just one of the multitude that never makes it on to the agenda is difficult, if even possible. As Polsby (1980) shows, Bachrach and Baratz, having raised the issue, went on to demonstrate the issue was incapable of empirical study because once an issue is directly observable as a proposal, failing or refusing to discuss it may be a successful method of opposing something, but it is not a non-decision. Although Crenson's inventive study offers strong circumstantial evidence of a non-decision, by its very nature a non-decision is not directly susceptible to observation. Nevertheless, we must be sensitive to the possibility that items never reach political agendas because of the real or anticipated power of an individual or a group.

Yet "non-policies" are not the only form of policies without agendas. It is also possible to observe policy that has passed through very limited or virtually no deliberative processes because of the absence of any focused discussion as implied in the metaphor of the agenda. If being on the "agenda" of public policy means, at least in part, being subject to deliberation by the formal legislative, executive, and judicial authorities which give public policy programmes legitimacy, it seems hard to envisage public policy which does not pass through an agenda. Nevertheless, such policies exist, especially those shaped by "street level bureaucrats" (Lipsky 1980), including social workers and police officers, who have a degree of discretion in how they carry out their functions. Such policy-shaping activities have been discussed in the US urban literature as "bureaucratic decision rules." Mladenka (1989) points to research indicating that biases in public services can reflect the largely unchallenged norms by which service providers deliver them. For example, library professionals take data on circulation rates as indicators of "need" for their service. Thus larger circulations are taken to mean that demand and therefore "need" is high, and this norm can result in higher financial and staff resources, and more libraries, going to wealthier areas. "First come first served," "oiling the squeaky wheel," and "meeting demand" are further examples of decision rules which have had distributional consequences for urban services. Mladenka's (1989) own research included an examination of how park and recreation services were allocated in Chicago. The city sought to avoid continuing the practices that had allocated disproportionately better services to white neighborhoods by the city's Planning Committee prioritizing neighbourhoods on bases other than demand and putting greater emphasis on regenerating declining areas. Yet the decisions taken in practice largely ignored the prioritization:

On what basis does deviance from the Planning Committee's recommendations occur? Interviews with the superintendent [of the Parks department] did not produce satisfactory answers and justifications were generally vague. When asked why a low ranked facility was

built before one given higher priority, the answer was apt to be “in our judgement that neighbourhood was in most need” or “that area had been without a fieldhouse [sports changing room] for years and was entitled to one”. The fact that the Planning Committee’s recommendations were based on need factors and levels of existing facilities is ignored when such responses are given. (Mladenka 1989, 576)

The MacPherson Report on the murder of Stephen Lawrence, for example, found “institutional racism” in London’s police force and took pains to separate this from any individual racism of members of the Metropolitan Police. Institutional racism was:

The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people. (MacPherson 1999, 6.34)

Thus the issue of race in public policy not only shaped the handling of the specific murder case but was also reflected in the way policy was delivered more generally as reflected in, to give two examples cited by MacPherson (1999, 6.45), the ethnic disparity in “stop and search figures” and the under-reporting of “racial incidents.”

The idea that activities can be sources of policy is not simply confined to the issue of street-level bureaucracy: It is also possible for higher-level officials and politicians to approve arrangements without debate. A particularly striking instance of policy without agendas can be found in Moran’s (2003) elaboration of “club regulation” that emerged in the United Kingdom in the nineteenth century and remained an important mode of governance until the 1960s. “Club regulation” took the form of an elite acquiescence in allowing a large amount of self-regulation, with a light touch by regulatory institutions and legal instruments in issues ranging from factory safety through financial transactions to sport. “Club regulation” in part fits the model of “non-decisions” since it helps explain why other forms of regulation never developed. Moran (2003, 64) argues that, “The rise to hegemonic status of a mandarin, club culture—is connected to one of the great mysteries of the original Victorian regulatory system,” that of why despite the early use of independent regulatory commissions they withered away. There developed no widespread use of “powerful regulatory agencies that came to characterize the American regulatory state in the twentieth century.” Moran does not have to look far for the main culprit: “Fundamentally what destroyed them was the power of traditional constitutional ideologies, notably those that insisted on the central department with a ministerial head, as the only proper way of organizing public regulation.”

4. CONCLUSIONS

There is no simple answer to the question of where policies come from. The best we can do is indicate the proximate events leading to the authorization or other form of

adoption of policies. Since the procedures leading to authorization and adoption are, at least to a substantial degree, usually institutionally defined, it is not possible to regard the origins of policy in the same way that we might consider the origin of the species in biology as following the same logic or rules whatever the jurisdiction. This chapter has concentrated on outlining the ways that policies can emerge in systems which do not share the basic contours of the US pattern of government. In particular, it suggests that the possibilities for executive dominance of the policy process mean that different kinds of policy origins are more apparent outside the USA than they are in the US-dominated literature on the subject.

To point out the system-specific characteristics of theoretical approaches that have tended to dominate thinking about public policy outside that system is not to criticize them. Rather, it is closer to a criticism of the attempt to adopt them with little systematic adaptation to different kinds of political systems which lack the constitutional, institutional, and political features that underpin them on their native soil. Such criticisms may be extended to a wider range of theoretical approaches, past and current, which have tended to downplay the possibilities for hierarchy introduced by the fused executive-legislative systems dominated by party government characteristic of European government. Thus the “policy communities” of European nations cannot resemble the “issue networks” of US experience from which they have been borrowed (a point raised by Jordan 1981 and Rhodes 1997 among others); “corporatism” in the 1980s sought to extend experiences of some continental European systems prior to the 1960s (including Italy, Austria, and Sweden) with traditions of tripartite bargaining between labour, capital, and government to systems which had never had them (see, for example, Rhodes 1986), and the “community power debate” of the 1960s and early 1970s eventually discovered that the question of “who governs?” could not be posed in quite the same way in Britain as in the USA since the answer was obvious—the institutional leaders of municipal government (Newton 1975). Contemporary theories of delegation and principal–agent relations, with the baggage of legislative influence that seems to be imported along with them, might also be candidates for ideas that are probably more interesting in the US context and in need of substantially more sophisticated adaptation to European conditions than they are subjected to generally.

The recognition that such theories cannot be easily applied outside the USA is quite commonplace, but theoretical frameworks that incorporate hierarchy as a systemic feature—with hierarchy as the central reason why such theories cannot be directly applied in systems with fused executive-legislative branches under conditions of party government—have not generally tended to follow. Instead, theories of policy making tend to treat hierarchy as a variable—something that applies to some sectors or circumstances and not to others, rather than a core systemic feature of government. The central point about systemic hierarchy is not, however, that it is constantly applied, but that it can be *applied at all*. Its presence shapes how decisions are made, whether it is directly exercised or applied or not.

Knowing that governments can, with a secure majority in Parliament, ensure that their proposals can be put into law, whether or not other organized interests oppose

them, shapes the strategies and expectations of these groups—Finer (1966, 28–9) for example noted the tendency for group representatives “to be turned into an agency of government administration” by close involvement with government ministries. There is also evidence that interest groups in the UK have relatively low expectations of what they might achieve through their contact with government (Page 2001, 154). The importance of the executive in policy making in such systems also places an emphasis on understanding *intra*-executive processes of government that has generated remarkably little research. While we may know something (albeit often on the basis of dated information—see Aberbach, Putnam, and Rockman 1981) about the people at the top of the executive, we have little on the executive at work and few systematic examinations of the norms and procedures of policy making within the executive comparable with Kingdon’s (1995) rich analysis of policy making in the USA. How ministerial agendas are developed, how such agendas are communicated to officials who develop ministries, agencies, departments, and such like what is the role of the officials in developing them, what cues they rely upon, and how partisan priorities impinge on routine policy making, are almost *terra incognita* in the European study of public policy. Studies of executive organizations tend to treat ministries, agencies, departments, and such like as single bodies which develop policies rather than internally differentiated complexes in which bureaucratic norms and procedures, as well as bureaucratic politics, shape what they do.

The origins of public policy are a clear example of this lack of a theoretical framework that recognizes the constitutional peculiarity of the US system, above all by developing the central role played by the executive in the process in other countries. In such systems more attention needs to be paid to the origins of policy, even the proximate origins of policy, in processes somewhat removed from the legislative process that serves as the central arena for Kingdon’s (1995) study—whether at the level of principles and ideology or in developing policy lines and measures. The pluralistic agenda-setting models of the USA direct attention away from the rather different process of getting policies started which often has as its focus processes internal to the executive. Curiously, a clearer elaboration of the theoretical and empirical consequences of executive dominance in the policy process offers the possibility of helping explain the more hierarchical, but less studied features of the US system. The secondary legislative process of “administrative regulation” has for some time in the United States been regarded as an important, if understudied feature of the system (see West 1995). Yet while it was generally defined as yet another adjunct to the pluralistic fragmentation of the American policy-making process, where groups that lose out in shaping congressional deliberation can seek to influence the administrative regulations (Lowi 1969), there is increasing appreciation that administrative regulation can offer US executive agencies something like the sort of latitude available to bureaucracies in more hierarchical systems when it comes to shaping, even initiating policies. So, for a change, US political science can learn from studies of European policy processes.