

Hammers for Nails, Screwdrivers for Screws: Identifying the Right Tool for the Job in Historical Institutionalism*

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Abstract: Historical institutionalists are increasingly interested in the contested processes by which political alternatives become institutionalized and de-institutionalized. A prominent research program seeks to identify the different mechanisms undergirding these processes across political contexts. This article revisits the making of the child labor law of 1839, which is widely considered the beginning of social policy in Prussia and a corner stone of the Continental European, Weberian welfare state. The extant account put forward by ideationally oriented historical institutionalists posits a party-political context and explains the law as the outcome of a struggle between conservatives and liberals. This article identifies key empirical facts that challenge the existing account. It argues that the context was one of multiply embedded policy-makers, with coalitions of policy-makers crosscutting party-political lines. Investigated under this approach, the archival record discloses that the struggle was mainly about a proposal to implement child-labor regulation through local-participatory institutions encompassing factory workers. At stake was not whether liberals or conservatives would set up a Weberian welfare state but whether the Prussian welfare state would be Weberian at all. This substantive finding has novel implications for contemporary debates. It can inform progressive efforts to develop alternatives to the centralizing-bureaucratic implementation of welfare provision.

Key words

Historical Sociology, Social Welfare, Political Sociology, Qualitative Methodology

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Historical institutionalists increasingly study how ideas delineate the range of possibility for political action. A main goal across substantive areas of interest is to explain the processes of institutionalization and de-institutionalization of political alternatives (Adams, Clemens, and Orloff 2005; Amenta and Ramsey 2010; Bernstein and Naples 2015; Blyth, Helgadóttir, and Kring 2016; Glaeser 2011; Hall and Lamont 2013; Steinmetz 1999; Walder 2009). Much of the research responds to Schneiberg and Clemens' (2006) call that a strong case for historical institutionalism requires "direct investigation of how alternatives are culturally constituted, how choices among alternatives are contested or justified, and the processes by which the range of 'thinkable' alternatives expands and contracts over time and across settings" (p. 196).

As historical institutionalists have opened themselves to ideas, they have encountered an object of study that does not lend itself easily to the type of generalization used for non-ideational factors (Skocpol 1985). The key challenge is to avoid the "hermeneutical trap of unique research findings" (Erikson 2013:237) in a way that "does not do violence to the historical material" (Reed 2015:965; see also Strand 2015:567). A promising strategy is to recognize with Tilly (2007) that "all political processes vary in actual operation as a function of context" but to take heart in the prospect that "the effects of context are themselves amenable to systematic analysis" (p. 306).

The Prussian child labor law of 1839 has received attention from scholars working along those lines (Anderson 2013; Beck 1995).¹ It is widely considered “the beginning of social policy in Prussia” (Köllmann 1966:39; similar Kastner 2004:181; Schulz 1996:66; Syrup 1957:58) and thus to have laid the groundwork for the Continental welfare state (Hennock 2007:77–8; Kuhnle and Sander 2010:65; Stolleis 2014:18, 63). This welfare state—with its state-centered, Weberian type of social provision—differed from the liberal and social-democratic varieties in that it suppressed democratic participation and entrenched status differentials (Esping-Andersen 1990).

Key elements of the law’s emergence and principal actors are not in dispute. The account generally begins with the free market in labor that Prussia maintained from 1807 on (Brophy 2011; Treue 1992). Factory owners could employ children of any age and under any working conditions. A first attempt to restrict that freedom was made by the ministry of education under Karl von Altenstein in the 1820s but failed. A decade later, the topic was brought up again by the Rhenish governor Ernst von Bodenschwingh and a law was passed under the guidance of the interior minister Gustav von Rochow.

I want, however, challenge the dominant interpretation of the context and thus its systematic effects. Extant scholarship argues that the context was what, borrowing from studies of ethnicity, I will call groupist. The originator of the term already pointed out the potential for a wider application when he suggested that “by framing our inquiry in this way [...] we may end up not studying ethnicity at all” (Brubaker 2004:27). Groupism takes

¹ More broadly, research on “social policy [...] has been closely associated” with historical institutionalism (Amenta 2012:48).

“discrete, sharply differentiated, internally homogeneous and externally bounded groups as basic constituents of social life, chief protagonists of social conflicts, and fundamental units of social analysis” (Brubaker 2004:8). Prussian policy-making on child labor, from this perspective, was a fight between conservatives and liberals. According to the groupist account, Altenstein failed because he was “a member of a discredited, unpopular, or otherwise politically unpowerful group,” who chose “inappropriate or ineffective paradigmatic or normative ideas as strategic frames” that were perceived as “red flags” (Anderson 2013:93). The second attempt, by Bodelschwingh, is assumed to have succeeded because it “matched the priorities and concerns that predominated among conservative bureaucrats in Berlin [...] In the conservative climate of the 1820s and 1830s, an authoritarian like Rochow possessed far greater sway than a liberal humanist like Altenstein” (Anderson 2013:112, 107).

I contend that groupism is misplaced in the explanation of the 1839 law not because it could not plausibly be true but because it denies the most relevant data. It may help us understand contemporary politics of increasing polarization and is in general powerful for political contexts with strong parties (Leon, Desai, and Tuğal 2015; Martin 2009:283–320, 2015; Mudge and Chen 2014). But it cannot explain three key facts in the archival record on child labor legislation. First, the proposal that is usually credited to the liberal minister Altenstein was actually developed in close cooperation with the conservative official Ludolph Beckedorff. Second, in the early 1830s, the main opposition to this proposal fell away and Altenstein could have introduced it into cabinet, but he did not. Third, the

conservative Rochow and his allies stripped Bodelschwingh's draft bill of those parts that, according to the extant account, made it appealing to conservatives.

These key facts are better explained by an alternative to groupism. The context was one in which actors were multiply embedded (Brubaker 2004; Luft 2015; Wedeen 2008). This approach conceptualizes political actors "not as substances or things or entities or organisms or collective individuals [...] but rather in relational, processual, dynamic, eventful and disaggregated terms" (Brubaker 2004:11). It can explain alliances that crosscut party lines, and changes in coalitions over time (Clemens 2007; Sewell 2005). Research on topics other than child labor has established that Prussian policy-making in the 1820s and 1830s often was a struggle between "competing intrastate agencies, cultures, and party-political factions with different ideologies and agendas" (Brose 1993:3). Conservatism and liberalism did not then exist as organized parties. As ideologies, they structured the debate whether Prussia should become a constitutional state (Hodenberg 1996; Leonhard 2001; Ziblatt 2017). But beyond that, political alternatives rarely developed along party lines and instead flowed through bureaucratic institutions, networks of friends, circles around publications, and informal gatherings (Brophy 1998; Nutz 2005).

If the context is perceived as multiply-embedded, it is possible to explain the three recalcitrant empirical facts. In the process, the ideas identified as central to the struggle change profoundly. The groupist account holds that for both conservatives and liberals, the law was mainly about getting the children out of factories and into schools: "More than any other single factor, elementary education for children [...] was the propelling force behind the law" (Beck 1995:208–9). According to that account, the parties differed about

why schooling for the factory children was desirable: the conservatives wanted respect for King and God inculcated, whereas the liberals wanted the children to develop into free-thinking people. Seen from the multiply-embedded perspective, education played a minor role; instead, the major sticking point was how to implement limits on child labor. An important proposal—explained away in existing scholarship (Anderson 2013:100, 110; Beck 1995:208)—aimed to set up local commissions comprising workers that would adjust general regulations to local circumstances and enforce the resulting provisions. The archival evidence shows that this alternative type of implementation—which was propagated by influential policy-makers from both liberal and conservative camps—was very nearly established, with only a set of contingencies diverting Prussian legislative and bureaucratic reform from one path to another.

What was at stake in the years leading up to 1839, then, was not whether liberals or conservatives would set up a Weberian welfare state but whether the Prussian welfare state would be Weberian at all. Even the 1839 law did not yet in fact entrench a Weberian type of implementation for social policy: the bureaucratic-centralizing law on the books frequently proved ineffective in practice, as factory owners and parents continued to enable child labor in factories (Boentert 2007:62–6; Kastner 2004:205–35). The Weberian welfare state was established only in 1853, when the Prussian state introduced a corps of specialized child labor inspectors that began to make the bureaucratic type of implementation effective (Karl 1993).

Since the methodology implied by the multiply-embedded approach is crucial to my contribution, I will not restrict it to a separate section but discuss throughout the article

my strategies for identifying sources and interpreting them. I conclude by discussing the implications of these findings for the sociology of the state and welfare-state scholarship. I show that in Prussia, which continues to be cast as an exemplar of a Weberian state by sociologists of the state, alternative types of state structure were prominently debated and almost implemented. While it is typically assumed that opportunities for participation must be wrested from the state, it was bureaucrats who proposed localist-participatory implementation in the making of the child labor law. Among welfare-state scholars, he (1990, 1993) was the first to identify alternatives to centralizing-bureaucratic social provision in 19th-century Germany. What Steinmetz deemed provisional experiments set to be overtaken by Bismarckian bureaucracy appear, in light of the findings presented in this article, as plausible alternatives that could have set the welfare state on a different path.

THE MINISTRY OF EDUCATION: A LOCALIST PROPOSAL ON CHILD LABOR

The groupist approach equates the institution of the ministry with the person of the minister. Yet a Prussian minister of the 1820s and 1830s did not nearly exert full control over his ministry (Delbrück 1905:127–39; Real 1987). His officials possessed considerable room to maneuver. They could not openly defy their minister's will but could influence proposals and hold an initiative back or push it forward. They drew up drafts of laws, negotiated compromises in conferences with their colleagues from other ministries, and spoke at meetings of the cabinet. The minister did not even always have control over hires,

as the King sometimes took a team-of-rivals approach and installed officials in a ministry over the wishes of the minister (Rathgeber 2001, 2004).

Seen from this multiply embedded perspective, the archival record discloses that the initial proposal to regulate child labor was not written by Altenstein alone but importantly shaped by an official who is not mentioned by groupist scholars: Beckedorff, the official responsible for the education of the lower classes. He drafted regulations, penned letters, and published articles in defense of the position.

German historiography on Beckedorff has shown that, before joining the ministry, he had published a viciously anti-liberal pamphlet and belonged to the conservative club *Christlich-deutsche Tischgesellschaft* (Holtz and Rathgeber 2009:200n89; Nienhaus 2003:237–60, 353, 2008:151–5, 461). He was installed as a counterweight to Altenstein by the King at the behest of his ultra-conservative right hand Wilhelm zu Wittgenstein (Holtz and Rathgeber 2010:16–18).

That Beckedorff played an important role is a challenge to the groupist account. A proposal shaped by this arch-conservative can hardly be said to have promoted, as attributed to Altenstein, “elementary education and religious instruction for factory children [as] paths to intellectual and spiritual enlightenment, community building, and the creation of a vigorous, spiritually unified nation” (Anderson 2013:100). The minister and his official did, as the groupist scholars argue, disagree on ideology with respect to education: Altenstein had a humanistic conception of education. Beckedorff favored an education that would teach each pupil to accept his or her pre-destined position in society and be subservient to King and church (Menze 1975; Müsebeck 1918).

Yet these two policy-makers could develop a common proposal on child labor regulation because neither of them cast their position as primarily about guaranteeing schooling. At times, they even described schooling as a hindrance to the factory children's well-being. In a directive of April 1827, Altenstein let the bureaucracy know that, as long as the work was not too strenuous, he had "no objection" to factory children skipping class (Altenstein 1827:430). In the 1820s and 1830s, the schools for poor children were ineffective. A class frequently comprised more than 60 children, many school buildings were decrepit, and most teachers were barely literate military veterans (Baumgart 1989). Even if children attended these schools for part of the day, they were left for the rest of the day to their own, as their parents worked all day long. The minister argued that "in a certain age and under specific conditions, some employment of children does not damage their education, it even enhances it."²

The crucial challenge was to identify those "specific condition." That could be done, the ministry of education held, only case by case. As Altenstein put it, "*general institutions, rules, and laws for the entire state will be an unfortunate effort, prone to failure.*"³ Beckedorff (1827b), writing in an education journal that he edited, argued that "general and uniform rules on the employment of children in factories across the provinces of Prussia are in no way called for" (p. 177). Rules, Beckedorff held, "would have to be

² Geheimes Staatsarchiv Preußischer Kulturbesitz Berlin (GStA PK), VI. HA, NL Altenstein, A VI b Nr. 24, p. 41. Similarly Altenstein (1827:430) and GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 30, 32.

³ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, p. 32, emphasis in the original.

made for almost each type of factory in a specific way, if they shall prove to be appropriate in each way and implementable; because of the nature of the thing, the form of their application would even need to be modified according to the circumstances of time, place, and people” (1827a:224). Some work positions required too much strength, while others required little strength but involved monotonous and repetitive exertion, or the air in the factory was bad, or children had too much contact with coarse adults. In general, for example, children should not work during the night, but if production in a local factory engendered heat, it might be less arduous for children to work night shifts in the summer months.

To allow for specific circumstances to be taken into account, the ministry of education proposed to set up local commissions. This plan was most fully elaborated in an 1828 letter from the ministry of education to the ministry of commerce:

In each district, in which factory towns or individual factories exist, and in each important factory town, a commission will be set up that shall order the general relationship between the factory owners and the workers, in particular will the commission care about the physical, moral, and intellectual thriving of the factory children. They will primarily work out the necessary modifications of the general principles, which will be based on multifaceted concerns and experiences and formulated by the two ministries, submit their proposals to a higher level for confirmation, begin to implement the rules with force, and control the implementation with rigor. [...] A special commission for an important factory town in the Rhineland would consist of the following members: mayor, school principal, justice of the peace, public health official, two factory owners or deputies of the commercial estate, two factory workers.⁴

⁴ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 32–3.

This type of local-participatory implementation resonated with broader discourses among liberals and conservatives. Some liberals—like Altenstein and, most prominently, Stein—defined the key to effective governance as “dialogue and collaboration” on the local level (Clark 2006:329). Their push for “the devolution of governmental responsibilities upon local institutions” (Clark 2006:320) culminated in the Municipal Ordinance of 1808 (Mieck 1993), which allowed the Prussian cities to take important decisions independent of the central government. The liberal-localist policy aimed not only to give citizens a say in the legislature but to let them take part in the executive (Michalski 2009:189–288; Neugebauer 2004:94–5; Nolte 1990:28–32, 47, 71–72, 98). In 1834, local commissions including citizens were set up to partially take over from the administration the task of redrawing the boundaries of Prussian regions and municipalities (Haas 2005:174–5). In line with this approach, Altenstein rarely drafted laws to be implemented by lower levels of the central administration; either his ministry made the decision in a specific case itself or it delegated the decision to the local level (Holtz and Rathgeber 2010:19; Hömig 2015:349).⁵

Beckedorff’s position on child labor resonates with a different discourse: a localist conservatism (Frie 2001; Kraus 2013; Vogel 1983). Crown prince Friedrich Wilhelm “abhorred absolutist rule, as he abhorred parliamentary rule. He was by far not the only

⁵ A folder in the Prussian archive in Berlin contains hundreds or even thousands of decisions on stipends for individual pupils all over Prussia made by Altenstein’s ministry (GStA PK, I. HA, Rep. 76, XXX Nr. 416 Bd. 2). His responsibilities including the divinity schools of Prussian universities, Altenstein read several seminar papers written by their students each academic year (Howard 2006:263).

contemporary to subscribe to this position, which today appears contradictory” (Sommer 2016:271). The most outspoken proponents of this perspective, with the weekly newspaper *Berliner Politisches Wochenblatt* their main forum, argued that a “monarchical state posed as potent a threat to traditional life as the revolution itself” (Clark 2006:330). They described the Prussian bureaucracy, even if it answered to the King, as “an artificial thing whose claim to universal authority violated the older and more sacred authority of the locality, the congregation, the corporation” (Clark 2006:438). Altenstein and Becketdorff could agree on a proposal to regulate child labor through local-participatory institutions because, even though they were opposed on the liberal–conservative dimension, they shared a position on another policy dimension that was crucial in Prussian politics at the time: implementation.

THE MINISTRY OF COMMERCE UNTIL 1829: DEFENDING COMPETITIVENESS

To introduce the proposal into cabinet, the ministry of education needed the consent of the ministry of commerce, according to the rules of procedure (Hintze 1967:530–619; Klein 1961; Rathgeber 2001, 2004).⁶ Yet that consent was not forthcoming. According to

⁶ Throughout this article, I use the term “ministry of commerce” as a shorthand for the top-level institution responsible for commerce at the time. Specifically, this was the ministry of commerce until its dissolution in 1825, then the ministry of the interior, from 1829 on the ministry of finance, from 1830 on the ministry of the interior for commerce, from 1835 on the commerce administration, and

the groupist account, it was the minister of commerce, Friedrich von Schuckmann, who “delayed the matter, bringing further proceedings to a standstill” (Beck 1995:203; see also Anderson 2013:101). Two explanations for Schuckmann’s actions are put forward: one conservative, the other laissez-faire. Anderson (2013) describes Schuckmann’s “sensibilities” as “authoritarian and regressive” (p. 98) and thus in conflict with Altenstein’s humanist intensions. Beck claims that Schuckmann was mainly “interested in maintaining Prussia’s favorable balance of trade[,] which he saw jeopardized by government interference with industrial labor policy” (p. 203).

A multiply-embedded reading of the archival record suggests that the latter discourse is the appropriate one, yet it was not the minister but one of his officials who principally molded that position: Peter Beuth, who is all but overlooked in the extant accounts of child labor legislation.⁷ The archival record shows that if he was traveling abroad, the ministry did not take a position on child labor for months.⁸ Important documents were drafted by him personally in his distinctive handwriting.⁹ Like the ministry of education, and maybe even more so, the ministry of commerce was not a unitary institution executing the minister’s will. Beuth possessed extraordinary influence on a wide range of policy issues (Brose 1993:93n81, 106; Düwell 2007:99).

from 1837 on the ministry of finance (Brandt-Salloum 2004:xvi–xvii; Brose 1993:105–6; Mieck 1965:30–1).

⁷ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 21–2.

⁸ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, p. 24.

⁹ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 39–46.

Beuth aimed to turn Prussia into a competitor of England, the pioneer of industrialization; he went so far as to engage in industrial espionage when travelling to England (Beuth 1826:173; Brose 1993:98–132). Throughout the 1820s and 1830s, he founded several public and public-private organizations that sought to boost industry (Brose 1993:26–71, 98–132; Mieck 1965). Beuth spent time with entrepreneurs, inviting business owners to his Berlin home on Sundays (Mieck 1965:35). Workers were less important and somewhat suspect to him. Beuth’s ministry argued that accidents in factories typically were caused by “stupid-impertinent” (*dummdreist*) workers.¹⁰ In the journal of the association for the industrialization of Prussia—which he had founded—, Beuth snubbed that workers liked to take days off because they “usually prefer to get drunk or go on a ramble” (Beuth 1826:186).

Until 1829, Beuth objected to any limitation on freedom of contract in the labor market. He played down the problems identified by Altenstein and Beckedorff and once recounted how he had encountered a group of children walking home from their nightshift in a Rhenish factory, finding them healthy and happy. If children were miserable, Beuth argued, the cause was to be found not in their factory work but in their parents’ poverty. He was willing to consent only to regulation of the buildings and machinery to improve health and safety, not to limiting the freedom of labor contracts.

¹⁰ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, p. 7.

THE MINISTRIES OF EDUCATION AND COMMERCE REVERSE ROLES

From 1829 on, the ministry of commerce—in a shift so far unnoticed by scholars—softened its position and even began to *call for child labor regulation*. It sent a series of missives to the ministry of education urging child labor regulation in January, May, and September 1829, September 1832, December 1835, December 1836, and January and September 1837.¹¹ While the archival record does not provide reasons for this change of position, it is worth noting that concerns about competitiveness had been mooted by events across the Channel. English policy-makers discussed and in 1833 passed a comprehensive child labor law. The new position would also have received support from economists, the organic intellectuals of the ministry of commerce. One of the most respected German economists, Robert von Mohl (1835), argued in a journal article that, in the long run, the state benefitted from protecting children so that they would become more productive adult workers.

The question of why the ministry of commerce changed position is, in the end, of secondary importance. More important—and more puzzling for the groupist approach—is the question why, once this change had taken place, the ministry of education did not use the opportunity to pass a child labor law. The archival record contains virtually no trace

¹¹ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 39–46, 49, 52, 60, 74, 76, 79, 101–11. The folder used at the ministry of commerce also contains some internal directives to the registry to keep the documents in the hold-file (GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 50–1, 78, 80).

that the ministry of education reacted to the missives from the ministry of commerce. The possibility that the ministry of education did not receive them can be excluded because it replied in October 1829, in an equivocating way. For the rest of the time, it is most plausible to explain the lack of correspondence not with gaps in the archival record but rather as the result of deliberate inaction. Altenstein possessed “administrative prudence [...] he commanded the diplomatic and rhetorical skills necessary to operate in unfavorable circumstances and thereby realize many of his objectives, in church affairs and education” (Howard 2006:240). In particular, Altenstein was a master of the bureaucratic art of letting unwelcome initiatives run into quicksand by “maneuvering, delaying, and temporizing” (Hömig 2015:354). When he was forced to ask permission for transferring professors from one university to another, he asked permission also for moving university janitors, burying the other ministries under mountains of paper until they gave up (Renger 1982:265, 268).¹²

I am able—partly through archival good fortune—to propose an explanation for Altenstein’s reversal. While he did not set out reasons in correspondence with the ministry of commerce, he did so in writing to a colonel who headed a charity for the poor and pressed the minister on child labor. I found the letter of February 1829—which is not known in either sociology or historiography—filed in Altenstein’s private papers under the

¹² The literature contains many further examples of Altenstein delaying (Dittmer 1992:260n65; Fischer 1939:417–33; Rathgeber 2011; Vogel 1987:99–100). Yet in using other weapons of the administrator, Altenstein could exhibit “unrelenting drive” (Renger 1982:266), e.g., he obstructed a professor he did not like by launching an audit of his bookkeeping.

heading “Schooling in Berlin.”¹³ In the letter, Altenstein focused on problems of implementation. He argued that “general rules” might engender “destructive intervention.” To improve the lot of the children, the minister wrote, it was crucial to secure the compliance of factory owners and parents. In the letter, Altenstein expressed skepticism that any law could achieve this end. He cautioned that the problem could not be solved by “magic wand” (*Zauberschlag*).

This insight sheds new light on two texts in the official records, which on their own seemed innocuous but can now be understood as corroborating evidence. First, an official in Altenstein’s ministry, Ernst Keller, reported on a trip that he undertook in 1833 to visit factories that employed children.¹⁴ His descriptions of working conditions have received much attention by scholars, but not his conclusion, in which he reviewed proposals on child-labor regulation from leading academics. That conclusion would have supported Altenstein’s inaction: “none of [the scholars] has hinted at a way to reconcile the need for education with the interests of poor funds and the factories.”¹⁵ The new insight also explains why the ministry of commerce included in its folder on child labor legislation a passage in which Altenstein inquired about the failure of attempts to enforce compulsory

¹³ GStA PK, VI. HA, NL Altenstein, A VI b Nr. 24, pp. 41–3. How interwoven the personal and the institutional were in private letters is made clear by Röther’s (2009) introduction to the correspondence between Altenstein and a botanist.

¹⁴ GStA PK, VI. HA, NL Altenstein, A VI b Nr. 27, pp. 11–39.

¹⁵ GStA PK, VI. HA, NL Altenstein, A VI b Nr. 27, p. 39.

education in rural areas.¹⁶ It is probable that Beuth and his colleagues were puzzled about Altenstein's inaction and that they already surmised what the private correspondence now corroborates: Altenstein in the 1830s held that a law on child labor had to be well implemented, and that under given economic circumstances the chances of successful implementation were so slight that no immediate legislative action was to be recommended.

THE RHENISH PROPOSAL AND THE PROBLEM OF SCHOOLING

The 1839 law began as a *bureaucratic* matter with an initiative by Bodelschwingh. He proposed a draft bill in 1835. The Rhenish parliament endorsed the proposal so that, by rule, the draft bill was put on the agenda of the cabinet in Berlin (Anderson 2013:105–7; Beck 1995:209–10). But the law that finally got passed was not Bodelschwingh's law. The changes in the legislative text are key to understanding how ideas mattered.

The groupist account claims that Bodelschwingh, though he is described as a “liberal,” chose a frame that “matched the priorities and concerns that predominated among conservative bureaucrats in Berlin” (Anderson 2013:102, 112). Bodelschwingh's proposal ostensibly focused on “giv[ing] working-class children greater access to education, which would, in turn, teach them skills and values that would obviate their impulse to protest” (Anderson 2013:87). This line of argument allegedly swayed conservative ministers,

¹⁶ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, p. 61.

including Rochow, who “quickly emerged as the key mover behind child labor reform in Berlin” (Anderson 2013:108).

There’s perhaps disputing Bodelschwingh’s placement on the liberal–conservative spectrum but this is actually the smaller problem for a groupist account. More importantly, those parts of Bodelschwingh’s draft bill that are said to have won over conservatives were struck from the law by the representative of the strictly conservative interior minister Rochow and the officials from the other ministries. They deleted the references to schooling from the title and introduction of Bodelschwingh’s draft bill. Bodelschwingh demanded a strict three-year schooling requirement, but the ministerial officials inserted a loop hole. Bodelschwingh’s draft bill limited child labor up to the age of 12 years (roughly the age at which poor pupils left school), but the ministerial officials extended protection up to 16 years.¹⁷ For the officials in Berlin, ensuring that children spent enough time in school was only one concern among many, and a minor one at that.

These changes to the draft bill become intelligible from a multiply-embedded perspective, which draws attention to a part of the archival record that has received little scholarly attention. From the first time that Rochow’s ministry became aware of child labor in factories to a post-passage letter to the Dutch ambassador, it pointed out “the industrialists’ avarice” and “the excesses of industrial selfishness.”¹⁸ In the early 1840s, Rochow would establish a board of agriculture directed against industrialists (Brose

¹⁷ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1 , pp. 121–131.

¹⁸ GStA PK, I. HA, Rep. 120, Abt. BB VII 3 Nr. 1 Bd. 1, pp. 23, 97. See also GStA PK, I. HA, Rep. 120, Abt. BB VII 3 Nr. 1 Bd. 1, pp. 72–80.

1993:131). This position resonates with a conservative agenda focused not on schooling but on the economy. The conservative ideologues Adam Heinrich Müller and Hans Ernst von Kottwitz led “a growing reactionary storm against the industrialization of Prussia” (Brose 1993:52). They encouraged nobles to “regard[...] their aristocratic heritage as a commission to manage the land, look after souls, and protect the state and working classes from evil influences” (Brose 1993:52). Their publications were highly critical of child labor in factories.¹⁹

Remarkably, the ministry of commerce went along with the draft bill of the ministry of the interior, after securing some changes. While the ideological differences on the role of industry could not have been greater, the two ministries found a compromise on all specific provisions of the law. Because England had passed a corresponding law, Prussian factories remained competitive even under the 1839 law. The ministry of commerce won from Rochow changes to the draft that gave capitalists more room to employ children, e.g., the final bill no longer set a limit on how early the work day could begin.²⁰

¹⁹ See for example the articles “Einiges über die sittlichen Zustände der niederen Klassen in England” in *Berliner Politisches Wochenblatt* No. 40, October 3, 1835, pp. 240–2; “Der moderne Feudalismus” in *Berliner Politisches Wochenblatt* No. 23, June 10, 1837, pp. 134–5; and “Ueber die Abhülfe der Verwahrlosung der Kinder” in *Kameralistische Zeitung* No. 45, November 10, 1838, columns 1067–70, continued in No. 46, November 17, 1838, columns 1092–3. Beck (1995:52–9, 72) discusses some of these publications but does not connect them to the making of the child labor law.

²⁰ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, p. 143. The final bill met virtually all conditions set out by the ministry of commerce earlier (GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 100–11).

SUCCESS THROUGH FAILURE:
BUREAUCRATIC CENTRALIZATION AFTER 1839

To the very end of the legislative process, Altenstein and his officials argued for localist-participatory solutions.²¹ But the coalition around Rochow held that a centralizing-bureaucratic form of implementation was self-evident, as recorded in the cabinet minutes: “with regard to control, local special commissions are not needed, since all police and school administrations are required to carry out the control.”²²

Such statist positions came to predominate across the administration by the 1830s (Haas 2005). The repressive system set up in Carlsbad became ingrained. It favored those conservatives who deemed a strong state apparatus necessary for the protection of the monarchy, and Rochow was head of the Prussian police hunting demagogue (Stamm-Kuhlmann 2001). In uncertain times, these conservatives held, power had to be concentrated in the King; not even the nobility could be fully trusted (Sperber 1991:39–40). There were statist also among liberals. Hardenberg’s “reforming vision was focused above all upon the concentration of power and legitimate authority in the state” (Clark 2006:320). When, during the 1790s, Hardenberg was responsible for integrating newly acquired Franconian territories into the Prussian state, he installed a streamlined executive (Endres 2001). As representative bodies frequently emerged as opponents of reform,

²¹ GStA PK, I. HA, Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, pp. 100, 121–31, 138, 141–2; GStA PK, I. HA, Rep. 120, Abt. BB VII 3 Nr. 1 Bd. 1, pp. 44, 64–71; GStA PK, I. HA, Rep. 77, Tit. 523h Nr. 22 Bd. 3, p. 13; GStA PK, I. HA, Rep. 90 A, jüngere Registratur, Nr. 3492, pp. 88–99.

²² GStA PK, I. HA, Rep. 90 A, jüngere Registratur, Nr. 3492, p. 97.

Hardenberg circumvented them by concentrating power in the administration (Levinger 1990; Mieck 1993; Stamm-Kuhlmann 1997).

Altenstein spoke against the centralizing-bureaucratic type of regulation but allowed the law to pass: he did not protest with the King, as would have been his right as minister (Stamm-Kuhlmann 1992:575). This passivity is passed over in the extant account and would be puzzling for the groupist approach. Seen from the multiply-embedded perspective, a letter offers a potential explanation: Altenstein did not protest because the law would, in practice, change almost nothing and thus at least do no harm:

Governor von Bodelschwingh's aversion against this institution [local commissions] gives honorable evidence of his indefatigable activity and his trust in the goodwill, the insight, and the energy of the existing institutions of the administration. With all due respect for this position, I have to allow myself to remark with all humility that the good intention of the law will remain without consequences if no suitable control is established.²³

Altenstein was altogether correct in the short term. Under the 1839 law, the Prussian administration carried out few inspections of factories. Factory owners and parents frequently disobeyed the law (Boentert 2007:62–6; Kastner 2004:205–35). Altenstein, however, was not a good historical institutionalist: he did not anticipate that in the long term, the proponents of centralizing-bureaucratic implementation would notice the non-compliance. In the 1850s, the problem was recognized on the ministerial level. The Prussian state re-enforced the Weberian type of implementation by setting up a corps of specialized child labor inspectors (Karl 1993). The 1839 law had charged the multi-purpose officials on the lowest level of the Prussian state with inspecting factories. They had been

²³ GStA PK, I. HA Rep. 120, Abt. BB VII 1 Nr. 4 Bd. 1, p. 141, similar on p. 142.

preoccupied with other tasks, and they were influenced by local elites, who often preferred a lenient application of the rules. The 1853 law set up a corps of specialized officials on a higher, regional level of the state. For those officials, inspecting factories was their only task, and they were removed from local elites—in 1855, the inspectors were even invited to a meeting in the ministry in Berlin (Karl 1993:69). The new arrangement led to a much more forceful implementation of the law. In 1858, one inspector spent 258 days on the road; another lost his health when he inspected a factory on a cold night (Karl 1993:67, 69).

In 1853, the localist-participatory regulation did not just lose out against the centralizing-bureaucratic model, but it was no longer competing. Right after 1839, the local-participatory type of regulation was still a plausible alternative. Several local administrations across Prussia set up local commissions on their own initiative or spoke out in favor of setting them up (Anton 1891:69–72). But over the next decade, local-participatory implementation became de-institutionalized as a thinkable alternative. Between 1839 and 1853, the political context changed. Party politics was on the rise and crystallized in the 1848 revolution (Clark 2006:468–509). On the conservative side, nobles increasingly accepted the dominance of the King and the state bureaucracy, and tried to gain positions within the centralizing-bureaucratic administration, instead of criticizing it from the outside (Frie 2001:339–40). In 1841, the *Berliner Politisches Wochenblatt*, the most important venue for localist proposals among conservatives, folded. On the liberal side, the cohort of Prussian reformers retired and new education requirements for Prussian senior officials kept out cameralists with their focus on substantive governance; instead,

the civil service became dominated by jurists with formalist training. In 1840, Altenstein, the most important representative of localist thought among liberals, died.

CONCLUSION

This article has proposed a revisionist explanation of the Prussian child labor law of 1839, a cornerstone of the Continental European welfare state. The extant, groupist account has explained away what was most important. It held that conservatives and liberals differed about the reason for setting up a Weberian institution to control child labor. The multiply-embedded approach that is more appropriate for the context has disclosed that the political struggle was mostly about different types of implementation. At stake was not whether liberals or conservatives would set up a Weberian welfare state but whether the Prussian welfare state would be Weberian at all. An alternative, localist-participatory type of welfare state was very nearly established.

This finding contributes to the sociology of the state, which counts Prussia among the “archetypal examples” of the Weberian state exhibiting “centralization, coherence, and autonomy” (Morgan and Orloff 2017:6; similarly Clark 2006:428). That this type of implementation was not preordained in the making of the child labor law of 1839 invites sociologists of the state to include unlikely candidates into their investigations of “the real-world practices of governance—the mix of public and private (nonprofit or proprietary) actors charged with implementing policies and the nature of their relationship, the responsibilities of national versus subnational layers of government in program delivery, the role of law in achieving various objectives, and the lived experience of state policies

on the ground by those subject to them” (Morgan and Orloff 2017:9–10; see also Baiocchi 2003; Fung and Wright 2003; Gibson 2012; Lee, McQuarrie, and Walker 2015; Polletta and Lee 2006; Sirianni 2014; Valverde 2012). This literature typically assumes that opportunities for participation must be wrested from the state by social movements and other non-state actors (Capoccia 2016; Clemens 2016:108). Non-state actors are cast as defending local knowledge against efforts by the state to impose a unified knowledge grid (Norton 2014; Scott 1998; Wilson 2011). Yet during the legislative process leading up to the Prussian law of 1839, participation was proposed chiefly by bureaucrats, and they self-reflectively stressed the limits of centralized knowledge. Future research should clarify which parts of the state rally behind localist-participatory institutions under which conditions.

The dearth of proponents of localist solutions outside the central administration raises the question how far into society debates about governance can travel. If their spread is rather circumscribed, the finding that bureaucrats are the driving force behind attempts to develop alternatives to bureaucracy—as Gilbert (2015) has also observed for the New Deal—would cease to seem ironical. In both the Prussian and the New Deal case, those actors inside the state who self-consciously confronted the limits of a centralizing bureaucracy and of standardized knowledge acquired positions of influence during a crisis of the state. That they could not sustain their efforts in the long term suggests that proponents of local-participatory regulation find it hard to defend their influence as long as core institutions of the state continue to be organized along Weberian lines. They may

find themselves in a double bind: it would be necessary to set formal rules to keep criticism of formal rules alive.

That, for almost two decades, alternative state structures were debated by Prussian policy-makers and could have become the model for the welfare state across Continental Europe has implications for welfare-state scholarship. Almost all such scholarship assumes that welfare provision runs through a Weberian bureaucracy. In an important dissent, Steinmetz (1990, 1993) has identified localist modes of welfare provision in 19th century Prussia for issues other than child labor but discounts these policies as “regulatory baggage that has accompanied the actually existing welfare state” (1993:4). In contrast, this article finds them to have been plausible alternatives. More broadly, sociologists could advance systematic thought on localist-participatory forms of welfare provision and labor inspection, whose relevance is established by an incipient literature scattered mostly across the disciplines of public administration, industrial relations, and social work (Goodin and Rein 2001; Marwell 2004; Piore 2011; Piore and Schrank 2008; Sellers and Lidström 2007; Trydegård and Thorslund 2010).

Research on the Prussian child labor law of 1839 has, from its inception, been interwoven with the politics of the day. The first history of the law (Anton 1891) was written on the occasion of a major international conference on workers’ protection, hosted by the German Emperor (Meyer 1971:16; Stolleis 2014:236). After World War II, the head of the West German employment agency edited a book that took the law of 1839 as its starting point to tell a panegyric history of German social policy (Syrup 1957). An East German historian with close ties to government used the 1839 law as a prize exhibit in his

attack on the conception of Prussia as a social Kingdom (Kuczynski 1968). The political debates into which these publications intervened and the historical accounts of the 1839 law that they provided took a centralizing-bureaucratic structure of the Prussian welfare state for granted.

The revisionist account put forward in this article opens the case to current debates that increasingly question the Weberian form of welfare provision. The progressive legal theorist Alain Supiot criticizes it for “substituting for the direct ties of solidarity between people an impersonal relation to a bureaucratic machine. [...] By maintaining the illusion of individual self-sufficiency, the social state undermines the different forms of civil solidarity on which its own solidity actually depends” (2013:111). Similarly, the philosopher Roberto Mangabeira Unger bemoans that, in the welfare state, “social solidarity comes down to the movement of checks through the mail” (2007:204).

In an attempt of historical recuperation (Innes and Philp 2013; McCormick 2011), the struggle around the 1839 law can inspire new, participatory alternatives. Unearthing the path not taken in the 1820s and 1830s can help us with “institutional assembly, rehabilitation or revival [and] can be redeployed to support new experiments, theorization, mobilization for change and even the consolidation of entirely new paths within existing systems” (Schneiberg 2007:48). I do not want to claim that welfare bureaucracy had not been instituted if Altenstein and Beckedorff had gotten their way. But the relative weight of centralizing-bureaucratic and local-participatory types of welfare provision could have been significantly different.

If we have missed what was contingent in the past, we may unnecessarily curtail our understanding of what is contingent or can be made contingent today. In the enormous debate about the reform of the welfare state, proposals for localist-participatory solutions play little role (Esping-Andersen et al. 2002; Hemerijck 2013). Sociologists' proposals mainly draw on contemporary, not historical alternatives to the Continental welfare state. This restriction may be sensible because the political context no longer allows for localist-participatory proposals to become plausible. But another lesson of the Prussian child labor legislation is that what will prove influential in the future may not appear so in the present. Child labor in factories was a minor problem at the time and yet laid the foundation for the welfare state that developed as industrialization progressed. If the current high-profile struggle over the welfare state seems too polarized to allow for unusual ideas, it may be wise for progressives to invest political energy in shaping the regulation of social phenomena that appear new and small today but may be seen as foundational in the future.

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