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1. Introduction

What is usually termed the welfare state has an unclear scientific profile: in contrast to the highly-developed literature on parliamentary democracy or the constitutional state, there is much more uncertainty about what the welfare state, and related terms such as social policy, exactly mean (Kaube, 2003; Pierson and Leimgruber, 2010). Various reasons can account for this.

Firstly, the term welfare state is partly a misnomer, since ‘welfare states’ differ tremendously by the role they assign to the state, market, civil society or the family for ensuring the well-being or welfare of the population. The many typologies developed to characterize the institutional variety of welfare states (e.g. Esping-Andersen, 1990) attest to the fact that not all welfare states consider the state to be the primary responsible for general welfare; for instance, in liberal welfare states (such as Great Britain or Australia) welfare benefits are precisely designed to limit their impact on the market and stimulate market participation, while ‘familial’ welfare states (e.g. Italy, Spain) reflect the prominent role assigned to families in providing social welfare. In short: although the concept of the welfare state refers explicitly to state-led political steering, modern societies command a greater arsenal of mechanisms of welfare production (market welfare, informal care, etc.) and comprise more modern steering logics (legal regulation, fiscal impulses, community engagement, etc.) than is allowed for in the term ‘welfare state’. Welfare policies are not operated solely by the political authorities (or solely by private or associational bodies). Rather, they result from a complex and ever-changing interaction between politics, economy, associations and private households.

A second reason for the ambiguous status of the concept 'welfare state' is of a more theoretical nature. As the welfare state overlaps the space between functionally differentiated systems such as politics, law or the economy, it is being described in manifold and often contrasting terms. According to the observational standpoint one takes – i.e. the social system one observes from - the welfare state looks differently. From the point of view of the economic subsystem, for instance, welfare benefits can be seen as a major burden on economic productivity or labour market transparency. From the point of view of the political system the welfare state is rather seen as an instrument of 'social cohesion' or 'interest intermediation' between generations (f.i. pensions, child benefits) or between employers and the labour movement (f.i. unemployment benefits). These very different conceptions of the welfare state can be traced back to what Luhmann (1997: 958ff.) calls the 'theories of reflexion' (*Reflexionstheorien*), which are generated by the different function systems in modern society in order to articulate their 'identity' or functional logic in a systematic and scholarly manner (f.i. aesthetics for the arts system, political theory for the political subsystem). As political theory starts with the state and economic theories with the market economy, each tradition has developed one-sided and contrasting disciplinary interpretations of the welfare state (Kaufmann, 2012: 5, 250). It is hence no surprise that the welfare state is often caught up in debate about the desirability of welfare policies. While some mistrust state intervention by principle and consider the welfare state as a burden on the market, others "all too easily take social problems as evidence of the state's responsibility and capacity to solve them, without considering the constraints of administrative policy, or the demands of the economic system, let alone foreseeable side effects" (Kaufmann, 2012: 5).

When compared with the existing positions and approaches within the debate on the welfare state, this chapter takes a different route, in so far as it develops the construction of welfare policies within the confines of sociological differentiation theory and, more broadly, evolutionary governance theory. From this theoretical perspective, what is termed ‘the welfare state’ emerges as a rather complicated form of coordinating the economy with the wider society (on economic constitutions see Kjaer, 2010; 2014), particularly with an eye to remedying social inclusion problems characteristic for modern, functionally differentiated society. Evolutionary, the modern welfare state results from attempts to stabilize the new stratified class structures which emerged as a consequence of industrialization and urbanization. In tandem with the process of functional differentiation, the welfare state has, however, further evolved as a complicated instrument for coordinating the market economy with its societal environment, including politics and law. In order to gain understanding of this evolutionary process this chapter will outline how welfare policies have continuously been changing in relation to broader structural transformations of society and attempts to govern these transformations.

The chapter proceeds as follows. A first section explains how the modern welfare state emerged in co-evolution with the process of functional differentiation, and outlines how the welfare state’s central task is to secure every individual’s inclusion in the different function systems of modern society. A second section describes how the welfare state evolved from existing systems of social governance, and throughout a process of evolutionary governance created new policy actors, facilities and institutions, as well as new modes of knowledge and expertise. A third and last section concludes with an overview of the more recent discussion concerning problems of steering in welfare state governance and explores the shift in both national and EU governance away from command and control models (f.i. standardized social legislation) in favour of more flexible governance approaches in which welfare states act less as Weberian instruments of hierarchic rule, but more as societal coordinators of different social systems.

2. Functional differentiation and the emergence of the welfare state

Historically welfare policies emerged in response to the functional differentiation of society, particularly the differentiation between politics and economy. Already in classical European sociology or political economy - as represented by Émile Durkheim, Karl Polanyi or the German historical school in economics (Schmoller, Sombart, Von Stein) – the emergence of the welfare state is explained as a reaction to the differentiation or 'disembedding' of the monetary economy from the wider society, caused by the spread of capitalist markets in labour and land (Verschraegen, 2009: 147-148).

Two different factors can define the constellation that made social policies and the welfare state necessary to enable the successful transition from a feudal, stratified social order towards a functionally differentiated society (cf. Kaufmann, 2012: 17-18).

A first factor was the structural differentiation of the polity and the economy, which began with trade over long distances and was achieved through bourgeois mercantilism and the establishment of the modern firm as the dominant form of organization in the economic sphere. Welfare state formation can be read as an attempt to protect citizens' status positions against the growing intransience of economic life, which increasingly came to define living and income conditions of individuals (as we'll explain in the last part of this section). By protecting citizens' living standards and status positions against the fluctuations and shocks of structurally emancipated markets, welfare states have provided a framework in which markets for goods, capital, labour and land could develop without however causing severe political eruptions and social unrest. In this sense, welfare policies (e.g. unemployment benefits) assume the social protection functions previously provided by tariffs and quotas and enable the global expansion of markets (Rieger and Leibfried, 2000). Against the neo-liberal assumption of a big ‘trade-off’ between economic efficiency and social justice, welfare states are thus built on the assumption that social policy is conducive to promoting economic adjustment, and that there is no contradiction between economic competitiveness and social cohesion. By balancing economic and politico-democratic demands, social policies rather serve the coordination of functionally differentiated, but mutually dependent systems (as is explicitly recognized in Keynesianism, which sees high social benefits and broad-based consumption taxes as efficient stabilizers of the business cycle, restraining growth in good times but cushioning the downturns). Although the emergence of the welfare aspects of the modern state is generally seen as a late feature of political development (e.g. Flora & Heidenheimer, 1981), it had important precursors. “Absolutist and mercantile states such as France or Prussia in the eighteenth century already showed considerable concern for the welfare of their subjects. This concern was based on the assumption that the political and economic power of these political societies depended upon the health and education of their populations” (Kaufmann, 2012: 20).

Historically, the differentiation of the market economy as a largely autonomous societal sphere was made possible by the erosion of the feudal household economy, to the extent that work became spatially differentiated from private living and organized in largely autonomous ‘labour markets’. Prior to industrialization, most work, such as food production and low tech manufacturing was based within the household and household-based network structures such as guilds. Households typically relied on different sources of income (e.g. sharecropping, petty trade, family working) and on child labour, as most parents would not forgo income that children might be able to contribute to the family wage packet. Throughout the nineteenth century, however, the industrial revolution largely transferred most production from the household to larger non-kinship corporations (Minge-Kalman, 1978). Hence, it became necessary to regulate labour markets and stabilize the formal wage income as most families became increasingly dependent on it for securing their daily lives (Castel, 2003). The regulation and protection of labour, and more broadly production activities, hence became the first realm of welfare state activities. Under pressure to create new forms of stability and security for wage earners and their families, public authorities started introducing labour regulations and various insurance schemes. The state first entered into industrial regulation to protect children from harsh working conditions and to ensure that they could be included in the new mass schooling systems (a development which was already furthered by the evolution of the occupational structure, calling for new levels of skill requirement in the industry, meaning “that a larger proportion of the working class population could actually regard the education of their children as a source of possible economic and status betterment” (Smelser 1990: 184)).

The main instrument towards the enhancement of ‘social security’, however, was the socialization of risk through the introduction of compulsory mutual insurance. In Germany, for example, Chancellor Otto von Bismarck introduced insurance plans that would ease the workers’ lot during periods of hardship. In the period 1881–1887 sickness and workers’ accident insurance schemes were pushed through the Reichstag and became law. The state, the employers, and the employees were all obliged to contribute. Initially applying to factory workers only, the plan was later extended to other groups until, during the Weimar Republic, virtually all trades received coverage (Von Maydell et. al., 2006: 7–8). As the state started expanding its power into the sphere of welfare, arrangements for protecting social security increasingly acquired a legal form, thereby guaranteeing that redistribution through the state was to be conducted under fixed and prior legal terms (Thornhill, 2011: 335). The statutory social security laws first adopted in Germany, for instance, introduced an enforceable right to benefit in case the insured contingency materializes, whereas the earlier forms of social protection were not enforceable by law (Pennings, 2012: 800). By assigning legally protected economic and social rights to wage earners, employment – traditionally perceived as a deprived condition – became the new anchor point of society and started representing a genuine source of security for workers.

The evolution towards 'social security' and the growing acceptance of the idea that the state or public organisations such as workers and employer unions should act as a guarantor of socially accepted minimum standards of living is connected to a second, more sociological factor concerning the changing conditions for social and economic inclusion. In pre-modern or pre-capitalist settings, social arrangements for protecting persons in dire need were generally bounded to the place of origin or settlement. Within the typical peasant village context, for instance, problems of security and subsistence were solved through a wide array of local social arrangements, which were seen as self-evident and morally binding. Different social regulations operated to assure a minimum income to local inhabitants. The landlord or other masters were responsible for their labourers even during illness or disability. Religious organizations provided health care and help to the poor, communal land was periodically redistributed, in part on the basis of need, and also social pressures had a certain redistributive effect: 'rich peasants were expected to be charitable, to sponsor more lavish celebrations, to help out temporarily indigent kin and neighbours' (Scott, 1976: 5).

With the emergence of modern, capitalist order, however, this moral economy came under severe pressure; control of land gradually passed out of the hands of villagers and the value of what was being produced became increasingly dependent on the fluctuations of an impersonal market. To the extent that suppliers and consumers could acquire and sell resources and products worldwide, they became more independent of local and regional ties. This geographical extension of markets pulled the rug out from under the slowly eroded traditional local and regional moral economies, and at the same provided new economic opportunities for the newly emerging middle-class of entrepreneurs and traders. Instead of a stationary economy with small or no changes in income distribution at all, a new society of changing socio-economic fortunes emerged where one's income became more transient and partly dependent on one's own decisions (Luhmann, 1997: 722-727).

Although the emergence of capitalist markets and urbanization gave individuals economic opportunities and freedom in choices, the freedom also predisposed them to insecurity. Free labour became independent, but also unprotected. While individuals in traditional societies were –strictly speaking – not isolated individuals but members of nested collectivities (a specific household, estate, village, etc.) constraining and supporting them, individuals in the emerging modern society could no longer live and act in the context of one particular social system alone (Luhmann, 1997: 618-634). Pre-modern associations "used to ensure that the individual's essential needs were met, albeit in limited ways and varying according to social rank, though focused on the individual's total situation" (Kaufmann, 2012: 342). Yet, with the transition towards functional differentiation, this total perspective has been lost. In order to gain access to and reap the benefits from the different functional systems (e.g. economy, politics, law, science, health care) and organizations (schools, hospitals, firms, etc.), individuals have to comply with the logic of connectivity of generalized symbolic media (such as money in economics, power in politics, belief in religion, or truth in science) and the criteria that organizations use to distribute unequal and hierarchical positions and benefits. In other words, each social system develops its own criteria for inclusion: participating in the education system is regulated by means of assessments of learning achievements, participation in a firm is regulated by the contributions one can make as an employee etc. Function systems, and in particular their dominant organizations, hence tend to be highly 'discriminating' about individuals and about specific categories of persons. Firms, for instance, select workers according to their skills and price, with family background, gender, ethnicity or nationality being relevant only insofar as they may be converted in variations of skills and prices.

The central task of the welfare state is related to this inclusion form of functionally differentiated societies. Welfare states aim to guarantee every individual's inclusion in each function system to the degree he or she needs its benefits (a job, health care, schooling, , etc.) (cf. Luhmann, 1981; Kaufmann, 2012). Inclusion in function systems such as education, health care or the labour market not only depends on social and economic rights, but also on adequate financial resources, individual abilities and broader environmental opportunities (f.i. infrastructures). Social policy measures hence try to remedy disadvantages in access opportunity to employment, income, housing, health provision, etc.. Obviously, social policy measures are not necessarily successful in terms of reaching particular set goals, "but the idea of the welfare state presupposes the ability of politics, the administration and the judicature to learn to find ever better solutions to social problems in an incremental way" (Kaufmann, 2012: 198).

By trying to remedy disadvantages in access opportunity, social policies also play an important role in preventing social de-differentiation, mainly by ensuring that one's standing in the economy or the labour market remains relatively independent from inclusion in other social systems such as education or health care. Social policies aim to guarantee, in other words, that the distribution of goods like medical care, education, or political power, is not determined by the existing distribution of wages or money. After all, the proper ground or criterion of distribution of these goods is qualitatively different (respectively for medical care: ill health, education: cognitive performances and politics: democratic legitimacy). The boundaries between these different spheres are porous and need to be protected, especially in market societies where monetary and market coordination are extremely mighty (see

Verschraegen, 2002). Bernard Williams gives the example of health care: “While ill health may work as a necessary condition of receiving treatment, it does not work as a sufficient condition, since such treatment costs money, and not all who are ill have the money; hence the possession of sufficient money becomes in fact an additional necessary condition of actually receiving treatment.” (1973: 234). To prevent that the rich are able to buy scarce medical resources to treat their small ailments while the poor have serious illnesses that go untreated, the access to medical services should to some extent be uncoupled from one’s standing in the market. Protecting the differentiation between medical care and the market will prevent doctors from withholding care to those who cannot pay their health insurance and at the same time shield them from monetary concerns so they can focus again on their profession. In short, by establishing social rights and setting clear boundaries to the economy, the welfare state defines the area of competence of the market and delineates it from all other, non-economic social spheres. It ensures that the market logic does not colonize societal domains such as education, the media, politics, health care, the arts, etc., and thus sustains the societal preconditions on which the market itself is dependent.

3. The construction of welfare subjects and objects

This section describes how the complicated and long process of welfare state construction produced a specific set of actors and institutions, as well as specific governmental objects of knowledge (cf. Van Assche, Beunen, Duineveld, 2014: 35-43).

Most social policies did not start from scratch, but evolved from existing systems of social governance, often originating in early modern organisations or assocations: social insurance followed from private insurance in guilds, friendly societies and early workers associations, while health services mostly originated from religious organisations or the military

(Kaufmann, 2012: 19). The systems of mutual assurance and the various regulations of work conditions that most European countries set up during the 19th century basically scaled up existing solutions to social problems that had previously been tested on a smaller scale (family and kinship groups, confraternities, religious organisations, corporations). At the end of the eighteenth century, these old systems of locally bounded solidarity were largely superseded by the new contractual relationship that had become prevalent in the market and the new process of geographical centralizing of the administrative functions of the state. In the course of the nineteenth century, the management of social risks was consequently to a large extent taken from the hands of the family and locally anchored institutions and trusted to the state (Rimlinger 1971; Flora and Heidenheimer 1981; De Swaan 1988). Yet, dependent on specific national conditions and governance paths, different variants emerged. As welfare systems evolved into publicly regulated systems, "they seldom formed a part of the national administration, but rather of local government (as in Great Britain and Scandinavia) or existed as special agencies (as in France, Switzerland and Germany). Often the services are not administered by public officials but by representatives of various interests in the civil society, such as worker and employer unions, moral entrepreneurs or religious organisations" (Kaufmann, 2012: 20).

The evolving governance of welfare issues not only created new actors and subjects, it also implied a constant redefinition of the objects of governance (cf. Van Assche, Beunen, Duineveld, 2014: 41-42). Foucault and other authors working in this vein have shown how modern government aimed at social and economic life has unfolded—especially if one thinks of government itself as a wider process than just a state—through the development of new objects of knowledge and new forms of expertise. It is only by defining and visualizing problems and issues upon which government can operate that social policies have become institutionalized and codified in legal norms and policy plans. In the case of social policies, the construction of objects amenable for governance was associated with the emergence of statistical thinking in the nineteenth century, which was not only pioneered by centralized state bureaucracies, but also by various professions investigating the ‘condition of society’, such as doctors and clergymen (e.g. Porter, 1995; Desrosieres, 1998). Statistics in fact helped to constitute the very ‘society’, social relations and ‘disadvantages’ in whose name it sought to speak. Statistics uncovered the ‘laws’ of the social sphere, knowledge of which would enable correct governance to take place, and allowed governance to be ‘at a distance’ from the social problems and disadvantages it aimed to remedy. In the process of the emergence of social statistics - whether they concerned problems of public health or poverty – individuals became comparable according to categories of socially defined characteristics (social background variables such as age, gender, etc.) and of participatory opportunities (such as employment, income, housing, etc.). When specific individuals or groups are seen to be disadvantaged in comparison with a standard (e.g. a poverty norm) or other status groups (e.g. man versus women), social policy measures can be taken. In this way, welfare state governance has always operated—as Foucault has taught us—simultaneously as a field of knowledge and a field of power. The governance objects brought into being —defined in important ways through the development of expert knowledge—became in themselves modes through which political power operates.

In sum, many different subjects and objects, facilities and institutions, policy actors and policy clients were produced in the course of regional or national welfare governance paths. The various patterns of national starting points and their governance paths (cf. Van Assche, Beunen, Duineveld, 2014: 29) have resulted in the development of highly disparate sets of governance schemes, actors and institutions. There was however a common dynamic: through the intensification of state interventions into the social sphere organizational development within the nation was boosted, in terms of both the providers of services such as health care, housing or education, and those who develop a vested interest in the services (Kaufmann, 2012: 218-219). The continuous expansion of welfare state services – public health care and educational institutions but also social work, nursing and other public facilities including labour exchange made the welfare state itself one of the most important employers and created a wide range of new and highly organised groups of employees dependent on government-financed or market-financed welfare expansion. (The 'welfare state' here refers to both public authorities (national, communal or other levels) and to private or self-governed entreprises and associations providing social welfare). To the extent that various social services expanded, and tax deductions for educational expenses and home ownership were installed, not only the working but also the middle and upper classes became clients of the welfare state, which thereby acquired a more democratic character (Rieger & Leibfried, 2003: 77). As a result of this generalization, nearly every citizen in the industrialized world was incorporated in one way or another into the welfare systems of secondary income distribution.

The extension of social policy to the whole population already points to the importance of the welfare state to our modern ideas of citizenship (taking into account that specific national variants exist here as well). For the purposes of our discussion, two major aspects can be distinguished here.

First, by establishing strong spatial or territorial boundaries (cf. Van Assche, Beunen, Duineveld, 2014: 38-40) the modern welfare state has helped in delineating the national citizenry. It should be underlined that redistribution and 'social sharing' build on 'closure'. A certain extent of 'solidarity' presupposes the existence of a clearly demarcated polity, whose members feel in some way "that they are linked by reciprocity ties vis-à-vis common risks and similar needs" (Ferrera, 2005: 2). In the course of (European) historical evolution, national boundaries have proved the most effective instrument for creating and stabilising 'social sharing spaces'. By making social insurance compulsive for all citizens and confining social rights within the limits of a certain territory, European welfare states have also placed a considerable limitation on the mobility of labour and persons (Ferrera, 2005; Bartolini, 2005). This has raised the costs of emigration and attempted to shut out unwanted immigrants. "Nationals are 'locked in' to the system because of accumulated and non-exportable benefits. The latter increased the contentiousness of national politics on these issues, on the one hand, but also the sense of loyalty towards the national variant of the welfare state, on the other. Non-nationals, in fact, found it difficult to enter the membership spaces of insurance schemes because of contributive cumulating, transferability, etc. which were closely guarded by the regulative hands of each nation-state" (Bartolini, 2005: 107-108). It remains to be seen to which extent European welfare states will be able to find a balance between the logic of 'social closure' underpinning national solidarity and the logic of opening which typically inspires the European integration project as well as broader globalization processes (e.g. Ferrera, 2008).

Second, the welfare state has been crucial in structuring the temporal order or the 'life-course' of individual citizenship (Leisering and Leibfried, 1999; Von Maydell et al., 2006). As functional differentiation made society more complex and unpredictable, individuals increasingly have to plan their lives and take decisions in the long term. By assuring individuals that the essentials of life are guaranteed legally, social security has played a crucial role in building up modern citizens' capacity to cope with the complexity, transience and uncertainty of modern societies. The guaranteeing of a secure life span by the social insurance systems widens the temporal frame of action for the citizens, thereby integrating the life-course as a whole. Kohli (1987) argued that the expectation of a secure life span is directly linked to the emergence of a wage labour or 'work society'. Wage labour alone cannot cover the entire life course; there will always be gaps due to periods of incapacity to work. Hence, these gaps have to be filled by social security policies. By redistributing income over the life cycle in relation to people's needs, individuals can develop some trust towards the future.

More generally welfare policies structure the life course by recognizing and institutionalizing certain pathways and rejecting others (Meyer, 1986; Leisering, 2003). Modern welfare states have institutionalized certain normatively dominant pathways, often associated with a 'normal biography'. By imposing constraints and restricting the life-course development of individuals, the welfare state causes a so-called 'tri-partition of the life course': an early part devoted to education and training, a middle part devoted to work, and a final part devoted to retirement. Transitions between these stages are governed by rules, regulations and cultural norms (Kohli, 1995; Von Maydell et al., 2006: 85–86).

Admittedly, over the last decennia the life course has become more complicated and welfare policies have to adjust to this new situation. One of the important changes occurring is that the life course has become much more diverse and involves more than three stadia with the transition between the different stages becoming increasingly diffuse (Von Maydell et al., 2006: 86). In addition to the early education stage, we can, for example, distinguish a new second stage identified as 'young adulthood', in which young people are not yet established in a stable job or in a long-term relationship and have limited responsibilities for care. Although the different stages are roughly associated with certain age groups, the borders between the various stages have become increasingly blurred. Young people now often combine education with gainful employment, while older workers more often interrupt their employment for education. Some people interrupt their careers in order take up care for family members or to start another career, sometimes as self-employed workers or entrepreneurs. Thus, the life course has become increasingly flexible and is characterized by transitions of various kinds (Von Maydell et al., 2006: 87).

4. The crisis of steering and changing welfare state governance

The last issue already points to the growing complexity of the societal environment to which welfare policies are directed. In fact, since the 1970s an extensive body of literature has warned of severe problems with attempts by the state and the legal system to steer areas of the economy and society and efficiently grapple with welfare issues (Willke 1984; Teubner 1986; Luhmann 1997). While the idea of a 'crisis of steering' is supported by a wide range of different arguments, there are some common threads running through the literature, at least in terms of salient features of the problem (cf. Boswell, 2011: 13).

First, scholars have observed a problem of government 'overload', which is partly caused by the democratization and universalization of social policy, which we have discussed earlier. Authors such as Niklas Luhmann see a cycle of ever increasing societal expectations and political guarantees about social protection, which is caused by the inclusivist logic of the welfare state (Luhmann 1981). It is assumed that the establishment of comprehensive welfare policies has given the electorate the impression of a state with extensive capacities for solving social problems and guaranteeing individual welfare. In this way a process of rising expectations is put into operation by which every increase in state responsibility is followed by a growing demand for more. As soon as a social problem or some disadvantage in participatory opportunities is 'discovered' and identified, people appeal to state responsibility and demand remedying policy measures, a demand that gains plausibility the more that governments have previously acted on these problems (Mau, 2003: 8). Conservative authors such as O'Connor (1973) have famously related this cycle of ever rising public expectations to 'the fiscal crisis of the state', contending that ever increasing demands of social groups towards the state tend to exhaust fiscal capacities: "Every economic and social class and group wants government to spend more and more money on more things. But not one wants to pay new taxes or higher rates on old taxes" (1973, 1).This diagnosis suggests that the welfare state is at the mercy of public demands. This fear seems exaggerated, however, as governments are generally very selective in responding to new demands and have to feel severe pressure from a problem to undertake new public interventions, which mostly entail elaborate legislative procedures and draw on economic resources.

Second, it is acknowledged that the social environment and socio-economic problems which policies try to address have become increasingly complex, rendering traditional steering and control instruments ineffective. Policy intervention into or 'reform' of welfare issues is famously complex as it typically cuts across formally distinct but functionally interdependent policy areas or governance domains, each involving a multiplicity of public and private actors. In the last decennia, there has been growing awareness that the long-term success of, for instance, employment-friendly welfare programs depends on complementary shifts in the provision of supporting services for low-wage employees like child care, health care, transportation and training as well as tax credits. This obviously requires an 'integrated approach' which does not square easily with the typical 'control and command strategies' of law, or traditional forms of regulations backed up by hierarchical enforcement of sanctions (Scott 2002). Although the term 'welfare state' suggests a coherent system, the welfare sector has consequently become increasingly 'hybrid', coordinated by various institutional forms such as hierarchies, markets, professions or corporatism (Kaufmann, 1991). This implies more than simply supplanting public provision or regulation with private, market-based supply and/or regulation. Experience of both state and market failures is by now widespread, as well as the notion that the boundary itself between the public and the private is blurred (cf. Pierre, 2000). In recent years, for instance, "organisations of the political subsystem, especially of its bureaucratic subsystem, have undergone profound changes due to their adoption of the economic semantics of efficiency, market orientation and customization. This move from Bismarck to benchmark profoundly undermines the illusion of the state as a unity because public institutions more and more operate within a competitive context as they increasingly compete with other public institutions as well as with private organisations" (Kjaer, 2010: 67). Whether new forms of regulation through both economic incentives and competition, or information-based peer pressure and the social stigmatisation of non-compliance (e.g. the open method of coordination in the European context) can better achieve the policy goals set still remains to be seen.

A good explanations of the 'capacity problems' political, legal and economic systems are currently facing in relation to their ability to address societal problems, can be derived from modern systems theory. From this perspective, problems of steering are simply unavoidable in a functionally differentiated society. As each function system develops its own specific codes for making sense of itself and its environment, they can only read signals from their environments, including signals from the political system or the legal system concerning regulation, in their own terms (cf. Van Assche & Verschraegen, 2008; Boswell, 2011). As Christina Boswell puts it, there is consequently no "close fit between the intentions of regulation and outcomes" (Boswell, 2011: 15). Because of the incommensurability of system codes, there is a problem of 'communication', emanating from both regulating and regulated systems. "The systems of politics and especially law are both likely to operate according to a set of highly simplifying assumptions about the operation of cause and effect within the targeted system. They will tend to assume a form of linear causality, which belies the complexity of operations within the system (…) The translation of regulations is equally problematic from the point of view of the regulated system, which can only interpret the regulation in the communicative codes available within its system. It can only patchily grasp the purposive logic of the regulation from the point of view of the other system, and even more patchily transpose the requirements into the language of its own operations" (Boswell, 2011: 15-16). Even where the recipient system's reading of the signal approximates fairly closely to the intent of the regulating system, this does not imply a will to comply with the system's interpretation of the regulation, nor does it secure its intended effects of a measure, as the processing of regulation within the system will frequently produce new, unforeseen impacts.

A third and last thread in the literature on the crisis of societal steering concerns the changing territorial dimension of steering. Social policy measures and reforms are seen to become more difficult, because they typically cut across established divisions of labour between different levels of governance. This raises challenges to coordinate policy-making and implementation across different levels of governance – from the European over the national state to local or regional levels - when comprehensive blueprints can no longer be designed and imposed from the center or dominant level (e.g. Kazepov, 2010). This process triggers what Jessop calls 'growing scalar complexity': as new scales, organisations and temporalities emerge and gain institutional relevance, more efforts to link and coordinate them are put into operation, leading to further complexity, scales and temporalities, and new coordination efforts (Jessop, 2008).

In sum, over the last decennia welfare state governance has become increasingly complex and prone to failure. This 'governance failure' (Jessop, 1998) has as much to do with the changing global context, the complexity of steering attempts in a functionally differentiated society, as with the consequences of the success of welfare state governance (steering failure, paradoxically, being the consequence of steering success). "Existing systems of social support change the expectations and aspirations for the population, the systems develop their own dynamic, and they become more and more costly. They therefore need continuous coordination and steering attempt in order to carry out their tasks under changing circumstances" (Kaufmann, 2012: 11).

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