Practices of Dynamic Order

Nicolas Jabko and Adam Sheingate

In accounting for the endurance of dysfunctional institutions, scholars often highlight the importance of path dependence or incremental change. Yet this fails to capture the creativity that actors deploy to reproduce order, particularly in times of crisis. We propose the concept of dynamic order, rooted in pragmatist theory, as an alternative way to think about institutional durability. Powerful actors reproduce order through creative adjustments to rules and routines that channel action into predictable and controllable behavior. We illustrate this dynamic with examples from the European Union and the United States. In response to the crisis of the Eurozone, EU and state officials invented new procedures that strengthened European governance at the very moment many questioned whether the euro could survive. Likewise, in the United States, public officials responded to social movements and street protests against racism and police brutality by creatively channeling these grievances into judicial proceedings and procedures controlled by the state. By focusing on how elite actors regenerate order in times of crises, our analysis enhances the conceptual toolkit currently available to the scholars of institutions.

The political institutions of the United States and European Union are frequently diagnosed as dysfunctional. Their authority is challenged, their democratic legitimacy is questioned, and their popular appeal is at an all-time low. Yet despite this deep political malaise, U.S. and EU institutions endure. Many scholars do not find this very surprising as political structures display considerable inertia, or what Paul Pierson calls "the status quo bias of political institutions."[1] According to the standard account, institutions become "locked in" as they generate "increasing returns" that make changes prohibitively costly.[2] Multiple veto points and fragmented authority, both characteristic of U.S. and EU institutions, further entrench institutions by empowering blocking minorities and rendering any kind of reform especially difficult.

While the conventional wisdom usefully identifies certain drivers of institutional inertia, it also glosses over the practices that actors deploy to sustain political order. The challenges that the U.S. government and EU institutions currently face are highly destabilizing and not easily brushed aside. The concept of path dependence cannot entirely account for the durability of institutions given these deep contradictions and gaps in legitimacy. In contemporary life, order appears more fragile and its reproduction is less automatic than the standard institutionalist account suggests. What, then, holds this precarious authority together? We argue that institutional durability requires ongoing innovation amid persistent disruptions and crises in authority.

To better understand how agency sustains institutions, we explore *practices of dynamic order*, a concept we use to highlight the actions that preserve order during otherwise destabilizing crises. Of course, institutions are not recreated every day, yet maintaining order requires ongoing work.[3] Recent events in both the EU and the United States illustrate the enormous energy and creativity actors deploy to shore up institutions. This creativity was both "order-affirming" and "order-shattering", as innovations created new institutional configurations and relationships but in ways that affirmed and bolstered authority.[4] These practices of dynamic order resemble the Leopard in

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Lampedusa's novel, who observed that "[for] things to stay as they are, things will have to change."[5]

Our argument complements recent scholarship that emphasizes the dynamic characteristics of institutions. In the last decade, historical institutionalists have studied strategies of "layering," "displacement," "conversion," and "drift" that gradually transform institutions over time.[6] Likewise, rational choice scholars have pointed out that actors' beliefs can act as dynamic "quasi-paramaters" that ultimately undermine institutional equilibria leading to breakdown and change.[7] Despite important advances in the literature, efforts to delineate mechanisms of institutional stability and change nevertheless miss the ongoing, adaptive processes we wish to explore. Of particular interest to us is the way micro level adjustments by institutional elites produce and reproduce order at the macro level.

As a scholarly intervention, our focus on the practices of dynamic order addresses several concerns we have with extant institutionalist approaches. First, current approaches tend to underestimate the precariousness of institutions. As a result, institutional accounts, including those focused on change, miss the work required to reproduce order in moments of crisis. For example, the mechanisms of gradual institutional change identified by Thelen and Mahoney, even as they remedy the determinism of path dependence, remain conditional on structural features of institutions such as veto points and discretion in the enforcement of rules.[8] Although structures and rules are certainly a source of order and change, it is difficult to explain the pervasive disruptions in modern politics, or the dynamic responses to them, in primarily structural terms.

Second, we wish to question the standard dichotomy between structure and agency, and its corresponding association with stability and change. Despite their growing attention to institutional dynamics, institutionalist scholars continue mostly to associate agency with change and structure with stability. This continues a long tradition in political science that examines how policy entrepreneurs exploit windows of opportunity to promote change or engage in extraordinary policymaking in moments of crisis.[9] Again, our purpose here is different. Rather than focus on challengers and reformers, we wish to draw attention to the creative, order-sustaining action by defenders of the status quo. Furthermore, we suggest these order-preserving innovations are themselves an important source of institutional dynamism that standard approaches often miss. As they frantically strive to preserve the status quo, actors typically re-engineer order in complex ways.

Third, we offer a different understanding of the relationship between crises and institutional politics. In our view, crises are more pervasive than most institutionalists acknowledge. We understand crises as moments of disorder when problems outrun the institutional capacity of the political system to contain conflict. Although often precipitated by contingent occurrences, crises manifest underlying tensions in complex political orders characterized by a "tense layering" of institutions.[10] For example, the tensions inherent in a political order built upon institutional racism may periodically erupt into organized protest or even civil unrest. Similarly, economic arrangements that generate extreme inequality may lead to bankruptcies, loan defaults, and debt crises. In such moments, institutions reach their breaking points and the fragile foundations of order are revealed. However, crises do not always produce a "critical juncture", wherein institutional regimes are radically altered, or result in conditions of "chronic instability" when a failure to produce a new political settlement sparks ongoing crisis.[11] Instead, we observe institutional elites who stitch the status quo back together through innovations that affirm and reinforce the very order from which the crisis erupts. Again, these order-sustaining innovations are an underappreciated source of institutional dynamism.

In the next section, we outline a pragmatist account of order, paying particular attention to the interplay of habits, rules, and institutions as coping mechanisms in an uncertain world. Although we see our main contribution here as a conceptual one, we also offer a brief account of recent developments in the European Union and the United States to illustrate how crises provoke adaptive responses that tend to reproduce order. We conclude by suggesting that the concept of dynamic order opens up interesting lines of inquiry into the practical sources of authority, the relationship between discourse and practice, and the fragility of order in times of crisis.

Order, Action, and Change

We live in a world that is complex, chaotic, and frequently violent. At the same time, there exists a degree of macro-level stability and durable forms of authority and order. Since at least the nineteenth century, political order has been equated with the modern state, which Weber famously saw as the expression of "legal-rational authority". In the contemporary world, however, this source of order has become problematic. The social movements of the 1960s urged citizens to "question authority", and the economic restructuring that followed the global recession of the 1970s prompted a "legitimation crisis" of Western democracy.[12] A new "age of fracture" thus began around that time, fueled by multiple and conflicting challenges to authority that have resurfaced with a vengeance following the global financial crisis.[13] The recent populist backlash on both sides of the Atlantic is but one symptom of an increasingly fragile authority in contemporary political life.

In order to make better sense of these transformations, we propose an approach to order rooted in the philosophical tradition of pragmatism. In recent years,

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a number of political scientists have highlighted the emergence of "pragmatist democracy" and "experimentalist governance" that depart from the Weberian model of the state by diffusing authority more broadly and responding to rising demands for bottom-up democratic decision making.[14] Other scholars working in a pragmatist vein show how creative action that recombines disparate elements can generate new practices and patterns of authority.[15] We build on this earlier work, but direct our focus toward the dynamic character of macro-level order. Rather than focus on creative action as an avenue for weak actors to challenge authority, we want to stress that powerful actors also act creatively to reproduce macro-political order.

In exploring what we call practices of dynamic order, we hope to show that pragmatism has much to say about power and authority, thereby countering the views of some critics who argue that pragmatist scholars "frequently overstate the degrees of freedom that actors typically enjoy."[16] A focus on action is not equivalent to prioritizing agency over macro-structural constraints. In fact, pragmatism rejects the dichotomy between agency and structure. In a complex and uncertain world, the practices and habits of actors themselves produce and affirm order (or, in institutionalist language, "structure"). Put differently, individual and collective action ensures the production and reproduction of order. This point is overlooked in contemporary institutionalist scholarship, yet it was central to the work of "old" institutionalists such as Philip Selznick who were inspired by pragmatism.[17] According to Selznick, administrators constantly regenerate order and authority by creatively reaffirming organizational principles in ways that can adapt to changing circumstances.[18] Our point is that the "leadership" practices that Selznick identified at the organizational level are also evident at the macro-political level. The multiplicity of these practices means that we cannot hope to provide an exhaustive inventory, but we can identify four central characteristics of dynamic order that deserve to be highlighted. These are the fragility of social order, the role of habit as a source of institutional durability, the human capacity for experimentation and creative adjustment, and the relationship between discourse and practice. We elaborate each one in turn.

First, pragmatists stress that order is precarious. Order is not necessarily synonymous with stability. In fact, order coexists with uncertainty, fragility, and precariousness. As John Dewey puts it, "we live in a world which is an impressive and irresistible mixture of sufficiencies . . . order, [and] recurrences which make possible prediction and control, and singularities, ambiguities, uncertain possibilities, [and] processes going on to consequences as yet indeterminate."[19] From a pragmatist perspective, societies are not held together by self-reinforcing norms and institutions, but rather through the creative coping mechanisms individuals devise for an uncertain world. This view intersects with work in post-foundationalist political theory that argues that social and political orders emerge from contingent "assemblages" or "resonances".[20] In a similar vein, Samuel Chambers has written on "the social formation," a term that "denotes the complex form in which various elements that make up our lived human world are held together."[21] As Chambers explains, "an account of the social formation must address the questions of: how a social order is put together, what it must do to stay together, and how the work required to stay together transforms the very regime that it simultaneously maintains."[22]

Second, the coping mechanisms that actors develop become the building blocks of institutional order. Pragmatists like John Dewey and William James emphasized the importance of *habit* in daily life. For James, habit is an instinctive response or innate tendency to act in a certain way, a disposition. It is reflexive but not necessarily reflective: "habit diminishes the conscious attention with which our acts are performed."[23] Long before contemporary political scientists called attention to "informal institutions" that both underlie and sustain formal rules, pragmatists like Dewey and James saw habit as the crux of complex forms of social organization and order-preserving institutions.[24] As James put it, "habit is thus the enormous fly-wheel of society, its most precious conservative agent. It alone is what keeps us all within the bounds of ordinance, and saves the children of fortune from the envious uprisings of the poor."[25] Similarly, for Dewey, the stability afforded by institutions is a product of underlying habits. As Dewey explains, rules themselves "are active forces only as are banks which confine the flow of a stream, and are commands only in the sense in which banks command the current."[26] To extend Dewey's metaphor, we can think of habits as the underlying current guiding our actions. Rules, like the banks of a stream, reinforce certain habits so our behavior is "canalized within manageable limits."[27] At the same time, our habits inform how rules operate in practice, much as the stream exerts a force on its banks as it carves out twists and turns along its course.

Third, habits simultaneously serve as a bulwark of institutional durability and as a source of innovation and adaptation. As Dewey put it: "habit is an ability, an art, formed through past experience."[28] Both Dewey and James use the metaphor of the artist who has committed a repertoire to memory: through repetition, the artist knows which notes to play or words to speak without having, in Dewey's words, "to be consciously searched for at the moment and intentionally performed."[29] Habit is enabling, allowing us to act. Habits and their associated practices, which Bourdieu calls "habitus," are not static, but instead resemble "regulated improvisations."[30] The jazz soloist does not play any note she wishes; her phrasing conforms to a system of scales and chords. As Richard Shusterman explains, habits "can be non-mechanical,

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intelligent, and even creative without being reflective . . . they can be changed through changing conditions."[31] Habits, or habitus, are "durable, transposable dispositions . . . making possible the accomplishment of infinitely differentiated tasks."[32] Attention to habit as a creative skill that makes experimentation possible is a distinctive feature of neo-pragmatist scholarship on institutions. For example, Herrigel describes how actors constantly engage in the creative interpretation of rules, including the practice of ignoring or breaking certain rules.[33] As Berk and Galvan point out, it is through such practices of "creative recomposition" that actors maintain the integrity of institutions even as they contribute to a process of transformation and change.[34]

Fourth, creative practices of rule-making or rule-breaking must be communicated via a shared discourse. Neo-pragmatist scholars such as Rorty, as well as Wittgenstein and his followers, worked on language in ways that complement earlier pragmatist thought.[35] Discursive habits are an important medium through which political actors communicate their goals and construct political coalitions that buttress institutions. These discursive habits are more than post hoc justifications for action. In order to endure, institutions must make sense to people. If institutions cease to be meaningful, they can easily lose their legitimacy. Political scientists are of course aware of the importance of people's beliefs, for example in the form of "policy paradigms."[36] Yet from a pragmatist perspective, much of this scholarship adopts a rather static view of beliefs. As James wrote, "experience has a way of boiling over and making us correct our present formulas."[37] Language is critical to this ongoing process of adjustment. In contemporary politics, moreover, elites rely heavily on the discursive practice of propaganda or "spin", a practice that preserves authority amid changing conditions. In addition, political discourse has a "performative" quality as well.[38] When a political leader speaks, she acts. Discursive habits undergird dynamic order, aligning institutional practice with the changing realities of our experience.

These four features of dynamic order are visible at multiple levels of the polity, giving political authority a fractal quality in which similar patterns of adaptation and experimentation occur at progressively smaller scales of social organization. Modern forms of governance are best understood as complex adaptive systems rather than hierarchical structures. Elites operating at different scales of political aggregation—from local to national to supranational levels—share a common project of maintaining order and must act creatively to preserve that order in the face of recurrent crises. Of course, this is not a seamless process. As in any improvised performance, there can be false notes. Nevertheless, these improvisations have ripple effects through a complex system. Actors observe one another and, over time, adjust their own actions to each other in ways that reproduce order in a dynamic fashion. Habits of experimentation maintain order by enabling its creative recomposition.

In the next two sections, we explore this dynamic through a discussion of recent events in the European Union and the United States, two cases we believe to be particularly well suited to a pragmatist perspective. In analyzing EU and U.S. institutions, political scientists have debated how to categorize these polities, for example whether the EU is essentially intergovernmental or supranational, or whether the United States displays characteristics of a strong or weak state. A pragmatist perspective suggests that we set such definitional conundrums aside in order to ponder instead how political authority actually works. The state "is not a thing," John Commons argued, "it is a process" that governs the relationship between citizens and officials "in the control of peace and violence."[39] Commons and other pragmatists observed "a distinctly new kind of coercive power more diffuse, less visible, [yet] woven into the everyday substructure of modern social and economic organization."[40] This power rests on more than the coercive capacity of the state; it also stems from a kind of "practical authority", or the "customs, practices, [and] habits" that generate order through the everyday practices of "officials in action."[41]

In drawing our examples from the European Union and the United States, we also seek to demonstrate the precariousness of order in complex political systems where authority is diffused and complaints about the lack of accountability is a common refrain. The European Union has long suffered from criticisms of a "democratic deficit," a feature compounded in recent years by a financial crisis that underscored the political and economic challenges of the European project. Yet elites consistently turn to solutions that deepen their commitment to EU institutions. Similarly, in the case of the United States, police brutality toward African Americans and the rise of the Black Lives Matter movement in response are contemporary manifestations of long-standing and deep-seated conflicts over race. Episodes of civil unrest, such as in the 2015 uprising in Baltimore, illustrate the fragility of order in American cities and the way that local officials adapt established practices to maintain or restore an uneasy peace. Whereas the response to financial crisis in the European Union illustrates how a supranational order is reproduced in Brussels, the unrest in Baltimore illuminates a similar process operating at the local level. Regardless of scale, however, in both examples the micro-adjustments of elites sustain and support political order at the macro-level.

We do not contend that our examples cover the entire universe of practices of dynamic order, or that they enable us to finely predict the outcomes of systemic or episodic crises. Our claim is rather that a pragmatist approach offers crucial insights into both the precarious and persistent nature of order in ways other institutionalist accounts do not. It helps us to understand why seemingly

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weak institutions persist and how crises lead to a process of creative adjustment rather than an unraveling of authority.

How the European Union Copes with Crisis

The European Union recently experienced a crisis of the Eurozone, itself only one element of what European Commission President Jean-Claude Juncker has called Europe's "polycrisis".[42] In a sense, this crisis situation was the latest manifestation of the EU's chronic institutional disequilibrium and of its recurring democratic predicaments.[43] Yet the Eurozone crisis was in another sense the first "real crisis" of European integration, as it threatened for the first time a core EU institutional regime—its Economic and Monetary Union, built around the euro.[44] As Jürgen Habermas pointed out, it fostered "a more acute popular awareness of the problems besetting Europe," which in turn gained "greater existential significance than ever before."[45] As the fragility of EU institutions was revealed, many observers predicted the demise of the euro, if not the demise of the EU itself. In the end, however, the EU was able to salvage its Economic and Monetary Union and retain its institutional integrity. Although the UK has now decided to leave the European Union, this remains so far an isolated example—and it says more about British domestic politics than about the EU.[46]

In explaining elite responses to the Eurozone crisis, scholars have used the full panoply of institutionalist concepts. Some have highlighted the deep institutionalization of the Economic and Monetary Union, leading to the perpetuation of a flawed status quo. Early critiques often stressed EU policymakers' unwillingness to abandon "austerian" thinking or to live up to the European Union's promise of international "solidarity".[47] Such diagnoses fit with a historical institutionalist perspective on the EU, stressing "path dependence," "lock-in" phenomena, "sunk costs," and the "dead weight" of existing institutions.[48] Yet the EU's initial turn toward austerity also involved more than institutional path dependence. The Treaty's so-called no-bailout rule was not just a legal prohibition; it was a key principle that guarded sovereign member states against the hazards of sharing a currency with others. This principle, in turn, was fundamental to the legitimacy of the euro in a country like Germany. Citizens and politicians alike developed a habit of thinking about the Eurozone as a circumscribed union between financially responsible states. More than a preordained institutional response, the EU's turn toward austerity was in this sense a habitual response to excessive indebtedness. Germany and other creditor states initially refused to contemplate any massive interstate financial transfers—Chancellor Angela Merkel declared that "Eurobonds" would only be created "over my dead body".[49]

As the crisis unfolded, however, significant innovations emerged—and recent scholarship mobilized other institutionalist concepts to explain them. As Jones, Kelemen and Meunier have noted, the Eurozone crisis has opened "one of the most rapid periods of deepening of integration in EU history," in which intergovernmental decision-making often overrode the path-dependent logic of existing EU institutions.[50] Gocaj and Meunier argue that the spring of 2010 formed a "critical juncture" in the Eurozone crisis, during which governments made highly contingent institutional choices that "structured" subsequent institutional developments.[51] Verdun stresses the incrementalist logic of institutional innovation by highlighting examples where new institutions were "layered" over or "copied" from existing ones.[52] Although all these institutionalist readings of the crisis have their merits, they leave little room for agency—both in the exogenous irruption of the "critical juncture" and in the subsequent phase of "structured" institutional change. A pragmatist approach, by contrast, foregrounds agency as well as habits. As crises disrupt institutionalized habits, powerful actors must apply considerable efforts to preserve order. In times of crisis, the task of coping with adversity is paradoxically an opening for various forms of experimentation. Both reproduction and change take place at the same time—and, indeed, a key pragmatist insight is that there is no contradiction between the two phenomena.

Thus, crisis decision-making was not simply a matter of incremental institutional tinkering. The EU was unable to muddle through it by way of its normal decision-making processes, known as "community method". As Juncker recognized in his 2015 State of the Union speech: "Our European Union is not in a good state and there is not enough Europe in this Union . . . . While I am a strong defender of the Community method in normal times, I am not a purist in crisis times . . . . When we see the weaknesses of a method, we have to change our approach."[53] New institutions had to be established and existing rules—including the no-bailout rule—had to be adjusted to preserve the existing order. Because such changes ran against entrenched habits, there was no easy path to carry them out. EU leaders had to operate by trial and error in a perilous economic and political context. Actors who had the biggest stake in the EU political order—especially central EU political bodies, as well as the tandem formed by Germany and France as the "motor" of the EU—could not count on the institutional status quo to reproduce itself. They had to deploy new discourse and practices to cope with adversity, to entrench authority in novel ways, and to adapt the existing order so as to re-legitimate it.

This logic played out over time, as the crisis unfolded. In 2010, several peripheral states of the Eurozone suddenly found themselves deprived of normal access to financial markets. Yet the treaty's no-bailout rule prohibited the EU from extending financial assistance to these struggling member states. Until the fall of 2010, the

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member states habitually veered toward austerity, stating their commitment to "the objective of an improved crisis resolution framework and better budgetary discipline."[54] At the same time, they scrambled for limited emergency measures that would reassure the markets and thereby funnel private funds to the periphery. They established the European Financial Stability Fund, a corporate fund backed by state guarantees that had to raise capital to assist struggling countries. Yet that failed to convince investors, who worried that other states' guarantees were too limited. As the debt ratings of more EU states and banks were downgraded in 2010–2011, the crisis threated to engulf even the "core" of the EU. Paul Krugman then predicted that the Economic and Monetary Union would soon collapse.[55]

The subsequent turnaround can be traced back to the Deauville agreement between the embattled leaders of Germany and France in October 2010. In exchange for Nicolas Sarkozy's agreement to restructure existing debt, Angela Merkel accepted a permanent bailout mechanism. Ultimately, the French-German deal backfired and proved impossible to implement. It triggered a market stampede of bond investors fearful of debt restructuration unfavorable to lenders. Intense controversy eventually torpedoed most aspects of the deal. The Nordic states as well as many in Germany remained opposed to any bailouts, whereas the struggling EU member states could not accept the French-German idea of depriving them of their voting rights. Yet what mattered is that Sarkozy and Merkel showed their partners and market actors that they were prepared to look beyond habitual responses—especially on bailouts—and to engage in unprecedented institutional experimentation. Their proposal of a permanent bailout institution was ratified by EU leaders in December 2010. This opened a path to start defusing the crisis by signaling that the member states were serious about doing everything they could to save the euro.

Although recent institutionalist scholarship correctly identifies the new bailout funds as significant changes, it downplays the agency involved in such institutional innovation. EU leaders and their legal teams deployed considerable inventiveness. Governments first agreed to create the European Stability Mechanism outside the EU framework. This institutional form enabled them to act quickly and to temporarily circumvent the no-bailout rule. Article 122 of the EU Treaty was later amended to allow for a "stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any financial assistance under the mechanism shall be subject to strict conditionality." That amendment was itself adopted under the "simplified procedure" (article 48.6) for treaty revisions. This procedure, in turn, kept the process under elite control, avoiding popular referenda on Treaty changes. In effect, the Eurozone now authorized bailouts of indebted states if they entered into formal agreements with their creditors. Under this new conditional bailout regime, the EU prevented the suffocation of its struggling periphery. The creation of the ESM was also the harbinger of other policy and institutional innovations that EU leaders undertook in 2011–2012 to cope with the crisis—including "unconventional" liquidity financing by the European Central Bank, and the creation of a Banking Union to regulate banks at the EU level. The root causes of the crisis did not disappear, but the Eurozone was no longer in danger of imminent collapse.

Stepping back from the chronology, it is possible of course to highlight elements of institutional continuity and incrementalism. But the other side of the coin, as some scholars have pointed out, is the arguably "authoritarian" and "extra-legal" dimension of the EU's emergency measures, which continued well beyond the supposed "critical juncture" of spring 2010.[56] This in turn calls into question the applicability of mainstream institutionalist analysis. As we see it, the institutional evolution of the Eurozone combined elements of significant continuity and equally significant change. Although EU elites certainly wanted to authoritatively assert order, they generally doubled down on existing EU discourse and legal practices, rather than decisively moving away from them. Leaders generally coped with crisis by adopting drastic new measures designed to buttress the existing order. Consider for example this important declaration by European Central Bank president Mario Draghi, which changed market expectations and effectively defused the Eurozone crisis: "Within our mandate, the ECB is ready to do whatever it takes to preserve the euro. And believe me, it will be enough."[57] In the same sentence, Draghi expressed both a forceful commitment to innovative action ("whatever it takes") and a commitment to existing institutions ("within our mandate").

More generally, EU leaders' discursive and legal practices both affirmed order and reformed it. On the one hand, they rewarded the same kind of fiscal discipline as before. Barring exceptional circumstances, the no-bailout rule remains in effect. EU practices that affirmed order are especially apparent when we consider bottom-up challenges to the existing regime. The biggest challenge to Eurozone institutions arguably came from the election of a left-populist government in Greece in December 2015. In order to keep the bottom-up pressure of Greek voters from challenging the existing order, EU leaders compelled Greek Prime Minister Alexis Tsipras to accept the logic of EU conditionality as a sine qua non for its financial assistance.[58] Faced with the prospect of chaos if Greece was suddenly cut off from Eurozone funding, Tsipras fired his controversial finance minister Yanis Varoufakis and renewed Greece's commitment to the Eurozone and to its prescriptions of fiscal retrenchment.

On the other hand, the new institutional mechanisms introduced considerable flexibility and significant

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innovations. The European Stability Mechanism, the Banking Union, or the new policies of the ECB all broke a taboo by enabling EU operations of indirect fiscal assistance to indebted states, often described as "Eurobonds through the backdoor."[59] Power relations within the Eurozone thus evolved considerably, despite the appearance of institutional inertia. Players at the top table, including Germany, had to take into account the reality that power relations are emergent, not fixed. Given that they wanted to preserve the euro, they had to adjust the rules of collective discipline so as to prevent disorderly sovereign default and bank runs, and to provide unprecedented volumes of multilateral assistance and credit guarantees. Although the no-bailout rule remains in effect, it has been fundamentally reinterpreted to allow conditional bailouts as a "last resort" to defend the integrity of the Eurozone.

Elite actors could not have achieved such innovation without developing a discourse that enabled their institutional experimentation. Against the rising chorus of voices that called for ending the euro, they proposed "more Europe" as a generic remedy. In September 2011, Angela Merkel declared to the German Parliament that "we need more Europe . . . . If the euro fails, Europe fails."[60] This became a mantra in Merkel's discourse. "More Europe," alongside the repertoire of "EU governance," was an increasingly prominent trope in the discourse of EU leaders. A report drafted by European Council President Herman Van Rompuy in consultation with France and Germany argued for "a fundamental shift in European economic governance."[61] Appeals for "more Europe" were a way for key actors to articulate what they were doing to themselves and to their constituencies, as well as of asserting a claim of control over crises that threatened to get out of hand. They did not reflect deeply held federalist beliefs, but first and foremost a set of evolving practices that elite actors tested out. Through discourse, leaders communicated a need for change to keep beleaguered institutions meaningful and to maintain order.

Ultimately, the impression of EU institutional inertia and incremental change is quite misleading. The task of maintaining order in the face of crisis was, in a sense, herculean. In principle, any major reform of EU treaties had to be approved by all member states of the Union. Veto points were present virtually everywhere, and populist reactions could easily wreak chaos. In such situations, conventional institutionalist scholarship would predict minimal or extremely gradual institutional change. Yet such incremental change would not have been sufficient to cope with the Eurozone crisis. Instead, EU leaders experimented with new practices and significant innovations at an often dramatic pace, peddled them to various constituencies, and eventually defused immediate challenges to the EU order. In so doing, they preserved but also re-engineered existing institutions.

The Crisis of the American State

Like the European Union, the United States prompts interesting questions about the nature of political order. Looked at one way, the durability of American institutions is puzzling. Governing authority is widely diffused and power is devolved to a myriad of local actors. There is a deep-seated skepticism, if not outright hostility, toward government in the United States, a feature of American political culture compounded in recent years by a depleted reservoir of public trust. Working-class Americans increasingly see the actions of government bent toward the interests of a privileged few, fueling populist resentment.[62] For many non-whites, and for many African Americans in particular, direct experience with public authority is frequently through the criminal justice system and a program of mass incarceration that curtails the formal political and civil rights of the many millions in prison, on probation, or on parole.[63] These features produce an American state riddled with contradictions. As Stephen Skowronek summarizes, "the American state appears . . . to be increasingly egalitarian while still managing to be stubbornly hierarchical; it is increasingly inclusive but still stubbornly selective."[64] One wonders how these contradictions can co-exist, or "whether any organization of power designed to operate at cross-purposes can long survive."[65]

Looked at another way, however, political authority in the United States rests upon a diffuse but extensive web of practices that maintain order across multiple levels of the polity. At the local level, order rests on the practical authority of public officials whose actions decide what is allowed, when, and by whom.[66] Historically, the exercise of this authority reinforced a racialized conception of society that relies on state-sanctioned and sometimes violent acts of racial subordination.[67] Whether as fugitive slave laws, Jim Crow segregation, or mass incarceration, this racial dimension of state power is evident in the actions of local officials who control the movement and behavior of black and brown individuals, often in the name of preserving "law and order." From the decisions of a police officer to pull over an African-American driver to the judgements of a case worker who decides whether the poor qualify for cash assistance, order is generated through these micro-level practices of "officials in action".[68]

In other words, practical authority must be understood within a broader context of American racial politics. As Desmond King and Rogers Smith observe, there is a Janus-faced character of the American state as policies of white supremacy exist alongside programs of transformative egalitarianism.[69] This tension reflects competing visions of society expressed through "racial concepts, commitments, and aims," or what King and Smith refer to as "racial orders" that structure politics and institutions in

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different ways and at different times.[70] Over the course of American history, Constitutional protections of chattel slavery gave way to Constitutional proscriptions against it; Emancipation and Reconstruction ended in the formal disenfranchisement of African Americans; statutory forms of discrimination were undone by legal protections of voting rights and court-enforced desegregation; today, partisan gerrymandering and voter ID laws create new obstacles to African American voting amid a resurgent white supremacy.

The persistence of racial subordination, its capacity to morph into new forms, and the ongoing struggle for racial justice illuminates key aspects of dynamic order. Tensions between competing racial orders produce episodic crises that can result in new social movements and novel expressions of mass politics. These same crises also prompt transformative, order-preserving responses by elites that enable the co-evolution of racial orders to continue. Take, for example, Ira Katznelson's account of the New Deal in *Fear Itself*. As Katznelson reminds us, the 1930s was a moment of profound economic and political uncertainty as communism and fascism emerged as potential rivals to capitalism and democracy. Franklin Roosevelt's pragmatic response to the economic and political crisis of the 1930s is well known. However, as Katznelson points out, this bold experimentation required an accommodation with Southern Democrats anxious to preserve and protect white supremacy from the egalitarian impulses of the New Deal.[71] The result was the construction of a social welfare system that enshrined racial hierarchy and preserved local control over policy implementation in ways that harmed African Americans.[72] The crisis of the 1930s laid bare the racial tensions at the heart of American liberalism, yet the creative adjustment it spawned in the New Deal bequeathed new sources of inequality still evident today.

We see similar dynamics in contemporary struggles over policing in the United States. The issue of policing, and especially concern about the excessive use of force leading to the death of African Americans at the hands of the police, partly reflects national trends in mass incarceration and the punitive turn in crime policies. However, policing and its effects on particular communities is very much rooted in local conditions and practices. As Epp, Maynard-Moody, and Haider-Markel point out in their study of investigatory police stops, the disproportionate targeting of African-Americans constitutes an "institutionalized practice" or what they describe as "norms, rules, and procedures expressed in the shared practices of individual officials and employees."[73] These practices "reproduce negative racial stereotypes" that reinforce and replicate racial inequality in the United States.[74] Working from an explicitly pragmatist perspective on race, Eddie Glaude describes these practices as expressions of "racial habits" that reproduce a "value gap" in the worth accorded to black and white lives, dispositions that have a distorting effect on American democracy.[75] The practices of the police, the larger criminal justice system of which they are a part, and the expansion of that system through civil pathways to prison (e.g., non-payment of legal fees) weigh heavily on the lived experiences of African-Americans, contributing to a sense that government in general is arbitrary, unfair, and unresponsive.[76] This arbitrariness contributes to the fragility of order in poor communities of color already suffering from the precariousness and uncertainty that accompany deep poverty and chronic violence.[77]

In recent years, social unrest in several American cities illustrates the frailty of order and the practical authority of the police. Instances of police brutality have initiated cascades of events that give voice to long-standing grievances, resulting in collective action and on occasion crowd violence. Events in Baltimore in 2015 after the death of Freddie Gray at the hands of the Baltimore City Police illustrate this fragility and the dynamic restoration of order that followed. On April 12 2015, Gray suffered fatal injuries while in police custody that left him in a coma, his spinal cord almost completely severed. On April 18, with Gray in critical condition, the first protests began outside the police headquarters where he was taken after his arrest. On April 19, Gray died from his injuries, sparking more protests at City Hall and Police Headquarters. A number of religious, civil rights, and student organizations participated in the rallies, including groups from outside Baltimore, linking Gray's death to the growing Black Lives Matter movement. Protests remained peaceful until April 25 when several minor incidents of property damage occurred during a large march through downtown Baltimore. On April 27, the day of Freddie Gray's funeral and with tensions running high, Baltimore City Police sent a large contingent of officers to a transportation hub in West Baltimore where many city students travel to and from school. Fearing organized violence (supposedly rumored on social media), police blocked off the area, prompting confrontations with students. The unrest continued throughout the remainder of the day and into the evening as local television broadcast video of clashes with police, looting, and large fires burning in several parts of the city.[78]

Of particular interest for our purposes, the unrest of April 2015 initiated a sequence of state responses that restored order in a matter of days, beginning with the declaration of a state of emergency, the imposition of a curfew, and the deployment of the National Guard on the streets of Baltimore. However, reconstituting order required more than the coercive powers of the state. In fact, the events in Baltimore exposed the limitations of the state to maintain order. As the unrest initially spread, city officials were reluctant to call in the National Guard, fearful that it would escalate tensions and possibly lead to

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loss of life. Even after the Guard were called in and a state of emergency declared, officials remained uncertain about whether city residents would abide by a curfew or violate it, either as an act of civil disobedience or for more opportunistic reasons.[79] Ultimately, the reconstitution of order relied on a series of creative responses by city officials as well as other actors who successfully channeled grievances that had produced violence and redirected them into behaviors more easily controlled by the state. This creativity illustrates the importance of habit as a source of stability, the order-preserving role of experimentation in times of crisis, and the critical interplay between discourse and practice.

Crucially, city officials insisted that justice—whether it was for Freddie Gray or other victims of police brutality—could be achieved only using established legal procedures. As Baltimore Mayor Stephanie Rawlings-Blake stated on April 29, "the investigation has to follow procedures . . . In order for us to have justice, and not just seek justice, we have to protect this process."[80] Rawlings-Blake was referring to the official investigation into how Gray sustained the injuries that led to his death. On May 1, the State's Attorney for Baltimore, Marilyn Mosby, announced that her office had finished its investigation and filed criminal charges, ranging from false imprisonment to second degree-murder, against the six police officers. Standing on the steps of City Hall, Mosby stated, "I heard your calls of 'no justice, no peace'. Your peace is sincerely needed as I work to deliver justice."[81] Occurring at the moment when the state's legitimacy was most in doubt, the indictment of the six police officers had a dramatic effect on the city as violent clashes with police turned into peaceful protests and celebrations following Mosby's announcement. Ironically, the reconstitution of authority in Baltimore succeeded by turning the coercive powers of the state against itself while, at the same time, upending the rallying cry of "no justice, no peace" to insist that without peace there would be no justice. Within the span of a single week, order was restored and an urban uprising became a street party.

Mosby's innovation was more than rhetorical, however. Peace through justice in this instance also required novel forms of legal reasoning to fit the particular circumstances of the case. Criminal prosecutions of police are notoriously difficult and prosecutors are generally reluctant to charge police because the law grants officers wide latitude in the use of force. In *Graham v. Connor*, the Supreme Court decided that determining whether excessive or lethal force was warranted must be judged "from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight."[82] According to data collected by the *Washington Post*, nearly one thousand people are shot and killed by police annually, with the vast majority determined to be reasonable use of lethal force.[83] Of the many thousands killed, eighty officers have been arrested for murder or manslaughter since 2006, resulting in only twenty-eight convictions.[84] The death of Freddie Gray posed an especially difficult challenge for prosecutors because Gray sustained his injuries, not from gunshot, but while in the back of a police van and with no eye witnesses. Legal analysts were surprised by both the content and the timing of the charges. Several commentators noted (some of them critically) that the speculative legal reasoning of the State's Attorney was driven more by a desire to restore a sense of calm in the city than to establish a sound legal basis for a case that could win in court.[85] Some of these concerns were borne out when the trials of three officers ended in acquittal, prompting the State's Attorney to drop the charges on the remaining three officers.[86] From a pragmatist perspective, questioning the motives or methods of the State's Attorney misses the point: facing a moment of deep uncertainty, "officials in action" acted creatively, extending the meaning of the criminal code to the actions of police officers in an effort to stitch order back together.

Events in Baltimore also illustrate the relation between discourse and practice in the restoration of order. During the unrest, pastors of prominent African American churches echoed the Mayor and State's Attorney in calling for a return to peaceful protest so that the legal process could unfold. In the words of Reverend Frank Reid of the Bethel AME Church, "We come in the spirit of Martin Luther King and Mahatma Gandhi, saying let us protest, but let it be non-violent protest . . . we are here today to stand again with our mayor for justice."[87] It should be emphasized that some of these acts took great courage: at the height of the unrest, a group of clergy, women, and men marched arm-in-arm between a phalanx of police in riot gear and a large crowd of people throwing rocks and bottles.

However, it is also important to recognize that marching as a practice carries special resonance within the African-American community due to its role in the Civil Rights Movement. In the words of Eddie Glaude, "Jim Crow ordered public space so as to reflect prevailing racial norms . . . In such a context, organized marching constituted a subversive act: it directly challenged the prevailing laws and norms of southern communities."[88] For Glaude, marching has become a habitual response "to the varied problems of African Americans" that no longer holds the radical potential it once did.[89] Extending Glaude's insights, marching in Baltimore was an order-affirming practice, turning a maze of streets and alleys that just days earlier had proven ungovernable back into an orderly grid that could channel and contain a peaceful demonstration.

Finally, the death of Freddie Gray and the Baltimore Uprising led to another kind of order: the assertion of federal authority over local law enforcement. In May 2015, at the behest of Mayor Rawlings-Blake, the U.S.

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Department of Justice initiated a civil rights probe into the Baltimore Police Department to investigate broader patterns of abuse in officers' dealings with the community.[90] Fifteen months later, in August 2016, the Department of Justice issued a scathing report, finding that the Baltimore Police Department "engages in a pattern or practice of conduct that violates the United States Constitution."[91] This included unlawful stops and searches and the excessive use of force that disproportionately impacted African-Americans. The Justice Department's report, in turn, led to the court approval in 2017 of a consent decree that enhanced federal oversight, required mandatory trainings of officers, and outlined other reforms to the Baltimore Police Department.[92] Baltimore is one of thirteen cities to enter into a consent decree with the Department of Justice since 2012, including Ferguson, Missouri, where the police killing of an eighteen-year-old African American man also sparked civil unrest, followed by a federal probe.[93] Developments in Ferguson, Baltimore, and other cities suggest that crises of authority in local law enforcement create opportunities to strengthen and centralize the coercive powers of the state, a pattern repeated in the U.S. criminal justice system since the mid-twentieth century.[94]

The growing movement against police violence reveals the fragility of order in places like Baltimore. However, the unrest that followed the death of Freddie Gray also illuminates the creative practices of elites to redirect grievances against the state into procedures controlled by the state. Just as city streets contain an amorphous crowd into the procession of an orderly march, the legal system channels the anger and frustration expressed over police violence and directs it towards a prolonged, technical sequence of legal procedures. In Baltimore and many other cities, these habits of protest and process sustain order in uncertain times.

Order and Power

The practices of dynamic order reveal how creative action is often deployed for the purpose of sustaining authority rather than challenging it. We have argued that such practices manifest how order and power can be understood within a pragmatist framework. In doing so, we contribute to a pragmatist research agenda that appreciates how "order exists because people act creatively to make it, maintain it, shore it up, and keep it relevant to changing contexts and conditions."[95] To date, however, this literature has emphasized "a subaltern point of view" in its approach to political dynamism.[96] For example, Berk and Galvan use changes to the FDA approval process for new AIDS treatments and the emergence of powerful Sufi Muslim brotherhoods in colonial Senegal to illustrate the transformative capacity of creative action from below.[97] We do not dispute the central claims in these examples. Rather, we wish to point out that both cases also illustrate dynamic order. Although the FDA relented to activists by accelerating access to experimental treatments, ultimately these groups became stakeholders in a formal process that bolstered FDA authority. Likewise, in Senegal, Sufi clerics who had once been a rival power in the countryside became corporatist partners in the production of cash crops, thus bolstering France's larger colonial project. In sum, powerful actors channeled contestation into established procedural grooves, preserving their authority while incorporating new political claims.

Our own cases illustrate similar practices of dynamic order. In the Eurozone crisis, EU officials and state actors in the core EU member states channeled the actions of reticent market actors and struggling states back into the EU's procedural framework. This legal inventiveness in reaction to the crisis confounded many observers who believed the EU's treaty architecture and especially the prohibition of bailouts precluded adjustment. The Eurozone avoided collapse, but the creative response was bounded nevertheless; actors could not start from an institutional blank slate. Instead, existing procedures were amended and enhanced so as to project an impression of institutional continuity. Similarly, in the United States, at the very moment the social fabric appeared to be unraveling in Baltimore, legal inventiveness by the State's Attorney who issued the indictments against the police contributed to the restoration of order. And like the FDA example above, the eventual promulgation of a consent decree in Baltimore gave voice to activists and other critics of police brutality, but through a process that affirmed and strengthened the power of the federal government.

Such a focus on how elites reproduce and regenerate order offers analytical leverage on important political phenomena in ways that existing institutional approaches do not. One could argue that the Eurozone crisis as well as the unrest in Baltimore had limited effects, illustrating the inertia of entrenched institutions. However, a perspective rooted in path dependence actually overlooks an important source of institutional durability: the capacity of elites to reinterpret crises in ways that affirm the legitimacy of existing institutions. In the cases we examined, crises failed to produce critical junctures, not because of "deep equilibria" that sustained a self-reinforcing dynamic of reproduction, but rather because elites made a series of creative moves that bolstered the authority of the institutions as a solution to the very crises they precipitated.[98] Adjustments in rules and procedures became crucial bulwarks to order. Although some of these innovations were short-lived, they nevertheless restored the routine functioning of institutions in a time of crisis. Contrary to theories of path dependence, the plasticity of institutions in these moments was a key source of their durability rather than their undoing.

Our view of dynamic order also differs from theories of gradual institutional change. Although we agree that

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agency is an inherent feature of politics, we think a focus on change agents who exploit the "soft spots" in existing rules overlooks an important aspect of how institutions evolve. In Mahoney and Thelen's work, for example, defenders of the status quo typically operate as veto players "who have access to institutional or extrainstitutional means of blocking change"—except when they use strategies that "violate the letter of the rule to support and sustain its spirit" in ways that "contribute to the robustness of institutions."[99] Our own cases illustrate how efforts to preserve order extend beyond veto points or selective rule following to include a wider array of creative gambits that contribute to institutional change. In response to the Eurozone crisis, EU elites authorized bailouts under strict conditions and thus strengthened the Eurozone's institutional framework. In the case of the Baltimore uprising, elite responses to a crisis of authority precipitated by police violence affirmed the role of legal procedures and federal law enforcement. What matters is not only whether these innovations complied with a set of formal rules—though in large measure they did. More importantly, they reflected the work of actors who, in the midst of crisis, devised and deployed novel practices within an existing system of rules and procedures. This creativity, from a pragmatist perspective, illustrates how a habit of skillful improvisation is crucial to the preservation of order.

A focus on dynamic order, rooted in pragmatism, enhances the conceptual toolkit currently available to scholars of institutions. Moving forward, we see several avenues of future work where attention to dynamic order deserves further investigation. First, we should heed the pragmatist lesson that political authority resides in the practices of "officials in action" as opposed to formal law. This focus on practice trains the eye on what actors do and how they do it, and it can address important questions such as the role of informal institutions as a source of democratic stability.[100] From a pragmatist perspective, democratic norms are not free-floating beliefs in the rule of law or freedom of the press, but exist through the everyday practices of actors at work. By extension, an erosion of democratic norms describes a condition whereby actors gradually become habituated to practices that run contrary to democratic principles. Rather than debate whether formal or informal institutions do the work of regime stability, our concept of dynamic order suggests that scholars concerned about the erosion of democratic norms should focus their attention on practices themselves and the degree to which actions set precedents that routinize anti-democratic behaviors.

A focus on dynamic order as a source of regime stability can also help escape a theoretical cul-de-sac concerning the relationship between discourse and practice. Pragmatists teach us that the durability of institutions largely relies on the plasticity of habit. This plasticity, in turn, illustrates how discourse and practice are two sides of the same coin. Take the example of a rule, the *sine qua non* of institutions. Rules (both written and unwritten) communicate through language the permissible scope of action. When events overflow the prescriptions of rules, we again resort to language to describe and defend adaptations of existing rules. In other words, the plasticity of habit enables actors to adjust discourse and practice together in ways that respond to new circumstances. In our EU and U.S. examples, institutional elites facing crises of authority responded with a combination of novel practices and justifications of their actions in order-preserving terms. Similarly, we encourage other scholars to consider the important interplay between discourse and practice in politics. Just as some scholars see the divide between ideas and institutions as a false dichotomy, we argue that discourse and practice exist separately only as analytical constructs and that language itself is a form of action that breathes life into institutions.[101] Returning to the example of democratic stability, the degree to which anti-democratic practices spread or remain contained will partly depend on whether various actors normalize these behaviors or publicly rebuke them. Thus, our understanding of dynamic order points to the importance of language in democratic politics, particularly in times of crisis.

This points to a third avenue of study: the problem of authority and the fragility of order. Both the United States and the European Union are complex, nested institutions. Practices of dynamic order may play an especially important role in holding such polities together. Yet our hope is to spur additional research into dynamic order across various spatial and temporal contexts. Do practices of dynamic order look different where elites face fewer constraints when deploying the coercive powers of the state? As Daniel Slater shows, even elites in weakly consolidated democracies rely on preservation strategies other than outright repression.[102] Our concept of dynamic order may help to identify the practices holding these regimes together, as well as the actions of elites in instances where regimes fall apart. Indeed, the rise of populism and the deepening polarization evident across the United States and Europe remind us of the fragility of established democracies as well. The mixture of the "stable and precarious" is a key insight of pragmatism, and one reason why the works of Dewey and others resonate with us today.[103] Pragmatism provides a social theory attuned to the dynamic features of political authority, one that recognizes how macro-level order rests upon micro-level practices. Governing arrangements, in this view, are not immutable. Rather, their durability resides in the adaptive capacity of actors whose work animates the institutions they inhabit. As public support for these institutions declines and crises of political authority mount, practices of dynamic order are likely to become increasingly

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apparent, as will the consequences of actions that fail to keep centrifugal forces at bay.

Notes

1 Pierson 2000, 262.
2 North 1990, 95; Pierson 2000.
3 Lawrence, Suddaby, and Leca 2009.
4 Skowronek 1997.
5 Lampedusa 2008, 28.
6 Streeck and Thelen 2005; Mahoney and Thelen 2010.
7 Greif and Laitin 2004.
8 Mahoney and Thelen 2010; Berk and Galvan 2015.
9 Kingdon 1984; Keeler 1993.
10 Orren and Skowronek 2004; Schickler 2001.
11 Collier and Collier 1991; Capoccia and Kelemen 2007; Bernhard 2015.
12 Crozier, Huntington, and Watanuki 1975; Habermas 1975.
13 Rodgers 2011.
14 Ansell 2011; Sabel and Zeitlin 2010.
15 Berk and Galvan 2013.
16 Thelen 2010, 52.
17 Ansell, Boin, and Farjoun 2015.
18 Selznick 1957.
19 Dewey 1929, 47.
20 Connolly 2008.
21 Chambers 2014, 11.
22 Ibid., 12.
23 James 1950, 114.
24 On informal institutions see Helmke and Levitsky 2006.
25 James 1950, 121.
26 Dewey 1981, 269.
27 Ibid., 270.
28 Dewey 1922, 66.
29 Ibid., 71.
30 Bourdieu 1977, 20.
31 Shusterman 1999, 20.
32 Bourdieu quoted in Pouliot 2008, 272.
33 Herrigel 2008.
34 Berk and Galvan 2015.
35 According to Shusterman 1999 and Bernstein 2010, Wittgenstein drew influence from James and there is a close affinity between the American pragmatists and European social thinkers influenced by Wittgenstein.
36 Hall 1993.
37 James 1979, 14.
38 Austin 1962.
39 Commons 1995, 150.
40 Novak 2008: 704.
41 On practical authority, see Abers and Keck 2013; Commons 1995 147, 366.
42 Juncker 2016.
43 Nicolaidis and Howse 2001; Follesdal and Hix 2006.
44 Parsons and Matthijs 2015.
45 Habermas 2012, x.
46 Menon and Salter 2016.
47 On "austerian" thinkng see Blyth 2013. On solidarity see Hall 2013.
48 Pierson 1996.
49 *Spiegel Online* 2012.
50 Jones, Kelemen, and Meunier 2016.
51 Gocaj and Meunier 2013.
52 Verdun 2015.
53 Juncker 2015.
54 European Council 2010a.
55 Krugman 2011.
56 Kreuder-Sonnen 2016.
57 Draghi 2012.
58 Euro Summit 2015.
59 Brunnermeier, James, and Landau 2016, 114.
60 Merkel 2011.
61 European Council 2010b, 1.
62 Cramer 2016.
63 Gottschalk 2014; Lerman and Weaver 2014.
64 Skowronek 2009, 332.
65 Ibid.
66 Novak 1996; Skowronek 1982.
67 Gerstle 2009.
68 Epp, Maynard-Moody, and Haider-Markel 2014; Soss, Fording, and Schram 2011.
69 King and Smith 2005.
70 Ibid., 75.
71 Katznelson 2013.
72 Lieberman 1998; Weir 2005.
73 Epp, Maynard-Moody, and Haider-Markel 2014, 12.
74 Ibid.
75 Glaude 2016.
76 Gottschalk 2014; Beckett and Murakawa 2012; Lerman and Weaver 2014.
77 Edin and Shaefer 2016; Goffman 2014.
78 *Baltimore Sun* n.d.a.
79 Broadwater 2015.
80 Fenton, Wenger, and Campbell 2015.
81 Stolberg and Blinder 2015.
82 U.S. Supreme Court 1989.
83 *Washington Post* n.d.
84 Stinson 2017.
85 Bowie and Dresser 2015.
86 Rector 2016.
87 *Baltimore Sun* n.d.b.
88 Glaude 2008, 137.
89 Ibid.
90 Eligon and Williams 2015.
91 U.S. Department of Justice 2016.
92 Victor 2017.
93 U.S. Department of Justice n.d.
94 Murakawa 2014.

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95 Berk, Galvan, and Hattam 2013, 286.
96 Onoma 2013, 133.
97 Berk and Galvan 2013.
98 Pierson 2004, 157-159.
99 Mahoney and Thelen 2010, 19, 24–25
100 Helmke and Levitsky 2006; Azari and Smith 2012.
101 Smith 2014; Blyth, Helgadóttir, and Kring 2016.
102 Slater 2013.
103 Livingston 2017.

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