Divided we stand: How contestation can facilitate institutionalization[1]

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ABSTRACT

Existing literature on institutionalization highlights that regulatory institutions emerge from resolving disputes, paying little attention to the key behavioral aspect of disputes: contestation. In this paper, I aim to advance the literature by developing a model of contestation-based institutionalization; contestation facilitates the adoption of new regulative institutions, laws. Drawing on socio-legal and network perspectives on the way people argue in a dispute, I focus on *a behavioral code of contestation*—the shared understanding and expectation about how to argue rather than what to argue. Contestation makes it easier for lawmakers to adopt a new regulatory institution when the lawmakers argue in conformity with the code. Network and event history analyses of animal lawsuits and laws in the United States from 1865 to 2010 confirm this model. This paper highlights the value of looking into the behavioral dimension of disputes and advances our understanding of institutionalization without emphasizing dispute resolution.

Keywords

Behavioral code, contestation, institutionalization, regulatory institutions

INTRODUCTION

> [The inclusion rider] is going to cover all of our television, film, video game and digital productions. We believe that this is what audiences want. It's the right thing to do. And ultimately, it's just good business.

- Former chairman and CEO of Warner Bros. Entertainment,

Kevin Tsujihara (Del Barco, 2018)

In September 2018, Warner Brothers announced a new corporate-wide policy: the inclusion rider, a policy commitment to diversify the workforce both behind and in front of the camera with respect to gender, race, ethnicity, sexual orientation, and disability. Still, inclusion remains a highly conflicted issue as it imbricates with other issues, such as consumer demands, meritocracy, and profitability. Some audiences rail against replacing fan-favorite male characters with women simply for the sake of inclusion. Critics argue that barring well-qualified cisgender/straight actors from playing transgender/gay roles would be unfair. To cast unknown actors is risky, investors stress, although these actors reflect the precise ethnicity of their characters. It is questionable whether the adoption of this inclusion policy is based on the end of disputes over inclusion or a community-level understanding of to what extent women and minorities should be included. However, when Warner Brothers announced the policy, it did so in relation to other issues people talk about, namely, pleasing audiences, upholding certain values, and turning a profit: "[T]his is what audiences want. It's the right thing to do. And ultimately, it's just good business."

Existing literature has long considered the adoption of a new regulatory institution, such as a law or a policy, the institutionalization of the way in which we behave. Whether it is the introduction of a new policy by a large corporation, such as Warner Brothers' inclusion policy, or Congress' passage of a new bill, the adoption of a regulatory institution represents the "social process by which individuals come to accept a shared definition of social reality" that enacts the institution (Scott, 1987, p. 496).

Because institutions are based on the shared (definition of) reality or ―mutual understanding of each other's definitions of situations and the state of things" (Berger and Luckmann, 1964, p. 150), they carry ―normative expectations that guide one's behavior" (Barley, 2008, p. 496), reinforcing the shared reality. For example, a shared reality that women and minorities are under-represented in show business underpins an inclusion policy. Its spread will then create an expectation that major studios ought to hire more women and minorities and will lead people to expect to see more of them in films and television. As a result, casting diverse members of society will likely persist, and such a way of doing business will become institutionalized rather than a fad (Purdy and Gray, 2009, p. 376). The lack of a shared reality thus complicates the very existence of an institution and hinders the process of institutionalization.

The literature highlights institutionalization as a process of resolving disputes and forging a shared reality. When people do not share the same reality, they often conflict with one another. Frequent disputes in turn reinforce the belief that there is no shared reality. Accordingly, individuals who want to introduce new regulatory institutions purposely settle disputes. Conflict resolution, including compromise, negotiation, and truce, shapes institutions in a unified way (Fiss and Hirsch, 2005; Guérard et al., 2013; Kuttner, 1997; Murray, 2010), promoting the adoption of institutions and the sharing of the same reality (DiMaggio, 1991). However, conflict resolution may be hard-won, and compromise can create a fragile truce. Although disputes are much more common than resolution by mutual concession, the literature has considered disputes something to be resolved. As a result, it has paid little attention to contestation, which is the key behavioral aspect of every dispute, and how institutionalization occurs when disputes continue. The current understanding of

institutionalization therefore prompts the following questions. *Does contestation enable us to share the same reality, and if so, how? Does institutionalization make it easier for us to keep arguing rather than to seek a compromise, and if so, how? Under what conditions does contestation facilitate the adoption of regulatory institutions, and what are implications for understanding post-adoption variation?*

In answering these questions, this study advances our understanding of institutionalization. As a working definition, I refer to institutionalization in two ways: (1) as a process whereby behaviors are (re)produced in social interaction through shared typifications of how individuals do things (Barley, 2008, p. 496-497) and (2) as an outcome that involves the diffusion of legal forms and practices (Grattet et al., 1998) that generates a regularity of behavior (Greif, 2006; North, 1990). To find answers, I integrate insights from socio-legal and network studies into institutional theory. I use socio-legal studies not only to contextualize the empirical setting—animal-related lawsuits and laws in the United States—but also to show how individuals strategically engage in legal disputes. I also use network perspectives to demonstrate and measure how contestation helps people arrive at a shared reality.

Concerning the relationship between institutionalization as a process and institutionalization as an outcome, I develop an alternative model of institutionalization. Focusing on the way people argue to achieve favorable outcomes, the model centers on *a behavioral code of contestation*—the shared understanding and expectation about raising/exploring multiple issues or matters in dispute rather than zeroing in on a single issue. I propose that lawmakers are likely to adopt a new regulatory institution when they argue in conformity with the behavioral code. Empirical analyses of animal lawsuits and laws in the United States from 1865 to 2010 confirm my theoretical model.

I measure the behavioral code by using network analysis of issues that litigants have brought to a court. Then, I conduct an event history analysis of law adoption predicted by the density of issue networks, a proxy for contestation in conformity with the behavioral code. The analyses show that as more individuals raise multiple issues in a dispute, they develop the behavioral code and come to accept the shared reality of raising/exploring multiple issues rather than focusing on a single issue (institutionalization as a process). Lawmakers also behave in conformity with the code when arguing the need for a new law. Therefore, contestation makes it easier for lawmakers to adopt the law. The adopted laws in turn regularize our behavior, in this case toward animals (institutionalization as an outcome).

The main contribution of this study is to identify how contestation enables individuals to share the same reality and becomes integral to the process of institutionalization. In doing so, this study explicates institutionalization as a process without assuming that dispute resolution occurs. The second contribution is to parse how institutionalization facilitates the apparently strategic action: contestation. It deepens our understanding of the role of agency in the successful adoption of regulatory institutions. Finally, the study provides important practical implications, highlighting the boundary condition of contestation-based institutionalization and its potential to address post-adoption variation. In sum, this study adds important insights to the literature on institutionalization. It also helps practitioners improve their skills required to introduce new policies and to (re)evaluate decisions that have already been put into practice.

THEORY AND HYPOTHESIS

Current Understanding of Resolution-Based Institutionalization

Recently, researchers have brought agency-focused explanations back into institutional theory (Beckert, 1999). Against the traditional notion of individuals as over-socialized and devoted to the reproduction of institutions, new strands of institutional literature have centered on institutional entrepreneurs and their strategic actions. These individuals are often organized, have resources, and recognize an opportunity to realize their interests so that they can transform existing institutions or create new ones (Battilana et al., 2009; DiMaggio, 1988, p. 14). Recent case studies on institutional work have also documented how social actors purposefully create, maintain, and disrupt institutions (Lawrence and Suddaby, 2006; Lawrence et al., 2009; Singh and Jayanti, 2013; Slager et al., 2012; Zietsma and Lawrence, 2010). According to the recent body of literature, there seems to be a direct link between agency and institutionalization as an outcome; the strategic action of individuals who pursue their goals leads to the introduction of new regulatory institutions.

When individuals seek to introduce new regulatory institutions, they often tap into existing institutional logics or interpretive schemas that offer meaning. In so doing, individuals can justify their cause, make sense of their actions, and appeal to a broader audience. However, there are multiple logics in society, many of which are in competition. Those who tap into competing logics to justify the need for new laws are likely to perpetuate conflicts among these logics and, more importantly, reinforce differences between individuals (Dunn and Jones, 2010; Kraatz and Block, 2008; McPherson and Sauder, 2013). Sustaining differences leads to the following question:

How can lawmakers adopt new regulatory institutions when individuals, including the lawmakers themselves, see the world differently?

A recent body of institutional literature has been exploring this question without deemphasizing the renewed focus on agency. In particular, it emphasizes "pragmatic collaboration" (Reay and Hinings, 2009) and "improvisation (to get things done)" (Smets and Jarzabkowski, 2013). Engaging such methods, individuals purposely seek compromise, bridging their differences by merging multiple—often conflicting—logics into a new hybrid (Battilana and Dorado, 2010) or by creating a workable schema against a mutual enemy (O'Mahony and Bechky, 2008). In doing so, they can produce and assign coherent meaning, constructing both their identities and the world (Billig, 1996; Booth, 1974) and ultimately constructing a shared reality.

The pragmatic approach echoes the institutional literature's assumption that individuals share the same reality. Once opposing parties agree to collaborate, their compromise is likely to shape the same definition of reality, facilitating the introduction of new regulatory institutions (Fiss and Hirsch, 2005; Guérard et al., 2013). However, compromise does not always denote the construction of a shared reality. Negotiation and compromise often occur after one party defeats the other; the winner's logic predominates, and the losing party must negotiate their future survival (Kuttner, 1997; Murray, 2010). In such scenarios, compromise is an uneasy truce. It lays structural foundations for subsequent disputes because the defeated constantly seeks mobilization for alternatives, endeavoring to escape unfair terms (Bartley, 2007; Guérard et al., 2013; Kaplan, 2008; Schneiberg and Soule, 2005). Compromise also requires new regulatory institutions to ensure that opposing parties are aligned and monitor each other's behavior (Guérard et al., 2013; Kaplan, 2008). In fact, compromise can operate contrarily by

strengthening differences between opposing parties (Murray, 2010) and reflecting that individuals do not share the same reality.

Contestation and the Construction of a Shared Reality

Scholars have shown the process of institutionalization as the process of constructing a shared reality (Berger and Luckmann, 1967; Colyvas and Jonsson, 2011, p. 40). Interpersonal interactions produce shared meaning, which, in turn, becomes a shared reality (Berger and Luckmann, 1967). Through socialization, individuals take this reality for granted as it re-enters their cognition (Edelman, 2016). The shared reality between opposing parties can enable the swift adoption of new regulatory institutions. The spread of regulatory institutions (institutionalization as an outcome) reinforces the shared reality, furthering the institutionalization process, and so on (Meyer and Rowan, 1977).

While prior studies generally focus on constructing a shared reality by resolving disputes, they underemphasize that when disputing, an individual can raise multiple issues by tapping into different logics. It is common to bring up multiple issues in disputes, including lawsuits. In a lawsuit, an "issue" refers to a matter in dispute—more specifically, a subject, action, or legal term in the case (Putman and Albright, 2013, p. 59-60). An issue must contain, at least implicitly, an opposing or contrasting meaning (Ewick and Silbey, 1998, p. 52) as individuals can make sense of the same subject, action, or legal term by drawing upon discrete logics. For instance, when a group of activists that frees sows from a farm argues for the ―well-being" of the animals, the issue of well-being implies that the pigs are experiencing ―ill-being." While farmers are

likely to argue against any alleged problems with the welfare of their pigs, they will probably also raise an issue of standard farming practices. In an argument, each party seldom dismisses what the opponent claims in its entirety; instead, both defend themselves by claiming to be the one that grants fair consideration to equally persuasive—but alternative (potentially conflicting)—issues, such as animal welfare and farming. Incorporating the opponent's claims enriches the farmers' or the activists' position (Fairclough, 1993) and can look more appealing to, and effectively persuade, key audiences such as judges and juries. The coexistence of multiple issues and the (in)tolerance both parties display suggests that they at least tacitly recognize the utility of this shared reality in achieving favorable outcomes.

Socio-legal studies articulate shared understanding of contestation and the rules governing it (Silbey and Cavicchi, 2005). In tandem with the recognition of multiple, coexisting logics, it has become socially justifiable to present a case from entirely different perspectives, ones often even based on competing logics (e.g., market versus social perspectives) (Fairclough, 1993; Zelizer, 2010). In court, plaintiffs and defendants are likely to take different positions on not one issue but, indeed, on multiple issues. In doing so, respective parties marshal a variety of social meanings and cultural resources (Ewick and Silbey, 1998) as they strive to achieve a wide range of goals. Each side may raise multiple issues to confuse and, ultimately, overwhelm the opponent. When myriad issues saturate a case, it can create legal ambiguity that makes litigants' motions invalid (LoPucki and Weyrauch, 2000). This strategy applies to arguments in other contexts, as people are easily overwhelmed by considering numerous matters simultaneously. In addition, lawyers can manipulate the odds of success by arguing multiple issues. They expand and develop the array of decisions in a way that favors

their clients (LoPucki and Weyrauch, 2000, p. 1412). Accordingly, individuals come to accept and share the reality; they bring up multiple issues in an exchange (and it is a proper way of arguing).

Court is a terrain for tactical encounters through which individuals exercise virtually limitless strategic possibilities, drawing from a wide variety of logics (LoPucki, 1996).[1] Because these tactics are effective, litigants are more likely to "play with the law" in this way (Ewick and Silbey, 1998, p. 48). Strategic exploration of multiple issues has become common because it is advantageous "not only in terms of material interests but in terms of the symbolic meaningfulness of that participation" (Friedland and Alford, 1991, p. 250). As a result, raising and exploring a range of issues has become integral to contestation in court (LoPucki and Weyrauch, 2000).

The Rise of a Behavioral Code and Institutionalization as an Outcome

When litigants raise multiple issues to achieve desired outcomes, their strategic action becomes a particular pattern of how they argue. This pattern can be measured by a network of the issues that litigants raise in an exchange. Such a network is a two-mode network or an affiliation network formed through the observable "arguing" behavior of individuals. Examples of two-mode networks include connections among the events in which participants engage (Wasserman and Faust, 1994) and links among the cultural artifacts that members of a community trade (Mohr, 1998). Although a superficial reading of two-mode networks indicates that individual motivation alone shapes them, these networks are more than the accumulation of individual action (Louch, 2000; Martin, 2009). Indeed, they often betray underlying social (rather than individual)

meanings (Mohr, 1998). In this way, measuring and analyzing a network of issues (an "issue network" hereafter) can reveal what it means to raise multiple issues.

Network studies have shown that the structural tendency of a network, transitivity, helps the network evolve (Martin, 2009; Wasserman and Faust, 1994). The tendency is to maintain connections among all members of the triad. In an issue network, a dyad is a group of two issues, A and B, when both are argued in an exchange; a triad is a group of three issues, A, B, and C. In a dyad, each issue can retain its distinct individuality. This quality makes dyads fragile because the dyadic relationship principally depends on the characteristics of each member of the pair (Martin, 2009; Simmel, 1908[1950]). In contrast, a triad manifests transitivity that keeps all members of the triad connected. When individuals raise A with B and B with C but never raise A with C, an intransitive triad of A, B, and C generates tension for individuals who know all three and want to bring up C along with A. Not discussing A with C also generates a structural imbalance in the relationships, which undermines any attempt to raise multiple issues. This imbalance eventually prompts individuals to raise A with C; as a result, all three issues become connected, leading to a dense network.

Although individuals do not map how different issues are connected as a whole, they are likely to raise the different issues. Exploring multiple issues is not based on the characteristics of individuals or matters in dispute (Holland and Leinhardt, 1971; Louch, 2000). Rather, it is due to the network's structural tendency. Individuals feel awkward and accountable for their actions when they deliberately avoid raising issues that are structurally dependent on one another. They are more likely to bring up issues that are expected to be considered together. Doing so connects the issues, producing a dense network.

A dense issue network indicates that there is *a behavioral code of contestation*—a shared understanding and expectation about raising multiple issues rather than singling out an issue by completely ignoring the others. When litigants routinely explore multiple issues, their "skilful legal argument[s]" and "compelling legal argument[s]" help them persuade key audiences (LoPucki and Weyrauch, 2000). It becomes less appropriate to focus on only one issue by ignoring others that may influence case outcomes. Accordingly, individuals are likely to argue in conformity with the code, creating a shared meaning and behavioral expectations—or, simply put, a reality that individuals come to share; people bring up multiple issues when they argue (and it is a proper thing to do).

When there is this behavioral code, individuals are likely to conform to it. They see exploring multiple issues as effective and appropriate. In this regard, lawmakers are also likely to behave in the expected way when they argue the need for a new law. Of course, they could focus on a single issue; for example, focusing on an issue of dangerous dogs, lawmakers could argue for strict impounding laws by citing historical evidence that such laws have effectively eradicated rabid dogs in other states or by comparing the liability of owners of dogs that harm humans to the liability of car owners who injure pedestrians. Because of the behavioral code, however, lawmakers are more likely to explore—or at least acknowledge—different issues to justify the value of the law, although they may invite challengers to each of the issues. If they fix upon one issue and disregard all others, they may be criticized for failing to appeal to a broad audience. Hence, lawmakers are most likely to behave in conformity with the code and to succeed if they do so. Thus, I hypothesize the following:

Hypothesis: The behavioral code of contestation is positively associated with the likelihood of the adoption of new laws.

INSERT FIGURE I ABOUT HERE

DATA AND METHODS

US Animal Lawsuits and Laws, 1865–2010

This study is based on 1,360 animal-related lawsuits litigated and 942 animal-related laws adopted in the United States from 1865 to 2010. I obtained data on federal and state court cases from the Michigan State University College of Law – Animal Legal & Historical Web Center, and I used LexisNexis to cross-check the data. I excluded cases lacking crucial information (i.e., details of plaintiffs and defendants, year of lawsuit, and final verdict), which resulted in the final sample of 1,360 cases.

Lawsuits provide a perfect setting to observe litigants' exploration of multiple issues to achieve favorable outcomes. As empirical data, lawsuits help identify which issues are raised and argued in court. An "issue" refers mainly to a legal issue or a question: What is the case about? What specifically is being debated? (Putman and Albright, 2013, p. 59-60). In this research, I focused on 35 issues identified in court opinions. For instance, Anson v. Dwight, 18 Iowa 241 (1865), is about an issue of "pet damages." The opinion states,

> This case involved *the killing of a dog* by defendant's minor son. While the issues on appeal were mostly procedural, the court did find that *dogs belong to a class of personal property* for which a witness can testify as to their value. (Emphasis added)

I obtained both court opinions and 35 issues that animal-legal scholars catalogued for uploading to the first data source (Animal Legal & Historical Web Center, 2012). Appendix 1 provides a complete list of the 35 issues.[2]

In addition, I used data on the adoption of animal laws to operationalize institutionalization as an outcome. The adoption of animal laws indicates that formal guidelines regularize human behavior toward animals (Scott, 2013). I collected 1,082 animal-related laws at the federal and state levels from 1698 to 2010 from the sources mentioned above. I excluded 12 laws that were adopted prior to the first animal lawsuit in 1865 and 128 laws for which I could not find crucial details (e.g., date of adoption). This resulted in the final sample of 942 laws.[3]

Dependent Variable

The dependent variable is the likelihood of passing a new animal law. To operationalize the dependent variable, I followed examples of prior studies that consider the adoption of regulatory institutions a proxy for institutionalization as an outcome (Dobbin and Dowd, 2000; Frank et al., 2010; Grattet et al., 1998). Fewer than ten animal laws were adopted per year until the mid-20th century. Since then, the adoption of laws has steadily increased.

Independent Variable

The independent variable, a behavioral code of contestation, is a measure of the density of issue networks. To operationalize this variable, I first created a two-mode, lawsuit-by-issue network beginning in 1865 and then layered additional lawsuits and issues on it up through 2010. Next, I converted these two-mode networks into one-mode networks in which every discrete lawsuit is connected to other lawsuits that involve the same issue. I then obtained one-mode, issue-by-issue networks because of the duality of two-mode networks (i.e., connections among members of the first mode [lawsuits] can be described as connections among members of the second mode [issues] and vice versa). Using the one-mode, issue-by-issue networks, I calculated the density scores of these networks. Density increases when any three issues are connected to each other and therefore become transitive (Louch, 2000; Marsden, 2005; Wasserman and Faust, 1994). Issue network density captures the rise of a behavioral code: how individual behavior—exploring multiple issues—can be habitualized so it takes on a rule-like status in social thought and action (Phillips and Malhotra, 2008, p. 713). To see the causality, I used annual lags of density scores in the analysis.

Control Variables

Six federal-level and six state-level characteristics are included as control variables. First, of the federal-level variables, I controlled for the effects of wars on the adoption of animal laws. There would be little success in passing bills concerning animals when the country suffered human fatalities. I created a war dummy for the following years of the deadliest wars in American history: The Civil War (1861–65), WWI (1914–18), and WWII (1939–45). Second, I controlled for the effects of economic conditions on the adoption of animal laws. Animal legal studies argue that humans become interested in

post-modern concepts such as animal welfare when they are economically better off (Kalof and Fitzgerald, 2007). Considering this argument, I included the gross domestic product (GDP) per capita in 1990 international dollars. I obtained the GDP data from Bolt and van Zanden (2013) and took the natural logarithm to avoid multicollinearity with the other variables. Third, I controlled for the density of legal citation networks.[4] It is reasonable to assume that the density of issue networks reflects that of legal citation networks given that the US judicial system is based on precedent (Hathaway, 2003). I collected a total of 476 federal cases to calculate the annual network density scores of the citation networks from the first case in 1876 to 2010.

Fourth, I included the number of federal lawsuits to control for the size of the legal citation network. Fifth, I included the annual percentage of dissenting judges in federal lawsuits to control for judges' decisions in federal court cases.[5] Higher courts, such as the Supreme Court and appellate courts, are composed of multiple judges. A unanimous decision from judges could shape a shared reality of how we treat animals, which could lead to a prompt reaction from lawmakers to support (or oppose) the decision. After excluding cases without information about judges' votes, I obtained 460 federal cases from the sources and calculated the annual average percentage of dissenting judges. Sixth, I included the percentage of single-issue lawsuits to rule out an alternative reason for adopting new laws. Existing legal studies suggest that multiple issues raised in a case reflect growing complexity in the recent legal field (LoPucki, 1996). To prevent multiple interpretations and avoid such complexity, lawmakers are likely to pass new laws that reduce varied interpretations (i.e., adding specific clauses to the existing laws). To control for the legal complexity argument, I calculated the annual

average percentage of single-issue lawsuits. All federal-level control variables except the war dummy were lagged by one year to better capture causality.

In addition, I controlled for the state-level demographic, socioeconomic, and legal environment characteristics. First, I included the total population (in thousands) by state, obtained from the US Census Bureau. The state population increases, so does the number of interest groups. These groups may influence the passage of new bills, or their presence alone may prompt lawmakers to adopt new laws. Second, I included the total number of horses, cattle, and sheep to control for the economic effects on law adoption. I used these livestock variables as a proxy for state-level economic growth because there were no equivalent state-level GDP data until the late 20th century. The livestock data were obtained from the US Department of Agriculture Census of Agriculture.

Third, I included dummy variables for New England and the Southern states to control for law adoption among culturally similar states. Grattet and colleagues (1998) noted the role of cultural and structural similarities among clusters of states in the timing of the adoption of regulatory institutions. The cultural history of a cluster of states suggests that these states share the same reality through a collective experience of social, political, and economic activities (Stout, 1986; Thomas, 2011). Because of the shared reality, the timing of law adoption would be affected by when other members of the cluster adopted the law. To control for this argument, I created a New England dummy for six states (ME, NH, VT, MA, RI, and CT) and a Southern state dummy for seven states (SC, MS, FL, AL, GA, LA, and TX).

Fourth, I included the total number of animal lawsuits as a proxy for the direct effect of individual action on the law-making process. Especially since the enactment of the Animal Welfare Act in 1966, activist groups have filed lawsuits against state

governments. A decision in favor of activists often leads to new legislation enshrining the principles underlying that decision. The same variable also serves as a control for the size of issue networks because the increasing number of animal lawsuits would provide more opportunities for litigants to raise multiple issues. Fifth, I included a three-year moving average of animal laws adopted by all 50 states plus Washington, D.C., to control for mimetic isomorphism in state-level law adoption (Scott, 2013). Finally, I included the annual average percentage of single-issue lawsuits to control for the legal complexity argument. All variables but the state dummies were lagged by one year to capture causality. Table I shows the descriptive statistics and pair-wise correlations of the control and independent variables.

INSERT TABLE I ABOUT HERE

Model

I used the Cox (1975) proportional hazard model to predict the risk of an event, namely, a state's adoption of an animal law. There are two or more adoptions by the same state in a given year. The occurrence of multiple events violates the assumption of event-time independence required in traditional event history analysis. Here, a Cox proportional hazard model is preferable because it can handle tied events, makes no assumption about the exact timing of an event, and presumes only that an event occurred within a given interval (Yamaguchi, 1991). In the analysis, I used a "variance-corrected" Cox model (Therneau, 1997). The total number of laws adopted varies from 86 (California)

to four (Connecticut and D.C.). To account for the state fixed effects, I adjusted the covariance matrix of the estimators for the additional correlation by dividing the observations into 51 groups (50 states and D.C.) and calculating the robust covariation matrix that considers the group-based residuals. I chose the Efron method and used Stata 14.0 to conduct the analysis.

RESULTS

Institutionalized Contestation

Before testing the hypothesis, I conducted a series of network analyses of animal lawsuits between 1865 and 2010 to identify issue networks. First, I calculated how often each issue is raised (i.e., the number in the bracket next to the issue in Appendix 2). If an issue is frequently raised, it has not been forgotten but instead has been continuously explored by different groups of people and in different lawsuits. The number of legal disputes per issue has increased over time, to varying degrees by issue. For instance, the issue of "pet damages" was disputed 140 times between 1865 and 2010, beginning with Anson v. Dwight, 18 Iowa 241 (1865). In contrast, "[interstate commerce of] fish and game" was implicated in 70 cases, beginning with People v. Bootman, 72 N.E. 505 (N.Y. 1904). This disparity suggests qualitative differences between these two issues. Overall, this finding indicates the existence of dissimilar issues, which enables litigants to explore multiple issues to achieve favorable case outcomes.

The second network analysis involved calculating an annual average number of ties to see whether individuals indeed raise multiple issues (the results are available upon request). Ties between two issues reflect times when litigants raised both those

issues in a single case. Nonetheless, issues have been increasingly connected over time; that is, issue networks become denser, and each issue in the network has more ties. This is in part because litigants are unlikely to raise the same pair of issues repeatedly because they face different opponents, judges and juries in case.

The last step of the network analysis was to understand the development of a behavioral code of contestation: individuals raise an issue in conjunction with other issues rather than focusing on only one issue by ignoring others. The code becomes established as multiple issues have been connected since 1951 (see Appendix 2). Prior to 1951, it was rare, but not unheard of, to raise the issues of either dangerous dogs or anti-cruelty in conjunction with pet damages, but dangerous dogs and anti-cruelty did not come up in the same case. When people fail to consider or deliberately avoid addressing issues of dangerous dogs and anti-cruelty side by side, they undermine any attempts to explore multiple issues. From a network perspective, the relationships among these three issues are unstable because of a structural imbalance in the triadic relationship in that both of the other two issues only have ties to pet damages (Martin, 2009; Wasserman and Faust, 1994).

In 1951, a group of petitioners criticized municipal authorities for their merciless disposal of impounded dogs. In this case (Kovar v. City of Cleveland, 102 N.E.2d 472 (Ohio App. 1951)), the petitioners raised both dangerous dogs and anti-cruelty issues. Thus, they challenged the assumption that dangerous dogs deserve inhumane treatment. Their argument made further sense because they also acknowledged the issue of pet damages (potential loss of someone's pets), although the city dog wardens claimed the impounded dogs could not be considered pets. However, by exploring structurally dependent issues that litigants had singly argued before, the petitioners' argument

gained strength and appealed to the courtroom, including the jury and city officials. Since 1951, cases have connected these three issues, suggesting a rise in a behavioral code to which individuals conform.

INSERT TABLE II ABOUT HERE

The Adoption of Regulatory Institutions

Table II reports the results of the Cox regressions. Model 1 contains only control variables, whereas Model 2 includes the independent variable, the behavioral code that is measured by the issue network density. In Model 1, the effects of most control variables on the dependent variable are not significant or are only marginally significant, except for a few state-level variables that are significant at the 0.05 level or lower. The first state-level variable that is statistically significant is population. The number of laws adopted for each 1,000-resident increase in the state population increased by 14% (exp(.138)) = 1.14). This likely reflects societal pressure on lawmakers to adopt new laws as a state population increases.

Second, the number of lawsuits increases the likelihood of passing new animal laws. Every lawsuit predicts an 11% increase in the number of laws adopted in the same year. This result can be understood as the outcome of strategic legal action; activists who want to introduce new laws strategically sue state governments because new laws replace existing laws when they win cases.

Third, the effect of the cumulative number of law adoptions is significant at the 0.001 level. However, its hazard ratio is 1 (exp(.014)=1.01), suggesting minimal change in the likelihood of law adoption. Similarly, the hazard ratio of single-issue lawsuits is almost 1 (exp(-.003)=.996), despite being statistically significant. Contrary to the legal complexity argument, this result implies that growing complexity, captured by a low percentage of single-issue lawsuits, is not the main cause of adopting new laws. These effects are consistent in Model 2.

The results in Model 2 suggest that contestation that conforms to a behavioral code facilitates the adoption of regulatory institutions. The behavioral code of contestation—measured by how dense issue networks become—increases the likelihood of passing bills by 726% (100×(exp(2.11) - 1)). It has become expected that lawmakers raise multiple issues rather than focusing on only one issue, and doing so raises the likelihood of passage of their bills. For instance, when Rep. Elton Gallegly (R-CA) proposed the Animal Fighting Prohibition Enforcement Act to regulate the import and export of fighting dogs and cockerels, he explored various issues in his statement:

> Mr. Speaker, as you know, I, along with Mr. Blumenauer and Mr. Bartlett, have been trying to federally criminalize the brutal, inhumane practice of animal fighting for the past several Congresses. . . . Local police and sheriffs are increasingly concerned about animal fighting, not only because of the animal cruelty involved but also because of the other crimes that often go hand-in-hand. . . . There is the additional concern that cockfighters spread diseases that jeopardize poultry flocks and even public health. . . . Fortunately, bird flu has not yet jumped the species barrier in this country, but we ought to do all we can to minimize the risk. . . . This bill simply

> promotes meaningful enforcement of current Federal law that bars interstate and foreign movement of animals for fighting purposes, including both dog fighting and cockfighting, by upgrading current misdemeanor penalties to a felony level. (153 Cong. Rec. E656, 2007)

To justify the need for the law, the congressman discussed animal cruelty, community safety, public health and interstate commerce. Similar statements on the floor of the House in the early 20th century would sound muddled because he raised multiple issues and fellow lawmakers would not have found them compelling. Nowadays, however, lawmakers, judges, and constituents expect a person who argues for a new policy to acknowledge multiple issues. In the example of the Animal Fighting Prohibition Enforcement Act, the lawmaker argued in the socially expected manner, and Congress passed it with strong bipartisan support in 2007.

The results in Model 2 suggest that exploring multiple issues was neither common nor even considered necessary and effective when issue networks were in the embryonic stage before 1951. For example, lawmakers used to draft a bill to impound adult dogs by focusing on a single issue: the "dangerous dogs" issue (e.g., Dangerous-Liability for Livestock and Poultry Killed by Dogs (adopted by Idaho in 1867, amended in 1955); Bite-Liability of Owners of Dogs Biting or Injuring Persons (adopted by Alabama in 1915, amended in 1940)). Until 1951, there were no or few ties between issues (see Appendix 2). Today, however, different issues have been not only reproduced but increasingly interconnected. This pattern emerges in the arguments for laws such as Impound-Animal Shelters (adopted by Texas in 1989) and Property-Companion Animals/Pets - House Bill 6119 (adopted by Rhode Island in 2001). The

denial and complete omission of frequently co-discussed issues discredits lawmakers' arguments and undermines the value of the new proposal.

The same results indicate that conformity to the behavioral code transcends the judicial domain. Introducing a new law is always risky, and law-making is often characterized by uncertainty about whether particular laws will work and whether extra-legal groups will be supportive (DiChiara and Galliher, 1994, p. 73). To reduce risk, lawmakers look to established models of action that have been "proven" elsewhere (Grattet et al., 1998, p. 290). Exploring multiple issues has proven to be a successful strategy in court. Lawmakers not inclined to take risks are likely to emulate this strategy. When disparate issues become increasingly connected to each other, acknowledging alternative—even potentially opposing—issues and elaborating upon them is also appropriate (i.e., caging dangerous dogs can prevent cruelty to other docile animals). In this way, lawmakers can make sense of the need for new laws, persuade fellow lawmakers, and improve the chances of their bills being passed.

Finally, the results suggest that the process of institutionalization constitutes the development of a social structure, which the increase in network density captures. Extant studies on interpersonal networks have shown density as a measure of membership in a closure that maintains and enhances norms and sanctions (Burt, 2005; Louch, 2000). Members enjoy a unique advantage in mobilizing resources based on trust and solidarity, but at the same time, they encounter normative sanctions when they attempt to navigate and access better positions and resources outside the network (Coleman et al., 1966; Coleman, 1990). Although issue networks are not interpersonal networks, dense issue networks suggest that individual arguers bring dissimilar issues into equal membership of the issue networks. Accordingly, the dense issue networks

bear similar structural effects on individuals; those who explore multiple issues from the dense network of issues can effectively appeal to their audiences and therefore easily make their arguments accepted, while those who focus on one issue are less likely to sound credible and be persuasive. In this regard, dense issue networks as a particular social structure encourage individuals to raise and explore multiple issues.

Taken together, the results show that the behavioral code of contestation (institutionalization as a process) underlies the adoption of regulatory institutions (institutionalization as an outcome). The structural tendency of issue networks not only provides solid linkages among issues but also reinforces the expectation about the appropriate way of arguing. The dense issue networks indicate the existence of a behavioral code of contestation; we share the same understanding and expectation about *how to argue* rather than about what to argue.

Alternative Accounts for Existing Queries

While the results show how contestation facilitates the adoption of regulatory institutions, it is reasonable to ask why contesting interpretations of laws and adopting new laws are related to each other.[6] One explanation is that lawmakers introduce more specific laws (usually by amending existing laws) to avoid multiple, conflicting interpretations. For instance, a group of Native Americans challenged the Bald and Golden Eagle Protection Act, which they claimed abrogated their hunting rights (US v. White, 508 F.2d 453 (8th Cir. 1974)), and activists criticized the Federal Laboratory Animal Welfare Act for excluding mice (Animal Legal Defense Fund, Inc. v. Espy, 23 F.3d 496 (C.A.D.C., 1994)). These examples suggest that existing laws invite

individuals to explore multiple interpretations concerning subjects (e.g., lab animals), human behavior (e.g., hunting), and legal terminology (e.g., animal welfare). Litigants strategically raise multiple issues and, in doing so, amplify legal ambiguity, which then helps them achieve favorable case outcomes (LoPucki and Weyrauch, 2000). Lawmakers needed to adopt new laws not only to resolve disputes over contesting interpretations but also to avoid ambiguity.

I do not deny or object to this functional explanation. To account for the possibility that law adoption is a result of legal complexity, I conducted further analyses to see whether existing laws prompt disputes over multiple interpretations. I ran separate event history analyses of the likelihood that past law adoptions predict the likelihood of lawsuits (the results are available upon request.) However, I found no significant effects of past law adoptions on the dependent variable—incidence of lawsuits. Further, I included two control variables in the analysis, the percentage of single-issue lawsuits at both the federal and state levels. I used these variables to determine whether law adoption is a result of increasing legal ambiguity. If the functional explanation is correct, the hazard ratio of adopting new laws should be significantly lower than the baseline ratio when a lawsuit raises only one issue. However, as Model 2 shows, an increase in the number of invoked issues is not the main reason that lawmakers pass new bills.

Even if we assume that lawmakers introduce new laws to reduce legal ambiguity, not all newly adopted laws are specific. In this study's sample, 483 out of 1,043 laws can be considered specific or "fine-grained," as they were amended to add particular animals (e.g., roosters) or to address certain human behavior toward animals (e.g., cockfighting). Although explicating lawmakers' motivation is beyond the scope of

my data, we can assume that the increasing level of complexity motivates them to adopt specific laws. Still, unknown factors constrain their introduction or sponsorship of specific bills, which is why we have not seen any substantial effects of legal ambiguity on the adoption of new laws. Instead, in tandem with multiple interpretations of existing laws, exploring multiple issues becomes a shared reality and shapes expectations about the appropriate way of arguing.

Relatedly, the results show how strategic action, contestation in court, is institutionalized and how the institutionalized action affects another strategic action: passing new bills. Recent tenets of institutional literature and socio-legal studies emphasize the direct link between individuals' strategic action and their desired outcomes (Dreier, 2012; Priest and Klein, 1984; Slager et al., 2012; Zietsma and Lawrence, 2010). I include the total number of lawsuits in the analysis to see whether law adoption is the consequence of individuals' strategic legal action—that is, challenging present laws (e.g., to change existing laws, animal rights activists often question whether a particular state statute or governmental action is constitutional). As Model 2 shows, the lawsuit variable has no significant effect on the adoption of new laws. The results instead suggest that rather than the legal action itself, strategic action or contestation becomes institutionalized as litigants argue in conformity with the behavioral code. In this sense, law adoption is a product of another institutional recipe, the behavioral code of contestation. While lawmakers are often believed to introduce, endorse, and pass bills in their own interest, this depiction of law-making as self-interested action seems to neglect the fact that lawmakers behave in conformity with the behavioral code to which others also conform. When the way in which individuals argue has become taken for granted and therefore institutionalized, lawmakers will

argue in this way. Institutionalized contestation shapes how lawmakers argue and facilitates the adoption of new regulatory institutions.

DISCUSSION AND CONCLUSION

Drawing insights from socio-legal and network studies, I develop a contestation-based model of institutionalization: a behavioral code of contestation makes it easier for lawmakers to adopt new regulatory institutions. In disputes, individuals bring up multiple issues to achieve favorable outcomes. Their arguing pattern shapes the reality people come to share and becomes the behavioral code—a shared understanding and expectation about how individuals argue. Lawmakers are also likely to argue in conformity with the code when they propose new regulatory institutions. This model is supported by network and event history analyses of animal lawsuits and law adoptions in the United States. The results show that (1) contestation in court shapes the behavioral code, and (2) when lawmakers argue in conformity with the code, their proposed law is likely to be adopted. In sum, contestation facilitates the adoption of new institutions, which also provide us with further opportunities for contestation.

Contributions to the Understanding of Contestation-Based Institutionalization

At the beginning of this article, I proposed three questions. The first question was whether and how contestation enables us to share the same reality. I found that contestation shapes and reproduces a particular reality; we raise and explore multiple issues when we argue (and doing so is socially expected). Individuals strategically raise

multiple issues to achieve favorable outcomes. Whenever they do, their arguing behavior forms connections among the issues that they bring up. The connections or the network of issues do not disappear because of the network's structural tendency. Unwittingly, individuals keep bringing up multiple issues when they argue. Their behavior makes these issues densely connected to each other, suggesting that they conform to a particular behavioral code of contestation. As a result, contestation enables individuals to share and reproduce the same reality.

The answer to the first question contributes to the literature on institutionalization. More precisely, it advances our understanding of contestation-based institutionalization. When extant research has shown that a shared reality is integral to the process of institutionalization, its primary focus has been how opposite parties achieve such a reality by compromising or settling disputes (Guérard et al., 2013; Hargrave and Van de Ven, 2006; Schneiberg and Soule, 2005). Disputes arise when individuals have different understandings of reality. Contestation is believed to hinder the institutionalization process because it reproduces the belief that disputants do not share the same reality. In such a case, dispute resolution is a way in which different individuals can forge a shared reality. Through compromise, individuals who used to conflict with each other accept a new reality. This process of institutionalization facilitates the adoption of new regulatory institutions.

However, the current resolution-based approach to institutionalization provides a limited understanding of how we come to share the same definition of reality. While existing studies on institutionalization assume otherwise, a peaceful resolution of ongoing disputes is rare in reality. Resolution, if it happens, is often an uneasy truce that requires regulatory institutions to consistently enforce the peace and monitor opponents'

behavior (Guérard et al., 2013; Kaplan, 2008). Hence, the outcome of the resolution, the adoption of regulatory institutions, actually reflects the fact that opposing parties still do not share the same reality. In other words, the resolution-based approach is limited to a certain case of institutionalization. Not every case of conflict resolution leads individuals to accept the same reality.

The present study moves beyond what we know from the resolution-based approach by evidencing an alternative route to institutionalization. It conclusively shows that raising multiple issues can become a commonly shared reality. Such arguing behavior creates a way of experiencing the same reality, which inevitably reproduces contestation. Rather than merging different issues into one, individuals maintain the separate merit of each issue by acknowledging and participating in the exchange of various issues. This pattern of behavior generates a network of issues, which enables individuals to explore multiple issues. The development of the issue network suggests that some shared understanding of the behavioral code becomes socially recognized (Donnellon et al., 1986). It becomes evident that everyone knows about the nature of the exchange and the rules governing it. In this way, contestation helps individuals come to accept the shared reality.

To the best of my knowledge, this study is the first to make the alternative case for the process of institutionalization without emphasizing conflict resolution. It takes time to reach a compromise. More importantly, dispute resolution does not necessarily mean that people share the same reality. This is why we should care about contestation-based institutionalization. Instead of considering a dispute as something that should be resolved, this study attends to the emergence of a shared reality when individuals argue with each other. In doing so, the study shows the value of looking into the behavioral

dimension of disputes. A more profound understanding of the way in which we argue should lead to further insights into the relative merits of considering both contestation-based and resolution-based approaches.

Contributions to the Understanding of Strategic Action

The second question concerns whether and how institutionalization makes it easy for individuals to keep arguing rather than to seek a compromise. Indeed, both as a process and as an outcome, institutionalization continuously encourages individuals to engage in contestation rather than to seek a compromise. The process of institutionalization is tantamount to conformity to a behavioral code. In a dispute, individuals behave in an expected way, bringing up multiple issues in their exchange. Their behavior perpetuates contestation, which makes arguing more natural than settling a conflict. In addition, the adoption of new laws sustains contestation. Lawmakers who argue for a new law raise multiple issues. Their conformity to the behavioral code makes it easier for them to gain acceptance for the proposed law. Thus, the daily operation of the adopted law inevitably invokes multiple schemas and interpretations, which easily turn into disputes. Taken together, institutionalization as both a process and an outcome makes it easier for individuals to keep arguing rather than seeking a truce and resolving disputes.

The answer to the second question has broader implications for understanding the role of agency in institutionalization. Previous studies have portrayed the adoption of regulatory institutions as a direct consequence of strategic action (Maguire and Hardy, 2009; Slager et al., 2012; Zietsma and Lawrence, 2010). Institutional entrepreneurs leverage resources to transform existing institutions and to create new

ones (Battilana et al., 2009, p. 68; DiMaggio, 1988). Powerful individuals, such as CEOs and top managers, knowingly or unknowingly play a role as change agents in this process not only because they have better argumentation strategies (Kwon et al., 2014) but also because what they say matters a great deal (Elsbach, 1994). Recent scholarship in legal studies echoes this claim, highlighting that lawyers' or lawmakers' strategic action is directly linked to the adoption of new laws (Desposato and Scheiner, 2008; Dreier, 2012; Hicks et al., 2015; Priest and Klein, 1984).

While most empirical research stresses that strategic action leads to the successful adoption of regulatory institutions, it unwittingly understates that such action is embedded in and justified by a broader social structure (Grattet et al., 1998; Scott, 2013). In relation to this, the present study underscores that a structure arising from strategic action governs the action, and the structure—not the action itself—influences the adoption of new regulatory institutions. This study demonstrates that the strategic action, that is, exploring multiple issues in an exchange, results in a structure, a tacit network of the issues. The rise of this structure evinces the development of a behavioral code. This structure governs not only litigants' strategies but also lawmakers' actions in arguing the necessity for new laws, both of whom conform to the code of contestation. In sum, this study offers a more refined understanding of the relationship between agency and the adoption of regulatory institutions.

By identifying a particular social structure that is shaped by and shapes strategic action, this study contributes to institutional studies. The findings are consistent with what institutional scholars have noted: ostensibly entrepreneurial action is simultaneously guided by and reinforces established sets of institutional arrangements (Lawrence and Suddaby, 2006; Lawrence et al., 2009). When contestation becomes

institutionalized, its associated values are integrated into areas in social life that can sanction or enforce it. Opposition and negative responses to exploring multiple issues indicate an established institutional arrangement, specifically a behavioral code of contestation (Scott, 2013). Even if a person wants to dismantle the code by preventing someone else from raising multiple issues, this disruption has little impact on what has already been institutionalized. Instead, individuals who wish to change the current code must adapt to the established code of contestation; otherwise, their argument makes less sense and has less appeal to broader audiences.

Overall, this study re-examines the role of agency in institutionalization, underscoring that strategic action is guided by and perpetuates a widely shared presumption and expectation regarding such action. It carries implications for understanding how society-level processes influence inner workings of organizations, such as decision makers' discursive strategies, and the adoption of laws or policies (Greenwood et al., 2014; cf. Meyer and Ho llerer, 2014). Based on this study's insight, further examination of a social structure arising from strategic action and its effects on such action as well as the adoption of regulatory institutions would enrich the literature.

Practical Implications

The third question is ~~"u~~nder what conditions does contestation enable the adoption of regulatory institutions, and what are implications for understanding post-adoption variation?" The first part of the question concerns the boundary conditions for the applicability of the model (Busse et al. 2017). The model is not relevant when individuals do not even argue with each other or when there is only one and the same

issue repeatedly involved in the introduction of new regulatory institutions. Rather, the model is applicable to contexts in which a behavioral code arises from contestation. When disputes do not produce the behavioral code and contestation therefore does not become institutionalized, such conflicts make the adoption of new regulatory institutions slow or even hinder it entirely. In short, the condition is the institutionalization of contestation.

Given the boundary condition, answering the first part of the question has practical implications. This study suggests that an emphasis on the direct link between an arguing strategy focusing exclusively on a single issue and the adoption of new policies may be misplaced. When top managers introduce a new policy such as refusing to pay for insurance coverage for contraceptive pills, the best strategy is apparently to focus on one issue (e.g., religious beliefs) and to make an overt connection between that issue and the decision to adopt a new policy. Managers are regarded as focused when they do not dwell on issues of ambiguous relevance. However, this study suggests that such a strategy could hinder policy adoption, as others may feel that they focus exclusively on their own issue. Instead, it is better to follow the behavioral code by exploring multiple issues (e.g., anti-discrimination, the confines of legitimate government interest, and religious freedom). An argument that does not touch upon multiple issues is likely to conflict with what most people expect. Although strategies to eliminate other issues appear to effectively justify policy adoption, the study shows that these strategies might not be effective. Decision makers who want to introduce new policies would benefit from exploring multiple issues, not ignoring them.

The second part of the question concerns post-adoption variations when the adoption of regulatory institutions is based on the exploration of multiple issues.

Answering the second part of the question provides broader implications for understanding practice variation (Ansari et al., 2010; Fiss et al., 2012; Gondo and Amis, 2013) and decoupling (Lim and Tsutsui, 2012; Westphal and Zajac, 1998, 2001). Prior studies explain that practices under a recently adopted policy can vary as the policy diffuses because adopters are embedded in different institutional logics and thus interpret the policy accordingly (Sahlin and Wedlin, 2008). At the same time, there is considerable differentiation in practice because adopters want to avoid symbolic and actual punishment for the discrepancy between what they purport to adopt and what they actually do (Westphal and Zajac, 1998, 2001). The findings of this study strengthen these existing explanations of post-adoption variations by highlighting that new laws or policies are successfully introduced when individuals conform to the behavioral code of contestation. Returning to the case of adopting animal laws, actual practices vary because supporters justify each proposal by exploring multiple issues; hence, a law is always subject to multiple interpretations. Moreover, lawmakers hardly examine what new bills are actually about. As long as those who propose the bills argue and justify them in the expected way, it is appropriate for their fellow lawmakers to pass them. The adoption of new laws, therefore, leaves much room for varied interpretations, variation in practice, and decoupling from what the laws intend to do.

The value of meeting expectations by raising multiple issues is not limited to the legal setting. Any attempt to reduce post-adoption variation, decoupling in particular, should consider the nature of the process of institutionalization by which regulatory institutions lose their grounding in substance and develop patterns of self-reproducing behaviors (Berger and Luckmann, 1967; Jepperson, 1991). Returning to the example of the inclusion rider at the beginning of this article, the CEO introduced the policy by

acknowledging multiple issues instead of completely ignoring them. Following a casting couch scandal five months later, however, he resigned. This example suggests that he had little genuine investment in the policy's actual purpose but was, in fact, very concerned with conforming to the behavioral code. In this regard, when top managers introduce new policies by arguing in conformity with the behavioral code, both stakeholders and managers must closely evaluate the application of the adopted policies. Practitioners therefore should apply this study's insights to accountability for decoupling and practice variations in general.

Limitations and Future Studies

This study's contribution to the existing literature must be weighed against some limitations. First, future research would benefit from examining how behavioral codes evolve. Based on a network perspective, this study focuses on a particular behavioral code and the structural mechanism through which it came into existence. Although the study suggests that, once established, the code seldom changes over time, it does not rule out the evolution of behavioral codes. Different codes very likely have different trajectories of development and may change over time, therefore ultimately producing unexpected consequences of institutionalization. The examination of such evolutionary processes is a fruitful area for future research.

Second, it would be desirable to look at a broader spectrum of institutionalization, including the increasing number of animal-related organizations, animal rights movements, and media coverage on animal welfare. For analytic purposes, I simplify institutionalization as a process and as an outcome by focusing on

the behavioral code of contestation in court and the adoption of animal laws. Given that institutionalization means more than legalization and constitutes pragmatic and moral legitimacy (Suchman, 1995), this study's conceptualization of institutionalization might be somewhat restricted. To overcome this limitation, a broader examination of institutionalization will be particularly important in future work.

A third limitation of the study is typical of analysis that uses two-mode network data. Existing network studies often use one-mode networks—namely, actor-by-actor networks (Centola, 2010; Koka and Prescott, 2008; Wong and Boh, 2014). In such studies, researchers do not need to assume relations between social actors because the one-mode networks are themselves relations between them. By contrast, I use two-mode networks (issue-by-lawsuit networks) partly because collecting interpersonal ties among litigants and among lawmakers from 1865 to 2010 is not possible. More importantly, when individuals explore multiple issues, their observable behavior creates tacit connections among these issues. While these connections are largely overlooked, they deserve research attention. Nevertheless, it would be a mistake to presume that connections between issues are not the consequence of actual ties between individuals. Although this study cannot verify the influence of interpersonal relations, this limitation does not change its core concept: a behavioral code of contestation and individual conformity to the code. Individuals are more likely to conform to the code when they already know each other. Future research could gainfully identify the relative importance of interpersonal ties in the development of issue networks and in the behavioral code of contestation. In doing so, future exploration of interpersonal networks would shed light on observed and tacit connections and their roles in institutionalization as an outcome.

Conclusion

By uniting the recent focus on agency and the traditional institutional literature on the construction of a shared reality, this study presents a new way to build a theory of institutionalization without emphasizing dispute resolution. It explicates how a behavioral code arises from contestation and shapes a commonly shared reality. It also shows how contestation underlies the adoption of regulatory institutions that keep contestation alive. Overall, it provides a new framework that researchers can test in different empirical settings and expand theoretically.

NOTES

[1] Theoretically, lawyers can raise an infinite number of issues. However, social conventions constrain the number of objections a lawyer may make during trial and the number of issues that may be raised in one case. Moreover, rules of procedure often require lawyers who would raise an issue to provide an extensive memorandum; the effect is to make the challenge expensive (Dreier, 2012; LoPucki and Weyrauch, 2000). Thus, it is common to see two issues raised together, but it is rare to see 35 issues simultaneously disputed in court.

[2] With regard to coding, it is important to check intercoder reliability when coded issues are latent rather than manifest. Given that an issue is a legal question addressed and answered by the court, however, issue(s) in a court opinion are relatively straightforward. Therefore, I coded all data by myself based on the first data source, which cataloged lawsuits by issues.

[3] There are multiple sources of law in a hierarchy (Jaeger-Fine, 2015): the United States Constitution, federal laws (statutes), state constitutions, state laws (statutes), local rules and ordinances. Congress (and the state legislature) enact laws and must comply with the US Constitution (or a particular state constitution). Courts interpret laws; federal/state lower court judges apply and interpret the US/state constitution and federal/state statutes when making their decisions (Hughes, 1996; Jaeger-Fine, 2015). The US Supreme Court and the state supreme court not only interpret laws but also consider whether a particular federal/state statute is consistent with the US/state constitution. The existing federal/state statute is subject to change depending on these court decisions, while the lower court decisions may not contradict a higher constitution or law that mentioned above. Animal laws I collected here refer to federal and state laws, not case law or court decisions.

[4] To control for the role of citation networks in law adoption, I coded all cited precedents of each case from LexisNexis and created annual two-mode networks (case-by-precedent). Then, I converted the two-mode networks to one-mode networks (precedent-by-precedent) to calculate annual network density. Due to missing information and excluding cases without legal citations, I used a final sample of 388 federal cases to create this variable.

[5] I decided to control for federal court cases because federal court decisions work in two ways: (1) US district courts and appellate courts apply the relevant laws of the state in which they sit as if they were a court of that state, and (2) Supreme Court decisions bind all state courts as to the interpretation of federal laws and the US Constitution (Hughes, 1996). These characteristics of federal courts are likely to shape the legal environment, which may facilitate the adoption of animal laws at the state level.

[6] I thank an anonymous reviewer for pointing this out.

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Table I. Descriptive statistics and bivariate correlations

Variables	Mean	Std. Dev.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1.Wars	.037155	.189241	1															
2.GDP per capita †	17490.2	7723.84	**-.28**	1														
3.Citation networks†	.1338801	.1053682	**.29**	**-.71**	1													
4.Number of federal lawsuits†	6.067941	6.830392	**-.17**	**.81**	**-.47**	1												
5.Average % of dissenting judges†	3.199917	7.984896	-.07	.06	**-.09**	**.12**	1											
6.% of single-issue lawsuits†	54.19711	30.66078	.00	**.14**	**-.14**	.06	**.23**	1										
7.Total population (logged) †‡	8.11137	1.20988	**-.12**	**.35**	**-.28**	**.25**	.03	**.12**	1									
8.Horses†‡	101944.7	152320.3	**.18**	**-.40**	**.54**	**-.20**	**-.13**	-.02	.05	1								
9.Cows†‡	2175379	2533452	-.07	**.11**	**-.13**	.07	.00	.06	**.43**	**.25**	1							
10.Sheep†‡	531765.8	787561.5	**.09**	**-.36**	**.38**	**-.25**	**-.09**	-.00	**.08**	**.38**	**.47**	1						
11.New England	.0934183	.2911723	-.00	-.01	.03	.00	.03	-.02	**-.27**	**-.19**	**-.26**	**-.21**	1					
12.Southern states	.1231423	.328775	-.00	.07	-.06	.07	-.02	-.05	**.15**	.02	**.32**	.03	**-.12**	1				
13.Number of lawsuits†‡	.5530786	2.004471	-.05	**.25**	**-.15**	**.30**	.03	.00	**.26**	-.02	.07	-.05	-.07	.00	1			
14.Cumulative law adoptions†‡	13.70594	17.83206	**-.10**	**.39**	**-.27**	**.33**	-.01	**.11**	**.57**	-.06	**.25**	**.12**	**-.11**	**-.11**	**.33**	1		
15.% of single-issue lawsuits†‡	9.819786	27.89752	-.04	**.24**	**-.17**	**.25**	.06	.05	**.29**	-.02	**.21**	.04	-.02	**.09**	**.59**	**.35**	1	
16.Issue network density†	.1775962	.120522	.03	**-.47**	**.33**	**-.21**	-.07	**-.21**	**-.36**	.29	**-.13**	**.13**	-.01	-.05	-.06	**-.16**	**-.10**	1

† 1-year lagged, ‡ State-level variables.
P <.05 in bold.
Total number of observations (law adoptions) is 942.

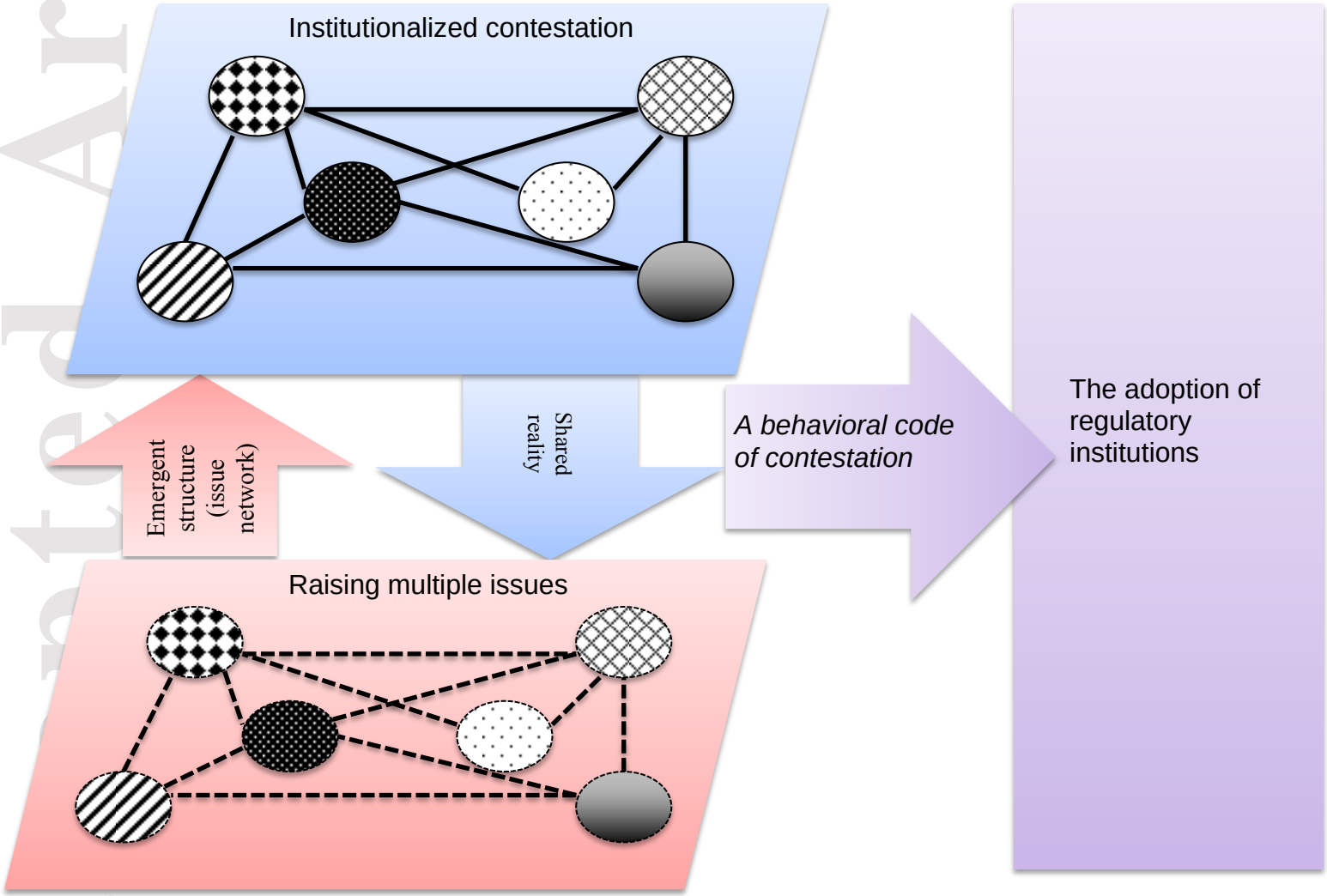
Table II. Law adoption estimated by Cox regression

Variables		Model 1	Model 2
National control variables	Wars	-.295(.202)	-.120(.213)
	GDP per capita$_{(t-1)}$	.000(.000)	.000(.000)*
	Citation network density$_{(t-1)}$	-1.69(1.36)	-1.15(1.33)
	Number of federal lawsuits$_{(t-1)}$	-.006(.011)	-.021(.012)†
	Average percent of dissenting judges$_{(t-1)}$	.009(.007)	.012(.007)
	Percentage of single-issue lawsuits$_{(t-1)}$	.000(.000)	-.000(.001)
State control variables	Total population (logged)$_{(t-1)}$	.138(.058)*	.194(.055)***
	Horses$_{(t-1)}$	-.000(.000)	-.000(.000)
	Cows$_{(t-1)}$	-.000(.000)†	-.000(.000)
	Sheep$_{(t-1)}$	.000(.000)*	.000(.000)*
	New England	.243(.159)	.288(.168)†
	Southern states	.071(.125)	.049(.127)
	Number of lawsuits$_{(t-1)}$	.107(.045)*	.101(.053)†
	Cumulative number of law adoptions$_{(t-1)}$	.014(.002)***	.012(.002)***
	Percentage of single-issue lawsuits$_{(t-1)}$	-.003(.001)*	-.003(.001)*
Issue network density$_{(t-1)}$			**2.11(.669)****
Number of observations		942	942
Number of groups (50 states & D.C.)		51	51
Log pseudolikelihood		-5401.8497	-5389.7243
Wald Chi2		356.84***	410.65***

†P < 0.1, *P < .05, **P < .01, ***P < .001
Numbers in parentheses are standard errors.

Figure 1. A theoretical model

*Circles represent issues.

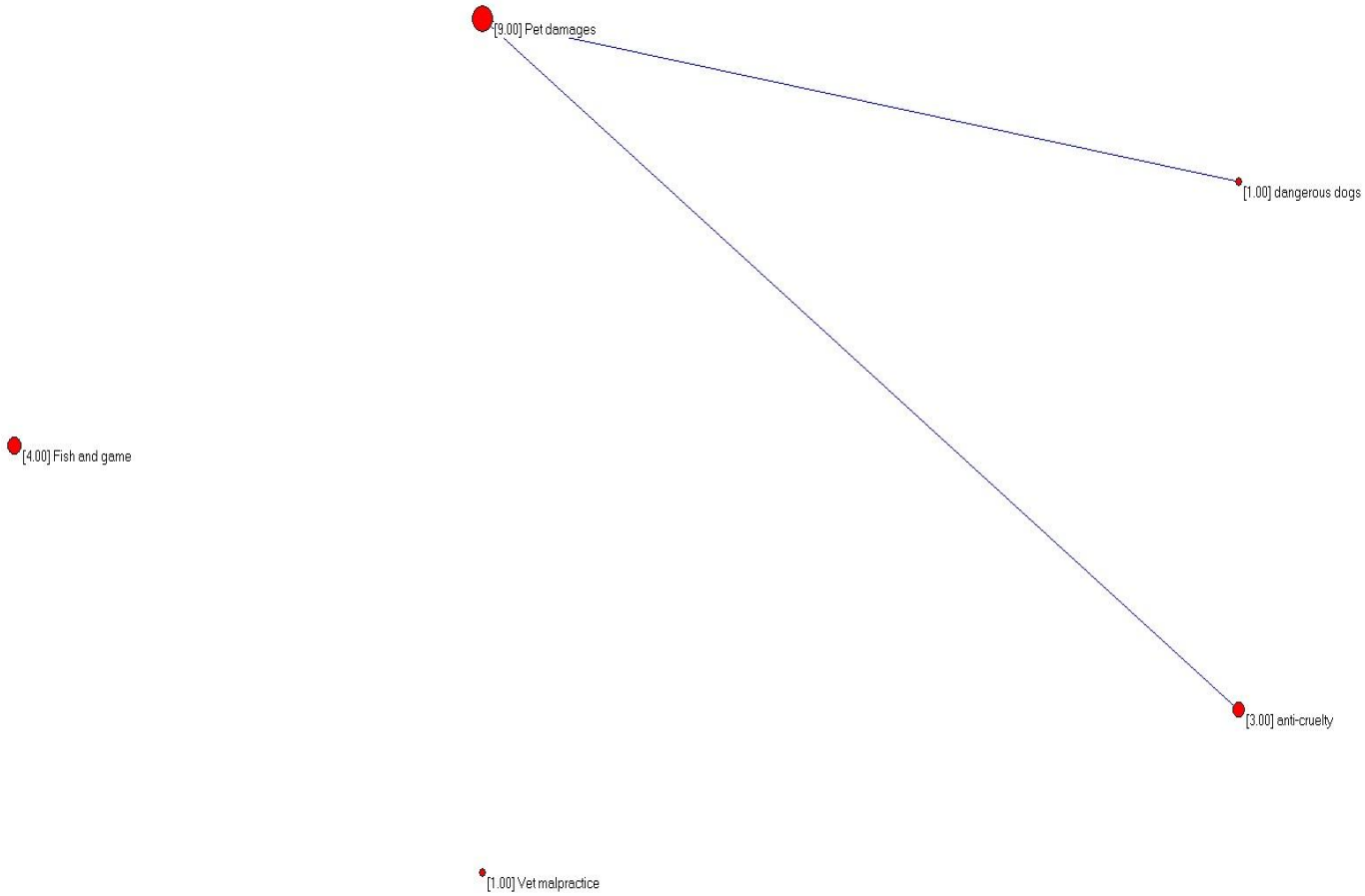


Appendix 1. 35 issues in lawsuit

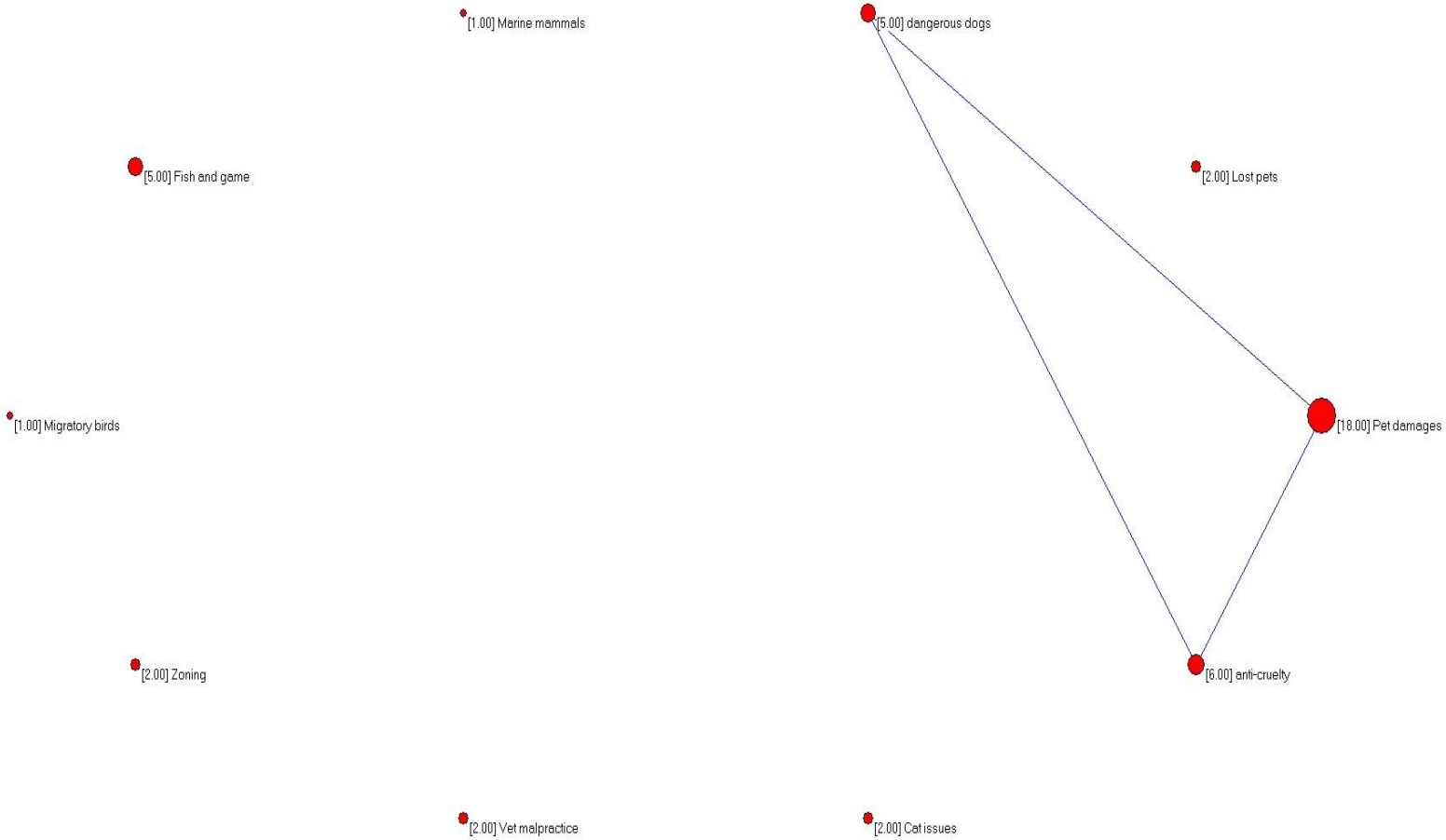
Issue	What is disputed	Issue	What is disputed
Administrative action	Property rights under the Administrative Procedure Act of 1946	Hoarding	Keeping an excessive number of animals at one's residence
Animal fighting	Ownership, possession, and/or training of animals ―for fighting purposes"	Humane slaughter	Government's responsibility to implement humane methods of killing animals
Animal welfare	"Valid exemption" from the Animal Welfare Act of 1966	Hunter/hunting harassment	Limits on hunting and acts in preparation to hunt
Anti-cruelty	"Specific intent" to kill or harm animals	Landlord and tenant	Liability of a landlord and/or his tenants for keeping animals
Bald and Golden eagles	Obtainment of eagle parts for non-commercial purposes (e.g., religious and ceremonial use)	Lost pets	Liability of a person who does not identify owners of lost animals for their action towards such animals
Cat issues or cat nuisance	Acts against "the normal risk" of harm from cats (e.g., neutering stray cats)	Marine mammals	Any harm towards marine mammals protected under the Marine Mammal Protection Act of 1972
Constitutional laws	Acts rationally related to "a legitimate government interest"	Migratory birds	Pursuit, hunt, capture, killing or selling certain avian species in violation of the Migratory Bird Treaty Act of 1918
Dangerous dogs	Ownership/letting free of a dog that may cause death of others	Municipal ordinance	Violation of local ordinances (e.g., livestock, and parish ordinances)
Disability and pets	Ownership of "a service animal"	Pet damages	Causing monetary damages and emotional distress over the death of his or her pet
Eagle protection	Government's responsibility to protect eggs, nests and eagles	Possession of wild animals	Legal ownership (entitled to possession) of non-domesticated animals that are not pets
Endangered species	Violation of the Endangered Species Act of 1973	Standing	Question of a ―qualified individual" to challenge acts of an individual, organization, government or a ruling
Environmental issues	Pollution/harm of the environment	Trade (interstate/international)	Importation of animals and/or their products in violation of import bans
Environmental policy	Government's responsibility to comply with National Environmental Policy Act (NEPA) requirements and implement necessary attributes to the conservation of natural species	Veterinary malpractices	Vet's action that leads to property damage (e.g., the premature death of pets)
Exotic pets	Knowingly causing or permitting the transportation of wild animals to the United States	Constitutional rights (Fourth Amendment rights)	Shooting and killing of animals in violation of the Fourth Amendment
Farming/food production	Violation of standard farming practices and livestock production standards	Wildlife	Exploitation of native species (e.g., hunting license and short open season)
Fish and game	Purchase of game that were killed outside of a focal state and brought them into the state for commercial purposes (e.g., Lacey Act of 1900)	Wills and trusts	Destruction of certain of decedent's property after her/his death
Genetic engineering	Patenting a genetically engineered animal	Zoning	Causing a nuisance due to animals kept in violation of zoning regulations
Health	Responsibility to enhance public/community health		

Appendix 2. Issue networks (networks of missing years are available upon request)

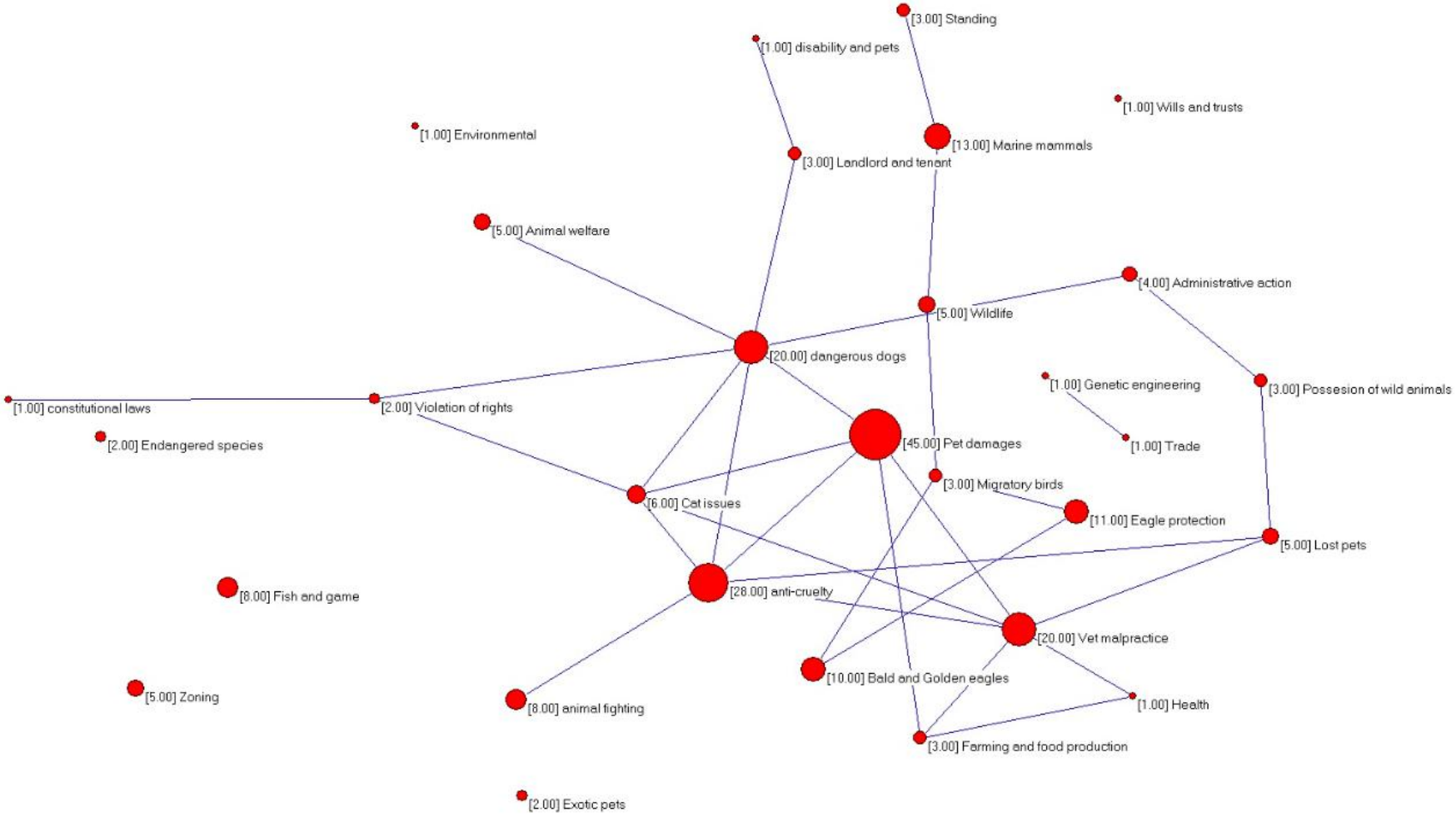
1910



1951



1981



2010