

Stubborn Swedes: The Persistence of the Swedish Corporate Governance System under International Reform*

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Abstract

Despite a number of corporate governance reforms introduced following an Anglo-American blueprint, the Swedish corporate governance system still contains several country-specific traits. In this article, we try to understand this continuity of the national corporate governance system. We do this by outlining a model for describing the processes of change built on Mary Douglas' (1986) theory of 'institutional thinking' and applying this model to a case of the implementation of regulation on independent directors in Sweden. The results highlight (i) that continuity is ensured through the use of 'sacred objects' and (ii) that compromises between the old and the new is made possible by the uses of concepts with 'positive connotations'. Hereby a form of assimilation to the international blueprint occurs which may – or may not – lead to convergence in the long run.

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1. Introduction

An answer is only seen to be the right one if it sustains the institutional thinking that is already in the minds of individuals as they try to decide (Douglas, 1986, p. 4).

Swedish financial markets were strictly regulated until 1986, when they were opened for international investors. Today, international investors hold about 40 per cent of the shares on the Stockholm stock exchange. Following Sweden's entry into the EU in 1995, Swedish corporate governance regulation has converged with the EU regulation. Nevertheless, there are still national elements of the Swedish corporate governance system that enable it to be labelled 'the Swedish model' by researchers (Henrekson and Jakobsson, 2012; Lekvall, 2014) as well as politicians and salient actors in the business community (Jonnergård and Larsson-Olaison, 2010). In this paper, we attempt to understand why and how this perception of a specific Swedish model for corporate governance persists.

The literature on convergence between different governance systems is vast (reviewed by Rashheed and Yoshikawa, 2012). This research indicate that both convergence and divergence occur as corporate governance reforms are diffused between systems, leading at least in the short run to so-called hybrid systems (e.g. Rose and Mayer, 2003; Buck, et al., 2004), i.e., mutual influences between the UK/USA systems and other systems (Thomsen, 2004; Aguilera and Jackson, 2010). The research focus has therefor moved to describing which parts of a corporate system persist and which parts undergo change (e.g. Krenn, 2014). Often it is assumed that the globalization of financial capital has trigger a standardization of corporate governance regulation (Gordon and Roe, 2004; Rasheed and Yoshikawa, 2012). However, this ostensible standardization masks significant variations. Hence, even though comparisons between national corporate governance codes have shown that most codes are structured as the Cadbury code (Aguilera and Jackson, 2010; Thomsen, 2006), they may differ in their details and their application (Lau Hansen, 2006; Larsson-Olaison,

2014). Thus, even in highly standardized areas some features of national corporate governance systems may stubbornly persist.

In this paper we assume that national corporate governance systems persist because they are built upon a national institution. Departing from Douglas (1986), institutions are '*legitimized social grouping*' resting their '*claim to legitimacy on [their] fit with nature of the universe*' (p. 46); thus, it is not any convention or practical arrangement – it is a claim that has a '*parallel cognitive convention to sustain it*' (p. 46). Institutions arise in the construction of social order. Assuming that corporate governance intends to socially order the relationships of ownership and control, a corporate governance code is but one practical arrangement which together with other arrangements, built upon a cognitive convention, jointly forms an institution. Such an institution is contained in the thinking of individuals operating under the institution's influence. Following Douglas, individual thinking depends on institutions that reveal themselves through our speech and action. Thus, if we want to understand the persistence of for example 'the Swedish model', we have to study how conventions are referred to, and defined by, the rhetoric and action of salient actors. In this paper we therefore attempt to understand the persistence of the Swedish model. We do this by (i) applying Douglas' theory of institutions to the development of a corporate governance code in Sweden, (ii) attempting to locate the cognitive element of the institution and then (iii) investigating how national institutions operate to affect the development of corporate governance systems.

The paper is organized as follows: first, we describe Douglas' (1986) theory of institutions and apply it in a corporate governance setting. Second, we describe the development of the Swedish corporate governance system and argue that the institution of 'trust in controlling shareholders' has influenced this development. In order to understand why this perception persists, we describe how institutions reveal themselves through the discourses amongst regulators during the development of a Swedish code of corporate governance.

2. Institutional thinking and Anglo-American corporate governance

Across the world different perception of what good corporate governance implies may be found. These differing perceptions could be understood from the perspective of differences in institutional thinking (Douglas, 1986). In this section, the central concepts of Douglas theory of institutions will be outlined along with an example of its implications in a corporate governance setting, and exemplified by the Anglo-American corporate governance model.

According to Douglas (1986), institutions emerge with the establishment of social order. Douglas takes a position against the conception of social order in economics, where social order is the result of collective action, and thus very difficult to achieve in latent groups without some degree of social cohesion. For Douglas, however, social order may arise through the development of an unintended ‘thought style’ within the group, a thought style which in turn sustains the current social order. Drawing on Durkheim, Douglas claims that ‘individuals entrench in their mind a model of the social order’ (1986, p. 45) which in turn results in stable institutions (cf. above p. 3).

Douglas’ cognitive view of institutions implies a more narrow definition of institutions than that usually applied in corporate governance research. This research tends to regard certain practical mechanisms of corporate governance as institutions, e.g., the board of directors or a corporate governance code. While the board and its directors are integral to solving the problem of separating ownership from control, and thus achieving social order, their claim to legitimacy rests on a foundation which in turn rests its claim to legitimacy of nature; for Douglas, these mechanisms would be regarded as ‘second order’ expression of the institution (Douglas, 1986).

What then, is the consequence of Douglas’ view of institutions? Douglas does not posit that institutions are endowed with human properties of thinking and acting. It is the way that institutions govern the thinking of humans that is important: the institutional thinking. Douglas refrains from

an explicit definition of institutional thinking, although she points to a number of traits of institutions that could guide our understanding of institutional thinking: 1) institutional thinking governs thought by means of classification; 2) institutional thinking provides answers; 3) primary institutions govern important decisions. These traits will be discussed in the following sections.

The first of these traits concerns how institutions and institutional thinking govern our thinking by structuring what could be said, thought and done. Douglas claims that: ‘*Our minds are running on the old treadmill already. How can we possibly think of ourselves in society except by using the classifications established in our institutions?*’ (1986, p. 99). Thus, institutional arrangements are conceived as stable. Over time, they establish the classifications by which we understand our world. As such, they are at work in times of change; the old classifications will guide the understanding of the new ones, thereby achieving a sense of stability.

One example of this is the Anglo-American corporate governance solution, where agency theory, since the 1970s has provided the dominant conception of how corporate governance should be understood (Lazonic and O’Sullivan, 2001; Fligstein, 2001; Veldman and Willmott, 2015). Drawing on the classic works on separation of ownership from control by Alchian and Demsetz (1972) and Jensen and Meckling (1976), Fama (1980) ‘*laid to rest*’ (p. 289) both the concept ‘owner’ and ‘entrepreneur’ in fulfilling any meaningful purpose in the corporation. Instead, it is trust in the markets which is essential. In Fama’s words:

The liability of the large corporation with diffuse security ownership is better explained in terms of a model where the primary disciplining of managers comes through managerial labor markets, both within and outside of the firm, with assistance from the panoply of internal and external monitoring devices that evolve to stimulate the ongoing efficiency of the corporate form, and with the market for outside takeovers providing discipline of last resort (Fama, 1980, p. 295).

This quote illustrates how one institution, ‘trust in the market’, determines the classification schemata for the definitions of possible and self-evident way of solving problems. It is not only a handy solution for the problem but a solution which is a ‘last resort’. As such, ‘trust in the markets’, based on agency theory, becomes a ‘parallel cognitive convention’ (Douglas, 1986, p. 46) forming a consistent institution, and structuring possible solutions regarding separation of ownership and control.

Secondly, according to Douglas (1986), institutional thinking functions as an answering machine:

If the institution is one that depends on participation, it will reply to our frantic question: ‘More participation!’ If it is one that depends on authority it will only reply: ‘More authority!’ Institutions have the pathetic megalomania of the computer whose whole vision of the world is its own program (1986, p. 92).

Thus, a decision is right and rational if it fits within the institutional thinking. In the terminology of Douglas (1986), trust in the market provides a logically consistent foundation for an institutional thinking for Anglo-American corporate governance. Agency theory – which provides a cognitive base for this thinking – supports the solutions: the function of the board as decision control (Fama and Jensen, 1983), market adopted auditor (Watts and Zimmerman, 1983), the importance of minority shareholder protection (La Porta, et al., 1998) and independent directors interpreting market signals (; Gordon, 2007). These appear as effective and logically consistent mechanisms of corporate governance, in that they follow from the scheme of classification provided by agency theory.

Third, Douglas asserts that it is a common misunderstanding that we create our institutions in order to avoid routine-like decisions, rather, ‘*the individual tends to leave the important decision to his institutions while busying himself with tactics and detail*’ (p. 111). Douglas illustrates this with examples of famine in primitive societies and new medical advances in modern societies. In both cases, those

who get to eat and those who receive treatment, the very institutions that governed ordinary life were applied to select who should survive. As the institutions form a very strong sense of control, both the fortunate and the unfortunate accepted the institutional solution. The more important the decision, the more likely it is that it is based on institutional thinking and its rationality.

One illustration of institutional thinking is the tendency to solve crises by applying ‘more of the same’ instead of searching for new solutions when old ones fail. For example, after the Enron scandal, the problems revealed within the Anglo-American system did not lead to any earth-shaking changes. Instead, a stricter regulation was implemented in the Sarbanes-Oxley Act, with thorough surveillance of the already existing corporate governance mechanisms such as independent directors. Thus, perceived problems in the board mechanism were mended by introducing a new, logically consistent mechanism. In that sense, the institutional thinking of the Anglo-American corporate governance model is consistent and recurring: problems in handling the separation of ownership from control are dealt with by implementing more (or new) market-based controls.

In summary, Douglas shows how institutions guide actors as they try to make decisions. Actors operate with an entrenched notion of social order that is cognitively sustained so that the solution, or answer, is contained in the question. Douglas’ theory of institutions and what it implies for our understanding of the Anglo-American corporate governance solutions is summarized in table 1.

3. Institutionalization of trust in controlling owners in Sweden

In this paper, we argue that the Swedish corporate governance system is constructed on the institution of ‘trust in controlling owners’. Concentrated ownership and active owners are common features of the corporate governance systems in Scandinavia and Northern Europe. It is likely, therefore, that the institution of trust in controlling owners

Table 1. The institutional thinking of the Anglo-American corporate governance model.

THE INSTITUTIONAL THINKING OF THE ANGLO-AMERICAN CORPORATE GOVERNANCE MODEL	
Natural order	Trust in market-based coordination. Arms-length. Economically rational actors.
Scheme of classification	Agency theory separation of ownership and control.
Answers from scheme/ answer machine	Control corporate management through the use of markets (managerial labor markets, market for corporate control, financial markets based pay). Transparency will enhance function of market. Reputational-based (independent) control to strengthen market function.
Life important decision	More of the same. The worse the crash, the more reliance on old solutions. Compare Enron.

is part of a larger history of path dependency, as well as unique for the individual nation. Here we will shortly describe Swedish developments in order to be able to show the cognitive aspect of the institution.

Earlier research on the development of ownership in Sweden usually set as the starting point the industrial boom 1870 to 1920 (Högfeldt, 2005; Stafsudd, 2009). At that time, a number of entrepreneurs were active and founded companies that still exist today.¹ The companies were originally financed by retained earnings and bonds, but since 1900, bank credits and finance through the stock market (established 1901) have been the predominant. Over time ownership was diffused or came into the hand of the banks. The head of the firm now became the CEO (Högfeldt, 2005 p. 524) under the control of a major shareholder (Carlsson, 2007).

After the financial crises in the 1930s, Swedish banks were prohibited from owning shares. Instead, the banks' ownership of shares was organized into closed end investment fund (CEIF), distributed to the owners of the bank. The control has persisted through the use of pyramid ownership and dual-class shares (Sinani, et al., 2008; Stafsudd, 2009) as well as by legal restrictions on foreign ownership (Henrekson and Jakobsson, 2003). In 1960, Hermansson (1966) described 'the 15 families' that controlled 41 of the 50 largest companies in Sweden. This pattern persisted at least to the 1980s.

¹ Thirty-five of the 50 largest companies in Sweden in 2000 were established before 1914 (Henrekson and Jakobsson 2003, p. 7).

The dominance of a few controlling owners of large Swedish companies was reinforced by the Swedish post-war policy and development of the general welfare model (Henrekson and Jakobsson, 2003; Högfeldt, 2005; Stafsudd, 2009; Schnyder, 2012a). From the 1930s to the late 1970s, the Social Democratic Party was in power. The party considered the large industrial corporations very important, with the vision that the ownership should with time be transferred into 'social enterprises without owners' (Stafsudd, 2009, p. 64). Tax policies (Henrekson and Jakobsson, 2003) as well as R&D policies (Högfeldt, 2005) supported the growth of the large corporations. After an agreement on how to handle employee-employer relations in 1938, the state, the salient actors of the industry and the unions become part of 'an explicit negotiating culture' (Henrekson and Jakobsson, 2003, p. 10), through which the Social Democrats negotiated and legitimated their welfare programs. To ease the negotiations the model needed a limited number of identifiable. In other words, trust in controlling owners became politically rational (Collin, 1998).

In the late 1960s and through the 1970s, a radicalization occurred in the Swedish society. One expression of this was a pressure from the trade unions to achieve 'ownerless corporations', were so-called wage-earner funds would facilitate 'socialization'. The proposal was never implemented but led to a vivid discussion of economic democracy and private ownership, and was one reason that the Social Democrats lost their first election in 40 years, with some researchers claiming the death of the Swedish model for labor relations (Schny-

der, 2012b). Back in power in the early 1980s, the Social Democrats put the issue of wage-earner funds on the agenda again. This time, however, the emphasis was on increasing collective saving and on strengthening the pension system, thus no longer a 'socialization' reform (Viktorov, 2006).

Besides the wage-earner funds, a very different reform agenda was presented in the early 1980s. The capital market was deregulated (1986–89) and a tax reform implemented (1992). The stock market boomed, and in 2000 the capitalization of the stock market in relation to GDP matched levels of the UK and the US (Sinani, et al., 2009, p. 29). In June 2011, 39.2 % of share capital was held by foreign investors and 26.7% by institutional investors (www.scb.se). Still, only 19 of 234 listed firms were without controlling shareholder (Henrekson and Jakobsson, 2012). The development of the stock market during the 1980s and 1990s seemed not to lead to any major changes in the role of the controlling owners, but the increasing values opened the way for building new fortunes and thereby new controlling shareholders (Henrekson and Jakobsson, 2012). Henrekson and Jakobsson (2012, pp. 223–224), conclude that it is unlikely that a governance model based on dispersed ownership with management control will be viable in Sweden. The Swedish model is too well-founded in mechanisms for control (pyramiding and dual-class shares) to be easily transformed.

The concentrated ownership creates a demand for handling issues regarding minority shareholder protection. While research shows a relative low extract of private benefits from Swedish owners (e.g. Gilson, 2006), the issue of minority protection still has to be considered. Legally, this has been handled by the supreme role of the general meeting and non-executive board of directors with duties to work in the best interest of all shareholders (Lekvall, 2014). However, these regulatory means appear to be strengthened by a general perception of the obligations of the controlling owners (Jonnergård and Larsson-Olaison, 2010) leading to a public discourses where the cry

for 'real owners' dominates whenever corporate scandals occur (Janson, 2013) and calls for trust in social mechanisms of control (Sinai, et al., 2008; Stafsudd, 2009). However, the regulator's situation is complicated by the international discourse that exists around corporate governance rules (Jonnergård and Larsson-Olaison, 2010) which promotes the introduction of Anglo-American corporate governance rules as the only effective solution.

To summarize, the Swedish model for corporate governance, the idea of trusting controlling shareholders to solve problems, operates as the institutional cognitive foundation. This foundation was established in the wake of the financial crises of 1930 and has been supported by the dominant political actors and unions since then (Schnyder, 2012a). When the market was deregulated during the 1980s, foreign investors increased their presence on the market. The number of firms that had controlling owners, however, remained large, indicating a material as well as normative basis for trust in controlling owners. The notion of the importance of the controlling owners is not novel for this paper (c.f. Collin, 1998; Högstedt, 2004; Henrekson and Jakobsson, 2003; 2012; Jansson, 2013; Jonnergård and Kärreman, 2004; Lekvall, 2014; Sinai, et al., 2008; Stafsudd, 2009). What is novel here is that we view 'trust in controlling owners for solving problems' as an institution in the meaning given by Douglas (1986), implying that mechanisms in corporate governance system in different ways have been formed by this institutional thinking. It also implies that it is not 'concentrated ownership' as such (different from diffused ownership) that comprises the content of the institution but the idea that companies need controlling owners to perform. Some of the features of this institution are summarized in table 2 below. In the next section, we will attempt to detect the way the institution reveals itself during the introduction of a corporate governance code, focusing on the idea of independent directors.

Table 2. The institutional thinking of the Swedish corporate governance model

THE SWEDISH INSTITUTION OF CONTROLLING OWNERS	
Natural order	Supremacy of ownership, based on trust in authority, the controlling shareholder controlling management.
Scheme of classification	Property rights (Alchian and Demsetz, 1972).
Answers from scheme/answer machine	Controlling shareholders are necessary to oversee management and ensure the efficiency of the corporation. Corporations lacking controlling shareholders are destined to fail.
Life important decision	Strengthen the involvement of controlling shareholders; ensure privileged position for controlling shareholder. In a crisis, cry for 'real owners of flesh and blood' (see Jansson, 2013).

4. Case background and case study design

If 'trust in controlling owners' forms the cognitive basis of the institution in Swedish corporate governance, the import of regulation from a corporate governance context based on another kind of institutional thinking ought to be problematic. In Douglas (1986) terms, we would expect to find that the institutional thinking would limit what could be said and done. The dominant institutional thinking would offer a pre-existing 'answering machine' to the outside initiative, helping to determine how to implement it. At the same time, this process ought to reveal the institutional thinking behind the imported regulation and how it differs from the local, established thinking. In the next sections, we illustrate this with an analysis of the conversations concerning the regulations of independent directors as the Swedish code of corporate governance was implemented in 2005.

In September 2004, the Code Group presented a Swedish code for corporate governance. The Group was formed as a cooperative effort between the governmental commission of trust and a committee formed by the Swedish business community. As the Code Group was linked to a governmental commission, the code's development closely resembled the Swedish legislative development process. This entailed that a first code draft was published in April 2004, and then edited by the Code Group following an extensive process of referrals before its final publication in

September 2004.² The development of the code initiated a substantial corporate governance debate in Swedish society, and a number of actors tried to influence the regulatory outcome. In this paper, we focus on the commissioned regulators.

Given the prominence of controlling owners, the rules regarding independent directors became a point where the differences between Sweden's approach to the corporate governance problem and the Anglo-American approach, became apparent.³ Anglo-American rules deemed a board independent of both the management team and the owners. This was not perceived as appropriate in Sweden by the code group; instead, a graded definition of independency was introduced into the Swedish code. As a first step, it was stipulated that a majority of the board should be independent of previous and present management of the firm, concurrent with the Anglo-American approach; as a second step, two of the independent directors should be independent of controlling shareholders; and accordingly, the Swedish features of a majority of controlling shareholders on the board could be sustained at the same time as a certain independence from the controlling owners was assured; and third, only one director from the present management team would be

² For a more detailed description of the code development process in Sweden, see Jonnergård and Larsson (2007) and Larsson-Olaison (2014).

³ Stockholm's stock exchange had already implemented rules for independent directors, but the implementation of the code raised the issue publicly. The final rules in code were in agreement with the earlier ones.

permitted to sit on the board. It should be noted here that during the regulatory process, there was little discussion of the requirement for a majority independent of management. In Swedish listed firms prior to the issuing of the code, the CEO was the only director who was part of the present management team (Jonnergård and Kärreman, 2004). This was also codified and thus exceeded the international blueprint.

The case is mainly built on twelve personal interviews conducted between 2006 and 2007. Regulators from all interest groups participating in the code development were interviewed as well as the participating experts. The interviewed regulators were selected using a snowball sample technique; all but two targeted interviewees choose to participate. In the case study, all the respondents are anonymous. This was a basic demand for their participation in the study. The interviews were transcribed and coded in accordance with issue/opinion/theme. In addition to the interview, we reviewed the different documents (draft, referrals process, and legal documents) in order to better understand the context and to search for variations from the conceptions of the regulators.

5. The Swedish solutions for independent directors

The case is structured from Douglas (1986) aspects of institutional thinking. It starts with describing how the old institution is used to define and understand (classify) the imported reform; secondly, the function of trust in controlling owners as an answering machine is illustrated; we then discuss the institution as a reliable base for making important decisions; finally, ending the case, we analyze how the 'sacred side' of the institution is revealed.

5.1 The institutional thinking defining the problem

Discussing the issue of implementing the code, the regulators perceive a sense of being trapped between international regulatory developments,

on the one hand, and considerations for the efficiency of the specific Swedish corporate governance systems on the other. Two quotations from the same interview illustrate this:

[...] of course, it is the same issues [in the Swedish code as in the UK code]. But it's not because it is mandatory, it's because you are voluntarily required. These are the issues that are important. Then one might say that we in Sweden should – just play with the idea – ignore the issues of independent directors, audit committees and nominating committees and other ideas that belong to the core of the international developments; obviously, we would not be particularly credible in the eyes of the international market (Regulator Interview 12, Expert).

This same informant sounds a note of caution, however:

it's not that we don't understand that there are fundamental differences in, if I might say so, Anglo-Saxon corporate governance and Swedish corporate governance. Obviously, these differences had to be addressed (Regulator, Interview 12, Expert).

Hence, a dilemma exists, and the regulators are very well aware of this. They understand the demands for harmonization with Anglo-American practice, while they also see differences that need to be 'addressed'. But in doing so, the Swedish corporate governance system must still be taken into account. A common argument from the involved controlling owners was that 'Sweden has a well-functioning corporate governance model, and this does not need to be changed.' A more developed opinion of this was offered in one of the referrals:

The code concerns the owner's governance of the corporations. It is therefore hard to see the reason why the code prescribes that two directors should be independent of the owners. This is an introduction of a form of minority shareholder protection. Minority shareholder protection should

be governed by the Companies Act, not the code (L.E. Lundbergsföretagens, referral).

This opinion was not restricted to the controlling owners, however. A representative of minority owners claim:

In this case [the independent director debate], we saluted the Swedish model, that is – and I fully support this – that the owners should decide, and it is the owners who should sit on the boards (Regulator, Interview 3, representing minority shareholders.)

Not only is the basic message expressed by referring to the Swedish model. There is also a direct critique of the Anglo-American model as well:

We would like to point out that some of the scandals we have witnessed in the USA are caused by this, there are no opposing forces, and the management team could do as they please. Our statement [on independent directors] is deliberate. We oppose their model, there is a big value in strong owners, and they must have real influence (Regulator, Interview 1, appointed by government).

The quotes above illustrate how the traditional institution limited what could be said and what could be done. The issue revolves around the kinds of solutions that are acceptable. A solution that does not include the controlling owners is out of question. So what solutions are possible?

5.2 The institution as an answering machine

As mentioned above, the solution became a regulation that converged with the Anglo-American system, focusing on independence from the previous management team⁴, but not regarding independence from owners, while also being

⁴ It should be noted that viewed this way, the solution could have been a board with a super majority independent of management, with two controlling shareholder independent directors. However, the reason for only meeting the Anglo-American requirement of a majority independent of previous management was an adaption to one of the business groups that usually put former CEOs on the boards. Thus, this is also an adaption to the practice of one controlling shareholder rather than an attempt to copy the Anglo-American solution; it only happens to coincide.

much stricter than the Anglo-American solution on current management. As expressed by two of the regulators:

Of course, the Swedish rules do not follow the Anglo-Saxons, where the majority should be independent from both the firm and the controlling shareholders. However, we were all in agreement about this – except her [see below]. Directors who are independent of controlling shareholders do not fit with the Swedish model, where we emphasize the importance of strong owners. Therefore, the controlling shareholders must have strong influence. We had strong consensus regarding this, and thus, we still deviate from the Anglo-Saxon model, but it is important to understand that this is a deliberate statement. We think that their solution is bad and does not fit Sweden (Regulator, interview 1 appointed by government).

and

A Swedish independence! We have a very special situation in Sweden, where we have strong owners, and the influence of the owners is important in corporate governance practice. This is regardless of whether it is small owners or large owners. This you will not find in the Anglo-Saxon rule, for instance, where the director should be independent of the owners. As you might have understood, there are two concepts of independence: that of the firm and that of the owners. That you should be independent from the owners is a rather strange conception, as the firm is owned by the owners, and the owners should have the right to appoint the board. I find this a very odd discussion (Regulator, Interview 4, representing controlling shareholders in large firms).

The means for how independence is to be achieved are thereby closely connected to the idea of trust in the controlling shareholder. As indicated in the first quote above, however, one of the members

of the code group, Karin Forseke⁵, had another perception, she is the ‘her’ referred to. Forseke participated in the code group and eventually publicly stated that she disagreed with the Swedish code provisions concerning, among other things directors’ independence. Forseke argued that the Swedish definition could not both differ from the international practice and at the same time be taken seriously by international investors. From her written ‘dissenting opinion’:

In my opinion, it is very unsatisfactory that the Swedish deviant definition of independence is set down in formal regulation, as different definitions will create uncertainty regarding the corporate governance of Swedish firms and thus imply a competitive disadvantage in comparison with regulation for investment in different regions (Written statement of dissenting opinion to the Swedish corporate governance code, by Karin Forseke, SOU 2004:47).

Forseke is the dissenting voice among the Swedish corporate governance regulators in the process of developing a code. Forseke spent a number of years working in the UK, in the City, also serving for a time as a non-executive of the Financial Services Authority. Her argument is based on the view that the Swedish code must not deviate from international ‘best practice’, that is, she does not base her argument on emotions or some kind of moral judgement of good or bad, it is only the goal – securing international financing for Swedish firms – that matters. Apparently, her experiences and perceptions gave access to another ‘answering machine’ than the Swedish one.

5.3 The institution as a base for important decisions

The institution of ‘trust in controlling owners’ repeats itself throughout the case. Let us turn to the institutional thinking when it comes to the issue of how key decisions are made in the Swedish business community.

⁵ Karin Forseke declined to be interviewed for this study. Her opinions and arguments are based on public sources; therefore, we see no reason to make them anonymous.

we have not only another form of acceptance, but also a positive attitude towards strong owners who participate in the governance of the firm. This is not the view over there [abroad], and this is due to the fact that the normal listed firm in the United States and England is what we call a firm ‘without master’ with dispersed ownership, while the normal thing here is a firm with one or maybe two controlling shareholders. We actually think that these controlling shareholders have a responsibility to serve as directors and so forth, while the Anglo-Saxon view is that they should keep out and decide only if they should invest or divest (Regulator, Interview 12, expert).

Business decisions are made on the basis of ‘trust in the controlling owners’, and in the quote above, this is justified by invoking differences between the Swedish and Anglo-American corporate governance. The use of the term ‘without master’ to describe the situation of US and UK, where the regulator felt that directors independent from owners could be useful, has strong symbolic content in Swedish; ‘Without master’ is a translation of the Swedish word ‘herrelöst’, a term applied to stray dogs, or organizations without evident goals (the term is as vivid as, say, ‘a chicken running around with its head cut off’). The US/UK situation is contrasted with the uniqueness of Sweden, where the owners actually ‘own’ the firms. It is also worth noting how the regulator in interview 12 describes the function of the investor (owner) in the Anglo-American setting: they invest and they divest, implying that the Swedish regulator has a good understanding of the theoretical model behind the independent directors. The problem, however, is that the Anglo-American model is viewed as inapplicable to Sweden and the controlling shareholders. The regulators see this difference as a pedagogical problem: why doesn’t everyone else understand what we see as self-evident? Hence:

First, it is important to understand that the board should be dependent on the owners. To only talk about the board being independent of the owners as some – Karin

Forseke⁶ and such people do – I think it is foolishness. I believe that the more owner-dependent the board, the better. Then, of course, it is not good if the board is dependent only on one owner. The board should be there for all stockholders. But I cannot understand how a board could be described as bad if it is dependent on the owners (Regulator, Interview 5, representing controlling shareholders in small listed firms).

The basic trust in controlling owners is also complemented by a mistrust of the Anglo-American system. The independent director simply does not work:

I'm damn skeptical towards that way of working, this 'good people', it is dangerous, only middle hands. To have a lot of people on semi-mandates without accountability, without personal authority, no personal accountability, it is very dangerous. To make a lot of decisions, it is only the general public's money, I did my best (Regulator, Interview 6, representing controlling shareholders).

Thus, the independent director could be described as a person without real accountability. They could pose a danger to the wealth of the shareholders rather providing guarantees for it. A majority of owner-dependent directors are needed on a Swedish board; otherwise, the firm might end up in a situation where management finds allies on the board rather than the board acting as the much needed watchdogs whom the regulators prefer.

5.4 The controlling shareholder as sacred

According to Douglas (1986), most parts of the control exerted by the institution are invisible to those actors operating under its influence. In our case study, a part of the identified institution is rather visible, as the regulators tend to return to the controlling shareholders in a 'frantic' state, as Douglas describes this. What seems to be invisible regarding this institution is why 'the controlling shareholder' is shown such a great respect.

In Douglas' terminology, the explicit part of the institution is referred to as the 'sacred'. According to Douglas, the sacred could be recognized by three characteristics: 1) it is dangerous to challenge; 2) attack on it generates emotions in defense; 3) it is invoked explicitly by sacred symbols, (1986, p. 113). These features certainly coincide with the way the concept of controlling shareholder is articulated by the Swedish regulators interviewed in this study.

Firstly, it appears to be dangerous to challenge the concept of the controlling owner, so dangerous that Forseke's statement is the only example we can find of this. Instead the 'frantic' references to the function of the controlling owners are salient: the Anglo-American institutional investors should take care of their own backyard, and the Swedish regulators see themselves as trying to protect the country from a threatening situation where firms lose their masters. In this understanding, the firm is a child, the controlling owner is the father, and the Anglo-American solution would be tantamount to breaking up the family.

Second, the interviews also reveals emotional defense: the Swedish model is '*saluted*', the controlling owners is endowed with 'big value' and there is an apparent irritation (they even curse) with the one individual in the code-group who has a divergent opinion. It is as if she has been 'polluted' by her UK experience. The emotional expression indicates that the importance of controlling owners has a normative basis which is much more important than any rational justification in corporate governance practice.

Thirdly, a frequent invocation of 'the Swedish model' as a symbolic label places the focus on the importance of the controlling owners. The implication here is that the controlling owners are sacred. They are the embodiment of the cognitive foundation for 'trust in controlling owners' as the solution to the societal problem of separation of ownership from control. For the regulators, it is impossible to see any other solution to this problem. To quote Douglas: '*The sacred makes a fulcrum on which nature and society come into equilibrium, each reflecting the other and each sustaining*

⁶ See above and footnote 5

the known' (1986: 113). Thus, an attack on the controlling shareholders is not just a debate about corporate governance. It is an attack on the moral foundations of corporate governance itself.

6. Concluding Remarks

Building on the case, three conclusions are put forward: first, regarding how the cognitive foundation presents itself in the implementation process of the code; second, regarding the role played by the obvious positive connotations of the concept of independent director; and finally, regarding the Swedish model of corporate governance and how such systems develop in face of financial globalization.

6.1 The influence of 'trust in the controlling owner' on the import of the code

In the case above, we have applied the framework of Douglas (1986) in order to reveal the different functions played by the institution 'trust in the controlling owners' when regulating independent directors. What we found is interplay between the institution and the changes in the governance mechanisms. As expected from the framework, the institution revealed itself by defining issues, arguments and means for solving problem. In this process, the institution was a platform rather than a partner. It was there to draw upon whenever resources were needed. As such, the existence of the cognitive foundation of 'trust in controlling shareholder' among Swedish regulators is important for understanding the continued persistence of 'Swedish model'.

The institution acted as a platform for opposing the imposed solution. The feature of, and the influence of the Swedish model, is revealed by its comparison with the externally imposed, powerful 'other' – the Anglo-American model. Expressions as 'most US companies are without masters' or 'in the UK, the only function of the owners is to invest or divest' are example of this. The Swedish regulators seek to indicate that they are both inti-

mately familiar with the Anglo-American model but that they also disapprove of it as 'un-Swedish'.

Still, the regulators also take part in introducing regulation associated with the Anglo-American model, and they are well aware of the need to do so. This is revealed in the quote on p. 20 above. There are, in other words, some very visible and material reasons why Sweden would introduce Anglo-American regulation despite perceived differences in institutions. Consequently, there is an incentive for what Douglas call for 'diplomacy between institutions'. Nevertheless:

between institutions of the same kind, based on the same analogies from nature, and sealed with the same ideas of justice, diplomacy has a chance. But diplomacy between different kinds of institutions will generally fail. Warnings will be misread. Appeals to nature and reason compelling to one party, will seem childish or fraudulent to the other (Douglas, 1986, p. 126).

Indeed, we have seen precisely this 'talking passed each other' above in the emotional language and the attempt to denigrate the Anglo-American systems. In our case, the solution for independent directors in the Swedish system not only appears as a way to sustain the Swedish institutions, but as a way of applying 'diplomacy' without solving the fundamental cognitive conflicts. This leads to the value of concepts with positive connotations.

6.2. Independence as a good thing

Regardless of whether independence is considered 'good corporate governance' or whether independence is seen as a practical necessity in order to achieve legitimacy, it is obvious that both versions of institutional thinking are compatible with the concept of independence. This is despite the fact that they define 'independence' in very different ways. 'Independent director' seems to have positive connotations for all actors, regardless of which versions of institutional thinking is operating. Independence appears as a sacred value. Being against independence is a threat to the entire social order.

The fact that the concept of independence in different versions of institutional thinking has positive, desirable connotations has implications for how we might think about the consequences of internationalization of corporate governance. The concept of independent directors is a key issue for regulators (e.g., Sarbanes-Oxley, and the interview quotes) as well as scholars (e.g. Gordon, 2007). However, when local regulators are assigned to implement international regulations, it might be the case – as in this case – that they have their institutions to do their thinking for them. As shown in the Swedish case, the position of the independent director in different versions of institutional thinking may imply that different meanings and cognitive schemas define the concept in different ways, leading to differences in practice. This might be one explanation for why the globalization of financial capital does not necessarily foster convergence (e.g. Buck, et al., 2004; Jonnergård and Larsson, 2007; Aguilera and Jackson, 2010; Thomson 2004).

It is not a novel notion that concepts ‘with positive connotations’ are applied as a way of fostering an ostensible standardization. Rather, it appears as one solution to the ‘diplomacy-problem’ that arises when different national institutions conflict in regulatory processes. One early example of this solution was the implementation of ‘true and fair view’ in the EU accounting directive during the 1970s. While the concept was widely accepted, the interpretation of the concepts varied between different member states (Alexander and Eberhertinger, 2009). Similarly, in the diffusion of the concept of ‘shareholder value’, it has been observed that shareholder value contains different interpretations in different national context (Fiss and Zajac, 2004; Vitols, 2004). Thus, positive connotations seem to be a method where persistence of established patterns is masked.

It appears that change processes initiated by the internationalization of financial capital – be they convergence, persistence or hybridization – occurred partly through the creation of labels with unarguably positive connotations, such as the label ‘independent directors’. These labels are

then affixed to corporate governance mechanisms (practical solutions following from the institution, [Douglas, 1986]), in this case, to some of the firm’s directors. However, the cognitive content of the mechanisms varies according to which institution that does the thinking (in this case, the market-based or the controlling shareholder-based). This results in a situation where the same mechanism is infused by the competing versions’ institutional thinking. Thus, regarding the Swedish case, the institution of ‘trust in controlling owners’ not only defines the salient issues, the legitimate rhetoric and the solutions, it also defines the concepts in which we discuss these issues.

6.3. What about the future of the Swedish model?

Douglas’ (1986) theory of institutions helps explain the persistence of the Swedish model for corporate governance in the face of international efforts to reform it. However, it would be a mistake to conclude that the Swedish model is stable or somehow inert. In fact, a number of features of the international blueprint for corporate governance have been implemented more or less unchallenged. The issue of independent directors was the one that attracted most discussion during the implementation of the Swedish code, and we have claimed here that the reason for this attraction is that the issue is directly related to the institution of trust in controlling owners.

One conclusion to be derived from this study is that the most likely outcome is not convergence but a hybridization of different corporate governance systems, at least in the short run. As we have seen in the discussion above, the rhetoric is based as much on a profound dislike of for foreign institutional features and emotional/normative argument as it is on ‘economic rationality’. In addition, the national institutions are embodied not only in rhetoric but furthermore in national regulation and in ownership structures that have evolved over time.

This conclusion is in line with mainstream research on path dependency (North, 1991). In this article, we have proposed that Douglas’ (1986)

theory of institutions can help reveal the basic path and how it reveals itself. By using Douglas' schemata, we have not only reveal the function of the institution – to work as a platform rather than an overt referent – but furthermore to define the salient points of divergence – the sacred. We have also shown that one means of solving the

diplomacy between institutions is to deploy the concept of positive connotations. One feasible path for future understandings of convergence and divergence between corporate governance systems would be to further define and study this and other possible 'means of diplomacy'.

References

- Aguilera, R., & Jackson, G. (2010). Comparative and international corporate governance. *The Academy of Management Annals*, 4:1, 485–556.
- Alexander, D., & Eberheringer, E. (2009). The true and fair view in the European Union. *European Accounting Review*, 18:3, 571–594.
- Alchian, A., & Demsetz, H. (1972). Production, information costs, and economic organization. *American Economic Review*, 62, 777–786.
- Buck, T., Shahrim, A., & Winter, S. (2004). Executive Stock Options in Germany: The Diffusion or Translation of US-Style Corporate Governance? *Journal of Management & Governance*, 8:2, 173–186.
- Carlsson, R. H. (2007). Swedish Corporate Governance and its value creation: The owners still in the driver's seat. *International Journal of Corporate Governance*, 15:6, 1038–1055.
- Collin, S-O. (1998). Why are these islands of conscious power found in the ocean of ownership? Institutional and governance hypotheses explaining the existence of business groups in Sweden. *Journal of Management Studies*, 35:6, 719–746.
- Douglas, M. (1986). *How Institutions Think*. Syracuse: Syracuse University Press.
- Fama, E.F. (1980). Agency problems and theory of the firm. *Journal of Political Economy*, 88:2, 288–307.
- Fama, E.F., & Jensen, M.C. (1983). Separation of ownership and control. *Journal of Law and Economics*, 26, 301–325.
- Fiss, P.C., & Zajac, E.J. (2004). The Diffusion of Ideas over Contested Terrain: The (Non)adoption of Shareholder Value Orientation among German Firms. *Administrative Science Quarterly*, 49:4, 501–534.
- Fligstein, N. (2001). *The Architecture of Markets: An Economic Sociology of Twenty-First-Century Capitalist Society*. Princeton: Princeton University Press.
- Gedajlovic, E.R., & Shapiro, D.M. (1998). Management and Ownership Effects: Evidence from Five Countries. *Strategic Management Journal*, 19, 533–553.
- Gilson, R.J. 2006. Controlling Shareholders and Corporate Governance: Complicating the Comparative Taxonomy. *Harvard Law Review*, 119, 1642–1679.
- Gordon, J.N., & Roe, M.J. (2004). Introduction. In Gordon J.N., & Roe, M.J. (eds.) *Convergence and Persistence in Corporate Governance*, Cambridge: Cambridge University Press.
- Gordon, J. N. (2007). The rise of independent directors in the United States, 1950–2005: Of shareholder value and stock market prices. *Stanford Law Review*, 59, 1465–1568.
- Hansen Lau, J. (2006). Catching up with the crowd – but going where? The new codes on corporate governance in the Nordic countries. *International Journal of Disclosure and Governance*, 3:3, 2213–232.
- Henrekson M., & Jakobsson, U. (2003). The Swedish Model of Corporate Ownership and Control in Transition. *IUI working papers series*, no. 593.
- Henrekson, M., & Jakobsson, U. (2012). The Swedish Corporate Control Model: Convergence, Persistence or Decline? *Corporate Governance: An International Review*, 20:2, 212–227.

- Hermansson, C. (1966) *Monopol och storfinans: de 15 familjerna [Monopoly and big finance: the 15 families]*. Stockholm: Raben & Sjögren.
- Högfeldt, P. (2005). The history and policies of corporate ownership in Sweden. In Morck, R.K. (ed.) *A history of corporate governance around the world: Family business group to professional managers*. Chicago: Chicago University Press.
- Jansson, A. (2013). 'Real Owners' and 'Common Investors': Institutional Logics and the Media as a Governance Mechanism. *Corporate Governance: An International Review*, 21:1, 7–25.
- Jensen, M.C., & Meckling, W.H. (1976). Theory of the firm: Managerial behaviour, agency costs, and capital structure. *Journal of Financial Economics*, 3, 305–360.
- Jonnergård, K., & Kärreman, M. (2004). Board Activities and the Denationalization of Ownership - The Case of Sweden. *Journal of Management and Governance*, 8:3, 229–254.
- Jonnergård, K., & Larsson, U. (2007). Developing codes of conduct: Regulatory conversations as means for detecting institutional change. *Law & Policy*, 29:4, 460–492.
- Jonnergård, K., & Larsson-Olaison, U. (2010). The Renegotiations of 'controlling shareholder – minority shareholder' contract: conceptions of ownership in the Swedish media debate for stricter mandatory bid regulations. Presented at ICCG – 'Corporate Governance and Sustainability', Birmingham, 2010.
- Krenn, M. (2014). Decoupling as a Sustainable Firm Response to Pressures for Convergence and Divergence in Corporate Governance: The Case of Codes of Good Corporate Governance. *Journal of Management Policy and Practice*, 15:4, 103–117.
- La Porta, R., Lopez-De-Silanes F., & Sheifer, A. (1998). Law and Finance. *Journal of Political Economy*, 106:6, 1113–1155.
- Larsson-Olaison, U. (2014). *Convergence of National Corporate Governance Systems: Localizing and Fitting the Transplants*. Växjö: Linnaeus University Press.
- Lazonick, W., & O'Sullivan, M. (2000). Maximizing shareholder value: a new ideology for corporate governance. *Economy and Society*, 29:1, 13–35.
- Lekvall, P. (ed.) (2014) *The Nordic corporate governance model*. Stockholm: SNS.
- North, D. C. (1991). *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.
- Rasheed, A., & Yoshikawa, T. (eds.). (2012). *The Convergence of Corporate Governance: Promise and Prospects*. Chippenham: Palgrave Macmillan.
- Rose, C., & Meyer, C. (2003). The Danish Corporate Governance System: from stakeholder orientation towards shareholder value. *Corporate Governance an international review*, 11:4, 335–344.
- Schnyder, G. (2012a). Varieties of insider corporate governance: the determinants of business preferences and corporate governance reform in the Netherlands, Sweden and Switzerland. *Journal of European Public Policy*, 19:9, 1434–1451.
- Schnyder, G. (2012b). Like a phoenix from the ashes? Reassessing the transformation of the Swedish political economy since the 1970s. *Journal of European Public Policy*, 19:8, 1126–1145.
- Sinani, E., Stafsudd, A., Thomsen, S., Edling, C., & Randoy T. (2008). Corporate Governance in Scandinavia: Comparing Networks and Formal Institutions. *European Management Review*, 5:1, 27–40.
- SOU 2004:47. (2004). *Betänkande: Näringslivet och förtroendet [The Business Society and the Trust]*. Stockholm: Ministry of Finance.
- Stafsudd, A. (2009). Corporate networks as informal governance mechanisms: a small world's approach to Sweden. *Corporate Governance: An International Review* 17:1, 62–76.
- Thomsen, S. (2004). Convergence of Corporate Governance during the Stock Market Bubble: Towards Anglo-American or European Standards? In Grandori, A. (ed.) *Corporate Governance and Firm Organization: Microfoundations and Structural Forms*, London: Oxford University Press.

- Thomsen, S. (2006). The hidden meaning of the code: Corporate Governance and investors rent seeking. *European Business Organization Law Review*, 7:4, 845–861
- Veldman, J., & Willmott, H. C. (2015). The cultural grammar of governance: The UK Code of Corporate Governance, reflexivity, and the limits of 'soft' regulation. *Human Relations*, first published online October 19, 2015.
- Viktorov, I. (2006). *Fordismens kris och löntagarfonder i Sverige [Crisis of Fordism and wage-earner funds in Sweden]*. Stockholm: Stockholm University Press.
- Vitols, S. (2004). Negotiated shareholder value: the German variant of an Anglo-American practice. *Competition and Change*, 8:4, 357–374.
- Watts, R. L., & Zimmerman, J. L. (1983). Agency theory, auditing and the theory of the firms: some evidence. *Journal of Law and Economics*, 26:3, 613–633.