

**Working Papers in International Studies
Centre for International Studies
Dublin City University**

Party Regulation and Democratisation

**Iain Mcmenamin
School of Law and Government
Dublin City University**

Working paper 3 of 2008

 <p>DCU</p>	<p>Centre for International Studies School of Law and Government Dublin City University Ireland</p> <p>Tel. +353 1 7007720 Fax + 353 1 7007374 Email cis@dcu.ie Web: www.dcu.ie/~cis</p>
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1. INTRODUCTION

The two great subjects of academic political engineers have been electoral systems and executive-legislative relations.¹ The main purpose of engineering the electoral system has been to influence the party system. The choice between presidential and parliamentary systems also has important consequences for parties. In the case of both electoral systems and executive-legislative relations, the effect on parties is indirect. Incentives are provided for parties by prescribing the method of election to offices and the powers of elective offices. It is now clear that political practice has gone beyond merely providing indirect incentives to directly regulating the form political parties take.²

In this chapter, I concentrate on the most original subject matter covered in this book: how party regulation affects the nature of political parties. The incentives created by the electoral rules affect not just the party system, in terms of number, size and stability of parties (the inter-party dimension), but also the nature of the parties themselves (the intra-party dimension).³ In this chapter, the dependent variable is the intra-party dimension and the independent variables are forms of party regulation. As Shugart has pointed out, the intra-party dimension has been neglected in the huge literature on electoral systems and Reilly's primary claim for the originality of this volume is the extent to which the political practice of party regulation has outpaced its academic analysis. In terms of Reilly's taxonomy of attempts to engineer parties and party systems, I confine myself to bottom-up (or extra-parliamentary) regulations. Thus, I exclude electoral rules, top-down (or parliamentary) regulations and international interventions.

The bottom-up regulation of parties seems to take four main forms. First, it can require that parties have a certain number and/or geographical distribution of members, branches, or permanent offices. Second, it can proscribe certain bases of party mobilisation, most notably ethnicity. Third, regulations can mandate that parties are internally democratic. Fourth, the source, size and reporting of party finances can be regulated. Whether these regulations are found in the constitution, ordinary statute law or a specialised electoral or party law,⁴ they have in common that they do not merely provide a set of incentives for office-seeking or office-holding parties. Instead, they tend to set out in some detail the standards that parties are supposed to meet if they want to offer themselves for office.

Political engineering requires a reasonable basis on which to predict its consequences. Prediction in turn requires a very strong theoretical base. This chapter sets out the formidable theoretical challenges for the study of party regulation. These challenges can be understood in terms of the standard model of political parties and democratisation, which should be especially familiar to students of electoral systems from their analysis of the interrelationship of electoral rules, political parties and social structure. While this chapter is primarily situated in the academic literature, it does have policy implications. Firstly, the chapter contains some very strong arguments as to the consequences of some types of regulation in some contexts. In effect, it represents the academic's response to the policymaker's question of "what works?" Secondly, to the extent that policymakers are operating without the analysis and data assumed by the standard model, they are lacking basic information. To the extent that they lack basic information, the consequences of engineering will be unpredictable and risky. Thirdly, in some limited respects, the analysis of this chapter presents theoretical arguments for concrete institutional solutions that have yet to be

found amongst the current wave of experimentation overviewed elsewhere in this book.

2. THE STANDARD MODEL OF PARTIES AND DEMOCRATISATION

Although it is rarely expressed as such, there exists a broad consensus on a standard model of parties and democratisation. Indeed, it is assumed, or partially articulated, in virtually all of the other chapters of this book. Given the complexity of politics and political studies, the chapters, as well as the wider literature, generally focus on portions of the model. Nonetheless, most studies of parties and democratisation are involved in a collective endeavour to specify and test the model.

Now, I will very briefly outline the structure of the model. The characteristics of political parties are hypothesised to affect democratisation. Some types of parties are thought to be better for democratisation than others. For example, the vast majority of scholars think institutionalised parties are better than uninstitutionalised parties. Many scholars think that ethnic parties are best avoided. The characteristics of parties are explained by a variety of institutional factors such as the electoral system and executive-legislative relations. These institutions cannot be considered one by one. They interact with each other. The effect of one institution varies according to overall institutional configuration. Party characteristics are also explained by social factors such as the divisions between classes, religions, regions and ethnic groups. Interactions of social and institutional factors are important. The effect of institutions will vary according to what type of society they are placed in. Finally, institutions are often endogenous to parties. In other words, not only do institutions influence parties; parties influence institutions. The model is summarised in Figure One.

[Figure 1 about here]

In the following, and principal, section of the chapter, I lay out the study of party regulation in terms of the standard model of parties and democratisation. In doing so, I endeavour to provide a coherent synthesis of, and commentary on, most of the content of most of the chapters in this book. The chapter does not attempt an empirical summary. Moreover, it does not even claim to be a fully worked-out theoretical proposition. Instead, it is merely hoped that it will illuminate the theoretical challenges facing a research programme on party regulation. Given the newness and generality of the material, this last aspiration is not overly modest.

3. PARTY REGULATION

3.1 Parties

Two characteristics of parties are most frequently associated with prospects for democratisation: their level of institutionalisation and the degree to which they are “ethnic” parties. An ethnic party “derives its support overwhelmingly from an identifiable ethnic group ... and serves the interests of that group”.⁵ Note that this definition centres on “how the *party*’s support is distributed, and not how the *ethnic* group’s support is distributed”.⁶ I use ethnicisation as a shorthand term for an ordinal ranking with ethnic parties as the most ethnicised, multi-ethnic parties the second most ethnicised and non-ethnic parties as the least ethnicised.

Unfortunately, definitions of institutionalisation are much more complex, vague and contested. In spite of this definitional morass, in practice, observers tend to agree on whether a given party is institutionalised or not. Randall’s conception⁷ is a considered synthesis of a large literature.⁸ In contrast to most other contributions, it is specifically designed to address the institutionalisation of parties, as opposed to other organisations, and focuses on the intra-party dimension alone, as opposed to a mix of

intra- and inter-party dimensions.⁹ The first characteristic of the institutionalised party is “organisational systemness”. It is a real organisation, not a mere network, coterie, or façade. Secondly, it exercises “embedded decisional autonomy”. While it has links to society, and may be influenced by other organisations, it has substantial control over its own decision-making. Thirdly, it exhibits “value infusion”: its members do not treat it purely instrumentally. The continuity and success of the party is regarded, to some extent at least, as a good in itself. Finally, the institutionalised party has a “definite public image and presence” as well as a “relatively stable basis of support”. This definition helps to convey both the complexity of institutionalisation and the high standard, which a party must achieve to be regarded as institutionalised. Although the rules under examination in this chapter tend to influence some of the four characteristics more than others, these differences are not essential for the following discussion. Neither are the differences between this and other definitions of institutionalisation. Also, it is reassuring that these four dimensions of institutionalisation do tend to co-vary.

In common with a wide consensus, I assume that, at least in the context of most of the societies under examination in this book, institutionalised parties are good for of democracy. Nonetheless, it is worth noting that many people think that some Latin American parties, for example, the traditional Colombian parties, have been over-institutionalised. Furthermore, the popular idea of the cartel party might be interpreted as a view that most Western European parties are over-institutionalised.¹⁰ In contrast, I am making no claim with regard to the connection between the ethnic status of a parties and democratic outcomes, which is the subject of a vigorous debate between “centripetalists” and “consociationalists.”¹¹ Competing schools of thoughts will care about the effect of institutions designed to remove ethnicity from party

structures, even though they will, of course, have very different views as to the advisability of such attempts.

3.2 Institutions

In this section, I propose some hypotheses linking the four sets of party regulations with ethnicisation and institutionalisation. An internally democratic party is more institutionalised but is not necessarily more or less ethnic. It is more institutionalised because elections require a minimum level of organisational systemness. Democracy also promotes decisional autonomy. A genuinely democratic party cannot be the creature of another organisation. Internal democracy also promotes value infusion. Members may identify with the party as a democracy. They will owe their loyalty to the party's democratic procedures rather than to personal connections with its leadership. In contrast, whether internal democracy promotes ethnicisation or not depends on the relative positions of leaders, members and voters.¹² Registration requirements are usually designed to discourage ethnicity by making it impossible or difficult for ethnic parties to register. Moreover, they necessarily require a relatively high level of institutionalisation. In Indonesia, parties must establish an organisational network in two-thirds of the provinces across its archipelago and in two-thirds of the municipalities within those provinces. This represents quite a formidable level of institutional development. The proscription of bases of mobilisation is again usually targeted at ethnic parties but does not affect institutionalisation. Finally, funding regulations affect institutionalisation in that they require a more professional administration of resources. They have no relation to ethnicity. The relationship between the two characteristics of parties and the our types of regulation are summarised in Table One. A caveat to all of these hypotheses

is that they only hold if the party regulations are enforced. The likelihood of enforcement can be best understood as a response to the incentives created by the institutions.

[Table One about here]

3.2.1 Incentives

There is a frustratingly wide range of definitions of institutions, most of which are useful in some context or other. For political engineers, the definition of institutions as incentive structures is a useful one. Thus, to understand any institutions we must enumerate the rewards it offers and the punishments it threatens.¹³ The incentive offered by electoral systems is clear: it helps decide who does and does not exercise political power. However, the incentives presented by party regulation are less clear and less uniform. Here, I point out some of the challenges and opportunities in studying, evaluating and designing party regulations as effective incentive structures. I begin by considering whether the regulations rely on command and control or positive incentives to achieve their aims.¹⁴ Then, I examine ways of monitoring and enforcing rules.

Command and control is not the only way for the state to modify behaviour. A good example is the continuing shift in environmental regulation from minimum standards to incentive schemes such as carbon emission trading. In spite of this fashion, virtually all cases of party regulation seem to rely on command and control: the regulations stipulate standards that parties must meet. If they do not meet these standards, they face two sorts of penalties. Parties that mobilise on proscribed bases or do not meet membership and branch requirements are refused registration or de-registered. Command and control regulations may be so drastic, and so at variance

with the structure of society, that they may be impossible to implement. Witness the failure of Turkey's ban on religious parties. Turkish courts disbanded the Welfare party but it has simply renamed itself as Justice and Development, shuffled leaders, and denied a religious identity while clearly appealing to the more religious sectors of Turkish society. Less risky but still part of the command-and-control approach is the imposition of fines. Violations of financial regulations tend to be punished by fines but even in established democracies, with relatively undemanding regulations, enforcement tends to be patchy.¹⁵

The single exception to the command-and-control approach seems to be the Papua New Guinean incentive for parties to field female candidates. There is no quota of female candidates, the non-fulfilment of which attracts drastic, or not-so-drastic, consequences. Instead, parties that select female candidates receive a small but significant rebate on their election expenses. The aims of many of the command-and-control regulations could be pursued in a similar fashion. For example, parties' state funding could be partly a function of the distribution of their offices. In order to provide a further encouragement to real institutionalisation, and to minimise the potential for straightforward corruption, non-cash incentives could be provided. Parties that exceed a threshold or geographical dispersion could receive a subsidy to their phone or mail expenses or even receive a number of state-provided person-hours in administrative support. Despite the potential benefits and minimal risks of such an approach, there do not seem to be any cases of such incentives.

There is little analysis of how party regulations are monitored and enforced, other than to say that they are difficult to enforce and are frequently not enforced. A lot will depend on the design of the institutions charged with monitoring and enforcement. This responsibility is often given to the electoral commission, the basic

work of which has an obvious congruence with party regulation. However, there may be a tension between the administration of elections, which is best carried out with the co-operation of parties, and a seemingly partisan and aggressive process of selectively applying sanctions to parties. The other option is a dedicated “Party Regulator”, which oversees party regulations separately from the conduct of elections. According to International IDEA nine states have set up regulatory bodies exclusively to monitor and enforce political finance regulations.¹⁶ A Party Regulator would be similar but with a wider remit. Such a body would be the analogue of the increasingly important institutions, which regulate frequently oligopolistic and complex industries such as utilities and finance. There is a growing theoretical and empirical literature on this topic,¹⁷ including that relating to central banks in developing countries.¹⁸ The principal conclusion regarding central bank independence in developing countries has been that turnover on the governing body is the only reliable indicator of real independence. This is because nominal institutional autonomy is not respected in such contexts. Autonomy is only achievable if staff positions are insulated from political threats and blandishments. Therefore, it is reasonable to suggest that the key officers of any body charged with party regulation should have long or permanent terms of office and should be very difficult to dismiss.

Related to, but independent of the design of the regulating institution, is the monitoring strategy. “Police patrols” and “fire alarms” are two different ways of organising oversight of rule compliance. A police patrol is “comparatively centralized, active and direct”.¹⁹ A state institution engages in police patrol at its own initiative and conducts investigations in order to discover and discourage transgressions. A fire alarm “is less centralized and involves less active and direct intervention” than police-patrols. Instead, procedures are established and information

distributed that allow a wide-range of actors to bring possible transgressions to the attention of the authorities. Under this approach, party regulations would be disseminated amongst civil society groups, the media and the bureaucracy. There could be toll-free numbers for those with information relating to party-regulation compliance. Rewards could be offered for information that eventually leads to a confirmed breach of regulations. Certain sorts of organisations could be given the legal standing to bring alleged transgressions to the courts if the regulator has not taken action. Legal standing might even be granted to individuals that can establish a reasonable suspicion transgression that has not been punished. Fire alarms may be a useful alternative or supplement to police patrols. Fire alarms often do not have to be created by legislation. For example, there was the outcry in the media and public opinion over the failure of the Peruvian *Jurado Nacional de Elecciones* to verify that parties met the registration requirements. This public response led to a legislative response that attempted to reduce the number of parties that would be elected to the Congress.²⁰

If it is assumed that enforcement and monitoring are difficult, the all-or-nothing option of non- or de-registration should not be recommended. Weak institutions will not be able to implement the de-registration option and will instead default to a situation where nothing is done and regulations are openly flouted. Institutions that find it politically impossible to prevent parties from competing in elections may have the power to impose fines and to administer incentives that have a real effect on parties. It is worth noting that the all-or-nothing approach has a rhetorical advantage. It defines what is “democratic”, including all democrats and treating them equally, while excluding all “undemocratic” actors. The calibrated approach of fines or

positive incentives treats parties unequally on a basis other than popular support. Therefore, it could be construed as a violation of democratic principles.

3.2.2 Institutional Interactions

Institutions do not exist in isolation. Instead of individual institutions we face a complex institutional environment, the incentives of which are defined by the interaction of institutions. The effect of party regulations is likely to vary according to the configuration of other political institutions. This is far too complex a subject to be pursued systematically or comprehensively here. Instead, I provide an example of one the many possible interactions between party regulations, showing that the effect of party regulations may vary according to electoral system. I also consider the interaction between the specific incentives and institutions for monitoring and enforcement considered above and a country's general institutional capacity for monitoring and enforcement.

Let us take the important case of a territorially concentrated minority. In its "home" region it is a large minority, say 20 per cent. In that region, it faces two national parties with about 40 per cent each. Very few members of the minority are found outside the home region. Since plurality electoral systems are virtually never recommended in divided societies, I will use the Bogaards typology²¹ to consider how a party regulation requiring supra-regional party structures such as branches and offices interacts with the difference between an Alternative Vote and a PR electoral system. In the absence of such a party regulation, the PR system will translate the social structure into a regional party. If there is a party regulation, PR will incentivise aggregation in the form of the national parties having the opportunity to compete for the votes of the territorially concentrated minority. Now let us look at the Alternative

Vote. Assume that the minority constitutes 20 per cent of the voters across a number of single-member districts. In the absence of a party regulation, the system will encourage aggregation in the form of national parties competing for the second preferences of the minority. In the presence of a party regulation, the system will give the national parties the opportunity to compete for the first preferences of the minority. Without the party regulation, the two electoral systems seem to produce different outcomes (translation and aggregation) while with the party regulation the two systems converge on aggregation.²² While the broad aggregative incentive of the preferential system is unaffected by the party regulation the PR system is shifted from translation to aggregation by the presence of the party regulation. Please see Table Two.

[Table 2 about here]

Many of the countries into which party regulations have been introduced have weak bureaucratic and judicial systems. A reliance on effective monitoring and enforcement of party regulations is especially problematic in states where effective monitoring and enforcement is lacking in other areas of state activity. The substitution of positive incentives for command-and-control does not remove the need for effective monitoring but it may make enforcement easier. Similarly, in the context of a weak bureaucracy and judicial system, there is a particularly strong case for replacing, or supplementing, police-patrol procedures with fire alarms.

3.3 Society

Institutionalised parties generally exist only in systems where they are supported by, or in the past have been supported by, institutionalised social groups. Thus, Western European and East-Central European party systems both exist in broadly post-

industrial societies. The absence of a past social anchoring has made it difficult for structured party systems to emerge in East-Central Europe. This fundamental social characteristic may be such a powerful explanation for variations in the levels of party institutionalisation that party regulations make almost no difference. Most of the cases where there have been attempts to engineer institutionalisation are found in developing societies where institutionalised social groups hardly exist. Many of those that have developed economically, or have recently done so, have skipped the classic industrial stage, which tended to very strongly structure and institutionalise classes. Strong social structure in many recent democratisations is largely or entirely a reflection of ethnicity or another ascriptive category such as religion. Ethnicity could serve as a strong social anchor for institutionalised parties. For example, excluding parties that recently dominated authoritarian regimes, India's BJP, which mobilises on the basis of the Hindu religion, has by far the highest membership rate of any of the parties listed in a review of party institutionalisation in developing countries.²³ In this volume, Hicken's review of party system institutionalisation in South-East Asia concludes that Singapore and Malaysia are both the two most institutionalised and the two most ethnicised, although their status as semi-democracies makes the inference of a connection between ethnicisation and institutionalisation problematic.²⁴

A further issue for party regulation concerns the distinction between relatively structured and unstructured societies introduced above. A key question is how party regulations interact with societies that lack structure and institutionalisation. In these societies, institutionalisation, rather than de-ethnicisation, is likely to be the aim of party regulations. Secondly, in the context of ethnically structured societies, I will examine how variations in the distance between groups can interact with party

regulations. In these societies, de-ethnicisation is likely to be a greater focus of party regulations than institutionalisation.

Different societies tend to produce different types of links between parties and voters.²⁵ The material/individual link explains voting on the basis of links in a social hierarchy. This type of link is associated with societies that lack institutionalised social groups. The basis of support is a personal obligation and the “basis of the obligation is material”. Internal democracy may undermine the hierarchy upon which this system is based. In the absence of institutionalised non-ethnic social groups, to which an ideology can appeal, it is probably too optimistic to hope that internal democracy will promote a party based on a fairly coherent and stable ideological programme. It is a little more likely that it may promote a power-seeking party based on merit instead of a clientelistic network. Most likely of all is that the clientelistic nature of society will dominate internal party elections even more easily than it has done state elections. This seems to have been the result of recent reforms in Peru.²⁶

Spatial registration requirements may be effective means of increasing average party institutionalisation in relatively unstructured societies. Without social anchors relatively few parties may be able to achieve the requisite organisation. Moreover, given the assumption of a lack of deep ethnic divides, such a reduction in parties should not come at the cost of effectively blocking the representation of well-defined social groups.

State party funding may well serve to entrench the material-individual link by increasing the power of elites to deliver benefits to their clients. Proscriptions on certain sources, and transparency requirements, are likely to be largely ignored in

such societies. Nonetheless, these rules may at least make the proscribed behaviour more expensive for the parties.

The effect of party regulations on de-ethnicising parties in ethnically structured societies depends on several aspects of that ethnic structure. Previous chapters have drawn attention to factors such as the fragmentation of groups, their geographical distribution and their internal cohesion.²⁷ However, the contributions to this volume contain no systematic examination of the distance between groups. Instead, they are treated as straightforwardly categorical. Notwithstanding their different names, groups are not all equally different. For example, while Czechs and Moravians may be separable, they are very similar. Levels of social interaction and political co-operation between the two groups are very high. In other words, there is little distance between Czechs and Moravians. In contrast, there is a great deal of distance between Czechs and the Roma. There is little social interaction and minimal political co-operation. Distance is different to fragmentation, which refers to the number and relative size of groups.²⁸ Distance is usually used in a strictly political sense, referring to competition and conflict between political parties.²⁹ Here, it is also used in a social sense, referring to empathy or antipathy between social groups.

As Table Three shows, the distance between groups is a vital variable of interest when thinking about party regulations that are intended to aggregate ethnic groups. If the distance between groups is moderate, party regulations may bring about aggregation. If the distance is great party regulations may fail to prevent the translation of social groups into political parties or, probably much worse, they may block the political representation of some social groups. For example, the Indonesian rules on party registration have sharply reduced the number of parties in the Indonesian legislature. Therefore, translation has not persisted in spite of the regulations. However, we do

not know whether the social groups that supported the excluded parties have been aggregated into supra-regional parties or have been blocked from political representation.

[Table 3 about here]

The effect of proscription of particular bases of parties will also depend upon the distance between social groups. If the distance is close, groups may follow the intended aggregative incentives. If the distance is great, they may simply be blocked or repeatedly try to achieve translation by to defying and/or evading the rules, as has been the case for both Islamists and Kurds in Turkey. Those who intend party regulations to aggregate ethnic groups need to make some assessment of distance before they can hope for aggregation instead of translation or blocking.

The measurement of distance is not straightforward. It is a latent variable that may be captured by a battery of questions. In some regions, survey data that asks relevant questions is available. In some other regions, a basic knowledge of the society might be all that is needed. For example, it is well known that the distance between Northern Irish Protestants and Catholics is wide: they are educated separately; they do not intermarry; do not socialise together and do not go into business together. In yet other societies, the absence of such data may be a warning to policy-makers that manipulation of party regulations in the absence of basic information is especially risky

The distance between groups is no more primordial than their separate identities. Distance, like identity itself, is constructed by political and social institutions.³⁰ Indeed, the aggregative approach is predicated on the ability of political institutions to reduce the distance between groups. Nonetheless, such manipulation is usually slow, difficult and risky. The distance between groups is not likely to be reduced by

political institutions that have been designed without any attempt to measure, however roughly, the distance itself.

3.4 Endogeneity

Endogeneity is the problematic situation in which at least one independent variable is explained by the dependent variable. From a practical point of view, the presence of endogeneity means that it will be difficult to assess the impact of institutions and that their independent effect may be minimal. In this section, I assess the extent to which endogeneity is likely to affect the relationship between our two party characteristics and four forms of party regulation and outline some research strategies for dealing with endogeneity.

Like the electoral system, party regulation affects the fundamental interests of political parties, and is likely to be something they will do their best to control. Institutionalisation *per se*, does not affect the interests of parties differentially. In contrast, whether ethnicity is permitted, discouraged or banned privileges one type of party over another. Thus, I try to separate the two dimensions.

Let us begin with rules on internal democracy and finance, which affect the institutionalisation dimension alone. Powerful institutions to introduce internal democracy may have been introduced by powerful parties with internally democratic organisations. Weak institutions for internal democracy may reflect the interests of undemocratic party organisations in a façade of democracy. However, it may be that rules with institutionalising effects like internal democracy have a relatively neutral effect on a set of competitive but dominant parties. They are part of a package designed to disadvantage minor parties and new entrants. This is effectively the cartel

party argument developed with Western Europe in mind. In such cases, there would be no endogeneity problem.

There are two obvious sources of party finance regulation. In one scenario, a legislative majority combines to disadvantage a minority that has greater access to business contributions. Parties that seek to regulate party finance are probably not necessarily more or less institutionalised than those that resist financial regulation. The second scenario is when political finance regulations are passed in reaction to corruption scandals. In this scenario, the source of the regulation comes from outside the dominant parties. Thus, there is little reason to worry about endogeneity.

Next, I turn to the proscription of ethnic parties. This is likely to suffer from endogeneity problems. Such laws will have been passed by non-ethnic parties. Some of the cases of party regulation represent a particular type of endogeneity. Several old regimes did allow some opposition parties or movements, but had themselves proscribed ethnically or religion-based parties or movements. Thus, the parties that were in a position to engineer the new democracy may have found it relatively easy to come to a consensus on regulations that discouraged ethnic parties. This is surely what has happened in Indonesia, where three putatively trans-ethnic parties were permitted under the authoritarian regime.

Finally, I look at rules on the distribution of members, branches and offices which affect both dimensions. The effect of branch and membership requirements on institutionalisation is subject to endogeneity. Meeting these requirements necessitates quite a high level of institutionalisation. It is possible that endogeneity on the ethnicity dimension may, by design, reduce endogeneity on the institutionalisation dimension. In other words, non-ethnic parties, which easily have the institutional resources to meet the branch and membership requirements, may have intended to

exclude ethnic parties without affecting their own competition. Thus, relatively uninstitutionalised parties that were too weak to prevent the introduction of anti-ethnic rules would be removed from party competition, while already dominant institutionalised parties become somewhat more dominant.

King, Keohane and Verba suggest five strategies for better research in the context of endogeneity.³¹ Two of them, parsing the explanatory and dependent variables, do not seem practicable in the case of party regulations, institutionalisation and ethnicisation. The other three are difficult but possible to apply. First, they suggest correcting biased inferences. If parties choose party regulations, this introduces a positive bias into assessments of the relationship between electoral systems and party systems. Therefore, estimates of the magnitude of the effect of party regulations should usually be revised downwards. In the absence of sufficient theory or data to implement either of the two following strategies an endogeneity caveat should feature prominently in any evaluation of the effect of party regulations. The second, and much better, strategy is that of controlling for an omitted variable, which captures the source of endogeneity. In an application to our subject, the idea would be to control for the circumstances under which the party regulations were designed and implemented. This in turn requires a theory of institutional choice.³² Bieber's careful taxonomy of East and Central European minority politics performs this function in his chapter.³³ To simplify: in cases, where minority politics was historically contentious, it is necessary to control for the majority's reaction to this contentiousness when trying to evaluate effect of party regulations introduced by parties from the majority group. Ideally, therefore, we need to find similar institutions in societies with roughly similar histories of minority politics. This is of course rarely possible. Nonetheless, an approach like Bieber's should allow us to make meaningful, if imprecise,

assessments of the type and extent of endogeneity involved in the evaluation of party regulations. So, for example, the effect of Romania's reserved seats for minorities is largely endogenous to a history of hostility towards the largest minority, that of the Hungarians who are territorially concentrated in the west of the country close to historically irredentist Hungary. The third strategy is the selection of observations to avoid endogeneity. The most obvious way of doing so is to look for instances when parties did not choose the party regulations. In Bosnia, after the Dayton agreement, it seems that party regulations were created largely by international institutions rather than the political parties themselves. These regulations constrained the espousal of certain positions, the recruitment of leaders, and party finances.³⁴ One set of cases is where a constellation of parties inherits an electoral system originally chosen by a very different set of interests. Such relatively pure cases are rare. Another option is to seek out cases where the relative absence of interests and information underpinning institutional choice reduces endogeneity substantially. Many democratisations happen in the context of a fluid party system. Although parties may choose institutions that they calculate will serve their interests those parties may be ephemeral while the institutions they create endure. Such a situation is likely when:-

- There were no opposition parties or movements under the old regime. In effect, this means cases where the old regime was very close to the totalitarian regime type immediately before the transition to democracy.
- The mode of transition to democracy is a collapse of the old regime, as opposed to negotiation between opposition and authoritarian regime, or a self-transformation of the old regime.

- The social structure is not characterised by a small number of institutionalised divisions, such as a small number of separate ethnic groups, religions or classes.

Some Central and Eastern European cases partially fulfil some of these three conditions. For example, in Czechoslovakia there was a post-totalitarian regime that allowed only a token amount of organised dissidence or opposition. This regime collapsed suddenly and comprehensively. While in Czechoslovakia there were significant national and ethnic divides, in the Czech half of the federation, there was a relatively homogeneous population, the social structure of which had been substantially flattened by four decades of communism. In such a situation of low endogeneity, we can place more trust in conclusions that are based on changes in the party system following the introduction of new regulations.

In summary, rigorous studies of the effects of party regulation will need to be aware of the sources of endogeneity identified here, such as the interest of non-ethnic parties in marginalising ethnic parties. Convincing analyses will also need design their research so as to use strategies for dealing with endogeneity like controlling for the circumstances under which regulations were chosen.

4. CONCLUSIONS

The contemporary wave of party regulation is understandable in terms of the standard model of parties and democracy. This model is more of a guideline to future research than a predictive model. Nonetheless, it does have three sets of policy implications. Firstly, there are some relatively definite conclusions from the literature, which apply to party regulation. The most important of these is the link between social structure and party institutionalisation. Party institutionalisation is extremely rare where it

cannot anchor itself in the social structure or has had an opportunity to do so in the past. The current wave of party regulations is breaking over societies where the only potential social anchor is usually ethnicity. Thus, policymakers should be aware that they might not be able to achieve institutionalised non-ethnic parties. At best, they might be able to choose between encouraging institutionalisation and de-ethnicisation. Secondly, absences of data and theory explain the model's lack of predictive power. Where the model lacks data to make predictions, policymakers will be undertaking reforms without the relevant information. The "iron law of unintended consequences" is a function of uncertainty. In other words, the more information policymakers have the less likely they are to suffer unintended consequences. One crucial example is party regulations that intend aggregation but do not measure the distance between ethnic groups. In terms of theory, we need a better theory of how and why party regulations are chosen. If we cannot control for institutional choice we will suffer from endogeneity problems. No reliable evaluation of existing party regulations and therefore no empirically based policy recommendations are possible without confronting the issue of endogeneity. Thirdly, since the model situates party regulations in the massive literature on institutions, there is an opportunity to draw on both the theory and experience of institutional design outside the specialised field of party regulation. This might enable academics to act "more like engineers than supermarket customers".³⁵ In particular, the literatures on independent regulatory agencies and legislative oversight might offer some innovative, but theory- and evidence-based, solutions for the neglected issue of monitoring and enforcement. Overall, in the evaluation of party regulation, as in political engineering in general, genuine practicality requires rigorous theory and careful empirical testing.

Figure 1: The Standard Model of Parties and Democratisation

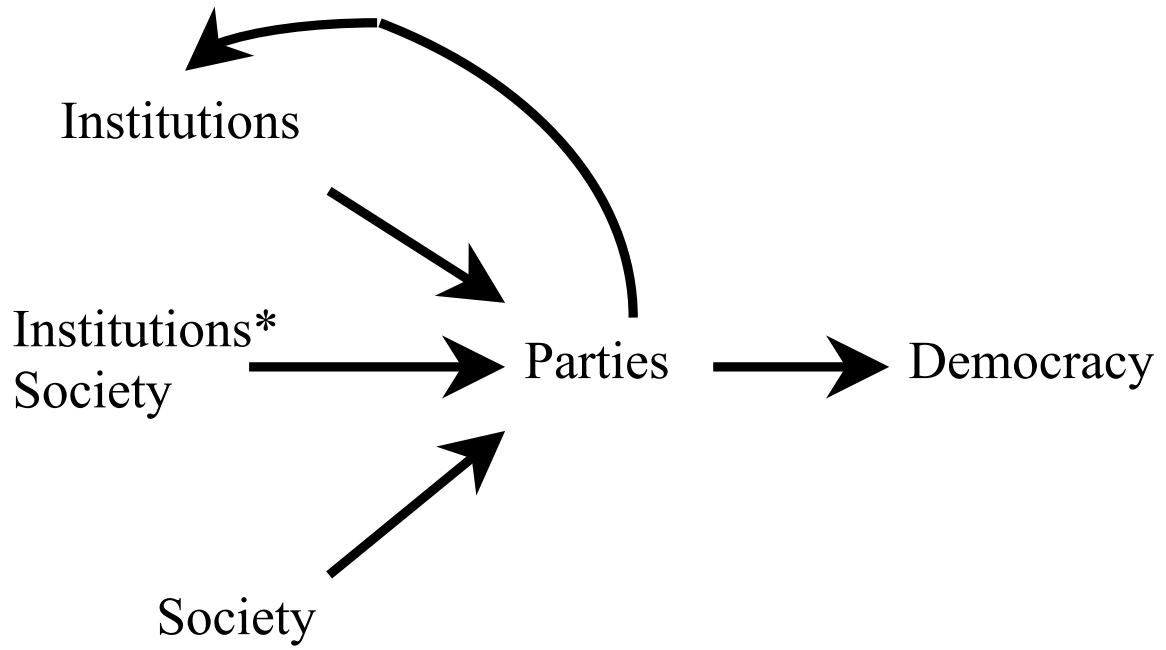


Table 1: Party Regulations and Party Characteristics

	Affected Dimension	
	Institutionalisation	Ethnicisation
Internal democracy	Yes	No
Registration requirements: Membership and branch distribution	Yes	Yes
Registration requirements: Proscribed bases	No	Yes
Funding	Yes	No

Table 2: Interaction of Electoral Systems and Party Regulation

	Supra-Regional Party Registration Requirements	
	No	Yes
Non-preferential Proportional Representation	Translation	Aggregation
Preferential Voting	Aggregation	Aggregation

Note: Cells represent effect on relationship between regionally concentrated minority and political parties.

Table 3: Distance and Party Regulation

	Supra-Regional Party Registration Requirements	
	No	Yes
Moderate Distance	Translation	Aggregation
Great Social Distance	Translation	Blocking

Note: Cells represent effect on relationship between regionally concentrated minority and political parties. Assume a permissive proportional representation electoral system.

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- ² Reilly this volume.
- ³ Shugart, Matthew Soberg, “Comparative Electoral Systems Research” in Michael Gallagher and Paul Mitchell, eds., *The Politics of Electoral Systems*, Oxford: Oxford University Press, 1995, pp. 25-55, at p. 36
- ⁴ Van Biezen this volume.
- ⁵ Horowitz, Donald, *Ethnic Groups in Conflict*. London: University of California Press, 1985, at p. 291
- ⁶ Horowitz, Donald, *Ethnic Groups in Conflict*. London: University of California Press, 1985, at p. 293
- ⁷ Randall, Vicky and Svåsand, Lars, “Party Institutionalization in New Democracies”, *Party Politics*, 8, 2002, pp. 6-29, at p. 12. Randall, Vicky, “Party Institutionalization and its Implications for Democracy”, paper presented to the Congress of the International Political Science Association, Fukuoka, 9-13 July 2006, unpublished.

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- ¹² By the way, the relative position of leaders, members and voters also influences in what sense internal democracy is democratic. Therefore, this paper makes no claim or assumption that internal democracy is unproblematically democratic
- ¹³ Sartori, Giovanni, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes*, Second ed., Basingstoke: Macmillan, 1997, at p. ix
- ¹⁴ Fiorina, Morris P., “Legislative Choice of Regulatory Forms: Legal Process or Administrative Process”, *Public Choice* 39, 1982, pp.33-66, at p. 36
- ¹⁵ Orr, Graeme, “Political Disclosure Regulation in Australia: Lackadaisical Law” 5, 2006, pp. 72-88.
- ¹⁶ International IDEA, *Political Finance Database*, <http://www.idea.int/parties/finance/db/>
- ¹⁷ Elgie, Robert, and McMenamin, Iain, “Credible commitment, political uncertainty, or policy complexity? Explaining the discretion granted to Independent Administrative Authorities in France”, *British Journal of Political Science* 35, 2005, pp. 531-548. Gilardi, Fabrizio, “Policy credibility and delegation to independent regulatory agencies: a

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- ²⁰ Catón and Tuesta this volume.
- ²¹ Bogaards this volume.
- ²² Of course, important differences remain but the two systems now fall into the same category of the Bogaards typology.
- ²³ Randall, Vicky, “Party Institutionalization and its Implications for Democracy”, paper presented to the Congress of the International Political Science Association, Fukuoka, 9-13 July 2006, unpublished.
- ²⁴ Hicken this volume.
- ²⁵ Ware, Alan, *Political Parties and Party Systems*, Oxford: Oxford University Press, 1996, at pp. 200-201
- ²⁶ Catón and Tuesta this volume.
- ²⁷ Bieber and Birnir this volume.
- ²⁸ Posner, D., “Measuring ethnic fractionalization in Africa”, *American Journal of Political Science* 48, 4, 2004, pp. 849-863. Reilly, Benjamin. “Democracy, Ethnic Fragmentation, and Internal Conflict”, *International Security* 25, 3, 2000, pp.162-185.
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University Press, 1975, at p. 126. Sartori's usage of "segmentation" seems close to the concept of social distance.

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³¹ King, Gary, Keohane, Robert, and Verba, Sidney, *Designing Social Inquiry: Scientific Inference in Qualitative Research*, Princeton, NJ: Princeton University Press, 1996, at pp. 185-196

³² Benoit, Kenneth, "Models of electoral system change", *Electoral Studies*, 23, 2004, pp.363-389. Colomer, Josep, "The Strategy and History of Electoral System Choice" in Josep Colomer, ed., *Handbook of Electoral System Choice*, Basingstoke: Palgrave Macmillan., 2004, pp. 3-81. Colomer, Josep, "It's Parties that Choose the Electoral Systems (or Duverger's Law Upside-Down)", *Political Studies*, 53, 2005, pp. 1-21.

³³ Bieber this volume.

³⁴ Kumar and de Zeeuw this volume

³⁵ Dummett, Michael, "Tailoring Democracy", *Transition*, 53, 1991, pp. 143 – 146