

The Best Laid Plans: The Impact of Informal Rules on Formal Institutions in Transitional Regimes

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Abstract How do informal institutions influence the formation and function of formal institutions? Existing typologies focus on the interaction of informal institutions with an established framework of formal rules that is taken for granted. In transitional settings, such typologies are less helpful, since many formal institutions are in a state of flux. Instead, using examples drawn from post-communist state development, I argue that informal institutions can replace, undermine, and reinforce formal institutions *irrespective of the latter's strength*, and that the elite competition generated by informal rules further influences which of these interactions dominate the development of the institutional framework. In transitional settings, the emergence and effectiveness of many formal institutions is endogenous to the informal institutions themselves.

Keywords Informal institutions · Post-communist regimes · State administration

How do informal institutions influence the emergence and function of formal institutions? Further, how do we account for the variation in formal institutions of the market, state, and democracy in post-communist countries? Post-communist democracies show surprising variation in the emergence and enforcement of their formal market and state institutions, which cannot be easily explained by historical legacies, formal institutional deficits, or external influence alone. The development of these post-communist formal rules demonstrates the mechanisms of informal influence on the emergence and transformation of formal institutions. This influence is direct: informal institutions serve as templates and substitutes for formal choices. Even as they compensate for formal institutions, informal rules can subvert them. Informal institutions also reify formal rules by defining and expanding their domain, and by providing incentives and information to follow formal institutions. The effect is also indirect: informal institutions shape elite competition and cooperation, which

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affects the timing and type of the emergence of formal rules, and which mechanisms of informal influence predominate.

In their study of the forces and structures that shape political behavior, scholars have recently focused on the impact of informal institutions: the unwritten, unofficial rules that generate shared expectations and strategic solutions. These include local customs, reputations, and “folkways” that are found outside of the formal halls of power. They are the “graffiti” counterpart to formal, or “parchment” institutions: rules that constrain behavior, written down, and officially enforced by the state (Carey 2000). The focus of this recent scholarship has been on the interactions between these two sets of institutions: how they complement, substitute for, accommodate, or undermine each other (Helmke and Levitsky 2004; Helmke and Levitsky 2006; see also O’Donnell 1996; Knight 1992; Böröcz 2000a, b, Lauth 2002).

These typologies and accounts tend to take formal institutional effectiveness as a prior and as a given. They thus leave an important question unanswered: how do informal institutions give rise to and change the effectiveness of formal institutions? The post-communist example is useful here, since post-communist countries experienced both the near-simultaneous collapse of the communist regime in 1989–1991, and two decades of subsequent institutional development. These cases are thus well-positioned to provide valuable insights into the role of informal institutions in the rapid and radical rise and change of their formal counterparts. They exemplify the mechanisms of informal influence on formal institutional emergence and transformation. In short, this account complements recent research on informal interactions with *established* formal institutions (Helmke and Levitsky 2006) and on the mechanisms of the emergence of informal institutions (Tsai 2006).

The argument proceeds as follows: “[The Informal Influence on Formal Institutional Change](#)” section introduces informal institutions as an influence on the emergence and transformation of formal rules. “[The Post-communist State](#)” introduces the example of the post-communist state, and the variation in the building of formal state administration institutions in the Czech Republic, Slovakia, Poland, and Hungary. “[The Mechanisms of Informal Influence](#)” section examines how informal institutions influenced the post-communist transformation of the state and market in the critical first decade of institution building. “[The Implications](#)” section concludes by examining the implications of this analysis.

Informal Influence on Formal Institutional Change

Informal institutions are consciously followed rules of political behavior, “created, communicated, and enforced outside of officially sanctioned channels.”¹ Informal institutions are reflexive: actors need to know and understand what they are, and so informal rules are widely recognized and taught as such.² Unlike formal rules, they

¹ Helmke and Levitsky 2004, p. 727.

² While formal institutions have been viewed as coordination equilibria, norms, or rules (see Crawford and Ostrom 1995); this paper thus focuses on institutions as rules alone.

are not officially written down, nor are they enforced by legal recognition or the power of the modern state.³ Thus, both the formal formula for translating votes into seats, and the informal practice of vote buying may constrain political party electoral strategies. While the former is enshrined in formal electoral regulations and enforced by the state, the latter is not, even if it is a powerful expectation held by voters and parties alike. Informal rules are enforced: e.g., through ostracism, shunning, or violence.⁴ However, without the infrastructural and despotic powers of the modern state behind them, centralized imposition onto large domains is difficult.⁵

This definition implies that informal institutions are more than behavioral regularities or unintentional byproducts⁶ of formal institutions.⁷ Thus, informal institutions are not cultural norms, path-dependent effects, or simply clashing, weak, or absent formal institutions (Helmke and Levitsky 2004). Much like formal institutions, moreover, informal institutions vary in their influence and degree of enforcement. Their informality does not presuppose either their extent or their impact. As John Carey notes, “not all written rules serve as effective constraints on political behavior, and, conversely, that not all effective constraints on social behavior are written rules (Carey 2000).”

In examining the interactions between formal and informal institutions, existing accounts have assumed the effectiveness of formal institutions (Helmke and Levitsky 2006). There are very good reasons to categorize these interactions this way: in any modern polity, informal political institutions continually “come up” against formal rules. Most areas of political life are subject to formal institutions, codified, and enforced by the power of the state. There are very few domains to which formal institutions do not apply: even decisions made within the family or about one’s own body are subject to formal rules. As a result, while informal institutions can be very effective at structuring expectations and behavior, their impact in most situations is not independent of formal rules. Even in organizations outside the purview of the state, such as the mafia, dissent movements, etc., formal institutions delineate the *domain* of informal rules.⁸

However, assuming the effectiveness of formal institutions may not be the most appropriate basis for analyzing institutional *emergence* or *change*. In transitional settings, where formal institutions are unstable, we cannot assume the strength of any particular formal institution, since these are constantly being abolished, transformed, and established anew. It is also unclear what the relevant aspects of formal institutional strength might be: influence, density, and the degree of

³ State and other formal actors do *use* informal institutions.

⁴ See also Laitin and Fearon APSR 1996. Jack Knight 1992 and 2002 argues that the distinction between formal and informal institutions lies in the lack of third party enforcement of the latter. However, as the example of the mafia chief shows, this may not always be a relevant distinction.

⁵ Mann 1986. Without state enforcement or adjudication, informal institutions are less likely to be imposed systematically and comprehensively, than they are diffused horizontally. However, horizontal diffusion does not preclude coercion.

⁶ Knight 1992; some definitions emphasize informality as avoiding or circumventing formal institutions. See Böröcz 2000a.

⁷ See also Helmke and Levitsky 2004, and Lauth 2002.

⁸ This is not to argue that informal institutions are merely a “residual category” that explains politics only at the margins, nor to ascribe greater explanatory power to either set of institutions.

enforcement are all aspects of institutional “effectiveness.” Finally, the standards for compatibility are fuzzy and difficult to establish a priori, and to build them into the typology is to presuppose the outcome to be explained. It is not clear, for example, that it is the actors’ volition that determines whether informal institutions will be compatible with formal goals.⁹ Perhaps most relevantly, the strength of formal institutions may be a direct function of informal rules.¹⁰

Therefore, I focus on the mechanisms of informal institutional influence that are independent of formal institutional effectiveness. These are developed at length in “*The Mechanisms of Informal Influence*” section. Briefly, informal rules can replace, undermine (and thus weaken), and support or strengthen formal institutions. When they replace formal institutions, informal rules serve as substitutes—and as templates for new formal rules. Undermining consists of contravening the intent and substance of formal institutions. Informal rules strengthen formal institutions by providing incentives to follow formal rules, and/or reifying formal institutions by delineating the domain of their influence. Informal rules also indirectly foster the elite competition that affects the timing and choice of formal institutions. While such informal rules did not determine the configurations of the formal institutions of the post-communist state, they influenced how these formal institutions would arise.

For informal institutions to have these effects, informal rules, like all institutions, have to constrain the actors’ options. Therefore, we need evidence that (a) actors had more than one action to choose from, (b) a specific rule informed their choice, and (c) this rule was not codified or enforced by the state. As we will see, post-communist actors followed informal rules in staffing the state administration, obtaining funding for political parties, contracting, and determining whether to cooperate with each other.

The Post-communist State

The variation in post-communist state institution has invited several explanations. Much of the recent research on informal institutions has focused on how informal rules distort, complement, or subvert formal institutional *outcomes*. However, the development of the formal institutions of the post-communist state—institutions such as the civil service, securities and exchange commissions, national banks, regional administration, etc—shows that informal institutions can also influence the *emergence* and *transformation* of formal rules. This in turn suggests that the effectiveness of formal institutions can be a *result*, not a precondition, of interactions with informal institutions.

The creation of these formal state institutions varied considerably, even among the front-runners of post-communist reform: Czech Republic, Hungary, Poland, and Slovakia. Formal institutions *emerged* at different rates: much more rapidly in some cases than in others. For example, formal institutions of market oversight and public

⁹ As a further result, the distinctions between “accommodative” and “substitutive” interactions become unclear.

¹⁰ Another classification is found in Lauth 2002: formal-informal interactions can be complementary (coexistence and mutual reinforcement), substitutive (functionally equivalent), or conflicting (incompatible.)

accountability in Poland and in Hungary were in place by 1998; while in the Czech Republic and Slovakia, they arose largely after this period. Some formal institutions *expanded* at different rates as well, sometimes quite literally: for example, state administration employment grew in all these countries, but considerably more in the Czech Republic and in Slovakia than in Poland and in Hungary. The variation indicates the potential for informal staffing and rent seeking, since the formal demands on the civil service were quite similar, as argued below. Finally, there are differences in *enforcement*: for example, party funding regimes in the Czech Republic and in Slovakia were considerably more lax than in Hungary. Table 1 summarizes these outcomes and includes other regional cases for context and comparison.

Precisely because their formal institutional framework was nascent, the Czech Republic, Hungary, Poland, and Slovakia can show how informal institutions affect the emergence of formal rules. Precisely because they are democracies, these cases allow numerous mechanisms to play out, including the impact of elite competition. These cases also hold constant potentially confounding factors. After decisively removing the communist ruling parties from power, all four developed functioning parliaments, electoral systems, new constitutions, and democratic policymaking rules.¹¹ It is not the case, then, that the variation we observe is attributable to different levels of regime continuity or lack of commitment to building new institutions. These countries also shared similar levels of economic development and cultural inheritance, so that broad structural factors are unlikely to be responsible.¹² This analysis, therefore, ought to apply to other transitional settings, where one set of formal institutions is emerging from (and being built on) the rubble of collapsed

Table 1 State development in post-communist democracies

Country	Formal state institutions	Public admin growth 1990-2002	Party funding
Hungary	In place by 1997	138%	Limited donors, highly regulated
Slovenia	In place by 1997	214%	Limited donors, highly regulated
Poland	In place by 1998	244%	Limited donors, increasingly regulated
Czech Rep	Begun in 1998	400%	Unrestricted and unregulated
Latvia	Begun in 2000	467%	Unrestricted and unregulated
Slovakia	Begun in 2001	300%	Unrestricted and largely unregulated
Bulgaria	Begun in 2000	431%	Unrestricted and largely unregulated

¹¹ The same cannot be said for their Eastern and Southern neighbors, where democratic development had been delayed (the former Yugoslavia, with the exception of Slovenia), or where a consolidated semi- or full-fledge authoritarianism rules (much of the former Soviet Union, with the exception of the Baltic republics.)

¹² GDP/capita was in the \$5,000 range in 1989, with no differences in the levels of mineral rents or demographics. Poland and Slovakia were more agrarian than Hungary and the Czech Republic, but this distinction does not map onto patterns of institutional development.

formal regime structures, and where the institutional break from the practices of the authoritarian era was sharp enough to allow for pluralist competition.¹³

Existing explanations of post-communist patterns of state administration emergence and enforcement have focused on formal institutional commitments. First, international commitments are said to have led to the transformation of the legal framework and the creation of new state institutions. Countries hoping to enter the European Union had to adopt the *acquis communautaire*, the body of EU laws, in its entirety, radically transforming the legal environment. The accession further mandated formal state reforms. The EU required that the candidate countries develop and enforce the reform of the civil service, ensure greater transparency and oversight of public finances, and develop local government administration. As part of its conditionality for accession, the EU reviewed progress, highlighting administrative and democratic shortcomings. These demands began in 1997, with the Luxembourg conference, and the pressure grew over time, leading even the laggards to adopt a whole raft of administrative reforms and in 2000–2002. Indeed, there was considerable convergence by 2002, with formal state and democratic institutions in place in all candidate countries.

Yet the pull of the EU cannot explain either the differences in timing of institutional emergence, or the substance of these formal institutions. The EU made membership conditional on the same set of formal reforms, and all four countries were equally willing to take on board the demands of membership¹⁴—yet the adoption of formal state reform occurred earlier and more vigorously in some cases. Poland and Hungary *concluded* their administrative overhaul by 1997, just as the EU *began* to demand state reform. Just as importantly, the resulting state institutions varied in their substance: some were far weaker and more politicized than others (Grzymala-Busse 2007; O’Dwyer 2006).

Second, institutional deficits inherited from pre-1989 communist systems help to explain the difficulties in creating new formal institutions. For example, the communist state had no civil service law in place, and maintained a surprisingly small central administrative core. Public administration employment averaged 1.5% of total civilian employment by 1989, well below the 4.6% OECD average. The structures of the communist party were both enormous and largely informal: but the core state administration was deliberately left weak and small. Meanwhile, post-communist market reforms the regulation of private property and taxes, and the requirements of the EU all demanded an increase in state employment to provide the bureaucrats to staff the new state agencies. Therefore, one explanation for the different patterns of institutional emergence is that these simply reflect the formal institutional deficits inherited from the communist era.¹⁵ They may also reflect the “varieties of socialism”—the bureaucratic and political legacies of the communist period.¹⁶ Finally, functional deficits would be exacerbated in new states—e.g., in the Czech Republic and Slovakia, who split up in

¹³ Where would we see such a break? All four of these cases, and in fact all cases of successful post-communist transitions to democracy, show a clear connection between national identity conceived as anti-communist and explicitly pro-European. See Darden and Grzymala-Busse 2006.

¹⁴ Slovakia under the HZDS from 1994 to 1998 is a partial exception, but even then formal commitments to joining the EU were made, and a sizeable elite constituency supported membership.

¹⁵ Pistor 1999; see also Geddes 1994.

¹⁶ Kitschelt et al. 1999.

1993 from the Czechoslovak federation, and thus had additional functional deficits to make up.

However, some of these deficits, such as a small civil service core, were inherited equally in all the cases under consideration—yet the outcomes differed considerably. Thus, employment in the state administration did expand to compensate for the tiny official state corps—but functional deficits do not explain the variation beyond this baseline growth. If the “varieties of socialism” argument held, the Czech state should have inherited considerable *advantages* from its more classically Weberian bureaucracy and administration. Finally, the Czech Republic inherited many Czechoslovak state institutions—yet it still failed to build and strengthen formal state institutions, much as Slovakia did. Meanwhile, other newly sovereign countries faced similar challenges, yet Slovenia and Estonia built their formal institutional framework rapidly and effectively.¹⁷

A final explanation for the differences in patterns of formal institutional emergence relies on the balance of power among political forces, and how these translate into institutional arrangements.¹⁸ Institutions reflect and consolidate the distribution of power and other resources.¹⁹ One influential argument posits that where political parties evenly share power and patronage, they have the electoral incentives to back formal institutional reform, and specifically, civil service reforms (Geddes 1994). Yet it is not clear whether electoral accountability or seat share drive institutional reform in this account, or how one can translate into the other. In other words, we still need to specify the mechanisms by which differences in power translate into institutional arrangement. For example, seats were split evenly in both the Czech and Hungarian parliaments in the 1990s (with near-gridlock occurring in the first), yet different patterns of institution building ensued. Moreover, especially in transitional settings, weak players can outbid their stronger opponents: for example, in Hungary, the relatively weak opposition parties successfully drove a hard bargain during negotiations with the communist party in 1989 and obtained a far more favorable institutional outcome than their ostensibly stronger counterparts in Poland (Bruszt and Stark 1991).

The Mechanisms of Informal Influence

How, then, does post-communist state development demonstrate the influence of informal institutions in the emergence and functioning of new formal rules? Informal rules affected formal institutions through four mechanisms: replacement, undermining, support, and the secondary effects of competition, summarized in Table 2. This influence helps to explain patterns of the timing of administrative reform, the expansion of the public administration, and resource extraction from the state.

¹⁷ Grzymala-Busse 2007.

¹⁸ For excellent analyses of the distribution of power and how it affected bargaining over electoral institutions, see Bruszt and Stark 1991, Bernhard 2000, and Jones Luong 2002. More broadly, see Jones Luong and Weithal 2004.

¹⁹ Knight 1992. de Soto, Hernando 1990.

Table 2 The influence of informal institutions

	Replacement	Undermining	Support	Competition
Mechanisms	Informal institutions (II) are act as templates (transformed into formal institutions (FI)), or substitutes (act in lieu of FI)	II used to exploit loopholes in FI, or to contravene FI directly	II provide the information for FI to function or reify FI domains	II help to structure elite competition
Examples	Timing of emergence and type of formal state institutions	Informal privatization and party funding	Coalition formation, power sharing	Elite cleavages, internal party rules

Replacement

Informal institutions can *replace* (and be replaced by) formal institutions, analogous to Helmke and Levitsky's (2006) substitutive relationship. Both formal and informal institutions play three critical roles, as illustrated in Table 3. First, they *directly constrain political and social behavior*. Informal examples include the snooping of neighborhood busybodies and informal sanctions, such as truthful gossip.²⁰ Similarly, "where property rights are unclear or the state is incapable of enforcing them, private enforcers are likely to emerge (Volkov 2002a)." Second, they are a *source of information*, as personal reputations and "usable pasts" cut down on transaction costs. For example, political parties can acquire reputations for managerial competence that are orthogonal to their ideological commitments.²¹ Existing informal rules and expectations provide information at a time when formal institutions are being rapidly constructed, but have not yet become familiar enough to generate strong incentives. These kinds of influence can attenuate as modern political and economic institutions replace localized informal arrangements.²² Social networks and reputations can "serve as substitutes for functioning legal systems, while business networks function better when courts are effective (McMillan and Woodruff 2000)." (Note that both reputations and business networks substitute for the legal system, whether or not the latter is effective). Third, they are a way to *redistribute resources*, via family and personal networks, norms of charity and mutual insurance, or discretionary access to state resources.²³ For example, clientelism, charity, and nepotism are all informal institutions of resource distribution.

²⁰ Randall Calvert (Knight and Sened 1995) argues that viewing institutions as constraints takes their effectiveness for granted: rules either cannot be violated, due to the game specifications, or to external sanction. But to assume that institutions are consistent with self-interest is to presuppose that no hegemonic idea or coercive agent can bring about involuntary compliance (e.g., the role of women in many organized religions), or to make baroque arguments that eventually rely on external sanction (e.g., that individuals go along with institutions that oppress them either because of false consciousness, or fear of the alternatives.)

²¹ Grzymala-Busse 2002.

²² Huntington 1968, Lipset.

²³ Bates, Robert. *States and Markets in Tropical Africa*. Herbst 2000. Laitin, David. *Culture and Hegemony*. See also Volkov 2002a.

Table 3 Institutional functions

	Resource redistribution	Source of information	Constraint on individual action
Formal	Welfare state, taxation, corvee	Statistics, stock reports	Legal regulations and policing
Informal	Informal party funding, public administration staffing, power sharing	Reputations, gossip, family and personal networks, the “regime divide”	Informal monitoring, ostracism, shunning

The institutional framework inherited from the communist state was rife with informal solutions.²⁴ Among those directly relevant to the state, there was no formal civil service law that would provide a pool of trained bureaucrats, and instead ministries and offices hired at will. Few structures of formal public accountability existed, such as independent courts or regulatory commissions. State structures were instead responsible to the governing party alone, through informal reporting and party functionaries seconded to state enterprises and organs (Hirszowicz 1980; Fainsod 1958; Hough 1969). The multiplicity of sectoral ministries and soft budget constraints necessitated by state planning and ownership of the economy meant that informal negotiations and discretionary barter trumped formal budgeting rules.²⁵ Numerous quasi-independent agencies and funds were set up by elites within the communist regime to administer state property, resource distribution, and investment.

Informal rules can be both substitutes and templates for new formal institutions. Many of these inherited informal institutions acted as substitutes for new formal rules after communism collapsed. In the absence of formal institutions of monitoring and oversight (few, after all, were inherited from the highly discretionary and politicized communist state), informal criticism and press reports served to constrain the rent-seeking of incumbent politicians.²⁶ Some opposition political parties were extremely critical of incumbents, peppering them with parliamentary questions, press criticism, informal investigations, and mutual accusations. The press and opposition political parties, rather than formal investigations launched by attorneys general or independent state investigators, publicized incumbent shortcomings in Poland and in Hungary, exposing and constraining rent seeking. One effect of such constant criticism was a set of incentives for the formalization of informal rules, as we will see.

²⁴ For a discussion of informal rules of private and economic life, see Wedel 1986, and Kornai 1988.

²⁵ See Woodruff 1999 for a discussion of how barter continued to structure post-communist economic relations in Russia. More broadly, the privatization of state enterprises and party holdings meant an unprecedented availability of state resources for “carrying off” by state representatives for their own use. Political actors in charge of this process were now to eradicate the overweening role of the state in the economy, even if this meant undermining their own economic position. Similar carrying off of state resources took place as part of the rise of the state and its infrastructural power. See Mann 1988.

²⁶ Such constraints rely on a free press: in Russia, where almost all media outlets are state owned or represent significant economic or political interests, the level of trust in media is considerably lower, partly because much reporting consists of prefabricated and unverified “kompromat” (compromising material) rather than investigative reporting.

Informal sources of information were also often more reliable than their formal counterparts: a decade after the transition, state officials across the region admitted that no state institution had full information about state finances²⁷. Meanwhile, personal reputations and contacts were far more dependable guides in making financial decisions. As a result, credit card companies relied on personal reputations in making their credit decisions, in the absence of credit reports and credible financial statements²⁸. Given the uncertainty and lack of experience with new formal rules, personal contacts also trumped formal contracting and bidding rules. Local decisions regarding infrastructural investment were frequently made on the basis of existing elite contacts, and the information they provided regarding trustworthiness and loyalty, rather than formal offers. Similarly, analyses of post-communist property relations emphasize informal elite networks and “recombinant” property as important aspects of economic reform and privatization²⁹. Thus, Hungarian post-communist managers appropriated and relied on their companies’ personal networks to succeed in the new market rules after 1989. They “spontaneously” privatized the enterprises they directed—to themselves. Subsequently, “by funneling to their new companies the orders that would have gone to their old employers, they could get off to a secure start (Róna-Tas 1997).” In such settings, informal institutions are a way to share risks and information, as well as to redistribute and even to create new forms of property ownership.

Employment in the state administration further shows how substitution by informal rules could literally expand formal institutions. With the collapse of communism, the parallel system of party officials monitoring state offices ended, but the practice of direct and discretionary hiring by ministries and offices persisted—and without oversight, the public administration began to burgeon. Still, there was considerable variation: employment in both Polish and Hungarian state administrations grew less than in the Czech or Slovak. Both Czech and Slovak public employment more than tripled during 1989–2001, despite the elimination of the regional governments in 1990. These differences cannot be ascribed to functional deficits or the break up of Czechoslovakia: rates of growth did not change after the collapse of the Czechoslovak federation in 1993, and other newly sovereign countries, such as Slovenia, experienced far lower rates of growth.³⁰ As we will see later, part of the reason for these differences are the incentives for introducing and enforcing formal institutions furnished by elite competition. Thus, in both Poland and in Hungary, formal civil service regulations emerged earlier after 1989, and by one account, hiring on informal personal basis accounted for less than 5% of the total public administration employment.³¹ When the AWS government in Poland openly spoke of exchanging 4,000 positions in its favor in 1997,³² it was immediately criticized in parliament for trying to establish a new “party nomenklatura,” and forced to abandon its plan.³³ In Hungary, where the opposition

²⁷ Wojciech Misiąg, former Polish deputy finance minister, *Wprost* 3 June 2001.

²⁸ I am grateful to Ivan Krastev for this example.

²⁹ Stark and Bruszt 1998; for an analysis of the informal use of state administrative resources as a way of hindering political competition, see Allina-Pisano 2005. See also Humphrey 2002.

³⁰ Grzymala-Busse 2007.

³¹ 18 December 1999, *Polityka*, 22 January 2000, *Polityka*.

³² 18 December 1999, *Polityka*.

³³ 22 January 2000, *Polityka*.

was vigilant and a stringent civil service law was passed in 1992, we see the lowest rates of expansion.

Informal institutions can also serve as templates for formal institutions. Informal rules may generate precedents and prevalent practices that are then formalized for efficiency's sake, as with the rise of private property and the incorporation of capitalist entrepreneurs into the Communist Party in China (Tsai 2006). Given the difficulties (and novelty) of creating formal budgets, the precedent of quasi-state agencies and extra-budgetary funds begun under communism also continued in post-communist East Central Europe. These funds were now “repurposed” to manage financing for a host of democratic policies, such as support for civil society or the rights of the handicapped. Rather than relying on formal budget rulings, sectoral ministries pressed the governing coalition to use these funds and agencies as a more efficient (and discretionary) way of resolving policy problems that necessitated coordination across departments that circumvented both existing formal budgets and formal auditing. However, once formal budgets and fiscal rules were established more firmly, these informal funds and agencies served as a major source of rents, and began to undermine formal budgeting institutions.

These informal influences help to explain why the post-communist state was a bricolage of formal and informal institutions, inherited practices and new solutions. All served to distribute resources, provide information, and constrain behavior, but only some of these institutions were backed by the state. These patterns further suggest that where existing domains were governed by informal institutions, the imposition of new formal constraints may be difficult: even with civil service laws, public administration employment often expanded discretionarily. These extant informal rules “crowd out” formal institutions unless powerful incentives exist to overcome these practices. The same established informal institution can thus both substitute or compensate for the absence of formal rules—and eventually subvert new formal institutions.

In contrast, formal state institutions could function more easily in new domains such as financial markets, provided these were established on early in the rise of that particular domain so that no new informal rules would establish themselves. Thus, securities and exchange commissions could be more powerful if they arose concomitantly with stock markets, as in Poland in 1991. Conversely, where they were delayed, murky property rights and asset-stripping were far more prevalent. This was the case in the Czech Republic, where the government resisted creating a securities and exchange commission for eight years, both because it would remove stock market oversight, however weak, from the politically-controlled Ministry of Finances, and because it was not “the job of the government to establish a capital market.”³⁴

Undermining

Second, informal institutions can *undermine* and thus weaken formal rules. In this “parasitic” (Lauth 2002) relationship, informal institutions feed off and contravene emerging or existing formal institutions (Böröcz 2000b), no matter what the initial strength of these formal rules. Much of the scholarship on informal institutions has emphasized this negative impact of informal institutions, and their corrosive effect

³⁴ *Mladá Fronta Dnes*, 10 December 1996.

on democracy.³⁵ Informal practices and institutions are seen as promoting corruption, delaying the consolidation of democratic institutions, and eroding emergent formal rules. Yet undermining can also redress the violation of social norms introduced by formal rules. For example, in the Soviet era, “local party officials became complicitous in the evasion of revolutionary discipline. ‘Family circles’ and ‘local cliques’ protecting one another from the demands of the central authorities began to spring up everywhere,” and continued to undermine the formal responsibility of individuals before the law in the post-communist era.³⁶ In a different example, informal ties and patronage buffered Chinese villagers from the predation of local cadres, an example of informal institutions undermining the formal discretion to extract resources (Shue 1988).

Political actors can stop short of undermining, but exploit formal institutions by mining legal loopholes and capitalizing on poor specifications of formal institutions, irrespective of the latter’s effectiveness. Clientelism and patronage, the personalistic awarding of jobs and contracts, subletting and subcontracting, and earning an income in contexts unregulated by the state³⁷ are all forms of informal institutions that exploit the gaps in formal regulations—whether or not these formal regulations are otherwise effective. At the same time, while undermining is not predicated on the *strength* of formal institutions, it is affected by their concentration and coherence: when formal rules are dense (and contradictory), informal solutions necessitate the breaking of formal rules.³⁸ For example, the dense regulatory body of Italian law constantly leads to the breaking of formal rules—it is more efficient to pay a bribe than to continually try to meet conflicting regulations and laws (Frei 1995). Similarly, the inconsistencies and contradictions of the new formal regulatory framework in Russia led both state officials and private actors to resort to informal practices that inevitably flouted at least one formal rule—and undermined the general trust in the value of a formal legal system (Ledeneva 2006).

Informal institutions can thus provide redistributive solutions that contravene formal regulations—and undermine the power of emerging formal institutions to structure political action. In post-communist states, the informal extraction of resources from the post-communist state subverted both the formal system of party funding, and the formal rules for the privatization of state-owned assets and enterprises. These informal rules for resource distribution took several forms, and provided their beneficiaries with important advantages. First, there were the kickbacks and bribes paid by potential competitors in privatization tenders. These undermined formal contracting rules, and robbed state coffers of badly needed income when contracts were awarded to politically astute but financially inefficient proposals. Second, parties themselves owned businesses and formed allied “foundations,” which would often funnel funds to the parties. These both circumvented official rules regarding party financing, and undermined the formal system of party funding, since they rewarded donors to incumbent parties. Third, local governments and state-owned firms were expected to contribute to political parties—

³⁵ See, for example, O’Donnell 1996. Borocz, Lauth; see also Ganev 2001, Cirtautas 1997, Lewis and Gortat 1995.

³⁶ Hanson 1997; see Ledeneva 2006 for a full discussion of the informal institutions of Krugovaia Poruka.

³⁷ Portes and Schauffler 1993. Böröcz 2000.

³⁸ De Soto, Hernando. *The Other Path*.

as a result, despite meager public funding for political parties, incumbents still received considerable state funds in the Czech Republic, for example. Finally, party-allied businessmen and parliamentarians paid a portion of their profits and salaries back to the political parties. These informal rules undermined the formal strictures on party funding in two ways: they gave an enormous advantage to governing parties, who were more attractive to potential donors, and they greatly weakened the “carrot and sticks” of formal party financing, since they decreased party reliance on formal state funding.

Ironically, even as they undermined formal institutions of party funding and privatization, the same informal institutions built up political parties, the key actors in democracy and formal institution building. These informal institutions help to explain how some parties survived and even profited from the turbulent early years of party democracy, extracting resources from the state. Specifically, given their central role in privatizing the economy, political parties could award contracts to their allies and supporters (who would then funnel back a portion of these funds), rather than to the highest bidder specified by the formal rules.

This informal exploitation of loopholes in formal regulations generated a feedback effect: parties that were powerful enough at the outset to privilege themselves, such as the Movement for Democratic Slovakia (HZDS) and Czech Civic Democratic Party (ODS), gained the material resources and clientelistic ties to gain an advantage in subsequent elections and could build in further loopholes for themselves, making it more difficult for other parties to compete and reverse this spiral. For example, as the Czech ODS arose to power in 1991, it “reluctantly allowed” state funding for political parties, but refused to expand the regulatory framework that would have monitored the spending. It was not until the late 1990s, when the opposition gained strength that the governing ODS had to explain why a dead Hungarian and a resident of Mauritius were its main donors during 1995–1996, why it concealed millions in Swiss bank accounts,³⁹ or why it received considerable donations from the winners of privatization tenders.⁴⁰ Similarly, it was only when the opposition began to govern in 1998 that state organs were no longer permitted to fund parties. However, since parties could be a joint owner of businesses, and local governments often owned these, funds could still be easily funneled from local state offices to political parties through party members and allies.⁴¹

Critically, informal institutions could undermine both powerful and weak formal institutions. Party financing rules were relatively weak, rife with loopholes and frequently without any real enforcement (e.g., parties had to submit reports, but there were no sanctions for falsifying or under-reporting) and were further undermined by the informal funding “innovations” detailed above. Privatization institutions were considerably stronger: not only because states devoted considerable personnel and financial resources to managing the sale of state assets, but because both investors and external observers (such as the EU) had considerable incentives to monitor and critique the process. Yet informal practices could undermine these, and prevent

³⁹ *Respekt*, 1 December 1997.

⁴⁰ The ODS also claimed it had received over 2 million Kč from the American Committee for the Support of ODS, despite the latter’s denial it had ever paid the money.

⁴¹ Vládní program boje proti korupci v České Republice. “Zpráva o korupci v České republice a možnostech účinného postupu proti tomuto negativnímu společenskému jevu.” 17 February 1998.

further strengthening of formal rules. For example, the Slovak HZDS refused opposition oversight over privatization, replacing the National Property Fund's leadership with its loyalists and profiting handsomely from lucrative and unregulated privatization processes.⁴² In the Czech Republic, extensive and informal asset-stripping of privatized companies ("tunneling") weakened the capitalist property rights and markets that were ostensibly the centerpiece of post-1989 reforms introduced by the ODS government.

Support

Informal political institutions can also *support or reinforce* formal institutions. They do so both by "reifying" formal institutions—delineating the domains where formal institutions rule—and by providing information and enforcement that promote the functioning of formal institutions. Informal rules also can enforce formal regulations via informal sanctioning (truthful gossip), or reporting to formal authorities (Ellickson 1991).

First, informal institutions can inadvertently reify formal rules: for example, even as informal financing and mobilization techniques are used in electoral campaigns, they reinforce the notion that elections are the legitimate means of elite competition.⁴³ Thus, as Russian criminal groups and their leaders acquired economic assets of their own in the late 1990s, their new risk aversion meant that they underwent "an evolution toward becoming legal business enterprises playing by the formal rules and engaged in capital investment and charity (Volkov 2002b)." Informal retirement arrangements (the fabled "descent from heaven," where ex-bureaucrats acquire lucrative private sector jobs) and other rewards have also perpetuated the formal institutions of Japanese bureaucracy, which do not necessarily replicate themselves automatically (Evans 1995).

In the post-communist states examined here, informal institutions strengthened formal institutions by expanding the domain of formal rules when several informal arrangements were made subject to state oversight. For example, the creation of quasi-public agencies in Poland and in Hungary to take on privatization and other state roles allowed informal personal networks to carve out a sphere of activity that was formally codified and legitimated⁴⁴. As formal institutions of monitoring and audit arose, however, these funds and agencies attempted to avoid oversight—and pursued their case in courts. Once these disputes became subject to the rulings of the Constitutional and other courts, they strengthened the courts' prerogatives, expanded the domain over which the courts could rule, and gained the courts greater legitimacy.⁴⁵ Thus, the same set of informal institutions that first substituted for formal budgeting rules began to undermine formal auditing and fiscal rules once these were in place—and then (inadvertently) supported a different set of judicial formal institutions.

⁴² Szomolányi 1997, p. 17.

⁴³ See Kotkin and Sajos 2002, for more of these ironies of new democracies.

⁴⁴ These institutions first gained these funds in the 1980s, and were resurrected in the 1994–1995, when branch ministries heavily pressured the center to create more extra-budgetary institutions. Interview with Zyta Gilowska, by Elzbieta Misiak. 3 September 2001, available at <http://www.platforma.org/new/wywiady/10.shtml>.

⁴⁵ Scheppele and 2002.

Second, informal institutions “provide information about the choices of other players by structuring their choices to achieve equilibrium outcomes.”⁴⁶ Extant rules and reputations can provide the information that allows actors *within* both new and established formal institutions to make decisions in the absence of clear and readily available new data. For example, informal elite networks in the early Soviet state buttressed the state’s administrative capacity (Easter 2000). Similarly, the informal rules and expectations—the “folkways”—of the US Senate served to smooth its formal functioning and policymaking (Matthews 1960). Scholars of informal economic institutions have found that informal institutions and their delivery of information can lower transaction costs engendered by formal institutions.⁴⁷

Thus, post-communist informal institutions of power-sharing allowed governments to function more effectively. Governing coalitions in all four countries named representatives to oversight boards for state-owned enterprises on the basis of informal power-sharing: if the head of a board was from one governing party, the vice chair was from the other. Positions were filled according to the political preferences of the governing coalition, and these in turn relied on extant personal alliances.⁴⁸ When governing parties were to appoint regional leaders in Poland, senior governing coalition partners named the regional leaders, and the junior coalition partners, the deputy leaders. Informal rules thus served as shortcuts, lowering the transaction costs engendered by observance of formal rules, allowing the latter to function more efficiently by reducing distributive conflicts.

Similarly, an informal “regime divide” coordinated formal governing coalitions and competition. Parties with origins in the former opposition stood on one side of this cleavage; successors to the communist parties and their various satellites on the other.⁴⁹ Nearly 90% of governing coalitions that formed in the post-communist cases examined here adhered to the rule that former communists and their former opponents would not form alliances in parliament (Grzymala-Busse 2001). Other explanations for coalition formation, such as ideological proximity, minimum winning size, or a combination of these, together explained less than half of the coalitions that formed. Parties explicitly disavowed forming coalitions with actors from the other camp, both during electoral campaigns and during government formation. Such informal coalition guidelines support formal parliamentary rule in that they are a way of providing information about lines of potential cooperation, and they reify the idea that coalition governments are a legitimate form of rule.

The more profound the divide, the less likely the coalitions that spanned it, even when ideological proximity would have dictated them. For example, the Polish communist successor party could only form coalitions with its former satellite. Its policy and ideology were far closer to the centrist Freedom Union, as both parties admitted, but its provenance made such a coalition impossible. Similarly, in the late 1990s and 2000s, a parliamentary deadlock in the Czech Republic prevented the electoral winners from

⁴⁶ Knigh and Sened 1995, p. 10.

⁴⁷ Pejovic 1999; Portes and Sassen-Koob 1987; Portes and Schauffler 1993. Kang, David.

⁴⁸ *Wprost*, 5 March 2000.

⁴⁹ Kitschelt et al. 1999, Grzymala-Busse 2002. This divide is measured in a variety of ways: party antipathy scores (in both public opinion polls and elite surveys), textual analysis of campaigns (and the extent to which emphases on party origins dominated references to policy and competence), and the actual alignment patterns.

governing—yet the Social Democrats refused to turn to the communist successor for assistance, despite the ideological proximity. In contrast, given the history of a post-1956 détente between the communist party and its opponents, the Hungarian communist successor could govern with a former opposition party.

These informal power-sharing rules strengthened formal institutions both by making decisions within formal structures considerably more streamlined, thus providing shortcuts that allow formal institutions to function more effectively, and by reinforcing coordination around new formal institutions as legitimate constraints on behavior.

Fostering Competition—and Why that Matters

Finally, informal institutions have a second-order effect: they help to shape elite competition, which in turn affects both the timing and type of formal rule emergence, and the mechanisms by which informal institutions influence formal rules.

In situations where one regime has collapsed and a new political order is being established, elite political actors both set up new formal institutions, and transform existing ones. They are also in the position to make the most lucrative and influential use of the extant informal institutions. Not surprisingly, research into the formation and reform of state institutions has repeatedly identified elite competition as the key factor.⁵⁰ As Douglass North noted, competition among these actors is a critical source of institutional change, since competition forces organizations and other actors to invest in skills and knowledge to survive (North 1990). In post-communist parliamentary democracies, the relevant political actors consisted chiefly of political parties, who assumed key roles in both democratic politics, and in the building of the institutions of governance, economic exchange, and political competition.⁵¹

Two informal institutions shaping elite competition are elite cleavages and internal rules that govern political parties. Numerous other factors, of course, can affect the levels and durability of political competition. However, the four cases under examination show that even when preconditions are ripe for democratic competition (relative wealth, a large and educated middle class, some past experience with democracy, electoral laws that effectively promote both popular representation and elite contestation), we still observe variation in the *substance* of competition—the extent to which credible governing alternatives and vociferous criticism constrain rent-seeking and promote the building of (effective) formal institutions.

First, elite cleavages define the lines of cooperation and conflict. Such cleavages arise from the experience of working together or opposing each other, and the expectations these generate about the behavior of the other camp(s). These are superimposed on ideological and numerical considerations—even when parties are “logical” partners by dint of ideological proximity or majority requirements, some parties may still be excluded from governance. The post-communist regime divide between historical opponents is one example. The invention of exclusionary informal rules as alternatives to formal institutions is another: thus, Christian Democratic politicians in Italy deliberately but informally excluded communist and right-wing parties from rule, rather than attempting costly changes in formal rules (which would have the same effect;

⁵⁰ Geddes 1994, O’Dwyer 2006, Grzymala-Busse 2007.

⁵¹ In other settings, of course, the actors who decide the institutional framework may be presidents, the military, oligarchs, etc.

Mershon 1994). Post-communist parties could also marginalize competitors: for example, the Republicans in the Czech Republic were formally excluded from all potential governing coalitions. In the post-communist cases, individual politicians may have preferred coalitions that were closer ideologically, but could not form these coalitions for fear of supporter defections and the electoral costs of betraying their hard-won (and still quite nascent) reputations.⁵²

A second set of informal institutions that affects competition are the internal rules within political parties structuring recruitment, advancement, and policy experience. They can arise independently of formal rules governing elite training, advancement, and public behavior. The more elites are advanced on the basis of pragmatic competence rather than ideological orthodoxy (even in parties that prize such ideological commitments—such as the communists), and the more these parties engage in informal negotiation with opponents and policy experimentation, the more diverse and useful the skill sets and reputations of elite actors. In turn, these political resources make some strategic options possible for political parties and make these strategic turnarounds credible. For example, elites in the Polish and Hungarian communist parties had earlier advanced within the communist parties thanks to their success in local governance, ability to politick within the parties' auxiliary organizations, negotiate with the opposition and implement policy reforms. These were not formal steps to advancement, but informal shortcuts of expedience that arose within the parties as they struggled to govern. As a result, these parties wound up with mid-level elites that possessed the skills to reorganize the parties and the reputations to credibly position the parties as both competent and committed to democracy.⁵³ In contrast, the Czech communist party insisted on adhering to formal rules of elite advancement and policy formulation on the basis of ideological orthodoxy. After decades of subsequent stagnation, the successor to the Czech Communist Party could not reinvent itself. As a result, despite an average of 10–16% votes in each election, it had enormous difficulty gaining representation in parliamentary committees, having its criticisms being taken seriously, or posing a threat to the governing coalition. In short, informal rules of elite advancement and policy experimentation generated subsequent credibility as democratic competitors and parliamentary participants.

These informal institutions influenced the *substance* of competition—in North's terms, the competitive threat of replacement posed by the opposition. First, competition requires alternatives. The more the communist parties reinvented themselves, forsaking their organizational, ideological, and symbolic attachments for democratic commitments, the more credible an electoral threat they presented. They tended to anchor the Left side of the political spectrum, as a counterweight to the new democratic governments from the former anti-communist opposition, which tended to be more conservative and nationalist. As a result, communist successor became both the key alternative to incumbents—and given their prominence and past, a key target of criticism. Second, competition requires credible alternative governments: competitors need to be able to enter coalitions with at least one other party. They cannot be ostracized in parliament or excluded a priori from all potential

⁵² Grzymala-Busse 2001 and 2002.

⁵³ Grzymala-Busse 2002.

coalitions. With plausible competitors, governing parties know that both elections and coalition defections can easily produce an alternative governing coalition.⁵⁴ The greater the seat share held by parties excluded a priori, the safer the governing parties in office. And third, vociferous critics monitor and criticize the governing parties in the media and in parliamentary committees. Earlier elite experience and skills made it possible for parties to successfully monitor and criticize governments (although it obviously did not guarantee such elites would do so). In short, informal rules helped to produce the building blocks of substantive political competition—competition not in the sense of turnover, fragmentation, or ideological polarization (none of which correlate with good governance or institutional outcomes⁵⁵), but of a credible threat of replacement to governing parties.

The four cases varied in the kind of elite competition that took place during the critical institution-building period of the 1990s, as Table 4 shows. In Poland and Hungary, the reinvented communist successor parties were both the key instigator and the key target of a strong and contentious opposition. They were not excluded from coalition consideration, even if they were limited in their choice of partners. Few other parties were subject to informal exclusion, with excluded parties holding only 3% of seats in Poland and 1% in Hungary, on average. These parties repeatedly publicized each other's misdoings, in the newspapers, television interview programs, and in parliament itself, with each member of parliament asking an average of 2.3 and 3.8 questions annually—and gaining even a few voters via such appeals could mean the differences between governance, entering parliament or failing to clear the threshold.

In contrast, in the Czech Republic and Slovakia, competition was more limited. The HZDS and the ODS ruled during the critical institution-building period with far less substantive opposition. Since the Czech communists did not reinvent themselves, the left side of the political spectrum struggled to present a governing alternative: it took the Social Democrats until 1996 to mount a strong challenge to the governing ODS. Roughly 20% of seats in both the Czech and Slovak parliaments were held by parties that were informally excluded from coalition consideration. Members of parliament asked fewer questions: less than one a year. Opposition parties whom the governing parties denounced as “illegitimate,” such as the Communists or the Republicans in the Czech Republic or the Christian Democrats in Slovakia until 1998, were simply excluded from important parliamentary committees, much less governing coalitions. The governing parties were certain enough of future victories to continue to build in advantages for themselves without fear of subsequent electoral loss.

The competitive threat of replacement to governing parties affects the mechanisms by which informal institutions influence their formal counterparts. First, competition tends to increase the *incentives* for undermining, as parties seek to obtain whatever competitive advantage they can. At the same time, if parties face considerable oversight and monitoring, competition lowers the *capacity* to undermine, since parties are placed under constant supervision and criticism. Second, competition promotes substitution, in that it encourages the creation of formal guarantees in the face of enormous uncertainty. Political parties are more likely to try to close formal loopholes

⁵⁴ Ferejohn 1986; the impact of plausibility on alternative governing coalitions is independent of both ideological and minimum winning size coalition considerations.

⁵⁵ Grzymala-Busse 2007

Table 4 Summary of party competition

Communist regeneration: (0: none, 1: partial, 2: full)	Credible? Avg seat share of plausible parties	Critical? Avg # questions/MP	Summary index of competition
Hungary 2: MSzP immediately and rapidly reinvents itself, wins 2 nd election	0.99	2.30	3/3
Slovenia 2: LDS immediately and rapidly reinvents itself, wins 2 nd election	1.00	4.42	3/3
Poland 2: SdRP immediately and rapidly reinvents itself, wins 2 nd election	0.97	3.78	3/3
Czech R. 0: KSCM does not reinvent itself.	0.79	0.97	0/3
Slovakia 1: SDL' reinvents itself, no electoral win.	0.81	0.94	1/3
Bulgaria 1: BPS wins first election, delayed and gradual reinvention.	0.99	1.54	1/3
Latvia 0: Rump communist party disappears	0.82	0.84	0/3

Index coding: 1 point for more than two questions/MP/year (mean: 2.37, mean for countries with robust competition: 3.41, for countries without robust competition: 1.07) 1 point for less than 5% ostracized parties, 1 point for partial communist regeneration and 2 for full. Communist parties were coded as having reinvented themselves if they fulfilled the following conditions: (a) name and symbol change, (b) organizational dissolution and refounding, (c) return of assets to state, (d) ideological and programmatic disavowal of Marxism, the communist regime, and state ownership of the economy. Credibility was measured by party declarations prior to elections: if a party was publicly excluded from coalition considerations by *all* other parties, it was coded as implausible. All questions posed as official interpellations and queries are included

Sources include Foreign Broadcasting Information Service, *Gazeta Wyborcza*, *Rzeczpospolita*, *Młoda Fronta Dnes*, *Lidové Noviny*, *Sme*, *Hospodarské Noviny*. Parliamentary databases and institutes for the average number of questions asked by each representative

and strengthen universalist formal institutions when the informal discretion of others is likely to hurt them in the immediate future.

Third, these differences in elite competition influence the timing and the type of replacement. Faced with substantive competition, governing parties built formal state institutions more rapidly and sincerely, to prevent their successors from taking advantage of informal access to state assets.⁵⁶ Given the imminent threat of electoral replacement, these incumbents also had fewer incentives and lower capacity to propose “winner-take-all” formal institutions, such as single member districts, or funding based exclusively on number of seats. This is not to say that such parties were more virtuous—only that they faced constraints that led them to inadvertently safeguard the formal assets of the state.

Thus, in Poland and Hungary, nascent political parties facing enormous electoral pressures tried to ensure that their relatively uncertain positions would not be further imperiled. Formal institutional changes were implemented relatively quickly, replacing many of the informal rules that initially regulated the distribution of

⁵⁶ Laver and Shepsle 1999; see also Diermeier and Merlo 2000.

power and resources in post-communist states. These included civil service laws, regional reform, ombudsmen, securities and exchange commissions, and so on. In Hungary, the opposition repeatedly mobilized to preserve and to promote formal financial and oversight institutions. For example, when the MDF tried to politicize the National Bank in October 1991,⁵⁷ the opposition immediately turned to press criticism, calls for investigation, and threats to hold up other legislature requiring a supermajority (and thus opposition support). As a result, the bank was given considerable autonomy. In Poland, high levels of competition meant that even coalition partners tried to limit each others' efforts in undermining formal rules.⁵⁸ When incumbents tried to formalize informal advantages, they were immediately criticized. For example, the 1996 civil service law in Poland built in a *formal* advantage for its communist successor authors, the SLD: it specified that civil servants with more than 7 years of service were exempt from passing tests, and were to be favored in advancements. Needless to say, the only civil servants with this tenure were from the communist era, and the opposition pounced on this loophole to quickly criticize the government. When the opposing AWS coalition entered office in 1997, it immediately announced it would change similar aspects of the law. The SLD then announced it would carefully monitor the creation of the new civil service legislation, repeatedly criticizing the novelization but keeping its meritocratic proposals when it re-entered office in 2001.

In contrast, the Czech Republic and Slovakia deliberately delayed the decentralization of government, the reform of the civil service, and the building of formal institutions of control and oversight. Governing parties were opposed to formal state institutions of monitoring and oversight as "expensive and unnecessary."⁵⁹ The opposition was unable to pressure the government effectively, and in some cases went along with government delays: proposed reform bills were squelched "with the political agreement of the ODS, KDU-ČSL and [the opposition] ČSSD."⁶⁰ The Czech ODS government approved a basic outline of the public administration code in response to EU pressure, and then shelved it, without opposition outcry (OECD 2000). Fewer formal institutions of monitoring or oversight emerged, and those that did were criticized as poorly planned, unenforced, and often badly suited to the administrative problems at hand.

In Slovakia, the HZDS moved to centralize power, and "rewarded its members and supporters in the organs of the state administration, especially on the regional and local level."⁶¹ Not surprisingly, a subsequent audit emphasized the need to eliminate many medium-level state agencies, sections, committees, and divisions.⁶² Informal discretion was preserved: in one blatant example, the HZDS instituted the "action fives," groups

⁵⁷ Prime Minister Jozsef Antall fired the head of the Bank, György Suranyi, for signing the Democratic Charter, a protest against the MDF's centralization of power. Suranyi was brought back in 1995.

⁵⁸ The extreme fragmentation, however, could also delay the implementation of formal constraints. Thus, while a civil service law was ready in 1992-1993 in Poland, the fall of three different governments prevented its passing.

⁵⁹ When these reforms were finally passed in 2001, both the ODS and the HZDS announced they would scrap the passed laws if elected into office in the 2002 elections in the two countries.

⁶⁰ Meeting of the Permanent Commission for Banking, 15th meeting, 5th May 1998.

⁶¹ Mesežnikov 1997, p. 45.

⁶² "Audit súladu činností a financovania ústredných orgánov štátnej správy," Slovak Government Information Service, August 2000, also available at http://www.vlada.gov.sk/INFOSERVI/ DOKUment_UOSS_2000/audit_UOSS_2000_august.shtml

of five political appointees who “conducted a general, government-led purge of the ranks of district state administration based on explicit political criteria (Krivý 1997).” In both the Czech Republic and in Slovakia, dominant governing parties tended to monopolize the resources of the state, and delayed the creation of formal oversight institutions, such as National Accounting Offices, ombudsmen, local governments, or securities commissions until 2000–2001. Even then, these formal rules were frequently characterized as “Potemkin” institutions, weakly enforced and ineffective.

In sum, informal rules regarding exclusion (whether prompted by historical regime divides or democratic coordination) and earlier communist party recruitment and advancement practices influenced how credible and critical a threat democratic competition would pose. Competition did not make political parties more virtuous—far from it—nor did it automatically engender better governance or effective formal institutions. Competition did, however, influence both the mechanisms by which informal institutions affected the nascent formal framework, and the timing and type of replacement we observe. Where there was no substantive democratic competition, as in Russia or in Ukraine, informal rules were unlikely to be replaced by a coherent or enforced set of formal institutions, and could continue to undermine the few formal innovations that were introduced.⁶³

Implications

Informal institutions have direct and indirect effects on the emergence and transformation of formal rules. The distinct *mechanisms* of informal institutional influence ought to be distinguished from the *outcomes* of such interactions: formal institutions might be weakened or reinforced by informal rules, but the effectiveness of formal institutions is an outcome, not a precondition, of formal-informal interactions. For example, nepotism and favoritism undermine civil service rules, even when the latter are largely effective at determining employment and advancement in a state bureaucracy.

Post-communist state development shows that in transitional settings, informal institutions can replace, undermine, and support formal institutions irrespective of the latter’s strength. It further suggests that the elite competition generated by informal rules shapes which of these mechanisms we observe, and the subsequent patterns of institutional emergence and transformation, such as the timing and imposition of formal state rules, the growth of the public administration, and resource extraction from the state. In transitional settings, at least, formal institutions are at least partially influenced by informal rules, and their effectiveness cannot be assumed.

This analysis of informal influence on nascent formal institutions further shows that “political parties also carry informal rules,”⁶⁴ as Helmke and Levitsky’s pathbreaking study argues. But they do so not only by diffusing and replicating informal rules. The interactions between parties, and the patterns of their competition and cooperation, influence both the kind of formal institutions that emerge and the kind of informal rules that are perpetuated to structure politics. Informal institutions are thus not just a “missing variable” to be included to account for more of the

⁶³ See Darden 2002, Ledeneva 2006, Hale 2009, Easter 2000, Allina-Pisano 2008 for extensive documentation of the primacy of informal institutions in Russian and Ukrainian political life.

⁶⁴ Helmke and Levitsky 2004, p. 731.

variation. They necessitate an explanatory framework that explains, rather than assumes, the boundaries between formal and informal rules, their effectiveness, and the interactions between them.

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References

- Allina-Pisano J. Informal politics and challenges to democracy: administrative resource in Kuchma's Ukraine, unpublished mss. Harvard University; 2005.
- Böröcz J. Informality rules. *East Eur Polit Soc.* 2000;14(20):348–80.
- Bruszt L, Stark D. Remaking the political field in Hungary. *J Int Aff.* 1991;45(1):201–45.
- Carey J. Parchment, equilibria, and institutions. *CPS*, 33, no 7/8, August/September 2000: 735–61, p. 737
- Crawford SES, Ostrom E. A Grammar of institutions. *Am Polit Sci Rev.* 1995;89(3):582–600.
- Diermeier D, Merlo A. Government turnover in parliamentary democracies. *J Econ Theory.* 2000;94:46–79.
- Easter G. Reconstructing the state: personal networks and elite identity in Soviet Russia. Cambridge: CUP; 2000.
- Ellickson R. Order without law. Cambridge: Harvard University Press; 1991.
- Evans P. Embedded autonomy: states and industrial transformation. Princeton: Princeton University Press; 1995. p. 70.
- Fainsod M. Smolensk under Soviet rule. Cambridge: Harvard University Press; 1958.
- Ferejohn J. Incumbent performance and electoral control. *Public Choice* 1986; (50)5–25.
- Frei M. Getting the boot: Italy's unfinished revolution. New York: Random House; 1995. p. 12.
- Geddes B. The politician's dilemma. Berkeley: University of California Press; 1994.
- Grzymala-Busse A. Coalition formation and the regime divide. *Comp Polit.* October 2001.
- Grzymala-Busse A. Rebuilding Leviathan. New York: Cambridge University Press; 2007.
- Hanson S. Time and revolution. Chapel Hill: University of North Carolina Press; 1997. p. 164.
- Helmke G, Levitsky S. Informal institutions and comparative politics: a research agenda. *Perspectives on Politics.* 2004;2(4):725–40.
- Helmke G, Levitsky S. Informal institutions and democracy. Baltimore: Johns Hopkins Press; 2006.
- Herbst J. States and power in Africa: comparative lessons in authority and control. Princeton: Princeton University Press; 2000.
- Hirszowicz M. The bureaucratic Leviathan. Oxford: Martin Robertson; 1980. p. 22–3.
- Humphrey C. The unmaking of Soviet life. Ithaca: Cornell University Press; 2002.
- Hough J. The Soviet prefects. Cambridge: Harvard University Press; 1969.
- Kitschelt H, Mansfeldová Z, Markowski R, Tóka G. Post-communist party systems. Cambridge: Cambridge University Press; 1999.
- Knight J. Institutions and social conflict. Cambridge: Cambridge University Press; 1992. p. 172.
- Kornai J. The socialist system. Princeton: Princeton University Press; 1988.
- Kotkin S, Sajos A. Political corruption: a sceptic's handbook. Budapest: CEU Press; 2002.
- Krivý V. Slovakia's regions and the struggle for power. In: Szomolányi S, Gould J, editors. Slovakia: problems of democratic consolidation. Bratislava: Friedrich Ebert Foundation; 1997. p. 116.
- Lauth H-J. Special relationships: the different impact of informal institutions on different democratic institutions. Paper presented at the Conference on Informal Institutions and Politics in the Developing World, WCFIA, Harvard University, 5–6 April 2002.
- Laver M, Shepsle K. Government accountability in parliamentary democracy. In: Stokes S, Przeworski A, Manin B, editors. Democracy, accountability, and representation. Cambridge: CUP; 1999.
- Ledeneva A. How Russia Really Works. Ithaca: Cornell University Press; 2006.
- Mann M. States, war, and capitalism. Oxford: Basil Blackwell; 1988. p. 29.
- Matthews D. US senators and their world. New York: Vintage Books; 1960.
- McMillan J, Woodruff C. Private order under dysfunctional public order. *Mich Law Rev.* 2000;98:2421–58. 2450.
- Mershon C. Expectations and informal rules in coalition formation. *Comp Polit Stud.* 1994;27(1):40–79.
- North D. A transaction cost theory of politics. *J Theor Polit.* 1990;355–367:362.

- O'Donnell G. Another institutionalization: Latin America and elsewhere. Kellogg Institute Working Paper Series, University of Notre Dame, # 222, March 1996.
- O'Dwyer C. *Runaway State Building*. Baltimore: Johns Hopkins University Press; 2006.
- OECD. *Issues and developments in public management: Czech Republic*; 2000. p. 10.
- Pejovic S. The effects of the interaction of formal and informal institutions on social stability and development. *J Mark Moral*. 1999;2(2):164–81.
- Pistor K. The evolution of legal institutions and economic regime change. Paper Prepared for the annual Bank Conference on Development Economic in Europe, Paris, France, 21-23 June, 1999.
- Portes A, Sassen-Koob S. Making it underground: comparative material on the informal sector in Western market economies. *Am J Soc*. 1987;93(1):30–61.
- Portes A, Schauffler R. Competing perspectives on the Latin American informal sector. *Popul Dev Rev*. 1993;19(1):33–60.
- Róna-Tas Á. *The great surprise of the small transformation*. Ann Arbor: University of Michigan Press; 1997. p. 219.
- Shue V. *The reach of the state: sketches of the Chinese body politic*. Stanford: Stanford University Press; 1988. p. 121.
- Stark O, Bruszt L. *Postsocialist pathways*. Cambridge: Cambridge University Press; 1998. p. 180–2.
- Tsai K. Adaptive informal institutions and endogenous institutional change in China. *World Polit*. 2006;59:116–41.
- Volkov V. Who is strong when the state is weak? In: Beissinger M, Young Y, editors. *Beyond state crisis?* Washington: Woodrow Wilson Center; 2002a. p. 83.
- Volkov V. Who is strong when the state is weak? In: Beissinger M, Young C, editors. *Beyond state crisis?* Washington: Woodrow Wilson Center; 2002b. p. 102.
- Wedel J. *The private Poland*. New York: Facts on File; 1986.
- Woodruff D. *Money unmade*. Ithaca: Cornell University Press; 1999.

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