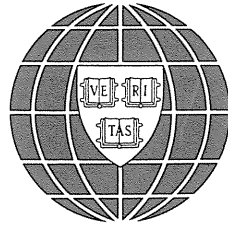# The Center for
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The Origins of Hungary's 1989 Electoral Law[*]

by

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Abstract

Theories which explain the origins of institutions as the product of struggles for distributive advantage provide only a general framework with no conceptualization of the bargaining process and few applications to empirical cases. We address both problems and extend the distributive theory of institutional origins by drawing on a unique set of data to examine the creation of the Hungarian electoral law of 1989. Arguing that outcomes are shaped by four mechanisms arising from bargaining—time preferences, the credibility of threats and promises, mimicked fairness, and symmetrical division—we develop observable implications of these mechanisms and test them empirically by analyzing the bargaining which produced the multiple rules of Hungary's complex electoral system. Not only does the Hungarian case confirm the bargaining mechanism theory of institutional origins, but the theory also explains many curious features of the Hungarian electoral institutions, including its surprising combination of extraordinary complexity and unusual stability.

The Problem of Institutional Origins

That political institutions matter is a claim rarely contested anymore. This is true of both academics preoccupied with theory and political actors designing real world institutions. Why and how they matter is largely the subject of the already not-so-new institutionalism in both its historical and rational choice variants.[1] According to various perspectives, institutions solve collective action problems, reduce transaction costs, constrain the path of future change, and structure power, preferences, and ideas. Furthermore, institutions exist in a wide variety of configurations, differing in form, stability, and power.

Given the importance and variety of institutions, a key question concerns their origin. Why does an institution take a particular form? Why do political institutions vary both spatially and temporally? These questions are as empirically relevant as they are theoretically interesting. The "third wave" of democratization sweeping the world has left in its wake a laboratory-like environment of institutional design, with political actors choosing electoral, legislative, and executive institutions from Albania to Zambia (Huntington 1991). Given the apparent importance of these new institutions for long-term democratic stability and economic growth, it is worthwhile to explore why such institutions are chosen (Linz and Valenzuela 1994; Shugart and Carey 1992; Przeworski, Alvarez, Cheibub, and Limongi 1997).

In this paper we address these questions, arguing that political institutions chosen during regime change are best explained as outcomes of struggles for distributional advantage between strategic actors. This struggle is a bargaining game in which four causal mechanisms explain the origins of particular values on the individual rules which together constitute political institutions. More precisely, time preferences, the credibility of threats and promises, mimicked fairness, and symmetrical division explain agreements by strategically rational actors on the individual rules which constitute institutions. We develop observable implications of these mechanisms and test them on an empirical case: the negotiated design of the electoral law during Hungary's regime change in 1989. Drawing on data that provides a rare glimpse into the mechanics of bargaining over political institutions, we show that the most important features of the Hungarian electoral law emerged as a result of actors' differing levels of patience in reaching an agreement, their unequal ability to make credible threats and promises, their attitudes toward risk in an uncertain environment, and their use of focal points in solving coordination problems.

By turning attention to the bargaining process to develop a set of causal mechanisms explaining the choice of institutions, we extend the insights and empirical relevance of existing distributive theories of institutional origins. To this degree, we directly address Shepsle's (1989) "nagging doubts" about the promise of a micro-theory of institutional selection. By assessing the theory in light of an empirical case we not only meet Green and Shapiro's (1994) objection that rational choice analyses ignore empirical testing, but also offer a better account of institutional emergence in Eastern Europe than does existing work on the question.

The paper proceeds as follows. In the next section we review existing theories explaining institutional origins from a distributional perspective. Then we elaborate a bargaining approach to institutional origins in two steps. After briefly disaggregating institutions into a set of important individual rules this section identifies four mechanisms explaining the choice of individual rules

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[1] For overviews of the historical and rational choice approaches respectively, see Steinmo, Thelen, and Longstreth (1992) and Alt and Shepsle (1990).

during bargaining and indicates their implications for empirical analysis. The next two sections apply this approach to an empirical case: the origin of the Hungarian electoral law of 1989. First we will describe the emergence of the opposition as a political force which led to negotiations with the communist regime; second, identify those resources which provided the opposition with greater bargaining power in the negotiations over the electoral law; and third, briefly describe our dependent variable—the Hungarian electoral system of 1989. Finally, we apply the bargaining framework and the bargaining mechanisms to explain outcome of each of the significant rules of this system.

Distributive Theories of Institutional Origins

In the context of regime change, as Przeworski points out, institutions emerge from negotiations (1991, 80). Whether designed in round table talks between the authoritarian regime and the opposition or between different opposition groups after the collapse of authoritarian forces, new electoral laws, presidencies, and constitutional courts are the outcomes of strategic bargaining. Understanding institutional origins thus entails an explicit focus on the strategic interaction of the relevant actors in the bargaining process. Scholars have employed this perspective to develop both general theories of institutional origins and specific explanations of the new democratic institutions in Eastern Europe.

Although much of the rational choice literature on institutional origins has tended to be "optimistically functionalist" in its reliance on efficiency explanations for institutional emergence, there is increasing emphasis on the role of distributional struggles in the design of institutions.[2] According to this view, there are likely to be multiple socially efficient arrangements each giving marginal advantages to some actors over others. Competition for these marginal advantages thus creates conflict over the division of the surplus generated by the institution and hence over the design of its rules (Tsebelis 1990, 105; Bates 1988). Thus the outcome—the nature of the institution—will bear the imprint of distributional conflicts as actors bring their resources to bear in an attempt to secure their favored set of rules (Knight 1992; Levi 1988b, 162).

The distributive perspective has also been adopted to explain the choice of political institutions. Heckathorn and Maser (1987), for example, interpret constitutional choice as bargaining over alternative contracts which create government. To this degree, they highlight the conflictual aspects of constitution-making elided in other approaches (e.g. Hardin 1989). Explicitly investigating the question of institutional design, Tsebelis (1990) identifies two types of institutions resulting from distributional concerns and deploys these categories in an empirical analysis of several European political institutions. For example, he explains changes in the French electoral law in 1985 and 1986 as "consolidating institutions": their design was motivated by attempts on the part of successive governments to preserve their political power (Ch. 7). Bates and Lieu (1985), Levi (1988a), and Kiser (1986-87) have pointed to the importance of distributive concerns to rulers in the formation of tax and other revenue policies. Bates and Krueger (1993) and Geddes (1994) show that the same considerations loom large in the selection of economic reform measured by political elites determined to preserve their political power. These studies are useful in that they focus on the distributive motivations of political actors, rather than on a imputed solicitude for global efficiency

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[2]Efficiency explanations generally emphasize the role institutions play in economizing on transaction costs. See e.g. Barzel (1989), Grief, Milgrom, and Weingast (1996), North (1990), and North and Thomas (1973). For a critique of the efficiency approach, see Knight (1995; 1992, 28-40).

inconsistent with the postulate of individual utility maximization. The corollary attempt to incorporate resources and thus power into analyses of institutional origins is likewise an advance. As a rule, however, most distributional explanations stop here. That is, outcomes are inferred from preferences and distributions of resources (power); there is no examination of how power translates preferences into outcomes. More precisely, while many of these studies adopt the language of bargaining, they do not examine the bargaining *process* proper.

Partly this is due to the tendency to eschew empirical applications. Knight, for example, offers a general bargaining framework for explaining the (unintended) emergence of social institutions but does not systematically examine this bargaining process in empirical cases. Heckathorn and Maser allude to the deliberations at the Federal Convention over the US constitution, but do not reconstruct the choice process. The bargaining process also tends to be ignored because many cases of institutional design take place within an existing institutional framework such as legislatures or bureaucracies where procedures substitute for bargaining power at the negotiating table (Bates, Tsebelis, Levi). Alternatively, resource possession and differing levels of bargaining power are posited, but then outcomes are simply inferred from them (Levi, Libecap). Finally, a close examination of the bargaining process is avoided even in those cases where it would most warrant attention. Tsebelis, for example, ignores bargaining altogether by assuming that communication or iteration is sufficient to demonstrate "how agreement over institutions is obtained" (Tsebelis 1990, 181, fn.12). Moreover, he does this even when explaining the choice of consociational institutions in Belgium which emerged from directly from bargaining. Rather than examining the bargaining which produced the Egmont Pact of 1977, Tsebelis simply asserts that "because they were communicating in the negotiations, they were able to develop contingent strategies and push the outcome toward the Pareto frontier" (Tsebelis 1990, 183).

Inattention to the mechanics of bargaining is not, however, limited to theoretical approaches to the question. Even empirical examinations of the creation of new political institutions in Eastern Europe have not systematically examined the bargaining process by which those institutions were chosen. Although most of these studies make explicit reference to the distributive struggles between the communist regime and opposition forces over the design of electoral laws and presidencies, the level of analysis at which they address the problem remains too coarse to explain the individual rules of these institutions. As a result they tend to discuss only the broad outlines of these institutions, though other rules may also be quite significant. More egregiously, they do not systematically examine the multiple and sequential links between resources, bargaining power, and negotiation outcomes. As a consequence, they come to different conclusions about relative power balances yet arrive at the same institutional outcome, causing them to misexplain important features of the institution and offer conflicting interpretations of the same event.[3]

Lijphart's (1992) preoccupation with the "logic of the democratization process," for example, prevents him from evaluating the resources which endow actors with bargaining power. This causes him to overdraw the distinction between the bargaining process in Poland and those in Hungary and Czechoslovakia, complicating what is in essence differing levels of bargaining power. Instead, he notes only that the communist party was overly optimistic, goes on to claim that bargaining power was equal, and explains the balance between majoritarian and proportional tiers in the Hungarian electoral system as the result of a "compromise" (Lijphart 1992, 215). Moreover, he claims that

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[3]Due to space limitations, we discuss only studies of the design of the electoral law in Hungary, though we believe our claim often holds true for examinations of other institutions and other countries. For a discussion of the design of electoral laws, presidencies, and other institutions in Eastern Europe, see Elster (1993–94), Shugart (1993–94), and the relevant chapters in Elster (1996).

a popular distaste for political parties played a role in not adopting a PR system. Geddes (1995, 1996) adopts a more explicitly strategic perspective, reconstructing both the preferences of the negotiating parties and the resources providing them with differing levels of bargaining power. Although she lists several reasons why the communists might have been the weaker party at the bargaining table, she identifies the communist strength as "high" (Geddes 1996, 24). Nevertheless, she too explains the balance between the majoritarian and proportional tiers as a compromise, with the communists trading away rules for earlier timing of the elections. Elsewhere she claims that the Hungarian negotiators copied the German system (Geddes 1996, 18). In sum then, the mixed character of the Hungarian electoral system is alternately explained as a compromise, a trade in exchange for the timing of elections, as a copying of the German system, and as the result of a popular distaste for political parties. Not only do these explanations conflict with each other, we will show below that the relative weights of each tier were the result of a different mechanism altogether. The communist party shifted its bargaining position after by-elections forced them to update their beliefs about which electoral system offered them the best chances for political survival.

Moreover, even descriptively-oriented studies of the transition and negotiations over the electoral law eschew a detailed examination of the bargaining process. Although Sajo (1996) examines the Round Table negotiations in which the Hungarian electoral system was designed, including the credible threats available to both sides, he does not show how these threats resulted in the individual rules of the electoral system. He does not, in fact, examine the bargaining process at all; instead he simply identifies the preferences of the various parties and then notes that "a four percent hurdle was accepted, and about half the seats were allocated to individual boroughs" (84). Tőkés (1996, 384), in an otherwise masterful and comprehensive political history, similarly presents only the results in outline form and no account of the bargaining process. This tempts him to take semi-functionalist perspective about the "purpose" of the electoral system, such as the choice of a four percent electoral threshold to promote governing stability. Wiener (1994) provides the most comprehensive description of the original preferences of the parties over individual rules in the electoral system and the final agreements reached during the negotiations which produced the law. Nevertheless, he does not trace the bargaining process from initial preferences to outcomes, leaving unexplained *why* the Hungarian negotiators agreed on the rules they did.

In sum, while many studies both theoretical and empirical have emphasized the importance of the distributional motivations of actors designing political institutions, insufficient attention has been given (1) to the bargaining process from which institutions emerge and (2) to empirical examinations of this bargaining process. Extending the distributive approach thus requires both a better conceptualization of how rational actors bargain and why they agree to individual rules as well as the kind of fine-grained data necessary to test theories of this process. We undertake both tasks by (1) elaborating a set of bargaining mechanisms which explain agreements on individual rules and (2) drawing on a unique set of data to test the theory on an empirical case of institutional choice. We address the former in the next section and the latter in the sections which follow.

Bargaining Mechanisms and Institutional Choice

Institutions, Rules, and Values

Political institutions are configurations of formal rules which structure human action. More precisely, institutions are sets of linguistic constraints or opportunities (rules) which proscribe, prescribe, or permit certain actions for individual and corporate actors.[4] Explaining institutional origins entails explaining the emergence of each of these rules. To better understand the struggle over the design of political institutions it will be useful to disaggregate them into their most significant individual rules. In increasing order of importance, there are empirical, theoretical, and methodological reasons for approaching institutional origins in this way. Empirically, because the negotiators themselves write the institution rule by rule, it will be easier to make sense of the bargaining process by replicating this process in analyzing the institution. Moreover, deconstructing institutions in this way will provide a better understanding of the end product of the negotiations by identifying the institution's most significant components. Breaking the Hungarian electoral law into discrete features, for example, will render its complexity more intelligible.

Theoretically, as Ostrom (1986) points out, institutions are best conceived as configurations of individual rules which jointly structure the context of interaction. Each component of an institution is a variable, the value of which is specified by a rule. In other words, these rules "alter the feasible sets of the values" of variables (Ostrom, Gardner, and Walker 1994, 41). Finally, there are compelling methodological reasons for examining institutional origins as choices made over individual rules. The advantage of this approach is that each rule constitutes a separate observable implication of the distributional theory of institutional choice. While an institution in its aggregate form (e.g. an electoral system) is conventionally thought of as a "case," the important criteria is how much information is brought to bear on the theoretical problem—in other words, the number of observations. Bargaining over institutions is bargaining over individual rules; each rule counts as an observation of the choice process and hence increases the opportunities to compare empirical observations with theoretical implications, increasing its chances of being rejected (King, Keohane, and Verba 1994, 21, 24).

Ostrom's schema presumes viewing institutions as independent variables. Nevertheless, the analytical order she imposes on institutions is useful for viewing them as dependent variables. To take an example from the electoral system, the *physically* feasible set of values at which the nomination requirements might be set for candidacy in a single-member district in Hungary, for example, ranges from 0 to 70,000.[5] The rule in the Hungarian electoral system sets this value at 750. These values have differentially distributive effects on the outcome—which individuals and parties may run in the election—and the task is to explain the choice of each value for each rule, to which we now turn.

Bargaining Mechanisms

Although institutions provide collective benefits by eliminating conflicts caused by individual rational action, the conflicts that motivate institutional formation are often manifest in the design of

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[4]See Crawford and Ostrom (1995) for an attempt to integrate various definitions of institutions into one conceptual framework. Our definition draws on, but differs from, the one they advance.

[5]The average population in each electoral district.

institutions (Bates 1988). Even if institutions are created expressly to provide an efficient provision of collective benefits, there are likely to be multiple socially efficient arrangements, each giving marginal advantages to some actors over others. Because actors will have conflicting preferences over which set of rules should be chosen, each will struggle for those rules most individually favorable. That is, the attempt to maximize utility is the attempt to win as many distributive shares as possible from an institution through the design of its rules. This struggle for distributive advantage is a bargaining game. Following Nash, "bargaining" refers to situations in which (a) the parties involved have the possibility of concluding a mutually beneficial agreement, (b) there is a conflict of interests about which agreement to conclude, and (c) no agreement may be imposed on any party without its approval (Osborne and Rubinstein 1990, 1).

While concepts borrowed from bargaining theory provide a useful (and necessary) *framework* for approaching the problem of distributional struggles over the design of political institutions, they are generally of little help in explaining agreements on the values of multiple *individual* rules. First, even at the level of abstract modeling bargaining theories—except under highly artificial assumptions—are notoriously indeterminate (Elster 1989; Kreps 1990). In fact, these models achieve invariant theorems both "true" and "general" so long as they are not intended to explain empirical political behavior. Empirical application requires that the assumptions of a model be both relevant and accurate; in the event they are not, unrealistic assumptions—for the purposes of explanation of empirical events—generate not general theories, but instead ones quite narrow in scope (King, Keohane, and Verba 1994, 105-07). They are, in other words, invariant only at the price of extreme specificity, not generality. Thus, even on one issue dimension bargaining theory often must be supplemented with a theory explaining why one equilibrium is selected over others. Second, explaining the emergence of an institution entails explaining the origin of values on a set of rules, not one rule. This multiplicity of rules presents further complications for bargaining theories. Given a particular constellation of bargaining powers, why does the distributive share vary between rules?

Explaining the origin of values on individual rules involves reconstructing why strategic actors agreed to those values and rules during this bargaining process. If bargaining models do not achieve invariance in explaining empirical phenomena, they do clarify key causal relationships in strategic interaction. In other words, they suggest important causal mechanisms—"specific causal patterns which link conditions to outcomes and which are sufficiently general and precise to be detected in widely different settings" (Elster 1993, 3-5). Mechanisms, then, do not offer invariant prediction but rather explanation and understanding. Identifying the bargaining mechanisms which explain why strategic actors agree to particular values on individual rules increases our understanding about institutional emergence. In the following we reconstruct four bargaining mechanisms explaining the choice of individual rules by strategic actors—time preferences, credibility of threats and promises, mimicked fairness, and symmetrical division.

Time Preferences. Rubinstein (1982) and related models have shown that, in general, those who value time more (those who are more impatient to reach an agreement), will get less out of the eventual agreement, while those who can afford to wait will get more. To see this, consider the following. The more impatient a party is, the more the value of an agreement reached in the future is reduced. At some point the value of the distributive share of a later agreement less the cost of delay will equal a smaller distributive share obtained earlier. Thus, rather than hold out for more later, an impatient party will agree to less sooner, which puts it at a disadvantage vis-á-vis a more patient opponent who can credibly threaten to drag out negotiations. A firm, for example, might incur heavy costs if it does not agree with a union on a contract within a certain period of

time, say because of lost market share, while the union possesses an ample strike fund and is able to continue striking beyond that point. Assuming both facts are common knowledge between the firm and the union and everything else is equal, the union's patience will translate into superior bargaining power, enabling it to extract more concessions from the firm.

In formal bargaining models this bargaining power is captured in a parameter δ ranging between 0 and 1, which reflects the discount rate of each party. The closer δ is to 1, the more patient the actor, the closer to zero, the more impatient. In a two-person bargaining model in which the values of these parameters differ $(\delta_1 > \delta_2)$, Osborne and Rubinstein (1990, 90) show that the outcome of such games is an asymmetric one, in which "the degree of asymmetry is determined by the disparity in the discount factors." In other words, under these assumptions, different attitudes toward delay explain the nature of the agreement reached. Indeed, as Rubinstein shows, at the limit, where player two is impatient in the extreme $(\delta_2 = 0)$, player one claims the whole pie.

It follows from this that the relevant resources in bargaining games of this type are those which affect a party's ability to hold out for better terms. During periods of regime change several political resources become especially relevant in bargaining at the constitutional level. In addition to (1) levels of political support measured in public opinion polls, these include (2) the potential to mobilize manpower for street demonstrations; (3) the support of foreign allies; (4) log-rolling or promises; and (5) the strategic use of bound mandates (Elster 1991, 44). First, changing levels of political support during a transition to democracy have an enormous influence on the bargaining powers of various political actors. Those for whom political support is increasing will be more willing to wait for an agreement than those who only stand to lose from a delay. Moreover, if levels of political support are made known through the news media, these time preferences will become common knowledge among the actors, making threats to delay credible. Second, like war, street demonstrations are the continuation of politics by other means. Similar to measures of political support in polling data, the ability to mobilize larger numbers of people provides the evidence necessary for threats to be credible. Third, support of foreign allies can also affect the credibility of threats and promises. If a powerful foreign ally supports one party to negotiations and backs up this support with incentives and disincentives affecting the other party as well, common knowledge of this fact may make the supported side more willing to hold out and hence its threats to do so more credible. A classic example of this effect is provided by the Roundtable negotiations in Poland in early 1989, where the communist party threatened that the Soviets would invade if the communists were not guaranteed control of the government. The declaration of martial law in 1981, the fact that no other East European country had yet broken this taboo, and uncertainty about Moscow's intentions in early 1989 made this threat credible. As a result the communists emerged from the negotiations with electoral control in the form of guaranteed parliamentary seats. Fourth, negotiations themselves provide bargainers with resources. Different relative preferences over different issues may provide opportunities for logrolling. Although the temporal structure of the bargaining process might make it possible for one side to renege on a promise later, without losing what it gained, if the entire agreement is based on a series of such trades and hence the necessity of keeping promises, this might provide enough credibility to sustain trades between issues. Finally, bound mandates also influence time preferences and credibility by pre-committing actors to certain strategies. A bargaining agent for several principals may, for example, be required to secure approval from the principals before accepting any offers, creating an advantageous delay. Similarly, if one side is heterogeneous, internal compromises may narrow its room for compromise, making the threat to "take it or leave it" credible.

Each of the five resources, then, is a variable to be weighted when estimating the bargaining leverage for each party. Translating such resources into numeric indicators for estimating precise δ parameters tends to be arbitrary and mechanical. This problem can be avoided, however, if asymmetry in resources suggest a clear *relative* difference in discount rates (i.e. $\delta_1 > \delta_2$ without precise estimates). In this event, it will still be possible to hypothesize that the party with greater relevant resources (δ_1) will get a larger distributive share from the bargaining.

Credibility. The second bargaining mechanism is credibility—the belief by B in A's claim that the latter will take some action because B knows it is in A's interest to do so. Credibility provides A with power because it restricts the set of B's choices to those favoring A. Credibility can be achieved in several ways. First, A might employ some pre-commitment device. The classic illustration of this idea is the general that burns the bridges behind him to signal that he will not retreat. Second, objective characteristics of the bargaining situation can provide credible evidence for an actor's probable strategy. For example, a union may possess a large strike fund, enabling it to hold out during negotiation delays.

Credibility makes the threats and promises central to bargaining effective.[6] Of the five factors which Stähl (1972, 166) identifies as making threats and promises credible, two are relevant here: considerations of principals and considerations of later stages of the same negotiations. The former refers both to commitment attempts (e.g. a union negotiator raising expectations of workers) and the need to secure the agreement of principals (e.g. a union threatening to delay talks in order to give time for a union vote on a management proposal). The latter suggests that a party making a threat (or a promise) early in negotiations will carry it out in order to insure the credibility of later threats (and promises).

Uncertainty Mimicking Fairness. Bargaining—even if motivated by a desire to increase distributive shares—may also produce institutions which provide rents to no one actor or group. That is, under certain conditions, fair institutions may also be the outcome of self-interested strategic calculation. These conditions are uncertainty about post-institutional choice outcomes. When the relevant political forces are uncertain about their ex post positions, if they must negotiate behind a Rawlsian veil of ignorance and are risk-averse, they will choose fair institutions as insurance against the chance that they end up on the losing side (Tsebelis 1990, 118). They will "seek institutions that provide guarantees against temporary political adversity, against unfavorable tides of opinion, against contrary shifts of alliances" (Przeworski 1991, 87).

Note that two types of uncertainty will mimic fairness in choosing institutions: (1) uncertainty about the social inputs into rules which generate outcomes and (2) uncertainty about the working properties of the rules (Vanberg and Buchanan 1989). The first type is generated by ignorance about distributions of political power (e.g. electoral support) between actors or groups while the second concerns ignorance about how rules distribute benefits given a particular distribution of political power. Most accounts assume that uncertainty about the first dimension causes the choice of fair institutions. Although not discussed in these terms, the Rawlsian veil is assumed to stem from ignorance about the distribution of political power; strategic actors know the distributional effects of rules (Przeworski 1991, 82–88; Tsebelis 1990, 116-18; Vanberg and Buchanan 1989). Where, however, there is some uncertainty about the distributional effects of alternative rules yet confidence about the distribution of political power, strategic actors will be just as uncertain

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[6]Threats and promises are strategically equivalent, with the former a conditional commitment to an act which is unfavorable to the other party while the latter is a conditional commitment to an act which is favorable (Stähl 1972, 165). See also Schelling (1960, 43–46).

about their *ex post* positions, inducing them to choose sets of rules which distribute benefits in multiple ways. In either case then, strategically rational and self-interested actors will choose fair institutions.

Symmetrical Division. The final mechanism we identify underscores the importance of the coordination problem in bargaining. As Thomas Schelling has pointed out, much of the bargaining process involves the attempt by actors to coordinate on a mutually acceptable outcome:

> Infinitely reflexive expectations must somehow converge on a single point, at which each expects the other not to expect to be expected to retreat. If we then ask what it is that can bring these expectations into convergence and bring the negotiations to a close, we might propose that it is the intrinsic magnetism of particular outcomes, especially those that enjoy prominence, uniqueness, simplicity, precedent, or some rationale that makes them qualitatively differentiable from the continuum of possible alternatives. (Schelling 1980, 70)

Mathematical symmetry or balance often singles out one outcome in this way. Symmetry refers to a complex of issues related to the basic idea of equal division. First, it includes the straightforward notion of "splitting the difference" where the object of bargaining is divisible into equal units. Second, it also encompasses the taste for aesthetic balance between non-divisible objects. This preference for equality "as a shared concept of salience" has been confirmed in experimental work on focal points (Mehta, Starmer, and Sugden 1994, 181).[7]

Implications

Following this, the bargaining theory of institutional choice has the following observable implications. First, bargaining should emerge out of either a change in asymmetries in power or a change in the provision of distributive benefits provided by the institution (Geddes 1994; Knight 1992). We will show that the former was the case in Hungary; opposition parties became stronger as the regime weakened, encouraging the opposition to demand a renegotiation of the political rules of the game. Second, parties should advocate those rules which provide them with systematic benefits. There should be a clear link between the value of the rule advocated by the actor and the self-interest of that actor and it must be this knowledge which caused the actor to choose the rule.[8] Turning to the bargaining mechanisms, the third implication is that those who are more impatient should emerge with fewer distributive benefits. Fourth, actors possessing resources that can be used to make their postures credible should receive more. Furthermore, these threats and promises should be linked to decisions over individual rules. Fifth, where risk averse bargainers are forced to design rules which will generate uncertain outcomes, the rules and values chosen should be "fair" ones. Finally, the search for mutually acceptable solutions should result in symmetrical division where the object of bargaining is a narrow range of lumpy units or where the range of acceptable values is broad and divided into small units, making the choice of the final value seem arbitrary.

With these implications in mind, we turn to the examination of our empirical case: the Hungarian electoral law negotiations of 1989. This system was drafted in Roundtable Talks between the

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[7]Note that equality in this context means symmetry or balance, not ethical fairness. The experiments concerned assigning various numbers of circles to squares; ethics were not at issue.

[8]The latter requirement is necessary for the rule to be the intended (rather than fortuitously unintended) consequence of the actor's choice; it must be caused in "the right way" (Elster 1986, 12–16).

Ruling Party

MSZMP	Magyar Szociálista Munkáspárt	Hungarian Socialist Workers' Party

Opposition Roundtable

MDF	Magyar Demokrata Fórum	Hungarian Democratic Forum
SZDSZ	Szabad Demokraták Szövetsége	Alliance of Free Democrats
FIDESZ	Fiatal Demokraták Szövetsége	Federation of Young Democrats
MSZDP	Magyarországi Szociáldemokrata Párt	Hungarian Social Democratic Party
KDNP	Kereszténydemokrata Néppárt	Christian Democratic People's Party
FKGP	Független Kisgazdapárt	Independent Smallholders Party
MNP	Magyar Néppart	Hungarian People's Party
BZSBT	Bajcsy-Zsilinsky Endre Baráti Társaság	Bajcsy-Zsilinsky Friendship Society
Liga	Független Szakszervezetek Demokratikus Ligája	Democratic League of Independent Trade Unions

Table 1: Main Political Parties in 1989

communist regime and a coalition of opposition groups during Hungary's negotiated transition to democracy. During three months of bargaining, the Hungarian Socialist Worker's Party (MSZMP) and the Opposition Roundtable produced what is perhaps the world's most complicated electoral law. We explain this result in terms of the four bargaining mechanisms just outlined.

Political Resources and Asymmetries in Bargaining Power: The Context of Political Change in Hungary

We lack the space here for a complete treatment of the struggles between the Hungarian Socialist Workers' Party (MSZMP) and the opposition which led to the National Round Table negotiations. Instead, our purpose in this section is to establish the gradual weakening of the MSZMP and the strengthening of the opposition groups which forced the regime to the bargaining table.

The MSZMP's etiolation begins in the late 1980s when the political and economic crisis which had been growing in Hungary continued to worsen. Hungary's economic position became more precarious in the late 1980s precisely as the pretense of political legitimacy became increasingly difficult to maintain. Hard currency debts, for example, doubled between 1987 and 1988, and the threat of insolvency grew increasingly likely. Western creditors indicated increasingly that they would continue to finance Hungary's economy only in exchange for significant economic reforms (Bruszt 1990). Western supporters, at the same time, applied considerable pressure on Hungary to meet certain human rights criteria. Concomitant with pressure from the West were changing events in the East, where the splits between hardliners and reformists in Moscow reflected Hungary's own increasingly sharp divisions within the MSZMP.

Until late 1987 and early 1988, independent political activity was severely limited. This situation changed in 1987 with the founding of the Hungarian Democratic Forum (MDF) and the formation of the Alliance of Young Democrats (FIDESZ) in the following year. Other groups quickly followed,

with the first independent trade union (TDDSZ, precursor to the Liga) and an umbrella group of opposition organizations (the Network of Free Initiatives) established in May. From November 1988 to February 1989 many of the "historical" political parties that had competed in the elections in 1945 and 1947 reemerged. The Independent Smallholders Party (FKGP), which won 57 percent of the vote in 1947, claimed its legal continuity in February 1988 and reorganized in November of the same year. The Christian Democratic People's Party (KDNP), the Hungarian People's Party (MNP), and the Hungarian Social Democratic Party (MSZDP) also reorganized in 1988 and early 1989 (Bozóki 1993, 277). The very existence of these social movements, associations, trade unions and parties presented a serious challenge to the MSZMP, confronting it with a broad onslaught of demands for political reform.

The initial response of the MSZMP was one of confrontation (Bruszt and Stark 1992). Hardliners within party at first hoped to eliminate these inchoate organizations, if not by direct repression then by legally circumscribing their activities. It also attempted to co-opt those organizations presenting less radical demands and to marginalize those demanding more fundamental change. Despite some rather aggressive MSZMP posturing, however, it became clear by the beginning of 1989 that it was impossible to eliminate or incapacitate the nascent opposition groups without incurring politically unacceptable costs. Hardliners were on the defensive, attacked by reformers from within and by the opposition from without. Imre Pozsgay, a leading party reformer, delivered the incapacitating blow to the hardliners in January by revising the official position on the 1956 revolution. Pozsgay's announcement led to the collapse of the previous MSZMP stance of what László Bruszt describes as "defensive liberalization" (1990) and brought an acceptance of talks with the opposition about free, multiparty elections. It is important to note that the MSZMP would not have agreed to negotiate the institutions of democracy—despite its waning legitimacy—but for a crucial (mis)perception: it thought it would win. In mid-summer 1989, the opposition parties were still small and poorly organized and their leaders almost unknown. The MSZMP, by contrast, possessed the infrastructural and financial advantages of 40 years of single-party rule. The MSZMP also had on its side several leading personalities, including an apparent shoo-in for president that would raise its appeal in the parliamentary elections. For these reasons the MSZMP calculated that it had little to lose—and much legitimacy to gain—from introducing electoral competition.

Having failed in its attempts to divide and conquer the opposition parties, the MSZMP agreed on June 10th to hold official talks—the "National Roundtable"—to prepare the institutional ground-work for free elections. These talks included seven parties of the opposition, operating by prior agreement as a single voice: the Hungarian Democratic Forum, the largest opposition group; the centrist Alliance of Free Democrats; the Alliance of Young Democrats; and the "historical" political parties that had competed in the elections in 1945 and 1947: the Independent Smallholders Party, the Christian Democratic People's Party, the Hungarian People's Party, and the Hungarian Social Democratic Party.[9] Sitting at the bargaining table with the MSZMP represented a victory insofar as the opposition parties, most formed less than a year before, had established enough credibility with the ruling party to be accepted as negotiating opponents in a series of talks to decide Hungary's institutional future. In a political game where the rules were being rewritten, the opposition had established itself as a player.

The framework for bargaining was remarkably open. With no constraints imposed either by

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[9]The talks also included a "third side" comprising trade unions and para-political socialist satellite organizations. We all but exclude mention of the Third Side in our treatment of the negotiations, since their role in the talks was minor.

Table 2: Party Support Over Time

Party	Jun 16	Jul 13	Aug 23	Sep 15	Election
MSZMP	29	37	32	23	10.3*
MDF	13	14	18	24	24.7
SZDSZ	5	3	6	6	21.4
FKGP	6	11	9	7	11.8
FIDESZ	9	7	7	11	8.9
KDNP	5	2	4	4	6.5
MSZDP	12	10	8	8	3.6
MZP	–	–	–	–	0.4
MFP	5	5	4	4	0.0
MNP	5	4	3	3	0.8
FMDP	10	4	8	5	–
Other	1	3	1	7	8.9

* Vote percentage for the Magyar Szocialista Párt (MSZP), the successor party to the MSZMP after it changed its name at the October 7th party congress.

Note: These polls indicate the answer to the question: "If the election were held Sunday, for whom would you vote?" The numbers represent percentages of respondents. We exclude non-respondents because the data were originally reported in this way, and because the parties seemed to place the most weight in these figures rather than being concerned with non-response. Source: Magyar Közvéleménykutató Intézet, 1989.

higher level rules or outside intervention (as was the case in Poland), the Opposition Roundtable and the MSZMP were free to design virtually any institution on which they could agree. Furthermore, because of the paramount need to establish legitimate authority without violence, neither the MSZMP nor the Opposition was in a clear position to dominate the negotiations. Nevertheless, because the ruling party's authority was waning at the same time that the opposition was gaining support and organizational power, the MSZMP felt far greater pressure than the opposition to reach an agreement quickly. In fact, the original MSZMP plan called for hurried and informal exchanges of ideas on political reforms followed by their rapid implementation in mid-1989. Long and drawn-out negotiations over legal codification was never the MSZMP's intention.

Several factors combined to make the MSZMP impatient for an agreement in the National Roundtable. First, the MSZMP needed political legitimacy in order to implement harsh economic reforms and avoid a social explosion. This was reinforced by its failure to reach an agreement with the IMF in early July because it could not accept strict monetary measures (*Népszabadság* 1989, Jul. 6, 1). The only potential source of political legitimacy necessary for reform was an agreement in the National Roundtable. As our analysis of the negotiations will reveal, for example, the MSZMP made significant concessions in the electoral law immediately prior to renewed negotiations with the IMF on August 28 (*Magyar Nemzet* 1989, Aug. 28, 1).

Second, once the communists had committed to free elections, it was in their interest to hold

them as early as possible.[10] Table 2 indicates that while the negotiations were ongoing, popular support for the opposition was increasing at the same time that the MSZMP future expected vote share was declining. In addition, the public collapse of the party stemming from both splits in the party leadership as well as mass defections from the rank and file further contributed to MSZMP impatience. First, the MSZMP's inability even to field a candidate in one of four July 22nd parliamentary by-elections signalled the danger it faced in attempting to run its first competitive electoral campaign amid organizational disarray.[11] Second, the splits within the MSZMP put added pressure on MSZMP negotiators as hardliners demanded positive results from reformist policies, at the same time that reform circles criticized the MSZMP delegation to the talks for obstruction and not compromising with the opposition.[12] This pressure on two fronts, combined with the socialist party congress scheduled for the beginning of October, created what MSZMP negotiation leader Pozsgay termed a "countdown effect":

> We forced and appointed the beginning of October as the date of the MSZMP congress. And we were threatening the representatives, the party membership, everybody all the time that they were only allowed to go there in case the negotiations had some result by that time. That's why we pushed it through that the negotiations should be concluded by September 18. In this framework defined by time and environmental and political pressure, the negotiations took place with the motivation that they had to be productive at any price.[13]

Pozsgay was also personally eager to demonstrate progress in the talks, particularly as it furthered his chances of being elected president. "Pozsgay wanted to come to an agreement. Quickly. The opposition did not want to come to an agreement as much," according to MSZMP electoral law expert Zoltán Tóth.[14] Furthermore, whereas the Opposition Roundtable enjoyed support from the West and at least tacit acceptance by Moscow, the MSZMP was not only pressured by Western governments and lending agencies for political reforms, but also had lost its ability to credibly threaten Soviet intervention. A lack of support from the Soviet Union, coupled with Western economic and political pressure, made reaching an agreement quickly at the National Roundtable crucial for the ruling party. Moreover, the Opposition Roundtable's heterogeneous composition allowed it credibly to pre-commit to certain positions. Although the MSZMP was itself divided into hardline and softline factions, the ascendancy of the softliners during the summer and softliner Pozsgay's dominance of the negotiations vitiated any attempts by MSZMP negotiators to claim that their mandates were tied on the electoral law.

Finally, MSZMP threats lacked credibility. This is illustrated by the failure of their attempts to put pressure on the opposition to speed up the talks. On August 15, Deputy Minister of Justice Géza Kilényi—also a member of the MSZMP negotiating team—announced that the communist-controlled government would unilaterally submit its own law to the fall session of parliament, even

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[10]According to a May 26 proposal to the Politburo, the MSZMP originally hoped to hold elections in October or November of 1989 (MSZMP Political Committee 1989, 104).

[11]Three of these by-elections were forced by opposition-led recalls of parliamentary representatives in early 1989. The socialists lost all four seats to the opposition, a result which we discuss in more detail below.

[12]Hardline negotiator Fejti was continually attacked in the press by the reform circles for his attitude at the National Roundtable. See, for example, the report on his meeting with nine representatives of reform circles, *Népszabadság* 1989, Aug. 29

[13]Interview August 30, 1995.

[14]Interview, July 12, 1995. This was echoed in separate interviews with MSZMP negotiators György Fejti and Géza Kilényi on July 31, 1995 and March 13, 1995 respectively.

if there was no consensus at the National Roundtable. The second threat came from the communist youth organization DEMISZ, which announced that it would begin collecting signatures for a referendum supporting the early election of the President of the Republic, the position advocated by the MSZMP and its negotiator and presidential candidate, Imre Pozsgay (*Népszabadság* 1989, Aug. 15). Both of these attempts quickly foundered, however. Kilenyi's threat was quickly contradicted by Pozsgay, who outranked him not only in the MSZMP negotiating delegation, but also within the government hierarchy by whose authority Kilényi purported to speak. Shortly afterwards Kilényi was removed from the MSZMP's delegation to the National Roundtable. Whatever the MSZMP's actual intentions, the opposition did not take the threat very seriously, believing it to be an individual action of Kilényi's not sanctioned by the leadership of the MSZMP.[15] The DEMISZ threat failed for the same reason: Pozsgay immediately distanced himself from the action, attacking it for violating the initial National Roundtable agreement, and then reemphasized his intention to reach a solution according to that preliminary agreement (*Magyar Nemzet* 1989, Aug. 17, 3). Their threats incredible, the MSZMP failed to accelerate the talks.

In short, as it entered into the negotiations over the electoral law, the Opposition Roundtable's willingness to wait longer for an agreement and its advantages derived from other characteristics of the political context in Hungary in mid 1989 provided it with a significant bargaining advantage vis-á-vis the MSZMP. Moreover, these attributes of bargaining power were common knowledge. The evidence necessary for the credibility of threats, therefore, was available to all participants. *Ex ante*, then, one would expect the Opposition Round Table to delay, for the MSZMP to push for an agreement earlier, and in the end for the MSZMP to get fewer of its preferred rules and values codified in the system.

Bargaining Mechanisms and the Origin of the Hungarian Electoral Law

The Dependent Variable: The Hungarian Electoral Law of 1989

The objective of the National Roundtable was to devise a draft election law which could be submitted, and by tacit agreement approved, by the sitting parliament in time to govern free elections in the spring of 1990. This objective was realized in September 1989, when the conclusion of the negotiations produced a complete electoral draft law sent to the sitting parliament for approval. Act No. XXXIV on the Election of Members of Parliament passed on October 20, 1989, creating what may be the world's most complicated electoral law. Hungary's unicameral 386-member legislature is elected from three electoral tiers: 176 seats come from single-member constituencies; a maximum of 152 seats are awarded from 20 regional party lists; and a minimum of 58 seats from national party lists. The single-member district (SMD) seats use a two-round majority runoff format, the territorial list seats are allocated through a modified Droop-largest-remainder proportional representation (PR) formula, and the national seats are decided by the d'Hondt method. To gain list seats a party needed, in 1990, at least four percent of the nationwide territorial list vote. Votes to determine the national list awards come from the transfer of "surplus" votes from the SMD and territorial list levels. In order to clarify the discussion that follows, the law's salient individual rules

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[15]Interview with Opposition Roundtable expert Tölgyessy, July 3, 1995.

Table 3: Salient Electoral System Features

Global Features:

- Mixed system: (1) List voting in territories is combined with (2) candidate votes in SMDs; and (3) additional seats are reserved for allocation from a compensatory national list.
- The mixed system's proportions are: 176 SMDs, 152 territorial list seats, and 58 national list seats.
- A candidate may run in all three levels simultaneously.
- All party lists are closed.

SMD Features

- Two-round majority-plurality system: From round 1, the top 3 and all candidates with votes $\geq 15\%$ advance to round 2.
- Surplus votes come from losers' first round votes.
- Turnout rules: 50% first round, 25% second.
- 750 signatures are needed to register a candidate.
- SMD district boundaries are determined by an electoral commission.

Territorial List Features:

- There are 20 territories: the 19 counties and Budapest. District magnitude ranges from 4 to 28 (median 6, mean 7.6).
- To establish a list a party must have candidates in at least one-fourth (minimum 2) of the SMD districts contained in the territory.
- Turnout rules: 50% first round, 25% second.
- Seats are allocated according to Largest Remainder–Droop. Remainder allocations are limited to parties with at least two-thirds of the Droop quota; unawarded seats are added to the national pool.
- Surplus votes come from unused remainder votes.
- A 4 percent (later raised to 5) legal threshold exists describing the nationwide percentage of territorial voting a party must receive to win any territorial seats.

National List Features:

- No party with less than 4 (later raised to 5) percent of the nationwide territorial list votes may receive seats from the national allocation.
- No party failing to establish lists in at least 7 territories may receive seats from the national allocation.
- National list seats are distributed according to the d'Hondt method, based on surplus vote transferred from the SMD and territorial list tiers.

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and their values are disaggregated in Table 3.[16] Each of these rules and the values they take on are variables to be explained. To do so we reconstruct the negotiations over each feature, organizing the discussion in terms of the four bargaining mechanisms.[17] For ease of exposition, we order the discussion according to the structure of the law, beginning with the global features first and hence the mechanism of mimicked fairness. After discussing each in turn we identify those rules not explicable in terms of the four bargaining mechanisms.

Mimicked Fairness

Dual Ballot System. Closely following the main version of the government's draft, the MSZMP's initial proposal called for a nearly pure SMD system, with 300 of the 350 seats to be decided in individual districts and the remaining 50 to be allocated from a national list based on remainder and unused votes lost in the SMDs. The opposition was divided between favoring a proportional representation party list versus a candidate-based majoritarian system. The historical parties, whose chief currency was their names and symbols, advocated a pure list system. The newly formed SZDSZ, on the other hand, favored a predominantly SMD majoritarian system. The SZDSZ expert on the electoral law, Péter Tölgyessy explains his preference for a majoritarian system this way:

> When I started to think about the electoral system in January, I asked myself how it would be possible to destroy [the MSZMP] as much as possible and the best way seemed to be the two-round [majority-majority] SMD. In the first round [the MSZMP] would be the first, but that round would determine who among the opposition was the strongest and then the strongest would compete in round two. At that time we would have liked only the two best to be able to go. It very much appeared that one would be a MSZMP candidate and the other would be the best opposition candidate, who would win in the second round.

Although FIDESZ feared that its reputation as a radical youth party would hurt it in an SMD system and originally favored 1947 list-type system, it was persuaded by the SZDSZ and proposed a more even mixture of the two (Áder 1991, 69). The MDF, which was the strongest party in the opposition with real name recognition but which had also done extremely well in by-elections against the MSZMP and other opposition groups, expressed indifference between the two tendencies, believing it would do well in either system.[18]

As a compromise among its members, the Opposition Roundtable consequently proposed a mixed system, with half the mandates coming from SMDs and half from a national list. In contrast

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[16]Note that we cover only the distributionally significant rules of the electoral system. For a comprehensive analysis of the choice of the electoral law as well as other political institutions negotiated at the National Roundtable, including amendments to the constitution and a law on political parties, see Schiemann (1997). For a detailed treatment of the law's features, see Benoit (1996, 1997)

[17]The main source material for this next section comes from the written transcripts of the National Roundtable talks at the middle and working level committees. The expert level committee meetings are summarized in *Jegyzőkönyv a I/3. munkabizottság [Minutes of the I/3 Working Committee]*, hereafter *I/3 Minutes* 1989, ; and the middle-level transcripts are contained in Jegyzőkönyv a PET munkabizottság [Minutes of the Middle Level Committee, National Roundtable Talks], hereafter *PET Minutes*. Materials on the National Roundtable may be found in the Archive of the Hungarian Roundtable Negotiations collected by László Bruszt and David Stark, Institute of Sociology, Budapest, Hungary. The authors thank László Bruszt for his invaluable assistance with these materials. Parliamentary documents are available in the Library of Parliament and the Parliamentary Archives.

[18]For more on the by-elections, see below.

to the MSZMP proposal, under the opposition plan national list seats would be elected directly, creating a two-ballot system: one for candidates in the SMDs and one for party lists. In the next expert committee meeting three days later, the MSZMP changed its position on the national list, accepting the two-ballot idea and a directly elected national list, but in the same proportions it had originally proposed: 300 seats to 50 (*I/3 Minutes* 1989, July 28, 2).

For one month these positions remained unchanged as other topics were added to the agenda. In every expert meeting the MSZMP continued to demand 300 SMD seats, while the opposition called for a 50-50 division of SMD and list seats. On August 25, the MSZMP made the first move to break the stalemate by acceding to the opposition demand for a 50–50 split between SMD and list mandates (*PET Minutes* 1989, Aug. 25, 31).

Parliamentary by-elections and public opinion polls on voter support in late July and early August caused the MSZMP to rethink its previous confidence in a predominantly SMD system. A series of opposition-instigated recalls and resignations of MPs forced four by-elections on July 22. These by-elections were conducted according to the old majoritarian electoral formula (Official Laws and Decrees 1983). Since there was no provision in this law for a second round, three of the four required repeating due to either low voter turnout (below 50 percent) or lack of a clear majority. In one of the four, however, the candidates supported by a united opposition trounced the MSZMP candidate with 69.2 percent of the vote (*Magyar Nemzet* 1989, Jul. 24). In two of the three repeat elections on August 5, the opposition won the SMD races with 70 and 62 percent (*Magyar Nemzet* 1989, Aug. 7).[19] The MSZMP was quick to reconsider the value of a system that pitted an MSZMP candidate against the lone representative of a united opposition.[20]

The MSZMP initially hoped to neutralize this problem directly by insisting on a minimum of three advancing to the second round in the SMD races, where it had good reason to be confident that it would secure a plurality.[21] Two public opinion polls published on August 11th, however, questioned the security of this strategy as well. Both indicated greater sympathy for the Opposition Roundtable and its constituent parties than for the MSZMP. According to one, the MDF received 25 percent and the SZDSZ 10 percent to the MSZMP's 13 percent. Adding insult to injury, 38 percent of MSZMP members reported that they would vote for no one at all or for the MDF (*Népszabadság* 1989, Aug. 11). Moreover, one opposition candidate could always withdraw from the second round, again forcing a one-on-one race with all its disastrous consequences for the ruling party; in light of this new information, the MSZMP began to reconsider the value of a list system. In the words of MSZMP electoral law expert András Tóth:

> There were by-elections... two or three. And well, basically it was already perfectly obvious that the logic about who is known, who isn't known [produces a certain] kind of result; this logic does not work. There was simply a changing motivation in the Hungarian society; clearly we too had to reevaluate... a system which in that form could probably not bring an electoral result, which would guarantee for a modern left-wing party its proper political weight in the regime change.[22]

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[19] The third election was again invalidated by low voter turnout.

[20] Indeed, in his briefing to the MSZMP Central Committee on the status of the negotiations on July 28, György Fejti noted in reference to the debates over the character of the electoral system that "[w]e ourselves must fundamentally think through which version has the most political utility on the basis of the experiences of the by-elections, among other things" (MSZMP Central Committee 1993, 1380).

[21] Discussed below.

[22] Interview, July 21, 1995.

Thus by August 15, the top leadership of the MSZMP found a 50–50 split between SMD and list mandates acceptable and authorized the MSZMP delegation to reach an agreement on this, adding that "the question of the proportional division should be handled as a tactical reserve for further negotiations" (MSZMP Central Committee 1994, 636).

The goal of this "tactical reserve" was the reintroduction of the old MSZMP plan for a compensation list. Following the SMD by-election debacles, the MSZMP took another look not only at the direct list, but also at its original offer of a small compensation list, proposing that the future parliament be elected from 150 mandates in SMDs, 150 directly from a national list and another 50 from a national compensation list. The MSZMP had originally intended the national compensation list as a token concession to the opposition, and consequently quickly discarded it at the Opposition Roundtable's insistence on a direct list early on in the talks. By mid-August, however, the MSZMP began to view a compensation list as yet another insurance mechanism—this time for itself. If it was going to lose in the SMDs, then a compensation list would ensure that not all those votes were wasted, "because the greatest losers get the most from the compensation list. So they were already counting on this possibility, too."[23]

In addition, the MSZMP could still count on proportional representation from the list balloting. In sum, then, the MSZMP came to see both directly-elected and compensation lists systems as crucial to their political survival and so came out in favor of a three-level system that combined majoritarian and proportional representation elements. In the words of MSZMP negotiator György Fejti:

> So we ourselves got from the standpoint that we had wanted an individual precinct system once...to the point that we didn't know, but we had the feeling, as time went by, that it wouldn't be really good for us so let's push the thing in the other direction. In this question basically the principle of the smallest risk prevailed. [24]

While the opposition welcomed the 50–50 split concession and accepted the idea of a national compensation list from the MSZMP, it contested the plan to make the directly elected list a national one. The opposition argued instead for party list voting in smaller geographical subdivisions, proposing the nineteen counties and the capital. The third side of socialist satellite organizations talks suggested a compromise: that the MSZMP's proportions be accepted but that the directly elected list should be county-based. After some discussion about the proper source of surplus votes for the national pool (discussed below) both the opposition and the MSZMP agreed to this compromise, creating the three-tiered system.

Tier proportions. Once it was decided that the system would provide seats to be elected from three levels, the allocation of seats to those levels remained to be determined. From a starting position of 150–150–50, the opposition proposed after several days of discussion to raise the total number of mandates to 380, from which 152 would come from county (also called territorial) lists and SMDs each. The remaining 76 mandates would be distributed from the national list based on surplus votes. The MSZMP responded to this proposal in the next expert meeting on September

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[23]Interview with MSZMP leader Imre Pozsgay, August 30, 1995. MSZMP expert Zoltán Tóth and negotiator György Fejti echoed this statement. Interviews, July 12, 1995 and July 31, 1995 respectively.

[24]Interview, July 31, 1995. Imre Pozsgay, leader of the MSZMP delegation was just as explicit: "We calculated the possibility that perhaps we were going to be a defeated party, so [the experts] were to create the method of calculation that made it possible for us to lose the least votes, that the number of votes thrown away would be the least possible." Interview, August 30, 1995.

6, where all three sides agreed to modify slightly the opposition's new system by reducing the number of mandates on the national list by six to a total of 70, and keeping the number of SMD and (county) list mandates at 152 each. The middle-level political committee delegates ratified this proposal the same day, directing the experts to proceed to the final codification. Working in concert with experts from the Ministry of the Interior, the experts drafted the final version of the law that was submitted to Parliament in September 1989 in preparation for the fall session.

Although by agreement the parliament was supposed to pass the Roundtable law draft without modification, parliamentary resistance on the issue of tier proportions forced the Law Committee to reopen this debate.[25] In a hurried series of consultations on October 19 between Tölgyessy of the opposition, Prime Minister Miklós Németh, and Interior Minister István Horváth, Tölgyessy proposed a compromise that would reduce the seats on the national compensation list by 12 to 58 and add a further 12 to the total number of parliamentary mandates in order to raise the original number of SMD elected seats to 176, keeping the number of territorial list mandates at 152. Despite the previously strong resistance, a few hours later the plenary session passed the 176-152-58 compromise proposal as the first amendment. This final agreement ratified the allocation of mandates among the three tiers and remains in force today.

Drawing of SMD Boundaries The boundaries of the 176 single-member districts were drawn following the break-up of the Round Table in late 1989 and early 1990 and became a relatively informal process according to both MSZMP and opposition experts.[26] A single representative from each of the three sides met with the Elections Office representative charged with districting to approve or reject draft maps drawn in consultation with local officials and party representatives. Having received the blessing from the National Round Table experts, the government then approved the Elections Office map. Unfortunately, there is no data on the drawing process at this stage. There is however, data on district drawing from the National Round Table talks, when the Opposition Round Table and the MSZMP still expected parliament to pass the 152-152-70 distribution unchanged and so began to map the single-member districts. The belief by the competing political parties that these districts would be the ones in which they would later compete means that the bargaining theory is nevertheless applicable. The process and outcome of district drawing in the Round Table negotiations counts, in other words, as an "observable implication" of the theory, even if it does not explain the boundaries which were eventually used, and hence is worth examining (King, Keohane, and Verba 1994, 223).

Upon the basic division of mandates into the 150-150-50 distribution, the experts began preparations for mapping the electoral districts, even before the final proportions were set. Agreeing to leave the actual drawing to the Interior Ministry's Elections Office, the experts drafted a list of principles to guide the mappers, emphasizing two of them. The first attempted to make the districts as "natural" as possible; that is, keeping SMDs within counties and attempting to use previous SMD boundaries where possible. The second, "at least as significant" as the first, strove to maintain proportionality between districts, based on the figure of 70,440 citizens per SMD.[27] Where possible, the mappers were also to respect ethnic, religious, historical and other local particularities.

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[25]See Minutes of Parliament (1989). All future references to parliamentary amendments may be found in this source.

[26]Interviews with Opposition Roundtable expert Péter Tölgyessy and MSZMP expert Zoltán Tóth, July 3, July 12, 1995 respectively.

[27]"A választókerületek kialak´ításának előzetes elvei" [Preliminary Principles of the Formation of Electoral Districts], August 29, 1989, appendix to *I/3 Minutes* 1989, Aug. 31, 6.

Reviewing the Interior Ministry's work up to September 11th, the experts once again laid out guidelines for further work. To bring in local representatives from the three sides, they stipulated that the districts were to be divided on the basis of county proposals and that economic geographers be brought into the process. They also reiterated the twin principles of working from an average of 70,000 per district and maintaining existing borders in the counties and the capital without "islands" (*I/3 Minutes* 1989, Sept. 11, 2). Finally, the experts reserved their right to review the districting plan before the government approved it.

The experts devoted most of their meeting on October 2 to this review, going through the Interior Ministry's draft plans county by county, district by district (*I/3 Minutes* 1989, Oct. 2, 2–8). Among 20 territorial electoral districts (19 counties plus Budapest), the opposition objected to the districting in exactly half of them. Some of the Opposition Roundtable counterproposals were minor, changing the district seat, for example (Szolnok County). Others, however, were more substantive attempts to alter the size and location of SMDs. In the majority of them the opposition moved groups of villages, towns and even a few small cities to come as close to the 70,000 mark as possible. The MSZMP in general either agreed with the Opposition Roundtable or suggested that the matter be deferred to the localities for decision. In only one case (Csongrád County) did the MSZMP reject the opposition's proposal outright and maintain its previous position. Thus, overall, these principles seemed to have been respected.

The one instance in which the opposition suspected an attempt by the MSZMP to gerrymander only demonstrates the danger of such a move under conditions of extreme uncertainty.[28] The MSZMP—still viewing itself as a party of the working class—assigned two SMDs to a working class section of Budapest at the expense of a neighboring wealthier district.[29] After the first round of voting, the MSZMP was crushed in the two working class districts while it did better (though still lost) in the wealthier section of Southern Buda—populated by cadres supportive of the party (Horváth 1990).

Although haggling over villages became academic when parliament raised the number of SMDs to 176, the principles agreed upon at the Round Table remained the same. SMDs were to remain within the territory of the capital and the counties and their population was to approximate 60,000. Moreover, ethnic, religious, historical, and other local particularities were to be respected as much as possible (Közlöny 1989, Annex 1, 1315). Thus, the limited attempt by the MSZMP to gerrymander where it thought it could indicates self-interested motivation; the restricted scope of those attempts and the relatively proportional balance between districts indicates that uncertainty about the geographic distribution of voter support led the MSZMP and the Opposition Roundtable to agree on fairly drawn districts.

Symmetrical Division

Nomination requirements. Both versions of the government draft plan called for a nomination requirement to run in the individual districts, setting the number of signatures which a prospective candidate had to collect at 600. When the negotiators at the Roundtable turned to this issue, the MSZMP proposed a 1000 signature requirement. Aware of their organizational weaknesses, the opposition forces countered with an offer of 500 (*I/3 Minutes* 1989, July 28, 2–4). These positions

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[28] Interview with Opposition Roundtable expert Péter Tölgyessy, July 3, 1995.

[29] A comparison of the total number of voters in these districts bears this out. See the data in Szoboszlai 1990: 465-66.

remained unchanged through the August 25th middle level meeting and into the August 28th expert level meeting. In this session, the MSZMP made a new offer, changing its position from a uniform requirement of 1000 signatures to two percent of the voters in an SMD. The opposition also shifted its position, in the direction of the earlier MSZMP proposal, offering to meet the MSZMP halfway with 750 signatures required to register a candidate. Part of a larger package proposal from each side, these positions were sent to the middle-level committee meeting later in the same day. Arguing in that session that the opposition had already moved seriously toward the MSZMP position with its proposal of 750, Opposition Roundtable representative Imre Boross urged acceptance of this offer. Imre Pozsgay of the MSZMP then agreed to split the difference at 750 (*PET Minutes* 1989, Aug. 28, 1989).

Thresholds. Once the MSZMP had agreed to a directly-elected list system, the threshold requirement for attaining list mandates quickly emerged as a contentious issue. Prodded by the historical parties who wanted a relatively low threshold, the opposition side pointed to the the the Swedish example and suggested a three percent limit. The MSZMP argued for a higher threshold in the name of governability, governing stability, citing the German electoral law in favor of its own proposal of five percent. The MSZMP and opposition positions remained unchanged through the August 25th middle-level session and into the August 28th expert working group meeting, where the opposition moved in the MSZMP's direction, offering to raise the threshold from three to four percent. At the end of that the session, the experts agreed to include the threshold issue in the package proposal containing the SMD and list nomination requirements already discussed. The middle-level negotiators then lifted the threshold issue from the rest of the package as they came to an agreement on the nomination requirements. Upon agreeing to the trade with the opposition over the second-round advancement rules in the SMDs and the surplus vote basis, Pozsgay announced that the MSZMP would accept the opposition's offer of a four percent threshold as well (*PET Minutes* 1989, Aug. 28, 32).

Time Preferences

Territorial List Standing Requirements. The requirements for establishing a territorial list is a complex issue, as the rules were worked out while it was still unclear whether the PR portion of the system would be composed of numerous territorial lists or one national list. Still thinking in terms of a national, directly elected list in the July 28 expert working group meeting, the MSZMP proposed "to define those political organizations as a national political party which stand at least 100 individual candidates in the capital and at least four counties" (*I/3 Minutes* 1989, July 28, 3). With the nomination requirements for SMDs as yet undecided, this proposal would have required a political party to collect 50,000 to 100,000 signatures nationwide in order to establish a national list. While the Third Side backed the MSZMP proposal, the Opposition Roundtable adopted the position outlined in the Interior Ministry's draft, which called for 10,000 signatures nationwide to stand a national list.

Consequently, these positions remained unchanged through six expert level meetings and into the seventh on August 22. In that meeting, the MSZMP modified its position, proposing that a party wishing to establish a (national) list be required to run SMD candidates in a minimum of one-third of the national total of SMDs, with the added restriction that this requirement be fulfilled in the capital and in at least four counties (*I/3 Minutes* 1989, Aug. 22, 4).[30] Given that the MSZMP

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[30] At this point the MSZMP was still thinking in terms of national lists for both direct and compensation list tiers.

was estimating 150 to 175 total SMDs, as was the Opposition Roundtable, the requirement thus would have meant running 50 to 58 SMD candidates, depending on the final number of individual districts. Further assuming that all sides predicted SMD nomination requirements somewhere between 500 and 1000, the one-third proposal would have stipulated roughly 25,000 to 58,000 signatures for a national list, still well above the original 10,000 in the government draft plan. Moreover, the four-county requirement would have placed a significant burden on opposition parties, who except for the MDF were organizationally weak outside of Budapest.

When the middle level negotiations resumed on August 24, the opposition's József Torgyán declared the MSZMP's proposal still unacceptable because such a high number of signatures in effect amounted to pre-election open voting that would provide an opportunity for intimidation. The representative of the third side then proposed to make the requirement less than one-third and to eliminate requirement mandating the SMDs be in four counties and the capital. The MSZMP's Pozsgay accepted, offering one-fourth as a compromise to the Opposition Roundtable (*PET Minutes* 1989, Aug. 25, 91). This concession further reduced the range to 18,750 to 44,000. When both Torgyán and Boross of the Opposition Roundtable again referred to the original government figure of 10,000, Pozsgay again attempted to distance the MSZMP from the Interior Ministry proposal. With neither side willing to concede further, the issue was set aside.

By the next expert level session on August 28, the nomination problem expanded somewhat by the agreement to a three level system at the close of the last (August 25) middle level session. The experts now had to work out the requirements for two different lists. Drawing on the Pozsgay proposal extended in the August 25 meeting, the experts from all three sides agreed to apply the one-fourth rule to the county list (*I/3 Minutes* 1989, Aug. 28, 6–7). Thus, to establish a party list in a territorial electoral district, a party was required to stand candidates in one-fourth of that district's SMDs, with a minimum of one for the small counties. The maximum threshold, in terms of the 150-150- 50 framework in force at the time, would thus have been in Budapest, where a party would have had to run in seven SMD races (37,500 signatures) in order to establish a party list.[31] In early September all sides agreed to raise this minimum number to two at the urging of the opposition (*PET Minutes* 1989, Sept. 6, 31). With parliament concerned primarily about the relationship between the number of SMDs and mandates attainable on the national list, this feature—like all other territorial list features discussed here—passed into law without any parliamentary changes.

National List-Standing Requirements The requirements for establishing a national list for the allocation of seats from surplus votes is closely connected with the rule for standing a territorial party list. Recall that the original proposals for list boundary rules concerned national thresholds; the MSZMP demanded 100,000, while the Opposition Roundtable insisted on one-tenth that sum. The MSZMP then conceded twice: first to a 25,000–58,000 range (the one-third rule) and finally to an 18,750–44,000 range (the one-quarter rule). Following this, the three sides decided to institute both a territorial and a national list. When on August 28 the experts agreed that a party must stand candidates in one-fourth of the territories SMDs to create a territorial list, they decided to apply the same principle to the establishing a national compensation list. That is, taking Hungary's 19 counties plus Budapest as the territorial basis, a party would have to run lists in at least five districts nationally to claim any mandates from the national compensation list (*I/3 Minutes* 1989,

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[31] This is calculated by assuming 28 SMDs in Budapest and 750 signatures for each SMD. The figure 28 for Budapest is drawn from an appendix on the breakdown of electoral districts prepared by the Interior Ministry's Electoral Office (*I/3 Minutes* 1989, Aug. 31, Appendix).

Aug. 28, 8). Because many counties were sparsely populated, under this rule three would have contained just four SMDs and another four only five. In other words, to stand a national list, a party would have to run candidates in a minimum of five to seven SMDs in five counties. Assuming a 750 SMD nomination requirement, this would have meant a 3,750 to 5,250 signatures threshold, down significantly from the MSZMP's original proposal. Once again, however, the opposition urged rethinking the issue and on August 31 the experts agreed to raise this requirement to seven territorial lists for the right to establish a national compensation list, a rule that Parliament retained for the 1990 elections (*I/3 Minutes* 1989, Sept. 6, 2).[32]

Credibility

Two-round majority plurality system. The major features of the SMD system—the two-round majority-plurality system, taking the first round as the basis for surplus votes, and the second round advancement rule of every candidate over 15 percent, or a minimum of three candidates—were closely linked in the round table negotiations. Indeed, the wrangling over these issues provides the most explicit example of logrolling in the electoral negotiations.

The original government draft law used as a basis for the negotiations had called for a two-round, majority decision rule in the SMDs. That is, any candidate receiving a majority in the first round won the mandate; failing this, the top two vote getters would compete in a second round. It had also stipulated that votes lost in the first round of SMD competition would be summed nationally and used to awards seats from a national compensation list.

In its opening statement in the first meeting of the negotiations over the key elements of the electoral system, the MSZMP proposed to alter only one element from its draft plan—the rule for advancing to the second round—and stated explicitly that its position on all other issues mirrored this draft (*I/3 Minutes* 1989, July 25, 2). The MSZMP proposed this change in light of updated information it received about its likely chances in a face-to-face runoff with an opposition candidate. On July 22, three days prior to the expert meeting in which it announced the change, the MSZMP was soundly defeated by a single candidate of the unified opposition in a parliamentary by-election.[33] Quickly realizing the potentially disastrous consequences of a such a system, the MSZMP experts proposed that if no candidate received a majority in the first round, then any candidate receiving over 15 percent of the first round votes, but a minimum of three candidates, should advance to the runoff round. A plurality decision rule would decide the second round winner.

The opposition, drawing similar conclusions from the by-election results, immediately protested the MSZMP's proposed change as a blatant attempt to manipulate the law to the MSZMP's advantage. Yet the MSZMP stuck to its position, supported by the third side, throughout the August expert meetings. In a position paper prepared for the Opposition Roundtable, expert Dr. József Torgyán noted that "the advantage of this system for us is that under such rules of the game an opposition candidate would have to be one of the candidates in the second round, and in this way

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[32]In an interview, the Opposition Roundtable's Tölgyessy claimed that he pushed for a more restrictive limit upon his return from vacation because he feared that the large number of small counties would allow many small parties to establish national lists too easily. As the MSZMP originally pushed for greater restrictions, it readily agreed to the change. Interview, July 3, 1995.

[33]Actually there were four by-elections and the opposition took a plurality in two of the other three races. Due, however, to low voter turnout and the failure of any one candidate to obtain a majority, all of these had to be repeated on August 5, when the opposition again defeated the MSZMP by a large margin and gained two seats. The third was again invalidated due to low voter turnout.

the candidate of the opposition would be pitted against the candidate of the MSZMP, which would surely mean the opposition's success" (Torgyán 1989, 4). Torgyán went on to argue against the MSZMP's position, since having three second round candidates would likely divide the opposition against a single socialist candidate. This hardening of positions among the experts pushed the issue up to the middle level meeting of August 25. When they reconvened, the Opposition Roundtable again charged the MSZMP with altering the second round advancement rule in light of the by-election results, but the MSZMP refused to budge on this issue.

Surplus vote basis. In the meantime a new debate had emerged. When the Roundtable parties had agreed to add a national compensation list, the question arose as to the basis of the votes for the compensatory mechanism. The MSZMP, following the government draft plan, argued for taking the compensation votes from SMD contests, while the opposition's position was that the surplus votes should be drawn from the territorial party lists, since they expected many independent (and hence ineligible for compensation) candidates to be competing in the SMD contests. Furthermore, the MSZMP—again departing from its own draft plan—argued that the SMD surplus votes should be taken from the second round (whenever one was held, which they expected would be often). To the opposition protests, the third side proposed a compromise to allow compensation votes to come from both the list and the SMDs. The opposition accepted this idea but insisted that the SMD surplus votes come from only from the first round. Although the MSZMP maintained its position to take the surplus votes from the second SMD round, it agreed to send the question back down to the expert working group for more detailed mathematical consideration. The experts got no further than their middle-level counterparts, however, and the question reappeared on the agenda of the August 28 middle-level meeting.

In his presentation to the middle-level negotiators on August 28, MSZMP expert András Tóth linked together the two issues: the requirements for advancing to the second round and the compensation basis to be used for the national list. This provided an opportunity for log-rolling that was not missed. The first move was made by Imre Pozsgay of the MSZMP, who offered to raise the percentage requirement to advance to the second round from 15 to 25 percent, but retaining the minimum of three. The opposition then countered that it would accept the original MSZMP proposal of 15 percent/top three if the MSZMP would accept using as a SMD compensation basis only the results of the first round of voting, which the MSZMP accepted (*PET Minutes* 1989, Aug. 28, 13–40). With this deal the roundtable participants established several of the key characteristics of the SMD level—the two round majority-plurality system and the rules for advancing to the second round—as well as a feature profoundly affecting the balance of national list votes—using the first round for surplus vote basis—that would later be passed into law unchanged by parliament.

Other Mechanisms

In this section we discuss two features of the law not explicable in terms of the four bargaining mechanisms we have identified, though as we will show in the conclusion, neither of these rules exerted significant distributional effects. Nevertheless, because algorithms used to translate votes for lists into seats generally *do* have distributional consequences, *ex ante* one would expect intense bargaining over these issues. The Hungarian negotiations appear to contradict this received wisdom, as neither the territorial list aggregation rule nor the algorithm that distributes the national list seats was a topic of great debate. The former seems to have been chosen as a result of the problem raised with district magnitude and the MSZMP willingness to let the Opposition Roundtable expert

sort out this problem. The latter, on the other hand, appears to be a last minute concession to the MSZMP by the opposition. After presenting data on the origins we offer reasons why distributional concerns appear to have played less of a role in the design of these rules.

Territorial List Aggregation Rule. The experts began discussing calculation methods when the negotiators at the middle level agreed on the three level system. Basing the 150 territorial list mandates on the 19 counties and Budapest presented the experts with a serious problem, however. If the mandate to population ratio were to remain proportional, then many of Hungary's sparsely populated counties would end up with short lists, often under five seats. That meant that if more than six parties competed in the election (as was certain) then it would be impossible to achieve much of a proportional seat distribution. In the August 28 expert working group meeting, Tölgyessy presented calculations to show that low population density in the provinces would cause serious distortions in assigning seats. In Somogy county, for example, two parties would each receive one mandate, although one might have almost three times the number of votes as the first (*I/3 Minutes* 1989, Aug. 28, 4).

Forced to work within the county-based system (and hence short lists), the opposition proposed on August 31 a method that would allow most seats to be allocated in the counties, but would prevent small parties from obtaining seats "on the cheap." First, the opposition suggested, the divisor to establish the quota should be the number of mandates plus one (Hagenbach-Bischoff). Second, the opposition proposed to impose a limit on seats distributed by largest remainder: a party would have to attain at least two-thirds of the quota to obtain the mandate on the county list. Parties obtaining seats this way would then have to make up the difference from their surplus votes pooled nationally. If a party's territorial (county) total votes fell short of the two-thirds limit, then the mandate would remain unfilled, with no by-elections to be held to fill it (*I/3 Minutes* 1989, Aug. 31, 2). The third side accepted the this proposal immediately while the MSZMP requested time to deliberate further. In their next meeting on September 6, the experts agreed to the opposition proposal with the amendment that mandates unfilled in the county, along with votes unused there, would go to the national list for distribution rather than simply remain unfilled (*I/3 Minutes* 1989, Sept. 6, 4–5). At the last expert meeting before the signing of the agreement on September 18, the three sides made a final alteration, according to which parties above the two-thirds limit but unable to compensate from their national pool would nevertheless receive the mandate at the county level; it would not be added to the national list (*I/3 Minutes* 1989, Sept. 18, 4).

National List Aggregation Rule. There was just as little debate over the allocation formula to be used for distributing mandates on the national list as there was on the territorial lists. Version A of the government draft plan called for a Hare quota with largest remainder to allocate seats from the national compensation list and both the MSZMP and the opposition implicitly thought in terms of this formula when they agreed to the three-level system on August 25th. In a position paper prepared for the August 31 expert meeting, the Opposition Roundtable proposed the use of the Hare quota (calculated as the total votes divided by the number of mandates: v/m instead of $v/(m + 1)$; *I/3 Minutes* 1989, Aug. 31, appendix). Although the MSZMP had agreed to the Hare quota on September 6, on September 25 the MSZMP announced that it wished to depart from the previous agreement and proposed that the d'Hondt system be employed for the national list (*I/3 Minutes* 1989, Sept. 25, 2). When the experts met again one week later they agreed to set up a mathematical subcommittee to examine the question and then propose a solution based on the subcommittee's recommendation (*I/3 Minutes* 1989, Oct. 2, 2). The opposition's

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representative on this subcommittee was Tölgyessy, who warned, "let there be proportionality, but beware of proportionality. The d'Hondt favors large parties more."[34] Thus with the opposition representative also in favor of a decision rule more advantageous to larger parties, the experts agreed to the d'Hondt system (*I/3 Minutes* 1989, Oct. 9,8).[35]

Although distributional motivations did play a role in the design of these rules, neither is fully explicable in terms of the four bargaining mechanisms we have identified, for several reasons. First, when discussing the origins of the quotas for both lists, it is important to note that while the range of physically or practically feasible algorithms is extremely large, inexperience with electoral systems on both sides narrowed their choice set considerably. This appears to be especially true for the MSZMP. When asked why experts and negotiators agreed upon the list quotas, MSZMP expert Zoltán Tóth reported that "We knew only a few mathematical electoral methods. This is what we knew. [We chose them] because they were known to us."[36]. This lack of technical knowledge was especially problematic with respect to the territorial list, where gross disparities in district magnitude presented a real problem in designing a workable system.

Nevertheless, it also played a role in the choice process over the quota for the national list. Recall that the original government draft plan had called for a Hare quota and all sides had agreed relatively quickly to adopt this value; it ended up as d'Hondt only after a request by the MSZMP after the close of the Round Table talks. The initial decision to adopt Hare appears to have resulted from precedent; previous rules may become focal when actors have limited information about other alternatives. Risk aversion coupled with—to use Vanberg and Buchanan's (1989) terms—weak constitutional theories may cause actors to stick with the rules they know, as long as such precedents do not entail significant distributional losses and even though they may provide marginal gains to opponents. If their constitutional theories improve, if actors acquire more information about alternative rules, they may be willing to shift their positions. Opposition parties, moreover, would have had little cause to object to the change to d'Hondt. Although weak initially, three months of bargaining in the national spotlight had significantly increased their name recognition. Updating of beliefs about the likely effects of rules by both sides may have led them to agree to a change.

Conclusion

The complex and patchwork Hungarian electoral institution emerged as the by-product of a struggle between political parties seeking to maximize their political power in the future parliament by creating an institution they believed would achieve this end. This emphasis on distributive benefits explains how each feature of the electoral law emerged as an individual outcome from bargaining. At the aggregate level, it also explains the extraordinary complexity of the system as a whole. The Hungarian electoral system emerged not as the outcome of conflicting grand designs, but as the product of multiple contests over individual rules by political actors attempting to cement their distributional advantage in numerous and often creative ways. In this bargaining game bargaining mechanisms—time preferences, credibility, uncertainty mimicking fairness, and symmetrical division—explain the origin of individual rules and their values.

Concentrating on the resources producing bargaining power and on the dynamics of bargaining

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[34]Interview, July 3, 1995.

[35]Interviews with Tóth Zoltán, June 27, 1995; July 12, 1995.

[36]Interview, July 12, 1995

Table 4: Distributional Results of Electoral Law Bargaining

Ruling Party	Even/Harmonious	Opposition
1. SMD 2nd Round Advancement Rule	1. SMD Boundaries	1. Tier Levels/Proportions
2. National List d'Hondt formula	2. Territorial List Thresholds	2. Territorial List District Boundaries
	3. National List Thresholds	3. National List Boundary Rule
	4. SMD Districts	4. Surplus Vote Basis
		5. Territorial List Aggregation Rule

also allows us to explain the counter-intuitive result that the opposition won more from the negotiations than the ruling party. The MSZMP entered the negotiations with the political advantages of forty years of one-party rule, including an extensive organizational infrastructure and a considerable coercive capacity. Nevertheless, these resources became irrelevant once the MSZMP agreed to determine the future institutions through bargaining at the National Roundtable. Within the bargaining forum, the resources which determined outcomes were different: not state authority, but rather attitudes towards delay and the credibility of threats and promises. The MSZMP felt a greater urgency to bring the negotiations to a close and sign an agreement than did the opposition parties, who only stood to gain from delay. Moreover, because of the MSZMP's waning political authority and overwhelming desire to avoid violence, its repressive apparatus could not translate into bargaining power in the negotiations. Instead, the dynamics of bargaining did not merely equalize the positions of the opposition and the ruling party, but gave the Opposition Roundtable a significant advantage on the dimensions we have identified. This context explains the perhaps surprising result that the opposition got its most preferred outcome on most of the important electoral law features (Table 4).

The dynamics of bargaining also explain the persistence of an institution that would on the surface seem to invite calls for reform. Given the fact that the electoral system is nearly incomprehensible to a considerable proportion of Hungary's voters, the Hungarian electoral system has displayed a remarkable stability. This lack of change directly reflects the system's origins in a struggle for distributive advantage. The parties at the roundtable created an institutional framework reflecting their individual interests, and that framework now perpetuates those interests, providing built-in incentives against reform. Because a two-thirds vote of parliament is required to amend the electoral law, this law is unlikely to be changed in the absence of a significant shift in the political landscape. No party with the power to change the the broad features of election law has an incentive to do so, and no party with the incentive to change it has the power.

Finally, the bargaining explanation of institutional origins has broader implications for studies which treat institutions as independent variables. Those who focus on only the consequences of institutions do so at some inferential peril. The bargaining origins of political institutions suggests that such studies may overestimate the influence of institutions when they ignore the process by

which they originate. Intentionally designed institutions will have important political consequences, but we must look more carefully at both these consequences and the origins if we are to separate the independent effects of institutions from the political interests which endogenously motivated them.

Moreover, the framework provided above can be applied to other cases to answer such questions. Political institutions such as electoral laws, legislatures, presidencies, and constitutional courts can be disaggregated into their most significant individual rules. Our analysis identifies the major resources important during regime change; the distribution of these resources among the relevant actors in any particular case indicate different levels of bargaining power. Finally, the implications derived from the four bargaining mechanisms offer a way to link resources and bargaining power to agreements over individual rules.

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