The Anatomy of Post-Communist Regimes

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4. Politics
4.1. Guide to the Chapter

This chapter deals with comparative conceptualization of political phenomena. It unfolds along the lines of Table 4.1, which contains many of the concepts that are introduced, sorted according to the three polar types from the six ideal type regimes of the triangular conceptual space.

The chapter starts by describing the various types of civil legitimacy and how the common good is interpreted, by which institutions it is maintained and political power is applied. In Part 4.3, we use one of these frameworks, the framework of public deliberation, to describe liberal democracies’ main political processes and how the same elements function in communist dictatorships and patronal autocracies. We identify the general attitude of these regimes to the institutions of public deliberation and show how that attitude as well as the construction of political institutions follows from their ideological framework. This part encompasses several topics: (1) media and the spheres of communication, including the reorganization of media markets in patronal autocracies; (2) policy- and legitimacy-questioning protests and pro-government rallies, interest group politics and a typology of party systems; (3) a typology of campaigns and elections in the three polar type regimes and a description of referenda; (4) the differentiation of public policy from patronal and power policy, to which certain types of laws—limited or instrumental—and legislatures fit; and (5) the situation of courts, prosecution, and the institutions of state coercion from white through grey to black coercion. Also in this part, we describe various forms of democratic and autocratic legalism as specific threats to the stability of regimes and legal systems.

While Part 4.3 is devoted to the conceptualization of separate institutions, Part 4.4 describes in an ideal type manner the main processes which keep the ideal type regimes stable and self-sustaining. We call these defensive mechanisms and describe them in three political regimes: liberal democracy, patronal democracy, and patronal autocracy. We show how the separation of branches of power preserves liberal democracy, the separation of networks of power helps sustain patronal democracy, and the separation of resources of power guarantees the stability of patronal autocracy. With respect to the democracies, we introduce the terms autocratic attempt and breakthrough as well as anti-patronal transformation, all of which will be instrumental in describing the so-called color revolutions of Eurasia. Scrutinizing the cases of color revolutions, we argue that successful cases should be treated as defensive mechanisms of patronal democracy and not as events that led toward Western-type liberal democracies. With respect to patronal autocracy, we describe unsuccessful color revolutions, the monopolistic structure of such regimes and the use of the instruments of public authority by the chief patron that ensures these. The chapter ends with a description of the problem of succession in such regimes, lame duck presidents and the opportunity of democratic regime change.
### Table 4.1. Political phenomena in the three polar type regimes (with the topics of the chapters’ parts).

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<tr>
<th>INTERPRETATION OF THE COMMON GOOD</th>
<th>Liberal democracy</th>
<th>Paternal autocracy</th>
<th>Communist dictatorship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public deliberation of the interpretation of the common good (the legitimate interpreters are the citizens)</td>
<td>constitutionalism</td>
<td>populism</td>
<td>Marxism-Leninism</td>
</tr>
<tr>
<td>legal-rational authority</td>
<td>electoral civil legitimacy</td>
<td>electoral civil legitimacy</td>
<td>non-electoral civil legitimacy</td>
</tr>
<tr>
<td></td>
<td>paternal appropriation of the interpretation of the common good (the legitimate interpreter is the chief patron)</td>
<td>bureaucratic appropriation of the interpretation of the common good (the legitimate interpreter is the state party)</td>
<td></td>
</tr>
<tr>
<td>INSTITUTIONS OF PUBLIC DELIBERATION</td>
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<td>dominated sphere of communication</td>
<td>closed sphere of communication</td>
</tr>
<tr>
<td></td>
<td>free speech</td>
<td>crowding out/ghettoization</td>
<td>censorship</td>
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<tr>
<td></td>
<td>competitive/two-party system</td>
<td>dominant-party system with competitive fringe / fake opposition</td>
<td>one-party system</td>
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<td>rights-suspending campaign</td>
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<td></td>
<td>fair elections</td>
<td>manipulated elections</td>
<td>uncontested elections</td>
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<tr>
<td></td>
<td>formal decision-making (in the parliament)</td>
<td>informal decision-making (outside the parliament)</td>
<td>formal decision-making (outside the parliament)</td>
</tr>
<tr>
<td></td>
<td>MPs are politicians</td>
<td>MPs are political front men</td>
<td>MPs are party cadres</td>
</tr>
<tr>
<td></td>
<td>decision-making legislature</td>
<td>transmission-belt legislature</td>
<td>transmission-belt legislature</td>
</tr>
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<td></td>
<td>rule of law (equality before the law)</td>
<td>law of rule (equality before the law)</td>
<td>lawlessness (inequality before the law)</td>
</tr>
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<td></td>
<td>limited law</td>
<td>instrumental law</td>
<td>instrumental law</td>
</tr>
<tr>
<td></td>
<td>citizens subordinated to law</td>
<td>law subordinated to the adopted political family</td>
<td>law subordinated to the party</td>
</tr>
<tr>
<td></td>
<td>normative law enforcement</td>
<td>politically selective law enforcement</td>
<td>politically selective law enforcement</td>
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<tr>
<td></td>
<td>impartial jurisdiction</td>
<td>politically selective jurisdiction</td>
<td>show trial</td>
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<tr>
<td></td>
<td>evidence (crime committed, process launched automatically)</td>
<td>kompromat (crime committed, process launched on the basis of political decision)</td>
<td>fabricated evidence (crime not committed, process launched on the basis of political decision)</td>
</tr>
<tr>
<td>DEFENSIVE MECHANISMS</td>
<td>defensive mechanisms for pluralism</td>
<td>defensive mechanisms against pluralism</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td>separation of branches of power</td>
<td>separation of resources of power</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td>free civil society</td>
<td>subjugated civil society</td>
<td>non-existent civil society</td>
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<tr>
<td></td>
<td>policy-questioning protests</td>
<td>legitimacy-questioning protests</td>
<td>no protests</td>
</tr>
<tr>
<td></td>
<td>peaceful change of government (without regime change)</td>
<td>regime change / systemic reproduction</td>
<td>regime change (lawful revolution)</td>
</tr>
</tbody>
</table>
4.2. Civil Legitimacy and the Interpretation of the
Common Good

4.2.1. Civil Legitimacy as the Basis of Modern States

Political action rests upon the use of political power, that is, (1) legitimate violence that (2) the state holds a monopoly on in the six ideal type regimes [→ 2.2]. Both halves of the definition are important. On the one hand, that political power is legitimate implies that the state must have a quality for which the people accept its domination.\(^1\) On the other hand, that the state has a “monopoly” of political power implies that the state is the primary institution of the sphere of political action. Therefore, if we are to analyze phenomena of this sphere, we must consider how state decisions are made, through which institutions and with the interaction of which political actors.

The state’s legitimacy has rested upon the notion of popular sovereignty since the Age of Enlightenment. Earlier, leaders could rely on so-called numinous legitimacy (divine authority) which implied no notion of the people: the state was not legitimized on the grounds that it serves either the popular will or the common good but that domination follows from sanctity.\(^2\) However, in modern times states rely on civil legitimacy, meaning the leading political elite always claims it is a representative of the popular will and/or (therefore) it serves the common good, that is, the interest of the people.\(^3\)

Accordingly, civil legitimacy prevails in all three polar type regimes. Moreover, all three call themselves some sort of “democracy,” referring to the fact that they indeed realize a form of the people’s rule. Liberal democracy is either named as such or as a “constitutional democracy;”\(^4\) patronal autocracy is called “sovereign democracy”\(^5\) or “illiberal democracy;”\(^6\) and communist dictatorship is called a “people’s democracy.”\(^7\) However, as the differences of these terms already imply, in the three polar type regimes civil legitimacy is interpreted in different ways, with different narrative panels and in the context of different ideological frameworks. This is directly related to the second question, namely how state decisions are made, for the different narratives legitimize different forms of state decision-making.

Table 4.2 sums up three narratives: constitutionalism, populism, and Marxism-Leninism, which provide the framework of civil legitimacy in liberal democracy, patronal autocracy, and communist dictatorship, respectively. The general difference between them lies in which actor or process they delegate the right to interpret the common good. Though it might seem self-evident sometimes, “common good” can hardly be defined in

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2 Sternberger, “Legitimacy.”
3 Diggs, “The Common Good as Reason for Political Action.”
4 Graber, Levinson, and Tushnet, *Constitutional Democracy in Crisis?*
5 Okara, “Sovereign Democracy.”
6 Orbán, “Speech at the 29th Bálványos Summer Open University and Student Camp.”
7 Shilling, “‘People’s Democracy’ in Soviet Theory-I.”
an objective way. Rather, each legitimacy framework points to certain people (or a person) who shall have the right to define the common good, that is, the popular interest, and the state is legitimized by the fact that the goals of its actions are set, directly or indirectly, by the legitimate interpreter.

Table 4.2. Ideologies of civil legitimacy in the three polar type regimes (constitutionalism, populism, Marxism-Leninism).

<table>
<thead>
<tr>
<th>Constitutionalism (in liberal democracy)</th>
<th>Populism (in patronal autocracy)</th>
<th>Marxism-Leninism (in communist dictatorships)</th>
</tr>
</thead>
<tbody>
<tr>
<td>universalistic protection of human dignity represented by the citizens</td>
<td>particularistic protection of the nation represented by the adopted political family</td>
<td>particularistic protection of the working class represented by the party</td>
</tr>
<tr>
<td>individualist</td>
<td>collectivist</td>
<td>collectivist</td>
</tr>
<tr>
<td>universalist on humanistic base</td>
<td>nationalist on clan base (amoral familism)</td>
<td>internationalist on class base</td>
</tr>
<tr>
<td>unlimited moral obligation</td>
<td>limited moral obligation</td>
<td>limited moral obligation</td>
</tr>
<tr>
<td>pluralism</td>
<td>anti-pluralism (majoritarianism)</td>
<td>anti-pluralism</td>
</tr>
<tr>
<td>➔ PUBLIC DELIBERATION of the interpretation of the common good: ensuring a variety of competitive processes and channels for the expression and realization of interests and values (the people are citizens)</td>
<td>➔ PATRONAL APPROPRIATION of the interpretation of the common good: ensuring ultimate authority of the adopted political family in state decision-making without legitimate opposition or criticism (the people are servants)</td>
<td>➔ BUREAUCRATIC APPROPRIATION of the interpretation of the common good: ensuring ultimate authority of the party in state decision-making without legitimate opposition or criticism (the people are subjects)</td>
</tr>
</tbody>
</table>

The next three parts are devoted to the three ideological frameworks, elaborated for the three polar type regimes. Furthermore, we interpret these frameworks in Weberian terms of legitimate domination, and argue that each framework is a variant of legal authority. However, constitutionalism represents legal-rational authority, whereas populism and Marxism-Leninism aim at creating substantive-rational legitimacy—the latter with, and the former without, a revolutionary replacement of de jure institutions.

4.2.2. Civil Legitimacy in Liberal Democracy: Constitutionalism

In a liberal democracy, civil legitimacy is interpreted in the ideological framework of constitutionalism. Grounded in liberal political philosophy, the starting point of this narrative is the individual citizen and the respect for his human dignity, which implies that he has to be treated as a free man who has a say in how his life is run. In liberal democratic theory, as Walter F. Murphy explains, adults “as beings worthy of respect because of their very nature […] must enjoy a large degree of autonomy, a status principally attainable in
the modern world by being able to share in the governance of their community.” With this starting point, the constitutional state [→ 2.3.2] is obliged to:

- **respect the human dignity of everyone**, for every adult the state deals with—typically those who happen to be in its territory—are beings worthy of respect for their human dignity (**universalist on humanistic base**);

- **defend the rights of every person**, meaning the state should not exclude certain people or groups but treat every human equally (**unlimited moral obligation**);

- **ensure a public realm where no one's interest or opinion is suppressed**, for if every adult individual is equally respected, that means everyone's views, values and interests are equally legitimate and representable (**pluralism**).

The type of institutional setting this ideology legitimizes is what we call **public deliberation**.9 “Public deliberation” denotes that the question of how political power shall be used is decided in deliberation, whereby the variety of values and interests of the people can **converse and compete as legitimate alternatives**. This follows from the conviction that no one's views should be suppressed in the public realm and all adult citizens are respected equally as human beings.10 In line with this, the state creates institutions of public deliberation: as Philippe C. Schmitter and Terry Lynn Karl write, liberal democracy “offers a variety of competitive processes and channels for the expression of interests and values—associational as well as partisan, functional as well as territorial, collective as well as individual. All are integral to its practice.”11

In finer detail, we can define public deliberation—inspired by Schmitter and Karl as well as the procedural minimum of Robert Dahl’s “polyarchy”12—as the following chain of public events:

1. **discussing**, where every citizen [→ 3.5.1] of a polity has a chance to express his views on political matters and confront them with the views of other citizens in peaceful debate, where other opinions are treated as legitimate and hence freely representable;

2. **associating**, where citizens decide voluntarily whether or not to gather together and form autonomous and relatively independent associations and organizations like interest groups and parties, representing their interests in competition with other citizens;

3. **electing**, where values and interests come to be represented among decision-makers (and in what proportion), decided in a peaceful, non-violent contest where (1) practically all citizen can participate either as candidates or as voters and (2)

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8 Murphy, “Constitutions, Constitutionalism, and Democracy,” 3.
12 Dahl, *Polyarchy*.
representation depends on the people’s actual opinion expressed in voting (fairly conducted and honestly counted elections);

4. **lawmaking**, where laws and regulations, that is, collective norms and choices that are binding on the society and backed by state coercion are made by the elected representatives on the basis of majority rule, deciding on the use of political power;

5. **enforcing**, where political power is actually used, meaning the laws and regulations are implemented and the state makes the people follow them (relying on its monopoly of the legitimate use of violence).

In short, the process of public deliberation can be understood as the process of the popular interpretation of the common good, whereby the citizens’ will is shaped in debates (Step 1), manifests in civil action (Step 2) and elections (Step 3), institutionalizes in the person of full-time representatives (Step 4), and gets enforced as rules of the community by political power (Step 5). However, the separation of these phases is for analytical reasons and does not imply that these phases are isolated: that Step 2 starts as Step 1 ends, Step 3 starts and Step 2 ends, and so on. Rather, the subsequent phases presuppose the existence of the previous phases, which however do not have to end as a new phase starts. The phases extend into each other. To highlight one particular example, discussing never stops and indeed reaches its peak in the electing phase, during electoral campaigns.

One last feature that must be added to public deliberation is **cyclicality**, meaning that the process and the five steps are repeated at specified intervals. This is to ensure that the people can choose new rulers if they become dissatisfied with the ones currently representing them. Thus, public deliberation is inseparable from the notion of **accountability**, and the essence of cyclicality is the orderly revision of decisions about the use of political power made earlier. In Schmitter and Karl’s words, “[democratic] rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their elected representatives.” Furthermore, the orderly functioning of public deliberation also ensures that the outcome of democratic competition is uncertain, and no contestant is protected by virtue of his political position. As Adam Przeworski expressed it, liberal democracy can be described as **institutionalized uncertainty**, where institutions help the changing will of the people manifest in the composition of the rulers.

**The constitution**, as it appears in the expressions “constitutionalism” and “constitutional state,” is the **institutional guarantee of public deliberation** that must be upheld by the state. As Kim Lane Scheppele points out, “constitutionalism is democracy reinforcing because it binds all branches of government to two forms of constitutional constraint: (1) requirements that the state protect and defend the dignity and liberty of individuals so that they may sustain, among other things, the capacities to be democratic citizens; and (2) requirements that all sources of public power be subject to binding legal checks that, among other things, ensure that leaders stay within legal limits and guarantee the orderly

13 On representation, see Urbinati, “Representative Democracy and Its Critics.”
15 Przeworski, Democracy and the Market.
16 Sartori, “Constitutionalism.”
rotation of leadership in response to shifting democratic majorities.” Using our terminology, the constitution is an institutional guarantee because it requires that (1) the state has an obligation to fight off tendencies which would violate the above-described process of public deliberation (to ban parties posing a direct threat to constitutional order etc.), and (2) the rulers are limited to the degree that they, in accordance with constitutionalism, cannot violate the process of public deliberation, not even by majority rule. As Murphy summarizes, constitutionalism “enshrines respect for human worth and dignity as its central principle. To protect that value, citizens must have a right to political participation, and their government must be hedged in by substantive limits on what it can do, even when perfectly mirroring the popular will.”

4.2.3. Civil Legitimacy in Patronal Autocracy: Populism

In a patronal autocracy, civil legitimacy is interpreted in the ideological framework of populism. Unlike populism in the West, populism in the post-communist region typically lacks a bottom-up movement that would challenge the establishment and elevate the populist leader into power. Rather, populism is used in a top-down fashion, from a ruling position to legitimize the chief patron’s rule. This is achieved by interpreting civil legitimacy in a way that it denies public deliberation in favor of unconstrained power of the leading political elite. Naturally, this is not what the populist narrative says, but this is the consequence of populist reasoning when it is used by those in power.

Nominally, populism is on the same grounds as constitutionalism as it is also a form of civil legitimacy and claims to serve the common good. However, the starting point of populism is not the individual but a collective: populists say they represent “the people” and the “volonté générale” (the general will) or, when they are elected, they represent “the nation” and “the national interest.” What follows from this is that, in the populist narrative, anyone who is against the populist is also against the people and the nation and therefore not simply morally despicable but indeed illegitimate. As Jan-Werner Müller observes, populism “is a particular moralistic imagination of politics, a way of perceiving the political world that sets a morally pure and fully unified […] people against elites who are deemed corrupt or in some other way morally inferior. […] In addition […], populists are always anti-pluralist: populists claim that they, and only they, represent the people. […] The core claim of populism is thus a moralized form of anti-pluralism” (emphasis added).

17 Schepple, “Autocratic Legalism,” 558.
18 Fox and Nolte, “Intolerant Democracies.” Also, see the famous “paradox of tolerance” in Popper, The Open Society and its Enemies.
19 Murphy, “Constitutions, Constitutionalism, and Democracy,” 3.
21 Pappas, Populism and Liberal Democracy, 57–63.
22 Mudde, “The Populist Zeitgeist.”
23 Bozóki, “Broken Democracy, Predatory State, and Nationalist Populism.”
Declaring itself the only legitimate representative of the people, populism wrecks the logic of public deliberation that stands on the principle that everyone's views on political matters compete as equally legitimate alternatives. For if the populist leaders fend off every criticism and idea dissimilar to their own as “anti-nation,” then discussing the use of political power becomes impossible as different values and interests cannot be represented legitimately. It is important to see that opposition in general is declared illegitimate, both now and in the future. This means that, when the people become dissatisfied with their leaders and want to support someone else, they too automatically become illegitimate: populism, in fact, deprives the people themselves of the chance to change their minds legitimately, turning against the legitimate populist. Therefore the process of public deliberation, even if it formally remains cyclical, essentially freezes: the people, no matter how wisely and rightfully they elected the leaders to advocate their interests, will have no other choice but to accept the way the populist leaders use political power. State decision-making is practically displaced from the hands of the people, and the populist becomes the only legitimate interpreter of the common good.

As a result, citizens who have been recognized as “the most distinctive element in democracies” are turned into servants in a patronal autocracy [→ 3.5.1]. Though their rights may be reserved de jure, they are de facto disarmed in the ideological framework of populism (as well as the autocratic institutional setting it legitimizes). Second, some people, namely those in opposition to the populists are excluded from the nation, which means that they are deprived of the status that would entail a protection of their rights by the state. In sharp contrast to constitutionalism's universalism on humanistic base, populism allows the chief patron to disregard those who do not support him on a nationalist base. However, unlike traditional nationalism, the nationalism of the mafia state is not directed against other nations but against those within the nation who are not part of the adopted political family, who are not subordinated to that family as clients, and the family's opponents. In other words, the “nationalist base” is no more than the clan base [→ 3.6.2.1], and all those who are not part of the chief patron's domain of control must bear the consequences for that. In this sense, the “nation” corresponds to the adopted political family and its appendages, from the head of the family down to the servants. The mafia state undertakes particularistic protection of their people vis-à-vis those against the chief patron's rule, and therefore the adopted political family undertakes only a limited moral obligation as a form of amoral familism [→ 3.6.2.4].

Third, the populist, equated to “the people” and “the nation” in his narrative, armors himself against external attacks as well. For in the populist narrative, foreign actors—multinational NGOs, political unions, supranational alliances or even influential individuals—can only be against the people's interest by definition, should they disagree with the populist or the way he uses power. In this context the reliance on popular sovereignty is transformed into the reliance on national sovereignty, whereby the populist represents the


26 It should be mentioned at this point that we define populism for the purposes of our framework, that is, for its appearances in the post-communist region in general and patronal autocracies in particular. Therefore, we do not deal with so-called “inclusionary populists” who existed in Latin America. Cf. Mudde and Kaltwasser, “Exclusionary vs. Inclusionary Populism.”
people, their interest and therefore, by definition, the national interest, which the critics of the populist disregard. This is the essence of Putin’s “sovereign democracy” narrative, and of Orbán’s constant reliance on national sovereignty in his numerous debates with the EU. In short, the populist can create non-accountability by deflecting foreign as well as domestic criticism, all of which strengthen him by reinforcing the image of “the defender of a besieged nation” in the populist narrative.

Fourth, if the populist is the legitimate representative of the people then, by definition, he is “capable of defining cases of national interest—doing so without constant debate, but rather representing the national interest by [his] nature,” in the words of Orbán. This means that in the populist narrative the structured institutions of public deliberation lose their function: the formation and mediation of the public will in a bottom-up fashion become superfluous, as the populist genuinely knows what the people want. Moreover, populists heavily criticize the institutions of public deliberation as corrupt, captured and distorted by the establishment (“deep state,” “elites” etc.), thus creating a justification for changing them to their liking. More precisely, the populist argues there is a direct connection between him and the people: he claims that he personally recognizes the popular will and represents the national interest “by his nature,” as Orbán put it, and therefore he seeks to free the political arena from all intermediary institutions and procedures. Vladislav Surkov, Putin’s ideologist who developed the concept of sovereign democracy, expounded on this aspect of the narrative by writing that in Russia there is a “deep” national spirit, “inaccessible to sociological polls, campaigning, threats, and other methods of direct study and influence,” which Putin understands and elevates to the level of central politics. As Surkov writes, “[the] ability to hear and understand people, to see through them and all their depth and act accordingly—[this] is the unique and most important virtue of Putin’s state. […] In this new system, all state institutions are subordinated to a main task: trust-based communication and interaction between the supreme ruler and the citizens. The various branches of government merge in the person of the leader, not being considered a value in and of themselves, but only to the extent that they provide a connection with him. […] In essence, the society only trusts the head of state” (emphasis added).

Above, we outlined the consequences of populist argumentation. Yet, as “populism” is a hotly debated concept, there is still a need to make it clear which definition we find appropriate. We give a definition that uses our concepts to incorporate our novel insights about populism in Chapter 6, after a more detailed discussion of ideology [→ 6.4.3]. At this point and for the purposes of explaining why populism is a challenge to constitutionalism, it suffices to present populism as a coherent unity of specific features, unfolding along the lines of the following chain of reasoning (each step defining 1–1 feature of populism):

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27 Belousov, “Political Propaganda in Contemporary Russia.”
28 Ablonczy, “General Narrative.”
29 Orbán, “Megőrizni a létezés magyar minőségét” [Preserving the Hungarian quality of existence].
30 Makarenko, “Populism and Political Institutions.”
31 Surkov, “Putin’s Long State.” We are indebted to Zoltán Sz. Bíró for the translation.
1. the populist positions himself as the true representative of the people (reliance on popular sovereignty),\textsuperscript{32} therefore,

2. he does not enter the discussing phase of public deliberation as he does not accept views different from his, or from that of “the people,” as legitimate (anti-pluralism),\textsuperscript{33} therefore,

3. he denies the structured institutions of mediation of the popular will and declares himself a direct representative of the nation and its common good (plebiscitary nature),\textsuperscript{34} therefore,

4. he argues institutions must serve a substantive goal, meaning any state institution or law is to be upheld only if it serves the common good—defined by the direct representative, the populist—and can be overruled if it does not serve the common good (majoritarianism, disrespect for rule of law),\textsuperscript{35} therefore,

5. he attacks those opposed to the substantive goal he set, typically (a) the prevailing establishment it is the opposition of or (b) the old establishment it has replaced and which is also associated with institutional checks and balances (anti-elitism),\textsuperscript{36} therefore,

6. he intensifies polarization in the polity, meaning that he presents the cleavage between those for and against the substantive goal as unbridgeable and, if the populist gets to power, those against the “common good”—or those who would constrain his action—are excluded from the nation in general and from those under the state’s moral obligation in particular (“us versus them” rhetoric).\textsuperscript{37}

Each of the six steps adds a new feature to the definition of populism, and indeed all six features are present in case of an ideal typical populist. It must also be made explicit that our definition presupposes a charismatic leader (who is “the populist” from above). We did not include this in the six points, as we try to define populism as an ideological framework and a chain of reasoning. Yet it would be hard to imagine populism, especially in the post-communist region, without “a personalist character […] who builds a plebiscite-type relationship with the people” and receives “the society’s […] one-time approval [and] de facto full carte blanche, allowing him to create and follow any political course.”\textsuperscript{38}

It might be useful at this point to use the six-part definition to distinguish populism from other, related concepts. Demagogy, defined pejoratively as the appeal to the more unsophisticated “gut feelings” of ordinary people, can easily be a part of populism but it

\textsuperscript{32} Mudde and Kaltwasser, “Populism.”
\textsuperscript{33} Müller, What Is Populism?, 7–40.
\textsuperscript{34} Körösényi, “The Theory and Practice of Plebiscitary Leadership.”
\textsuperscript{35} Pappas, Populism and Liberal Democracy, 31–48.
\textsuperscript{36} Barr, “Populists, Outsiders and Anti-Establishment Politics.”
\textsuperscript{37} Rooduijn, “The Nucleus of Populism.”
\textsuperscript{38} Makarenko, “Populism and Political Institutions,” 31.
4.2. Civil Legitimacy and the Interpretation of the Common Good

does not involve all six steps of the reasoning.\(^{39}\) Similarly, anti-establishment rhetoric can be part of populism but not all anti-establishment actors are also populists, only those who arrive at anti-establishment through the above described chain of reasoning. Also, while attacking an existing elite on the grounds of various (social, economic or political) crises is a key feature of emerging populism,\(^{40}\) it should be noted that the essence of anti-establishment sentiment when populism is in power is to dismantle checks and balances, that is, to be able to step over elements like a legitimate opposition and the constitution which would otherwise constrain the implementation of the leading political elite’s will (disguised as an interpretation of the common good). Finally, some elements of charismatic and plebiscitary leadership like unmediated leader-led relationship and constitution of a novel authority structure are essential features of successful populists who actually get the power to change institutions.\(^{41}\) It is also true that many populist leaders themselves are charismatic and are of a “prophet” type (though not all of them).\(^{42}\) But in the Weberian understanding, charisma and plebiscitary leadership involves one further element: challengeability, meaning that the ruler engages in a competition where he outshines his rivals, whereas the people are “free […] to depose him — just as the loss of charisma and its efficacy had involved the loss of genuine legitimacy.”\(^{43}\) As we have seen, this is not the case in populism and certainly not in a patronal autocracy, where the chief patron has successfully built unconstrained power and opposition is deemed illegitimate.

The previous paragraphs already indicate how state decisions are made, that is, what kind of institutional setup this ideology legitimizes. The chief patron as a populist leader monopolizes the right to interpret the common good, whereby he gets ultimate authority in state decision-making, that is, in deciding how political power should be used. This means he institutes a neopatrimonial or neosultanistic state \(\rightarrow 2.4.2\). In other words, what is legitimized by populism is the patrimonialization of formally democratic institutions \(\rightarrow 4.4.1.3\):

- **Patrimonialization** is the act of a political actor by which he disables all control mechanisms (checks and balances) of the institution he leads or otherwise has access to, in order to become able to use it as his private domain.

Indeed, the populist narrative fits the unconstrained power of the chief patron because there is no logical connection between what it criticizes—the “diagnosis”—and what it offers as an alternative—the “therapy.”\(^{44}\) The function of criticism is only to question the legitimacy of the target, such as the institutions represented by the establishment. What course of action should be taken afterwards is up to the chief patron to decide. One example for this is the above-mentioned criticism of public deliberation as corrupt and elitist. This claim might or might not be true, but in the populist narrative it serves only the func-

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\(^{41}\) Pappas, “Are Populist Leaders ‘Charismatic’?”

\(^{42}\) Pappas, “Are Populist Leaders ‘Charismatic’?” 381–83.


tion to undermine the existing system’s legitimacy: to make opposition to an attempt to change it an illegitimate position, so the populist can replace it with whatever he wants, or more precisely whatever he labels as “the common good” (in case of public deliberation, his “direct understanding” of the people and demolishing of its institutions).

The lack of logical connection between diagnosis and therapy explains why populism can be attached to practically any kind of policy program, left/right or otherwise. Because of this feature, populism has been described in the literature as a “thin ideology.”

Yet we can avoid a great deal of misunderstanding if we recognize it not as an ideology but as an ideological instrument, that is, an argumentative tool which anyone with or without an initial ideology can use to justify his actions. Indeed, understanding populism as an ideology, albeit a thin one, carries the risk of conflating it with left-right, liberal-conservative ideologies, which should be analyzed as value-coherent programs about the proper functioning of society. Populism is not an ideology of that kind, for it has the sole function of legitimation. More precisely, populism is no more than a flexible instrument with which a political actor can legitimize himself and delegitimize others. It points to no ideological goal or value-based vision about society per se: it has no value content, only functional content.

It might be noted that a wide variety of policy programs can be attached to constitutionalism, too, for its very aim is to provide a neutral ground for the competition of ideologies. Yet populism is constitutionalism’s polar opposite: (1) it is anti-pluralist, meaning it aims to put an end to the competition of ideologies; (2) it preaches particularistic moral obligation, meaning it rejects the universal moral obligation toward every person; (3) it does not take into account a variety of interests but one single “national interest,” meaning it negates public deliberation and the institutionalized process of debating and aggregating various societal groups’ interests; and (4) it is collectivist, meaning it treats people in groups (particularly “them” and “us”) instead of treating every person as an autonomous individual. Indeed, populism is a negation of liberal political philosophy—and this makes it the interpretation of civil legitimacy that fits to the rulership structure of a patronal autocracy. Unconstrained power that the chief patron has both within the adopted political family and the nation cannot be legitimized by constitutionalism, for that would entail power limited by public deliberation, competing factions and the constitution. What is able to legitimize the chief patron’s rule is an ideological framework that ensures that (1) no challenge to the chief patron is legitimate, (2) the chief patron can legitimately disregard (formal/constitutional) constraints, and (3) the chief patron has freedom in deciding when and for what reason he disregards the constraints. Populism as an ideological instrument offers precisely this: legitimization of unaccountability and, in place of public deliberation, patronal appropriation of the interpretation of the common good by the chief patron and the adopted political family.

4.2.4. Civil Legitimacy in Communist Dictatorship: Marxism-Leninism

In a communist dictatorship, civil legitimacy is interpreted in the ideological framework of Marxism-Leninism. In effect, Marxism-Leninism has many similarities to populism but it is based on different tenets. First, just like populism, Marxism-Leninism is also collectivist and entails particularistic protection of some people vis-à-vis others in the polity. However, while a patronal autocracy defined the collective “nation” on a clan basis, Marxism-Leninism defines the to-be protected group on a class basis. Indeed, it talks about “the working peasants and other strata in the society [who] are allied with the proletariat” as a starting point. Second, Marxism-Leninism also claims that the particularistic group it protects is represented by a dedicated institution. In case of populism, this institution was the populist leading political elite, that is, the chief patron and the adopted political family. In Marxism-Leninism, it is the state party. As Kornai paraphrases the official communist ideology, the working class “does not exercise power directly; it is represented by the party. The party is the vanguard of the working class and so ultimately of the whole of society. As such it is destined to lead society. […]” The party is an organization that has proven its capacity to head the people by leading the revolution and defeating the revolution’s enemies” (emphasis added).46

Third, the result of the chosen group’s “representation” by the dedicated institution leads to the same results: anti-pluralism, delegitimization of opposition, and displacing rule from the hand of the people. However, while from populism these follow implicitly, in Marxism-Leninism these are made completely explicit. On the one hand, the similarity can be noted. Kornai paraphrases the official communist ideology: “[should] the policy of those in power be opposed by certain political groups, this does not imply a problem with the policy; it means the groups concerned are obtuse, ill-willed, or plainly inimical—spokesmen of the internal and external class enemy.”47 Gyula Tellér, who is a chief advisor of populist chief patron Viktor Orbán, explains in a similar tone that “the real sovereign who dares to follow his interests” has to fight constantly against “a ‘political vise’ constituted by the allied local and Euro-Atlantic opponents.”48 The same kind of argument, marking all opponents foreign agents who attack the nation’s integrity and sovereignty, has been central in Putin’s populist narrative as well.49 On the other hand, Marxism-Leninism “goes even further. Neither can broad mass opposition serve as evidence for the claim that a section of the people [does] not support those in power. The party knows better than the people itself what the people’s interest demands: this is precisely what ‘vanguard’ means. […]” The ideas and methods termed ‘scientific socialism’ […] ensure intellectual superiority [that] allows the party to understand the people’s interests better than the millions outside the party, making it superfluous for those in power to submit themselves to the control of an electoral process involving alternative parties. In fact, to do so would be a grave

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46 Kornai, The Socialist System, 55.
47 Kornai, The Socialist System, 55.
48 Tellér, “Született-e ’Orbán-rendszer’ 2010 és 2014 között?”
49 Applebaum, “Putinism.”
mistake and a crime against the people, since the majority of votes might go to a party that ill-served the true interests of the people. To quote Stalin, “The Party cannot be a real party if it limits itself to registering what the masses of the working class feel and think, if it drags at the tail of the spontaneous movement… The Party must stand at the head of the working class; it must see farther than the working class…” (emphasis added).50

This points to the fourth and fifth differences between the two ideological frameworks. As for the fourth one, in a communist dictatorship, the domination that Marxism-Leninism legitimizes is formal, whereas in a patronal autocracy the domination that populism legitimizes is informal. Indeed, in both regimes what happens is patronization as well as patronalization in the institutional sphere:

- **Patronalization** is the act of a political actor by which he becomes a patron (or expands his existing patronal network), turning other (new) people into his clients in the given sphere of social action. Patronalization may apply to individuals as well as to formal and informal institutions (organizations).

However, as we explained in Chapter 3, in patronal autocracy the leading political elite is an informal patronal network (the adopted political family), and in communist dictatorship, it is a bureaucratic patronal network (the nomenklatura). In other words, previously voluntary and horizontal connections are either eliminated or turned into coercive and vertical (patron-client) connections in both regimes, but in the communist dictatorship this happens through the formal institutions of the party state, where members of the nomenklatura are placed in a strict hierarchical order.

The fifth difference is the presence or lack of elections to underpin civil legitimacy. Indeed, populism as well as constitutionalism entail electoral civil legitimacy: in a liberal democracy, elections are held with citizens whose human rights are both *de jure* and *de facto* respected, and in a patronal autocracy elections are also held (for servants who are deprived of their rights only *de facto*, not *de jure*) [→ 4.3.3]. Moreover, electoral legitimacy is one of the central arguments for populists in power when it comes to justifying that they represent the people and the nation.51 However, in a communist dictatorship Marxism-Leninism entails non-electoral civil legitimacy, where the state party—using the argument outlined above—declares multi-party elections superfluous and noxious and enters “in loco parentis: all other strata, groups, or individuals in society are children, wards whose minds must be made up for them by their adult guardians.”52 Thus, the people who have been citizens in a liberal democracy and servants in a patronal autocracy are indeed subjects in a communist dictatorship, which deprives them of their *de jure* as well as *de facto* basic rights and liberties. By the nomenklatura and the state party, bureaucratic appropriation of the interpretation of the common good is realized (as opposed to patronal appropriation in patronal autocracies).

Sixth, it must be noted that non-electoral regimes (dictatorships) ideal typically feature mass terror and much more violent oppression than electoral systems led by populists.

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4.2. Civil Legitimacy and the Interpretation of the Common Good

This follows from the fact that Marxism-Leninism, allowing for less popular participation and making the dictatorial nature of the regime more obvious, is accepted by a smaller percentage of the population than populism. Historically, populists have been much more successful than communists in convincing the people to put their heads in the yoke voluntarily; and even when communists were successful, that was more because of material legitimacy, that is, an increasing standard of living for the subjects. Yet Marxism-Leninism does not lose its importance, especially because this ideology explains the state actions and institutions of communist dictatorships rather well.

This leads us to the seventh and final difference between populism and Marxism-Leninism, namely that Marxism-Leninism is attached to a particular policy program. The essence of this program is, in general, the merger of spheres of social action under the party state’s authority, and in particular, nationalization and collectivization.

Indeed, populism gives, paradoxically, larger room to maneuver for the chief patron than Marxism-Leninism gives to the general party secretary, because he has to stick to the communist ideology. Naturally, as accountability is disabled and communist dictatorship also uses terror and coercion much more widely than a patronal autocracy does, changes in the policy program as well as the ideology are possible. Yet the nomenklatura still has some starting points which set (more or less soft) constraints to concrete policies, whereas there is no such thing in case of populism and the adopted political family. In any case, in both regimes the interpretation of the common good is appropriated by the leading political elite and ultimate authority over state decision-making is put in their hands accordingly.

4.2.5. Weberian Legitimacy Patterns: Populism as a Call for Substantive-Rational Legitimacy

We have now finished outlining the ideological frameworks of civil legitimation in the three polar type regimes. However, it is worth contrasting them with Weber’s types of legitimate domination, which have also been used in the literature to describe these regimes. In Economy and Society, Weber distinguishes three “pure types” of legitimate domination: (1) legal, which rests “on a belief in the legality of enacted rules and the right of those elevated to authority under such rules to issue commands;” (2) traditional, which rests “on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them;” and (3) charismatic, which rests “on devotion to the exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him.” In other words, we may


54 White, “Economic Performance and Communist Legitimacy.” Also, White notes that in times of economic decline communist dictatorships had to adapt to keep people at bay, using methods like co-optation and propaganda.

55 This has been the most evident in China, where nominally Marxism-Leninism is still followed whereas the country indeed features a capitalist economy. For the seminal ideological justification, see Muqiao, China’s Socialist Economy.

say that the basic argument for domination in legal authority is “because it is the law,” in traditional “because it is the custom,” and in charismatic authority “because he is the most exceptional one.”

According to Weber, authority based purely on a single type is rare, and legitimate domination in modern states is usually based on a combination of the three analytically isolated types.\(^{57}\) But although we thoroughly accept this and with respect to the six ideal type regimes we also speak about the dominance, not totality, of certain characteristic features, the analysis of the three ideological frameworks suggest that **description with either of the three Weberian types would be unsatisfactory.** Specifically, as Weber describes legal authority as a “rational” type of rule fits to all three polar type regimes. Indeed, all of them are rational in two senses. First, the procedure by which the rulers come to power is emphasized in all three ideologies: in both constitutionalism and populism elections play the central role in ensuring the leading political elites’ civil legitimacy, whereas in Marxism-Leninism the party proves itself the vanguard of the society by carrying out a successful revolution. Second, professional bureaucracy that Weber associates with the legal-rational authority where hierarchic state administration is perfected,\(^{58}\) plays a prominent role in all three ideal type regimes, albeit in different forms \(\rightarrow\) 3.3.5. Moreover, populism and Marxism-Leninism have a trait that simply does not fit any of the Weberian categories: that they legitimize the rulers’ actions by referring to a collective, not to the law, the tradition, or the exceptionality of an individual leader *per se.*

This suggests that we need to go beyond Weber. We have to take, for the reasons explained above, “rational” as an umbrella category, for which we can define two subtypes: **legal-rational legitimacy and substantive-rational legitimacy.**\(^{59}\) The former is what Weber actually meant by legal (rational) legitimacy, namely that the people treat the orderly legal procedures of the state for selection of rulers and decision-making as an end in itself, and if one seizes the power by these procedures and rules by them is automatically legitimate as a result. **In case of substantive rationality,** however, while institutions are in place and they have an important role in the legitimization and/or the operation of the system, they are not treated as ends in themselves but rather as means to the end of the common good (Table 4.3).

While constitutionalism calls for legal-rational legitimacy, **populism is a challenge to legal-rationality as it replaces it with substantive-rational legitimacy.** Marxism-Leninism also embodies the same pattern change from legal to substantive rationality, but it is an openly revolutionary ideology. In power, Marxism-Leninism maintains the congruence of *de jure* and *de facto*: as the next parts show, communists openly declare substantive-rationality and introduce a dictatorship, formally in the name of the particularistic protection of the working class. In contrast, the particularism of populism is not made part of formal law in a patronal autocracy. On the contrary, there is a *de jure* façade of formal democratic institutions *de facto* treated by substantive-rationality. Simply put, the law is disregarded whenever it does not serve the “common good.” However, as the interpretation of the common good is appropriated by the adopted political family (patronal appro-

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59 We borrow this term from Iván Szelényi, who sent us an early manuscript of a book he later published with Péter Mihályi in late 2019. See Szelényi and Mihályi, *Varieties of Post-Communist Capitalism*, 43–47.
4.3. The Institutions of Public Deliberation in the Three Polar Type Regimes

In Chapter 1, we accepted Kornai’s definitions of democracy, autocracy and dictatorship, which already included a list of most important institutions and processes which, in their unity, are particular to these ideal type systems [→ 1.6]. In this part, we provide a more detailed discussion of political institutions, structured by one of the previous ideological frameworks: the five steps of public deliberation. We are going to conceptualize the institutions of discussing, associating, electing, lawmaking and enforcing in liberal democracy, patronal autocracy, and communist dictatorship in a comparative manner.

Public deliberation appears in unscathed form only in liberal democracy. There are two reasons we use it for the other two polar types as well. First, it is this process that involves the greatest variety of institutions that structure the interaction of the public and the private sphere, therefore it is the most complete framework at hand to enumerate and assess political institutions. Second, while communist dictatorship constitutes an important part of our conceptual toolkit, most post-communist regimes are situated on the left side of our triangular framework, that is, between liberal democracy and patronal autocracy. These regimes are formally democratic, meaning that they both feature the institutions of public deliberation as far as formal laws and regulations are concerned. Thus, precisely a comparative conceptualization of these institutions is what can point out the differences between them in the liberal and patronal regimes.

First of all, we need to start with a general observation, namely that each polar type regime has a distinctive attitude toward the institutions of public deliberation. These at-

### Table 4.3. Legal-rational legitimacy and substantive-rational legitimacy.

<table>
<thead>
<tr>
<th>Carrier of legitimacy</th>
<th>Legal-rational legitimacy (constitutionalism)</th>
<th>Substantive-rational legitimacy (populism, Marxism-Leninism)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status of ruling elite</td>
<td>impersonal institutions (manifested in formal rules)</td>
<td>personal actors (manifested in a formal or informal organization)</td>
</tr>
<tr>
<td>Resultant process</td>
<td>deliberative: interest reconciliation of multiple actors (taking various interests into account)</td>
<td>declarative: interest enforcement of a single actor (suppressing other interests)</td>
</tr>
</tbody>
</table>

pation), substantive rationality indeed manifests as a disrespect for the rule of law in favor of any decision the leaders make, although they are subordinated—in fact—to the principle of elite interest [→ 2.3.1]. In other words, while the legal-rational legitimacy of constitutionalism entails a deliberative process of interest reconciliation of multiple actors, substantive-rational legitimacy is declarative: a single actor declares what is to be done, and other (opposing) interests are not taken into account but suppressed.
titudes, which result in the same patterns in their regime's institutions, can be summed up as follows:

◆ **in a liberal democracy**, the ruling political elite shows universal respect and protection of the institutions of public deliberation;

◆ **in a communist dictatorship**, the nomenklatura shows doctrinarian repression and control of the institutions of public deliberation;

◆ **in a patronal autocracy**, the adopted political family shows pragmatic neutralization and use of the institutions of public deliberation.

In practice, “universal respect and protection” means that there are effective control mechanisms in place that uphold these institutions and make the untroubled conducting of public deliberation possible. “Doctrinarian repression and control,” on the other hand, means that the party state exercises totalitarian rule, where all actors in every sphere of social action are compelled to fit in the party line and those who contradict the central will are punished accordingly. Finally, “pragmatic neutralization and use” means that a patronal autocracy (1) represses only what poses a threat to the stability of its political-power monopoly and (2) uses existing institutions or actors if they can contribute to that stability. It is not doctrinarian in the sense that even processes that strongly oppose the workings of the regime are not necessarily addressed by the leading political elite. Everyone is left alone, that is, can exercise his rights and can participate in activities related to democratic public deliberation (free speech, running in elections etc.), as far as it does not pose a threat to the autocratic rule. Moreover, such processes become part of the healthy functioning of the system: they provide a democratic façade that make sharp distancing from the regime harder and avoid overt oppression that would be very costly, both in terms of potential support and economic development (see Box 4.1). Nevertheless, the mafia state has the potential to crack down on anything that becomes a threat, and the more menacing a process becomes, the harder means the adopted political family employs against it. This might lead up to the level of physical violence, but (1) in much smaller magnitude than in any dictatorship, which—as Kornai notes—is typically characterized by mass terror \( \rightarrow \) 1.6, and (2) only against targeted individuals who can neither be neutralized nor coopted, that is, subjugated in the single-pyramid patronal network. Such people include dedicated journalists and political activists, who might face violence in various forms from getting beaten up in an alley to torturous detention and homicide. (This also depends on the cultural acceptance of violence in the country, as well as autocratic consolidation. See Part 4.4.3.2).

As a final remark before we start, it should be noticed that the pragmatism of patronal autocracy appears with respect to its ideological framework, too. Indeed, the distinctive attitude of both democracy and dictatorship follows from their ideological frameworks, and therefore the institutions that make up these systems can be deduced from them. In other words, constitutionalism and Marxism-Leninism describe precisely those political institutions that prevail in their respective polities. But in the case of populism, there is no such logical link. Populism entails only the unconstrained rule of the autocrat—not how he

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uses this power. According to substantive-rational legitimacy, he is justified in disregarding existing law when he sees fit, but from this fact it does not follow why he disregards certain laws and not others, and neither does the regime’s pragmatic attitude of neutralization. True, if opposition parties are deemed illegitimate vis-à-vis the populist, then it is justified to neutralize them, and also for the populist to try to keep his power by any means. But then it does not follow why this has to be done in a clandestine manner, maintaining the democratic façade with multi-party elections (and if the populist derives civil legitimacy from elections, it does not follow why he changes electoral rules and neutralizes the electoral process as well [4.3.3] instead of simply outshining his rivals, as a Weberian plebiscitary leader would do). The presence of a neutralized democratic façade to de facto autocratic politics derives precisely from those pragmatic considerations we mentioned above: the aim to conceal power monopolization in the eye of the international, as well as the domestic, public.

4.3.1. Discussing: Media and the Spheres of Communication

4.3.1.1. The four media rights

Let us start from the first phase of public deliberation—discussing. In a liberal democracy, the essence of discussing is that every citizen has a chance to express his views on political matters and engage peacefully with the views of other citizens. However, this entails further rights as well; as Article 19 of the Universal Declaration of Human Rights asserts: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Indeed, if discussing is open and the people can represent their views freely, that also means they are free to publish and broadcast them and make them readily searchable for other people. Furthermore, as different views must be able to interact to compete (which is the essence of public deliberation), everyone must have the right “to seek, receive and impart information and ideas.”

To put it in a more structured way, Miklós Haraszti lists four media rights on the basis of Article 19:

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62 “Universal Declaration of Human Rights.”
63 Haraszti, “Illiberal State Censorship.”
4. Politics

- **the right to know**, which is the right to obtain information in political matters (especially information of public interest, regarding the workings of the state);
- **the right to speak**, which is the right to share information or one’s opinion;
- **the right to choose**, which is the right to access a diverse and plural media landscape;
- **the right to connect**, which is the right to engage in free communication and information-sharing with people at home and abroad.64

4.3.1.2. Open, closed, and dominated spheres of communication

The four media rights provide the aspects by which three ideal typical spheres of communication, each associated primarily with 1–1 polar type regime, can be defined (Table 4.4).

We define sphere of communication in general, narrowing it to the discussion of political matters, as follows:

- **Sphere of communication** is the sum of public and private institutions that serve the purpose of communication, that is, relaying views and pieces of information in political affairs from some person(s) to others in a polity.

<table>
<thead>
<tr>
<th>Table 4.4. Open, closed, and dominated spheres of communication.</th>
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<tbody>
<tr>
<td><strong>Right to know (obtaining information)</strong></td>
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<tr>
<td>Open sphere of communication (media rights are upheld)</td>
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<td>Closed sphere of communication (media rights are suppressed)</td>
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<td></td>
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<tr>
<td>Dominated sphere of communication (media rights are neutralized)</td>
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In a liberal democracy, the sphere of communication is ideal typically open, meaning that basically all four media rights are respected and upheld. This follows straight from the ideology of constitutionalism and public deliberation.65 First, the right to know or to

64 Haraszti notes that while the “right to connect and to choose are seemingly new liberties, […] in fact they were already contained in the last seven words of Article 19: ‘through any media and regardless of frontiers.’” Haraszti, 375.

65 While these rights are ideal typically upheld, there may be slight differences in real world cases, especially as to how these rights are upheld exactly. For a seminal work on existing models, see Hallin
obtain information in political affairs is allowed and even facilitated. In other words, ideal typical liberal democracies aim at achieving transparency of decision-making: information of public interest—defined as information about the exact content of state decisions, codification processes and the spending of tax monies within the bureaucracy and outside of it for various public purposes—is made readily available to the citizens for free, with the exception of a rather narrow set of data that is classified for national security purposes. In general, as Haraszti puts it, “the citizenry has become the default ‘owner’ of information handled by the state” in liberal democratic regimes.\(^{66}\)

Second, the right to speak in an open sphere of communication is respected, interpreting it in the context of free speech. This means that every citizen is equally free to hold and express views on political matters, and everyone’s opinion is treated as a legitimate alternative proposal regarding how political power should be used. However, to be able to uphold this situation and ensure that everyone can indeed participate in public deliberation equally freely, the state takes on the role of moderator, restricting or penalizing certain kinds of opinions. However, this strictly applies only to extreme speech that openly disrespects other citizens’ human dignity and/or sets out to replace peaceful discussion with violence—that is, views which openly contradict the free spirit of public deliberation.\(^{67}\) In cases of non-extreme opinions, the state remains politically neutral. Views criticizing the current government or institutional order in a peaceful way are allowed to be expressed and discussed as legitimate opinions.

Third, the right to choose in an open sphere of communication means (1) impartial state media, dedicated to dissemination of so-called “hard news” in an unbiased and complete form,\(^{68}\) and (2) free private media, meaning a proliferation of various sources of information independent of the state. In other words, while state media has systems in place to ensure internal pluralism, the role of privately owned channels is to provide external pluralism, nationwide.\(^{69}\) True, private media can provide commercial content as well, but from the point of view of public deliberation and the sphere of communication we are interested only in politically-engaged media. In a liberal democracy, these channels, as Daniel C. Hallin and Paolo Mancini point out, can either be (a) partisan, meaning they are independent from the state but not independent from certain political parties, or (b) fully independent from political actors and simply expressing their opinion on current political issues, reflecting the main lines of division within the political system (political parallelism).\(^{70}\) But in either case, from the point of view of the citizen, he is a free media consumer whose right to choose is supplied by a variety of sources of information and political content.

This leads us to the final right: the right to connect in the online space. In an open sphere of communication, we can speak about free internet access in a similar sense as we spoke about free private media above. That is, internet provides “a diverse and competitive

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67 Hare and Weinstein, Extreme Speech and Democracy.
68 Soroka et al., “Auntie Knows Best?”
70 Hallin and Mancini, “Western Media Systems in Comparative Perspective.”
digital public sphere” where citizens can create and consume political content, share pieces of information and also organize and connect with each other across boundaries. In terms of public deliberation, the online space represents a versatile platform for discussing, whereas the right to connect ensures that no citizen can be isolated in the sphere of communication against his will. In other words, the right to connect is of primary importance to the autonomy of citizens in a liberal democracy, for political participation with practically no barrier to entry is ensured without the interference, or the need for help by, the state.

The polar opposite of an open sphere is the closed sphere of communication. Fitting to the ideology of Marxism-Leninism, this type of sphere is characterized by formal and open repression of all four media rights. The right to know (information of public interest) is denied by the state, meaning that the workings of the regime are not transparent, neither to domestic subjects, nor to foreign people. The rights to speak and to choose are also disregarded, which in communist dictatorships follows from three mutually reinforcing features of the regime:

1. **the monopoly of state ownership** and the general ban of private ownership, which implies that (1) every media is state-owned and (2) private-media ownership is banned;

2. **media is a subdivision of the party state** and journalists are members of the nomenklatura, meaning they operate in a hierarchic order of bureaucratic command;

3. **content is limited by censorship as well as self-censorship.**

Simply put, censorship in a closed sphere of communication means that every media content has to be approved by a censor, and only those works can be published in an unabridged form which fit perfectly to the line of communication of the party. Works which do not meet this criterion are either (a) abridged, meaning pieces of information and opinions which do not fit (let alone contradict or attack) the dictatorship's official line are removed from the work, or (b) not allowed to be published at all. However, it is important to distinguish communist censorship from traditional censorship in pre-communist nations (in the 19th century), where private writers had to turn to a (feudal) censorship office that decided whether their piece could be published or not. First, in pre-communist times the censor and the artist were situated in different spheres of social action: the censor was a political actor, whereas the artist was a communal or economic one. In a communist dictatorship, there is no separate censorship office: following the monopoly of state ownership and the ban of private media, the artist is an employee of the party state and is regulated as such, in a hierarchy where everyone's boss is also his censor. The high-level party cadres instead define principles for the nomenklatura, rather than perform censorship themselves. Second, in pre-communist times the number of abridged or disapproved works by the

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71 Zukeneman, “New Media, New Civics?”
72 Cf. Fox and Ramos, *IPolitics*.
73 No wonder Mikhail Gorbachev’s slogan for his reforms in the USSR was *glasnost*, literally meaning “openness” and referring to the increased government transparency he nominally set out to achieve.
74 Dewhirst and Farrell, *The Soviet Censorship*.
75 Goldstein, *Political Censorship of the Arts and the Press in Nineteenth-Century Europe*. 
censor did not have a direct effect on the livelihood, job or existential position of a private actor. However, if every media and publishing agency is a state entity and also practically everyone works for the state, the expression of views that contradict the official line implies disloyalty to the party and therefore brings punishments such as demotion, dismissal or worse. Thus, media workers of communist dictatorships are characterized by an ethos of self-censorship, meaning even if they had anti-communist views, they would scarcely dare to express them. Finally, communist dictatorships assign a specific role to writers and other artists as mouthpieces of the party state, a role that several artists who believe in Marxism-Leninism proudly accept. For them, self-censorship is not recognized as suppression but rather as an essential moment of abstinence as part of the mission of building communism; the censor is not an enemy of the artist but a helper in his mission, whereas censorship is merely a result of a workshop activity, or the final glaze that the state applies to the work before approving its release. As Haraszti points out, the communist party state “is able to domesticate the artist because the artist has already made the state his home. […] Traditional censorship presupposes the inherent opposition of creators and censors; the new censorship strives to eliminate the antagonism. The artist and the censor—two faces of official culture—diligently and cheerfully cultivate the gardens of art together.”77

In a classic study, Fred Siebert and his colleagues argue that it follows directly from the official ideology and the idea that party competition would be noxious “to put basic responsibility for all mass communications in the hands of a small group of top Party leaders. All the mass media in [a communist dictatorship] become speaking trumpets for these leaders, and the editors and directors listen anxiously for the latest Olympian rumblings of ‘the truth.'”78 In theory, as Sarah Oates writes, “[the] media serve the interests of the working class and the sense of limit/censorship is imposed by the consciousness of the journalists in solidarity with the workers;” in practice, communist media aim at achieving a sphere of communication where the only framework of interpretation is that of the party (i.e., Marxism-Leninism) and the people are deprived of their right to know anything else or speak their mind freely if they disagree with the party.79 In fact, if we look at historical examples, even in the more moderate versions of reform-communism where a more cautious censorship existed,80 only the samizdat publishers of the anti-communist dissident movement persecuted by the authorities—directly reaching no more than a couple of thousand readers—remained outside the compass of state-controlled publicity.81

Finally, the right to connect is eliminated in a closed sphere as internet access itself is heavily restricted, requiring special authorization and practically unavailable for the ordinary subjects outside the nomenklatura.82 However, while this totalitarian model

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76 For a classic piece on self-censorship, see Haraszti, The Velvet Prison.
78 Siebert et al., Four Theories of the Press, 119.
80 A typical example is the Hungarian one, where the party in 1966 laid down three categories of publication, also known as the “three T’s” (tilt, tűr, támogat) in Hungarian or the “three P’s” (prohibited, permitted, promoted) in English. Tőkés, Opposition in Eastern Europe, 144.
81 Skilling, Samizdat and an Independent Society in Central and Eastern Europe.
82 Ko, Lee, and Jang, “The Internet Dilemma and Control Policy.”
fits the ideal typical communist dictatorship, a slightly less restrictive variant of it prevails in the slightly less restrictive regime of market-exploiting dictatorships. In these regimes, media is also censored and the right to connect is repressed, albeit with more sophisticated practices. In China, for instance, while the people nominally have access to the internet, the so-called “Great Firewall of China” implements many different types of censorship and content filtering to control the country’s internet traffic. The Chinese party state does not allow free access to websites such as Google and Facebook, only to their Chinese variants. Also, beside the fact that it can ban local websites, the party has introduced a social-credit system to sanction behavior it finds improper, including the expression of non-accepted views. This way, the formally less repressive Chinese state practically resurrects the situation of communist dictatorships, incentivizing self-censorship for the subjects whose existential positions are directly affected by the approval or disapproval of their opinions by the state. Among other things, this system prevents precisely that autonomy that the right to connect would entail in an open sphere of communication.

Between the two polar opposites, the de jure open but de facto closed model of dominated sphere of communication is ideal typical to patronal autocracy. This type typically developed in formally democratic post-communist countries, where quite often “[the] re-shaping of the media system into a pluralist and independent Fourth Estate, the transformation of the journalistic community into an autonomous professional group dedicated to a public service ideal and the redefinition of the audience into a group of citizens all failed to occur.” Indeed, just as populism involves the monopolization of the political sphere implicitly, the way patronal autocracy violates the four media rights is also informal. More precisely, the essence of a dominated sphere of communication is not suppression but neutralization of media rights: citizens become not outright subjects but servants. This becomes obvious as we analyze the situation of the four rights, contrasting them with their complete lack and complete respect in the closed and open spheres, respectively.

First, the right to know is restricted as access to information of public interest is hindered. The scope of available information is reduced as a result of (1) widening the scope of classified data, (2) narrowing the scope of press allowed to take part in government press conferences or to interview governmental actors, and (3) hindering, instead of facilitating, the access to information (not putting data on governmental websites, refusing to answer questions of journalists or opposition members, denying access to data of public interest first and then failing to provide the data despite final court decisions etc.). In the case of the right to speak, a patronal autocracy limits not content but reach. It is not interested in whether opinions different from the official propaganda are voiced but whether they reach enough people to cause political instability. Thus, “enough people” is to be understood both in numerical terms—how many media consumers the opposition reaches—and geographical terms—even if many people are reached, are they

83 Ensaifi et al., “Analyzing the Great Firewall of China Over Space and Time.”
84 Qiang, “President Xi’s Surveillance State.”
concentrated in a handful of bigger cities or districts.\textsuperscript{87} Practically, in a process that may be called “ghettoization,” the leading political elite traps critical voices in small circles where those who were already staunch opponents of the government merely converse amongst themselves, leaving a limited viability for a change in the proportion of loyal versus critical voices in the larger audience. A continuously decreasing number of critical channels come to play the role of communication “rubber rooms” for the opponents of the regime, who can discuss their grievances and criticism among themselves but not toward a wider audience. The intense involvement of those chatting among each other on social media might elicit a false sense of masses displeased with the government, when in fact it is just the same people exchanging views in the same groups. In short, ghettoization is indeed a method of neutralization, similar to (and as a part of) the neutralization of opposition parties [\rightarrow 3.3.9]. Unlike a communist party state, the mafia state is not doctrinaire: it is not afraid of words and it can handle criticism—so long as it does not have significant reach.

This leads directly to the question of the right to choose. While it was upheld by the dual workings of impartial state media and free private media in a liberal democracy, the right to choose is neutralized on precisely these two grounds in patronal autocracy. On the one hand, state media is biased as it is brought under the control of the adopted political family through the immediate means of authority. These include filling positions in the media with front men and patronal servants (supervised by patron’s hands [\rightarrow 3.3.5]), giving direct orders as to what (or whom) to feature, exercising censorship over the hard news the media still officially broadcasts, and directing the content in accordance with the propaganda of the transmission-belt party.\textsuperscript{88} On the other hand, private media in general are bought up by the adopted political family whereas opposition media are crowded out, taken over or ghettoized. According to Elena Vartanova, in Russia when Putin was building up his patronal autocracy, related techniques he used included: a selective use of legal sanctions (tax and customs legislation, fire safety and sanitary regulation); the strategy of bringing lawsuits against opposition media, often on defamation grounds; and acquiring ownership of local and regional newspapers.\textsuperscript{89} Also, particularly notable in this process was the patronalization of media oligarchs, during Putin’s strategic move of replacing oligarchic anarchy with a single-pyramid patronal network in general and taking over the most important, nationwide media stations in Russia in particular (see Box 4.2).\textsuperscript{90}

In Orbán’s Hungary, a similar reorganization of the media market took place, with the purchase of local and regional newspapers, and radio frequencies by the adopted political family and the crowding out of opposition media (although Orbán did not have to fight oligarchs as media was already controlled in large part by his adopted political

\textsuperscript{87} This latter aspect is especially important in regimes with not purely proportionate electoral systems (ones with electoral districts).

\textsuperscript{88} Vásárhelyi, “The Workings of the Media,” 501–4; Zassoursky, Media and Power in Post-Soviet Russia.

\textsuperscript{89} Vartanova, “The Russian Media Model in the Context of Post-Soviet Dynamics,” 135.

\textsuperscript{90} An atmosphere of violence against (opposition) journalists, including physical abuse and several mysterious deaths, has also been noted. (See Oates, “The Neo-Soviet Model of the Media,” 1293–95.) This can be understood as an individualized form of crowding out.
While a quasi-monopoly on the media market was already achieved by 2014, according to the Mérték Média Monitor, the share of independent media in 2017 was only 22.2%. Everything else was part of the patronal media: state media, which has become the mouthpiece of Fidesz (38.1%); media owned by the regime's oligarchs (15.7%); and the 476 media outlets which were consolidated in the Central European Press and Media Foundation (CEPMF, or KESMA in Hungarian) media holding (24%).

CEPMF, which was formed on the turn of 2018–2019, is an archetypal product of patronal autocracy: the holding was filled up by patronal media owners “voluntarily” donating all their outlets to the holding, which paid no compensation for the ca. 90-million EUR worth of companies. It is de jure led by a front man of Viktor Orbán; and its formation was enabled by issuing a government decree which declared CEPMF a “merger of strategic importance at a national level,” thereby exempting it from competition law.

**Preferential allocation of state advertisements** has been a major means of putting political pressure on the media in Hungary, where the advertising market has historically been small and only a handful of media can finance itself purely from the market. The phenomenon of preferential allocation can be observed in Figure 4.1, which summarizes state advertising incomes by political groups in Hungary between 2006 and 2019. Evidently, before the 2010 victory of Orbán there had been preferential allocation between the networks of Fidesz (Orbán) and the then-ruling MSZP-SZDSZ (Socialist-Liberal) coalition, yet most of the advertisement came from other, multinational advertisers. This indicates a regime between the ideal types of patronal democracy—with the competition of the leading and opposition patronal pyramids—and liberal democracy—as the share of autonomous or non-aligned groups is larger than in an ideal typical patronal democracy. This situation changed dramatically after 2010, when MSZP-aligned groups started receiving fewer advertisements, not only in absolute terms but, also in relative terms. Indeed, the incomes of media of the single-pyramid substantially grew between 2010 and 2015, and truly skyrocketed after the betrayal of inner-circle oligarch Lajos Simicska.

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**Box 4.2. Patronalization of (media) oligarchs by Putin.**

“When Putin first sat in Yeltsin’s chair, the Kremlin lived in fear of the two great ‘media oligarchs’: Vladimir Gusinsky of NTV and Boris Berezovksy of ORT. [...] They had such huge audiences they could have undermined a fragile empire if he botched his relationship with them. [...] Yet in weeks after his inauguration, [Putin] made a comment [that] ‘These people who fuse, or who help a fusion of power and capital, there will be no oligarchs or the like as a class.’ [He gathered] the country’s twenty-one leading tycoons in the Kremlin [to make] a simple deal—they could keep their businesses, if they stayed out of politics. Two men were not invited—Berezovksy and Gusinsky. What was happening to [them] was an example of how expensive it would be to refuse Putin’s offer. [...] Putin […] asked for Gusinsky’s company to pay back the 1996 loan from Gazprom. [...] The tycoon […] was arrested […] and under duress made to sign over stakes in NTV to Gazprom. [Putin] then told Berezovksy: ‘I want to control ORT. I will manage it.’ [...] Criminal investigations were opened against Berezovksy who, under pressure, sold his share of ORT to Roman Abramovich, who promptly handed it over to the state. By taking over ORT and NTV Putin had achieved exactly what he wanted [...]. By 2008, some 90 percent of all Russian media was directly or indirectly under Putin’s control.”


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91 Vásárhelyi, “The Workings of the Media.”
92 “Mindezt beborít a Fidesz-közeli média.”
94 Bátorfy and Urbán, “State Advertising as an Instrument of Transformation of the Media Market in Hungary.”
By withdrawing state advertisement and scaring off private advertisers through state coercion, the mafia state diminished the revenues of private media and obstructed the freedom of the press. “Scaring off” refers to, besides actual blackmail, a form of self-censorship: private advertisers know very well that should they start supporting (i.e., making business with) an opposition or disloyal medium, they would become enemies of the adopted political family. Similarly, commercial media channels which otherwise might want to express their opinion in political matters are depoliticized as they are cautioned to self-censorship. At the same time, the government strikes the critical media channels down through a redistribution of radio frequencies, or relegates them to the ghetto of the few intellectual consumer groups, or perhaps just starves them out financially. Also, as the state news agency provides the news block free of charge, the mafia state has undermined and practically liquidated the market for independent news providers. Thus, indirectly the regime

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95 Rényi, “Ez nem újságírás, ez politikai nehézfegyverzet [This is not journalism, this is political heavy weaponry].”

96 It may be objected that RTL Hungary is indeed politically active at least as far as its news service is concerned. However, the station had originally been politically neutral until 2014, when a discrentional tax [5.4.3] was levied on the station as part of centrally-led predation [5.5.4]. After predation failed mainly because of the station’s strong German background, RTL started featuring more negative news regarding the government and especially corruption. Vásárhelyi, “The Workings of the Media,” 517–19.


sets the agenda for the news programs of private commercial media, including tabloids that reach people who typically do not consume political news.

However, the role of the adopted political family’s media, as Mária Vásárhelyi puts it, is not only brainwashing but also money laundering.99 Not only are the clients of the adopted political family the biggest subcontractors of state media, they are also builders of the frequency networks, the beneficiaries of state funds for the media, the receivers of state advertisement, the state-funded buyers and founders of media firms. They are the ones that take over the places of the market players who were ejected by means of state coercion. Based on an extensive analysis of the media empire related to Orbán’s adopted political family,100 we can conceive the structure and operation of the media that may well be ideal typical to patronal autocracies:

1. the political family positions front men and patronal servants where the operation of state media, budget resources and state advertisement are decided;

2. these people redirect a vast majority of state advertising and commissions to the political family or media loyal to it;

3. these people simultaneously engineer the ideological orientation of public opinion and the delivery of state resources into private hands through overpriced procurements and shares of profits;

4. and coming full circle, oligarchs of the political family delegate their own people (front men, patron’s hands etc.) to key positions in order to ensure smooth operation.

The functions of (1) spreading propaganda through the instrumentalized application of various ideologies [→ 6.4.2] and (2) transferring public monies to the hands of the adopted political family are ideal typical to the media of patronal autocracy. Furthermore, there is a third function they fulfill: (3) noisemaking. Noisemaking is a specific mode of neutralization of critical voices. It refers to the phenomenon that Pomerantsev and Weiss describe as the “weaponization” of information.101 In a post-modern fashion, the purpose of noisemaking is not to convince the people but to confuse them. While they keep up the narrative of populism as the general framework for interpretation, in specific issues the media of the adopted political family start broadcasting numerous contradictory narratives, combining truthful and fake news alike.102 On the one hand, this creates an atmosphere of general confusion and distrust. On the other hand, it also means that many different viewpoints are introduced into the public discussion with the sole purpose of perturbation. This makes public deliberation practically impossible as opposition narratives blend into the noise of the chaotic sphere of communication, wherein the people cannot decide among the cacophony of narratives which are to be taken seriously.

99 Vásárhelyi, “The Workings of the Media.”
100 Bátorfy, “How Did the Orbán-Simicska Media Empire Function?”
102 Khaldarova and Pantti, “Fake News”; Pomerantsev, This Is Not Propaganda.
As far as the right to connect is concerned, we can find the same sort of noisemaking in the online space. Indeed, this is necessary because it is difficult to regulate the online space (although some patronal autocracies have made attempts in that direction), so other means are needed to neutralize a space that is otherwise rather free. Noisemaking is the first of such means, and it takes the form of “neutrollization.” Xymena Kurowska and Anatoly Reshetnikov coined this term for the centrally organized and industrialized use of armies of trolls, that is, people whose tasks include replicating propaganda messages, spreading noise-narratives and generally muddling up discussion in comment sections and the social media. Employed by transmission-belt parties of patronal autocracies, trolls can either be paid “workers” or activists who spread the messages the party gives them out of conviction. The second method is imposing fines on websites that allow opposition content and networking, which establishes a counterincentive to providing platforms with a free right to connect. Finally, probably the most effective way of neutralization is self-censorship. This prevails especially among people whose material, existential position depends on the state—such as public employees or subcontractors to government investments—who can be afraid of negative discrimination should they voice their critical views about the mafia state.

4.3.2. Associating: Protests, Interest Groups, and Party Systems

Actors with certain views can decide to take action in favor of them, that is, to do something to change the political status quo. The types of action undertaken in this phase may be divided into two broad groups. First, there are attempts to bring about change from outside of the decision-making process, meaning the actors try to pressurize current decision-makers to use political power in a different way. Such actions can occur in the discussing phase: media and public expression of one’s views are already types of pressurization. However, an actor might want to give emphasis to his views by different means as well, namely by means of group action. If he decides to do so, he enters the associating phase, where actors decide to form (or not to form) formal or informal groups for the purpose of facilitating change.

Focusing on the main actor in liberal democracy, we can differentiate two types of associative action in the first group:

- **protesting**, the occasional or chain-like event of gathering together and expressing opinions toward decision-makers unilaterally (**the main actor is the citizen** who decides to take part, either individually or as part of a formal or informal group);

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103 Duffy, “Internet Freedom in Vladimir Putin’s Russia.”
104 Kurowska and Reshetnikov, “Neutrollization.”
105 Kurowska and Reshetnikov, 352–57; “Fidesz Online Army Is Commanded Right from the Party Headquarters”; Dezső and Panyi, “We Are Not Paid Agents of Russia, We Do It out of Conviction.”
4. Politics

- **lobbying**, the **regular** attempt to advocate the special interests of a group in a **bilateral** conversation with the decision-makers (the **main actor** is the **interest group** which decides to advocate the special interests of its members).

Naturally, this distinction is only for analytical purposes, and the two (unilateral and bilateral pressurization) are often combined in social movements. On the other hand, there are **attempts to bring about change from inside** the decision-making process. Unlike external pressurization, in this case the actors try to become decision-makers themselves. Again, we can distinguish two types:

- **joining**, where the **main actor** is the **citizen** who decides individually to join the ruling party;
- **competing**, where the **main actor** is the **politicians’ party** which decides to enter the party system and contest elections.

4.3.2.1. Protesting: mobilizing and demobilizing structures

The general term needed to conceptualize protests is “demonstration:”

- **Demonstration** is an event where people occupy a public space to express their views in a political matter.

It should be noticed that this definition excludes non-political street events, and that is justified as we are talking about processes within the framework of public deliberation. On the other hand, two types of demonstrations should be distinguished: (a) demonstrations that are **critical of the status quo**, with the demonstrators being against the leading political elite and/or in favor of change; and (b) demonstrations that are **supportive of the status quo**, with demonstrators being against change and/or in favor of the leading political elite. In the former case, we speak about protests; in the latter, we speak about pro-government rallies.

Protests aim at changing the status quo, while pro-government rallies try to protect it. Yet the crucial difference that necessitates their analytical separation is that, in post-communist regimes, rallies are organized by the state, or at least actors who have strong ties to the leading political elite (like GONGOs [→ 3.5.2]). In a **liberal democracy** where public deliberation equally accommodates both supportive and critical voices, this should bring no major difference: the state treats protests in the same way as rallies, that is, as events of association. However, as we move toward more repressive systems, a gap appears between protests and rallies. Protests are decreasingly tolerated, while rallies become more and more prominent. On the repressive end of the scale, **communist dictatorships** do not tolerate protests, while pro-government rallies take the form of parades, flamboyant state celebrations where the people are obliged to swarm the streets and hail the system and its leaders. A **patronal autocracy** is on the middle of the scale, with both protests

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106 Tarrow, Power in Movement.
107 We are indebted to Michael C. Zeller for his suggestions to this part.
108 Hung, "Mao’s Parades."
and pro-government rallies being prominent. However, the latter, like the pro-government rallies of Nashi in Russia and the so-called Peace Marches in Hungary, can typically access more financial resources and face a more benevolent state apparatus than protests, which can not only access much fewer resources, but also contend with the repression of the state.\footnote{Robertson, “Managing Society”; Gerö and Kopper, “Fake and Dishonest.”}

This leads us to the analysis of protesting in the three polar type regimes. Following the definition above, we must consider two actors: those who may protest—\textbf{the people}—and those who they can protest against—\textbf{the leaders}, and what we have to analyze in various regimes is the \textbf{mobilizing and demobilizing structures} they can create, respectively (Table 4.5).\footnote{On mobilizing structures, see McAdam, McCarthy, and Zald, \textit{Comparative Perspectives on Social Movements}. Demobilization is usually discussed as “repression” in the literature (for a meta-analysis, see Earl, “Political Repression.”). We prefer “demobilization” and “demobilizing structures” because it immediately contrasts to “mobilization” and “mobilizing structures,” as in Table 4.5.} For if someone wants to organize a protest, its success or significance will primarily depend on the number of people he can bring to the streets (mobilization), whereas the stronger the protest, the more it diminishes the leaders’ legitimacy and therefore the more they are interested in breaking it down (demobilization).\footnote{Minzarari, “Disarming Public Protests in Russia.”}

In general, the mobilizing structures can be divided into two parts:

\begin{itemize}
  \item \textbf{formal mobilizing structures}, meaning \textbf{the formal-legal framework} that is granted for mobilization;
  \item \textbf{informal mobilizing structures}, meaning:
    \begin{itemize}
      \item \textbf{the ability to connect}, that is, the capacity to make contact with potential demonstrators, typically (a) relying on already established local or national networks\footnote{Minzarari, “Disarming Public Protests in Russia,” 397–99.} and (b) via social media or other informational devices;\footnote{Dagaev et al., “Technological Foundations of Political Instability.”}
      \item \textbf{positive signaling}, which refers to the ability of the organizers (or already engaged demonstrators) to communicate that taking part in the protest is worth it to the potential demonstrators.
    \end{itemize}
\end{itemize}

In a simple, economic model, positive signaling means the act of persuading people that the potential benefit of protesting outweighs its potential cost. In reality, the calculation involves factors like grievances, efficacy, identity, emotions, and social embeddedness, all interwoven to determine the potential benefit—which may be the benefit of redressing the grievance or simply expressing anger.\footnote{van Stekelenburg and Klandermans, “The Social Psychology of Protest.”} Moreover, scholars underline the fact that people can be mobilized only if the organizers capitalize on a \textbf{common identity}, and rely on the processes of identification among protesters. For “[in] order to develop the shared grievances and shared emotions, a shared identity is needed […]. [Grievances] originate from interests and/or principles that are felt to be threatened. The more people feel that interests
of the group and/or principles that the group values are threatened, the angrier they are and the more they are prepared to take part in protest to protect their interests and principles and/or to express their anger” (emphasis added). Positive signaling, in this context, refers to the organizers’ ability to communicate the shared grievance, not in the sense of reaching the people (which is the ability to connect) but framing a concrete phenomenon—like a policy or electoral fraud—as a grievance to the group, and persuading people that they should protest accordingly.

Table 4.5. Mobilizing structures of the people and demobilizing structures of the state in the three polar type regimes.

<table>
<thead>
<tr>
<th>Mobilizing structures (of the people)</th>
<th>Liberal democracy</th>
<th>Paternal autocracy</th>
<th>Communist dictatorship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal</td>
<td>freedom of assembly</td>
<td>freedom of assembly</td>
<td>no freedom of assembly</td>
</tr>
<tr>
<td>Informal</td>
<td>high ability to connect + positive signaling</td>
<td>moderate ability to connect + positive signaling</td>
<td>low ability to connect</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Demobilizing structures (of the state)</th>
<th>Direct</th>
<th>Indirect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct</td>
<td>authorization is normative (legal remedy)</td>
<td>ignoring / channeling / negative signaling / outsourced state repression</td>
</tr>
<tr>
<td>Indirect</td>
<td>negotiating / ignoring</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

Let us focus on the people and their mobilizing structures first. In a liberal democracy, the formal mobilizing structures are granted by the freedom of assembly, which is regarded in the ideological framework of constitutionalism as a general human right that follows from the concept of human dignity. Therefore, everyone has a right to assemble, join a protest or not to join (or leave) at his own volition. Informally, the people have a high ability to connect, following (1) the right to connect and (2) the lack of structural counter-incentives, by which we mean that forming horizontal connections with other people is a right that is protected by the state and no one can be discriminated for it (ideal typically). In a paternal autocracy, the formal or de jure framework is not unlike those of liberal democracies. However, as far as the informal ability to connect is concerned, it is more moderate. The reason for this is what has been explained in the previous part: self-censorship and the fear of discrimination, which may be—unlike in the framework of constitutionalism—perfectly legitimate from the viewpoint of populism if it is targeted against an enemy of “the nation” (i.e., the adopted political family). This makes it not only more difficult for people with similar views to find each other—for they are less likely to advertise them openly in the first place—but also increases the threshold for joining any political protest—for the people will find it more costly to join than it would be in a neutral environment. Finally, in a communist dictatorship, demonstrating against the party state is forbidden, just like opposition against the regime in general [3.7.1.2]. Nevertheless, communist subjects do

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115 van Stekelenburg and Klandermans, 8.
116 See Article 20 of the “Universal Declaration of Human Rights.”
occupy public spaces for political purposes during *parades*; but, as we explained above, a communist parade is not a free event but an *enforced ritual action*.  

Similarly to mobilizing structures, *demobilizing structures* can be differentiated into two parts:

- **formal demobilizing structures**, meaning the legal framework or to what extent the leaders are allowed to use the state to break down protests;

- **informal demobilizing structures**, which involve the informal means the leaders can use to disrupt existing protests and/or counter-incentivize joining of potential demonstrators.

Again starting from a simple economic model, we can adopt the understanding of Tilly, who defines repression (demobilization) as “any action by another group which raises the contender's cost of collective action.” We may focus on the *cost* of protesting and draw a (more or less continuous) scale from liberal democracy to communist dictatorship, with patronal autocracy with its particular techniques in between. In a *liberal democracy*, protesting is an element of public deliberation as a manifestation of freedom of expression. Accordingly, the cost the constitutional state inflicts upon the protesters is either zero or a *fair and proportionate amount*, accounting for other people's conflicting rights. Indeed, a constitutional state must realize that basic rights and liberties may be in conflict, and the full realization of one may be done only at the expense of another. Exercising freedom of assembly, for example, may require shutting down traffic—restricting freedom of movement—or it may disturb people living in the streets the protesters occupy—constituting a danger to public order. Therefore, the legal system and the practice of law must define boundaries of rights and even a democratic state can, as a result, legally interfere with someone exercising a right when he would infringe a conflicting right excessively. In terms of costs, this may imply fines or certain obstacles to protesting activity.

As we move from democracy to dictatorship, the focus of the rulers moves from the people's rights to the state's rights. From this, two important differences in the practice of treating protests follows: (1) *protesting is criminalized*, meaning the state begins to treat protesters as criminals; and (2) the *cost the state inflicts upon the protesters becomes disproportionate* to the infringement it may cause to other people's conflicting rights. Indeed, upsetting the proportionality of crime and punishment is a natural consequence of the state's focus on its own rights, and that the aspect of the safety of power is considered instead of the safety of the community. This implies, almost always, a high *positive cost* to the protesters, who must face retaliation instead of proportionate sanctions. This is true already in patronal autocracy, with serious penalties for peaceful protests and relatively minor offenses, but the increasing costs may be best observed at the end of

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117 Rotenberg, “May Day Parades in Prague and Vienna.”

118 Tilly, *From Mobilization to Revolution*, 100. See also Granovetter, “Threshold Models of Collective Behavior.”

119 Brems, *Conflicts Between Fundamental Rights*.

120 “Russia: Draconian Penalties for Peaceful Protests”; “Closing Statements of Activists Márton Gulyás and Gergő Varga.”
4. Politics

in a communist dictatorship, protests are outright illegal and any subject who would try to organize or join a protest is subject to criminal prosecution by the party state. We mentioned that, in the case of positive signaling, the protest organizers must persuade the people to bear some costs, under which, in a liberal democracy, typically things like the free time one needs to spend on the protest is meant. But in a communist dictatorship, the free time one would need to sacrifice is not measured in hours spent in an open space—it is measured in years spent in a closed space.

Typically, the means of repression (demobilization) are identified in harassment, surveillance/spying, bans, arrests, or physical violence, as well as more subtle means that may be applied by state and private actors alike. In our framework that focuses on regimes and builds heavily on the formal-informal dichotomy [2.2], the question is whether the state is legally empowered to use such means, or how it creates a legal basis for their use. A constitutional state that focuses on the societal interest faces the problem of conflicting rights and solves it through the practice of balancing rights: the legislators—who design the regulatory framework—and the judges—who arbitrate in disputed conflicts—try to create a system where every basic right and liberty can prevail, meaning none of them is completely suppressed by another. In a patronal autocracy, however, the ideal typical practice is one of “non-balancing rights:” the state uses the less threatening right as an excuse to suppress the more threatening one. In other words, when it comes to a conflict of rights, the mafia state ideal typically decides in favor of the one that poses a smaller threat to political stability. And while their concern is the safety of power, the rulers can apply the rhetoric of safety of the community: they speak about the people’s right to safety and peaceful life, and in the name of these does the state suppress all kinds of “subversive” opposition activities. Thus, even though the constitution grants fundamental rights, ordinary legislation that sets some kind of balance hollows out the politically more important ones (see Box 4.3).

Such shrewd calculation is evident with respect to the freedom of assembly. In Russia, arguments about the rights to “public safety” and “health” were used to justify draconian restrictions on public protests, particularly those that do not receive prior permission from the mafia state’s authorities. However, as the case of Hungary shows, safety is not the only right that can be used to limit the right to assembly. In 2018, the government passed a law

Box 4.3. Non-balancing of rights in Russia.

“Putin’s Russia is far from the liberal constitutional ideal. While its constitution does provide many fundamental rights—freedom of speech, freedom of association and assembly, and freedom of movement, to name a few—ordinary legislation has hollowed each of them out. The foreign agents laws and antiterrorism laws undermine freedom of association; hate speech legislation and a 2014 amendment to the Criminal Code, which outlaws public calls for violation of Russia’s territorial integrity, limit freedom of speech; onerous administrative provisions for registering in one’s place of residence restrict freedom of movement; and the 2016 Yarovaya antiterrorism law stifles freedom of assembly and conscience by introducing harsh sentences for organizers of unsanctioned protests, requiring Internet service providers and phone companies to store customers’ communication data logs, and making it a crime not to report information about other crimes. Whatever rights do exist de jure are undermined de facto by the Russian courts, which do not uphold them consistently or predictably.”

stating that a protest can be banned if it “unnecessarily and disproportionately adversely affects the rights and freedom of others,” such as when it “interferes with the duties of a foreign diplomat,” “hinders the activities of the courts,” or “disturbs the ordinary flow of traffic.”\textsuperscript{125} Laws with similarly vague wording, making protest authorization a discretionary right of the police (i.e., the leaders), are very common in Soviet Central Asia as well.\textsuperscript{126}

It may be objected that strict laws regulating the right to protest exist in some liberal democracies as well and are therefore not particular to patronal autocracies.\textsuperscript{127} However, two distinctions must be noted. First, the tendency of these measures is peculiar: they always mean a shift from a more liberal state of affairs toward a tightening of the regulatory framework, and every such measure parallels the strengthening of opposition. This marks the pragmatic consideration of using stronger means against stronger threats.\textsuperscript{128} Second, the most important difference between the demobilizing structures of the state in a democracy and an autocarcy is \textbf{whether authorization is normative or discretionual.} In liberal democracies, protests that do not infringe rights are allowed to take place by the authorities, regardless of the content or the views of the demonstrators. Furthermore, should discriminatory treatment happen, there is the possibility of \textbf{legal remedy,} which means that authorities themselves are supervised by a separated judicial branch to which the citizens can turn to. Looking at the autocratic regulations mentioned above, however, we can see extremely high fees for non-authorized protests on the one hand—ensuring every servant subjects himself to the authorities’ decisions—and vague wording which ensures decisions are almost purely at the discretion of the authorities. And while vague wording is not unprecedented in liberal democracies either, the lack of legal remedy that stems from the patronalization and patrimonialization of public institutions [\textsuperscript{\textit{\textbf{4.3.5}}}] makes the regular discriminative use of the powers formally granted to the authorities practically irrevocable. In liberal democracies, the most straightforward way of demobilization would be meeting the demonstrators’ demands or channeling them into a more formal institution of public deliberation (starting negotiations). Theoretically, this may be regarded as part of the \textbf{informal demobilizing structures} of constitutional states, although in real world liberal democracies such “positive demobilization” is rarely used and protests are mostly ignored or tolerated by governments.\textsuperscript{129} Ignoring is a means frequently applied by patronal autocracies as well, especially as the neutralization of public deliberation allows them to act way beyond the people’s stimulation threshold [\textsuperscript{\textit{\textbf{7.4.7.3}})]. Yet when protests carry the threat of becoming social movements, the mafia state can create informal demobilizing structures which target current as well as potential protesters on a wide scale in the society. This may take two forms: (1) \textbf{channeling} and (2) \textbf{negative signaling.} As for (1), channeling is defined as “indirect protest control using a reward or consequence structure that shapes, rather than directly controls, protest.”\textsuperscript{130} In our case, demobilization suggests

\textsuperscript{125} Balogh, “Hungary’s New Law Restricting Freedom of Assembly.”

\textsuperscript{126} See Freedom House country reports. “Freedom in the World 2018.”

\textsuperscript{127} For an analysis of existing regulations in democracies, see Peters and Ley, \textit{The Freedom of Peaceful Assembly in Europe.}

\textsuperscript{128} For an example, see “Russian Lawmakers Back Law Jailing Anyone Urging Teenagers to Protest.”

\textsuperscript{129} For a discussion, see Peña and Davies, “Responding to the Street.”

\textsuperscript{130} Earl, “Political Repression,” 264. Also, see Oberschall, \textit{Social Conflict and Social Movements.}
that the regime tries to apply channeling on potential supporters, who are typically made up of so-called non-clientage groups who are either (a) capable of maintaining a material (financial) existence without the regime or (b) dependent on state support but in a way that cannot be renounced individually \[\rightarrow 6.2.2\]. This typically means, on the one hand, middle-class people who studies find are most likely to join large protests against the leaders,\(^\text{131}\) and on the other hand students and pensioners who belong to group (b). One obvious way of using channeling to co-opting these groups is to try to “buy them off”—give potential protesters money through various redistributive programs, tax cuts or increased subsidies \[\rightarrow 5.4.3.3, 6.3\].

As far as method (2) is concerned, negative signaling takes the opposite direction from channeling—it demobilizes not by positive but negative messages. **In contrast to positive signaling, which means the communication of “pro” arguments in favor of joining a protest, negative signaling refers to the communication of “con” arguments against joining the protest.** Typically, this means the leading political elite punishes already active protesters by turning public goods into private goods, as Dumitru Minzarari puts it. By this, he means that access to jobs, fair legal process, and entrepreneurial activity—to give a far from exhaustive list of elements—are “public” in a liberal democracy, meaning that they are **normatively available** to everyone (or at least the constitutional state strives to grant equal opportunity \[\rightarrow 6.2.2\]). In a patronal autocracy, however, these elements cease to be public in the sense that only some can access them, or even more so: some can be excluded from their use on a discretionary basis.\(^\text{132}\) In other words, this means that an autocratic state can cause some people to lose their jobs (or to be unemployable), exclude entrepreneurs from (state) contracts or subject them to continual harassment by the authorities, or submit any person to an unfair legal process. Thus, these elements are made **conditionally available** in a patronal autocracy, depending on discretionary decision instead of normative impersonality. And, as Minzarari explains, the adopted political family “does not need to do this on a massive scale; instead, it can identify high-profile potential protesters and target them exclusively, restricting their access to important public goods. Through this action, the authoritarian government sends credible and costly signals to its population, emphasizing both its ability to use such incentives and its resolve.”\(^\text{133}\)

**Private actors** may also be employed in informal demobilizing structures. While repression literature deals with private repression initiated by the private actors for private goals (countermovements, external funding agency preferences for less radical goals etc.),\(^\text{134}\) in case of patronal autocracy we can speak about **outsourced private repression.** In this case, violent actors like paramilitaries or football ultras are employed (informally) by the leading patronal network to dissolve protests, using such brutality that the state cannot formally undertake. In Chapter 2, we discussed violent entrepreneurs connected to the leading patronal network \[\rightarrow 2.5.2\], whereas below we will distinguish such action as “black coercion” as opposed to the legalized “white coercion” \[\rightarrow 4.3.5.4\].

\(^{131}\) Minzarari, “Disarming Public Protests in Russia,” 390–93.

\(^{132}\) Minzarari, “Disarming Public Protests in Russia,” 399–401.

\(^{133}\) Minzarari, “Disarming Public Protests in Russia,” 403.

\(^{134}\) Earl, “Tanks, Tear Gas, and Taxes,” 49.
4.3.2.2. Policy-questioning and legitimacy-questioning protests

What demobilizing structures a patronal autocracy creates greatly depends on the type of protest it faces. Indeed, there are several aspects by which protests can be typed, however, the most important distinction for us is between legitimacy-questioning and policy-questioning protests. The former may be defined as follows:

- **Legitimacy-questioning protest** is a type of demonstration which is outside the regime's internal political logic, that is, which involves people who treat the regime as illegitimate and the demonstration, as a replacement of the formal processes of public deliberation (i.e., peaceful change).

While a small number of radicals can regard the regime illegitimate at practically any point, a legitimacy-questioning protest that involves a larger mass of people, moderates as well as radicals, typically follows a **spectacular breakdown of the public deliberation process**. In the post-communist region, the so-called “color revolutions” have involved such protests [⇒ 4.4.2.3]. The breakdown that provoked them has usually been electoral fraud, that is, the state apparatus had not counted votes honestly. Following such a spectacular breakdown, the regime's legitimacy, at least in the eye of the growing opposition, is fatally diminished and the people step out of the formal framework of public deliberation. This is further facilitated by a signaling effect, namely that the leading political elite suppresses public deliberation in an unmistakeable signal that they knew they would not win the deliberative argument (see Box 4.4). As Julia Gerlach observes, the focus of legitimacy-questioning protests “is either on rerunning the elections or on recognizing the victory of the counter-elite. In either case, the dominant demand is for the resignation of the present government, while more programmatic claims are left out.” Indeed, legitimacy-questioning protests serve as substitutes for the process of the peaceful removal of the leaders, pressurizing them to resign and allow the opposition to assume authority. Valerie J. Bunc and Sharon L. Wolchik argue that legitimacy-questioning protests have the effect of signaling to the leaders that holding power

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135 Ratliff and Hall, “Practicing the Art of Dissent.”
despite losing the elections is increasingly costly. This, in some post-communist autocracies (like Serbia in 2000), was instrumental in forcing the incumbent to accept their electoral defeat.\footnote{Bunce and Wolchik, \textit{Defeating Authoritarian Leaders in Postcommunist Countries}, 97.}

In cases of legitimacy-questioning protests, a patronal autocracy can hardly use the neutralizing methods explained above, because (1) channeling and negative signaling are preventive measures and it is too late to use them when there is already a mass legitimacy-questioning protest and (2) stronger repression or punishing key opposition figures might be counterproductive, sending signals about the leaders being just more desperate.\footnote{Yet this is not universal, and some regimes might resort to such measures anyway, particularly if they are consolidated autocracies [\textsection 4.3.1]. For example, in the 2011–12 protests in Russia, which were election-based legitimacy-questioning protests, the key repression came during the May protest on Bolotnaya Ploshchad, where there were mass arrests. This event (coinciding with/immediately after Putin’s inauguration) was followed by targeted repression against opposition leaders like Navalny and Udaltsov. We are indebted to Michael C. Zeller for this point.}

Indeed, neutralizing methods are best used in non-revolutionary situations, that is, when the protests are not legitimacy but policy-questioning:

- **Policy-questioning protest** is a type of demonstration which is inside the regime’s internal political logic, that is, which involves people who treat the regime as legitimate. The demonstration is thus a complement to the formal processes of public deliberation (i.e., peaceful change).

A policy-questioning protest does not step out of the logic of the regime, but is more like a normal event within the process of public deliberation that centers on a concrete issue (or a set of issues, related to an element, policy or strategy of the regime). Its aim is to pressurize the government, not into resigning but into changing the targeted policy. While the two types of protests are different in nature, both policy-questioning and legitimacy-questioning protests can be single events as well as chain-like, based on a series of events. Ideal typically, legitimacy-questioning protests go on until they reach their goal—replacing the regime and its leaders. Legitimacy-questioning protests may, in the end, grow to a level that they virtually replace the process of public deliberation, the public life of the polity getting singularly occupied by the demonstrating activity.

4.3.2.3. Interest groups in the three polar type regimes

Protest is often a means of social movements, which employ this method of unilateral pressurization to reinforce their cause that they can later represented either as a (newly-founded) opposition party or in negotiations with the government. Yet, when the focus is less on the social-movement aspect and unilateral pressure and more on bilateral negotiating, it is better to speak about interest groups:

- **Interest group** is a group of actors who gather together in a formal or informal organization to persuade public actors to perform various political actions—such as regulations or handing out subsidies—in favor of the members of the interest
Focusing on liberal democracies, Arend Lijphart differentiates two models of interest group activity: (1) the pluralist model, characterized by the “competitive and uncoordinated pluralism of independent groups” and typical of majoritarian democracies (like the U.S.), and (2) the corporatist model, which features a “coordinated and compromise-oriented system” that is typical of so-called consensus democracies (like Germany).140 In either case, the representatives (lobbyists) of the interest groups attempt to influence legislators to create such (normative) laws and regulations that will meet their values and interests, increase their benefits or decrease their costs. Among the various interest groups, business groups have been seen to invest particularly large amounts of money in lobbying, as described in great detail by the literature of regulation capture and rent-seeking [→ 5.3.1, 5.4.2.3].

When we analyze interest group activity in patronal autocracies, we must differentiate between country-specific and regime-specific characteristics [→ 7.4]. Starting with the latter, two regime-specific features determine some characteristics of lobbying in patronal autocracies. First, the rudimentary separation of the spheres of social action means that interest representation becomes interest collusion as entrepreneurs become oligarchs, and they are embedded in an informal patronal network as opposed to an interest group.141 Second, as “legislative bodies cannot introduce any significant legislation on their own, without the executive authorities” (see vassals’ party and transmission-belt legislature [→ 4.3.4.4]) and “the law plays a very limited role in determining the actual parameters of business operations and the distribution of their gains” (see amplitude of arbitrariness and relational market-redistribution [→ 5.6.1]), “expenditures toward legislative lobbying are unlikely to pay off either in the medium term or in the long term.”142 Therefore, lobbying efforts must be targeted not toward the legislation but members of the patron’s court, preferably the chief patron or someone close to him [→ 2.2.2.2]. Whether such efforts succeed leads us to the question of country-specific differences. For this highly depends on the country’s embeddedness in the world economy. For example, Putin’s patronal autocracy has restricted foreign ownership to some technologically unavoidable areas, while foreign capital and property have been undesirable in most other sectors, from financial intermediation to trade and education.143 Under such circumstances, Lennart Dahlgern, the former head of IKEA Russia—by his own admission—tried to convene a meeting with Putin, but a high-ranking official told him that such a meeting would cost $5–10 million (after which Dahlgern reportedly sensed that “it would be better not to get into that discussion any deeper”).144 In contrast, in countries with relatively higher levels of foreign investment and

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140 Lijphart, Patterns of Democracy, 158.
141 Exact definitions of the related terms as well as a comparative analysis of interest group pressure and the operation of informal patronal networks can be found in the next chapter, embedded in the broader framework of an economic theory [→ 5.4.2.3].
142 Yavlinsky, The Putin System, 103.
143 Csaba, Válság–gazdaság–világ [Crisis-economy-world], 220.
144 Antonova, “Ex-IKEA Boss Bares Russia’s ‘Chaotic Reality.’” Also, see Robinson, “Russian Patrimonial Capitalism and the International Financial Crisis.”
economic activity, lobbying efforts on the patron’s court level may be successful and foreign business groups can remain independent, thanks to their strong footing in their own country. Arguably, this is the case in Hungary, which has a relatively small domestic economy with strong ties to the EU, and to German companies in particular. Yet these business groups still defend their own business interests and do not try to break the political stability of the regime, therefore their support is an obvious win-win for the two parties [→ 7.4.5].

As far as the corporatist model is concerned, it may appear in patronal autocracies as well but only in a heavily modified form. The main difference between its paternal and democratic variants can be found in two aspects: (1) the autonomy of the actors and (2) the bargaining position of the corporations. Indeed, as it overpowers the spheres of liberal democracy that would be protected by freedom rights and autonomy, the mafia state demolishes the institutional autonomy of the social strata composed of civil servants, of the intelligentsia employed by the state, and of employers and employees. Those who are not marginalized or ghettoized (in the sense described above) may be recruited into the mafia state’s service, meaning they are forced in public service to join professional chambers controlled by the government [→ 6.2.2.2]. However, and this leads us to the second aspect, as opposed to the democratic (or even the fascist, pre-WWII) system of corporatism, these patronal chambers are mere client organizations which cannot retain their corporate bargaining positions. Indeed, the members of the arm of public service do not possess any special privileges as a body, and their status only ensures them the advantage of filling state positions, as opposed to those who are excluded from them.146

Though all those belonging to a corporation enjoy the advantage assured to them, they do not enjoy the freedoms that would belong to their “feudalistic” order. They are not reincarnations of the age-old feudal “gentry,” with rights that cannot be revoked, but rather many public servants and newly made bureaucrats are drilled into the martial order of the rank and file. Also, in contrast to the professional chambers of liberal democracies which, albeit they may be similarly compulsory, essentially have roles in ensuring quality (consumer protection and market regulation), the chambers of the mafia state are loyalty-warranting state organizations. In fact, the professional chambers are transmission belt organizations [→ 3.5.2]; they have no bargaining power and only serve as a formal framework of recruitment and expulsion.

Finally, in communist dictatorships there are no independent organizations that would resemble the “change from the outside” workings of interest groups. Indeed, there is no need for such a role there because outside of the party state there are no other structures; and control and surveillance are in part handled by official, transmission-belt labor unions. In contrast, in patronal autocracies there typically exist a number of fields that are not reached or taken over by the organized upperworld. The system is not closed in a physical sense either, whereas communist dictatorships are closed both in terms of leaving the country and state control over the totality of life. One need only recall the legal formula of “social parasitism” (tuneyadstvo): the communist state not only determined

145 Scheiring, Egy demokrácia halála [How a democracy dies], 137–53, 229–57.
147 Some authors analyze subjugated departments and employees of the party state as interest groups. See Skilling, “The Institutional Development of a Minimal Parliament.”
what position an individual could fill, not only regulated the conditions of advancement, but also did not allow anyone to disappear from the system; everyone had a registered place in it. Total control covered the whole of society, in accordance with Marxism-Leninism. A patronal autocracy, conversely, is pragmatic and concentrates only on the points relevant to political stability: the nodes of decision-making, trade transactions, and of course the networks that are woven around them across society.

4.3.2.4. Party systems with patronal and non-patronal cleavages

Bringing about change from the inside means aiming at policy change through actor change. In other words, the actors who are situated outside the leading political elite and who wish to change the status quo try to do so by changing the decision-makers. One way to do this has been described in the previous chapter: entering the leading political elite individually. In a liberal democracy, this means joining the ruling democratic party; in a patronal autocracy, one may seek adoption to the adopted political family. Finally, in a communist dictatorship individuals with political ambitions enroll in to the state party [→ 3.3.7]. However, this method has serious disadvantages from the point of view of change. While it typically involves a low barrier to entry, individual entrance also grants access to only minimal (often no) power initially. Therefore, if one is to change the status quo from inside through entering, he must spend considerable time and effort to leave the lowest level of the (formal or informal) hierarchy for a higher, decision-making position.

The other, more obvious method is competing to replace the current decision-makers. It is collective actors that can take part in competing, namely parties that have been typed in Chapter 3 [→ 3.3.7–9]. As we described, in communist dictatorships the state party is the only legitimate holder of power and therefore it cannot be challenged by other parties. This follows directly from the official communist ideology in general and non-electoral civil legitimacy in particular. Simply put, no opposition parties are allowed and no subject of the party state has a legal right to form a political party and compete. Therefore, such systems are typically described as one-party systems or, more precisely, as totalitarian unipartism.148

In contrast, both liberal democracies and patronal autocracies feature electoral civil legitimacy and, as part of the formal freedom of association, everyone is legally granted the right to form parties and enter the party competition. Exercising this right in order to bring about change from the outside, political actors constitute the regime’s party system. Indeed, as Luciano Bardi and Peter Mair explain, it is precisely engagement and competition that differentiates a party system from a mere group of coexisting parties in a polity.149

In liberal democracies and patronal autocracies, we can speak about multi-party systems. Below, we provide a typology of these systems, based on four criteria. The first one is the type of the main cleavage, that is, the main source of disagreement between the competitors in how political power should be used. In other words, cleavage refers to what the non-ruling party wants to achieve vis-à-vis the protectors of the status quo. Naturally, party competition is a multi-dimensional phenomenon and there are many cleavages in

149 Bardi and Mair, “The Parameters of Party Systems.”
every party system, making it questionable whether one can be picked as the main one.\footnote{150 Albright, “The Multidimensional Nature of Party Competition.”} However, in post-communist party systems there are two types that must be analytically distinguished: \textbf{non-patronal and patronal}. This is the crucial dimension to distinguish post-communist democracies, or liberal ones (like Estonia) from patronal ones (like Romania). Simply put, non-patronal cleavage lies between democratic parties, whereas patronal cleavage, between patron's parties. In patronal democracies, party competition is the competition of patronal networks, which use parties as façades to appear as genuine interpreters of the common good to win popular support and civil legitimacy. Yet their dominant motivation is indeed the elite interest: they want to use political power for the gain of their own informal patronal network. On the other hand, non-patronal competition means that the parties that compete are not based on patronal networks, and their dominant motivation is societal interest \footnote{151 Innes, “Corporate State Capture in Open Societies.”} \footnote{152 Kopecký and Spirova, “Jobs for the Boys?”}. This neither means that they represent no special group's material interest,\footnote{153 In patronal regimes, such cleavages may develop from policy-questioning to legitimacy-questioning. For the sake of clear modeling, we treat such cleavages as "non-patronal," too.} nor that they have absolutely no intention in using state resources for corrupt purposes (such as party financing).\footnote{154 This concept refers to both governing and transmission-belt parties \[\rightarrow 3.3.8\].} What we claim is that parties in liberal democracies (1) are not façade-organizations of competing patronal networks and (2) the primary questions that explain the actors' competitive behavior is disagreement on policy, left/right or otherwise \footnote{\[\rightarrow 6.4.1\].}.

The second and third dimensions refer to the type of competition between the leading political elite and the opposition, on the one hand, and between opposition parties themselves, on the other. This question is related to the nature of opposition parties as well, a topic we explored in the previous chapter \[\rightarrow 3.3.9\]. In particular, competition can be either (a) \textbf{real}, meaning the opposition parties engage in party competition to bring about change (the leaders’ party\footnote{154 Thi s concept refers to both governing and transmission-belt parties \[\rightarrow 3.3.8\].} vs. opposition) or be the ones that bring about the change (opposition vs. opposition), or (b) \textbf{fake}, meaning the opposition parties either do not believe they can win the elections and engage only to have a bigger share of state resources (leaders vs. opposition) or they are fake parties which engage to simulate or to neutralize—or using the term we mentioned above, neutrollize—real competition. Finally, the fourth dimension focuses on the main field of competition: the competition of which actors is most intense, or which competing process is most likely to bring about significant change in the polity in general and the party system in particular. Generally, this focal point can be either between the leaders and the main opposition party or between opposition parties.

Using these dimensions, six ideal typical party systems can be distinguished, each of which may prevail in one or two regime types from liberal democracy to patronal autocracy (Table 4.6). In liberal democracy, the party system is typically either a \textbf{competitive party system} or a \textbf{two-party system}. In both of these systems, the main type of cleavage is non-patronal given that the competing parties are democratic parties, and also the type of competition is real on both fields. The difference between them is in the main field of competition: while in the ideal typical competitive party system competition is equally
4.3. The Institutions of Public Deliberation in the Three Polar Type Regimes

dispersed, meaning both the ruler-opposition and the opposition-opposition nexus are intense and strong fights take place between every party. In a two-party system the main field of competition is between the governing party and the main opposition party. In other words, the gap between the main challenger and other opposition parties is so big that the challenger does not have to care much about other opposition parties; and government is occupied by one or the other of these two contending parties. 155

A liberal democracy becomes unstable when it features a **democratic party system with an autocratic challenger**. “Democratic party system” refers to either a competitive or a two-party system, whereas “autocratic challenger” refers to either (a) a democratic party which nonetheless runs on the principle of ideology implementation, that is, it aims at exclusive possession of political power, or, more often, (b) a patron’s party. In either case, the party is a surging competitor or the main opposition party, and both of them want to introduce autocratic conditions: in the case of (a), conservative autocracy and, in the case

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of (b), patronal autocracy. Thus, the governing party—and the regime itself—faces a push toward an autocratic system, potentially patronal autocracy if the patron’s party is able to get an effective monopoly of political power [\(\rightarrow\) 4.4.2.2]. An example of such party system with challenger (a) would be Poland in 2015, when Kaczyński’s party Law and Justice (PiS) party ran against the governing Civic Platform (PO). A case with challenger (b) would be Hungary in 1998, where the ruling coalition of democratic parties (MSZP and SZDSZ) was challenged by Viktor Orbán’s Fidesz. Interestingly, while both of these challengers won and implemented autocratic attempts [\(\rightarrow\) 4.4.1.3], neither of them had a monopoly of political power. Therefore, they did not succeed in institutionalizing autocracy but pushed Poland and Hungary toward a conservative autocracy and a patronal democracy, respectively.\(^{156}\)

The counterpart of a democratic party system with patronal challenger is a patronal party system with a democratic challenger. In this case, the roles are reversed: it is the patron’s party that rules and it is challenged by a democratic party, creating a push toward a liberal democratic regime. This can happen in regimes where the patron’s party, while it leads the country, has not been able to institute and stabilize a patronal autocracy; that is, it could not form a strong single-pyramid system that would be able to prevent opposition from winning. As Bunce and Wolchik explain, such situations of democratic challenge often involve the strategic formation of an electoral bloc by opposition parties that has “the advantages of concentrating voter choices and signaling to citizens that the opposition has a strong commitment to winning and the capacity to govern effectively.”\(^{157}\)

Indeed, an electoral bloc is a clear sign of legitimacy-questioning opposition, or that the parties moved from criticism of the government to criticism of the regime [\(\rightarrow\) 4.4.4]. Hence, competition on the opposition-opposition nexus is either real or non-existent after a bloc is successfully formed.

The formation of electoral blocs has been typical in patronal democracies (e.g., Ukraine), where numerous adopted political families compete using either individual parties or party blocs.\(^{158}\) However, such a party system can be described as a multi patronal network system, which is the definitive feature of a stable patronal democracy. Here, the cleavage is patronal as the competing parties are patron’s parties. Yet such systems might include minor opposition parties that are indeed democratic but also disadvantaged and effectively marginalized (otherwise the system would classify as challenged). Therefore, we can say that, while such parties also engage in competition, the main field of it is between the two main patronal networks, that is, the governing patron’s party and the main opposition patron’s party.

Finally, in patronal autocracies we see dominant-party systems.\(^{159}\) In a patronal autocracy, the transmission-belt party of the adopted political family does not let the opposition win; not by dogmatically banning it, like a dictatorship would, but pragmatically neutralizing it [\(\rightarrow\) 3.3.9]. Given the single-pyramid patronal network, which allows no (economic) sources to be used for supporting the opposition [\(\rightarrow\) 3.4.1.3], competing patronal networks are eliminated and/or marginalized and therefore patron’s parties may exist only in a marginal position. However, opposition parties can still be (a) real opposition

\(^{156}\) Magyar, “Parallel System Narratives,” 632–43.

\(^{157}\) Bunce and Wolchik, Defeating Authoritarian Leaders in Postcommunist Countries, 46.

\(^{158}\) Minakov, “Republic of Clans.”

\(^{159}\) Bogaards, “Dominant Parties and Democratic Defects.”
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parties, meaning that they would pose real competition on the ruler-opposition nexus if they were not neutralized or (b) fake opposition parties.

Accordingly, we can define two types of dominant-party systems. In case of (a), we can speak about a dominant-party system with competitive fringe. “Competitive fringe” is a term adopted from economics. In the model of dominant firm with competitive fringe, the concept is used to describe a high number of relatively small firms, each having a minor fraction of the market compared to a dominant seller or market leader that controls the industry and to what the competitive fringe adjusts. The logic of economic model is analogous to the kind of party system we want to conceptualize in several respects. First, in this kind of dominant-party system the opposition is fragmented and confined to the fringe, whereas the dominant party effectively determines the rules and content of the competition. As Andreas Schedler writes, in such settings “opposition parties, while denied victory, are allowed to win votes and seats” and also they are “not subject to massive repression, although they may experience repressive treatment in selective and intermittent ways.” Second, in the economic model, while the dominant firm has some competitive advantage at the given moment, the competitive fringe may include potential entrants (who threaten the firm’s dominant position under some circumstances). Thus, unlike a monopolist, a dominant firm must take into account the competitive-fringe firms in making its price and output decisions. Similarly, while the dominant party is a leader with much more resources than the opposition, it still needs to take into account what the opposition does. Accordingly, the adopted political family may (a) try to weaken real opposition further and/or (b) adjust its policy decisions so the opposition cannot capitalize on them.

The third similarity between the economic model and the party system of patronal autocracy is that there is usually competition between the competitive-fringe firms, and the competition there may be more intense than it is toward the dominant firm. In a dominant-party system with competitive fringe, while some opposition parties might still try to genuinely fight the leading political elite, they are likely to realize that winning is not an option—but maximizing seats and votes, and thus, access to state resources at each other’s expense is. As a result, competition between the leaders and the opposition might be real (and dominantly non-patronal, following that patron’s parties are marginalized) but at the same time it is typically faked: the competition’s center moves from the ruler-opposition to the opposition-opposition nexus. In other words, opposition parties that realize they cannot win ‘run for the silver medal instead of the gold one’ as they try to lay their hands on as much access to public resources as possible.

However, in the case of (b) when the opposition is indeed fake, we can speak about a dominant-party system with fake opposition. In such a system, party competition is pure façade, as the “rivals” of the leading political elite are actually its creations, existing not to bring about any change but to help preserve it while maintaining electoral civil legitimacy. Therefore, the type of competition is fake on both nexuses; and we cannot speak about any existing cleavage or main field of competition either, given that there is no genuine competition in such systems.

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4.3.3. Electing: Campaigns, Elections, and Referenda

In public deliberation, the electing phase marks the culmination of party competition. While most citizens may just be passive observers of the discussing and associating phases, they get active as voters *en masse* in the electing phase to decide which party should succeed in its aim to become a decision-maker. However, we focus not only on this moment of election but also the political campaigns that precede it and in which—in liberal democracies at least—the parties try to convince the voters to choose them. (Also, we discuss referenda in this part because they are also voting events preceded by campaigns, albeit they do not belong to the regular process of public deliberation for they are devices of direct rather than representative democracy.)

Campaigns and elections prevail in different forms in the three polar type regimes, and they fulfill different functions as well. In liberal democracies, they are embodiments of constitutionalism, that is, the idea that every adult should have a say in how his life is governed and therefore should not only have a right to vote but also a right to know the available alternatives (and in turn, he should have a right to run for office and campaign for support). In communist dictatorships, basic rights and liberties are suppressed but campaigns and elections still exist, partly for the reasons of centrally-led policy- and actor-change (campaigns) and partly because they offer a way of mobilizing and monitoring subjects (elections). In patronal autocracies, the general function of both campaigns and elections is the pragmatic neutralization of threats to the regime’s political stability.

4.3.3.1. Marketing campaign, loyalty-structuring campaign, rights-suspending campaign

As we talk about political campaigns in both electoral and non-electoral regimes, we need to define them in a rather broad way:

- **Political campaign** is a connected series of operations designed by political actors to bring about a particular result in the polity.

Going into the specifics, we can find deep and structural differences between the dominant types of campaigning in the three ideal type regimes (Table 4.7). In the regimes with electoral civil legitimacy, political campaigns are election campaigns that take place before the elections. The campaign period can be understood as a particularly intense part of discussing that takes place together with electing. Also, for the masses that are usually less involved in politics this is the only phase when they engage politically and express their position in political matters.

In liberal democracies, before elections we can observe marketing campaigns. This term refers to a situation of market-like competition, following the prevalence of

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163 Zaslavsky and Brym, “The Functions of Elections in the USSR.”
164 “Campaign,” 2019. Also, we narrow the definition to domestic political campaigns.
165 Norris, “The Evolution of Election Campaigns: Eroding Political Engagement?”
free supply—citizens are free to form, join, and support conflicting parties—and free demand—citizens are free to learn about the available alternatives through access to alternative sources of information.\textsuperscript{166} Thus, such situations as well as marketing campaigns necessitate (1) freedom of assembly, as described above in the associating phase, and (2) an open sphere of communication, as described above in the discussing phase. In short, marketing campaigns represent a situation of free choice, as citizens can freely decide between alternative parties and candidates in the electoral marketplace.\textsuperscript{167}

### Table 4.7. Campaigns in the three polar type regimes.

<table>
<thead>
<tr>
<th>Marketing campaign (dominant in liberal democracy)</th>
<th>Loyalty-structuring campaign (dominant in patronal autocracy)</th>
<th>Rights-suspending campaign (dominant in communist dictatorship)</th>
</tr>
</thead>
<tbody>
<tr>
<td>free choice</td>
<td>unfree choice</td>
<td>no choice</td>
</tr>
<tr>
<td>bottom-up (non-state conducted)</td>
<td>top-down (mafia state conducted)</td>
<td>top-down (party state conducted)</td>
</tr>
<tr>
<td>periodic</td>
<td>occasional/permanent</td>
<td>occasional/permanent</td>
</tr>
<tr>
<td>competitive campaign (for convincing the people)</td>
<td>floor-monopolizing campaign (for crowding others out)</td>
<td>managing campaign (for coercing a state goal)</td>
</tr>
<tr>
<td>no sanction for refusal</td>
<td>no or indirect sanction for refusal</td>
<td>direct sanction for refusal</td>
</tr>
</tbody>
</table>

The specific features of marketing campaigns follow from their general nature. First, marketing campaigns are bottom-up (non-state conducted), meaning that the ad hoc organization (of the party) that directs a campaign is independent of the executive and judicial organs of the state, even—or especially—in the case of the governing party’s campaign. This is an institutional guarantee of the citizens’ freedom of choice as well as that the campaigns, even those with conflicting goals, can compete freely on the political market. Second, marketing campaigns are periodic as they precede elections in liberal democracies. Third, as mobilization of “buyers” (voters) happens in a free-market environment, it also means that a marketing campaign is a competitive campaign, aiming at convincing the people. For this, a wide variety of means can be used including negative as well as positive campaigns,\textsuperscript{168} but the parties cannot coerce voters into choosing them. In other words, there must be no sanction for refusal of a candidate’s offer, for otherwise we could not speak about free choice. As Schedler argues, in liberal democracies citizens “must be insulated from undue outside pressures if they are to choose freely. If power and money determine electoral choices, constitutional guarantees of democratic freedom and equality turn into dead letters. Clearly, violence or the threat of it can keep voters from exercising a free choice.”\textsuperscript{169}

In patronal autocracies, while marketing campaigns can be conducted by the opposition, they are dominated by the leaders’ loyalty-structuring campaigns. As opposed to marketing campaigns, these represent a situation of unfree choice given that supply and

\textsuperscript{166} Schedler, “The Menu of Manipulation,” 39.

\textsuperscript{167} Cf. Norris, Radical Right.

\textsuperscript{168} For a classic paper, see Theilmann and Wilhite, “Campaign Tactics and the Decision to Attack.”

\textsuperscript{169} Schedler, “The Menu of Manipulation,” 44.
demand, while both exist, are not free. For (1) while opposition parties can be formed they are neutralized and a dominant-party system is established, as described above in the associating phase, and (2) a dominated sphere of communication is established, as described above in the discussing phase.

We can again deduce the main features of these campaigns from their general nature. First, loyalty-structuring campaigns are organized in a top-down manner by the adopted political family. Hence such campaigns are mafia-state conducted, and the leaders can make direct use of state resources, on the one hand, and systematically deploy the machinery of the state (state buildings, vehicles, communications infrastructure, public employees etc.), on the other hand. Furthermore, while such abuses of public funds by incumbents are not particular to patronal autocracies—in Russia before Putin, tens of millions of dollars in government bonds were diverted to Yeltsin's 1996 re-election campaign—it happens only in autocracies, where the leadership puts an end to the separation of branches of power [\( \rightarrow \) 4.4.3], that law enforcement agencies also become part of the campaign staff. Patronized by the adopted political family, law enforcement bodies like the Prosecutor's Office helps criminalization of opponents by leaking information to patronal media and adjusts selective law enforcement to campaign objectives [\( \rightarrow \) 4.3.5].

Second, in contrast to marketing campaigns that are conducted only before elections, loyalty-structuring campaigns are either occasional or permanent, or at least they are not restricted to the month or so before the elections. Indeed, campaigns play an important role in dominating the sphere of communication, not only in the adopted political family's media but also on billboards, mailings, leaflets, and the like. Third, the role of such excessive campaigning is not competing with other messages but crowding them out; as in the general sphere of communication, where the messages of the opposition are not confronted in a nation-wide public debate but are limited by crowding their media out. Therefore these campaigns can be described, not as competing but as floor-monopolizing campaigns, setting the public agenda with the use of administrative means.

Finally, refusing the adopted political family's offer—that is, not voting for it—may involve no sanctions or indirect sanctions. Whether there are sanctions typically depends on three criteria: (1) the voter's existential position, meaning how much he depends on state revenues (jobs, contracts etc.) that the mafia state can renounce; (2) whether he advertises his views or not, meaning whether the adopted political family knows that he supports the opposition; and (3) whether he represents a threat to political stability. Naturally, lower-level members of the adopted political family (or the state apparatus) can easily be overzealous and discriminate against every opposition voter they can. But following the mafia state's pragmatism, sanctions from the top are applied only when the person is dangerous—like a journalist, an entrepreneur or oligarch who would try to support the

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171 Levitsky and Way, 10. Also, see Hoffman, *The Oligarchs*, 348–51.
172 In Hungary, for instance, this can be tracked very well in the migration crisis. Transmission-belt party Fidesz started campaigning against migration in 2015 and has not stopped since (as of 2019), spending more than a 100 million EUR in tax monies by formally governmental means like national consultation, information campaigns, and a referendum designed solely for campaign purposes in 2016. Madlovics, “It’s Not Just Hate.”
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opposition, or the family member of a prominent member of the opposition.\textsuperscript{173} (Also, such sanctions have a demobilizing effect as a result of negative signaling.)

The final type of campaigns are rights-suspending campaigns of communist dictatorships. As it takes place in a non-electoral environment, its function and character vastly differs from that of marketing and loyalty-structuring campaigns. The definition of “campaign” in The Great Soviet Encyclopedia reads as follows: “Specially organized work for a certain period, activities aimed at implementing important recurring social and political, economic, or cultural measures.”\textsuperscript{174} Indeed, a rights-suspending campaign is a coercive mechanism, representing no choice, used by high-level nomenklaturists who turn the state apparatus into “movement-mode.” This means that lower-level nomenklaturists and/or (certain groups of) the population are assigned to fulfill a centrally determined goal that could not be demanded legally or the fulfillment of which could not be insured with the routine legal operation of the apparatus. Hence, although communist subjects are granted minimal legal rights in the first place, even those rights are disregarded during campaigns.\textsuperscript{175}

Since they can target a wide variety of bottlenecks in totalitarian rule, rights-suspending campaigns can be either political or economic. We describe economic campaigns in the next chapter in detail [\(
\Rightarrow 5.5.6.2\)]. As far as political campaigns are concerned, their essence is indeed policy change with actor change. In lieu of actor-changing elections, high-level party cadres can use campaigns to make mass replacements within the state’s bureaucratic apparatus. However, the party state faces the peculiar problem of legitimizing such actions, for the party is the vanguard of the working class and therefore it should be flawless. Thus, it has to build up a campaign against “traitors,” that is, people who deviated from the official ideology and betrayed the party and the working class. Such campaigns can be described as the inverse of a democratic electing phase:

1. as opposed to mobilizing in favor of those who are to fulfill state positions, the party state mobilizes against those who are to be removed from state positions by inventing an enemy who the people can associate them with (vigilance campaigns);\textsuperscript{176}

2. as opposed to choosing a frontrunner as the top candidate, the party state chooses a “frontrunner” as the number one scapegoat who is to be convicted as the main traitor or conspirator (Nikolai Bukharin in the Soviet Union, László Rajk in Hungary, Rudolf Slánský in Czechoslovakia etc.);

3. as opposed to holding a party convention as the peak of the campaign, the party state holds show trials where the “frontrunner” scapegoat is convicted for fabricated charges;\textsuperscript{177}

\textsuperscript{173} Minzarari, “Disarming Public Protests in Russia,” 399–401; “Political Discrimination in Hungary.”
\textsuperscript{174} “Campaign,” 1979.
\textsuperscript{175} This part on campaigns relies primarily on research one of the authors did in the 1980s. See Magyar, “Kampányok a falusi térben az ötvenes évek elején [Campaigns in the countryside in the early ‘50s].”
\textsuperscript{176} Goldman, Inventing the Enemy. Indeed, vigilance campaigns exist not only in the context of cleansing campaigns but to legitimate any discrimination of “enemy” groups, such as capitalists or “kulaks.”
\textsuperscript{177} Hodos, Show Trials.
4. as opposed to the frontrunner and his team occupying state positions in the end, the party state cleanses the alleged “team” of the “frontrunner” from state positions;

5. as opposed to the frontrunner gaining the highest state position (head of executive), the party state punishes the “frontrunner” as a result of the show trial (he is typically executed).

Indeed, this inverse procedure (1) fits to the official ideology, for if the party is the vanguard of the working class, its members can be barred only if they become traitors and conspire against the state party, and (2) shows that in a stable, ideal typical communist dictatorship there is no peaceful, democratic way of actor change.

The features of rights-suspending campaigns can be listed as follows. First, the campaign is top-down, managed by the state party or a special apparatus. This campaign apparatus is merged together with the executive and judicial organs of the state into a single complex of institutional power, which both desires and affects the pre-emption of choice. Second, they may be occasional as well as periodic, given that they are not linked to election cycles but to overcome the ad hoc fulfillment problems of the central plan. Third, this kind of campaign that coerces out a state goal can only be regarded as managing campaign, whereby the top-level nomenklatura micromanages the population and the lower-levels to fulfill certain tasks they are assigned. Finally, non-compliance with campaigns brings direct sanctions, which can be extra-legal or “social” (public humiliation) as well as legal.

4.3.3.2. A typology of elections

Turning to elections, they can be defined in general as follows:

- **Election** is a formal process by which the voting population in a polity chooses an individual (or a party) to fulfill a public office (or form a government) for a pre-defined term.

In hybridology, popular ways to differentiate electoral practices in democracies and in more authoritarian regimes involve the consideration of (a) whether elections are free and fair and (b) whether there is institutional bias in the electoral system (such as gerrymandering, which means rewriting electoral district borders in favor of the incumbents).

As for (a), Levitsky and Way write that in liberal democracies “elections are free, in the sense that there is virtually no fraud or intimidation of voters, and fair, in the sense that opposition parties campaign on relatively even footing: They are not subject to repression or harassment, and they are not systematically denied access to the media or other critical resources.” They contrast this state of affairs with hybrid regimes where “elections are competitive [but] often unfree and almost always unfair,” involving “manipulation of voter lists, ballot-box stuffing, […] intimidation of opposition activists, voters, and poll watchers, and […] skewed access to resources and media.”

ing, a generous “governability clause” and majoritarian electoral rules as practices which have “[proven] effective at minimizing the parliamentary weight of opposition parties.”

The general difficulty with these variables lies in continuum problems. In no democracy is there perfect balance between the competitors’ resources, yet there should be a dividing line between fair (“relatively even”) and unfair (“seriously uneven”) differences; many democracies feature majoritarian electoral rules and even governability clauses are not unprecedented, yet there should be a dividing line between the “democratic” and “undemocratic” effect of these systems on the incumbents’ removability, and so on. Naturally, hybridologists have found ways to operationalize these variables but there has been considerable arbitrariness in their solutions, and also in drawing lines between democracies and autocracies in general. Indeed, some arbitrariness is logically unavoidable when it comes to solving continuum problems.

One way to overcome this problem is speaking in relative terms, analyzing the direction of change rather than the concrete status at any given moment. We cannot draw an exact line between “relatively even” and “seriously uneven” playing fields, but we can assess whether a regime makes the playing field more or less uneven. Yet this is appropriate only to case-by-case analysis, not the creation of a typology. For that purpose, we submit that it would result in less ambiguous and more easily operationalizable variables if we redefined the criteria above as follows:

1. From “institutional bias,” we create the variable “adoption of electoral system” with the following possible values: consensual and one-sided. “Consensual” denotes that the given election is conducted with rules that were accepted in the legislature by both the leaders’ party and the opposition (i.e., at least a real opposition party). “One-sided,” on the other hand, denotes that the electoral rules the election runs by were adopted by the leaders, without the votes and agreement of the (real) opposition;

2. From “fairness,” we create the variable “legality of the leaders’ campaign funding” with the following possible values: legal and illegal. Typically, in formally democratic regimes, using state resources or the state apparatus for campaign purposes is illegal, hence the leaders can be said to be using “legal + illegal” resources (as they also use their legal sources). On the other hand, if there are no such instances of illegality, the leaders’ campaign funding can be regarded legal.

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179 Schedler, “The Menu of Manipulation,” 45. See also Schedler, “Democracy’s Past and Future.”
180 For example, see Levitsky and Way, Competitive Authoritarianism, 365–71.
182 Bogaards, “Where to Draw the Line?”
183 Bogaards, “Measures of Democratization.”
184 We are indebted to Miklós Haraszti for this idea.
185 While freedom of election is normatively important, in the post-communist region, if the freedom of election is impaired, then so is its fairness. Thus, we regarded “free” superfluous for our typology of elections and rejected it for the sake of parsimony.
With these variables we draw practically the same line as hybridologists when they talk about “competitive” or “electoral authoritarianism.” In cases of gerrymandering and majoritarian rules that help the incumbents, the adoption of electoral system is typically done one-sidedly and the (real) opposition does not vote for the change disfavoring it. Also, illegal funding is precisely the reason that can cause resource disparities that “far exceeded anything seen in established democracies,”\[186\] including the partisan use of public institutions and tax monies. Yet consensuality and legality provide clearer distinctions as they avoid much of the ambiguity that stems from continuum problems of the usual variables.

Besides these two variables, we will also use (1) access to nationwide TVs for the real opposition, defined on a continuum from open to restricted and from restricted to closed, and (2) neutrality of public institutions, defined on a continuum from neutral to biased and from biased to hand-guided. (By “public institutions” we mean not the state media but the courts, the national election office, the Prosecutor’s Office etc.) These new variables are more difficult to operationalize and indeed their values are subject to continuum problems. However, they should be understood as “relative variables,” by which we mean that their value in one point should be understood with respect to their value in another. For instance, we can say that if the electoral system was accepted one-sidedly, then public institutions are ideal typically less neutral than in consensually accepted systems, or we can differentiate between systems where the real opposition has some access to nationwide TVs and where there is none. Thus, these variables are rendered usable and by them we can reflect on important dimensions of the elections.

Table 4.8 differentiates four types of elections. In two of these, the adoption of the electoral system is consensual: fair elections and unfair elections. The difference between them is in the leaders’ campaign funding, which involves both legal and illegal elements. Yeltsin’s above-mentioned campaign is a good example: although minor changes in the electoral system were instituted a few months before the election, the adoption of the electoral system was consensual, whereas he accessed campaign funds illegally. Access to nationwide TVs and neutrality of public institutions is ideal typically worse than in case of fair elections, but certainly not to a degree that would change the result as significantly as the disparity of resources does. Therefore, while fair election is ideal typical to liberal democracy, unfair election is ideal typical to patronal democracy.

The third type of election is a manipulated election. Here, the adoption of the electoral system is already one-sided, meaning not only the arbitrary changes of district borders (gerrymandering, like in Hungary) but of any detail, such as the criteria for becoming electoral candidate (like in Russia) or the manipulation of electoral thresholds (like in Moldova). In addition to changing the rules as they please, the leaders in manipulated elections can access illegal as well as legal resources for campaigning. Adding that access to nationwide TVs for the real opposition is more restricted than in unfair elections (dominated sphere of communication) and that public institutions are biased, we can say that it is manipulated elections that (1) feature loyalty-structuring campaigns and (2) are ideal typical to patronal autocracies.

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Based on Hale’s research of such regimes and their electoral practices, the functions of manipulated elections can be grouped as follows:\footnote{Hale, Paternal Politics, 66–76.}

- **loyalty demonstration:** in the case of manipulated elections, a profane, electoral act becomes a sacred demonstration of loyalty. The “elections” are a show of subservience on the part of patronal networks and their members, an occasion for the leaders to mobilize supporters;

- **controlled renewing of formal, political positions of the patronal network:** elections can provide a useful mechanism for co-opting other networks, distributing monies, or facilitating power-sharing among the important elite groups. Furthermore, Hale argues, they can test the quality of new public employees to staff the autocratic regime, discovering new, potentially valuable clients. Indeed, the members of the adopted political family who are assigned public functions must be endowed with certain abilities in order to complete the tasks expected of them by the patronal network in such a way as to minimalize the violent mechanisms of coercion [\ref{3.6.2.3}];

- **stabilization, risk minimization:** regimes that do not allow regular elections face crises and revolutions, but these tend to be highly unpredictable for the ruler. This risk gives leaders an interest in channeling public challenges through more predictable mechanisms, i.e., (manipulated) elections. In so doing, leaders structure the political struggle according to ground rules that they themselves design, that enable them to prepare long in advance, and that reduce the chances of losing power;

- **legitimation:** chief patrons derive legitimation even from manipulated elections. Such victories tell everyone that the officially winning chief patron in fact does

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\[\text{Table 4.8. Types of elections.}\]

<table>
<thead>
<tr>
<th>Adoption of electoral system</th>
<th>Legality of the leaders' campaign funding</th>
<th>Access to nationwide TVs for the real opposition</th>
<th>Neutrality of public institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair elections</td>
<td>Consensual</td>
<td>Legal</td>
<td>Open</td>
</tr>
<tr>
<td>Unfair elections</td>
<td>Consensual</td>
<td>Legal + illegal</td>
<td>Restricted</td>
</tr>
<tr>
<td>Manipulated elections</td>
<td>One-sided</td>
<td>Legal + illegal</td>
<td>Restricted</td>
</tr>
<tr>
<td>Uncontested elections</td>
<td>One-sided*</td>
<td>Legal (+ illegal)**</td>
<td>Closed*</td>
</tr>
</tbody>
</table>

*: In dictatorships, there is not even a legal opposition to run.

**: In dictatorships, there is no need for illegal funding as the state party can use public resources legally.
possess the raw power to manipulate elections and orchestrate a win, creating incentives for society’s networks to coordinate around the winners’ networks, reinforcing the single-pyramid arrangement.

As Hale explains, manipulated national elections enable patronal power networks to communicate their relative strength, with the dominant ones making clear that they are capable of following through on their promises to deliver resources or carry out punishments in the future. This is essential for keeping potentially opportunistic elites in line.\footnote{Hale, \textit{Patronal Politics}, 72.}

Clearly, the stake of elections for the rulers is different in liberal democracies and patronal autocracies. In a liberal democracy, losing an election means the loss of governing power and ability to realize policies. But a party, having been removed from power, does not get excluded from the political arena. On the contrary, former rulers go into opposition, where they can go on participating in the process of public deliberation in its next cycle. Democratic rulers commit nothing illegal in power, or at least they do not have krysha eliminating any possibility of prosecution against them [\textit{\rightarrow} 3.6.3.1]. Thus, they do not need to face a (reactivated) prosecution once they are ousted from power. In sharp contrast, in a patronal autocracy the rulers commit crimes by the very nature of the system, heading an informal patronal network that accumulates personal wealth with the assistance of the prosecutor’s office [\textit{\rightarrow} 4.3.4.3, 4.3.5.2]. Running the state as a criminal organization, the chief patron risks persecution and going into prison if he loses.

In an empirical study, Abel Escribà-Folch found that in so-called personalist regimes (of which patronal autocracy would be a subtype), the political career of post-WWII autocrats ended in exile, jail or death 63% of the time—more often than military dictators (51%) and nearly twice as often as monarchs (37%).\footnote{Escribà-Folch, “Accountable for What?”} In the post-communist region, we may mention three notable examples (in chronological order): Viktor Yanukovich, former Ukrainian chief patron who was overthrown in the Euromaidan revolution and has been in exile in Russia since, while a Ukrainian court sentenced him \textit{in absentia} to thirteen years’ imprisonment for high treason [\textit{\rightarrow} 4.4.2.3]; Nikola Gruevski, former Macedonian chief patron who was forced to resign and was sentenced to two years in prison on corruption charges, although he has managed to escape with the help of the Macedonian and Hungarian secret services [\textit{\rightarrow} 7.3.4.3]; and Vladimir Plahotniuc, former Moldovan chief patron who fled the country with his patron’s court in face of strong international pressure [\textit{\rightarrow} 7.3.4.4]. The point of these cases is that electoral victory is a matter of “life or death” for the chief patron, not a matter of staying in power or temporarily losing influence over public policy (as in liberal democracy). This is one important reason why chief patrons manipulate elections and try to make sure they stay in power, not only to fulfill their patronal policy goals in general.\footnote{Cf. Petrov, Lipman, and Hale, “Three Dilemmas of Hybrid Regime Governance.”}

Arriving at the end of Table 4.8, we speak about uncontested elections where the votes are not “counted” and instead the desired “results” are simply announced, and the measures described above are also present in their extreme forms. The attrition of political
actors is at times replaced by their liquidation, literally: the bans on opposition parties, imprisonment of their candidates, forced exile or physical liquidation of their charismatic figures. These elements may appear already in extreme forms of patronal autocracy (where the mafia state is neosultanistic rather than neopatrimonial, such as in Turkmenistan or Uzbekistan), but uncontested elections exist more generally in communist dictatorships. In the Soviet Union, there was only one party and one delegate to vote for; in communist Poland, only the delegates of a transmission belt of the communist party, the Front of National Unity—the organization that handled the elections itself—were allowed to run in the elections. The function of these elections was neither countrywide policy-change nor to gain electoral legitimation per se. Instead, the main, ideal typical function is to mobilize and monitor both the ordinary subjects—who are supervised by so-called canvassers to register and vote afterwards—and the candidates—who the party wants to “run” for certain positions in the nomenklatura. This all-round surveillance and totalitarian mobilization of everyone is in sharp contrast with patronal autocracies, where the mafia state’s above described practices can be summed up as a pragmatic, mixed technique of mobilization of supporters and demobilization of non-supporters.

4.3.3.3. Voting without an associating phase: referenda

Last but not least, we turn to referenda as a special kind of voting event. Referenda may be defined as follows:

- **Referendum** is a formal process by which the voting population in a polity is asked to vote directly on an issue or policy.

Referenda represent a shortcut of the public deliberation process. While elections are embodiments of representative democracy, where the way adults have a say in how their life is governed is ensured through elected representatives, creating laws according to the wishes of their electorate, referenda are a form of direct democracy where the people vote directly on issues, laws or people in a binary “yes or no” (accept or do not accept) format. Therefore, while elections must be preceded by associating, that is, the phase where parties are formed which can run for the people’s votes, referenda do not necessitate such organizations and the structured institutions of mediation of the popular will do not play a role. Referenda are typically preceded by campaigns, that is, an intense form of discussing, but then they skip the next stages of public deliberation and allow direct decision-making for the majority.

In liberal democracies, the political system is dominantly representative; referenda, if permissible in the legal order, typically play only a limited role. On the one hand, their role is limited as they are irregular and indeed rare events. Most of the laws are created,

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192 Zaslavsky and Brym, “The Functions of Elections in the USSR.”
193 Morel, “Referendum.”
amended or abolished by legislatures, that is, the representatives who decide on behalf of the people, and referenda are held only on a few specific issues of high public interest.\textsuperscript{195} On the other hand, while it is the constitutional right of every adult citizen to initiate a referendum, the issues that referenda can be held on are typically limited (a) by the type of the issue (for example, tax laws or budget acts are often excluded) and (b) by the type of the referendum itself (for example, it sometimes cannot be propositive—one that adopts a new law—but only abrogative—one that repeals an effective law).\textsuperscript{196} Historically, we may highlight two fundamental questions when referenda have been usually held: (1) approval of a new constitution, which means that the basic “rules of the game” are not simply created by politicians but are also accepted by the population directly; and (2) membership in an international alliance, especially the EU, which has required candidate countries to hold a referendum on whether the people want to join or not. Also, within the above-mentioned limits referenda have been initiated in (3) specific policy issues as well, either by the government—to reinforce current policy with the people’s confidence or to pass legislation that otherwise would be impossible to pass—or by opposition and independent citizens—to change laws that the current government would not change on their own.\textsuperscript{197}

One might expect that referenda play a more substantial role in patronal autocracies, for they apparently fit the ideological framework of populism. The denial of the structured institutions of mediation of the popular will is part of populism’s definition, and what referenda realize is precisely a direct link between the people and the head of executive, who is told in the referendum what the majority wants.\textsuperscript{198} However, just as we have seen that populism, while referring to the people and civil legitimacy, indeed leads to removal of state decision-making from the hands of the people and instead the populist decides what is in the “national” or “in the people’s interest,” patronal referenda are also means of patronal appropriation of the interpretation of the common good. Indeed, referenda in patronal autocracies are used to reinforce the chief patron in his position of sole interpreter of the common good and to remove limits on his power or, in the populist narrative, to allow him to step over unnecessary legal constraints to the realization of the goals of “the people” (substantive-rational legitimacy).

Analyzing post-communist referenda, Ronald J. Hill and Stephen White find that “it is remarkable to observe the frequency with which the referendum has been deployed […] to bolster undemocratic leaders and regimes and circumvent limits on their authority.”\textsuperscript{199} For example, in Azerbaijan a referendum was held in 2009 on 29 constitutional amendments, including the abolishment of term limits for the president and several measures that further concentrated power in the hands of chief patron Ilham Aliev. The referendum was preceded by no democratic discussing but by a loyalty-structuring campaign, intimidating voters and all those who opposed the reform of the constitution.\textsuperscript{200} Similarly, in Belarus the two-term limit for presidency was loosened to a three-term one in 2004 and then fully

\textsuperscript{195} Morel, “Referendum,” 512–14.
\textsuperscript{196} Morel, “Referendum,” 508–12.
\textsuperscript{197} Mendelsohn and Parkin, Referendum Democracy.
\textsuperscript{198} Cf. Hazareesingh, In the Shadow of the General.
\textsuperscript{199} Hill and White, “Russia, the Former Soviet Union and Eastern Europe,” 124–25.
\textsuperscript{200} Hill and White, “Russia, the Former Soviet Union and Eastern Europe,” 129–32.
abolished, allowing chief patron Alexander Lukashenko to rule indefinitely. Earlier, in 1996 a referendum changed the constitution to concentrate in his hand the power to make such key appointments as to the Supreme Court, the Supreme Economic Court, the Chairman and members of the board of the Central Bank, the Prosecutor General, the Chairman of the Constitutional Court and the Chairman of the Central Commission for Elections and Referendums [→ 4.4.1.3].\(^{201}\) We can find more examples in Central Asia in countries like Uzbekistan, Kazakhstan and Kyrgyzstan, where the general tendency for referenda has been to enhance the power of the presidency and reduce democratic provisions.\(^{202}\) After having the parliament accept similar changes, Russia’s Vladimir Putin also proposed a referendum on constitutional amendments in 2020 to further concentrate formal presidential power and allow him to rule for another 16 years, beyond term limits [→ 4.4.2.2].

On the other hand, no referenda of the opposition have been held in patronal autocracies yet. Indeed, referendum as a means of public deliberation is neutralized in a patronal autocracy, as the reference to direct popular will becomes a means of excluding deliberated popular will. Neutralization can be realized through tightening requirements for holding a referendum (increasing the number of signatures needed to hold one etc.) or through patronalizing the office which decides on referenda and thus dismissing referendum initiatives in a politically selective way. A particularly brutish way of neutralization was applied in Hungary, where in 2016 a group of skinheads related to Fidesz party director Gábor Kubatov physically blocked the way of socialist politician István Nyakó to the National Election Office, preventing him from submitting a referendum initiative.\(^{203}\) The police started investigations but eventually stopped them “in the absence of criminal offense,” which investigative journalists claimed to be a case of politically selective law enforcement [→ 4.3.5].\(^{204}\)

Finally, in communist dictatorships referenda are typically deemed just as unnecessary as multi-party elections, and the subjects have no right to initiate a referendum (let alone in opposition to the state party).\(^{205}\) Historically, referenda became a main event of politics in a communist dictatorship when they contributed to its dissolution, including the 1987 referendum of Poland and the series of independence referenda of member states of the Soviet Union in 1991.\(^{206}\)

\(^{201}\) Hill and White, “Russia, the Former Soviet Union and Eastern Europe,” 132.

\(^{202}\) Hill and White, “Russia, the Former Soviet Union and Eastern Europe,” 132–33. Also, it is interesting to compare these post-communist cases with that of the 1988 Chilean referendum. Leader of a conservative autocracy, Augusto Pinochet wanted to extend his rule for another eight years in a referendum. But unlike patronal autocrats who have easily won such referenda by suppressing real opposition and dominating the sphere of communication, the conservativeocrat Pinochet was voted down and he did accept the result, ending his more than 16-year rule in power. Indeed, this is precisely what differentiates an ideology-driven right-wing politician from an ideology-applying populist [→ 6.4.1].

\(^{203}\) Balogh, “No Referendum, No Matter What It Takes to Prevent It.”

\(^{204}\) Csi kász and Rádi, “Kubatov kopaszai akcióztak az NVI-nél, felülről állíthatták le a nyomozást.”

\(^{205}\) Hill and White, “Russia, the Former Soviet Union and Eastern Europe,” 114–16.

\(^{206}\) Hill and White, “Russia, the Former Soviet Union and Eastern Europe,” 116–24.
4.3.4. Lawmaking: Policies, Laws, and Legislatures

The lawmaking phase starts when it is decided who will be the (formal) decision-makers in a polity. The main attribute of decision-makers is that they decide how the state’s political power should be used, and that means that they will create laws and regulations within the formal institutional setting of the polity.

When we assess actors who form a government, first of all we must differentiate between (1) policy-questioning and (2) legitimacy-questioning actors. Simply put, the former wish to play the game whereas the latter want to rewrite its rules first. Just as in case of legitimacy- and policy-questioning protests, policy-questioning actors do not step out of the regime’s logic in the sense that they want to use political power as it is defined and delimited by the current constitution. On the other hand, legitimacy-questioning actors want to use political power in ways that would not be allowed by the legal framework in which they are empowered.207

The legitimacy-questioning actor can be either a populist or a communist (by which we now mean actors who want to institute a communist dictatorship). In case of the former, we can see a democratic party system with a patronal challenger. Here, the populist enters party competition and if he wins, he will want to step out of the limits that constitutionalism would grant him. If the legitimacy-questioning actor is a communist, however, he or his party may not even enter the competition but replace the prevailing system in a violent revolution.208 This reflects the difference between the attitude of populism and Marxism-Leninism: while a communist revolutionary (1) is doctrinarian and wants to replace the whole initial system and (2) wants to introduce formal repression, a populist (1) is pragmatic and does not want to replace the whole initial system and (2) wants to introduce informal repression. In other words, while the communist will form the entire formal institutional setting to be able to introduce totalitarian rule legally, a populist faces a trade-off between adjusting the system to autocratic rule and keeping repression informal. Thus, while making many institutional changes, the populist leader (chief patron) will still have to step over laws regularly and therefore operate a criminal state, should he have the monopoly of political power to institute one [→ 2.4.4, 4.4.2].

Given this entire part deals with the institutions of public deliberation in ideal type regimes, that is, stable polities, we postpone the discussion of transitional periods and legitimacy-questioning lawmaking (institutional reorganization) to a later part [→ 4.4.3]. Now, we analyze lawmaking in already instituted, stable polities, along the links in the following chain of reasoning:

1. the actors who become decision-makers are of a certain type, as explained above when we differentiated democratic, patron’s and state parties;

2. certain types of actors have certain kinds of policy motivations, that is, how they wish to use political power;

207 Scheppel, “Autocratic Legalism.”
208 Hobsbawm, Age of Extremes, 54–84.
3. certain kinds of policy motivations can be achieved by creating and using certain types of law;

4. certain types of laws can be created only via certain types of legislatures, fitting to the regime’s broader institutional setting.

The first step is the antecedent of the lawmaking phase, whereas the other three steps comprise it (assuming legitimacy-questioning and regime-changing). The next parts are devoted to Steps 2, 3 and 4, in that order.

4.3.4.1. Public policy, power policy, patronal policy

In any political regime, formal political actions of the state\textsuperscript{209} can be called policies:

- **Policy** is a way of using political power by formal means (via the formal channels of the state).

To determine the type of policy that is dominantly undertaken in the three polar type regimes, we need to assess the type and motivations of their decision-makers, that is, the ruling elite \[\rightarrow 2.3.1\]. \textbf{In a liberal democracy}, the winner of the elections is a \textit{democratic party}. Accordingly, its dominant motivation is the societal interest which means that (1) it is \textit{ideology-based}, therefore it wants to use political power to organize society in accordance with some sort of ideology, left/right or otherwise,\textsuperscript{210} and (2) its use of political power is constrained, given the internal structure of democratic parties, on the one hand, and the regime-level checks and balances which follow from constitutionalism, on the other \[\rightarrow 4.4.1\]. Therefore, their use of political power is embodied, dominantly, in public policies:

- **Public policy** is a type of policy in the principle of societal interest, meaning it aims at realizing an ideology but without power monopolization.

Public policies include the varieties of activities associated with welfare states, including social programs, public education and healthcare, tax policy, market regulations (like consumer-protection or the minimum wage), and so on. There are many different variants of (combinations of) such programs, depending on the ideological position of the incumbent. However, as a common point, they all do follow an ideology and respect the “rules of the game,” that is, constitutionalism and human dignity in general \[\rightarrow 4.2.2\].

A \textbf{communist dictatorship} is led by a \textit{state party}, the dominant motivation of which is totalitarian ideology implementation. On the one hand, it wants to \textbf{implement its ideology} and in this respect it is not unlike democratic parties, but its ideological framework also involves the bureaucratic appropriation of the interpretation of the common good. Therefore, it wants to achieve the realization of communist ideology through the exclusive

\textsuperscript{209} We will mainly speak about the ruling elite occupying the central government, although in another context our definitions would be applicable to local governments as well.

\textsuperscript{210} Albright, “The Multidimensional Nature of Party Competition.”
possession of political power. On the other hand, a communist dictatorship is totalitarian, meaning it uses political power to dominate and merge every sphere of social action into a single political entity in a doctrinarism manner. Sakwa summarizes the concept of totalitarianism as follows: “Totalitarianism focuses on the structure and application of power at the centre and stresses the destruction of alternative sources of power and influence (‘islands of separatism’) in society. In a totalitarian society all intermediate institutions between the party and the masses are eliminated. Among other things, law becomes subordinate to the power centre and in practice loses any semblance of independence from the state and party. […] This is usually described by the term atomization, the destruction of all social ties and groups not necessary for the maintenance of the totalitarian system. The regime obliterates the distinction between private and public spheres and individuals are marked by loneliness, anomie and alienation” (emphasis added).211

In line with this, in communist dictatorships we predominantly encounter power policies:

- **Power policy** is a type of policy in the principle of ideology realization, meaning it aims at realizing an ideology through power monopolization.

For examples, one can think of indoctrinating education, suppressive cultural policy, full employment, and central planning of the economy as typical power policies, all of which—in an ideal typical socialist system—embody and promote the principles of the official communist ideology.

Finally, in **patronal autocracies** the winner of the elections is a patron’s party, which means the de facto leading political elite is comprised of the adopted political family. The dominant motivation of the informal patronal network is elite interest, meaning the twin motives of the accumulation of personal wealth and power monopolization that all public policy considerations are subordinated to. Accordingly, a mafia state’s policies are dominantly not public but patronal policies:

- **Patronal policy** is a type of policy in the principle of elite interest, meaning it aims at accumulation of personal wealth and power monopolization.

Indeed, we can say that, while a patronal autocracy is formally democratic, its policies should not be analyzed as public policies. For *par excellence* public policies only exist in democracies, where elite interest does not take the place of societal interest. Primarily, patronal policies regard patronalization and patrimonialization in the spheres of social action, whereas public policy objectives as reasons for political decisions are relegated to the background. What they have is not public policy reasons but public policy consequences, that is, effects on the society that endures them. While effects like growing

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211 Sakwa, *Soviet Politics in Perspective*, 157. Also, in the following pages Sakwa explains that this “classical” understanding of totalitarianism has been criticized as too static and also inaccurate, presenting communist dictatorships as leak-proof monoliths while in fact they were not. However, it is precisely such a static concept we need for an ideal type, to which real world systems can be compared in terms of congruence and deviance (⇒ Introduction).
inequality or impoverishment of lower social strata are expressed in analytical terms usually used in sociology and for the evaluation of public policies, it must not be forgotten that, presuming the validity of the mafia-state framework for a country, these are only the corollaries or “side effects” of the realization of the central motives of the adopted political family.212

4.3.4.2. Laws and legal systems in accordance with legitimacy

Policies are manifested in laws:

- **Law** is a legal device for the formulation of policies, used by political actors and backed by state coercion (formally).

Again, this definition of law is rather vague, meaning we do not restrict the term (as some languages do) to legislative statutes. When we say “laws,” we refer to every formal, legal device (1) used by political actors and (2) backed by state coercion (formally, that is, according to the state’s declared intent). In other words, laws prescribe how state institutions should work, both in terms of the internal organization of their own workings and the external organization of the society. Laws regulate the people’s behavior, and they constitute “the principal instrument by which the government exerts its will on society.”213 Hence, laws—which may also take the form of statutes, decrees, regulations etc.—are none other but formal means of political action and therefore the codified forms of state policies.

Certain types of policies require certain types of laws. In case of **public policies**, what is required is limited law:

- **Limited law** is a law formulated for public policies and applied in a legal environment that limits its content and enforcement, meaning it must be congruent with the constitution and with other laws.

More precisely, a hierarchy of norms prevails where every law (decree, regulation etc.) must be congruent with the law above it, wherein the constitution is at the top of the legal hierarchy as the highest source of law.214 Thus, limited law also means that the leaders do not stand above the constitution or the law; rather, they are subordinate to it in the sense that they cannot act arbitrarily, choose to act or not to act “at their pleasure,” but their political action is constrained by existing laws and regulations (i.e., rule of law).215 Indeed, **legal-rational legitimacy** means exactly that: the law is treated as an end in itself, which cannot be disregarded whenever it does not fit the leaders’ (or the people’s) immediate goals. The character of law that fits to these principles is summarized in “simple recipes for institutions” by Martin Krygier and Adam Czarnota as follows: “punish only prospec-

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212 For further discussion, see Chapter 7 [→ 7.4.7].
214 McLeod, “Kelsen’s Hierarchy of Norms.”
215 Krygier, “Rule of Law.”
tively, not retrospectively, on the basis of clear, public, stable rules.”

These principles serve predictability, on the one hand, and the respect of human dignity of citizens, on the other. Citizens have a right to know what legal rules apply to their actions. Furthermore, human dignity also entails the recognition of “autonomous zones of freedom for the citizen which cannot simply be taken over in the interests of society as a whole. This may be seen in the constitutional guarantees of civil rights, in many rules of criminal procedure which protect personal freedom and in [...] especially constitutional courts, which are independent of the executive.”

Hence, while they—following the definition of public policy—do try to organize society according to a certain ideology, limited laws embody political action within a strict, institutionally protected limit of de jure norms.

In contrast, substantive rational legitimacy that prevails in communist dictatorship and patronal autocracy means that law becomes subordinated to the leaders. As the general party secretary commands and the chief patron disposes over the country as if it were his own property, a materialistic dispensation of justice takes the place of formal judicial services. In other words, law gets instrumentalized which is a prerequisite for the implementation of power and patronal policies and marks a change in the character of laws fitting to such policies. Thus, instead of limited law, substantive rational legitimacy entails instrumental law:

- **Instrumental law** is a law formulated for power or patronal policies and applied in a political environment that determines its content and enforcement, meaning it must be congruent with the leaders’ will.

As Podgórecki explains, a legal system where law is used as an instrument of power “contains two opposite tendencies: (a) a tendency to pretend that it respects the requirements of normative consistency, legal hierarchy, and internal coherence; and (b) a tendency to conform blindly to the political requirements of the actual power.” In more detail, we can identify on the basis of Podgórecki’s analysis the essential features of instrumentalized legal systems, characteristic to dictatorships and autocracies alike:

- **the “highest source of law” is the leading political elite**, therefore it is not the constitution but the will of the leaders that official law (and its enforcement) must be congruent with;

- **official law is valid only when it is congruent with an informal “shadow norm,”** which is not legal but political in nature, and reflects the leaders’ political—power or patronal policy—goals;

- **the preconceived function of law is more important than the law itself,** meaning the interpretation of official law is pliable to changing political situations and it loses its principled character of impartiality;

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217 Zweigert and Kötz, An Introduction to Comparative Law.
4.3. The Institutions of Public Deliberation in the Three Polar Type Regimes

- the law can be easily changed in harmony with the desires and current interest of the leading political elite, legitimized by their (bureaucratically or patronally appropriated) interpretation of the common good;

- the constitution becomes a façade document, formally declaring *de jure* principles of state functioning and individuals' rights but *de facto* disregarded vis-à-vis the shadow norm and not hindering the leaders from shaping the law according to their objectives.

Furthermore, as Sakwa points out, in such regimes the legal system shows a dual nature. On the one hand, there is what scholars have called “prerogative law,” used in politically sensitive cases (important for power or patronal policy); and on the other hand, there exists “the 'due process of law' approach applied to judging ordinary criminality and regulating economic and social affairs.”

That the leaders use the law as an instrument *does not*, however, mean that *every law is instrumental and every legal procedure is hand-guided.* On the contrary, there is a large body of politically irrelevant cases of everyday people that the leaders leave more or less alone (in patronal autocracy, more, in communist dictatorship, less). However, that the highest source of law is the leading political elite means that there is a tremendous *amplitude of arbitrariness*, meaning that the leaders have the ability and option to disregard any law, or to create an instrumental law for any purpose [2.4.6].

Communist dictatorships and patronal autocracies differ in how this state of affairs is reached in the legal system. For in communist dictatorships, which are generally more formal systems than patronal regimes, we can see that:

1. **substantive legitimacy is openly declared in the constitution.** As John N. Hazard notes in his study of Marxist-Leninist constitutions, they all negate the so-called neutrality rule and use “partisan class language,” following the 1918 Russian constitution. Hazard found that all constitutions of communist dictatorships openly declared the programmatic elements and teleological goals of communism, and also contained passages like “Courts punish enemies of the working people, defend and secure the State, economic and social structure of people’s democracy,” whereas the working class is “led by its vanguard and supported by the unity of the whole people” (from the 1949 Constitution of Hungary). While wording sometimes differed, “vanguard,” “leading force” or “guide” was always mentioned and it always referred to the communist party. This way, it was given ultimate authority to govern society.

Thus, we can say what is ideal typical is (1) the open declaration of the communist party as the leader and (2) setting substantive goals for legal institutions. These create a formal basis, not only for instituting dictatorship but also to instrumentalize the legal system, and therefore instrumentalization is within the formal authorization of the party state;

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2. **power-policy objectives are openly declared.** To take just a few examples, central planning and the education system openly declare their communist and anti-pluralist bias, or at least that they are not autonomous entities but vehicles of the implementation of the official ideology on a social level. Marxist-Leninist constitutions, too, contain a part “on ’Economic Structure’ or ’Economy Policy,’ which in every case established the cardinal rule [...] that productive property shall be state owned or at least ’socialized.’” Naturally, the party can step over declared objectives arbitrarily, but in most cases even arbitrary changes are forced out openly and within the formal institutional setting of the party state (like in campaigns [→ 4.3.3.1, 5.5.6.2]);

3. **legal arbitrariness is reached via sub-statutory acts,** which overrule existing legal norms on a case-by-case basis. Typically, communist legislations pass only so-called framework laws with vague wording and power policies are specified in sub-statutory acts (or party decrees). This allows a large room for maneuver for the nomenklatura, which uses sub-statutory acts for the day-to-day operation of the regime. Therefore, it is not legislative statutes which are primarily manipulated but their vagueness is exploited for political goals. Also, when necessary, the nomenklatura more often disregards laws than rewrites them to get them adjusted.

**In contrast, a patronal autocracy features a fundamentally more informal system of rulership.** Therefore, the true nature of the system is not declared in official documents and the law becomes the instrument of patronal policies in a more subtle way. As Armen Mazmanyan explains, post-Soviet leaders—in line with the general neutralization attitude of patronal autocracies—“avoid openly oppressing their opponents: it is more efficient to imitate and covertly undermine democratic practices than to withdraw from them. The typical ‘technologies’ of abuse include banning opposition’s demonstrations and rallies for the reason that they are not authorized or did not comply with the procedures prescribed by law, closing down oppositional TV channels and other media referring to alleged violations of law by them or by their owners, excluding candidates from elections because of non-compliance with the routines of the electoral process, prosecuting business entities which are sympathetic with oppositional parties on the grounds of tax law, etc. All these actions are done with reference to the letter of law. Such references create an illusion of legality of these actions in the eyes of the people,” Mazmanyan writes, and he adds that under such circumstances “any written law, including written constitutions, are subject to manipulation by self-electing political elites for the purposes of reproduction of power.” (Also, we add that manipulation in general serves the purpose of wealth accumulation as well, as we are talking not about power but patronal policies.)

To point out the differences between the patronal and communist polar types, let us go through the three points above. Thus, in patronal autocracies:

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1. **the constitution declares legal-rational legitimacy, not the actual substantive-rational.** According to the constitution, the country is a democracy, it upholds the rule of law, the branches of power are separated and the competences of the executive are constitutionally limited. Therefore, the ultimate authority of the chief patron and instrumentalization of the law is unconstitutional and the adopted political family acts beyond its formal, legal authorization.\(^{225}\)

2. **patronal policy objectives are not declared openly,** but they are disguised by appropriate ideological panels [→ 6.4.1.4]. Generally, as we explained above, in populism there is no logical connection between the “diagnosis” and the “therapy” and this allows the leaders to choose practically any policy, rendered unquestionable by the referring to the national interest. When an instrumental law is created, it is formally claimed to have public policy goals and respect constitutionalism, whereas they indeed serve the arbitrary goals of the adopted political family;

3. **legal arbitrariness is reached via custom-tailored lexes.** The legislation is used to create laws tailored to individuals, groups, political friends and foes. This is performed with the precision of a surgeon based on the case-by-case authorizations given by the head of the political family: offering reward or punishment, privilege or discrimination. Patronal autocracies feature targeted laws, and the corpus of statutes is constantly adjusted to the continuously changing whims of the political family. The legislation is, thereby, of paramount importance, for mass *ad hoc* procedures are required to formulate and create the appropriate lexes (see Box 4.5). Therefore it is on the level of statutes, not of sub-statutory acts, where arbitrariness and the targeted will of patronal power is instituted.

Indeed, custom-tailored law is a special type of discretionary law, which can be defined as the opposite of normative law:

- **Normative law** is a form of law which targets social groups which meet certain criteria irrespective of who the exact persons belonging to the group are. Typically, normative law is used to reach public policy objectives.

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Discretionary law is a form of law which targets certain people or institutions which either belong to the leading political elite (e.g., the adopted political family) or are against it, as a result of the decision of its head (e.g., the chief patron). Typically, discretionary law is used to achieve patronal policy objectives.

Discretionary law has two variants: direct and indirect. A direct discretionary law is one that identifies its target by name, circumscribing it by the sole and unique feature which is its (legal) identity. However, while such laws may also exist in various regimes (like in the case of targeted bailouts), patronal autocracies try to conceal their true objectives, maintaining a façade of democratic and lawful operation in front of de facto autocratic politics. Hence, they usually use indirect discretionary laws which are custom-tailored lexes:

- **Custom-tailored lex** is the indirect type of discretionary law. Instead of identifying its target by name, a unique quality, it circumscribes its target by listing many different qualities, each shared by several different actors but in the given combination unique to the target (technicization).

We take the notion of “technicization” from a study of István Jávor and Dávid Jancsics, who analyze organizational corruption and identify technicization in that context, in forms of document manipulation, bureaucratic errors and the use of technological conditions in formally open and competitive tenders in a way that they are met only by one predetermined contractor. In custom-tailored lexes, this practice is elevated on the level of central politics, whereby the adopted political family can target certain actors or institutions by circumscribing them with extreme precision. Indeed, there are two manners of custom-tailored legislation: (1) when the entire law fits uniquely to the target, meaning no one else falls under its scope, or (2) only a certain clause of the law fits uniquely to the target, whereas other clauses may fit to others. For example, in the case of discretionary taxes, which will be explored in the next chapter [→ 5.4.3], there may be several actors who are compelled to pay the levy, but the highest rate of the tax is reached only by the target.

Custom-tailored lexes can be classified by two aspects: (1) **type of target**, meaning which sphere of social action the targeted actor (institution) is situated in; and (2) **patronal policy objective**, which may regard the financial, institutional or personal situation of the target in various specific ways (Table 4.9). Furthermore, as the target can be either a friend or a foe of the adopted political family, we need to differentiate between rewarding and punishing, to which we provide 1–1 general examples in the table below.227

Finally, we need to talk about so-called enabling acts, which remove decision-making from the rule of law and put it in the hands of the leading political elite, who can decide in the questions predefined by the act at their discretion.228 In liberal democracies, such

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226 Jávor and Jancsics, “The Role of Power in Organizational Corruption.”

227 For specific examples for each, see Magyar, *Post-Communist Mafia State*, 117–22.

228 The expression originates from the Enabling Act (Ernächtigungsgesetz) of 1933, adopted in Nazi Germany and giving Hitler authority to enact laws without the German parliament. See Evans, *The Coming of the Third Reich*, 350–74.
laws do not exist ideal typically. The only similar situation to enabling takes place in states of emergency, which is an exceptional case when the leading political elite gets a wide mandate to deal with an extreme and irregular situation (epidemic, natural disaster, foreign invasion etc.), potentially acting non-congruently with normal law. Potentially, this can even mean direct involvement of the military on part of the government, in which case we speak about “martial law.” But a state of emergency can be declared only under very special circumstances and it is heavily monitored by independent branches of government, making it practically impossible for the executive to declare one on its own.\(^{229}\) In communist dictatorships, the constitution itself is an enabling act for it declares the state party the leader of the society, granting it a mandate to act as it pleases in accordance with the ideological framework of Marxism-Leninism. Lastly, in patronal autocracies the removal of formal constraints is typically unnecessary to de facto unconstrained power, which is achieved while maintaining a democratic façade. However, when a state of emergency provides enough justification in the people’s eye for disabling democratic checks, the chief patron may use this situation to harmonize his de facto and de jure authority, like Orbán did in Hungary during the 2020 coronavirus pandemic.\(^{230}\) More regularly, however, the mafia

\(^{229}\) Dyzenhaus, “States of Emergency.”

\(^{230}\) Scheppele, “Orban’s Emergency.”

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### Table 4.9. Types of custom-tailored lexes, with general examples for rewarding and punishing policies.

<table>
<thead>
<tr>
<th>Type of target</th>
<th>Patronal policy objective</th>
<th>General example for...</th>
<th>rewarding policy</th>
<th>punishing policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political actor</td>
<td>Disposition over the fulfillment of public offices</td>
<td>lifting conflicts of interest requirements to ensure that the front men of the adopted political family can be appointed to public positions</td>
<td>the arbitrary removal of persons from public offices enabled by legislation</td>
<td></td>
</tr>
<tr>
<td>Political actor</td>
<td>Disposition over the remuneration of political actors</td>
<td>growing remunerations or support for political front men of the adopted political family, or the civil and political organization, municipal governments dominated by them</td>
<td>decrease in the remunerations or support of political opponents of the regime in public positions and critical civil or political organizations, municipal governments</td>
<td></td>
</tr>
<tr>
<td>Political actor</td>
<td>Disposition over the competences of political actors</td>
<td>extension of the competences of the institutions under political front men, after they are appointed</td>
<td>narrowing competencies of institutions, or municipal and professional bodies monitoring government</td>
<td></td>
</tr>
<tr>
<td>Political actor</td>
<td>Disposition over profitability of economic actors</td>
<td>ensuring positions of advantage to loyal business ventures</td>
<td>removal of businesses not integrated into the adopted political family from the market, or ensuring their takeover</td>
<td></td>
</tr>
<tr>
<td>Political / economic / communal actor</td>
<td>Achieving political benefit</td>
<td>making actors non-convictable (even retroactively) who the courts would convict but the adopted political family does not want them to</td>
<td>making actors convictable (even retroactively) who the courts did not convict but the people want them to</td>
<td></td>
</tr>
</tbody>
</table>
state’s government is usually legally enabled to declare cases, typically in the field of the economy, “of strategic importance” or necessary for “the common good” whenever it wants, thereby extricating them from laws and regulations which otherwise would inhibit their operation.231 Indeed, this is the legal manifestation of substantive rationality, very much in line with its ideological manifestation in populism and the reliance on popular and national sovereignty. The state uses the labels “national importance” and “common good,” the content of which is defined only by them by virtue of the patronal appropriation of the interpretation of the common good. Although it is not declared openly in the constitution, with the help of its ideological framework and the instrumentalized legal system, the adopted political family keeps the country in a perpetual state of exception.232

4.3.4.3. Legalization of corruption? Classifying criminal organization actions of the criminal state

The adopted political family uses custom-tailored lexes to achieve patronal policy objectives, often to accumulate wealth by creating a favorable environment for the adopted political family’s oligarchs and economic front men. This has been dubbed as the “legalization of corruption” by journalists and scholars.233 However, that law is made an instrument of the criminal state does not make its operation legal. Because these laws are often parts of linked actions of corruption, where accepting the law or applying it to letter is indeed not unlawful per se, but this can be part of a larger chain, involving various illegal elements, too, which make the complete functioning of the system illegal even according to their own legal norms. Furthermore, such laws are often passed by disregarding formal legislative order or even higher legal norms, which makes them illegal even though patronalized and patrimonialized enforcement bodies do not investigate such cases.

To provide a broader analytical framework, a criminal state’s actions may be classified by the following dimensions:234

1. The nature of damage caused by criminal organization actions of the state:

   a. damage to public property and revenue: (i) diverting potential state revenue to private parties; (ii) forgoing potential tax revenue; (iii) diverting potential state dues to private parties; (iv) diverting state concessions to private parties; (v) expropriating leasing rights; (vi) diverting municipal or government real estate properties to individuals within the political family’s sphere of interest at below-market values; (vii) illegitimately diverting tender funds to overpriced bidders within the political family’s sphere of interest;

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231 For examples, see Előd, “22 ügy, amiben a kormány elôhûzta a mindent vivô kártyát” [22 cases when the government used the trump card].”
232 Lakner, “Links in the Chain,” 149–52. Also, see Agamben, State of Exception.
233 Novak, “Hungary Has Legalized Corruption, Says TI Legal Director Miklós Ligeti.”
234 For concrete examples and case studies, see Magyar, “The Post-Communist Mafia State as a Form of Criminal State.”
b. **damage to private property and income**: (i) expropriating property; (ii) expropriating private enterprises; (iii) introducing mandatory state concessions for private enterprise activities; (iv) expropriating state concessions and leasing rights;

c. **causing both public and private damage.**

2. **Connectedness of the actions:**

a. **single-staged**: a single-staged corrupt act can be understood as a simple corrupt transaction occurring between two parties that only involves a single deal. These acts typically fall within the scope of classical corruption with each representing a small amount of value, regardless of how many they are. The criminal state attempts to put these *ad hoc* individual actions under its control;

b. **multi-staged**: actions with multi-staged connectedness involve many institutions in the legislative and executive branches, and a complex cooperation between legislative acts and executive bodies may also be possible. This is much more typical of the everyday functioning of the criminal state, since by necessity, only these complex mechanisms are capable of realizing large-scale projects that rewrite market conditions, often fundamentally, implemented through the intertwining of government and business.

3. **The institutional scope of managing corrupt transactions:**

a. **within one institution**: (i) *at the clerical level*: almost without exception, this coincides with single-staged, non-interconnected corrupt actions. Obviously, implementing corrupt plans that are complicated or applicable nationwide simply cannot be conducted at low levels of administration: the vertical structure of the relevant government institution must necessarily be involved; (ii) *complete vertical structure within the institution*: it is inconceivable that corruption at certain central agencies, such as the suspected corrupt acts of the tax authority, including large tax remissions, would occur without the knowledge and approval of the entire vertical structure of the institution. In these specific cases, “equity,” the original purpose of which would be to assist taxpayers in a tight situation with small tax debts, here appears as a means of abuse to increase the profit of the loyal oligarchs.

b. **inter-institutional**: (i) *horizontally*: when several institutions cooperate with one another, which is considered rare in any event, as in complex transactions require coordination from above; (ii) *vertically*: due to the functioning of a single-pyramid patronal network, the vertical structure necessarily comes to the fore and involves institutions in hierarchical relations. This is what provides a particularly wide amplitude of arbitrariness to the chief patron [→ 5.4.1.1].

4. **Extent of the authority of the institutions involved:**

a. **local**: areas where the dominions of certain “tax renters” are paid out as actual remuneration are classic examples of relative autonomy from the center, their former mayors being closely linked to the patron’s court;
b. **nationwide**: use of the institutions of public authority by the chief patron and the patron's court, including legislation;

c. **local and nationwide**: typically included here are the cases of market raiding \[\rightarrow 5.5.3.3]\] that are centrally directed but carried out primarily at the local level, and without either central or local coordination they would not have occurred.

5. **Type of collaborating institutions**:

a. **legislative**: the use of custom-tailored laws, as described above, that mostly serve as a framework for any subsequent manipulation as well as laws generally supporting the functioning of the mechanisms of state corruption, such as: (i) raising price limits on public procurements (thereby facilitating the feasibility of a higher degree of corruption in procurements); (ii) facilitating the undue classification of public interest data (under the pretext of national strategy and national security considerations); (iii) eliminating conflicts of interest as an obstacle in applying for tenders and subsidies; (iv) upholding the confidentiality of official asset declarations by the relatives of politicians; or (v) abusive disqualifying applicants from public procurement tenders, on occasion or for longer period.

b. **executive**: the list of possible collaborating institutions ranges from central bodies (e.g., the tax authority) to municipalities and chamber associations;

c. **judicial**: politically selective law enforcement, as we explain below \[\rightarrow 4.3.5]\);

d. **any combinations thereof**.

6. **Statutory definition of crimes committed by the criminal state**: extortion, fraud and financial fraud, embezzlement, misappropriation, money laundering, insider trading, bribery, bribery of officials (both the active and passive forms of these last two), abuse of authority, abuse of a public service position, buying influence, racketeering, etc.

As the crimes listed above are recognized as criminal acts by patronal autocracies’ own effective law, it is clear that a criminal state’s actions cannot be claimed legal even though it uses laws to achieve its patronal policy goals. To provide another analytical viewpoint, following the Palermo Protocols against transnational organized crime—adopted in 2000 by the United Nations—the Council of Europe’s Group of specialists on organized crime (PC-S-CO) defined the criteria that, when present, provide evidence of a criminal organization.\(^{235}\) Their definition includes both mandatory and optional criteria. The mandatory criteria are: (1) collaboration of three or more people; (2) for a prolonged or indefinite period of time; (3) suspected or convicted of committing serious criminal offenses; (4) with the objective of pursuing profit and/or power. The optional criteria are: (1) having a specific task or role for each participant; (2) using some form of internal discipline and control; (3) using violence or other coercive means suitable for intimidation; (4) exerting influence on politics, the media, public administration, law enforcement, the administration of justice or the economy by corruption or any other means; (5) using commercial or business-like

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\(^{235}\) “Effectiveness of Provisions on Membership in Criminal Organizations.”
structures; (6) engaged in money laundering; (7) operating on an international level. **These criteria used by the expert group to define the mafia**—or the organized underworld—**may also be used to describe a mafia state**—or the organized upperworld.

### 4.3.4.4. Decision-maker and transmission-belt legislatures

Finally, we may turn to *legislatures*. The function of such institutions in each polar type regime is to pass statutes, which is a type of law in the hierarchy of norms (above sub-statutory acts but below the constitution). Moreover, it is equally necessary for the leading political elite in each polar type regime to have a *majority* in this body, because formal statutes are enacted by the vote of the **absolute majority of the members of parliament (MPs)** who receive their mandates in accordance with election results.\(^{236}\) In liberal democracies, this situation is given for the winner of the elections; in communist dictatorships, there are, as we explained, uncontested elections where only one party or organization can run, and therefore practically all mandates are given to the party state’s cadres. In patronal autocracies, the transmission-belt party of the adopted political family ideal typically has a *super-majority* (two-thirds, four-fifths etc.). Generally speaking, a supermajority is required for changing “the rules of the game,” that is, the constitution or so-called organic laws which define how the formal institutional setting ought to work, as opposed to absolute majority (50%+1 MP) which is required for “playing the game” by the rules. In the following, where we take into account presidential systems as well, we will use the more general term *(effective) monopoly of political power* for the situation *when a single actor or elite group has enough power alone to change the constitution*, that is, the rules of the game. Furthermore, the monopoly of political power also includes the **power to appoint people in key positions**, like the chief prosecutor, alone, and this usually requires the same super-majority and/or executive positions that are required to change the constitution.

As we mentioned above, when populists get into power, they are legitimacy-questioning actors who want and attempt to change the rules of the game, but they can succeed only if they have supermajority \([\rightarrow 4.4.1.3]\). In other words, this is the prerequisite for instituting and stabilizing a patronal autocracy. Although they typically keep supermajority afterwards which allows them to change anything in the legal system as they please, to the everyday working of a mafia state—including the instrumental use of law and passing custom-tailored lexes whenever they are needed—an absolute majority is sufficient.

The crucial difference between the three regime’s legislatures is whether their members are autonomous, that is, can use the power vested in them autonomously at their will—or they are not autonomous, but simply puppets of the actual leading political elite. **In liberal democracies, governing MPs are politicians.** This means precisely that they are autonomous and they can use their formal political power at their will. Naturally, there exists party discipline; an MP can be loyal to his party, and the party can even obligate him to vote for certain laws it wants to pass. But a politician is allowed to debate, to hold a minority opinion, and even to submit a legislative bill on his own right. In other words,

\(^{236}\) This refers to the first chamber of parliament, which may be accompanied—in bicameral systems—by a second chamber that features elected or non-elected members with certain (veto) rights. Liiphart, *Patterns of Democracy*, 187–203.
as a minimal form of intra-party democracy\textsuperscript{237} there exists public deliberation within the governing party: there is (1) discussing, as far as the members (including MPs) can voice their opinions and try to convince others; (2) associating, as far as factions and platforms can be formed vis-à-vis the party leadership; (3) electing, as far as the party leaders (and sometimes even the party’s candidates) are chosen by the members after intra-party campaigns; (4) lawmaking, as far as the party creates its own internal rules and regulations which the members (including the leadership) are expected to follow; and (5) enforcing, as far as a violation of the party’s internal rules is followed by disciplinary action, exclusion from the party, or even state sanctions (if there are state-imposed regulations prescribing intra-party democracy).\textsuperscript{238} Therefore, an MP is not a simple executor of the will of his party’s leaders but can shape, or at least have an effect on, policy decisions.

There is a mirroring effect of public deliberation, meaning in a liberal democracy it exists on the national and the party level in parallel [\(\rightarrow 3.3.7\)]. Similarly, when public deliberation is eliminated on the national level it is mirrored by the lack of public deliberation within the party, which indeed is one of the prerequisites of transforming a polity into an autocracy or dictatorship. Therefore, there is no public deliberation within a state party or transmission-belt party and, in the legislature, their MPs are executors with no autonomy and virtually no say in shaping policy. In communist dictatorships, MPs are middle/low level party cadres [\(\rightarrow 3.3.4\)], whereas in a patronal autocracy they are political front men [\(\rightarrow 3.3.3\)].

As a result, in communist dictatorships the legislature becomes a subordinate body of the party leadership. Typically, the body meets only a few times a year to pass framework laws, although it fulfills some bureaucratic tasks like law formulation as well. As Sakwa explains, in the Soviet Union the legislative “played little role in initiating policy but it did perform several important functions. The legislative function was evident in its participation in drafting complex legislation, and indeed the drafting of new laws moved to some extent [to the legislative]. This allowed more scope for the incorporation of a wide range of specialist opinion.”\textsuperscript{239} Therefore, the legislative institutions of public authority cease to be the sites where real decisions are taken, those having been removed from the institutions into the realm of the leading political elite. This is typical in patronal autocracies, too, where legislatures are only required to “keep the books” on decisions taken elsewhere. The difference is that, while this “elsewhere” in communist dictatorships refers to the politburo, i.e., a formalized institution, in patronal autocracies it refers to the patron’s court, which is outside the formal institutional realm [\(\rightarrow 3.3.2\)]. Like the transmission-belt party, the institutions of public authority are no longer decision-making bodies either but mere institutions of implementation carrying out the will of the adopted political family. In a patronal autocracy, legislation is no longer a field of legal and normative rules that are applicable to all and can be called to account, but the adopted political family’s “tailor shop for fitted garments,” where laws are tailored to fit the needs of the family. The parliament only serves to give the stamp of approval for the autocratic decisions, embodied in instrumental

\textsuperscript{237} For an analysis and critique of the existing models of intra-party democracy, see Cross and Katz, \textit{The Challenges of Intra-Party Democracy}.


\textsuperscript{239} Sakwa, \textit{Soviet Politics in Perspective}, 110.
law. In both dictatorships and autocracies, the legislature serves as a transmission belt of the actual leading political elite, be it the politburo or the patron’s court [3.3.2, 3.3.8].

To sum up, we may differentiate the two kinds of legislatures—one dominantly creating limited law in liberal democracy and another dominantly creating instrumental law in the two other polar types—as decision-maker and transmission-belt legislatures:

- **Decision-maker legislature** is a *de jure* legislative body, the members of which are politicians who have a say in the policy goals of the laws they pass. Decision-maker legislatures are ideal typical to democracies, both liberal and patronal.

- **Transmission-belt legislature** is a *de jure* legislative body, the members of which are mainly cadres or political front men who have no say in the policy goals of the laws they pass. Transmission-belt legislatures are ideal typical to dictatorships, both communist and market-exploiting, and autocracies, both conservative and patronal.

### 4.3.5. Enforcing: Courts, Prosecution, and the Institutions of State Coercion

#### 4.3.5.1. Equality before and after the law: from neutral to politically selective law enforcement

The final phase of public deliberation is enforcing. Indeed, it is this phase when the provision of constitutionalism, which says that every adult must have a say in how his life is governed, is ensured. In the electing phase, legislators were chosen by the popular will and they are expected to represent the people accordingly, making laws that will regulate the polity’s life as its citizens wish. But that these laws will have an effect, that is, that the polity where the people live will indeed work according to the wishes of the demos, is ensured only if deviations from the law are not allowed. Therefore, the public deliberation process makes an impact on the citizens’ life when the state enforces the wished working of the society and it punishes the deviators from the law, relying on the monopoly on the legitimate use of violence (hence, laws are backed by state coercion).

In our understanding, there are three kinds of institutions that belong to this phase: courts, prosecution, and police. True, it is only the police that actually have a mandate to use violence if a law is infringed, but the two other organs have a pivotal role in defining whether that is the case. In a liberal democracy, prosecution initiates criminal investigations whereas the courts adjudicate legal disputes and decide who violated a law and who did not, that is, in favor of whom the police should start acting. *De jure*, this is the case in the two other regimes as well, and even *de facto* this is what happens in the “due process of law,” that is, to the myriads of politically irrelevant cases of ordinary criminality. However, as we have seen above, the regimes’ attitude to law in politically relevant cases differs when they understand the law as (a) an end in itself (legal-rational legitimacy) or (b) as an instrument of power and the “common good,” which the leaders appropriate the interpretation of (substantive-rational legitimacy).
When laws are formulated, we speak about equality before the law or the lack thereof. This means that the legal status of every person living under the state’s jurisdiction is the same, and that everyone is legally entitled, without any discrimination, to equal protection of the law against violations of his basic rights and liberties (human rights). This principle is at the core of liberal democracies as well as constitutionalism, which is founded on the respect of human dignity. Indeed, this principle is formally upheld in patronal autocracies as well, where the servants have legally granted rights and liberties just like a citizen (see 3.5.1). Equality before the law is openly violated only in communist dictatorships where those who are declared enemies of the working class (capitalists, “kulaks” etc.) have no rights in the eye of the state and they are accordingly deprived of their freedom, their property and often their life.

When laws are enforced, however, we can rather talk about equality after the law. With some playing with words, we can differentiate the period before a law is applied—when it has been formulated and adopted but not yet used in a legal case—and the period after it is applied. “Equality before the law” refers to the former period. It refers to whether people are legally entitled to the same protection of rights, that is, whether the word of the law includes discrimination or not. On the other hand, “equality after the law” refers to the latter period, and asks how those who are treated in some way by the law de jure, when it comes to a violation of their human rights, are actually treated de facto: whether their legally granted rights are equally enforced or not. If they are equally enforced, we speak about equality after the law; if enforcement is unequal, and some people’s rights are enforced whereas others’ rights remain dead letters of the law’s text, we speak about inequality after the law.

In liberal democracies, there is equality after the law. Simply put, constitutionalism entails not the mere proclamation but the actual universal protection of rights for every citizen as a duty of a constitutional state. In other words, from constitutionalism the congruence of de jure and de facto follows, that is, that the state must enforce what is written down in the law. As there is also equality before the law, in liberal democracies equality after the law means, first, that everyone falls under the same laws and should receive the same kind of legal treatment; citizens are legally equal as far as fundamental rights are concerned. Also, deviances from this principle can be questioned at the court, that is, there exists an effective opportunity of legal remedy (as the state strives to achieve legal equality). Second, because every citizen is equal and there is no discrimination in terms of human rights, this also means that nobody is exempt from the law, regardless of their social or political status. Therefore, not even the leaders or the ones they choose are exempt: law and its enforcement are politically neutral. Hence, we call this normative law enforcement:

- Normative law enforcement is the way of enforcing laws in a regime characterized by equality after the law. Therefore, such law enforcement treats everyone in the same way, whereby every person receives the same legal treatment and, eventually, equal political action (legitimate use of violence) for equal rights violation.

See Article 7 of “Universal Declaration of Human Rights.”


Baer, “Equality.”
Inequality after the law prevails in autocracies and dictatorships. In communist dictatorship, politically active people in general and members of the nomenklatura in particular fall under a different jurisdiction than politically irrelevant people. As Podgórecki writes on the basis of historical experience of communist dictatorships, “if a Communist Party member […] committed a crime, he or she could not be brought to court, even if his or her guilt was evident, without clearance from the relevant party organs, which might expel the suspect from their ranks to enable the police to bring charges. But, according to secret instructions issued to state prosecutors and the police, no criminal charges could be brought against a person who remained a party member.” Other scholars have called attention to so-called “telephone law,” when a legal case is decided by the telephone, that is, by the direct intervention of interested nomenklaturists. This not only means that members of the nomenklatura receive special treatment, but also that the fate of any person of political interest, including the regime’s (illegal) opposition, is decided arbitrarily by the party leadership, who are free to disregard the written word of the law.

In patronal autocracy, inequality after the law is different from dictatorships in the sense that not the members of the party but of the adopted political family enjoy impunity. But in general, we can see that the leading political elite instrumentalizes law enforcement, just like law itself. Thus, law enforcement is not neutral but politically selective in a patronal autocracy as well as in a communist dictatorship:

- **Politically selective law enforcement** is the way of enforcing laws in a regime characterized by inequality after the law. Therefore, such law enforcement treats people differently by their political status, and people (typically servants or subjects) receive different legal treatment and, eventually, different political action (legitimate use of violence) for equal rights violation.

The main difference between the selective law enforcement in dictatorships and autocracies is that, in a communist dictatorship, selectivity can be both individual and group, whereas in a patronal autocracy it is always individual. As mentioned above, it was all party members who (informally but normatively) fell under immunity, whereas there can easily be social groups which law enforcement treat negatively because of their group identity. In a patronal autocracy, it depends on the decision of the chief patron who should be attacked and/or immunized by politically selective law enforcement. The chief patron can also decide between non-enforcement of law and custom-tailoring the law which then can be enforced; and he can be expected to choose the one which impairs the regime’s democratic façade less and keeps the real (patronal policy) goals of the adopted political family in the dark more.

Although we focus mainly on the three polar type regimes, it is worth making a detour to the intermediate types at this point. The status of law and law enforcement in the intermediate autocracies and dictatorships is very similar to their polar pair (hence we have often dropped the adjectives “patronal” and “communist” above, respectively). In

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conservative autocracy, where it is precisely the sphere of political action that is monopolized, whereas actors from other spheres are not subjugated into a patronal network, we can see de jure upheld rights—equality before the law—which de facto can be disregarded at the discretion of the ruling political elite—inequality after the law. In a market-exploiting dictatorship, law is just as instrumental as in a communist dictatorship, although it is not used in a totalitarian way to institute central planning of the economy [→ 5.6.2]. Moreover, selective law-enforcement can even be used as a normative, economic-policy device, like in China where the prosecution openly declared that it would be more indulgent toward CEOs to bolster private sector. However, there is considerable difference between a liberal democracy and a patronal democracy. In a patronal democracy, which is characterized by the equilibrium state of competing patronal networks, law enforcement is not subjugated as no actor has the monopoly of political power. But enforcing bodies strive to keep up the image of autonomous functioning, or that they are not a tool (or a fighter) in the networks’ fight. Therefore, what we can see is a situation gravitating toward a kind of “politically proportionate law enforcement” where a roughly equal number of people are prosecuted and convicted from every competing side, and prosecutors and judges try to adjust to an informal “quota.” We are told that the situation in Romania (and potentially other patronal democracies) shows signs of such proportionality.

To sum up, using the paired concepts of before and after the law we can at last define the general status of law in the three polar type regimes (Table 4.10). In a liberal democracy, we can speak about the rule of law (or “lawfulness”):

- **Rule of law** is a status of legality of a polity that features (1) equality before the law and (2) equality after the law. Prevailing typically in liberal democracies, the rule of law means that no citizen is exempt from the law, regardless his actions or motives, political or social status.

In a patronal autocracy, while every citizen is legally granted the same rights, criminal prosecution is optional when it comes to someone of interest to the adopted political family. We can call such situation the law of rule:

- **Law of rule** is a status of legality of a polity that features (1) equality before the law and (2) inequality after the law. Prevailing typically in patronal autocracies, the law of rule means that de jure no servant is exempt from the law but de facto some can be, if they are of interest to the adopted political family.

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245 Cf. Orts, “The Rule of Law in China.”
246 Sun, “China Grants Immunity to Executives to Bolster Private Sector.” Open declaration of the policy goal also indicates substantive-rational legitimacy, although it was used to promote a normative policy and not a discretionary (patronal) one.
4.3. The Institutions of Public Deliberation in the Three Polar Type Regimes

### Table 4.10. The status of law in the three polar type regimes.

<table>
<thead>
<tr>
<th>Type of Law</th>
<th>Before the law</th>
<th>After the law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rule of law (as in liberal democracy)</td>
<td>Equality</td>
<td>Equality</td>
</tr>
<tr>
<td>Law of rule (as in patronal autocracy)</td>
<td>Equality</td>
<td>Inequality</td>
</tr>
<tr>
<td>Lawlessness (as in communist dictatorship)</td>
<td>Inequality</td>
<td>Inequality</td>
</tr>
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</table>

The expression that is typically used as an opposite for the rule of law is “rule by law,” which means that the law is not regarded as autonomous but as an instrument by the leading political elite. But as we have seen, this is equally true to autocracies and dictatorships. Indeed, what we call the “law of rule” is a subtype of rule by law, one that prevails in autocracies in the post-communist region. As for dictatorships, and especially the communist dictatorship, are concerned, there we can find the dictatorial subtype of rule by law which is lawlessness:

- **Lawlessness** is a status of legality of a polity that features (1) inequality before the law and (2) inequality after the law. Prevailing typically in communist dictatorships, lawlessness means that any subject can be exempt from the law *de jure* as well as *de facto*, if they are declared enemies or they are of interest to the nomenklatura, respectively.

#### 4.3.5.2. Courts and prosecution: from evidence through fabricated accusation to kompromat

Regarding the institutions of after-the-law enforcement, we can again find the general pattern of respect, repression and neutralization in liberal democracy, communist dictatorship and patronal autocracy, respectively. In **liberal democracies**, equality after the law follows from constitutionalism and also the idea of state neutrality: the state and its legal organs must not treat anyone differently, let alone on the basis of political opinion. One of the main means to ensure this is the **independence of the judicial branch**, that is, (1) that legal disputes are to be decided by judges who (2) are not influenced by other political actors, the government and the broader leading political elite (the executive and the legislative branch). Looking at the whole legal process, criminal cases can be modelled—in very general terms—as the following consequential steps:

1. **a crime is committed** (the suspicion thereof arises);
2. **prosecution launches the legal process** and investigation automatically;

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249 Kis, “State Neutrality.”
3. judges compare existing law with evidence, that is, the known facts of the case in question;

4. the court makes a decision (about guilt or innocence) based on assessment of the evidence.

Naturally, as the written law does not include discrimination on the basis of political opinion (equality before the law), a judge must not consider this factor either, and he must not be instructed by the ruling political elite to consider it. In a communist dictatorship, however, Marxism-Leninism entails a completely different kind of judiciary. As Lenin himself writes, after the communist revolution succeeds and “the fundamental task of the government becomes, not military suppression, but administration, the typical manifestation of suppression and compulsion will be not shooting on the spot, but trial by court. [The] court is an organ of power of the proletariat and of the poorest peasants, […] an instrument for inculcating discipline” (emphasis added). Following the bureaucratic appropriation of the interpretation of the common good, this means that the party and the party state, “the vanguard of the working class,” must be able to decide in court decisions and rectify judges who may decide in a way that would go against the interest of the working class—that is, that would go against the state party’s will. This is the ideological framework that legitimizes inequality after the law, on the one hand, and the lack of independence of the judicial branch, on the other. Indeed, as opposed to the respect of independence (and the human dignity of those who are judged by the court) by liberal democracy, a communist dictatorship represses such independence in the name of substantive rationality.

One of the consequences of such understanding of the role of courts is the so-called show trial, which we have mentioned above with respect to rights-suspending campaigns. In contrast to the four-point process described above, in a show trial:

1. a crime is not committed;

2. prosecution launches the legal process and investigation on the basis of political decision;

3. judges compare existing law with fabricated evidence, that is, fictitious data and accusations made up by the state party to frame the number one scapegoat as guilty;

4. the court makes a decision (about guilt) based on the predefined political verdict.

Driven by campaign objectives, it is usually an important element of show trials that the accused himself pleads guilty, confessing he sinned against the state party and communist principles. This sharply contrasts with patronal autocracies: on the one hand, the accused in such trials typically does not plead guilty and uses the opportunity to express strong

criticism of the regime instead; and on the other hand, trials take place in a differently controlled judicial system that also serves different purposes.

The different character of show trials in patronal autocracy also follows from the fact that such fabricated evidence, while still exists, may be used only in politically more sensitive cases. In other cases, they usually use kompromat (see below), although certain trials in patronal autocracy can involve both fabricated and real evidence. It is often hard to tell the difference because, while in communist show trials the charges are typically crimes against the system (conspiring, spying etc.), in a patronal autocracy the charges are common criminal offenses (tax evasion, drug trafficking etc.), just like the ones underpinned by real evidence. Thus, trials with fabricated evidence are not particular to communist dictatorship, but they get a distinctly different character in patronal autocracy.

In general, the chief patron takes the attitude of neutralization of judicial bodies to guarantee the adopted political family’s impunity and to cover up for the illegal acts of the criminal state. As Ledeneva points out, it is often not necessary to directly control judges to achieve this, for the repressive nature the regime demonstrates in other parts of society creates a so-called “‘chilling effect’ whereby informal norms and signalling devices make it clear what needs to be done without direct intervention.” Yet the adopted political family can make sure its will is being served in the judiciary if it takes more concrete steps to neutralize it.

We may list three ways of neutralization, which can be combined and used in unison as well. First, the simplest—but also least subtle—way for the chief patron is to break the autonomy of the judiciary. By this method, he or a political front man he institutes as a supervisor of the judges will intervene in legal cases, relocate court cases arbitrarily, restrict the competences of the courts or informally envisage negative repercussions against “wrongfully unbiased” judges. As Zoltán Fleck writes, “nondemocratic legal systems typically operate with a humiliated judiciary that has been forced into a subservient role. In comparison to the state apparatus, selection mechanisms and the organizational structure of the law-enforcement authorities in principle provide shelter against direct political […] influence. Under authoritarian regimes, where these limits must be respected in formal terms at least, the lines of attack are the heavy centralization of the organization system of judges and political pressure in regards to the leading positions, as well as the symbolic retraction of legitimacy as concerns the whole of the judiciary. The forced retirement of judges, the retroactively calling into question of ruling by judges, and the provision of a centralized organizational scope of powers beyond the extreme for individuals openly selected on political grounds are tools that can be considered attempts at institutionalization of juridical power without power sharing and subject to political regulation” (emphasis added).

Second, a patronal autocracy can decide to replace politically sensitive judicial cases from ordinary courts and place them in the hands of newly instituted administrative courts. This method of neutralization has been applied by several patronal autocracies,
including Armenia, Azerbaijan, Belarus, Kazakhstan, and Uzbekistan. Administrative courts in a patronal autocracy are packed with patronal servants [→ 3.3.5] and/or instituted with a special legal framework that limits normative adjudication. Such courts exist parallel to the normal judicial system and remove complaints against the state from the system of guarantees that formally exist in normal courts. In these special courts, there is no genuine debate, the judges only examine compliance to specific laws concerning the state institution in question, whereas the complainant might have some chance of winning if he complains about formalities (missed deadlines etc.).

The third option of neutralization of the judicial branch is subordinating prosecution to the adopted political family’s informal interests. If this way is chosen, there is almost no need to deal with the courts because criminal cases do not reach that level of the legal process, as the prosecution does not start criminal investigations against the adopted political family in the first place. Moreover, in post-Soviet countries prosecution has been historically strong in the legal system, making it a particularly important weapon in the hands of chief patrons. As Kálmán Mizsei reminds, “[under] Stalin’s Soviet power, prosecution evolved into a central institution of state repression. In the post-Soviet system, the fear factor was seriously reduced, but the privileged legal status of prosecution has been instrumental to Presidents seeking to cement their dominant power over other contenders in a world of densely intertwined political and private economic power.” In patronal autocracies, hand-guided prosecution is not simply neutralized but can also be used to attack or blackmail the enemies of the adopted political family. Thus, prosecution in patronal autocracies can easily become a principal means of politically selective law enforcement.

As far as attack is concerned, a perhaps less evident field prosecution is used is in election campaigns. Indeed, there is nothing new about the practice of the Prosecutor’s Office putting a representative of the chief patron’s political opponents on trial. It leaks information that vilifies the opponents to patronal media carefully in keeping with the campaign schedule, while sometimes qualifying the cases as state secret so the accused is not allowed to even defend themselves in public. In certain cases, public opinion is preconditioned with a pre-trial detention, house arrest or a photograph of the accused being led through court. The scoops are well timed, and the cases can stretch on for years without a sentence. Their public presentation follows the timetable of the most varied campaigns. Such selective law enforcement adjusted to campaign objectives can also target innocents, others who can be blackmailed when the case is brought against them with lesser affairs, or actually guilty parties. At any rate, a significant proportion of the cases never reach the trial phase, or the accused are acquitted. The targeted individual is nevertheless successfully discredited. In these actions the real aim is not to bring justice, to have the individuals jailed, but to expel

255 Schoeller-Schletter, “Structural Deficits in Legal Design and Excessive Executive Power in the Context of Transition in Uzbekistan.” In the patronal autocracy of Hungary, Orbán long proposed to establish administrative courts, but the reform is off the table as of late 2019. Also, administrative courts exist in some form in all post-Soviet countries except Russia, Georgia, Tajikistan, Turkmenistan and Kyrgyzstan, and in the majority of other post-communist countries as well (with the exception of Romania and Slovakia). We are indebted to Armen Mazmanny for his help in gathering this information.

256 Kárt, “Selective Prosecution in Russia”; Magyar, Post-Communist Mafia State, 50–51.

them from the political scene, and/or to discredit and smear the political organization they represent.

On the other hand, hand-guided prosecution can be used in **blackmail** and keeping the chief patron’s clients in line. Such prosecution makes it possible for the chief patron to start the following variant of the above-modeled four-step legal procedure at his discretion:

1. **a crime is committed**;
2. **prosecution launches the legal process** and investigation on the basis of political decision;
3. **judges compare existing law with kompromat**, that is, real facts that the chief patron collects and uses for blackmail and punishing disloyal actors when necessary;
4. **the court makes a decision** (typically about guilt) based on assessment of kompromat.

**Kompromat** is not particular to patronal autocracies; it exists in communist dictatorships and even in patronal democracies. In general kompromat is a piece of information—a real fact—that a political actor can be blackmailed with, either because (a) it would reveal his criminality or (b) it is a part of his personal life he does not want to publicize (see Box 4.6). More precisely, Ledeneva distinguishes **four ideal types of kompromat** by the character of information: **political**, like evidence of abuse of office and power, political disloyalty etc.; **economic**, like evidence of embezzlement, offshore activity and capital flight etc.; **criminal**, like evidence of ties to organized crime, contract killing etc.; and **private**, like evidence of extravagant spending habits, sexual behavior etc.258

As such, kompromat needs to be distinguished from at least three things that might seem similar at first glance. First, using kompromat is not libel, because the latter relies on false information whereas the former is true (just also weaponized). Second, kompromat is different from pieces of information gathered by investigative journalists or private investigators in democracies because those are typically collected not for blackmail but either for bringing them to the light for the public (by journalists) or for private use (by hirers of private investigators). Third, and most importantly, **kompromat is different from show-trial “evidence”** of communist dictatorships. For show-trial “evidence” is fabricated, whereas kompromat is **collected** and withdrawn from the public to coerce political actors by the means of blackmail.

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Going back to the role of kompromat in different regimes, **in communist dictatorships** kompromat is collected primarily by **the party’s secret service** \([\rightarrow 3.3.6]\) and it is also typically used by them, to recruit informers. High-level party cadres do not have to rely on kompromat because they can use fabricated evidence against political opponents (which the courts accept without question as they are subjugated to the state party). In his study on kompromat, Ákos Szilágyi recalls a saying that from the time of Stalin’s reign of terror: “Byl bi chelovek, statya naidetsa,” that is, “Just have the man, and we’ll find an article of the law [under which to punish him!]”\(^{259}\) After the Soviet empire collapsed, however, the **transition** created a unique situation. In post-communist—and especially post-Soviet—countries, transition in general and privatization in particular has been done in a rather shaky legal environment and with many abuses on the part of those who became important economic and/or political actors \([\rightarrow 5.5.2.2, 5.5.3.1]\). Therefore, virtually everyone who became members of the political and/or economic elite committed or was involved in something illegal, that is, something that makes them potentially convictable in courts.\(^{260}\) This **made fabricated evidence practically obsolete vis-à-vis kompromat**, which can be collected against anybody who one wants to target. Accordingly, **in patronal democracies** and also in newly born **oligarchic anarchies** competing patronal networks and oligarchs use kompromat in their fights, whereas oligarchs can also use it to blackmail politicians in bottom-up state capture \([\rightarrow 5.3.2.3]\). Accordingly, kompromat is a valuable asset and a **kompromat market** develops where entrepreneurs (or criminals) who specialize in collecting kompromat sell pieces of information to interested parties.\(^{261}\) Thus, this (grey) market is **decentralized** and largely competitive with high profits to the sellers who are of paramount importance to the oligarchs’ culminating kompromat wars.\(^{262}\)

However, for a competitive kompromat market to exist there are two conditions: (1) **there must be media pluralism**, that is, the sphere of communication should neither be closed nor dominated (i.e., it should be closer to the open ideal type); and (2) **there must be a non-hand guided prosecution and judiciary**. As for (1), media pluralism is necessary because a piece of information can potentially damage a person’s reputation only if it can be publicized, that is, if it can actually reach many people and the target cannot regulate the reach of the kompromat-publicizing media. Indeed, the importance of the oligarch’s media empires appreciates in a kompromat war, because by that the oligarch can spread his kompromat on his own to as wide an audience as his empire can reach.\(^{263}\) As far as (2) is concerned, the independence of the judiciary enters the picture when the kompromat is not simply a denouncing piece of information but evidence for a crime, that is, real data that can be used in courts. But if the prosecution and/or the judiciary were hand-guided, then no matter what kompromat one might have, nobody would be convicted unless the one who hand-guides approves. Moreover, if an interest actor can control prosecution, the legal process cannot even reach the trial stage, regardless of the submitted kompromat or

\(^{259}\) Szilágyi, “Kompromat and Corruption in Russia,” 215.

\(^{260}\) Szélényi, “Capitalisms After Communism,” 40–42.


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Evidence, and vice versa: only the one who has exclusive control can use kompromat and launch prosecution (and have his targets convicted by courts) at his discretion.

This explains why the establishment of patronal autocracy brings the end of a competitive kompromat market. Genuine media-pluralism disappears as the sphere of communication becomes dominated, whereas prosecution and/or the courts lose their independence and become either neutral—toward the adopted political family—or active—toward those the chief patron wants them to. In such situations, the kompromat market effectively becomes a monopsony (a single-buyer market) as the chief patron becomes the foremost user of kompromat, because the institutions of the kompromat’s mechanism of action are put under his authority. Also, while kompromat in communist times was a state monopoly, it can easily happen that under a mafia state it becomes the chief patron’s monopoly on the collector side, too, as the means of private kompromat-collectors pale in comparison to (1) the state’s legally given access to classified or confidential data and (2) the patron’s secret service.

Finally, kompromat goes through a change of character in a patronal autocracy in three ways. First, in other regimes, kompromat can be collected but it cannot be generated in the sense that there is an existing legal framework and non-compliances to it create the piece of information that can be used as kompromat. However, a patronal autocracy can also generate kompromat as the chief patron can change the legal framework to his liking. Indeed, instrumental law in general and custom-tailored laws with too much detail in regulation in particular can create situations (even retrospectively) which make criminal the otherwise non-criminal acts of targeted individuals. Therefore, even perhaps small violations of the law can become criminal and the number of instances where a piece of information can also become kompromat rises. The second way kompromat changes character is that it helps bridge the discrepancy between equality before the law and inequality after the law. In communist dictatorships, the system did not have to use special kinds of “evidence” against political opponents because they were openly banned. With inequality before the law, political opponents could be sent to jail and the category of political prisoner existed accordingly (typically separated spatially, as a distinct “class,” from ordinary criminals in penitentiary institutions). But in a patronal autocracy, the system is formally a democracy and the basic rights and liberties of people are formally upheld. Therefore, the adopted political family must transform political opponents into common criminals to jail them. Kompromat is collected and used by the adopted political family for this purpose particularly, where the chief patron can activate prosecution discretionally and hand over (through front men) the evidence, on the basis of which political opponents can be convicted. Third, kompromat changes character in a way that one of the conditions of adoption to the political family is for the chief patron to have a kompromat on the candidate. As we indicated in the previous chapter, in the adopted political family everyone besides the chief patron must be a transgressor so they can be blackmailed and kept in line [→ 3.6.1.2]. (Naturally, the chief patron, as the head of the criminal state, is also a transgressor.) Therefore, kompromat is not simply collected but in

265 For a more detailed analysis of kompromat in Russia, see Ledeneva, How Russia Really Works, 58–90.
a way requested, either in the form of pre-existing kompromat or requiring the person to commit some (perhaps minor) crime so a kompromat exists on him for the chief patron, who can launch a criminal process after a political decision has been made to punish or remove an insubordinate actor. Thus, kompromat in a patronal autocracy gets a new function as it serves as a means of blackmail to enforce loyalty to the chief patron at the helm of the single-pyramid patronal network.

4.3.5.3. Legalism: democratic and autocratic

**Legalism** is a phenomenon noted in various regimes and defined usually as the application of the law without paying attention to the decisions’ social, political and/or moral context. To be more precise, it is worth making at this point the common distinction between the “letter of the law” and the “spirit of the law.” On the one hand, a law prescribes what counts as illegal behavior and how it should be punished (letter of the law). On the other hand, the legislator who creates that law has some intent and the law should be applied in a way that fits to it (spirit of the law). The context mentioned above refers, in our understanding, to the spirit, whereas legalism is disregarding the spirit of the law and using legality for one’s objectives, going against the laws’ declared purpose.

Legalism exists in various regimes, even in liberal democracies. But to be able to distinguish its various types, we need to consider additional aspects. Most importantly, every law has two spirits, which may be called:

- **the endogenous spirit of the law**, which refers to how the decisions of political actors who act by the law affect concrete actors who fall under the law’s range. Here, the spirit of the law refers to the legislator’s intent as to how he wants to regulate the actors’ behavior, whereas legalism that disregards this mistreats the actors from the point of view of the legislator;

- **the exogenous spirit of the law**, which refers to how the decisions of political actors who act by the law affect the constitutional system that contextualizes the whole legal corpus. Here, the spirit of the law—indeed, a general spirit that is the same for all the laws of a polity—refers to the ideological framework that justifies the existence of the constitutional system, whereas legalism that disregards this results in decisions that impair the constitutional system from the point of view of its founders.

Indeed, when people usually speak about the “spirit of the law,” they mean the endogenous spirit. As for the relation between the spirit and the letter of the law, in liberal democracies the enforcing phase of public deliberation is about making the laws work as the people’s elected representatives wish. Therefore, political actors who enforce the laws are expected to apply them in a way that is compatible with the legislator’s intent even if in a concrete case the letter of the law could be interpreted to say otherwise. In contrast, expressions like “red tape” (in the context of the bureaucracy) and “rules-lawyering” and “corruption of the

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266 For a seminal work, see Shklar, *Legalism*. 
law” (in the context of the courtroom) have been used to describe practices of disregarding the spirit of the law and making a reference only to its letter, making subsequent decisions formally legal but indeed unjust.\textsuperscript{267}

On the other hand, the exogenous spirit of the law regards legal decisions’ moral and political context, or the moral and political context of the constitutional system. This means not simply that—in liberal democracies—the legal system and its decisions must be compatible with the constitution, but also that the general spirit of every law is constitutionalism, in the sense we explained it at the beginning of the chapter. Concretely, in every legal case, that is, in every application of the law political actors ought to take into account the effect of potential decisions on the prevalence of the public deliberation process. Sartori calls this the “telos” of the law, understood as the ultimate purpose of defending citizens from tyranny, and warns that a polity where the judiciary lacks the sensitivity to this ultimate purpose risks the prevalence of limitless power and losing political liberty at once.\textsuperscript{268} As Mazmanyan paraphrases Alexis de Tocqueville, the “peril of legalism” in this respect is none other than “a triumph of order over freedom.”\textsuperscript{269}

Table 4.11 introduces the terms democratic and autocratic legalism, typically occurring in democracies and autocracies, respectively. The distinctive feature of democratic legalism is that in it lower-level political actors like bureaucrats and judges abuse laws that apply to others. In other words, the laws are created by legislators to regulate people in some way, but they are interpreted and applied by public servants in a way that goes against the declared intent.

In democratic legalism, bureaucrats and judges can disregard the endogenous spirit of the law. When bureaucrats do it and they prevent the action of social actors by adhering rigidly to formal rules and requiring them to fill in administrative documents and acquire licenses that are indeed redundant, we speak about red tape. “Red tape” is a colloquial expression but it has been used in scholarly articles as well for such over-activity of the bureaucracy in enforcing an excessive burden of (governmental) regulations that paralyzes economic and communal actors—even when this clearly was not the intent of the legislator.\textsuperscript{270} On the other hand, judges can also engage in democratic legalism in cases of the above-mentioned rules-lawyering, when a court ruling adheres to the word of the law but not to its spirit.

\textsuperscript{267} Kusiak, “Rule of Law and Rules-Lawyering.”
\textsuperscript{268} Sartori, “Constitutionalism.”
\textsuperscript{269} Mazmanyan, “Constitutional Courts,” 133. See also Tocqueville, Democracy in America and Two Essays on America.
\textsuperscript{270} Bozeman, “A Theory of Government ‘Red Tape.’” Indeed, besides the bureaucrats transforming normal regulations into red tape (i.e., “rule-evolved red tape”) Bozeman also writes about “rule-inception red tape,” which he understands as “rules that are at their origin dysfunctional.” But already the word “dysfunctional” expresses that they do not function as the legislator intended, therefore even those can be considered instances of legalism.
Table 4.11. Democratic and autocratic legalism.

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<th>The spirit of the law regards…</th>
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<td></td>
<td>Concrete actor(s)</td>
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<td></td>
<td>(endogenous spirit of the law)</td>
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<tr>
<td>Democratic legalism</td>
<td>Red tape (bureaucracy), rules-lawyering (courts)</td>
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<td>(lower-level political actors abuse laws that apply to others)</td>
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<tr>
<td>Autocratic legalism</td>
<td>Using democratic mandate to create instrumental law</td>
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<td>(higher-level political actors abuse laws that apply to them)</td>
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As for the exogenous spirit of the law, it is disregarded in democratic legalism when laws are applied in a way that is incompatible with constitutionalism. In our understanding, democratic legalism that disregards the exogenous spirit of the law happens when decisions effectively wreck the public deliberation process and therefore lead, not toward the reinforcement of liberal democracy—as it would be the purpose of the constitution—but its destruction. Such situations might occur, for example, when the court will not allow a party to register for formal reasons, when free speech or demonstrations are hindered, or even—to recall a striking case from Hungary—when the Constitutional Court in 2008 gave way to the initiative of a national referendum of Fidesz on the annulment of higher-education fees and a nominal fee for visiting the doctor (despite the fact that the constitution clearly intended to prohibit referenda in budget matters). This decision was disruptive and disregarded the exogenous spirit of the law because it legitimated and reinforced the unrealistic expectations of the voters, disabled the operational ability of the government, stepped up polarization, and all in all played an instrumental role in the disintegration of the Third Hungarian Republic in the wake of Viktor Orbán’s two-thirds victory.

Turning to autocratic legalism, Scheppele defines it as a phenomenon when “electoral mandates plus constitutional and legal change are used in the service of an illiberal agenda.” This definition already includes the principal difference between autocratic and democratic legalism. Namely that, in autocratic legalism, higher-level political actors abuse laws that apply to them in an attempt to carry out power policies (conservative autocracy) and patronal policies (paternal autocracy). While in democratic legalism political actors apply a law to others while disregarding its spirit, autocrats disregard the spirit of the laws that were created to sustain a proper democratic (i.e., constitutional) functioning. Thus, autocratic legalism can be understood as an abuse of power whereby higher-level political actors use the letter of the law for the diametrical opposite of its spirit: they use their democratic mandate and legal empowerment to disrupt the system they got it in. As Scheppele writes, in these cases “constitutional democracies are being deliberately hijacked by a set of legally clever autocrats, who use constitutionalism and democracy to destroy both.”

272 Palonen, “Political Polarisation and Populism in Contemporary Hungary.”
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[The] autocrats who hijack constitutions seek to benefit from the superficial appearance of both democracy and legality within their states. They use their democratic mandates to launch legal reforms that remove the checks on executive power, limit the challenges to their rule, and undermine the crucial accountability institutions of a democratic state.\textsuperscript{274}

Although we will elaborate more on this later on, it is important to note that, as autocratic legalism involves using and rewriting “the rules of the game,” the leaders must be able to legislate and even change the constitution on their own (without the support of other parties). In other words, \textbf{they must have the monopoly of political power} in order to be successful \[\Rightarrow 4.4.1.3\]. As Maria Popova writes, autocrats “can govern within a constitutional framework, even if they are not fully constrained by it. In an ideal type […] regime, the autocrat sets the substantive law […]. The opposition does not have the opportunity to shape substantive law […]. The opposition does not have the opportunity to shape substantive law, either through the legislative process or by appealing to the Constitutional Court.”\textsuperscript{275}

On the one hand, in a democracy \textbf{the endogenous spirit of laws} regulating the behavior of high-level political actors entails the creation of clear, public, stable rules that will regulate the polity’s life. In other words, it calls for constitutionally limited law. But autocrats disregard this spirit and start to rule by law, that is, create \textit{instrumental law} and use the legal system—via custom-tailored lexes and breakneck legislation—for their power or patronal policy goals. On the other hand, \textbf{the exogenous spirit of the law} is constitutionalism in the initial democratic environment, and democratic mandates enable leaders “to play the game,” that is, to remain within the realm of normal politics and act by paying attention to constitutionalism in general and the process of public deliberation in particular. However, autocrats use their mandate not to play the game but to change its rules and to \textbf{institutionalize autocracy} in the end. This includes (1) changing the constitution, (2) narrowing the competences of other branches of power and/or (3) replacing the members of the constitutional bodies (checks and balances) with patronal servants and political front men, who the leaders can appoint by relying on the monopoly of political power that legally gives them a monopoly in political appointments as well.\textsuperscript{276} The result is the neutralization of the public deliberation process, institutionalizing the forms that we have identified above.

Javier Corrales, who coined the term “autocratic legalism” identified it as “the use, abuse and non-use […] of law” in Hugo Chávez’s Venezuela.\textsuperscript{277} This triad fits into our analytical framework as well. \textbf{“The use of law”} appears when the endogenous spirit of the law is violated. Indeed, this is what we mean by “rule by law” and the instrumentalization of the legal system. \textbf{“The abuse of law,”} on the other hand, takes place in both subtypes of autocratic legalism, for it entails precisely the abuse of power, that is, the (endogenous and exogenous) spirit of the laws that regulate it. Finally, \textbf{“the non-use of law”} refers to politically selective law enforcement, which is not part—in our understanding—of autocratic legalism \textit{per se} but is enabled by it, for the chief patron abuses his democratically granted right by appointing a front man as the chief prosecutor or neutralizing the judiciary in

\textsuperscript{274} Scheeppele, 547.

\textsuperscript{275} Popova, “Putin-Style ‘Rule of Law’ & the Prospects for Change,” 65–66.

\textsuperscript{276} Scheeppele, “Autocratic Legalism,” 551–53.

\textsuperscript{277} Corrales, “The Authoritarian Resurgence.”
one of the two other ways [→ 4.3.5.2]. Also, if the adopted political family takes over the judiciary, they can turn judicial discretion into political discretion. In liberal democracies, laws typically prescribe not a single punishment for a violation of law but a range of punishments, and judges are given room for maneuver to interpret the law. This is called “judicial discretion,” and its meaning is precisely to allow the judges to take into account the context of the case and, while remaining faithful to the letter of the law, reconcile it with its (endogenous) spirit.\footnote{Dworkin, “Judicial Discretion.”} Naturally, this process necessitates an independent judiciary and that it is indeed at the judge’s discretion, within the broader limits of the law, to decide legal cases. In an autocracy, however, judicial discretion is either eliminated—by creating such detailed, custom-tailored laws that minimize the judge’s room for maneuver—or taken over and turned into political discretion, which means that the room for maneuver becomes a tool of an external political will. It becomes the chief patron who tells what punishment from the legally given range someone should receive (if at all); and typically, if this happens, the room for maneuver is not eliminated but widened, so that the leaders’ arbitrariness can move on a large amplitude while remaining faithful to the letter of the law.

4.3.5.4. White, grey and black coercion

In the previous parts, we described the institutions by which a decision is made whether one commits a crime. Now, we describe the institutions that step in when this decision is made and the state decides to use coercion against someone who deviates from the polity’s principles. Speaking about state coercion [→ 2.2], there are two groups of types we need to distinguish in general: (1) **insourced state coercion**, which refers to public institutions which are part of the state and constitute the everyday “arsenal” of the state to enforce laws and manage the regime on its own, and (2) **outsourced state coercion**, where actors who would not be allowed to use violence in the regime’s territory are given this right by the leading political elite. Table 4.12 summarizes the main types of both insourced and outsourced state coercion, where the first one is identical to its only type, white coercion:

- **White coercion** is a type of coercion which is legal in the polity by default, that is, it relies on the state’s legitimate use of violence as a part of the state. In other words, white coercion is exercised by legal public institutions (violence-managing agencies), which act as parts of the state and use violence to extract, manage and distribute resources within the borders of the regime.

In contrast, outsourced state coercion has two types, grey and black coercion:

- **Grey coercion** is a type of coercion which is legal in the polity by the authorization of the state. In other words, grey coercion is exercised by legal private institutions (violence-managing agencies), which act as licensed actors and/or subcontractors of the state and use violence within the range of their authorization.
- **Black coercion** is a type of coercion which is illegal but still employed by the state to achieve its goals. In other words, black coercion is exercised by illegal private institutions (violence-managing agencies), which act as informal contractors of the state as violent entrepreneurs.

As it can be seen from the definitions, **what we indicate by moving from white to black is the legality of coercion**. We move from white coercion—the legality of which is given by definition—through grey coercion—the actors of which would not be allowed to use violence on their own but the state legally empowers them to do so—to black coercion—which is illegal but still employed occasionally by the leaders, typically autocrats, to achieve their (patronal policy) goals. Also, it is worth noting that both legalization and legitimization of the use of violence can only be done by the state, for it has a monopoly, that is, a control over the market of the use of violence [→ 2.5].

**Table 4.12. Institutions of state coercion and their functions.**

<table>
<thead>
<tr>
<th>Type of organization</th>
<th>Characteristic state function in…</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>White coercion</strong></td>
<td></td>
</tr>
<tr>
<td>(default legal use of violence)</td>
<td></td>
</tr>
<tr>
<td>Law enforcement agency (police, SWAT etc.)</td>
<td>Normative law enforcement through (threats of) violence</td>
</tr>
<tr>
<td>Revenue agency (tax office, accounting office etc.)</td>
<td>Collection of normatively imposed levies</td>
</tr>
<tr>
<td>Intelligence agency (secret service etc.)</td>
<td>Surveillance and neutralizing national security threats</td>
</tr>
<tr>
<td><strong>Grey coercion</strong></td>
<td></td>
</tr>
<tr>
<td>(authorized legal use of violence)</td>
<td></td>
</tr>
<tr>
<td>Auxiliary police (self-defense organization etc.)</td>
<td>Part-time reserves of national police force</td>
</tr>
<tr>
<td>Private protection agencies (secret service, private police etc.)</td>
<td>Protection of people and objects of public importance</td>
</tr>
<tr>
<td><strong>Black coercion</strong></td>
<td></td>
</tr>
<tr>
<td>(illegal use of violence)</td>
<td></td>
</tr>
<tr>
<td>Fan clubs (ultras, skinheads etc.)</td>
<td>n.a.</td>
</tr>
<tr>
<td>Paramilitary group (militias etc.)</td>
<td>n.a.</td>
</tr>
<tr>
<td>Organized underworld (criminal groups, classical mafia etc.)</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

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279 Our distinction of actors corresponds to Jennifer Earl’s typology of repression, which distinguishes coercion undertaken by state agents tightly connected with national political elites, state agents loosely connected with national political elites, and private agents. Earl, “Tanks, Tear Gas, and Taxes,” 48–52.
Nominally, the institutions of state coercion are largely similar in liberal democracies and patronal autocracies, but their characteristic state functions differ as to whether they fulfill public policy or patronal policy goals, respectively. By “characteristic state function,” we do not refer to that the given function appears only in that regime; moreover, a characteristic state function may not even be the dominant one. Indeed, it is “characteristic” in the sense that fulfilling that function is what the regime is typically recognized for. Concretely, listing the institutions below we mention (1) the main state function of the institution in liberal democracy, and (2) the new, extra function the institution receives in patronal autocracy, which appears more or less regularly alongside the function it fulfills in liberal democracy.

**In cases of white coercion**, the three main institutions are: law enforcement agency (police, SWAT etc.), revenue agency (tax office, accounting office etc.) and intelligence agency (secret service etc.). In liberal democracies, law enforcement serves the purpose of normative law enforcement, that is, to use (threats of) violence to minimize deviations from the law in the polity. In patronal autocracies, these agencies are subordinated to politically selective law enforcement and indeed engage in extortion when they enforce instrumental laws of the adopted political family. While the police typically fulfill this first function, special anti-terror divisions of law enforcement are often used for the protection of the members of the adopted political family, as in the cases of Russia and Hungary [→ 3.3.6]. In other countries like Uzbekistan, extortion through law enforcement goes beyond functioning the formal institution by informal norms, and informal bribes—indeed protection money [→ 5.3.3.1]—are collected in addition through the police (see Box 4.7).

The situation of the tax office is similar: it collects normatively imposed levies in a liberal democracy, while the chief patron assigns it a new function that is particular to patronal autocracies: extortion through selective inspection and penalties, that is, through selective law enforcement and supervisory intervention [→ 5.4.1.2]. Finally, the intelligence agency, as we explained in the previous chapter [→ 3.3.6], is the state’s secret service in a liberal democracy that becomes the patron’s secret service in a patronal autocracy. The main function of this agency in a liberal democracy is surveillance and neutralizing national security threats; in a patronal autocracy, its characteristic function is surveillance of formal and informal opposition (parties, NGOs, and even individuals).

Turning to grey coercion, two main types of organizations that are authorized to use violence are auxiliary police (self-defense organization etc.) and private protection agencies, as classified in Chapter 2 [→ 2.5.2]. Auxiliary police in a liberal democracy are composed of civilians who serve as part-time reserves of the national police force. There-

fore, it adjusts to the goals of the state law-enforcement agency. In a patronal autocracy, auxiliary police similarly help the national police, but as police are, as we mentioned above, subordinated to patronal policy goals, auxiliary police will help it achieve those ends and serve the adopted political family. Private protection agencies like security services and private police are employed by constitutional states to protect people and objects of public importance, such as state buildings and politicians. In a patronal autocracy, the mafia state employs them to protect people and objects of patronal importance, which might extend to places that are not formally part of the state but are regarded important by the informal patronal network.280

Finally, the actors of black coercion have no characteristic state function in a liberal democracy. Indeed, following the congruence of de jure and de facto and that the state is committed to enforce its laws, thugs are subject to criminal persecution and not employment by the state. Yet in patronal autocracies281 they are employed, although only occasionally and against targeted individuals who can neither be neutralized nor coopted (that is, subjugated in the single-pyramid patronal network). There are three important types of organizations used for such jobs. First, there are fan clubs (ultras, skinheads etc.), which can be used to neutralize protests and other opposition-related activities.282 Second, autocrats can employ paramilitary groups (militias etc.), which can intimidate and disrupt mass opposition activities violently, and even fight against other armed groups as mercenaries, like in the case of the Cossacks in Putin’s Russia.283 Last but not least, the mafia state can hire the organized underworld, such as criminal groups and the classical mafia as well, which can extort and liquidate specific targets or opponents of the adopted political family. The scale for such targets might range from opposition politicians through rival oligarchs to unyielding journalists.


The regimes we define are ideal typically stable, self-sustaining systems. They do have strong and characteristic internal dynamics and are subject to change in many of their parts, but every change (1) happens by the internal logic of the system, following its formal and informal institutions, and (2) does not change the general character or “essence” of the system. As János Kis explains, self-sustaining systems may fall as a result of exogenous shocks like wars or worldwide economic depression, but their endogenous components,

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280 Savage, “The Russian National Guard.”
281 Indeed, other more repressive regimes might employ black coercion, too. For the example of a market-exploiting dictatorship, see Ong, “Thugs-for-Hire.”
282 Bozóki, “Hungarian ‘Exceptionalism’: Reflections on Jeffrey C. Isaac’s Illiberal Democracy.”
283 Herpen, Putin’s Wars, 143–51.
that is, the internal processes that make up the system do not break it down. Naturally, there can be components that aim at destroying the system or changing its essence, and therefore ideal type regimes are not equally stable. But the regimes we present have the potential to fight off destructive tendencies and maintain their existence without fundamental changes.

To be more precise, we can identify the features of self-sustaining systems in three points:

1. **the regime’s components are compatible**, that is, the activity of one institution does not preclude the others from performing the tasks that are assigned to them;

2. **the regime’s components are mutually supportive**, that is, an institution, while performing its own task, also creates favorable conditions for the smooth running of other components, thus increasing the self-sustaining capacity of the whole system and contributing to the prevention of unwanted fluctuations in the regime;

3. **the regime has effective defensive mechanisms**, which prevent or contain destructive tendencies so they do not lead to the destruction of the regime’s essence.

In the previous part, we have shown that in every regime the components belonging to them are indeed compatible and mutually supportive. This is obvious in case of liberal democracy, where the institutions fit into the pattern of public deliberation, but in the cases of the two other polar type regimes they also followed a distinctive attitude and fit into a respective ideological framework. Institutionalizing suppression of rights in communist dictatorships follows from Marxism-Leninism. *De jure* maintenance but *de facto* neutralization of public deliberation is in line with populism in patronal autocracies. The institutions we presented for each regime work together to sustain their political system and help its self-reproduction.

This part is devoted to the third point: **defensive mechanisms**. Moving away from conceptualizing institutions one by one, we now analyze certain constellations of institutions and their jointly created dynamic effects. We will examine (1) what is the essence in the case of each regime that is to be protected, (2) what constellation of institutions ensures their protection (defensive mechanisms), and (3) what happens when these defensive mechanisms erode, that is, when and how they are broken down—if possible—by inimical actors. Indeed, the strength of defensive mechanisms is directly proportional to the regime’s stability: if they are stable, the regime is also stable and consolidated; when they are eroded, the regime is pushed toward self-destruction; and when a regime lacks them, it lacks consolidation and is extremely vulnerable to systemic collapse and change.

The three regimes explained in this part will not be the three polar types but the regimes on the left side of our triangular framework: **liberal democracy, patronal democracy, and patronal autocracy**. The reason for this is in the evolution of systems in the post-communist region. Defensive mechanisms are most important when they are under

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284 Kis, “Demokráciából autokráciába” [From democracy to autocracy].

285 We take these points from one of Kis’ manuscripts, which is indeed a longer version of the above-cited study he published three years later. Kis, “Demokrácia vagy autokrácia?”
attack, and in regime-changing systems this has happened either when actors attempted to transform a liberal democracy into an autocracy—like in the case of Hungary, where the attempt was successful—or when a patronal democracy is being transformed into a patronal autocracy—like in the case of Ukraine, where the attempts have been unsuccessful. We could not have seen such instances in post-communist conservative autocracies because there are none, only an attempt in Poland. Yet theory suggests that its defensive mechanisms would be similar to those of patronal autocracy, only with formal instead of informal means of consolidation (see below). As for communist dictatorships, they typically collapse not because of (internal) political but economic reasons: even with numerous correcting mechanisms \[\rightarrow 5.6.1.2\], central planning creates shortages and disincentivizes consumer-focused innovation, as it forces top-down decisions rather than allowing actors to adapt to changing needs.\(^{286}\) In short of limitless resources, wasteful misallocation leads to social unrest—which the dictatorship can answer with oppression, as in North Korea—or to reforms—which move the dictatorship toward the market-exploiting ideal type, as in China. Yet not even a market-exploiting dictatorship is unchallenged. Indeed, we can see a tendency of patronal autocracy’s neighboring regime types to gravitate toward it—only patronal democracies do so by autocratic challenge, while market-exploiting dictatorships, by patronal challenge. The former is going to be analyzed in this chapter, but understanding the latter, as well as the defensive counter-measures of market-exploiting dictatorships requires an overview of the economy first. Therefore, we postpone the discussion of market-exploiting dictatorships to the next chapter \[\rightarrow 5.6.2\].

### 4.4.1. Liberal Democracy: Separation of Branches of Power and Civil Society

#### 4.4.1.1. The danger and containment of autocratic tendencies

**Constitutionalism** provides the framework from which the institutions of liberal democracy can be derived. It starts from the notion of human dignity and deduces (1) *the universal protection of human rights and (2) the people’s equal right to have a say in how their life is governed*. From (1), it follows that *the scope of political power must be limited*: the state’s use of violence must not be used to carry out rights violations. On the contrary, the *raison d’être* of a constitutional state is precisely to prevent rights violations, and although it can be democratically enabled to fulfill other (public policy) functions, even the people—typically the majority—are prohibited from initiating centrally-led infringement of the basic rights and liberties of others—typically the minority.\(^{287}\) On the other hand, from (2) it follows that *the people must have an effective influence on lawmaking*. Be this influence direct—like in case of referenda—or indirect—like in case of electing representatives who will make the laws—it is a fundamental right of every citizen to have some kind of control over the laws that will regulate him and his life in the polity.

\(^{286}\) Kornai, “Innovation and Dynamism”; Kornai, *The Socialist System*.

\(^{287}\) Sajó, *Limiting Government*. 
Defensive mechanisms are needed to uphold (1) and (2), that is, constitutionalism in general. The primary threat liberal democracies have to be able to fight off to remain stable may be called autocratic tendencies: the activity of anomalous actors who go against constitutionalism and act towards eradicating it in favor of an autocratic rule. Indeed, these actors are “anomalous” because they do not follow the logic of “normal” democratic actors and parties, breaking the norms of mutual toleration and institutional forbearance (i.e., respecting the spirit of the law and the constitutional system). This might involve non-deliberate actions, like most cases of democratic legalism when the judges focus on the law and case at hand but disregard its consequences for democratic processes (that is, the exogenous spirit of the law). But most autocratic tendencies, and especially the ones which defensive mechanisms must tackle, are the deliberate attempts of certain actors who aim at their own unconstrained rule—in violation of (1)—that is also unaccountable and everlasting—in violation of (2).

The first defensive mechanism that aims at upholding (1)—that is, the limited nature of power—stems from the separation of branches of power. The separation of powers was advocated most famously by Montesquieu, who described how the executive can be separated from the legislative and judicial branches of the state. Naturally, actual separations in real world democracies are highly intricate and show a great variation of different patterns. But the basic idea of Montesquieu that every solution sets out to realize is to prevent every state function being exercised by the same person or a single elite group. Institutions are set up in a way that not every political actor is either dependent or answerable to the leading political elite in general and the executive in particular (which is headed by the leader of the leading political elite, a president or prime minister). Therefore, while the state is a hierarchy, it is not controlled exclusively by anyone. Thus, formally, no one possesses enough power to realize his autocratic aims. Furthermore, should an autocratic tendency start in any branch—particularly the executive—the other branches are legally empowered to contain it (through veto rights, impeachment procedures, votes of no confidence etc.). Being capable of preventing some of each other’s actions, the separated branches can work as checks and balances of each other and of autocratic actors.

In a democratic state, power is separated not only horizontally but also vertically. The power of the executive is narrowed by taking away some of its competences and giving them to separate branches, situated in the state and in a horizontal coordination with the executive branch. But power is also shared vertically between the central government and local governments. On the municipal, county or other sub-national level, the presence of local governments (and therefore some sort of federalism) acts as

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288 Levitsky and Ziblatt, How Democracies Die.
291 Madison, “Federalist No. 51.”
292 We are indebted to János Székely for this point. Also, this is not to be confused with O’Donnell’s terminology of “vertical” and “horizontal accountability,” where the former refers to elections and the latter, to the separation of powers and the capacity of autonomous institutions to “call into question, and eventually punish, improper ways of discharging the responsibilities of a given official.” O’Donnell, “Delegative Democracy,” 61.
a check and balance on the central government, which does not have full authority over the lives of citizens as some of that authority is passed on to the people’s elected local representatives. Naturally, how local governments are organized and how many levels of federalism there are varies greatly, and indeed it is more of a country-specific rather than a regime-specific question. But the **principle of subsidiarity** holds that social and political problems should be dealt with at the most immediate level consistent with their solution. Liberal democracies in general share this principle of subsidiarity, for it—in line with constitutionalism—“serves human dignity by enabling individuals to gain fulfillment through social interaction within a hierarchy of freely chosen associations, each performing its proper tasks, and with the larger associations aiding but not superseding the smaller ones.” Hence, the competences of local governments ideal typically include substantial legislative, judicial and executive powers regarding local issues (public schooling, land management, local investment projects etc.). Over these issues the authority of central government is constrained, and therefore alternative “islands of liberty” can exist and regulate the lives of local citizens with substantial autonomy.

The second defensive mechanism that aims at upholding (2)—that is, the people’s right to have a say in how their life is governed—is none other than **public deliberation**. For it is precisely public deliberation that allows the people: to evaluate the performance of the current government and the various alternatives to it (discussing phase, with an open sphere of communication); to have the alternatives to the government manifested in demonstrations and political parties (associating phase, with the free exercise of the right of association without state interference); to choose an alternative in a race where the decisive factor is who they prefer, not who the manipulated electoral system or the illegal access to campaign funds benefits (electing phase, with fair elections); to have the type of policy they voted for embodied in laws (lawmaking, with decision-maker legislature); and to have the laws created by their representatives enforced, so their life is indeed governed in the way they have chosen (enforcing phase, with equality after the law). It can be seen from this overview that the **presence of elections alone does not mean the people have a say how their life is governed** (i.e., (2) is upheld). Indeed, claiming otherwise has been identified as “the fallacy of electoralism” by scholars, reflecting on elections that the incumbents can manipulate to produce the result they want. The people’s right to choose how their life is governed necessitates knowing the alternatives, and also that the alternatives have a chance in winning the election, forming the government and creating laws that will regulate the people’s life as they want it to be regulated. Furthermore, because (2) should be guaranteed for every citizen in every time period the process of public deliberation must be cyclical. The people’s will must be able to remove the incumbent, who in turn must not be able to manipulate electoral competition in face of losing popularity. For that would mean that he keeps himself in power in spite of the people changing their mind about how their life should be governed, violating principle (2).

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293 Bulman-Pozen, “Federalism as a Safeguard of the Separation of Powers.”


296 Karl, “The Hybrid Regimes of Central America.”
As Kis explains, defensive mechanisms are embodied in “guarantial institutions” of the rule of law, including “the independent constitutional court and the ordinary courts, the public prosecutor’s office isolated from direct party influence, and the party-neutral bureaucracy.”297 However, while we were talking about these institutions’ internal significance—that is, why their independence is important within the state—Kis emphasizes what may be called their external significance, regarding the people outside the state: guaranteeing the protection of political rights of the citizens. Among political rights, he lists “freedom of speech, assembly, unification for everyone, right of access to information of public interest, and universal and equal suffrage,” and argues that “[p]olitical rights, in the absence of a strong background of rule of law, will become ineffective and eroded. However, where the institutions of rule of law are strong, political rights cannot be easily overcome.”298 Thus, the institutions that guarantee the upholding of (1) contribute, by protecting political rights, to the proper functioning of public deliberation and therefore the upholding of (2) as well. Indeed, it is these basic rights, as Kis points out, that “guarantee that no significant social group remains without political representation, and that the defeated electoral coalition is not deprived of the chances of winning the next election.”299

In short, the separation of branches of power prevents autocratic tendencies by limiting the scope of rule, both horizontally and vertically, whereas the cyclicality of public deliberation prevents autocrats from everlasting rule by ensuring removability and accountability. These two institutional settings ensure a dynamics that are inimical to autocracy and favorable to limited, democratic rule.

4.4.1.2. Factionalism: the liberty of social groups and the four autonomies of civil society

In a study on the protection of democracy, András Jakab proposes the following list of concrete institutions that ensure, in our terms, the integrity of the two defensive mechanisms: (1) avoiding presidentialism and/or adopting term limits; (2) regulation of party financing and intra-party democracy [→ 4.3.4.4]; (3) international and supranational legal requirements regarding the rule of law; (4) federal statehood; (5) special constitutional rules (like unchangeable “eternity clauses”); (6) proportionate electoral system; (7) an organizationally and financially independent judicial system; and (8) the network of independent institutions that mutually protect each other.300 We have either touched upon these guarantees or going to discuss them below. However, even if powers are de jure separated and the basic (political) rights to engage in public deliberation are legally protected, ensuring de facto separation and protection has an underlying condition: the independence of the people operating these institutions. James Madison famously argued that a constitutional system can be self-sustaining only if the members of each institution have as little dependence as possible on other institutions, for this is what allows them to act freely and ensures that they are not coerced into supporting the other institutions. In Madison’s words, the maxim of effective checks and balances goes as follows: “Ambition must be made to counteract

297 Kis, “Demokráciából autokráciába” [From democracy to autocracy], 59.
298 Kis, “Demokráciából autokráciába” [From democracy to autocracy], 59.
299 Kis, “Demokráciából autokráciába” [From democracy to autocracy], 59.
ambition.” To impede autocratic tendencies or “the turbulency and weakness of unruly passions,” factionalism is required, that is, the competition of independent groups with different interests involved in the procedure of state-decision making. Since no faction is interested in another faction’s single rule, they have a clear incentive to fight autocratic tendencies and their involvement in the state decision-making process; independence from the autocratic actor enables them to do so.

Madison’s argument for factionalism regarded public institutions, that is, the separation of branches of power. Indeed, in this respect the autonomy of state departments and especially local governments is a vital issue, which should not be fully dependent on the central government especially in terms of tax revenues. But Madison’s argument can well be extended to the private sphere, as well as to the entire process of public deliberation. Fundamental rights like freedom of speech and association can be exercised freely only when private people are not dependent on the state—when the liberty and autonomy of societal groups prevails. Again, this refers particularly to financial independence, that is, the people’s ability to sustain themselves and finance the exercise of their rights independently from the leaders’ decisions. On the one hand, this is ensured in liberal democracies by rules and regulations that prohibit the leaders to decide discretionally in the distribution of resources and to discriminate on a political basis in budgetary spending and state contracts with entrepreneurs and public servants. On the other hand, a perhaps more substantive basis for liberty and autonomy is the capacity to finance oneself from the private sector, that is, from supplying goods and services to the citizens without the interference of the leading political elite.

To see what this means for the process of public deliberation, let us take four groups of actors:

- **the autonomy of media** or media entrepreneurs allows them to broadcast critical opinions without the fear of repercussions from the state. This is crucial for the public deliberation process, because it is precisely the national display of alternatives that (1) makes citizens able to evaluate them (discussing) and (2) makes opposition politicians and parties visible in terms of their offered alternatives;

- **the autonomy of entrepreneurs** makes it possible to support whichever political actor they want, without the fear of repercussions, whereas for the opposition it facilitates to gather the financial resources needed for effective functioning. Some people see a threat in the business financing of democratic politics and entrepre-

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301 Madison, “Federalist No. 51,” 319.
302 Madison, “Federalist No. 10.”
304 Therefore, democracy also entails private property and capitalism, or an extensive private sphere where ownership rights can be exercised without state control. See North, Wallis, and Weingast, *Violence and Social Orders*, 21–25; Friedman, *Capitalism and Freedom*, 7–21.
305 “Political Discrimination in Hungary,” 9–12.
306 Crouch, *Post-Democracy*; Hickel, “Neoliberalism and the End of Democracy.” We will return to business groups and lobbying in Chapter 5 [5.3.1, 5.4.2.3].
neurial payments have been labelled “plutocratic.” But when autocratic tendencies surface and public resources are more and more controlled by the autocratizing state, it is autonomous entrepreneurs who can ensure that the opposition has access to a source of financing, independent from the state and its leaders;

- **the autonomy of NGOs** enables independent watchdog functions, that is, to investigate how public institutions work and have no incentive to fall silent on pieces of information of public interest. In public deliberation, the function of NGOs appears partially in the discussing phase, where they offer unique knowledge for the people to consider, and partially in the associating phase, for interest groups and also trade unions comprise special subtypes of NGOs in active negotiation with the government to represent special interests of societal groups;

- **the autonomy of citizens** or “the masses” means that they cannot be coerced or intimidated by financial means, particularly in expressing their opinion (discussing) and choosing their leaders (electing). Autonomous citizens have the capacity to resist autocratic tendencies, to form social movements and to stand up for their interests in general, with the proper financial background to associate for peaceful actor change—forming or supporting political parties—and/or policy change—forming or supporting interest groups.

**Jointly, these actors may be referred to by the umbrella term civil society.** Essentially, civil society means the sum of politically interested actors of the market and communal spheres who act by civic virtue, counterbalancing the acts of the political sphere. In a liberal democracy, civil society is free and independent, with their—market and communal—spheres of social action being separated. The independence of civil society is crucial, for this is what allows that competing factions with different interests can emerge in the first place. As North and his colleagues write, organizations in a liberal democracy “from garden clubs and soccer leagues to multinational corporations and nongovernmental organizations (NGOs) to interest groups and political parties all form pools of interest that can independently affect the political process.” Our definition of “civil society” significantly differs from several others in the literature, which typically do not include entrepreneurs in civil society. Yet their inclusion is necessary because the four autonomous groups fulfill a function together: the function of a defensive mechanism. The liberty and autonomy of societal groups ensures the de facto democratic functioning of public deliberation as well as the clear incentives and effective means to fight off autocratic tendencies. Hence, **it is indeed the autonomy of civil society that embodies the second**

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307 Scarrow, “Political Finance in Comparative Perspective.”
310 Seligman, “Animadversions Upon Civil Society and Civic Virtue in the Last Decade of the Twentieth Century.”
311 Gellner, *Conditions of Liberty.*
313 For example, see Howard, *The Weakness of Civil Society in Post-Communist Europe.*

4.4.1.3. Erosion of defensive mechanisms: constitutional coup and autocratic breakthrough

The separation of powers is guaranteed by the constitution, which, therefore, must not be a façade that is de facto disregarded. While there are institutional guarantees to this as well—like a Constitutional Court or other body of constitutional review—their power too relies on laws which could also be disregarded by a leading political elite. As we explained, factionalism and the high number of autonomous actors counter-interested in this provide a strong defense against such violations. Indeed, the most general foundation that prevents disregarding laws is the legal-rational legitimacy of liberal democracy. Understanding legality as an end in itself, the rule of law prevails, as well as the coincidence of de jure and de facto, making de jure checks and balances effective. Ideal typically, it does not even occur to actors to step over constitutional rules, whereas the population would see such acts genuinely wrong and illegal. In contrast, when this legitimacy basis of democracy is changed to substantive rationality, the rule of law perishes and autocratic tendencies weaken a roadblock to their breakthrough. Indeed, substantive-rational legitimacy is precisely an anomaly in the democratic system that is particular to the “anomalous actors” we mentioned above. And as we identified two kinds of actors who proclaim substantive-rational legitimacy and only one of them engages in elections (communists, following Marxism-Leninism, are revolutionaries) we can pinpoint what type of actors are usually the anomalous challengers of liberal democracies: populists.

Analyzing populists in power, Takis S. Pappas observes that in each real-world case they have tried to “1) colonize the state by appointing party loyalists at all levels of the state bureaucracy; 2) launch a massive assault on liberal institutions; and 3) set up a new constitutional order that replaces institutions of horizontal accountability with others more vertical in nature. […] Without exception, populists in office have tried to enlarge the state and fill government jobs with political supporters in order to expand the populist leader and party’s control over crucial institutions.”

To put it in our terms, populist actors can step over the defensive mechanisms of liberal democracy in three steps:

1. **they win the elections** and come to power;

2. **they use their democratic mandate for autocratic legalism to connect the branches of power,** particularly by (a) strengthening the power of the executive, (b) narrowing the competences of other branches and local governments, and/or (c) replacing

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315 Sweet, “Constitutional Courts.”
317 Pappas, “Populists in Power,” 73.
their members with patronal servants (indeed, not “party loyalists” in the post-communist region but actors who are loyal to the adopted political family [→ 3.3.5]);

3. they use the power of the state, exercised by the chief patron through the connected branches, to subjugate the four autonomies of civil society to undermine effective opposition and the public deliberation process, and thus to consolidate autocracy.

When populists start this process of patrimonialization of the political sphere, we speak about an autocratic attempt. An autocratic attempt involves a series of formal institutional changes initiated by the leading political elite and aiming at the systemic transformation of a democracy to an autocracy. Such changes that connect the branches of powers include:318

- court packing, especially of the constitutional court (ensuring that no major public decisions are declared unconstitutional and nullified);
- replacement of the heads of civil courts, weakening the judiciary, transferring a significant part of their powers to a subordinate office of the government (to decrease the chances of citizens seeking redress for their violations of power);
- takeover of prosecution with a patronal servant (to ensure politically selective law enforcement [→ 4.3.5]);
- changing the rules on the appointment, promotion and possible replacement of civil servants (to be able to institutionalize a patronal bureaucracy);
- weakening of local governments (to eliminate the vertical separation of powers);
- rewriting electoral rules one-sidedly, including gerrymandering and making the electoral rules more majoritarian (to facilitate future electoral victory);
- changing the constitution to expand the competencies of the executive, president or prime minister (to strengthen the chief patron’s position).

The success of an autocratic attempt depends on mainly one factor: whether the populists win the elections with a supermajority, or more broadly—taking presidential systems into account—whether they get the monopoly of political power. In presidential systems, this is easier to imagine for in the hands of the president already a great power is concentrated (as we show below). But even in parliamentary democracies where the separation of branches of power is protected by the constitution, there is usually the opportunity to change the basic institutional setting with a strong enough majority. Indeed, the constitution and some other laws that prescribe the proper functioning of institutions are not regarded completely unchangeable but rather “cardinal” or “organic” laws that can be changed if there is such an overwhelming consensus about it in the polity.319 However, while this is typically imagined as a rare agreement between competing factions in chang-

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318 Kis, “Demokráciából autokráciába” [From democracy to autocracy], 59–60; Schepppele, “Autocratic Legalism.”
319 Grimm, “Types of Constitutions.”

ing “the rules of the game,” if populists alone are able to reach the monopoly of political power, they can engage in autocratic legalism and one-sided changes of the constitution. This may be called a “constitutional coup.”

**Constitutional coup** is a process of changing the constitution as well as the basic (de jure) institutional framework of a democratic polity by a single political actor to empower the executive—that is, himself and his leading political elite—at the expense of other branches of power, in the name of substantive rational legitimacy (populism).

While we use the word “coup,” it is important to note that here, as opposed to military coups, **legal continuity is formally maintained**. Hence it is a “constitutional” coup, although it relies only on the constitution’s letter while wholly dismissing its spirit. This is precisely what autocratic legalism means, that the exogenous spirit of the constitution is disregarded and it is used to destroy itself, that is, to liquidate liberal democracy and institutionalize autocracy. Popular concepts like “de-democratization” and “democratic deconsolidation” all try to capture this paradoxical aspect: the neutralization of democratic checks without abolishing their institutions, or the elimination of constitutionalism without breaking legal continuity.

In the process of constitutional coup, the populist does not de jure eliminate the separation of powers (on the contrary), but he connects the branches through his competences of appointment in a single vertical of vassalage. Branches of power that may try to defend liberal democracy can be neutralized by narrowing their competences or by using any other method we explained above with respect to courts and persecution. Therefore, while Montesquieu’s idea was precisely that the whole power of the state should not be centralized in a single hand, the chief patron achieves this through autocratic legalism in the name of substantive-rational legitimacy.

Analyzing past cases, we can call entire cases only autocratic attempts if the leading political elite tried to institutionalize an autocracy but without having the monopoly of political power to carry out a constitutional coup, to rewrite any institution, and to trump all defensive mechanisms at will. We can speak about an autocratic breakthrough, however, in cases of successful and systemic transformation of a democracy to an autocracy, initiated by the leading political elite. In an autocratic breakthrough, the leading political elite engages in a constitutional coup to concentrate state powers in a single hand and to solidify autocratic rule, eliminating the liberty and autonomy of various state departments through changes initiated in rapid succession. Yet this still demolishes only the first defensive

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323 Bogaards, “De-Democratization in Hungary.”
324 Foa and Mounk, “The Danger of Deconsolidation.”
326 Kis, “Demokráciából autokráciába” [From democracy to autocracy], 62–67.
mechanism of liberal democracy, the separation of branches of power, whereas autocratic consolidation—which we elaborate in Part 4.4.3.2—requires the disabling of the second defensive mechanism, the autonomy of civil society (Table 4.13).

Table 4.13. Different levels of autocratic change.

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<thead>
<tr>
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<th>The leading political elite successfully disables…</th>
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<td>First defensive mechanism</td>
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<td>(separation of branches of power)</td>
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<td>Second defensive mechanism (autonomy of civil society)</td>
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<td>Autocratic attempt</td>
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<td>Autocratic breakthrough</td>
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<td>Autocratic consolidation</td>
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4.4.2. Patronal Democracy: Separation of Networks of Power and Color Revolutions

4.4.2.1. The dynamic equilibrium of competing patronal networks

In liberal democracies, autocratic tendencies—as presented above—necessitate an autocrat or a party that disregards democratic norms and challenges constitutionalism on the grounds of populism. Indeed, this challenger is not necessarily patronal but can also follow the principle of ideology implementation, in which case we can speak about a conservative autocratic attempt or breakthrough (like in Poland).327 However, not without reason did we talk about autocratic tendencies with regard to patronal autocrats, because in the post-communist region what typically destabilizes liberal democracy is a democratic party system with a patronal challenger. In Part 4.3.2.4, we stated that the party system that fits to liberal democracies’ ideal typical, self-sustaining operation is either a competing party system or a two-party system. Thus, the emergence of a patronal challenger as the largest opposition party is an anomaly. While the other parties are democratic and subordinated to the principle of societal interest, the patronal challenger runs a patron’s party subordinated to the principle of elite interest. He uses the ideological framework of populism to gain votes and carry out a patronal autocratic attempt or breakthrough (like in Hungary).

In patronal democracies, however, patronal challenge is not an anomaly but a norm. As we explained in Chapter 1, the stubborn structures of pre-communist and communist times have thrived in the post-communist era, especially in countries that carried a strong patronal legacy. In some of these countries, like Albania, Bulgaria, Georgia, Moldova, Romania and Ukraine,328 after the unifying political lid of communist dictator-

328 Modelling Russia’s regime trajectory, we treat the country in the 1990s as a patronal democracy as well, although it clearly deviates from the ideal type in having a failed state as well as oligarchic anarchy [7.3.5.5].
ships was removed, competing patronal networks emerged, with oligarchs and poligarchs entering the political playing field through patron's parties. This creates what we called a **multi patronal network system**, where party competition is the façade appearance of the competition of patronal networks. There may be democratic parties on the fringes of a multi network system, but the main field of competition is populated by **patron's parties**. In such parties, we cannot see the minimum of intra-party democracy mentioned above because what maintains and finances the party is indeed an informal patronal network, making the party—and its members—a vassal party. The top patron of this network is typically either the party leader or the top candidate. While in liberal democracies it is common for party leaderships to resign after an electoral loss, this rarely happens in a patronal democracy with patron's parties. In cases of such parties it is the head of the party, the top patron, who actually defines the party and not the other way around.

In a patronal democracy, every patron's party runs on the principle of elite interest and all of them are **patronal challengers**, meaning they strive to establish their dominance and a single-pyramid patronal network, eliminating or subjugating their competitors and therefore turning a patronal democracy into a patronal autocracy. Thus, in such systems autocratic attempts are constant and every major actor wants to disrupt democracy for their own benefit. Yet patronal democracy remains stable. Indeed, the essence of this regime is the **dynamic equilibrium of competing patronal networks**. It is “dynamic,” as there are always attempts at breaking it by patronal networks that want to institute patronal autocracy, but it is also an “equilibrium,” as no patronal network succeeds and can get into a dominant, monopolistic position. Indeed, this can be interpreted as the patronal version of Madison's factionalism where ambition counteracts ambition. While every major actor wants to disrupt the system, none of them has enough (political and economic) resources to do so and each informal patronal network has just enough resource to stop the others from doing so. To take one example, in Romania had either Traian Băsescu or Victor Ponta got the monopoly of political power, they would have made an autocratic breakthrough and instituted patronal autocracy. They just never had a chance.

The result of the dynamic equilibrium is that the system can retain some democratic features (hence it still qualifies as a “democracy”). In particular, in a patronal democracy:

- **there is still a separation of branches of power**, insofar as the leading political elite does not have the monopoly of political power to carry out a constitutional coup and eliminate it;

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329 Indeed, parties which can access considerable state resources are almost always patron's parties. The image of purity and non-corrupt nature of other (opposition) parties only follows from the fact that they have not had access to state resources yet.


331 Magyari, “The Romanian Patronal System of Public Corruption,” 288–96. Also, we should mention the possibility of political cartels. It is quite imaginable that the networks, realizing they cannot break through, try to cooperate and divide up the corrupt revenues they can collect via the state. In Hungary, for instance, investigative journalists and politicians spoke about “70–30” distribution of state revenues between the current government and opposition, respectively (before 2010). Indeed, political cartels resemble a kind of “inverse water polo,” where the players hit each other on the surface while they are sportsmanlike below it.
◆ there is still public deliberation, as the competing patronal networks use parties that take part in campaigns and elections, trying to convince more and more people to vote for their rule;

◆ civil society still has some autonomy, as no patronal network is dominant, oligarchs and communal actors can remain autonomous, maintaining equal distance from, or equally good relations with, both sides [→ 3.4.1.3];

◆ the rule of law still prevails, as (1) equality before the law is given in patronal regimes and (2) no patronal network has the power to introduce inequality after the law with politically selective law enforcement (although—as we mentioned above—a politically proportionate law enforcement can emerge, not because of external intervention but the enforcers’ desire to keep up their image of impartiality).

Because of these features patronal democracies often seem almost like liberal democracies. Indeed, party competition and relatively frequent changes of government create the image of pluralism, whereas civil actors like the media can criticize the government and side with the opposition (as well as the incumbents). If we move only on the democracy-dictatorship axis, as mainstream hybridology does, such regimes certainly qualify as democracies.332 However, the attitude of the media is not like liberal democracies’ “political parallelism,” and the character of competition is vastly different from Western-type pluralism, too. For patronal democracies are characterized by competing patronal pyramids with their own groups of subjugated private actors, from top-down directed “talking heads” to inner circle and adopted oligarchs who have more say in the operation of their respective adopted political family. Patronalization does take place in these regimes and the four autonomies of civil society are deeply invaded. But while in a patronal autocracy this is done by a single-pyramid patronal network in a monopolistic fashion, in a patronal democracy there are more centers of patronal subjugation. Indeed, it is the competition of patronal networks where only the top patrons are free that can be mistaken for vibrant public deliberation of a free society. As far as really autonomous private actors like autonomous oligarchs [→ 3.4.1.3] are concerned, their room for maneuver narrows and only a handful of sectors in the polity are reserved for those who do not pick a side.

To sum up, patronal democracy is characterized by an inherent disharmony between the institutional system and the character of major political actors. A liberal democracy is harmonic because there non-patronal institutions are matched with non-patronal political actors, and disharmony is introduced when an autocratic challenger shows up. A patronal autocracy is also harmonic but in the inverse way: patronal institutions are matched by patronal political actors, who have successfully built an autocratic rule in their polity. In a patronal democracy, patronal political actors operate in a non-patronal institutional system. There is a lack of separation of the spheres of social action, not in a monopolistic way but in the form of competing informal patronal networks, whereas the institutional system is formally democratic and it nominally presumes the democratic

332 See the description of Slovakia and Romania in Levitsky and Way, Competitive Authoritarianism, 91–104. Also, Kyrgyzstan had been described as Central Asia’s “island of democracy” before the Tulip Revolution of 2005. Anderson, Kyrgyzstan.
nature of political actors. Indeed, we also could express the disharmony as follows: The limitations on the leaders’ power and public deliberation have already been eliminated within the competing patron’s parties, whereas on a national level both of these mechanisms still exist. This means a constant gravitation toward eliminating the nation-level defensive mechanisms as well, to be able to elevate the network’s elite interest on the level of national policy. Indeed, the aim of informal patronal networks is none other than harmony—not toward liberal democracy but patronal autocracy.

4.4.2.2. Institutional defensive mechanisms: divided executive and proportionate electoral system

Patronal democracies are similar in terms of the inherent culture-based pressure that tries to break them down into patronal autocracies. They are different, however, in their defensive mechanisms, meaning the ways they manage to evade their inherent disruptive tendencies. Enumerating the possibilities, there are two groups of ways:333

1. the first line of defensive mechanisms is comprised of institutional boundaries, meaning the constitutional setting which may prevent autocratic breakthroughs by defining how much power one can get in an election and how difficult it is to gain enough power to change the setting itself;

2. in case institutional boundaries do not hold and/or the ruling patronal network carries out an autocratic attempt or breakthrough, the second line of defense comes in to prevent autocratic consolidation. This is none other than a societal defensive mechanisms: the upsurge of societal resistance, combining the democratic discontent of the people, on the one hand, and the patronal discontent of the to-be-suppressed informal networks, on the other (so-called “color revolutions”).

As the analysis of color revolutions has been a central topic of the literature on post-communism,334 we devote a whole separate part to them immediately after this one. Also, with respect to patronal democracies, we speak only about successful color revolutions, as the unsuccessful cases took place in patronal autocracies and followed different dynamics than what we present in the following part. (Also, unsuccessful ones are discussed in Part 4.4.3.1.)

Now, we analyze the first line of defense, institutional boundaries. In general, we can say that the stronger the institutional boundaries or the more difficult to achieve the monopoly of political power, the more likely a patronal democracy will survive, whereas if the monopoly of political power is easier to attain the regime is prone to change into a patronal autocracy. To outline the effects of various institutional settings on patronalism

333 Indeed, there is also a third factor that we mentioned in Chapter 1: Western linkage and leverage, mainly from the side of the EU. However, now we are focusing on regime-specific defensive mechanisms, that is, institutional constellations that create such endogenous dynamics that make the regime self-sustaining. External—and indeed not regime but country-specific—defenses in form of international alliances are elaborated in Chapter 7 (⇒ 7.4.5).

334 For example, see the six studies on color revolutions in the January 2009 issue of Journal of Democracy. “Debating the Color Revolutions [Special Section].”
more precisely, we rely heavily on Hale, who coined the term “patronal democracy” and analyzed the dynamics of patronal politics in post-Soviet countries. He categorizes constitutional settings as follows:

- **presidentialist constitutions**, which formally stipulate a directly elected president as the most important source of executive power;
- **parliamentarist constitutions**, which give an elected parliament the exclusive right to select the holders of significant executive power directly;
- **divided-executive constitutions**, which formally enshrine a balance between parliamentary and presidential power, assigning formally independent and roughly counterbalancing executive authority to each (the prime minister is chosen by the parliament without significant formal dependence on the president for nomination, appointment, or staying in office).

As it can be observed, the president is an important figure of executive power in both presidentialist and divided-executive settings (whereas in parliamentarist systems he is relegated to a more ceremonial role). The main difference between the two is that in a presidentialist system “the presidency is an indivisible good, meaning that only one patron can occupy it.” This means that the executive power is centralized in the hands of the president, whereas there are no similarly strong positions in the polity in terms of political power. In contrast, in divided-executive systems where the president and the parliament both have executive powers and they are elected in different elections, cohabitation is possible, that is, the situation when the two executive positions—the president and the prime minister—are filled by patrons from two different patronal networks. The share of executive power hinders any one of them from becoming the dominant (chief) patron of the polity, whereas cohabitation offers more institutional possibilities for competing patronal networks to keep each other in check, in contrast to the purely presidentialist setup. Furthermore, as Hale explains, such systems also have an important signaling effect for societal actors in deciding the head of which adopted political family is indeed dominant (see Box 4.8). In a presidentialist system, the situation is made obvious as one of the top patrons becomes the head of executive, after which (1) societal actors (oligarchs etc.) begin to gravitate toward him, defecting from their current network and requesting adoption to the presidential network, thus increasing its informal power, and (2) this greater informal power can be used to strengthen the executive formally at the expense of the other branches of power, gradually realizing an autocratic breakthrough. In the end, “[as] coordination dynamics play themselves out […], the presidential patron can construct a system in which she dominates the polity by virtue of both formal and informal authority—usually in tight combination. Alternative ‘pryamids’ […] generally face one of the following fates: liquidation […]; co-opta-

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335 Hale, *Patronal Politics*.
tion into the larger pyramid; or operating at the margins of the system.” Therefore, presidentialist constitutions create a favorable situation to autocratic breakthrough as well as the development of a single-pyramid network, whereas divided executives create a more ambiguous situation, where neither institutional centralization nor the weight loss of alternative societal networks needs to begin.

In both presidentialist and divided-executive systems, the presence of **term limits** represents a peculiar challenge to autocratic breakthrough as well as autocratic consolidation. Initially, most constitutions with a strong presidential office prescribe a two-term limit, after which the president cannot run for the office again. Until the term limits are in effect, “they not only suggest that the president may leave (disrupting presidential constitutions’ information effect), but crucially pinpoint a time when this would happen (disrupting the focal effect of presidentialist constitutions […]). Formal presidential term limits can thus serve as focal points around which elites coordinate their expectations as to when precisely an unpopular, ill, aging, weary, or otherwise faltering president is most likely (a) to leave office voluntarily, (b) to be most vulnerable to outers by other elites, and/or (c) to face other elites’ attempts to oust him” (emphasis added).

Indeed, this situation marks a **shift of legitimacy from the chief patron to the opposition**. For now it is the chief patron who is forced to perform some legal “trick” to stay in office, bridging the gap between the de jure institutions of legitimacy and his de facto position, whereas his opposition can rightly point out this very gap and that the chief patron tries to stay in power by breaking the legal framework. In more consolidated patronal autocracies, the problem of term limits is often dealt with by referenda, like in Azerbaijan, Belarus, and Russia [→ 4.3.3.3].

**Box 4.8. The effects of constitutions on patronalism.**

> “Just as elections have distinct meanings in highly patronalistic contexts, so too do constitutions play roles different from those they are widely understood to play in the West, even when on paper they look identical. […] In highly patronalistic societies […], constitutions can sometimes have their most power effects not by being formally observed, but instead by influencing expectations regarding how informal (nonconstitutional) politics is organized. Perhaps most importantly, they can shape the expectations of political elites as to who will informally (really) be the chief patron or patrons in the polity—even when the actual formalities of the constitution are regularly violated. […] A presidentialist constitution’s information and focal effects […] can resolve the coordination problem for elites in generating a collective decision as to which of two otherwise equal patrons should be treated as the most powerful and hence accorded deference. […] Where presidentialist constitutions tend to encourage single-pyramid arrangements of patronal networks […] , divided-executive constitutions complicate them and in fact promote network coordination in competing-pyramid arrangements […] . Moreover, the divided-executive constitution provides [beyond the president] a specific alternative focal point (the prime minister) around which patronalistic actors can coordinate, should they not be satisfied with any ‘deal’ offered by the presidential network.”


In **patronal democracies with parliamentarist constitutions**, the executive power is vested in the prime minister, who needs to win a popular election alongside his party members (who become MPs). Whether he can carry out an autocratic breakthrough in favor of his network depends on whether he can attain a **supermajority**. Should the future chief patron’s party attain a supermajority (also known as qualified majority, typically either two-thirds or three-fifths), he gets the power to single-handedly change the constitution, to strengthen the executive and to concentrate all powers of the state in his hands, and also to grant himself the right to appoint the heads of institutions which would serve as checks and balances. Indeed, a supermajority is needed not only in purely parliamentarist systems

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but also in so-called semi-presidential systems, like Russia, where there is a formal split between the powers of the president and the parliament.

The difficulty of attaining a supermajority depends on what share of voters he needs to convince—the lesser the share, the easier it is. Therefore, in this respect the crucial institutional factor is the proportionality of the electoral system. Majoritarian systems, designed precisely with the aim of stable government in a democracy, give a larger share of seats in the legislature to the winner than his share of votes; in proportionate systems, which aim at a legislature mirroring social preferences more faithfully, the share of seats and votes are roughly equal (considering thresholds, rounding etc.). Normally, it is the latter type that is highly unlikely to be overcome by a single political actor acquiring a supermajority. However, if the electoral system is disproportionate, a monopoly on political power may come about even in a parliamentary system, as it happened in Hungary in 2010.

Some patronal democracies remain stable because of mainly one institutional constraint. For example, a divided executive has been an effective constraint in Bulgaria, where patronal democracy prevails and no single-pyramid has been established yet. Whereas in the parliamentary regimes of Albania and Slovakia proportionate electoral systems have been instrumental in preventing and/or breaking autocratic attempts (like that of Vladimír Mečiar in Slovakia in the late 1990s). Yet the importance of proportionate electoral systems can be seen in semi-presidential regimes like Romania, where the powers of the president have been counterbalanced by those of the proportionally elected parliament [→ 7.3.2.3].

### 4.4.2.3. Societal defensive mechanism: successful color revolutions stopping autocratic attempts and resetting patronal democracy

In spite of institutional defenses, autocratic tendencies (attempts) in patronal democracies are regular and indeed ideal typical. Every informal patronal network wants to accumulate power and personal wealth, and they exploit all of their access to political resources to serve this elite interest. The aim of autocratic tendencies is to eliminate the regime’s democratic qualities: to extend the power of the executive to the entirety of the state (connecting branches of power) and to neutralize public deliberation to ensure that the ruling patronal network will stay in power. In an autocratic breakthrough, the monopoly of political power would open up a wide range of highly sophisticated methods for the latter, from creating a dominated sphere of communication (economic manipulation) through non-balancing of rights (legal manipulation) to one-sided changing of the electoral system (constitutional manipulation). However, without the monopoly of political power the leaders can use state resources and pass laws to tilt the playing field toward themselves but they cannot change every law to keep the playing field as uneven as necessary to prevent the opposition from winning [→ 3.3.9]. Therefore, they are tempted to use a more direct and unsophisticated, but nevertheless effective, technique: electoral fraud. In other words, if the leaders cannot neutralize the opposition, the option that remains for them is to disable the public deliberation process manually in the electing phase, not allowing the voters’ will to manifest in replacing incumbents with another formation of political actors.

While an electoral fraud temporarily solves the problem of staying in power, it does not eliminate the autonomy of competing patronal networks and indeed causes a rather spectacular breakdown which spurs social action [→ 4.3.2.1]. In such situations in the post-communist region so-called color revolutions have sometimes occurred, and have often been able to break autocratic attempts and push their polity back to patronal democracies’ dynamic equilibrium state.

We use the term “color revolution” mainly because of its familiarity, that is, the fact that these events are commonly referred to as such and therefore the readers should find the topic of the discussion more straightforward.343 However, we do recognize that these events are different from classical revolutions.344 For classical revolutions that took place in the West in the 18–19th centuries were against feudal systems, where monarchs relied on numinous legitimacy and their de facto and de jure status coincided. Revolutions broke out to change this pattern of legitimation to another pattern, that of civil legitimacy, where de facto and de jure status once again coincided. The aim of the classical revolutionaries was to attain such achievements as equality before the law, joint share of tax burdens, and legislative elections.345 Therefore, they indeed aimed at creating an institutional framework founded upon civil legitimacy.

Revolutions with such aims of legitimacy-pattern change moved on a scale from being violent—where not only the legitimacy-pattern was changed but legal continuity was broken and the former leaders were expelled from political life (often killed or exiled, like in the French Revolution of 1789)—to being peaceful—involving negotiations with the leaders who agreed to change their regime and its institutional setting without breaking legal continuity. The post-communist regime changes or the so-called lawful revolutions of 1989346 belonged, with few exceptions, to the latter category. Initially, they faced communist dictatorships, that is, systems with substantive-rational legitimacy and the coincidence of de jure and de facto status of the leading political elite (the “vanguard” of the society, as expressed in the constitution [→ 4.3.4.1]). Regime-changers wanted to change this pattern to the pattern of liberal democracy, characterized by legal-rational legitimacy and—once again—the coincidence of de jure and de facto status of the leading political elite. Whether this indeed happened depended on the status of stubborn structures, or more precisely whether the constitutional revolution was accompanied with an anti-patronal transformation [→ 7.3.4.1].347 In several countries, it did happen and there Western-type liberal democracies could develop (in countries like Estonia and Poland), but in other countries anti-patronal transformation did not happen and patronal democracies emerged. Then, autocratic attempts became an integral part of the political life and the institutional boundaries set up during the regime change had a big role in whether these systems avoided autocracy or eventually became one (like Hungary).

344 Bunce and Wolchik, Defeating Authoritarian Leaders in Postcommunist Countries, 27–29.
345 Tilly, European Revolutions.
347 We borrow this expression from Hale. Hale, “Russian Patronal Politics Beyond Putin,” 37.
Post-Soviet color revolutions are not classical revolutions as they do not want to switch from one coherent legitimacy pattern to another. Indeed, they are better be identified as revolts: they aim at preserving the initial, coherent legitimacy pattern of democracy, characterized by—even in a patronal democracy—the rule of law as well as the coincidence of de jure and de facto status of the leaders. In other words, color revolutions try to stop the leaders from de facto disregarding their de jure limitations and the constitutional order, which they attempt to do in patronalizing state institutions and falsifying elections. It is also worth emphasizing that color revolutions are largely peaceful in terms of non-violent removal of autocratic leaders (see below).

The typical process of successful color revolutions goes by the following steps:

1. the ruling patronal network creates a breakdown of the public deliberation process (typically electoral fraud) to cement its position;
2. electoral fraud triggers mass legitimacy-questioning protests, aiming at rerunning the elections or at recognizing the victory of the opposition (also the resignation of the current government);
3. legitimacy-questioning protests get supported by external actors such as foreign NGOs, foundations, governments or international alliances (EU etc.);
4. both the formal and informal support of the government melts in the domestic and the international political arena, until their room for maneuver shrinks to the point that they cannot operate and the leaders are forced to meet the demands of the revolutionaries.

Step 4 is formulated rather vaguely, and indeed, if we look through the various color revolutions, we can find that it happened in different forms every time. The Rose Revolution in Georgia late in 2003 was the first post-Soviet color revolution, breaking out after the electoral victory of president Eduard Shevardnadze was announced before the votes were properly counted. Two days after large-scale legitimacy-questioning protests started in Tbilisi, opposition leader Mikheil Saakashvili and his supporters stormed the parliament building. Shevardnadze was evacuated and soon resigned, leaving the country for Moscow. Saakashvili won the re-run elections in 2004 with 96% of the vote. Ukraine’s Orange Revolution a year later followed a different trajectory. Over 1.5 million people demonstrated at Maidan Square in the center of Kiev, protesting the close but apparently fraudulent victory of Viktor Yanukovich, president Leonid Kuchma’s candidate. The Orange Revolution succeeded when the Supreme Court ruled that new elections would be held, which were won by Viktor Yushchenko, who was inaugurated in early 2005. The Tulip Revolution in Kyrgyzstan

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348 Color revolutions outside the post-communist region, including those in the Arab Spring, are arguably closer to our understanding of classical revolutions (irrespective of their success or failure). For an overview, see “Tracking the ‘Arab Spring’ [Special Section].”
349 Gerlach, Color Revolutions in Eurasia, 33.
350 Gerlach, Color Revolutions in Eurasia, 6–9.
351 Gerlach, Color Revolutions in Eurasia, 9–12.
in 2005 showed a third variant. Following the patronalization of several state institutions and economic sectors by Askar Akaev’s adopted political family, elections were held where several leading opposition figures either underperformed or lost their parliamentary seats. The opposition installed “people’s governors” in several strategically important cities, and one day after the opening session of the parliament, protesters stormed the presidential office building and seized the state TV station. The events forced Akaev to resign and escape to Moscow in a matter of weeks. Two symbolic figures of the revolution, Felix Kulov and Kurmanbek Bakiev were elected prime minister and president, respectively.352

There have been two successful color revolutions that did not follow electoral fraud but other kinds of attempts to solidify one top patron’s rule and break the competition of patronal networks. The first one was Euromaidan Revolution in Ukraine in 2014, happening four years after Yanukovich had won the presidency and moved Ukraine closer to patronal autocracy than ever.353 The event that triggered legitimacy-questioning protests was his refusal to sign an Association Agreement with the EU, which meant an open rejection of the EU’s sphere of influence for that of Russia—that is, the rejection of democratization requirements for a larger room to maneuver for stabilizing patronal autocracy [→ 7.4.4]. At the turn of 2013–14, large and eventually violent demonstrations broke out on Maidan Square; the police killed over a hundred people and more than a thousand were injured. Deadly political violence led to defection of key supporters of Yanukovich, who fled the country for Russia. The revolutionaries managed to change the constitution from a presidentialist to a divided-executive system and a leading figure of the revolution, Petro Poroshenko, was elected president.354 The second color revolution that did not happen after an election was the Velvet Revolution in Armenia, taking place in 2018. Similar to Yanukovich’s Ukraine, Armenia was also close to a patronal autocracy at the time of the revolution. However, by then the country had had a single-pyramid patronal network for two decades, being able to withstand several revolution attempts (most notably in 2004 and 2008)355 but not being strong enough to carry out an autocratic consolidation. Indeed, while the same patronal network gave two presidents to the country between 1998 and 2018, a proportionate electoral system allowed for a relatively strong opposition in the parliament and the leading network had to form a coalition, too, to have a majority and ensure the position of the prime minister. Other patronal networks were more like allies than strict subordinates to the dominant network, whereas the opposition could mobilize civil society by 2018.356 The event that triggered the color revolution was chief patron Serzh Sarkisian’s attempt to sidestep a two-term limit by moving from president to prime minister, following a referendum that dramatically shifted power from the president’s to the prime minister’s office. After legitimacy-questioning protests actively utilizing social media, Sarkisian—showing the fragility of his single-pyramid system—agreed to a tele-

352 Gerlach, Color Revolutions in Eurasia, 12–14.
353 Hale, Patronal Politics, 342–50.
355 Gerlach, Color Revolutions in Eurasia, 17–18.
vised debate with the leader of the opposition, Nikol Pashinian, which lasted less than two minutes after he refused to resign. Responding to the protests, Sarkisian had to decide whether to use violence against the people. He decided not to, eventually stepping down in favor of Pashinian.357

While several authors expected that such protests will eventually lead to Western-type liberal democracy,358 they did not. Data gathered by Grigore Pop-Eleches and Graeme Robertson also confirm this, showing how the quality of democratic governance changed after revolution in Georgia, Ukraine and Kyrgyzstan (Figure 4.2). As they write, “Kyrgyzstan experienced no real governance boost after the Tulip Revolution, then embarked on a uniformly downward trajectory until Bakiyev’s ouster from office in April 2010. Ukraine and Georgia occupied intermediate positions; on average (and in specific areas such as electoral process), the net change in governance scores under their ‘color revolutionary’ regimes was minimal.”359 Indeed, with the partial exception of Georgia [→ 7.3.4.5], the success of the color revolution was typically followed by the re-stabilization of earlier patronal competition and the (limited) patronal rule of the revolution’s leading figure.360

In general, we can observe that successful color revolutions do not lead to a liberal setting but only back to patronal democracy. This is why we treat them as defensive mechanisms, given that they do not allow patronal autocrats to consolidate their power and carry out an autocratic breakthrough, eliminating the dynamic equilibrium of patronal democracy. The reason why these revolutions do not lead to liberal democracy is because they are not accompanied by anti-patronal transformations. Although revolutionary movements march under the slogans of democracy, transparency and anti-corruption, behind the democratic endeavor of the masses one can find, as organizing force and political as well as financial resource, the discontent of the to-be suppressed patronal networks. It is true, as Ukraine under Yanukovich showed, that without popular discontent stemming from a breakdown of public deliberation patronal networks are less able to counter autocratic tendencies. But the opposite is also true: without the resources of the competing patronal networks, popular discontent cannot stop the ruling autocrat from breaking “fair,” democratic (patronal) competition. While Scott Radnitz is right to point out the correlation between the success of color revolutions and the level of privatization—which, as he writes, gave birth to a “new capitalist class” that could form an effective opposition361—he fails to recognize that these actors are not “capitalists” of a “class” but oligarchs of different adopted political families, and the country’s resources are not in “private” hands but constitute a system of power&ownership [→ 5.5.3.5].362 In fact, because of these factors, autocratic breakthroughs happen and they are reversed only to recreate

357 Lanskoy and Suthers, “Armenia’s Velvet Revolution.”
358 Gerlach, Color Revolutions in Eurasia, 29–30; McFaul, “Transitions from Postcommunism.”
359 Pop-Eleches and Robertson, “After the Revolution,” 5. The authors also analyze Serbia, which did improve after revolution—because it did not happen in patronal democracy but replaced patronal autocracy with democracy. We return to Serbia in the next part.
361 Radnitz, “The Color of Money.”
362 On Ukraine, see Minakov, “Republic of Clans.”
Figure 4.2. Comparison of democratic governance in the color revolution countries. Source: modified from Pop-Eleches and Robertson (2014, 6).

patronal democracy under the limited rule of a new informal patronal network. Borrowing a term from Hale, this form of regime cycle is the most typical pathway of patronal democracies’ dynamic equilibrium [⇒ 7.3.4.1].³⁶³

³⁶³ Hale, Patronal Politics, 87–93.
4.4.3. Patronal Autocracy: Separation of Resources of Power and the Problem of Succession

4.4.3.1. Unsuccessful color revolutions: the monopolistic structure of consolidated patronal autocracies

After our description of successful color revolutions, it may be objected that we omitted Serbia’s Bulldozer Revolution in 2000, which is often regarded as the first color revolution in Eurasia. Indeed, that this event also succeeded seemingly contradicts our thesis that successful color revolutions happen only in patronal democracies, for Serbia under Slobodan Milošević was arguably closer to patronal autocracy. However, it must not be forgotten that we speak about internal stability and defensive mechanisms. While we allow for external factors which connect to and reinforce preexisting internal processes, like democracy assistance and the support of opposition forces by the US, we assume away exogenous shocks that overpower the regime’s internal logic and therefore, as we mentioned in the beginning, can make even an otherwise self-sustaining regime collapse. In the case of Serbia, such exogenous shocks played an instrumental role. On the one hand, it is true that the country had been led for more than a decade by chief patron Milošević by 2000. But on the other hand, in that period the country faced the dissolution of Yugoslavia, bloody civil wars, ethnic conflicts, the war in Kosovo (with NATO’s military engagement in 1999), as well as numerous political and economic sanctions. While the importance of US-supported youth organizations and elite factions in seizing the opportunity is undeniable, that an opportunity presented itself was largely due to factors external to the regime’s internal political logic and beyond any normal economic or social fluctuation typical to stable polities. Therefore, our thesis that only a challenged patronal democracy’s internal logic allows for successful color revolutions—moreover, that these are defensive mechanisms that lead back to patronal competition—is not rebutted by the success of the Bulldozer Revolution, because it was not the Serbian autocracy’s internal logic or components that allowed its success.

In polities where the regime’s internal political logic was not undermined by external factors, color revolutions against consolidated patronal autocracies have invariably led to failures. First, in Azerbaijan two years after Ilham Aliyev de facto inherited the presidency from his father, Heidar Aliyev, opposition leaders united against him in the parliamentary elections and also tried, despite repressive laws and non-balancing of rights against the freedom of assembly, to gather masses on the streets of Baku. Police and the

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365 Hale, *Patronal Politics*, 463–65. Underlining the regime’s informal patronal nature, Levitsky and Way report that in the early 1990s “Milošević reversed earlier privatizations and systematically appointed allies to head state, para-state, and even private enterprises. Through these proxy arrangements and other policy instruments, Milošević and his wife gained control of an estimated 85 percent of the economy.” Levitsky and Way, *Competitive Authoritarianism*, 106.
368 Bunce and Wolchik, *Defeating Authoritarian Leaders in Postcommunist Countries*, 100–105.
patron’s secret service used massive force against them, whereas opposition leaders faced prosecution and eventually failed both to mobilize large crowds or to change the regime in any substantial way. Second, 2006 saw the Jeans Revolution of Belarus, which is a more bureaucratic than informal patronal regime, as chief patron Lukashenko rather relies on the formal machinery of public institutions, running a “unique, rustic and provincial model of an underdeveloped mafia state.” Lukashenko changed the constitution to allow him to run for the office of president indefinitely, and when the opposition united against him for the elections and civic groups managed to build up a tent city in protest, law enforcement simply removed them and jailed several members of the opposition. One of the two leading opposition candidates, Aliaksandr Kazulin was sentenced to five years in prison. Finally, in Russia, which is a paradigmatic case of patronal autocracy, large protests were gathered in Moscow after 2011’s fraudulent elections. The masses were not mobilized by an opposition party but by certain individuals like Alexei Navalni and Boris Nemtsov (who was assassinated four years later). The regime’s GONGO, Nashi organized pro-government rallies in response, and the opposition protesters were criminalized in the patronal media that dominated the Russian sphere of communication. Eventually, large-scale protests ceased, the regime tightened non-balancing of rights against unauthorized demonstrations, and the adopted political family used kompromat to prosecute Navalni, who was sentenced to prison for embezzlement and fraud in 2013. Overall, the Russian attempt at carrying out a color revolution also ended in failure.

What we can see from these cases is the use of the arsenal of patronal autocracies against public deliberation. Having defined the various institutions and techniques that such regimes use to neutralize public deliberation, we can use our concepts to analyze unsuccessful color revolutions and identify the techniques that the leaders used to stay in power. Indeed, while threats to regime stability in liberal and patronal democracies could be impeded by defending pluralism, in patronal autocracies they are impeded by oppressing pluralism. For the threat is no longer that someone will strive to possess power exclusively but that a rival will strive to overthrow the exclusive possessor and/or introduce democracy (most probably patronal democracy, due to the highly patronalistic nature of these societies).

Along the lines of this logic, we can indeed see that the essence of patronal autocracy is the symmetrical opposite of that of democracies:

- the branches of power are connected in the hands of the chief patron, who is therefore the monopolist of political power and disposes over the polity discretionally, using the instruments of public authority and stepping over constitutionalism at will in the name of substantive-rational legitimacy;

- the regime features a single-pyramid patronal network, meaning the chief patron’s adopted political family is a monopolist of patronalism and competing patronal networks are eliminated, subjugated or neutralized;

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370 Rouda, “Is Belarus a Classic Post-Communist Mafia State?”


• **civil society is subjugated**, meaning its four autonomies are neutralized, that is, they can be retained only to a politically irrelevant extent, while most of the political, economic and communal resources are annexed by the adopted political family.

In short, we can summarize the essence of patronal autocracy as the unconstrained, monopolistic rule of the chief patron, subordinated to the principle of elite interest. Exclusive possession of political power and accumulation of personal wealth are carried out as the state is turned into a mafia state and run as the business venture of the adopted political family.

4.4.3.2. Defense against pressures from the outside: autocratic consolidation

Turning to the defensive mechanisms of patronal autocracies, we may start with the ones that defend against pressures from outside the adopted political family. “Outside” refers not to exogenous shocks like wars or economic crises, but such opposition pressures as electoral blocs and color revolutions. Indeed, the defense is guaranteed if the chief patron is able to achieve autocratic consolidation, which we mentioned in Table 4.13 and also in the previous part, using the term “consolidated” patronal autocracy.

In some cases, like Armenia, the chief patron successfully achieves an autocratic breakthrough and establishes a single-pyramid system, but he is unable to achieve autocratic consolidation and is eventually overthrown. What autocratic consolidation necessitates is the neutralization of liberal democracy’s second defensive mechanism, that is, the autonomy of civil society. Without this, the regime remains vulnerable as there remain autonomies that can form an effective opposition. This is, in part, what Way analyzed as “pluralism by default,” explaining that weak autocrats without enough political and economic control over the country are unable to sustain their rule, and democratic pluralism develops as the ruling elite—in our terms—degenerates into a multi-pyramid power network in the absence of a strong chief patron.

Subjugated civil society can be achieved by breaking the four autonomies mentioned in Part 4.4.1.2. The most important autonomy to break is that of the media, for—as Kis points out—“the satisfactory state of the media is a prerequisite for the meaningful, informed, practice of all political rights.” Therefore, using the power of the state, the chief patron’s first act regarding civil society must be a crackdown on the press, or—using our terminology—to push the sphere of communication from the vicinity of the “open” ideal type to that of the “dominated” one [→ 4.3.1]. This already neutralizes public deliberation as opposition actors are crowded out from discussing and the sphere of communication, whereas the leaders can use patronal media (state as well as private, in the hands of loyal oligarchs) to monoploize the floor in political debates.

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373 “Good News from the Caucasus?”
374 For the case of Armenia, see Lansky and Suthers, “Armenia’s Velvet Revolution.”
375 Way, *Pluralism by Default*.
376 Kis, “Demokráciából autokráciába” [From democracy to autocracy], 59.
Second, the autonomy of entrepreneurs needs to be broken to narrow further the chances of a future opposition. On the one hand, the chief patron can make entrepreneurs interested in sustaining the system by making them clients, subcontractors and “court purveyors” of the adopted political family [\( \rightarrow 6.2.2.2 \)]. On the other hand, opposition-inclined entrepreneurs and oligarchs can be deprived of their financial resources, or forced to funnel monies and property to the adopted political family instead. This is carried out primarily by the means of discretional state intervention: an entrepreneur who sides with the opposition must risk being excluded from state contracts and/or being exposed to tax inspections, fines, or even to centrally-led corporate raiding [\( \rightarrow 5.5.4 \)].

Third, neutralizing NGOs and starting GONGOs is important both to ease watchdog control and for propaganda purposes [\( \rightarrow 3.5.2 \)]. Let us quote a structured analysis by Ádám C. Nagy, who wrote about the taming of NGOs in Hungary in a volume of studies edited by one of the present authors: “The mafia state employs a multistep domestication methodology. Its first step is the centralization of funding and its control by a procurator. This move is ‘successful’ with the majority of civil groups since they are primarily invested in realizing a given organizational goal rather than taking a political stand. Therefore, in accepting the procurator’s response—funding or the promise of it in case of wait lists—they would not voice their discontent with this operational system. If the constrained funding does not suffice to reach its goal, the state deploys the media by, for instance, subjecting the oppositionally oriented civil society actors to communicational pressure. On this level all but those organizations would persist which, of the threefold task of civil society (participation, service, and control) would advocate the ethos of curbing the state’s dominance. Should the communicational pressure prove ineffective, the state will employ coercive means in order to enforce the government’s will. While the first method has been used more than a few times in the context of Hungary’s incompletely realized democratic model [after the regime change], the second method’s application has been almost unprecedented. Finally, the deployment of central authority reveals how an unequivocally non-democratic system works” (emphasis added).³⁷⁷

Finally, the autonomy of the citizens is broken en masse by transforming them into servants or clients through what we call “societal patronalization” in Chapter 6 [\( \rightarrow 6.2 \)]. At this point, we invoke Hirschman’s voice-exit-loyalty triad³⁷⁸ and say that the key to restrain the people is to use the instruments of public authority, gained in autocratic breakthrough, to turn potential voice into coerced loyalty. A patronal autocracy differs from a communist dictatorship by letting people exit from the regime, which actually contributes to stability by the “voluntary exile” of dissatisfied people [\( \rightarrow 6.2.2.1 \)]. However, it must break the remaining people’s autonomous capacity of voice, which could manifest—as in a liberal democracy—by free citizens engaging in political action by their preferences, expressing their opinion and supporting the political actors they please. On the one hand, this capacity is limited by neutralizing the discussing, associating and electing phases of public deliberation [\( \rightarrow 4.3.1–3 \)]. On the other hand, people can be sanctioned for using their voice. This may take a variety of forms, such as the threat of being fired from one’s job and various “black lists” in state companies, excluding people with inappropriate political

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background from access to resources controlled by the adopted political family. The most radical means, however, is probably politically selective law enforcement. For it allows (1) persecution of important opposition figures, party leaders and movement organizers, and (2) unscrupulous discrimination on a political basis, so that people with legally valid complaints against discrimination can be dismissed [4.3.5]. Indeed, selective law enforcement is an important tool in neutralizing any autonomy as it can be used against any actor or institution, be it media, an oligarch/entrepreneur, an NGO, or an ordinary citizen. And the de facto suspension of normative law does not have to be done en masse: it is enough to sanction a few people in a spectacular, demonstrative fashion, which then will have a negative signaling effect of demobilizing the wider population [4.3.2.1].

While autocratic consolidation is a complex process and there exists no direct measure of it, data from democracy indices like the Rule of Law Index of World Justice Project (WJP) allow us to draw some related conclusions. We chose twelve post-communist countries, the ones we will use for illustrating the variety of regime trajectories in Chapter 7 [7.3]. These countries are ordered by three aspects measured by WJP: (1) constraints on government powers, which measures whether government powers are effectively limited by the legislature, judiciary, independent auditing and review and other institutions of the rule of law; and (2) freedom of civil justice from improper government influence, which is a sub-aspect that measures whether the civil justice system is free of improper government or political influence; and (3) fundamental rights, which measures the effective guarantees of the due process of law, as well as of the freedom of opinion & expression, belief & religion, assembly, and so on. These aspects allow us to assess autocratic consolidation: low constraints on government indicate autocratic breakthrough in countries with multi-party elections (that is, which are not outright dictatorships); improper government influence in civil justice denotes politically selective law enforcement; and the respect of fundamental rights is a good approximate measure for the autonomy of citizens, which is a necessary base of a strong civil society.

First, Table 4.14 shows the twelve countries by the first two aspects. After China, which is a dictatorship, the next four countries with the fewest constraints on government are Russia, Hungary, Kazakhstan, and Moldova, in that order. These are the four countries out of the twelve where autocratic breakthroughs have been carried out, with different degrees of consolidation as of 2017–2018 (when the data were recorded). The fact of autocratic breakthrough can be seen in Table 4.14, not only because these countries have few constraints on government but also because they feature the most improper government influence in civil justice among multi-party regimes in the sample. The only patronal democracy in their category is Ukraine, a country characterized by intense patronal competition and constant—unsuccessful—autocratic attempts by the current leading adopted political family [7.3.4.2]. In Romania, which is also a patronal democracy but with less forceful autocratic attempts, civil justice is also less controlled by politics, and prosecution actually shows a politically proportionate character instead of political selectivity [4.3.5.1, 7.3.2.3]. At the other end of the scale, we can observe Estonia and the

379 “Political Discrimination in Hungary.”
380 WJP, “Rule of Law Index 2019.” We are indebted to Márton Kozák for his suggestions with respect to WJP’s index.
Table 4.14. Twelve post-communist countries by constraints on government and improper government influence in civil justice. Autocracies in bold. The countries within each cell are in decreasing order by constraints on government. Source: WJP (2019).

<table>
<thead>
<tr>
<th>Constraints on government powers (1: perfectly constrained; 0: perfectly unconstrained)</th>
<th>Improper government influence in civil justice (1: perfectly free of influence; 0: perfectly hand-guided)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.73–0.89</td>
</tr>
<tr>
<td>Estonia, Czech Republic</td>
<td>0.56–0.72</td>
</tr>
<tr>
<td>Romania</td>
<td>0.39–0.55</td>
</tr>
<tr>
<td>North Macedonia</td>
<td>0.22–0.38</td>
</tr>
<tr>
<td>Ukraine, Moldova*, Kazakhstan, Hungary</td>
<td></td>
</tr>
</tbody>
</table>

* Data collected in 2017.

Czech Republic, where strong democratic foundations and institutions guarantee the least improper government influence in the sample. (Although there has been a patronalization attempt in the Czech Republic since 2013 [→ 7.3.3.3], and some reports indicate sporadic instances of improper government influence in civil justice.)

The potential for politically selective law enforcement in the four autocracies means that the countries’ chief patrons have obtained the most useful tool to achieve autocratic consolidation. However, they have managed to consolidate to different degrees as of 2018. This is revealed by Table 4.15, showing constraints on government against fundamental rights. Obviously, in no patronal autocracy are fundamental rights as ignored as in the Chinese dictatorship (scoring 0.32 out of 1), but they are far—from the other side—from liberal democracies like Estonia (0.83) and the Czech Republic (0.78) as well. The data indicate that, among patronal autocracies, the autonomy of citizens is most broken in Russia (0.45), followed by Kazakhstan (0.46), Moldova (0.54) and Hungary (0.58). While the previous table indicated autocratic breakthrough, this table reveals that Russia is the most and Hungary is the least consolidated in the group. Again, this measure is a proxy, and the complex process of autocratic consolidation should be measured by taking into account all four autonomies in a more focused manner. Yet one piece of evidence to corroborate our conclusion is the level of electoral violence in the respective countries. Scholars use “electoral violence” as an umbrella term for harassment of the opposition, riots and protests after the elections, use of violence during protests, and other violent events around elections that involve civilian deaths. Datasets consistently show that Russia has experienced numerous events of electoral violence under Putin’s rule, while such instances have been

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381 Hanley and Vachudova, “Understanding the Illiberal Turn.”
382 Mochtak, “Fighting and Voting.”
383 Lankina, “The Dynamics of Regional and National Contentious Politics in Russia”; Birch and Muchlinski, “The Dataset of Countries at Risk of Electoral Violence.”
rather sparse in Orbán’s Hungary. Some (minor) opposition politicians have been detained, and Fidesz-related skinheads once physically blocked the way of a socialist politician to submit a referendum initiative, but no demonstration was broken down by violence and major opposition politicians and parties have not been harassed or killed. In 2019, the opposition even won major positions in Budapest, including the mayoralty of the capital. Where on the scale between “peaceful” coercion and bloody violence the tools of exclusion, discipline, and enforced subservience are located shows that the people enjoy more autonomy in Hungary than in Russia. In fact, the coercion thresholds of post-communist mafia states are different, depending on their geopolitical position: the threshold constraining the use of violence in the case of the EU-member Hungary is higher than in Russia, which is not a member; and even in Russia it is higher than in the case of post-communist mafia states in Central Asia.  

The lower level of violence is also related to the fact that Orbán’s behavior is quintessentially competitive and does not aspire to be “father of the nation” like Putin or Central Asian autocrats, which is another sign of the level of autocratic consolidation.

Table 4.15. Twelve post-communist countries by constraints on government and fundamental rights. Autocracies in bold. The countries within each cell are in decreasing order by constraints on government. Source: WJP (2019).

<table>
<thead>
<tr>
<th>Constraints on government powers (1: perfectly constrained; 0: perfectly unconstrained)</th>
<th>Fundamental rights (1: perfectly protected; 0: perfectly ignored)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.73–0.89</td>
<td>Estonia, Czech Republic</td>
</tr>
<tr>
<td>0.56–0.72</td>
<td>Georgia, Poland, Romania</td>
</tr>
<tr>
<td>0.39–0.55</td>
<td>North Macedonia, Ukraine, Hungary, Moldova*, Kazakhstan</td>
</tr>
<tr>
<td>0.22–0.38</td>
<td>Russia, China</td>
</tr>
</tbody>
</table>

* Data collected in 2017.

In the end, the consolidated system can be maintained by the discrentional use of the instruments of public authority. With the monopoly of political power, the chief patron disposes over the state and can use its means to neutralize his opponents while maintaining the country’s democratic façade. Indeed, Part 4.3 on the institutions of public deliberation was devoted precisely to this, when we explained patronal autocracies as follows: (1) creation of a dominated sphere of communication, neutralizing the opposition in the discussing phase; (2) non-balancing of rights and the institutionalization of a dominant-party system, neutralizing opposition associations and movements; (3) holding loyalty-structuring

384 Bozóki, “Hungarian ‘Exceptionalism’: Reflections on Jeffrey C. Isaac’s Illiberal Democracy.”
386 Krekó and Enyedi, “Orbán’s Laboratory of Illiberalism.”

• campaigns and manipulated elections, turning the voters’ free choice into unfree choice; (4) creating instrumental law and custom-tailored lexes, attacking opposition figures in the political, economic and communal spheres alike; and (5) using politically selective law enforcement against opponents and in favor of the adopted political family. This sums up how a patronal autocracy can defend itself from pressures from the outside, without the use of violence or de jure elimination of pluralism in politics.

4.4.3.3. Defense against pressures from the inside: the separation of resources of power

Beyond the obvious benefit of lucrative accumulation, the stability of the patronal network is in the interest of the insiders, that is, the clients in the adopted political family for two reasons. First, as North and his colleagues say, if “the positions, privileges, and rents of the individual elites […] depend on the limited entry enforced by the continued existence of the regime, all elites have incentives to support and help maintain” it. Second, patronalism solves a kind of “tragedy of commons.” While disorganized corrupt actors can over-exploit the public-resource pool because it does not have an owner who could properly defend it (weak state [→ 2.5.2]), the chief patron treats the state as his private domain and can effectively coordinate corrupt revenue streams from public resources, and therefore achieve sustainability of the source of rent [→ 7.4.7.2]. However, high-ranking members of the adopted political family may turn against the chief patron and try to replace him. The chief patron must be able to fight off such destructive tendencies, which are unlike the competition of lower-level patrons for that is always about the share of their privileges but never seeks to challenge the top chief [→ 7.4.3.1].

Against pressures from within the adopted political family, the same arsenal of public authority that is used against external pressures can be applied. As Hale explains, patronal presidentialism is “an extraordinarily powerful weapon that can be used by its occupant to ‘divide and conquer’ elites both within and beyond her closest set of clients […]. Appointed officials can be fired. Elected officials can be challenged or disqualified from the ballot when seeking reelection. Business-elite can be denied licenses, deprived of state-linked business partners, or subjected to crippling inspections, fines, and closures at the partial hands of […] state agencies controlled by the president’s network. Judicial elites can often be deprived of income or housing and can sometimes by removed from office. And, of course, everyone can be offered a bribe, prosecuted, or simply humiliated.” Such moves may prove costly to the chief, either politically—the disloyal actor may leak sensitive information or start financing opposition forces—or financially—if we are talking about a renegade oligarch who is also an important industrialist of the country [→ 3.4.1.4]. However, it is rational for the chief patron to adopt a so-called commitment strategy to crack down on disloyalty. Borrowing this concept from game theory, we can say that, if the chief patron shows that he is committed to fight disloyalty even at the cost of hurting himself, the members of the adopted political family will

388 We borrow the idea of linking patronalism to the tragedy of commons from Dubrovskiy, “Ukraine after 2019 Elections.” Also, see the concept of market failure in Chapter 5 [→ 5.2].
389 Hale, Patronal Politics, 83.
acknowledge this and realize that disloyalty would lead to a “fight to the death.” This makes disloyalty highly unattractive—and as long as his clients remain loyal accordingly, the chief patron does not have to make good on his threat and bear the large costs. Hence, the strategy is rational, and it promotes the longevity of the regime.\footnote{Cf. Schelling, “Strategies of Commitment.”}

For the commitment strategy to work, the clients must expect that the chief patron is not only willing but also able to punish disloyalty. Indeed, it is the perception of the patron’s power to execute discreitional punishments what keeps the patronal pyramid together. The actors remain loyal only as far as they believe the chief patron is in full control of the means of public authority, and can execute custom-tailored punishments through means like instrumental law, selective law-enforcement, and predatory regulations \(\rightarrow\) 5.5.4. However, if this perception disappears and the clients believe the chief patron is not so powerful anymore (e.g., because he is old and expected to leave office),\footnote{Hale, \textit{Patronal Politics}, 84–85.} the cohesion of the patronal network breaks and defection to potential (future) chief patrons begins. This is what Hale describes as “lame-duck syndrome,” when the perception of the dissipating power of the chief patron becomes a self-fulfilling prophecy.\footnote{For examples, see Hale, 178–240.}

While still firmly in power, the chief patron can take certain preventive measures to avoid lame-duck syndrome and ensure that no one has the means to challenge him effectively. Indeed, what we can see in patronal autocracies is that while the chief patron eliminates the separation of branches of power within the state, he separates the resources of power within the adopted political family. This means that the chief patron does not allow anyone but himself to dispose over the kinds of political and economic resources that would be necessary to challenge him and/or to build an autonomous patronal network independently.

Table 4.16 shows the ideal typical pattern of separation. First, the chief patron is the only one who can combine all resources of power in his hand: executive, party, nation-level economic and nation-level media.\footnote{We list only these four types of power resources for the sake of simplicity. Beyond our illustration, in countries like Russia other powers that need to be separated by the chief patron may include secret service and military power (i.e., control over related bodies).} Naturally, this combination is not done through direct ownership but through economic and/or political front men, the latter being employed when the property that embodies an economic or media resource is taken into permanent state care (hot nationalization \(\rightarrow\) 5.5.3.3). However, the poligarchs below the chief patron in the patronal pyramid, while having some informal economic power, can keep either executive power or party background. Indeed, in democratic parties these roles are typically not split: those in the executive are also important members of their party; they can voice their critical opinions; or even act against the party leader if they disagree with him. However, a transmission-belt party is a vassals’ party precisely because such mechanisms of intra-party democracy are eliminated, and it is a transmission-belt because their members do not have true influence over policy or executive decisions \(\rightarrow\) 3.3.8, 4.3.4.4. Poligarchs with party background fulfill roles...

Table 4.16. Ideal typical separation of resources of power within the adopted political family.

<table>
<thead>
<tr>
<th></th>
<th>Executive power</th>
<th>Party power (party background)</th>
<th>Nation-level economic power</th>
<th>Nation-level media power</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief patron</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Poligarch (1)</td>
<td>+</td>
<td>–</td>
<td>+</td>
<td>–</td>
</tr>
<tr>
<td>Poligarch (2)</td>
<td>–</td>
<td>+</td>
<td>+</td>
<td>–</td>
</tr>
<tr>
<td>Oligarch (1)</td>
<td>+ –</td>
<td>–</td>
<td>+</td>
<td>–</td>
</tr>
<tr>
<td>Oligarch (2)</td>
<td>+ –</td>
<td>–</td>
<td>–</td>
<td>+</td>
</tr>
<tr>
<td>Political front man</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Economic front man</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>

Legend: “+” means the actor has the power, “–” means he does not have it, and “+–” means that he has it but only in a limited manner.

Oligarchs of the adopted political family are also “single-profile” in the sense that, while they have implicit political (executive or party) power, they cannot have nation-level economic and media power simultaneously. They either—having the former—exercise ownership rights of large companies or conglomerates that are important parts of the national economy or—having the latter—own nationwide TV-channels and radio stations. However, it should not be forgotten that oligarchs are de facto high-profile front men of the chief patron [→ 3.4.3], therefore their ownership of power resources is conditional upon their loyalty (especially in case of media oligarchs, as nation-level media are politically sensitive assets). Moreover, their political power is limited and can be (informally) vetoed by the chief patron at his whim.

Political and economic front men have no power. They have formal positions, but they cannot exercise the powers vested in them as they wish. Indeed, their position is completely conditional upon the chief patron, who can use the means of public authority and patronal presidentialism explained above against them should they be disobedient. A political front man like an MP or an ordinary (not poligarch) party member simply executes the orders of the chief patron; an economic front man keeps higher-level actors’ property under his name, thus hindering economic and legal accountability [→ 5.3.3.2]. True, high-profile front men (not necessarily oligarchs) may have the right to manage companies’ everyday operation and therefore they can exercise certain property rights. But these rights can be withdrawn and their patron—indeed, ultimately the chief patron in a single-pyramid system—should be seen as the true owner of the assets they manage [→ 5.5.3.4]. What they can manage or spend on their own is their personal wealth, which is typically a fraction of what they de jure own. Personal wealth that is accumulated as a main principle of the leading political elite is the benefit of the members of the adopted
polITICAL FAMILY. WITH DIFFERENT MAGNITUDES FROM POSITIONS WITH (MORE THAN) DECENT SALARIES TO MILLIONS AND BILLIONS, EVERY MEMBER OF THE ADOPTED POLITICAL FAMILY RECEIVES HIS “CARROT,” BUT ALWAYS IN THE SHADOW OF THE CHIEF PATRON’S “STICKS.”


While the two actors initially had clear authorization to fulfill separate roles in power concentration and wealth accumulation, they wanted more and decided to team up. But at this point Orbán intervened and deprived both of their power resources. LÁZÁR was removed from the Ministry and every position of political power, while SPÉDER was forced to give away his economic empire through a custom-tailored lex, discreional supervisory intervention from the Hungarian Financial Supervisory Authority (PSZÁF), reputation dirtying, and politically-selective law enforcement from the Prosecutor’s Office. This way, the chief patron not only cracked down on disloyalty but also stopped a poligarch and oligarch from combining their resources of power. Therefore, Orbán prevented the formation of a potential challenger within his adopted political family.

Going back to Table 4.16, adding the adjectives “nation-level” to economic and media power carries importance especially in multi-tier single-pyramids. As we explained in the previous chapter, multi-tier single-pyramids prevail in large countries where the chief patron decides not to break local (government’s) autonomy, but instead keeps them at bay in a brokered autonomy, where local power networks enjoy significant self-government within their own domains while yielding resources and compliance to the chief patron [→ 7.4.3.1]. Under such arrangements, top-patrons of the lower tier may have the four types of powers in their hands on the local level. It would also be logical on their account to have a similar separation of resources of power among their own local clients. But the chief patron on the higher tier does not allow them to realize a similar power on the national level, as that would enable the sub-chiefs to challenge the top-chief, to organize

396 Magyari, “The Rise and Fall of Zoltán Spéder.” On Simicska and how Orbán put an end to his excessive power-concentration, see Magyar, Post-Communist Mafia State, 82–88.
397 Kasnyik, “Ilyen államilag koordinált leszámolást még nem láttunk” [We haven’t seen such state-controlled rubout before”]; Urfi, “Újra megosszabbította az ügyészség a Spéder elleni nyomozást” [Again, the prosecutor’s office extended the investigation against Spéder].”
color revolutions or perhaps “palace coups.”

Hence, the chief patron realizes not only the separation of powers with respect to the four powers above but also a geographical delimitation of power.

4.4.3.4. The problem of succession: gradualism, hereditary succession, and lame ducks

The instruments of public authority and the separation of resources of power within the adopted political family embody effective defensive mechanisms to deal with internal threats to power. However, while chief patrons cement their position for eternity, they are not immortal. The situation when the person who founded and led the system retires, dies, or otherwise becomes unable to fulfill his position raises the problem of succession if the system is to survive.

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The problem stems precisely from the essence of the system: that the chief patron has centralized all power and cracked down on competing patronal networks. In a single-pyramid system, the position of the chief patron carries a unique concentration of political power that sub-patrons (even sub-chiefs) do not match—indeed, this is precisely the guarantee of the regime’s stability, and hence the separation of resources of power is created. But this also means that it is not obvious who should come after the chief patron, as there is not a second-most powerful patronal network and sub-chief but a set of actors roughly equal in size.

One solution to this problem may be identified as gradual succession by making the presidency a divisible good. This solution has been shown by Kazakhstan’s Nursultan Nazarbayev, who resigned after three decades of presidency in 2019. In the years before his resignation, the position “Leader of the Nation” was created for Nazarbayev and the competences of one of his other titles, the Chairman of Security Council of Kazakhstan, were changed. As of 2019, he legally holds both of these positions for life and they grant him (1) legal immunity and (2) veto rights and de facto executive powers over policy decisions (he supervises program documents with the president and the government). Furthermore, Nazarbayev remained head of his party Nur Otan, which won over 80% of votes in 2016. Therefore, the 78-year old chief patron gave the presidency to one of his loyal clients while retaining political power. The executive became divided, but Nazarbayev intended this division and both halves of the executive are filled by his top-down decisions, not as a result of a separate electoral process (as it would happen in a patronal democracy). If this gradual succession continues, then by the time Nazarbayev truly leaves the political scene a hierarchy will have been built up in an orderly fashion, and Nazarbayev’s adopted political family can continue ruling the country.

A simpler solution for the outgoing patron is to name his successor, like Heidar Aliev did with his son, Ilham. But, as Hale warns, this is far from certain to work. “Any networks not anointed are bound to fear that the heir […] will cut them off from power and wealth in an effort to establish his dominance […]. In considering whether to back a sitting president’s hand-picked successor […] potential elite challengers must weigh the

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399 “Kazakh Leader Resigns after Three Decades.”
400 Hale, Patronal Politics, 291–302.
possibility of punishment for failing to do so against (a) the possibility that they would be punished anyway and (b) the possibility that they could defeat the anointed one in a challenge and claim a greater share of state spoils for themselves. 401

Indeed, even before the chief patron leaves his position, the expectation of departure already spurs defection which “can undermine the president’s capacity to shape elite expectations [or to decide] who is punished and who is rewarded.”402 As the chief patron’s power begins to dissipate, the central will that coordinated clients and kept them in line also perishes. In a one-tier pyramid, clients start (1) seizing control of the resources they have been assigned to manage (state departments, companies etc.) and (2) forming their own patronal networks with the resources they can acquire and/or by defecting to (requesting adoption by) the existing elite groups. In a two-tier pyramid, while similar movements and new network formations are far from unimaginable, it is mainly the subchiefs who try to seize power.

The dissipation of central control may be followed by two scenarios. First, the more obvious outcome is that a competition among the clients for the top position develops. In such situations, every (former) sub-patron either tries to position himself as the future chief or sides with an already more potent network. Second, the clients can realize that an internal war would be very expensive and also uncertain. This not only means that they cannot know whether they can dominate their rivals but also whether they will be punished or even criminally prosecuted after the dust settles. Their rent-collecting economic positions and personal freedom are both at stake. In such cases, it might happen that the rival networks cement their own position but compromise instead of fighting for dominance. Thus, the rival networks can agree on the terms of succession and even “elect” a new chief patron. After the death of Uzbek chief patron Islam Karimov in 2016, Shavkat Mirziyoyev’s coming to power was most probably a result of such a so-called clan pact [→ 7.4.1].403

Going back to the chief patrons, Hale uses the term “lame duck” for those who lose control over their patronal network—either because they are expected to retire (die etc.) or because they are undermined by exogenous shocks, like war, natural disaster, economic crisis, or a pandemic.404 Indeed, such situations that produce lame ducks present the best opportunities to change a patronal autocracy to democracy. If the newly created patronal networks start competing, they all want to become dominant, but none of them is interested in being suppressed by a competing network. Thus, the logic of patronal democracy, although the competition largely takes place inside the leading political elite’s circles, appears and ambition may be able to counteract ambition. As powers begin to be separated not within the single-pyramid patronal network but among (newly founded) networks, a dynamic equilibrium situation can materialize which is the basic condition for the prevalence of a patronal democracy. Naturally, if the regime has a presidentialist constitution then systemic reproduction with a new chief patron is more likely after the internal fighting plays out. However, if the chief patron has been a prime minister in a parliamentarist system there is a greater chance to break the self-reproducing capacity of patronal autocracy.

401 Hale, Patronal Politics, 85.
402 Hale, Patronal Politics, 84.
403 Horák, “Leadership Succession in Turkmenistan and Uzbekistan.”
4.4.4. Reversing Autocratic Change: The Regime-Critique Paradigm and Democratic Consolidation

The departure of a chief patron and the problem of succession carry great revolutionary potential, and mobilizing the people on the side of a challenging patronal network is crucial to the success of a democratic turn. To place this in a more comprehensive framework, we may conclude this chapter by discussing various opposition strategies, or more precisely the forms of comeback from various stages of autocratic change (Figure 4.3). The “stages” are the ones displayed in Table 4.13: autocratic attempt, autocratic breakthrough, and autocratic consolidation—the first one of which is occasional in liberal democracies and frequent in patronal democracies, while the latter two are particular to (patronal) autocracies.

Figure 4.3 starts from unchallenged democracy, which means that (1) both defensive mechanisms of liberal democracy, the separation of branches of power and the autonomy of civil society, are intact, and (2) there are no attempts at breaking these defensive mechanisms. When autocratic tendencies prevail—as an anomaly in a liberal and as a norm in a patronal democracy—we can observe autocratic attempts, violating (2) and aiming at breaking down (1). Yet these indeed remain only attempts as the opposition reverses them by electoral correction. Simply, this refers to electoral victory by a competing force—often a patronal network, but potentially a democratic challenger. This is the essence of patronal democracies’ dynamic equilibrium, which involves constant autocratic attempts by leading patronal networks (à 4.4.2.1). This results in an “oscillation” in regime type, composed of regime cycles with small movements toward autocracy and back, without an autocratic breakthrough (as in the case of Romania (à 7.3.2.3)).

Figure 4.3. Ideal type comebacks from different levels of autocratic change.

However, in the case of regime cycles with autocratic breakthrough, we can see electoral or extra-electoral restitutions. Compared to correction, “restitution” must also include the change of the constitutional order, that is, the restitution of the autonomy of the separated branches of power. This may be achieved by winning the elections with a supermajority—in

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405 For detailed discussions of opposition strategies, see Bunce and Wolchik, Defeating Authoritarian Leaders in Postcommunist Countries; Popovic, Blueprint for Revolution.
which case the restitution is electoral—or by non-electoral means like color revolutions—in which case the restitution is extra-electoral. Sometimes autocratic breakthrough is ephemeral, like when the leading network commits electoral fraud that spurs a color revolution [→ 4.4.2.3], but there have been examples of color revolutions as well as electoral victories that turned polities back from autocracy to democracy.

Considering opposition strategy, a crucial point of returning from autocratic breakthrough is to switch from the government-critique paradigm to the regime-critique paradigm. In liberal democracies, the opposition usually remains within the boundaries of the government-critique paradigm, whereby it:

- attacks the government, not the regime as a whole;
- debates public policy, as if it followed from the declared ideological goals (criticizes value incoherence);
- forms strategy on the basis of competition of parties, without cooperation in opposition or nationwide movement;
- largely preserves distance between political parties and NGOs and entrepreneurs, supporting certain public policies rather than certain political forces.

Indeed, scholars often argue that attacking the government instead of the regime is a sign of democratic consolidation, for it indicates that democracy is “the only game in town” for the regime’s actors. However, when an opposition faces an autocracy, it is crucial that they do not want the regime to be consolidated. On the contrary, they must question the regime, to point out that the prevalent autocracy is not the only game in town. This means that, after autocratic breakthrough, the opposition may be successful if it switches to the regime-critique paradigm. In this case, the opposition:

- attacks the autocratic regime, not the government per se;
- criticizes not the declared ideological goals of the policies but the way they serve power concentration and personal-wealth accumulation (realizes functionality coherence [→ 6.4.1]);
- forms strategy on the basis of cooperation in opposition and a nationwide movement, along the regime-level cleavage of “democratic opposition” vs. “autocratic system;”
- gets NGOs and entrepreneurs to side with opposition against the leading political elite that sets out to destroy democracy.

In short, it is the regime-critique paradigm that can signal to the people that the opposition is ready and capable of winning, breaking the perception that is otherwise a crucial element of autocratic consolidation. However, there are important reasons why electoral

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407 Linz and Stepan, Problems of Democratic Transition and Consolidation, 15–16.
408 Hale, “Did the Internet Break the Political Machine?” The perception that the leading political elite is invincible and resistance to it will fail is similarly important in case of other single-pyramid power
restitution may not be enough, and there will be a need for extra-electoral restitution. As we explained above, the stake of an election in a patronal autocracy is not like in a liberal democracy—losing power—but may be followed by losing freedom and wealth as well [\( \rightarrow 4.3.3.2 \)]. Facing a “life-and-death struggle,” the chief patron is inclined to commit fraud and/or electoral manipulation, as well as to employ the technique of one-sided changes of the consequences of the elections. Unlike electoral fraud or the manipulation of the electoral process itself, this method lets the elections play out, but then changes the—formal or informal—institutional framework to minimize the results’ regime-disrupting effect. The first form of this technique is changing the formal competences of elected opposition actors. The chief patron can use this method if he is not removed but the opposition wins major seats in elections. Hungary provides an example: although Orbán—contrary to expectations—is yet to narrow the formal competences of the new opposition mayor of Budapest (as of late 2019),\(^{409}\) in late 2018 he set up several centrally controlled agencies to manage every state tender, governmental and municipal, above 700 million forints (ca. €2.1 million) in construction, sports, and the IT sector.\(^{410}\) Thus, losing positions in the 2019 municipal elections has a considerably milder effect on the revenue streams of the adopted political family than otherwise [\( \rightarrow 5.3.3.3 \)]. The second form of this technique is to invalidate electoral results through the courts, like in Moldova, when Andrei Năstase won the mayoral election in the capital, Kishinev, in 2018, under the rule of chief patron Vladimir Plahotniuc.\(^{411}\) Plahotniuc provides an example for the final form of changing the election’s consequences, when he lost his majority in elections but then simply “bought up” dozens of MPs, bribing his way back to a majority. In such cases, electoral restitutions have no chance, and only extra-electoral methods may work—as happened in Moldova, although it was not the opposition but foreign actors that contributed to removing Plahotniuc in an extra-electoral way [\( \rightarrow 7.3.4.4 \)].

On the other hand, the informal patronal network may have already enmeshed every sphere of social action, including major non-elected positions in the public as well as the private sphere. Depending on the level of consolidation, positions (informally) occupied by the adopted political family may include the Constitutional Court, the media and—most importantly—the economy, in the form of tremendous accumulated capital and nationwide networks of companies of the adopted political family’s oligarchs and poligarchs [\( \rightarrow 5.3.4.4 \)]. Control over the country on these many levels cannot be broken by an election: the ruling party may be removed by procedures, but the regime, only by extra-electoral means.\(^{412}\) However, the election can facilitate removal if the regime has not consolidated yet [\( \rightarrow 4.4.3.2 \)]. As Hale shows, the electoral process is not only about formal political positions, but it also provides a focal point for actors to coordinate. That is, an electoral defeat signals to elite groups that the current chief patron is a lame duck, which can easily lead to defection and the emergence of alternative patronal net-

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409 Karácsony, “Akkor ki kell menni a barikádokra” [Then we shall go to the barricades].
410 Szabó, “Purgatorbánium.”
411 Turp, “Moldovan Court Prevents Pro-European Election Winner From Becoming Chisinau Mayor.”
412 Bódis, “Most van itt a vége” [Now this is the end].
works. In this case, the process that breaks the autocratic regime combines electoral and extra-electoral elements, although both remain peaceful.

The more the regime has achieved autocratic consolidation, the more the chances of electoral victory as well as formal-procedural restitution wither away. In this case, extra-electoral restitution remains the only possibility for the regime to fail. Such restitution may be initiated from outside the adopted political family—meaning an actual (not color) revolution—but the above-described problem of succession allows for the possibility of a breakup of the regime from the inside as well. (Also, the regime may fall victim to various exogenous shocks like economic crisis or foreign invasion, but we have been confined to cases that are endogenous to the regime.)

We may sum this part up from the opposite perspective: not from avoiding autocratic breakthrough and consolidation but from instituting democracy and consolidating it. Table 4.17 shows the different levels of democratic change; similar to Table 4.13, which showed different levels of autocratic change. First, we can speak about democratic attempt when the autocracy’s opposition tries to engage in either electoral or extra-electoral restitution but it is unsuccessful. In this case, neither defensive mechanism that is disabled by the leading political elite is reinstituted. If the opposition is successful, however, we can speak about democratic breakthrough, which reverses an autocratic breakthrough by reinstating the separation of branches of power. Also, we can speak about democratic breakthrough when democracy is reinstituted after autocratic consolidation, although then a prerequisite of the breakthrough is to free up the civil society first (otherwise there is no autonomy on the basis of which a successful opposition may emerge).

Table 4.17. Different levels of democratic change.

<table>
<thead>
<tr>
<th>The autocracy’s opposition successfully reinstitutes…</th>
<th>First defensive mechanism</th>
<th>Second defensive mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(separation of branches of power)</td>
<td>(autonomy of civil society)</td>
</tr>
<tr>
<td>Democratic attempt</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Democratic breakthrough</td>
<td>X</td>
<td>(X)*</td>
</tr>
<tr>
<td>Democratic consolidation</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

*: A prerequisite of democratic breakthrough in case of autocratic consolidation.

Finally, we can speak about democratic consolidation when both defensive mechanisms are restored. As we mentioned above, scholars often argue that this is not enough for a democracy to be consolidated, and it must also be unchallenged: democracy must be the “only game in town,” whereas “democratic structures, norms [must] become well embedded within society.” This approach, originating from transitology and “consolidology” of the 1990s [→ Introduction], identifies democracy with liberal democracy. For it is liberal

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413 Hale, Paternal Politics, 61–94.
414 Cf. Kollmorgen, “Post-Socialist Transformations.”
democracy that is consolidated when autocratic tendencies are not present, meaning no challenger to the democratic order exists. However, in a patronal democracy, challenging democracy is the norm—and yet the regime can be regarded consolidated if it reaches the dynamic equilibrium of competing patronal networks. This can be understood on the scale of Figure 4.3. There, a consolidated liberal democracy would be a static point, namely the “unchallenged democracy” pole, while a consolidated patronal democracy would show a dynamic pendulum motion between unchallenged democracy and autocratic breakthrough.

This leads us to conclude that, even if autocracy ends and democracy consolidates, a country’s trajectory will greatly depend on the character of the new leading political elite. For it can be—and in the post-communist region, most likely going to be—patronal, in which case only a patronal democracy may emerge from the ashes of the autocratic order. However, attempts at anti-patronal transformation are not unprecedented in the region. The period after the Rose Revolution in Georgia brought “a genuine reduction in the level of patronalism” as the leaders, committed not simply to elite interest but to a libertarian ideology, managed to dissolve corrupt bureaucracies and initiated a large series of reforms in public administration. Moreover, the end of unconstrained patronal rule allows not only competing networks to emerge and seize power but the civil society to gain some autonomy, too. This not only provides a defensive mechanism for the newly founded patronal democracy but can also plant seeds for more liberty and a stronger rule of law.

416 Hale, Patronal Politics, 364–70.