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Changing the rules of the game : the development and reform of party law in Latin America

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CHAPTER 4 – Entering the black box of party law reform

4.1 Introduction

Analyzing whether party law reforms manifest themselves in accordance with different reform strategies entails entering the black box of the reform process. Towards this end, it is crucial to disentangle the different reform strategies and to recognize that “content cannot logically explain its own antecedents or effects” (Riffe, Lacy, and Fico 1998, 138). Instead, care should be taken to measure threats to party organizational resources independently from the adopted party law reforms and to link the two through observable implications within the party law reform process.

The theoretical framework presented in this study holds that changing socio-political circumstances create specific resource threats that result in different types of adopted party law reforms, both in terms of legal provisions and intended effectiveness. This study proposes an ‘integrative comparative case study design’ (Rohlfing 2012) to explore whether the resource-based approach holds true empirically. Such a design combines within-case analyses of various party law reforms with cross-case comparisons of the case studies’ findings. The former explore whether the cases manifest observable implications of the proposed theoretical framework, whereas the latter explore whether the link between reform strategies and adopted party law reforms remains stable across a wide range of institutional settings.

The following section discusses the operationalization and measurement of the three relevant sets of socio-political circumstances that create different types of party organizational resource threats, as well as the operationalization of the legal provisions and intended effectiveness of party law reform. It also introduces the content analysis of party laws used to collect data on adopted party laws. The third section discusses how a focus on the agenda-setting and policy-formation process connects these two sets of independent and dependent variables. The fourth section, lastly, discusses the research design. It explains how selecting the four countries under study here allows for an exploration of the influence of (changing) socio-political circumstances on the outcome of party law reform while controlling for institutional characteristics.

4.2 Operationalizing the resource-based model of party law reform

To explore possible causes of the variance of Latin American party laws, this study conducts comparative qualitative case studies of party law reforms in four countries: Argentina, Colombia, Costa Rica, and Mexico. The choice for qualitative case studies follows from this method's general usefulness for the exploratory research strategy (see George and Bennett 2005; Gerring 2004). Gerring (2004, 350–54) notes, for example, that one of the natural advantages of case study research is that it allows for the *prima facie* identification of relationships on the basis of multiple observations within a single case when little information about relevant causes and outcomes is available *a priori*. This is precisely the case in this study, which provides a first attempt at systematically connecting different types of socio-political changes to Latin American party law reforms.

At the same time, the use of the resource-based approach developed in Chapter 3 requires the operationalization of the relevant variables in this model and linking them to observations (Gerring 2004, 342). For this study, the relevant independent and dependent variables are the different sets of socio-political circumstances that threaten political parties' access to organizational resources (IV) and the adopted party law reforms (DV). The analysis of the legislative process explores whether different changes in socio-political circumstances result in different types of adopted party laws due to the influence of a mediating variable constituted by politicians' adoption of a reform strategy.

4.2.a Operationalizing and measuring changing socio-political circumstances

The previous chapter identified socio-political circumstances that change the party organizational resource exchange balance as: 1) changes in party organization and/or factional conflict, 2) changes in party competition and/or the rise of a strong new competitor; and 3) systemic changes. Changes in these variables only matter, however, to the extent that they alter party organizational access to resources. Rather than seeking to measure each variable independently, the main question for each of them is if they created an incentive for party law reform by altering political parties' access to resources. A review of secondary literature on the countries under study, combined with additional quantitative data and interviews with experts and politicians in the countries under study, provided detailed information on relevant changes in these variables for each reform case.¹⁴¹

¹⁴¹ The interview process will be discussed in more detail in section 4.3.b below.

Changes in party organization and/or factional conflict

Party organizational change is defined as any “alteration serious enough to modify relations among the organization’s various components” (Panebianco 1988, 243). Such alterations may take place in the form of changes in economic resources, fluctuations in party membership, the relationship between leadership and cadres, and between central and local party units (Carty 2004). These alterations only matter to the extent that they change political parties’ ability to provide their politicians with access to fundamental organizational resources.

Party fractionalization scores form a first tentative measure to capture such *party organizational change*. According to O’Dwyer (2006, 40), lower levels of fractionalization occur when “competition is dominated by a few organizationally rooted parties who can survive outside of government.” Changes in the level of fractionalization may thus reflect changes in organizational rootedness of parties. Fractionalization is operationalized using the Laakso-Taagepera index to calculate the effective number of parties. Ruth (2016) provided the data on the effective number of parties in the countries under study here.

Party fractionalization may also indicate a rise of political outsiders. I have therefore used a review of secondary literature and interviews with experts and politicians to identify those instances where changes in these indicators indeed represented party organizational change. Carty’s (2004) various intra-party components allowed for the operationalization of organizational change by providing the following questions to guide the review of the secondary literature and the interviews with experts and politicians: 1) did intra-party economic resources relationships change over time; 2) did the party’s membership bases change; 3) did the relationship between party leadership and cadres change over time; and 4) did the relationship between central and local party units change over time (and if so, why)?

In addition, Harmel and Janda assert that “[n]early all parties have identifiable factions within them. Some parties, in fact, are partially identified as collections of rival factions” (1994, 266–67). A focus on internal factions is relevant in particular for Latin America political parties, which often consist of a patchwork of internal groups organized around popular candidates and/or political dynasties (Norris 2004, 22). In lieu of reliable data on *factional conflict*, I have tentatively operationalized this variable as an increase in the absolute number of registered parties and/or parties that participated in parliamentary elections¹⁴² plus an increase in the absolute number of parties that gained parliamentary representation. The data for these indicators were obtained from studies conducted by country experts as well as from relevant electoral

¹⁴² Depending on the type of data that are available for each country.

authorities.¹⁴³ The reasoning behind this operationalization is that increased levels of factional conflict will result in factions running on separate labels outside of the party (also see Sikk 2005). Once again, a review of secondary literature and interviews with experts and politicians served to identify those instances where changes in these indicators indeed represented organizational conflict.

Changes in party competition and/or the rise of a strong new competitor

At the party system-level, threats to the political parties' ability to meet their politicians' resource demands are expected to appear when *party competition changes*. Aggregate volatility scores form an initial measure of such changes. This measure represents the minimum probability of a vote shift between two consecutive elections (Pedersen 1979). Again, Ruth (2016) provides the volatility scores for the countries under study here. The 'electoral volatility' measure has been applauded for its elegant simplicity and its potential to provide insights into long-term electoral dynamics (Rattinger 1997, 88). Nevertheless, changes in such long-term electoral dynamics are only of interest to the extent that they affect political parties' organizational capabilities. Secondary literature and interviews with experts and politicians have been used to identify those instances where electoral volatility indeed reflected a larger organizational threat.

As discussed above, changes in the number of parties that participate in elections and the legislature and the party fractionalization index may also capture the rise of a *strong new competitor* rather than the secession of party factions. Once again, a survey of relevant secondary literature and interviews with experts and politicians served to identify those instances where changes in the number of parties and/or changes in the party fractionalization index reflected the rise of an important new party.

Systemic changes

As discussed in the previous chapter, the literature broadly identifies two different sets of systemic changes in the socio-political environment when discussing party organizational change. These sets of factors are institutional and societal changes (Albinsson 1986, 1991, cited in: Harmel and Janda 1994; Gunther and Diamond 2003, 191–192; Key 1964, 329–330; LaPalombara and Weiner 1966b, 17–19; Lipset and Rokkan 1967; Mair 1997, 39; Schonfeld 1983, 494; Strøm 1990, 579). For the purpose of this study, changes in these factors are relevant only to the extent that they alter political parties' ability to serve their politicians' goals in a steady manner. Rather than measuring each factor independently, a review of the secondary literature served to identify those instances where this was the case.

¹⁴³ The country chapters list all relevant sources.

Institutional factors are defined here as constitutional and political reforms, changes in the structure of governance (Albinsson 1987, 191, cited in: Harmel and Janda 1994), and the adoption of relevant jurisprudence (Katz 2011; Scarrow 2004). Societal changes are defined as changes in relevant values and cleavages and the creation of new technologies and changes in the mass media that alter political parties' ability to appeal to voters directly (Mair 1997, 39–40). The *institutional factors* were operationalized by using the following question to guide the review of the secondary literature and the interviews with experts and politicians: did constitutional and political reforms, changes in the structure of governance, and/or the adoption of relevant jurisprudence alter political parties' access to resources? Societal changes were operationalized partly by asking whether *changes in the technologies and mass media available* altered political parties' ability to appeal to voters directly during the review of the secondary literature and the interviews with experts and politicians.

Changes in the relevant values and cleavages are operationalized here as *legitimacy crises*, or any type of external pressure for the reform of political parties or the party system. This pressure may manifest itself on a large scale, such as when the population at large organizes political protests to demand political reform in response to political crises or scandals (Katz 2005, 74; Renwick 2010, 11). Large changes in the percentage of voter turnout provide a quantitative indicator of a changing public appreciation of the political system (Franklin 2004, 1–2). This is used as an initial measure of legitimacy crises. The IDEA International Voter Turnout Database (2015) provided the data on voter turnout in parliamentary elections.

External pressure for reform may also manifest itself on a minor scale when (international) NGO's and political experts presses for political reform (Katz 2005, 74; Renwick 2010, 11–14) or when the judicial branch or electoral authorities push for reforms (Scarrow 2004). What matters is that actors other than politicians themselves set the agenda for reform by urging politicians to adopt a party law reform. Secondary literature is used to determine the presence of these other forms of external reform pressure, and to check whether changes in turnout did indeed result in pressure on the existing political parties to alter their operational format.

4.2.b Operationalizing and measuring adopted party laws

A review of the websites of national governments and parliaments, electoral authorities, and the Georgetown University Political Database of the Americas allowed for the exhaustive identification of all legal texts regulating political parties.¹⁴⁴ This data collection process presents a first effort to index Latin American party laws systematically and comparatively. Together with the data on Latin American constitutional

¹⁴⁴ <http://pdba.georgetown.edu/> [accessed November 21st, 2014].

change presented in Chapter 2, these data have been made available in this study's web appendix.¹⁴⁵ A qualitative content analysis of the party laws adopted in the countries under study here provided the data on the outcomes of party law reform (see Appendix 2 for an overview of the relevant instruments of party law for each country). The content analysis identified changes in the relevant *legal provisions* and whether these changes were designed in an *effective* manner.

Party law reform's legal provisions

The previous chapter distinguished between 1) fundamental values, 2) political finance regulation, 3) party formation rules, and 4) candidate selection rules. These categories follow the constitutional coding scheme developed on the basis of van Biezen's (2013) party law database to measure the *legal provisions* of reforms (see Appendix 3 for the full party law coding scheme).¹⁴⁶ To ensure internal reliability, I coded the relevant laws, as well as other legal proposals that were presented in the legislature throughout the legislative process, in accordance with a three-stage iterative coding process. The first stage consisted of coding all the articles in a single law using the coding scheme. After coding one law, the second stage consisted of checking for consistency with similar articles adopted in the same country at earlier points in time. After coding all laws, the third stage consisted of checking whether all articles within a single sub-category contained similar legal provisions.

Party law reform's intended effectiveness

Effective targeting forms a first attribute of effective reforms. This means that the adopted legal change is designed in a way that truly addresses a stated problem. Ineffective targeting takes place when the legal change does not address the stated problem and/or by the creation of loopholes that undermine effective targeting (see Levitsky and Murillo 2009, 120–22).¹⁴⁷ To determine whether politicians design laws effectively, the study investigates how the reform addressed the stated reason for reform, to what extent it did so, and which stated problems or topics it left unaddressed. These guiding questions allow for the identification of whether politicians adopted a reform to target an existing problem effectively and/or designed the law to be implemented effectively.

¹⁴⁵ <http://www.partylaw.org>

¹⁴⁶ In line with qualitative coding good practice, categories for all codes are designed to be mutually exclusive and exhaustive (see Riffe, Lacy, and Fico 1998, 75–76). The database is available at <http://www.partylaw.leidenuniv.nl/>.

¹⁴⁷ The literature on political finance is illustrative of the first problem. Several authors describe how new political finance laws could not be enforced because they did not match campaign costs or the use of new campaign techniques, or because they addressed regulated centralized political finance structures whereas, in practice, political finance was structured through individual local candidates or vice-versa (Alexander 1970, 104; Nassmacher 2003, 47–48; Paltiel 1970, 121).

When these conditions were absent, care was taken to identify whether this was a conscious decision through an analysis of whether politicians discussed these mismatches in their debates on the draft bill and of how politicians solved such discussions where these occurred. More important evidence of politicians' unwillingness to design effective laws is present when politicians design a law with mechanisms that allow their parties to circumvent the new rules. Under such circumstances, politicians portray an unwillingness of creating an enforceable law.¹⁴⁸

The introduction of what Strøm (1995, 73) calls *ex ante controls* comprises an additional attribute of effective reforms. Ex ante controls consist of the creation of additional legislation or the institutions necessary for implementation – such as administrative or monitoring bodies – that delegate authority to “individuals and organisations who will execute these policies effectively and in accordance with the legislative will” (Strøm 1995, 57).¹⁴⁹ When reforms do not adopt ex ante controls, on the other hand, they produce paper tigers that growl on paper but that lack the necessary teeth for implementation. Legal change then constitutes little more than a symbolic reform, as the authority to implement the law is never really delegated.¹⁵⁰

Ex ante controls are present when the law contains one or more of the following provisions: 1) the creation of tools for implementation of the change; 2) the creation of mechanisms that address non-compliance; 3) the appointment of power of oversight over the enforcement of the new provision to a monitoring body; and 4) the supplying of this monitoring body with sufficient tools to exercise this function of oversight. Data on these legal provisions are collected through a substantive content analysis of the provisions related to political parties found in the relevant laws (the content analysis procedure has been discussed in more detail above). Semi-structured interviews with senior officials of these monitoring bodies and relevant civil society

¹⁴⁸ In his study on the introduction of political finance regulation in the United States, for example, Paltiel (1979, 33) cites a member of the governing coalition in Parliament's comment on a draft regulation as: “frankly, we wanted to leave some loop-holes!” Such statements provide clear evidence of legislators' unwillingness to design effective laws.

¹⁴⁹ Ex ante controls ensure – bar ‘unanticipated consequences’ (see de Zwart 2015) – that new laws can evolve into a behavioral norm beyond mere words. In addition, such measures provide the institution responsible for the implementation of, and oversight over, the new rules and norms with sufficient resources to carry out this task (Ewing and Issacharoff 2006a, 7). Effective delegation of authority takes place when the law creates strong monitoring bodies with sufficient monitoring strategies and the ability to apply penalties (McMenamin 2008, 230).

¹⁵⁰ One advantage of this operationalization of the concept of party law reform is that it targets a problem identified by Zovatto (2010, 146), namely that many reforms are but hidden disinterests in regulating political parties.

organizations, combined with the observation of the monitoring process where possible, provided additional data on the enforcement of legal changes.¹⁵¹

4.3 Reform strategies: connecting resource changes to party law reforms

4.3.a Reform strategies

Reform strategies constitute a prioritization of an interest, which translates into behavior, i.e. the design and adoption of a specific party law reform (see Scarrow 2004, 655). The specific resource threat created by changing socio-political circumstances is expected to define these reform strategies. As discussed in the previous chapter, changes in party organization and factional conflict are expected to culminate in an *organizational economy* strategy that alters the intra-party distribution of resources. Changes in party competition and/or the rise of a new competitor are expected to result in *electoral economy* strategies that increase one party or party coalition's selective access to resources vis-à-vis its competitors. Systemic changes, lastly, are expected to set into motion a *systemic economy* strategy that allows politicians to increase or secure political parties' collective access to resources.

Beach and Pedersen (2013, 41) argue that the “level that is theorized is related to the level at which the implications of the existence of a theorized causal mechanism are best studied.” For this study, theoretical implications occur at the level of the political parties' representatives in the legislature and government. The initial reform proposals put forward by a select group of politicians provide an important starting point of inquiry, because the agenda-setting process “provide[s] meaning, clarification, and identity” (Zahariadis 2007, 69; also see Kingdon 1995). The translation that politicians make between the public statement of a problem and the changes they deem necessary to solve this problem forms a first indicator of their reform strategies. The analysis focuses in particular on the question of whether politicians refer to the changing socio-political circumstances outlined in the previous chapter, and their effect on political parties' access to resources, when introducing a party law reform. During the agenda-setting stage, a connection can thereby be made between changing socio-political circumstances and reform strategies.

A first step in the analysis entails the identification of reform advocates. These actors consist of the politicians that constitute the reform coalitions as well as the members of the legislative committees that work on the reform. A second step entails the identification of statements that these reform advocates use to defend the reform.

¹⁵¹ The interview process will be discussed in more detail in section 4.3.b below.

Statements are defined as a verbal expressions of a political opinion (Koopmans and Statham 2010; Melenhorst 2015), in this case an opinion on why reform is needed. Formal reform strategies are deduced from the analysis of the problems and goals that reform advocates use to defend the reform and that the opposition uses to object the reform effort.

A focus on the agenda-setting process serves to link particular reform strategies to changing socio-political circumstances. Additional analysis is needed, however, to link these strategies to specific adopted party laws. Firstly, it may be questioned whether politicians convey their true motivations on the need for reform in public speeches. More importantly, politicians have multiple relevant policy alternatives at their disposal from which they have to select one (Kingdon 1995). A mere focus on agenda-setting misses why politicians prefer one legal avenue to others. An additional focus on the negotiations over the final version of the adopted reform speaks to these issues.

It is expected that an analysis of political debates throughout the policy-formation stage can uncover the expectations that politicians hold with regard to the consequences of legal change and enforcement. In addition, the coordination problems and veto points that characterize policy formation allow for the identification of politicians' reform preferences that do not manifest themselves clearly in the agenda-setting stage (see Rahat and Hazan 2011). The policy-formation stage hence lays bare the ordering of elite preferences on the negotiation table (see Strøm 1995, 64–65). To measure such preference orderings, the analysis focuses not only on the adopted proposals but also on those that were left behind. Note is taken of the public statements that politicians make on the progress of the reform process as well, and on the issues they would still prefer to see addressed. Lastly, the analysis identifies who voted in favor and against the reform, as well as vote qualifying statements.

4.3.b Data collection and analysis

Four periods of fieldwork conducted over the course of 2012 and 2013 provided the data for this study.¹⁵² The collected primary sources consist of thousands of pages of transcripts from legislative and legislative committee debates (see Appendix 4 for relevant primary sources). A content analysis of statements in defense of – or opposed to – the reform, found in the legislative debates on these political reforms and in explanatory memoranda, provided important information on: a) the reasons for reform, b) the ways in which legal changes addressed these reasons through legal change, c) whether these changes target the stated problem (in)effectively, and d)

¹⁵² Argentina (March-May 2012), Mexico (June-July 2012), Costa Rica (November-December 2012), and Colombia (March-June 2013).

what measures have been adopted to implement these changes (see Appendix 5 for a sample of questions guiding the coding process).

Next to these statements, I coded the name of the politician, his or her party label, and whether or not he or she toed the formal party line.¹⁵³ Statements by the individual politicians that participated in the reform process form the unit of observation. For clarity purposes, I aggregate these statements and discuss them at the level of these politicians' political parties in the country chapters that follow. Only in those cases where individual politicians dissent from a more general party line, or where the reform addresses intra-party concerns, do I aggregate these statements and discuss the reform preferences at the level of intra-party factions and individual politicians.

Transcripts of official proceedings – such as legislative debates – are generally regarded as accurate records of the events that occurred (Beach and Pedersen 2013, 198).¹⁵⁴ Nevertheless, such documents often limit their description of events to an official version and may thereby ignore the informal decision-making-process taking place outside of the formal debates (George and Bennett 2005, 103). Elite interviews provide data on the informal decision-making process. Elite interviews are interviews with “individuals, who hold, or have held, a privileged position in society and, as far as a political scientist is concerned, are likely to have had more influence on political outcomes than general members of the public” (Richards 1996, 1999).¹⁵⁵ Such first-hand testimony may reveal hidden elements of political action that other primary sources may obscure (Tansey 2007, 767) and thereby has the potential to provide unique insights into decision-making processes and political action. An additional primary data source therefore consisted of 87 elite interviews with high-ranking politicians, such as party presidents and presidential candidates, as well as presidents of the electoral courts and other high-ranking public officials (see Appendix 6 for an overview of respondents).

Woodrow Wilson stated that “Congress in its committee-rooms is Congress at work” (cited in Price 1978, 548; also see Morgenstern 2002, 11). Following this assertion, the politicians interviewed for this study were selected to represent members of the

¹⁵³ Where possible, I corroborated this by comparing each politician's vote with the general party vote on the reform.

¹⁵⁴ Transcripts of the relevant debates were obtained from the websites of the national legislatures and through legislative archives.

¹⁵⁵ Given the respondents' privileged position, elite interviews have the advantage that they allow for personal accounts of the processes under study from those people that actually participated in them (Beach and Pedersen 2013, 134; Richards 1996, 200).

relevant legislative reform committees.¹⁵⁶ As not all political parties are necessarily represented in such reform committees, opposition politicians were included as an interview target group more generally.¹⁵⁷ Lastly, interviews with electoral authorities, leaders of civil society organizations, political scientists, and journalists provided information on the (changing) socio-political climate within which reforms appear. Given the exploratory nature of this study, the semi-structured interviews were organized around open questions to allow for the collection of data for theory formation and to avoid coaxing the respondents' answers (Bogner, Littig, and Menz 2009, 46–48).¹⁵⁸ I have coded the verbatim transcripts of the interviews on the basis of the same codes as applied to the legislative debates (see Appendix 5 for a sample of coding and interview questions). Once again, individual politicians' statements on reform motivations form the unit of observation.

Two problems inherent in the use of elite interviews is that respondents may be inaccessible due to their elite status and that respondents are not always willing or able to provide an accurate or objective account of events as they occurred. The objectivity of interview data is also under threat in those instances where, depending on the subject of study, respondents are tempted to increase or minimize their own role in political events (Beach and Pedersen 2013, 135; Berry 2007, 681; Yin 2008, 106). Triangulation ensures access to sufficient data to increase the validity of findings. This entails the use of multiple sources of data for each evidence point (Beach and Pedersen 2013, 128; Tansey 2007, 767). My use of respondents across the political

¹⁵⁶ The relevant legislative committees are called the *Comisión de Asuntos Constitucionales* (Constitutional Affairs Committee) in Argentina, the *Comisión Primera* (First Committee) in Colombia, the *Comisión Especial de Reformas Electorales y Partidos Políticos* (Special Committee on Electoral Reform and Political Parties - CEREP) in Costa Rica, and the *Comisión Ejecutiva de Negociación y Construcción de Acuerdos del Congreso de la Unión* (Executive Committee for the Negotiation and Construction of Agreements of the Congress of the Union) in Mexico.

¹⁵⁷ Through purposive sampling of respondents, I selected legislative committee members that were leaders of their respective parties, that had held a position in Congress for more than one term, or that had been appointed previously to governing positions at the time the reform was adopted. To prevent drawing potentially skewed inferences because of the biased selection of respondents (Beach and Pedersen 2013, 124), party membership formed an additional criterion for purposive sampling. Given the limited accessibility of the high-level elites targeted in this study (see Richards 1996, 200), I applied snowball sampling as a second sampling technique. This method not only increases the accessibility of respondents but also provides an opportunity to meet with legislators that were influential for reasons not identified *ex ante* (Tansey 2007, 770–71).

¹⁵⁸ Interviews generally lasted an hour and were recorded. The recording process did not appear to affect the respondents' disposition to answer questions. On occasion, respondents asked to be cited with caution, in which case their identity was not revealed in the reform analysis presented in the following chapters. I have provided my supervisors with access to the transcripts of all interviews for verification purposes.

spectrum, that all participated in the same reform process, provides a means for the internal triangulation of findings.

Nevertheless, the selection of respondents and the interviews were neither systematic nor representative enough to serve as an independent primary source of analysis. In addition, I therefore have coded over 500 newspaper articles as a source of data for external triangulation to detect and correct any biases or invalid findings. (Bogner, Littig, and Menz 2009, 46–48). I have coded these newspaper articles in a similar manner as the legislative debates and interview transcripts (see Appendix 5 for a sample of coding and interview questions). In addition, newspaper articles provide important information about: 1) the background against which the events under study occurred (see Beach and Pedersen 2013, 143) and 2) the alternative legislative proposals in the works during the reform process.¹⁵⁹ A systematic search of newspaper articles in at least two national newspapers in the year leading up to the adoption of each reform, on the basis of search words such as ‘electoral reform’ and ‘constitutional reform’, allowed for the identification of relevant articles.¹⁶⁰ Where needed or possible, politicians’ speeches and politician’s blogs provide additional sources of data for external triangulation purposes.¹⁶¹

4.4 Research design

The resource-based model of party law reform proposed in Chapter 3 has two implications for the research design. Firstly, the focus on adopted party law reforms indicates that a set-relational approach to causality is applied here. Such an approach applies an invariant take on cause-effect relationships that ties the presence of necessary and/or sufficient conditions to specified outcomes (Gerring 2005; Rohlfing 2012).¹⁶² In other words, the study’s purpose is to identify the conditions that lead to the adoption of certain legal provisions, rather than explaining the act of adopting

¹⁵⁹ One problem with newspaper articles is that the accuracy of their accounts may be difficult to assess (Beach and Pedersen 2013, 143). This did not prove problematic, as the content analysis of newspaper articles mainly focused on ‘on the record’ statements by legislators that sought to explain or defend their reform motivations to the general public.

¹⁶⁰ Argentina: *La Nación* and *Clarín*; Colombia: *El Tiempo* and *El Espectador*; Costa Rica: *La Nación* and *La Prensa Libre*; and Mexico: *El Universal*, *La Jornada*, and political magazine *El País*.

¹⁶¹ Data from these sources have not been collected in a systematic manner, but form an additional source of data in the absence of other forms of evidence for triangulation purposes.

¹⁶² This stands in contrast to the covariational understanding of causation that requires variation in both causes and outcomes.

party law reforms per se.¹⁶³ It follows that adopted party law reforms constitute the entire population of cases that this study's findings speak to. In terms of geographical and temporal scope conditions, this population can be defined more strictly as all Latin American party laws reforms adopted since their country's respective transitions to democracy.

Secondly, causal theories such as the one developed here are vindicated "by showing that the best explanations of relevant phenomena appeal to instances of mechanisms in the repertoire of the theory, rather than relying on rival theories" (Miller 1987, 140; also see Dessler 1991, 349). An appropriate research design should thus focus on the theory's causal mechanisms, while comparing their explanatory power to that of other theories (Hall 2008; Rohlfing 2012). The following section introduces one of the main rival explanations that should be controlled for and discusses its implications for case selection.

4.4.a Alternative explanations of party law reform

Some notable and recent comparative studies of party laws identify institutional factors as an explanation for the adoption of different types of party law (Avnon 1995; van Biezen 2012; van Biezen and Borz 2012; Casal Bertóia, Piccio, and Rashkova 2014; Ewing and Issacharoff 2006b; Karvonen 2007). This begs the question whether it is not just institutional variables that explain variance in adopted party law reforms. A theoretical framework is only as good as the explanatory power it adds to existing theories (Miller 1987, 140; also see Dessler 1991, 349). An appropriate theory-building research design should thus focus on identifying the framework's causal mechanisms, while comparing their explanatory power to that of other theories (Hall 2008; Rohlfing 2012).

Two main findings come to the fore in these institutional explanations of party law: 1) democratic age and anti-democratic legacies correlate with the nature and intensity of party laws and 2) the institutional context explains the type of party laws that countries adopt. In her study of the constitutional codification of political parties in post-war Europe, for example, van Biezen (2012) finds that constitutions in older democracies tend to focus mainly on political parties' electoral role. The constitutions of new and re-established democracies tend to focus on the role of political parties in other arenas as well (also see van Biezen and Borz 2012). In countries with a non-democratic legacy, constitutions tend to associate parties with basic democratic liberties, while simultaneously constraining their ideology and be-

¹⁶³ This does not mean necessarily that cases are selected on the dependent variable. As will be discussed below, the specification of relevant control variables allows for the selection of cases from within the population of adopted party law reforms.

havior (van Biezen 2012). Studies of ‘Party Laws’, which are laws that target parties as organizations specifically, find a similar distinction between stable democracies, newer democracies (Casal Bertóá, Piccio, and Rashkova 2014; Karvonen 2007), and states that experienced a previous collapse of their democratic systems (Avnon 1995; Casal Bertóá, Piccio, and Rashkova 2014).¹⁶⁴ In their comparative study of political finance regimes, lastly, Ewing and Issacharoff (2006a) note that institutional characteristics explain regulatory variance in political finance regimes between established democracies.

To control for the effect of institutional factors, this study selects the relevant cases of analysis at the country rather than the individual case level. This allows for within-country comparative analyses of party law reform to study the effects of changing socio-political circumstances on adopted party laws while keeping institutional variables as stable as possible. In addition, cross-country comparative analyses investigate whether the explanatory power of the resource-based model holds across different types of institutional designs. The following sections discuss both component parts in more detail.

4.4.b Within-country analyses of party law reform

The within-country analyses of party law reform processes focus on the identification of causal process observations that support or discredit the resource-based model of party law reform outlined above. The exploratory nature of this study requires the recognition that other relevant and/or intervening variables than the ones theorized here may be at work in the cases (see George and Bennett 2005, 160). A design that eliminates the potential for rival explanations helps increase the validity of the study’s findings (Mahoney 2000, 398). Diachronic comparisons within single countries allow for such elimination by keeping other variables constant (Gisselquist 2014, 479).

Towards this end, the countries selected for this study meet the criterion that they adopted at least two rounds of party law reform after their transitions to democracy. This criterion is a requirement for the use of the diachronic comparative method and approximates the most-similar method of exploratory case selection (Seawright and Gerring 2008, 298).¹⁶⁵ Within-country comparisons investigate the effect of singular changes in a country’s socio-political climate to determine, *ceteris paribus*, the adoption of specific party laws. Selection of cases with at least two rounds of reform support the elimination of alternative sufficient causes of reform variance

¹⁶⁴ Party Laws are one type of legal instrument within the broader body of party law (Janda 2005, 5; Müller and Sieberer 2006, 435).

¹⁶⁵ It should be noted, however, that insufficient data on the reform strategies are available *a priori* to execute genuine most-similar case selection.

(see Mahoney 2007, 134). This is the case because, all things being equal, a unique change in a country's political environment can be linked directly to a specific type of adopted party law.

All four Latin American countries selected for this analysis underwent at least two rounds of reform since their transition to democratic governance.¹⁶⁶ Argentina adopted major reforms in 2002/2003 and 2009. In addition, Argentine politicians modified several provisions on political parties in a smaller round of reforms in 2006/2007. Colombia adopted two reforms that changed constitutional provisions on political parties in 2003 and 2009. In addition, two rounds of reform in 2005 and 2011 altered several other legal provisions on political parties. Costa Rican politicians are less active reformers of part law. Two main reform instances that stand out are a 1996/1997 constitutional and electoral reform followed by another electoral reform in 2009.¹⁶⁷ This latter reform was over a decade in the making. Mexico, lastly, adopted a minor reform in 2003 and a major revision of both constitutional and other legal provision on political parties in 2007/2008. In all countries, sufficient reforms have hence been adopted to allow for within-country analyses of reform.

4.4.c Cross-country analysis of party law reform

As discussed above, the state of the art identifies democratic experience and the degree of party system institutionalization as two important explanations for the outcome of party law reform. These findings beg the question what the added value is of a resource-based approach to party law reform. Are institutional characteristics not sufficient in explaining legal variance across countries? The use of cross-case comparisons can aid in answering this question, as such comparisons allow for an exploration of the “impact of a single variable or mechanism on outcomes of interest” (Tarrow 2010, 244). They thereby enable the inclusion of determinants identified in previous research. Towards this end, the comparative design must depart from the careful matching of cases based on variance in relevant independent variables (Lijphart 1971, 687; Tarrow 2010, 244).

Democratic experience is one of the main explanatory variables identified in comparative studies of party law. Democratic experience is either understood as the age of democracy (van Biezen 2012; van Biezen and Borz 2012; Janda 2005; Karvonen 2007) or as the presence of anti-democratic legacies (Avnon 1995; van Biezen 2012; van Biezen and Borz 2012; Casal Bertóá, Piccio, and Rashkova 2014). Chapter 2 has shown that all Latin American countries have been ruled by anti-democratic regimes

¹⁶⁶ Chapter 2 showed that this is the case more generally for all countries in the Latin American region.

¹⁶⁷ In the process of this study, it was revealed that Costa Rican legislators also adopted a very minor party law reform in 2002.

and/or have experienced civil wars. As a consequence, it is impossible to select countries that create meaningful variance in terms of anti-democratic legacies. Instead, the countries selected for this study meet the criterion that they differ in terms of the age of their democracies. This allows for a test of whether democratic experience is not better suited in accounting for the variance in adopted party laws

The cases selected for the cross-country comparison differ strongly in terms of the year in which they transitioned to electoral democracy through the holding of contested elections. Towards this end, Costa Rica (1949) and Mexico (1996) have been selected as the oldest and youngest democracies in the region respectively.¹⁶⁸ In addition, Colombia (1958) was selected as a second relatively old democracy, whereas Argentina (1983) forms a second case that represents the wave of most recent democratic transitions (Munck 2015, 367). The considerations discussed below provided an additional consideration for the selection of these two cases.

One problem with the democratic experience variable is that it may capture the effect of a second independent variable: *party system institutionalization*. Although party system institutionalization is not a linear process necessarily (Mainwaring and Scully 1995a), democratic party politics does take several years, or even decades, to develop and consolidate (Dix 1992; Linz and Stepan 1996). It may well be the case that the influence of the age of democracy identified in other studies thus confounds democratic experience with party system institutionalization more generally. To tease out the effects of these two separate variables, it is necessary to select two pairs of countries for each variable: a strongly and weakly institutionalized old democracy, as well as a strongly and a weakly institutionalized new democracy.

The selection of Colombia and Argentina serves to create this variation. As discussed above, both Costa Rica and Colombia are among the oldest democracies in the Latin American region. When looking at the development of their party systems over time, however, important differences in party system institutionalization are visible.¹⁶⁹ In the case of Costa Rica, changes in interparty competition took place over the course of the 2000's. Nevertheless, the rise of a new competitor did not alter the way in which political parties organize and relate to society, nor the popular acceptance of

¹⁶⁸ As will be discussed at length in the Mexican country chapter, the Mexican transitional process was a protracted one that started in 1977. Nevertheless, true opening up of the national political system did not occur until the late 1980's – making Mexico one of the newest democracies in the region.

¹⁶⁹ This study follows Mainwaring and Scully's (1995a, 1) conceptualization of party system institutionalization as the presence of: 1) stable interparty competition, 2) parties that are rooted in society, 3) the acceptance of the rules of electoral democracy, and 4) stably structured party organizations.

the rules of electoral democracy (Hernández Naranjo 2009b; Lehoucq 2005). Costa Rica represents a strongly institutionalized old democracy.

Colombia, on the other hand, did undergo fundamental changes in its degree of party system institutionalization. As will be discussed at length in the Colombian country chapter, popular rejection of the established party cartel instituted in 1958 started a process of constitutional reform in the late 1980's. Combined with decentralizing measures, this reform contributed to the rise of a style of campaigning and governance that largely centered around individual politicians rather than party labels. As a consequence, the two established parties largely imploded throughout the 2000's. A new type of party emerged as a means to provide the president with a legislative majority. In addition, legislative opposition parties – to the extent that these had existed under the party cartel – disappeared (Gutiérrez Sanín 2007). It follows that Colombia is currently a case of a weakly institutionalized old democracy.

Mexico and Argentina are two cases of new democracies whose processes of party system institutionalization have taken on opposite dynamics. Mexico transitioned from a hegemonic party regime into a party system in which political competition is firmly structured through three main parties. Mirroring the PRI's institutional capacity proved the only way in which viable political alternatives could form and enter the national political system (Eisenstadt 2004; Klesner 2005). Although Mexico is a new democracy, its party system is strongly institutionalized.

Argentina, lastly, developed a two-party system with its transition to democracy in 1983. The two dominant parties experienced a long organizational history and managed to survive protracted periods of authoritarian rule. In the first decade after transition, Mainwaring and Scully (Mainwaring and Scully 1995b) therefore called the party system moderately institutionalized. In the 2000's, however, the two-party system collapsed and the Peronist party became the main arena of political competition. As a consequence, the formal party structure crumbled while various power-holders fought over more informal Peronist party control (Cheresky 2006b; Malamud and De Luca 2011). Argentina currently constitutes a case of a weakly institutionalized new democracy.

Table 4-1: Selected cases for cross-country comparisons

Age of democracy	Party system institutionalization	
	Weak	Strong
New	Argentina	Mexico
Old	Colombia	Costa Rica

Table 4-1 provides an overview of the distribution of the four countries across these two variables. If democratic experience explains the adoption of specific party law reforms, similar dynamics would have to occur in both Colombia and Costa Rica on the one hand, and Argentina and Mexico on the other. Alternatively, if the degree of party system institutionalization matters for party law reform, similar reform strategies would have to occur in Argentina and Colombia versus Mexico and Costa Rica. Case selection for these paired comparisons thus seeks to approximate the most-different method of exploratory case selection (Seawright and Gerring 2008, 298).¹⁷⁰

It should be noted that the other countries in the region fit these criteria too. Indeed, the purpose of case selection for this exploratory study is to ensure that the selected cases possess ‘causal homogeneity’ (Rohlfing 2012). In other words, the findings obtained in the countries under study should be expected to hold true for the entire region because these countries are similar with respect to a specific research question. No theoretical reasons thus exist to suspect that selection of different Latin American countries would alter the results of the paired comparisons substantially.

4.5 Conclusion

This chapter has introduced the two-pronged research design that forms this study’s backbone. The design builds on case studies to explore how politicians respond to changing socio-political circumstances through party law reform and on within-country and cross-country comparisons to explore whether the resource-based causal mechanisms hold across a wide range of institutional settings. In addition, the chapter has provided an operationalization of the three types of socio-political circumstances that are expected to result in the different party law reforms, as proposed in the previous chapter. Lastly, it operationalized the adopted party laws, both in terms of legal provisions and intended effectiveness. In the process, this study has created the first systematic and comparative overview of Latin American party laws.

The following four country chapters provide an overview of the findings per coun-

¹⁷⁰ Once again, however, insufficient data on the reform strategies are available *a priori* to execute genuine most-different case selection.

try on the basis of diachronic analyses of party law reform processes. Each country chapter starts with an overview of the historical development of party law as well as socio-political environmental changes to provide relevant contextual information. The country chapters' main body focuses on the various reforms that occurred in order to trace actor preferences for legal change and implementation and to compare the various reform processes diachronically. The final comparative chapter presents the results of the cross-case analyses and discusses the theoretical implications of institutional influence on party law reform that emerges from these comparisons.

