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Party Law

Party law, in one sense, refers to governmental regulations concerning the organization, operation, and activities of a nation's political parties. A contrasting definition sees party law as internal rules formulated by individual political parties to govern themselves. As nations have increasingly regulated political parties, scholars have increasingly focused on the legal aspect of party law.

Party Law as an Emergent Field

Systematic cross-national study of how governments regulate political parties through legal instruments is relatively new to political science. The nineteen-volume *International Encyclopedia of the Social Sciences* (1968) did not list party law in its index, nor did the nine-volume *Handbook of Political Science* (1975). When studied at all, party law was cited to explain how a country's legal framework uniquely shaped its party politics. Scholars began to study how legal frameworks could affect party systems in general after the mid-1980s, when the world was swept by a wave of democratization.

In the 1990s, cross-national analyses of party law appeared in works by Wolfgang Müller, F. Leslie Seidle, and Dan Avnon and in publications by U.S. governmental agencies charged with aiding democracy abroad, such as the U.S. Agency for International Development (USAID). By the 2000s, the definition of party law as government regulation occurred in writings by Richard Katz and Kenneth Janda▶▶, and cross-national surveys of government regulations of party activities also emerged. By 2006, the one-volume *Handbook of Party Politics* accorded party law a chapter of its own.

Instruments of Party Law

Nations govern political parties through various legal instruments. Some nations have comprehensive statutes—such as Germany's law on political parties and Jordan's political parties law—that prescribe how parties must organize and operate. Often these statutes are formally or informally known as the nation's party law. When used as a proper noun, “Party Law” is narrower than party law as a common noun embracing the entire body of legal instruments governing party politics that derives from a nation's Party Law (if it has one) and from legislative statutes, administrative rulings, court decisions, or even national constitutions.

Sometimes nations enact separate statutes to govern elections, campaigns, and political finance. Codified *electoral*, *campaign*, and *political finance laws* are often studied separately from party law, but they typically regulate party politics and thus overlap with party law. A great deal of party law derives from electoral laws—especially legislation that specifies how parties get on the ballot and how votes are counted for election. A considerable overlap also occurs between party law and campaign finance laws—especially limitations on how parties can raise and spend money. Less overlap occurs between party law and campaign laws. Rules specifying

how individual candidates can campaign lie outside party law—but not rules about parties' conduct in election campaigns.

Among the various sources of party law, national constitutions deserve special discussion. Scholars always allowed that national court rulings, by citing constitutional principles, shaped party politics, but they downplayed the relevance of constitutions themselves as a direct source of party law. Later research found that constitutions often contain highly detailed provisions concerning political parties—especially constitutions of developing countries.

Models of Party Regulation

Some scholars developed models of party regulations to encapsulate the legal frameworks that govern political parties across nations. These models are idealized conceptions; nations may not follow any one of them exactly in making party law, and specific laws may fit different regulatory policies. One model uses criteria of *regulatory intensity* (from minimalist to maximalist) plus both quantitative controls and qualitative controls to reflect formal requirements and ideological compatibility. Another model contends that nations tend to follow policies that proscribe, permit, promote, protect, or prescribe parties and party activities. Nations that proscribe parties forbid parties by law from operating; nations that permit parties allow them to operate freely; nations that promote parties actively support them; nations that protect parties favor certain ones over others; and nations that prescribe for parties seek to control how they operate.

It is easy to identify nations, often in the Middle East, that proscribe or forbid parties. Yet it is difficult to summarize how well nations fit the other five models. One-party states, of course, protect the ruling party by law, but some democratic nations also protect certain parties. For example, a framework of state laws in the United States protects its two major parties. Many democratic nations promote parties by subsidizing them or having electoral laws that encourage multiple parties. Increasingly, nations with little experience with competitive party politics have taken to prescribe, in great detail, how their parties must organize and operate. Often, these prescriptions are enshrined in national constitutions, making them very difficult to change. When applied to emerging democracies, the prescription model of regulation can have a chilling effect on party politics.

Regulating Versus Engineering Party Systems

Party laws in Germany and Jordan illustrate two purposes of party law: *regulating* party systems versus *engineering* them. Regulating a party system through party law comes after observing the system in operation—thus party law becomes responsive, or reactive. Engineering a party system through party law brings the system into being—thus party law is anticipatory or proactive. Party law can produce unanticipated or undesirable consequences in either instance, but democratically dysfunctional outcomes are more likely when engineering a system.

The comprehensive and prescriptive German Party Law was enacted in 1967 after five elections (1949, 1953, 1957, 1961, and 1965). Based on more than thirty-five years of party politics, it qualifies as regulating parties informed by feedback, and Germany has maintained its competitive party system since. The comparably detailed and prescriptive Jordanian Party Law was enacted in 1992, when legal parties did not exist and had not existed since King Hussein banned them in 1957. When Jordan's first multiparty election since 1956 was held in 1993, more than

twenty parties registered under the law's stringent requirements. However, only 18 percent of the candidates explicitly represented parties, and parties only won small minorities in the 1997 and 2003 elections. Nevertheless, the law seemed to satisfy the Hussein regime. The Jordanian law did not seek to regulate political parties as much as to engineer an acceptable party system. Having detailed party law does not ensure having competitive party politics.

See also *Political Parties*.

KENNETH ◀◀JANDA▶▶

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