

Prescribing Democracy? Party Proscription, Militant Democracy and Party System Institutionalization

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Introduction

When democracies ban political parties, one of the central issues that usually emerges in both public and academic debate concerns the effects of proscription. Some argue that proscription may lead to radicalisation, a growth of militancy and readiness to use violence (Minkenberg, 2006, 36).

Restrictions on the party may be only temporary especially if a party has deep social and ideological roots in a community, or if state authorities are reluctant to prevent the party re-emerging under a different name (ibid, 37; Husbands, 2002, 64) The party ban is not a suitable mechanism for the ‘civic re-education’ of extremists (Husbands, 2002, 64) and may merely treat the symptoms rather than the more complex underlying causes of dissatisfaction with the status quo (Gordon, 1987, 389). Ban proceedings may increase public exposure and opportunities to claim martyrdom or reinforce anti-establishment critiques (ibid, 391). Some also argued that, in the long-run, banning parties may damage the foundations of a democratic polity: The party ban may be interpreted as ‘lack of faith in the democratic process’ and an ‘admission of failure’ (ibid, 390) or its ‘chilling effect’ may signify a silent weakening of democratic rights in the state (Niesen, 2002, 256).

On the other hand, proscription may be punishing for the targeted party, as the ‘cost of claim-making increases across the board and for particular members’ (Tilly, 2005, 218). A party subject to ban proceedings may see its room for manoeuvre, its visibility and mobilising capacity severely curtailed by reductions in its organisational and financial resources, access to the media and through stigmatisation. Those who continue their association may face criminal prosecution, limits on employment or truncated political careers. Moreover, as Koopmans argues, a party ban is an ‘act of strategic communication in the public sphere’ which, under certain conditions, may serve to deter people who consider committing a similar offence and helps socialise citizens against extremist orientations by rewarding and satisfying those who refrain from breaking the rule (Koopmans, 2005, 61).

Given its centrality for the conduct of democratic politics, the effects of party bans on party systems is a particularly important question in this broader debate. However, the effect of party bans on party systems remains under-researched. This is somewhat surprising, given that the regulation of

the internal organizational structure and activities of political parties has increased considerably in recent decades. Constitutions and party laws may require parties to fulfil certain formal conditions (e.g. frequency of party congresses, compulsory majorities, creation of internal jurisdictional/arbitration bodies, etc.) and respect democratic principles and the constitutional order. Failure to meet such requirements may lead to punishment or dissolution. Such measures may have consequences for party system stability (Casal Bértoa et. al. 2014b, Müller, 1993; Smith 1986). Scholars examining party regulation have only recently begun to consider empirical and normative dimensions of party regulation in a systematic manner (e.g. Biezen and Casal Bértoa, 2014; Biezen & ten Napel 2014; Casal Bértoa and Biezen, forthcoming; Casal Bértoa and Spirova 2013). And yet, as Biezen and Casal Bértoa (2014) observe, this literature tends to neglect the effects of party law on democratic politics.

In this paper we aim to address these shortcomings. We begin by conducting a survey of banned parties in Europe from 1945 to 2013, examining various means of categorizing party bans and present a party ban typology distinguishing between ‘activist-intolerant’ and ‘abstentionist-tolerant’ democracies. This provides a rationale for the selection of case studies. We then present a theoretical framework for examining party ban effects on party systems. In the third part we compare the effects of party ban regulation on party system institutionalization in three cases of ‘activist-intolerant’ party ban regimes, namely Spain, Germany and Turkey.

Classifying party bans

We now turn to the task of identifying countries that ban parties and of classifying party ban regimes. These are an important first steps because little is known about the universe of party ban cases in democratic states. There is no comprehensive and up-to-date list of party bans and as such no basis for identifying pertinent party ban cases. Classification aims to simplify a complex reality through the identification of distinct categories with shared characteristics and provides an important early step in the search for hypotheses and for theory-building (Landmann, 2003, 5-6). Table 2 provides the results of our survey of party bans in Europe. It has been compiled using various sources, including the existing literature, which mostly consists of single case studies or ‘small n’ comparisons of party bans (eg. Nielsen 2002; Gordon, 1987; Sajó 2004; Bale, 2007; Navot 2008; Fox and Nolte, 2000; Corcuera *et al*, 2008; Koçak, M and Örucü, E (2003) Bourne, 2014a and Bourne 2014b). Other sources include a 1998 Council of Europe party ban survey, European Council of Human Rights cases and correspondence with party system experts and state

interior ministries conducted by the authors between January and April 2014. The list is not exhaustive. In cases where large numbers of parties have been banned, such as France, Turkey and Spain, we have only included representative samples of party ban cases. In the Turkish case, we only included cases after the (at least partial) restoration of democracy in 1983.

Party bans vary in form and in the degree to which the targeted party is excluded from the public sphere. The most punishing form of party exclusion is *dissolution*. It denies a party the right and means to participate in public life through measures such as exclusion from electoral contests, removal from office or representative positions, seizure of assets, closure of offices, or criminalisation of leadership. *Non-registration*, involves denial of a new party's right to formally exist as a party, acquire associated privileges or to participate in elections. *Rights denial* involves the withdrawal of rights and privileges - such as the right to stand in elections - of already existing parties, even though the party as such may not be formally dissolved. A *lapsed ban* is a ban that has been undermined by the failure of the state to prevent a successor from taking on the mantle of a banned party. With one exception, we focus on the first type of party ban, *dissolution*, because its impact on the party system is likely to be most pronounced. The exception is Spain, where we include two cases of non-registration (marked with an * in Table 1). Here non-registration was an instrument employed to prevent the reemergence of a previously banned party, *Batasuna*, rather than an attempt to deny a new party entry into the electoral arena.

We also include the rather ambiguous case of *Vlaams Blok* (Flemish Block) in our list of banned parties. Bale argues that this case constitutes an additional category of party ban – the ‘effective (if not technical)’ party ban (2007, 144). The Belgian courts ruled the party violated anti-racism legislation, a decision which could have led to withdrawal of state funding and limits on access to the media, public buildings and even the postal service (ibid, 152). The party then dissolved itself and reemerged as *Vlaams Belang* (Flemish interest). The advantage of including the additional category of ‘effective (if not technical)’ party bans is, as Bale's work indicates, that it acknowledges that the deprivation of state funding may indeed have an equivalent effect to proscription in an era of expensive media-intensive party competition and it is for this reason that we include it.

Most parties listed in Table 1 fit a broad definition of political parties. Defining ‘political party’ is notoriously difficult, given the range of historical and political contexts in which they operate and the various normative assumptions about functions parties ought to perform (Duverger, 1954, xiv-

xv and xxii-iv; White, 2006). Political parties are typically organisations which, in Alan Ware’s (1996, 1-6) formulation, ‘seek influence in a state’, often, but not always, fielding candidates in elections in order to occupy positions in government at various territorial levels. They ordinarily pursue goals through non-violent and legal means, although some may secretly employ illicit means or have close links to violent or clandestine groups.

In some cases it was difficult to distinguish between banned parties and associations. The case of France was most complex in this regard, but it is by no means the only one where this issue is a problem. In France a single legal procedure is used for banning both parties and associations and around 100 organisations have been banned (Corcuera, 2008). Most banned organisations were very small organisations, whose political goals and practices require detailed historical knowledge beyond the scope of this paper. In Table 1, we include cases which preliminary investigation, or organizational title, suggested were political parties. In such cases we acknowledge that others may draw different conclusions about the status of some of these organisations as parties. In other cases, we relied on Court rulings about the nature of organisations in question. For instance, we excluded the far right Free German Workers Party and National List, both of which were banned (as associations) in Germany in 1994, because the Federal Constitutional Court ruled that they were not political parties (Wise 1998).

Table 1: Party bans in Europe 1945 to 2013

Countries	Banned parties
Austria	German National Socialist Workers Party (DNSAP) (1945)
	National Democratic Party (NDP) (1988)
Belgium	Flemish Block (VB) (2004)
Bulgaria	United Macedonian Organization/Ilinden-Pirin (OMO) (2001)
Croatia	Serbian Democratic Party (SDS) (1995)
Czech Republic	Workers’ Party (DS) (2010)
France	Nationalist Party (1959)
	Pupu Tiama Maohi (1963)
	Proletarian Left (1970)
	Revolutionary Communist League (1973)
	Enbata (1974)
	Corsican Movement for Self-determination (1987)
	Federation of National and European Action (1980)
	Radical Unity (2002)
Germany	Socialist Reich Party (SRD) (1952)
	Communist Party of Germany (KPD) (1956)

	National Democratic Party of Germany (NPD) (2013 ongoing)
Greece	Communist Party of Greece (KKE) (1948)
Italy	National Fascist Party (PNF) (1947)
	Republican Fascist Party (PFR) (1947)
Latvia	Communist Party of Latvia (LKP) (1991)
Lithuania	Communist Party of Lithuania (1991)
The Netherlands	National Socialist Movement in The Netherlands (NSB) (1945)
	National European Social Movement (NESB) (1955)
	Dutch Peoples-Union (NVU) 1978)
	Centre Party '86 (CP '86) (1998)
Romania	Communist Party (Nepeceristi) (PCN)
Slovakia	Slovak Community-National Party (SP-NS) (2006)
Spain	<i>Herri Batasuna</i> (2003)
	<i>Euskal Herritarrok</i> (2003)
	<i>Batasuna</i> (2003)
	<i>*Abertzale Sozialisten Batasuna</i> (2007/8)
	<i>Eusko Abertzale Ekintza</i> (2007)
	<i>Communist Party of the Basque Territories</i> (2008)
	<i>Askatasuna</i> (2009)
	<i>*Sortu</i> (2011)
UK	<i>Sinn Féin</i> (1956)
	<i>Fianna Uladh</i> (1956)
	Republican Clubs (1967)
Turkey	Turkey Comfort Party (THP) (1983)
	United Communist Party of Turkey (TBKP) (1991)
	People Party (HP) (1991)
	Socialist Party (SP) (1992)
	People's Labour Party (HEP) (1993)
	Freedom and Democracy Party (ÖZDEP) (1993)
	Socialist Turkey Party (STP) (1993)
	Democratic Party (DEP) (1994)
	Democrat Party (DP) (1994)
	Socialist Union Party (DBP) (1995)
	Democracy and Change Party (DDP) (1996)
	Labour Party (EP) (1997)
	Revival Party (DIR-P) (1997)
	Welfare Party (RP) (1998)
	Democratic Mass Party (DKP) (1999)
	Virtue Party (FP) (2001)
	People's Democracy Party (HADEP) (2003)
	Democratic Society Party (DTP) (2009)

Note: Parties marked with * were denied registration rather than dissolved. 2. We could not find data on Romania, Iceland, Montenegro, Bosnia and Herzegovina, Switzerland and Norway

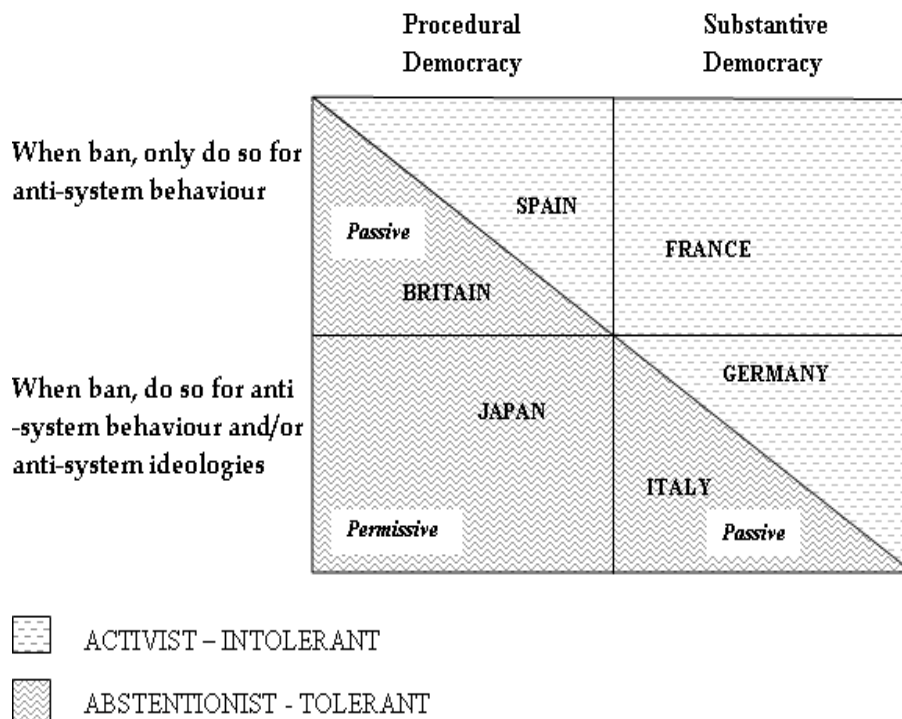
The table suggests that the majority of European states have banned a party at some time since the end of the Second World War (WWII). Cyprus, Denmark, Estonia, Finland, Hungary, Ireland, Malta, Luxembourg, Portugal, Slovenia, Serbia, Sweden and Macedonia have not banned parties since the end of WWII. Parties may be banned in ‘new’, ‘incomplete’ and ‘established’ democracies (Bourne 2012a). ‘New democracies’ are those at the transition stage of a process pursuing the transformation of an authoritarian regime into a fully consolidated democracy (Linz, 1990, 157). Political uncertainty, instability, polarisation and the distinctive challenges of transitional justice – or what Huntington calls the ‘torturer problem’ – provide fertile ground for the proscription of parties in new democracies (1991, 109-164; Linz, 1990). Examples of this type of party ban include proscription of fascist parties in Germany, Austria and Italy in the 1940s and orthodox communist parties in Latvia and Lithuania in the early 1990s. Incomplete democracies are those which set out on a process of democratic reform, but only obtain some features of established or consolidated democracies. Major power holders are appointed through reasonably free and fair elections but democratic politics nevertheless remain ‘defective’ because of limited respect for constitutional liberalism; domains of power remain shielded from democratic competition; or the systematic exclusion of certain groups from the democratic process (Merkel and Croissant, 2000). Examples include proscription in Greece (until mid-1970s) and Turkey. ‘Established democracy bans’ are those which take place many years, sometimes decades after the initiation of democratic reforms, and in states with consistently high ‘democratic quality’ quotients (Diamond and Morlino, 2005). Established or ‘consolidated’ democracies are those where democracy becomes ‘the only game in town’ (Linz and Stepan, 1996, 15-16). Examples of established democracy bans include proscription of the National Democratic Party (Austria), Centre Party 1986 (The Netherlands), *Herri Batasuna* and its successors (Spain).

In almost all cases, banned parties represent orthodox communist, far right, ethnic minority or religious movements and are considered anti-system parties by those who ban them. These are parties which, according to Sartori, ‘abide by a belief system that does not share the values of the political order in which it operates’, would change the system of government if it could and ‘undermines the legitimacy of the regime it opposes’ (Sartori, 1976, 132-3). Parties are usually banned for promoting authoritarian political forms and violent regime change, undermining democratic commitments to equality and pluralism, serving the interests of a foreign power, undermining the territorial integrity of the state, or some combination of these. The banned parties vary considerably in size and salience. They include hegemonic, mass fascist and communist parties

banned after the end of World War Two and the collapse of the Soviet Union. Others were only able to capture a very small percentage of the vote (if any) when banned. Between these extremes fall parties like *Batasuna* (Spain), which was able to capture as much as 18% in its best showing in Basque elections in 1990; the Welfare Party (Turkey), which was the largest party after 1996 elections (with 22% of the vote) and part of a coalition government for nearly a year; and Vlaams Blok, which won 24% of the vote in the year it was banned, placing it second only to the electoral alliance of the Flemish Christian Democrat and New Flemish Alliance.

There is significant variation in legal procedures and grounds for banning parties in Europe. Building on the critique that existing classifications (especially Fox and Nolte, 2000) of party bans generate inconsistent expectations about party ban outcomes, Bourne developed a classification of party bans along three dimensions: a) legal and constitutional principles; b) whether bans sanction ‘anti-system ideology’ or ‘anti-system activity’ and c) practice in relation to party bans (2012b). Figure 1 summarises the model.

Figure 1: Tolerant and Intolerant Democracies: A new typology



The model retains Fox and Nolte’s (2000, 406) categories of ‘procedural democracy’ and ‘substantive democracy’ which represent conceptions of democracy that have concrete form in distinctive legal-constitutional arrangements. A ‘procedural model’ draws on Schumpeter’s conception of democracy as an institutional arrangement for choosing leaders and determining the political preferences of majorities. The views of all citizens are given equal consideration and the primacy of majority rule as a basis for legitimacy limits State authority to select among competing views. An individual’s capacity for reason, a continual process of self-examination, and knowledge of alternatives are seen to strengthen public commitments to democracy, but cannot ensure it will always prevail. Tolerance is a transcendent norm. In a ‘substantive democracy’, by contrast, democratic procedure is conceived as a means for creating a society where citizens enjoy core rights and liberties. It draws on John Stuart Mill, John Rawls and others in its insistence that rights cannot be used to abolish other rights and that a democracy need not tolerate the intolerant when its core values are at stake. An unalterable democratic core deserves special protection against possible incursions. Table 2 spells out distinctive legal-constitutional arrangements associated with procedure and substantive conceptions of democracy.

Table 2: Procedural *versus* Substantive Democracies

Procedural	Substantive
No substantive limits on Acts of Parliament; or	Specific constitutional prohibitions on amendment of core constitutional commitments to democracy or other fundamental features of constitutional order; or
No restrictions on the scope of constitutional amendment; or	Constitutional duty for political parties to respect the principles of democracy; or
Most constitutional scholars will consider proscription of parties unconstitutional	Constitutional provisions explicitly permitting restrictions on core rights of association when necessary to protect fundamental democratic principles or other core features of the constitutional order

The typology in Figure 1 also distinguishes between states that may ban a) parties *only* for anti-democratic or anti-system *behaviour* and b) those which may also, or only, ban parties for holding

anti-democratic or anti-system *ideologies*. This reflects the observation of other scholars contrasting legislative measures employed against extremist parties according to those that address:

the ‘*Sein* or ‘being’ of a party or group – the ideological character of the party... – and its *Handeln* or ‘acting’ – which mainly regards unconventional, illegal or violent nature of political behaviour and strategies (Capoccia, 2001, 13, see also Mudde, 2004, 196 and Issacharof, 2007, 1409).

It is important to be aware, however, that this distinction entails a caveat, ‘when they do ban parties’, democracies will do so for either anti-system behaviour etc. This caveat helps retain the integrity of a model which explicitly accounts for the fact that either procedural or substantive democracies may choose *not* to ban political parties, an outcome addressed in the final variable.

Cross-cutting the vertical and horizontal axis is a third variable which retains Fox and Nolte’s distinction between states which actively employ available legal rules to ban extremist political parties on the one hand, and those which have no such rules or have them but do not implement them in practice. In Figure 1, this variable is indicated by contrasting background patterns. Thus, the model distinguishes between democracies that *actively* employ the tool of proscription against extremist parties and those that that *abstain* from employing this tool. The second, *abstentionist* category includes two subcategories: democracies that adopt a *permissive* stance by choosing not to adopt or use measures permitting proscription of extremist parties at all; and democracies that remain *passive* in the face of extremist parties, even though equipped with legal instruments for proscription.

This model permits elaboration of a more meaningful conception of what constitutes a broadly ‘tolerant’, and a broadly ‘intolerant’ response on the matter of banning extremist parties. Thus, a ‘tolerant democracy’ includes states taking an *abstentionist* stance, including either *passive* or *permissive* orientations, while an ‘intolerant democracy’ is one taking an *activist* stance by actually banning parties either for anti-democratic actions or ideas. It also permits both cross-cultural synchronic comparisons and diachronic comparisons within individual states over time (for more details of examples referred to in Figure 1 see Bourne 2012b)

Classifications of party bans presented in this section not only provide an overview of party ban cases in Europe. They permit a more systematic selection of cases for analysis of party ban effects on party systems discussed in the next section; namely, the proscription of the far-right Socialist

Reich Party and orthodox Communist Party of Germany in the 1950s; the proscription of Islamist and Kurdish nationalist parties in Turkey from the 1980s; and the radical Basque nationalist parties, *Herri Batasuna* and its successors from 2003.

In the first place, all of these cases took place in ‘intolerant-activist’ party regimes. Prior to the proscription of HB, EH and *Batasuna* in 2003, Spain could be classed as a passive procedural democracy equipped to ban parties for anti-system behaviour, given that provisions of an earlier Law on Political Parties (Law 54/1978) and the Penal Code permitting proscription of parties were unused. However, between 2003 and 2013, Spain could be classified as an activist procedural democracy that bans political parties for anti-system behaviour. Germany can be considered a fairly unambiguous case of a substantive democracy, which has actively employed the instruments of militant democracy against political parties for anti-system behaviour and/or ideas (Fox and Nolte, 2000, 415-417; Thiel, 2009, 394). This was clearly the case in the 1950s when it banned the Socialist Reich Party and the Communist Party of Germany in accordance with Basic Law article 21.2 provisions permitting proscription of parties undermining the ‘free democratic basic order’. It could also be argued that more recent attempts to invoke this provision against the National Democratic Party of Germany justify this classification for the present. The case ultimately failed on procedural grounds rather than because the government and parliament were unwilling to invoke available legal instruments to ban an extremist political party (Thiel 2009, 112). Like Germany, Turkey can be considered a substantive democracy, which has *very* actively (see Table 1) employed constitutional provisions permitting proscription of parties for either anti-system behavior and/or ideas (Güney and Başkan, 2008). Parties have been banned in accordance with article 68 and 69 of the 1982 Turkish constitution which permits the Constitutional Court to dissolve parties that become a focal point of activities, statutes or programmes that challenge, among other things, the integrity of state territory and the [Turkish] nation, national sovereignty, principles of a democratic and secular Republic, or aim to defend or establish any kind of dictatorship or encourage commitment of any crime. Over two dozen principally communist/socialist, Kurdish nationalist and islamist parties have been banned since 1960s (ibid).

Secondly, some of the banned parties we considered here were electorally successful. As mentioned above, *Herri Batasuna* were able to capture as much as 18% in its best showing in Basque elections in 1990 and the Islamist Welfare Party, was the largest party after the 1996 election with 22% of the vote. In Germany, in the 1950s, the Socialist Reich Party enjoyed electoral success in the states of

Lower Saxony, winning 11% of the vote and 15 seats, and Bremen, winning 7.7% and 8 seats and the Communist Party of Germany won up to 5.7% of the vote in 1949. The proscription of parties such as these is more likely to have party system effects than other less electorally successful banned parties.

However, the party ban cases we examine differ in other respects which may be relevant for party systems. Party bans in Germany took place during the early years of the German transition to democracy installed after the defeat of national socialism in World War Two and as such constitute a case of ‘new democracy’ party bans. In Turkey, we examine proscription of parties that took place after the restoration of democratic institutions after a period of military rule. However, continued deficits in the quality of democratic politics in Turkey, especially in the fields of civil-military relations, respect for civil, political and minority rights, mean the party bans we consider should be considered ‘incomplete democracy’ party bans. In contrast, proscription of *Herri Batasuna* and its successors occurred many years after the Spanish transition to democracy, after the consolidation of democratic institutions. Party system effects may differ depending on the degree of democratization given that party systems in new democratic states tend to be less stable than those in more established ones. Furthermore, incomplete democracies are often characterized by the circumscription of electoral competition through systematic exclusion of electorally relevant groups (Merkel and Croissant, 2000, 36-7). We now present a theoretical framework for examining party ban effects on party systems more systematically.

Party Banning and Party System Change

Both authoritarian and democratic regimes have long used party bans to get rid of “undesirable” political formations. However, the study of its eventual impact on party system development and/or democratization has, until very recently, received relatively little systematic and comparative scholarly attention from either political scientists or lawyers (Bale, 2003; Bourne, 2012a; Casal Bértoa et al., 2014a).¹

Departing from Casal Bértoa et al. (2014b: 3), and building on some of the party politics literature (Bartolini and Mair, 1990; Hug, 2001; Casal Bértoa and Walecki, forthcoming), it is possible to

¹ It is important to note here, though, that the first scholar to point to a link between party bans and party system development was Müller (1993). Unfortunately, he did not develop the argument much further.

distinguish three ways² in which the banning of a party can have a (negative) systemic effect, affecting each of the different arenas of party competition: namely, electoral, parliamentary and governmental (Bardi and Mair, 2008).

First of all, the judicial dissolution of a political party can have important effects for the stability of the voting preferences of the electorate. Thus, and similar to Bartolini and Mair’s (1990: 168) findings on the relationship between changes in turnout and electoral volatility, we would expect party bans to reduce electoral stability. The idea is that because the party of their preference is not an option at the time of voting, voters of the banned party will be “forced” either to exercise their right of abstention or simply to vote for another party. The result in this case being an increase in the level of net electoral change.

Table 3: Theoretical example: electoral results in country X

Party	Election 1		Election 2		Election 3		Election 4	
	% votes	% seats	% votes	% seats	% votes	% seats	% votes	% seats
<i>A (communists)</i>	35	40	50	55	45	50	30	33
<i>B (liberals)</i>	25	31	40	40	40	40	36	40
<i>C (ethnic)</i>	20	20	Banned	-	Banned	-	22	17
<i>D (conservatives)</i>	15	9	5	5	11	10	9	10
<i>E (religious)</i>	3	-	3	-	Banned	-	Banned	-
<i>F (greens)</i>	2	-	2	-	4	-	3	-
TEV	n/a		30		8		22	
ENEP	4.0		2.4		2.7		3.6	
ENPP	3.3		2.2		2.4		3.2	
Cabinet	B-C		A		B-D		B-C	

Table 3 displays the electoral results of different political forces in a “hypothetical” country X. While in election 1 all six registered parties are allowed to participate, party C (ethnic-based) is dissolved by the Constitutional Court shortly before the second election. This leads to its de-registration from the Register of Political Parties, which impedes the party’s candidates from standing as candidates. Just before the third election a new anti-clerical government is appointed and the Attorney General requires the Constitutional Court to dissolve party E (a fundamentalist religious party). Prior to election four, the governing coalition, fearing an electoral majority of party

² Müller also talked of important “consequences for the ideological spectrum” (1993: 421).

A would hinder EU accession negotiations, the governing coalition modifies the Law on Political Parties allowing ethnic parties to register.

The table above also displays the level of electoral volatility (TEV), that is, “the net change within the electoral party system resulting from individual vote transfers” calculated according to Pedersen’s Index (1979):

$$TEV = \sum |v_{i,t} - v_{i,t-1}| / 2$$

where $v_{i,t}$ is the vote share for a party i at a given election t and $v_{i,t-1}$ is the vote share of the same party i at the previous elections ($t-1$). As it follows from table 3, the banning of party C before election 2 and the change in party legislation before election 4 has an outstanding impact on voters’ preference and, therefore, in the degree of electoral stability. Thus, while the TEV between elections 2 and 3 is only of 6 percent, the same score for the two elections in which parties were banned reaches 30 and 24 percent respectively. This clearly converts elections 2 and 4 in what Pedersen called “earthquake” elections - that is, those with more than fifteen percent of electoral net change – with the consequences this may have for the functioning of democracy (Lane and Ersson, 2007).

This is not to say, however, that the impact party banning may have on party system stability will not be determined by the relevance within the political system of the party banned. Thus, it follows from Table 3 above that while the banning and (re-) registration of party C alone contributes to increasing the TEV by at least 10 percent, the impact of judicial dissolution of party E in the stability of the party system is minimal (just 2 percent). Still an impact, even if minor.³

In terms of the number of parties in the system, and building on the literature linking both party continuity and systemic stability (Rose and Mackie, 1988; Mainwaring and Scully, 1995; Casal Bértoa, 2012), it is obvious that the judicial dissolution of a party will have an impact on the level of electoral fragmentation (Müller, 1993: 421). Conversely, and taking into consideration the negative relationship between new party entry and systemic stability (Tavits, 2008), the re-foundation of a previously banned party will alter the party system format by increasing the number of electoral parties. And the same can be said at the legislative level, for all those parties which Sartori (1976) considered to be “relevant”.

³ This constitutes a constant in all the effects here analysed.

Calculated according to Laakso and Taagepera's (1979) by now classic index,⁴ table 3 presents the level of both electoral (ENEP) and parliamentary (ENPP) fragmentation in country X. As it can be observed, the “effective” number of parties not only changes with the dissolution or “re-institution” of banned parties, but also contributes to systemic change, in the sense of allowing for a change in category/class (Mair, 1997). Thus, and according to Mainwaring and Scully (1995),⁵ while the party system in country X can be classified as a limited pluralist party system at the time of election 1, it comes closer to a two-and-a-half party system after election 2, and then recovers its limited pluralist status after the fourth election. With the consequences this has not only for the mechanisms of the party system (Sartori, 1976), but also for electoral volatility (Bartolini and Mair, 1990) and governmental closure (Casal Bértoa, 2012).

Finally, and even more recently, scholars have also started to explore the consequences party bans may have for the structure of partisan competition at the time of government formation (Casal Bértoa and Walecki, forthcoming; Casal Bértoa et al., forthcoming). The logic here is double. On the one hand, it seems clear that banning a party with “coalition potential” (in Sartorian terms) may affect patterns of inter-party cooperation/collaboration by introducing an element of unpredictability and, therefore, change the pre-existing structure of competition (Taleski and Casal Bértoa, 2014). On the other, the non-banning of a political party (e.g. “anti-system” parties like Communists, Fascists, extreme nationalists, etc.) can also have important effects in the patterns of partisan interaction by “artificially” constraining the “streams of interaction” to the extent of creating a “fictitious” structure of competition that does not correspond with the ideological spread in the electoral and/or parliamentary arenas (Haughton, forthcoming; Casal Bértoa et al., 2014b).⁶

In the “hypothetical” case showed in table 3 it seems obvious that the banning of party C not only favoured the electoral majority of party A in election 2, but also impeded the re-edition of the B-C coalition at the time of election 3. Moreover, the legalization of party C before election 4 introduced

⁴ The “effective” number of (electoral/parliamentary) parties index measures how many parties are in a party system in a given election, weighted according to size, and is calculated according to the following formula: $ENEP=1/\sum v_i^2$, where v_i is the proportion of seats of the i^{th} party (Lijphart 1994: 70).

⁵ According to them, “most party systems with an ENPP between 1.8 and 2.4 approximate the logic of two-party systems. With an ENPP between 2.5 and 2.9, what Blondel calls two-and-a-half party pattern usually prevails . . . Systems with an ENPP between 3.0 and 3.9 usually correspond to Sartori's category of limited pluralism, while those with an ENPP of 4.0 or higher usually correspond to the category of extreme pluralism (1995: 31–2).

⁶ The non-banning of the Communist Party in the Czech Republic, Italy or Portugal is a clear example.

a clear element of unpredictability as, even after the electoral results were announced, it was not straightforward with whom party B, clear winner of the elections, would decide to form a coalition: either with party D (as in election 3) or party C (as in election 1). On the other hand, the non-banning of the Communist party clearly prevented the Socialists from winning an absolute legislative majority in most elections, forcing them also to co-operate with their “ideological enemies” in order to achieve executive power (e.g. election 3). We now turn to consider the validity of these expectations in case studies of Germany, Spain and Turkey.

Prescribing Party System Change? The cases of Spain, Germany and Turkey

Germany

Germany, the first European country to adopt the principle of “militant democracy” (in 1949)), has banned parties due to their illegal activities, but also on ideological grounds (Biezen and Casal Bértoa, 2014; Casal Bértoa et al., forthcoming). In practice, and due to Germany’s past experiences with totalitarianism, both the pro-Nazi Socialist Reich Party (SRP) and the Communist Party of Germany (KPD) were banned by the Constitutional Court in 1952 and 1956, respectively. However, while the SRP, founded in October 1949, only managed to leave its mark at the regional level, the KPD had the opportunity to contest the first two federal elections with different degrees of success: 5.7 percent of the vote and 15 seats in 1949, 2.2 percent and no seats in 1953.

Table 4. Party system indicators in Germany (1949-1957)

	1949	1953	1957
TEV	n/a	21.2	9.2
ENEP	5.7	4.2	3.6
ENPP	4.7	3.6	3.1
Spoiled ballots	3.1	3.3	3.8
Polarization	0.28	0.28	0.27
Cabinets	CDU/CSU-FDP-DP	CDU/CSU-FDP-DP-GB	CDU/CSU-DP
		CDU/CSU-FDP-DP	CDU/CSU

Sources: Bartolini and Mair (1990) for TEV; Gallagher (2014) for ENEP/ENPP; Döring and Manow (2012)

Table 4 displays the most important characteristics of the German party system between 1949 and 1957, including ideological polarization.⁷ It shows that almost all the systemic indicators moved as the theory predicts. In particular, the disappearance of the KPD from the German electoral spectrum not only reduced the number of electoral and legislative parties, but increased the number of spoiled

⁷ Data at the regional level or in Turkey is not available, at least as far as we know.

ballots. Moreover, it contributed to reducing the ideological distance between the German parties (Müller 1993: 421), easing centripetal tendencies which would finally end with collapse of the more extreme right-wing parties (The German Party (DP) and German Community/Federation of Expellees and Disenfranchised (GB/BHE)) and the formation of the three party system pitting the Christian Democrats (CDU/CSU) on the right and the Socialists (SPD) on the left with the liberals (FDP) as a hinge party.

The contribution of the judicial dissolution of the KPD to the consolidation of the German party system should, however, not be exaggerated. The Communists only managed to attract around half a million votes in the 1953 elections. As a result, their contribution to electoral instability between 1953 and 1957 was minimal: namely, 1.1 percent. Clearly counteracted by the great stabilization of the Christian Democrat electorate (Bartolini and Mair, 1990: 306), pointing to the conditional argument made in the theoretical framework: that is, for a party ban to have any *relevant* impact in terms of party system development, the party prohibited needs also to be “relevant”. This was the case for the SRP, but at the regional level.

Founded in 1952 by Otto E. Remmer, a former (pro-Nazi) general, and certain elements of the right-wing German Reich Party (DRP), the SRP had its stronghold in Lower Saxony where at the 1951 regional (*Land*) elections managed to obtain 11 percent of the votes. As expected, both its irruption and its forced dismissal constituted a shock for the Lower Saxon party system (see columns 2 and 3 in Table 5).⁸ In spite of the stabilization of both Socialists and Christian Democratic electorates, the judicial dissolution of the SRP contributed (with 5.5 points) to maintaining the levels of electoral volatility at over the 15 percent threshold. In terms of the number of parties, the degree of electoral fragmentation was reduced by almost a point, converting the 1951 extremely pluralist party system into a moderate limited one. Even if this effect is not so clearly visible in Table 5, the banning of the SRP facilitated an increase in support for right-wing forces (i.e. DP, CDU and GB/BHE) and allowed for an exclusively centre-right coalition government in May 1955.

⁸ It is important to note here that the formation of an electoral coalition between the CDU and the DP as well as the contestation of the elections for the first time by the GB/BHE almost counteracted each other, leaving the impact of the irruption of the SRP mostly intact, and exclusive.

Table 5. Party system indicators in Lower Saxony (1947-1955) and Saxony (1999-2009)

	Lower Saxony (Socialist Reich Party)			Saxony (National Democratic Party)		
	1947	1951	1955	1999	2004	2009
TEV	n/a	28.7	18.7	n/a	20.5	9.2
ENEP	3.7	4.7	4.3 (3.4)	2.6	4	4.3
ENPP	3.7	4	4.1 (3.2)	2.1	3.5	3.7
Spoiled ballots	n/a	n/a	1.5	n/a	n/a	1.8
Cabinets	SPD-DP-CDU -FDP-Z-KPD	SPD -GB/BHE-Z	DP-CDU- FDP-GB/BHE	CDU	CDU-SPD	CDU-FDP
	SPD-DP-CDU -FDP-Z	SPD-GB/BHE	DP-CDU-SPD			
	SPD-CDU-Z					

Note: In brackets a simulation of the level of fragmentation assuming an electoral coalition between the CDU

As we also pointed out above, the legalization or failure to ban a party can also have important effects on the development of a party system. In Germany this is the case with the National Democratic Party (NDP), which is trivial at the national level (less than 2 percent of the vote since 1965),⁹ but relevant in Saxony and Mecklenburg-Western Pomerania, where the party has an important legislative representation. The last three columns of Table 5 look only at the Saxon party system, but similar conclusions could be drawn from the Western Pomeranian case.

A first attempt¹⁰ to ban the NDP took place in 2001, but the case was abandoned when the Constitutional Court dismissed the case on procedural grounds in 2003. As it follows from table 5 the failure to ban the NDP clearly had important consequences for the development of the party system in Saxony. Indeed, it allowed the party to present candidates again in the 2004 elections with great success: the NPD passed from 1.4 vote percentage in 1999 to 9.2 in 2004. The result was not only an increase in the level of electoral volatility, but also a clear change in the format of the Saxon party system which passed from an hegemonic party system with two-and-a-half parties (the hegemonic CDU, together with the SPD and the PDS) to a limited pluralist party system where the NDP, added to the PDS, emerged as parties with “blackmail” potential. In terms of the patterns of partisan interaction, the electoral success of the NDP ended with almost fifteen years¹¹ of CDU

⁹ With the exception of 1969, when with 4.3 percent of the votes the NDP barely didn't make it into the *Deutscher Bundestag*.

¹⁰ There have been others in 2011 and 2012.

¹¹ It should not be forgotten that Saxony was part of the German Democratic Republic until the *Deutsche Wiedervereinigung* in 1990.

dominance, obliging it to form a “grand coalition” with the SPD. This would be followed by another coalition, this time with the FDP in 2009. In other words, the failure to ban NDP had important consequences for the structure of inter-party competition in the Saxon region. Deprived of an absolute majority and “trapped” by two anti-establishment parties at the fringes of the political spectrum, CDU had no other option but to collaborate with the other two parties, changing (i.e. opening) the system in all three features: namely, alternation, formula and access.

Spain

Despite the fact that *Herri Batasuna* (HB) (banned in 2003)¹² also had a national vocation (Casal Bértoa et al., 2014b: 16-18), the impact of banning it or any of its successors (Bourne, 2012b) on party system development in Spain will take place on the regional level; in particular, the Basque Country and Navarre, where the radical leftist nationalists (previously HB, currently *Bildu*) have traditionally had their strongholds.¹³

Table 6. Party system indicators in the Basque Country (1980-2012)

	1980	1984	1986	1990	1994	1998	2001	2005	2009	2012
TEV	n/a	13.4	7.7	12.1	16.3	8.4	8.3	10.2	18	18.3
ENEP	4.7	3.7	5.7	5.5	5.4	5.2	3.6	4.0	3.7	4.3
ENPP	4.0	3.5	5.2	5.3	5.7	5.0	3.4	3.8	3.3	3.7
Spoiled ballots	n/a	n/a	0.6	0.5	0.6	0.5	0.4	0.3	8.8	0.8
Cabinets	PNV-PSE	PNV	PNV-PSE	PNV-EA-EE	PNV-EA-PSE	PNV-EA	PNV-EA	PNV-EA-EB	PSE	PNV
				PNV-PSE-EE	PNV-EA		PNV-EA-EB			

Sources: Own calculations.

Table 6 looks at the main indicators of party system change in the Basque Country since the first regional parliament elections in March 1980. Between 1980 and 2005 all ideological options in the Basque Country (from post-Francoist and pro-independentist to Communists and pro-ETA) were

¹² The Communist Party of Spain (reconstituted), the other Spanish party to have been banned (Casal Bértoa et al., 2014b: 20), is left out from our analyses due its inactivity at the electoral level.

¹³ The percentage of votes obtained by HB or its political sister (Amaiur) in any of the elections celebrated at the national level (i.e. legislative, European parliament) was never higher than 2 percent. In clearly contrast to a minimum of roughly 10 percent in both Navarra and the Basque Country.

allowed to present candidates at the time of the regional elections.¹⁴ This was not the case for 2009 when two parties reportedly tied to ETA (i.e. *Demokrazia Hiru Milioi-D3M* and *Askatasuna*) were banned by the Supreme Court (Bourne, 2012b). Before the 2012 elections, the radical nationalist left managed to present their own candidature within *Euskal Herria Bildu* (EH Bildu), an electoral coalition comprising the social-democratic *Eusko Alkartasuna* (EA) and various parties of the so-called Basque radical nationalist left (i.e. *Aralar*, *Alternatiba* and *Sortu*).

Table 6 shows a strong contrast between the last two elections and the rest. This is especially visible in terms of electoral volatility (TEV), the number of spoiled ballots and the patterns of partisan competition for government. Thus, while between 1984 and 2005 the average level of electoral volatility is 10.9, between 2009 and 2012 TEV almost doubles. While in the first 25 years of the Basque party system the TEV surpassed the 15 percent threshold in only one election (1994), the last two (2009 and 2012) can be classified both as authentic “earthquake” elections (Pedersen, 1979). To this the judicial dissolution of HB’s political sister (i.e. Communist Party of the Basque Territory (EHAK))¹⁵ before the 2009 contest and its reinstatement (in the form of EH Bildu) in 2011 can be considered as the major contribution: 12.4 percent in 2009, and up to 15.3 percent in 2012.¹⁶ In other words, up to one third of the TEV observed in both 2009 and 2012 can be explained by just two decisions: respectively, the banning and legalization of radical nationalist left candidates.

This is also clearly visible when we look at the number of spoiled ballots in the 2009 elections. Its number increased by almost 9 points in comparison with the previous elections, certainly exceeding the average percentage of spoiled ballots until that moment (0.5). In this context, the decision of D3M to ask their supporters to vote with an ‘unofficial ballot paper designed by the party (Europa Press, 2009) appears to have had an enormous impact.

Banning Basque radical nationalist left parties not only had an impact at the electoral level. It also introduced an important change in the structure of competition by allowing non-nationalist parties

¹⁴ As reported elsewhere in more detail (Casal Bértoa et al., 2014b: 17), HB leaders considered themselves represented by the Communist Party of the Basque Homelands (EHAK), manifesting their explicit support to their candidatures in 2005.

¹⁵ EHAK was dissolved for refusing to condemn ETA’s violence (Bourne, 2012b).

¹⁶ From the 25 percent of votes obtained by EH Bildu in 2012 we discount the 6 percent and the 3.7 percent respectively obtained by Aralar and EA in 2009.

to form a minority government headed by the Basque Socialist Party (PSE) with the legislative support of the Popular Party (PP). Indeed, the proscription of HB-EAHK in 2009 clearly “opened the way to an alternative majority” (Casal Bértoa et al. 2014b: 17), even when the PNV increased its electoral support, obtaining the highest amount of votes since it split with EA in 1986. The reappearance of the radical nationalist left in 2012 prevented the repetition of the non-nationalist government (this time perhaps also with the support of Union, Progress and Democracy (UPyD)). The result was a PNV minority cabinet, the first one since 1984. All in all, and using Mair’s (1997) theoretical framework, the structure of competition changed after 2009 from one characterized by partial alternations, rather familiar coalition formulae but open access, to one represented by total alternations, innovative (minority mono-colour government) formulae¹⁷ and closed access (only PSE or PNV).

Perhaps where the impact of party bans (or lack of them) is less clear is in terms of the Basque party system format. This is because even if both the ENEP and the ENPP decreased and increased depending on ban decisions such changes (just 0.5 points) were not as significant as in 1986/2001 (more than 1.5 points), when the “moderate” nationalist camp split/merged.¹⁸ Nevertheless, it is important to note that the Basque party system was never closer to a pure three-party system (PNV, PSE and PP) than in 2009, and this despite the process of party fission experimented in the months leading to the electoral contest: On the one hand, EA decided to end its electoral collaboration with the PNV; on the other, Rosa Díez – one of PSOE’s leader in the Basque Country – left the formation and founded a new party (UPyD). Conversely, the Basque party system returned to its almost “limited pluralist” (ENPP closer to 4) character – to use Sartori’s terms – in 2012 with the reappearance of the radical nationalist left. This was despite the process of party fusion experienced at the beginning of that year: As mentioned, both EA and Aralar merged into Sortu-led electoral coalition (EH Bildu). In other words, the banning and legalization of radical nationalist left parties in 2009 and 2012, respectively, also “fictitiously” altered the format of the Basque party system, whose tendency was towards fragmentation in 2009 and concentration in 2012.

¹⁷ It is important to note, however, that the PNV had already formed a minority cabinet in March 1984 which, for the new generation of voters accustomed to PNV-led coalitions, was still innovative.

¹⁸ EA split from PNV in September 1986. They would later form an electoral coalition between 2001 and 2009.

Similarly, the prohibition of HB had also important consequences for the evolution of the Navarrese party system. Due to different electoral cycles,¹⁹ the banning of radical nationalist left forces took place over two consecutive legislative periods. In terms of the stability of the Navarrese electorate since 1979, it is important to contrast the moderate effect of HB's banning in 2003 with the reappearance of the radical nationalist left in 2011 (Bildu). Thus, and as it follows from Table 7, while banning HB seems to have decreased the level of TEV, contrary to the expectations, its legalization clearly converted the 2011 contest in an electoral "earthquake". TEV increased to levels only previously observed in 1983 with the disappearance of UCD, in 1987 with the reorganization of AP, and in 1995 with the creation of CDN.²⁰ As in the Basque case, the contribution of Bildu to the TEV in 2011 amounted to almost a third (6.7).

Table 7. Party system indicators in Navarra (1979-2011)

	1979	1983	1987	1991	1995	1999	2003	2007	2011
TEV	-	26.7	17.5	10.4	21.6	15.7	6.3	8.6	17.3
ENEP	6.3	4.5	5.6	3.9	4.9	3.8	3.9	3.5	5.1
ENPP	5.2	3.7	4.8	3.1	4.4	3.6	3.5	3.2	4.3
Spoiled ballots	0.9	0.8	0.9	0.5	0.5	0.6	6.5	3.9	2.5
Cabinets	UCD- PSN-HB- Amaiur	PSN	PSN	UPN	PSN- CDN-EA	UPN	UPN- CDN	UPN- CDN	UPN- PSN
					UPN			UPN	

Why, then, didn't the dissolution of HB contribute to decreasing electoral stability in Navarra in 2003? When one looks at the particular levels of party volatility between 1999 and 2003, the illegalization of Batasuna contributed to almost half (2.7) of the TEV (6.3). However, the fact that some groups within the Batasuna (mainly Aralar and Bazarre) decided to depart from the majoritarian current within the coalition, opposed to a condemnation of ETA's violence, exponentially reduces the TEV final score at the aggregate level.²¹

Indeed, the clearest evidence that the prohibition of Batasuna in 2003 had an influence on the direction of the vote is to be found in the percentage of spoiled ballots (Table 7), which would have

¹⁹ In Spain all regional elections, but for the Andalusian, Basque, Catalan and Galician, are held the very same day.

²⁰ While UCD dissolved itself in 1983, AP passed from being an electoral coalition in 1983 to a unitary party in 1983. CDN split from UPN in April 1995.

²¹ Aralar and Bazarre got 8 and 2.6 percentage of votes in 2003 which, compared to Batasuna's 16 percent of votes in 1999 clearly reduces the latter party's volatility to a mere 5.4. Still almost a half of the TEV for 2003, as explained above.

meant up to 3 seats in the Navarrese parliament (*Cortes de Navarra*). Indeed, the 6.5 percent of spoiled ballots in 2003 meant an increase of roughly 6 percent in relation to the previous elections and 5.8 in comparison to the average level of spoiled ballots between 1979 and 1999. The average level of spoiled ballots continued to be high (3.9) during the next 2007 elections,²² but decreased by more than one point and a half in 2011, coinciding with the return of the radical nationalist left to the political arena.

Because of Batasuna's split, and notwithstanding a marginal reduction of the ENPP in 2003 (as expected), it was only in 2011, when the party was legalized, that the format of the Navarrese party system was affected by party bans. Thus, the re-emergence of the radical nationalist left in 2011 clearly boosted both the ENEP and the ENPP, converting the until then three-party system (Union of Navarrese People (UPN), Socialist Party of Navarre (PSN) and Convergence of Navarrese Democrats (CDN) into a limited pluralist one (ENPP \geq 4). Indeed, if, as Mair (1997) has maintained, change takes place not when the number of parties changes, but when the latter means a modification of category, then we are on safe ground when stating that in 2011 the failure to ban Bildu sparked a change in the Navarrese party system. Something that had not had happened since 1999.

Table 7 also points to a change in the structure of competition both in 2003 and in 2011. Thus, while the presence of the Batasuna-led coalition, treated as a total pariah by the rest of the political forces, especially since the assassination of PP member Miguel Ángel Blanco in 1997, allowed UPN to form a minority government in 1999; the proscription of HB successor, Euskal Herritarrok, before the next elections obliged Miguel Ángel Sainz (UPN's leader) to form a coalition government with the CDN both in 2003 and 2007. Interestingly, the return of the radical nationalist left to the Navarrese *Cortes* in 2011 would open the way to - some would say "forced" - the first "grand coalition" between the conservative UPN and the socialist PSN.²³ As a result, the Navarrese structure of inter-party competition for government left its wholesale, open access and rather familiar (except between June 1995 and September 1996) character for a pattern where partial alternation, innovative formulae and closed access are the norm.

²² Interestingly enough, this also coincides with the attraction of radical votes by the Aralar-led Nafarroa Bai (NB) coalition in 2007. In fact, the sum of the votes of Aralar (8), Bazarre (2.6) and the PNV/EA (7.6) in 2003, plus the remains of HB votes in 1999 (5.4) perfectly coincides with the percentage of votes obtained by NB in 2007: namely, 23.6.

²³ The importance of PP's split from UPN in such structural change should also not be forgotten.

Moreover, it is important to note here also that, more recently, and after the collapse of the “grand coalition” in June 2012 due to a corruption scandal within UPN, the PSN was tempted to use Bildu’s parliamentary support to oust President Barcina (UPN) and, perhaps, form a minority cabinet. This would definitely have not had taken place in the period between 2003 and 2010. In other words, the banning/failure to ban political parties creates the opportunity to alter pre-existing patterns of competition, making the structure of competition less predictable and, therefore, more prone to change.

Turkey

Although a large number of parties have been banned in Turkey (see Table 1), party bans have had a significant party system impact in only a very few cases. Indeed, the majority of Turkish parties banned by the Constitutional Court were either never electorally active, suffered from a “clandestine syndrome” (e.g. Turkey Comfort Party, United Communist Party of Turkey, People Party, Revival Party, etc.), or weren’t popular with voters (e.g. Socialist Party, Socialist Union Party, etc). Some, like the Turkey Comfort Party (THP), the Freedom and Democracy Party (ÖZDEP) or the Democracy and Change Party (DDP) were banned before they could even try to fulfill their electoral vocation. Parties like the Democratic Society Party (DTP), were legal long enough to make only a small impact at the local level (5.4 percent of the vote in 2009). It is for these reasons that we will limit analysis here to the impact of only three banned Turkish parties: namely, the islamist Welfare Party (RP) and its successor, the Virtue Party (FP), and the Kurdish nationalist People’s Democracy Party (HADEP).

Founded in 1983, the RP was the successor of the pre-democratic MSP, which was very popular between 1972 and 1980, when it was banned. It participated for the first time in the 1987 elections obtaining slightly more than 7 percent of the vote. It would double its electoral support just four years later thanks to an electoral alliance with two other parties (MCP and IDP), reaching its peak in 1995 with 21.4 percent of the votes and 158 seats in the Turkish National Assembly, allowing it to form a rather short-lived cabinet (briefly one year) between June 1996 and 1997. After it was banned in 1998, its leaders created a new party (FP) which, however electorally popular (15.4 percent of the votes in 1999), could not repeat RP’s previous success in both the legislative and

governmental arenas. Banned in 2003, FP’s leadership would split into two: the majority would create the Justice and Development Party (AKP) and the minority the Felicity Party (SaP).

At the national level, the most successful Kurdish nationalist political party has been HADEP, which was banned in 2006, and succeeded by the Democratic People’s Party (DEHAP). DEHAP would later merge with the DHP to form the DTP, proscribed by the Constitutional Court shortly afterwards (2009). With an average of 5 percent of the votes during its three electoral participations (1995, 1999 and 2002), neither HADEP nor its successor managed to reach the 10 percent electoral threshold and, thereby, obtain parliamentary representation.

Table 8. Party system indicators in Turkey (1983-2011)

	1983	1987	1991	1995	1999	2002	2007	2011
TEV	n/a	38.5	20.3	22.2	22.1	42.6	23.6	11.1
ENEP	2.9	4.1	4.7	6.1	6.8	5.4	3.5	3
ENPP	2.5	2.1	3.6	4.4	4.9	1.8	2.3	2.3
Spoiled ballots	4.9	2.6	2.9	3.3	4.5	3.9	2.8	1.8
Cabinets	ANAP	ANAP	DYP-SHP	ANAP-DYP	DSP-MHP-ANAP	AKP	AKP	AKP
			DYP	RP-DYP				
			DYP-CHP	ANAP-DSP-DTP				
				DSP				

Sources: Own calculations.

While the prohibition of RP did not really have an impact in the party system either at the electoral or the legislative level because its supporters had an almost identical political organization to vote for (i.e. FP). Nevertheless, the banning of RP may have confused some voters, thereby increasing the percentage of spoiled ballots, and certainly altered the structure of inter-party competition by impeding its access to executive office: the FP was seen as a “pariah” by the other parties represented in the National Assembly. As a result, a new coalition government was formed between the DSP, the most popular party at the time (1999), the Motherland Party (ANAP) and the Nationalist Movement Party (MHP), in parliament for the first time. The outcome was both partial alternation and open access, something that had never happened before, at least not immediately after elections (table 5).

The banning of FP in 2001 had a major impact in the party system at all levels, producing the perfect example of “systemic change”: (1) electoral instability almost doubled, (2) the extremely pluralized party system not only became more concentrated but initiated a period of hegemony that lasts until today, and last but not least (3) it introduced a new pattern of partisan interaction characterized by wholesale alternation, familiar formula and closed access. In principle more moderate than its immediate “predecessors”, AKP managed to attract some of the centre-right vote (mainly from ANAP and DYP). Moreover, the organizational split of FP supporters into two different political alternatives (AKP and SaP) increased their choice, consequently reducing the number of spoiled ballots.

However, the failure of efforts to ban the AKP, considered by some (mainly outside Turkey) a fundamentalist party and the direct heir of FP, had a long-lasting effect in the Turkish party system by reducing the number of “relevant” parties to three (AKP, CHP and MHP) and increasing its level of institutionalization (Casal Bértoa, forthcoming).

Contrarily to religious parties, Kurdish parties in Turkey have not been so successful. Consequently, their impact on the development of the Turkish party system has been minimal. Thus, and contrary to what has been observed in the case of FP, the banning of HADEP before the 2002 had no impact whatsoever due to foundation of DEHAP. Interestingly enough, the prohibition of DTP, fruit of the merger between DEHAP and DHP in 2005, did definitively reduce the number of electoral parties, on top of contributing to maintaining the level of volatility over 20 percent. Due to its total extra-parliamentary character, it did not manage, however, to exert any influence in terms of the structure of legislative and governmental competition. This certainly confirms our theoretical expectations that in the “ocean” of party system change, only “big fishes” make a difference.

Conclusions

In the paper, we examine the effects of banning parties – a grave act with significant consequences for democratic politics in both theory and practice – on party systems. We examine party ban effects in three ‘intolerant activist’ party regimes (Germany, Spain and Turkey), which are legal systems which actively employ legal or constitutional provisions against parties for either anti-system behavior (Spain) or anti-system ideology (Germany) or both (Turkey). These were also cases which included bans on salient parties, the type of party whose proscription we expected to

have the most significant impact on the party system. Indeed, as table 8 shows, in all countries where relevant parties were banned various different types of party system effects were observed.

Table 8 summary of empirical findings

Hypothesis	GERMANY	SPAIN	TURKEY
Party ban or legalisation increases electoral volatility	KPD Yes (minimal) SRP Yes NPD Yes (failed ban)	HB and successors (BC) Yes HB and successors (Navarre) • 2003 No • 2011 Yes	RP No FP Yes HADEP No DTP Yes
Party ban reduces electoral and parliamentary fragmentation	KPD Yes SRP Yes	HB and successors (BC) Yes HB and successors (Navarre) Yes	RP No HADEP no DTP Yes
Party legalisation increases electoral and parliamentary fragmentation		HB and successors (BC) Yes HB and successors (Navarre) Yes	
Party ban or legalisation changes category/class of party system	KPD Yes SRP Yes NDP Yes (failed ban)	HB and successors (BC) Yes HB and successors (Navarre) Yes	FP Yes AKP Yes DTP No
Party ban or legalization affect patterns of government formation	KPD No SRP Yes	HB and successors (BC) Yes HB and successors (Navarre) Yes	FP Yes AKP Yes DTP No

Where no party system effects were observed it was due to the rapid emergence of successor parties (eg. in Navarre (Spain) where HB was succeeded by parties such as Aralar, or in Turkey where RP was quickly succeeded by FP before it was banned), or where parties were too small to make an impact on the party system (eg. DTP in Turkey). During empirical research an additional hypothesis about the failure of attempts to ban parties was also developed. The failure to ban parties, as cases of the NPD in Germany and AKP in Turkey showed, can also have party system effects such as increased electoral volatility or change in category/class of party system. A final rationale for the

selection of cases was variation in the degree of democratization. However, as Table 8 shows, party system effects did not appear to vary systematically depending on the degree of democratization.

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