

Consequences of candidate selection under the AMS electoral system: the case of Germany.

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Introduction

The notion that political parties can control the candidate selection process, in order to support their policy-related, office-seeking or other purposes, is certainly an idea that is worth investigating. If parties can control, even partly, the process of candidate selection, then there should be evidence of this in the procedures adopted for the selection process, in the behaviour of prospective candidates and those undertaking the selection of candidates, and in the resultant composition of parliamentary party groups.

It is my contention in this paper that, in the Federal Republic of Germany, the evidence that parties can control candidate selection in order to produce some particular design of parliamentary party group is thin indeed. There is much evidence to point the other way. In particular, three sets of factors will be analysed in this paper, which all suggest that such control is minimal. These factors are: the constraints imposed by the electoral system based on the Electoral Law of 1956 as subsequently amended and by the Party Law of 1967; electoral behaviour within the framework of the electoral system; and the behaviour of those in the party who undertake the task of candidate selection, within procedures laid down by legislation and by party rules and conventions.

The second part of the paper will consider the consequences of candidate selection in the Federal Republic, in terms of the three sectors suggested by the workshop outline: policy positions; electoral characteristics; and office-seeking.

The paper will focus on the selection of candidates for Bundestag elections. However, as there is an interesting set of elections and electoral systems for Land legislatures, where appropriate the Land-level process will also be examined. The assumption will be made that parties, in attempting to control the composition of parliamentary parties, will give attention to, among other things: the election of particular persons because of their personal qualities; the balance of factions within the parliamentary party; the gender, generational, occupational and regional characteristics of candidates; representatives of certain interests; candidates with particular political skills.

The electoral system and the Party Law as influences on candidate selection

Candidate selection in the Federal Republic is constrained by the electoral system and the Party Law of 1965. (For Land elections, the Land electoral system and Land Electoral Law apply). These work together to shape, but also to limit, the freedom of the political parties to select candidates of their choice.

The electoral system for Bundestag elections can best be described as a list-based system of proportional representation, with a significant contributory majoritarian element. Each voter has two votes. The 'first' vote is used to elect a candidate in a single-member constituency. The candidate with the most votes wins the seat. There are no other requirements. Fifty percent of the - normal - number of Bundestag seats are filled in this manner (in 1998: 328). The 'second' vote is a vote for a closed party list in the Land in which the constituency of the voter is located (e.g. for a voter in the constituency Mannheim II, the Land of Baden-Württemberg). These second votes are decisive in calculating the number of seats to which a party is entitled (an entitlement calculated by using the Hare-Niemeyer formula). Only parties with at least five percent of list votes (or, alternatively, with three constituency candidates elected) participate in the share-out of list seats. This total number of seats for a party is then sub-divided among the Land lists of that party (also using Hare-Niemeyer), to calculate how many seats, for instance, the SPD is entitled to in Bremen, or the CDU in Saxony. The constituency seats already won by a party in a Land are then subtracted from that Land entitlement; the remaining seats are filled from the Land list. For example, in 1998 the CDU won 198 seats in total. It won 74 direct seats, so was awarded 124 list seats. In Lower Saxony it was entitled to 24 seats; it won 4 constituencies there, so received 20 list seats. Had the CDU won 6 Lower Saxony constituencies, it would have received only 18 list seats in that Land. Because a party keeps all the constituency seats it has won in a Land, it may have more constituency seats than its total entitlement in that Land: in that case, it retains the extra seats (called Überhangmandate - 'surplus seats'). The SPD won 13 such additional seats in 1998. These 'surplus' seats add to the 'normal' size of the Bundestag for one legislative period.

It is important to note that there is no provision for bye-elections to be held to fill vacancies for constituency seats: a vacant seat is filled automatically from the next (available) non-elected list candidate. A recent ruling of the constitutional court (1998) however, requires a vacant constituency seat in a Land which has 'surplus seats' to remain vacant until the 'surplus seats' have been eliminated. This lack of bye-elections means that a party can always count on retaining its total number of seats throughout a legislative period (subject to MdBs not themselves leaving the parliamentary party to become independents or sit with another parliamentary party), but it also means that a small element of uncertainty is introduced in the planning of the parliamentary party group, since a constituency member who also represents a trade union, for instance, on resigning from the Bundestag may be replaced by a list member with farming affiliations, for instance.

Candidates are selected in two different ways for these two different modes of election.

In constituencies, the Party Law requires that a selection meeting be held. This may involve two or more local party branches, if the constituency boundary includes two or more (or parts of two or more) branch organisations. The meeting may take the form of a general membership meeting (if the branch or branches have small enough memberships) or it may consist of delegates elected by members to act for them in the selection process. In cities such as Köln or city-states such as Hamburg, where several constituencies are included within the boundaries of the city-wide party organisation, one meeting may select candidates for the whole set of city constituencies.

For Land lists, selection is by a delegate conference, which may be either the Land party conference, used for other purposes also, or a specially-elected selection conference.⁽¹⁾ In theory, a vote can be taken for every place on the list (and any vote must be by secret ballot, according to the Party Law). In practice, for various reasons (see below), contested nominations are not common, at least for the 'safe' or 'hopeful' places on the list.

The Party Law thus ensures that, at least in formal terms, candidate selection is conducted according to democratic procedures, protecting the rights of party members and potential candidates. A notorious instance of breach of these provisions arose in Hamburg in 1993, when the Hamburg constitutional court ruled that the CDU had not abided by the provisions of the law in its selection procedures for the Land election of 1991, and a new election had to be held.

In the case of Land elections, there are relatively minor variations from the procedures for Bundestag elections. All Land electoral systems are based on proportional representation. Most Länder use a two-vote electoral system similar to that used for Bundestag elections. A small number use a single vote list-based PR system: North Rhine-Westphalia, Saarland and

(until 2000, when it changes to a two-vote-system) Schleswig-Holstein. Two Länder: Baden-Württemberg and Bavaria, employ rather idiosyncratic electoral systems. The variations in these systems affected selection procedures.

In Baden-Württemberg, each voter in Land elections has a single vote, given to a constituency candidate. In the constituency, the candidate with the most votes is elected. A vote for a candidate is simultaneously a vote for the party of that candidate. Parties become entitled to a total number of seats based on their share of the total votes cast; the number of constituency seats won is deducted from that total to calculate how many additional seats are to be allocated. As there are no party lists, the additional seats are awarded to the 'best' losing candidates of each party: 'best' being defined as the highest aggregate vote, not the highest vote share. This can mean that, in large constituencies, all five candidates may be elected; in smaller constituencies, the first, third and fourth might be elected, and so on.(2)

In Bavaria, a two-vote electoral system is employed, for a constituency candidate and for a regional party list. The voter may choose a name on the party list as recipient of the list vote.(3) The unusual aspects of the Bavarian system are: (a) that for each candidate, votes received in the constituency and votes received by that candidate on the party list are added together, and (b) candidates are elected from the list in the order of their aggregate vote (meaning that candidates only on the list, or losing constituency candidates not selected for the list, are disadvantaged); (c) candidates may make dramatic moves up or down the list as a result of voter support for specific list candidates; and (d) (very unusually) a victorious candidate in a constituency whose party does not win five percent of the total votes (constituency and list votes in aggregate) is deemed not to have been elected, and the next-placed constituency candidate is then declared elected. As in Baden-Württemberg, it can be the case in a constituency that defeated candidates from two or three of the other principal parties join the constituency victor in the Landtag, by virtue of election from the list.

Electoral system obstacles to the planning of parliamentary party composition

The electoral system itself places a number of obstacles in the way of party managers who attempt to construct a balanced parliamentary party group.

For small parties, with little or no chance of any constituency seats, the key issue is whether the party will secure the qualifying five percent of list votes to enter the Bundestag. If a party does so, then it can make a good estimate of how many seats it will win for a given percentage share of the vote, and from which Land those seats will come. For the Free Democrats (FDP), for instance, the party can count on at least 10 seats in North Rhine-Westphalia, but probably no seats in Bremen, if it gets 5-8 percent of the vote. In 1998, with only 6.2 percent of the vote, it won 11 seats in North Rhine-Westphalia, 7 in Baden-Württemberg, but none in Bremen or Mecklenburg-Vorpommern and in five Länder won only a single list seat. For purposes of planning a parliamentary party group, the marginal list places in North Rhine-Westphalia and Baden-Württemberg (here, the 12th and 8th seats respectively) are more interesting than, say, the second list place on the Hamburg list, which would only be a winning list place if the party did exceptionally well. For the PDS, the list places in the East German Länder (where it won between 3 and 8 list seats per Land) are more interesting than second list places in most West German Länder, where - with the exception of North Rhine-Westphalia - it won either only a single list seat or none at all.

For the two large parties, the Christian Democratic Union (CDU) and the Social Democratic Party (SPD), the situation is much more complicated. Three special aspects of the electoral system come into play. First, a party may win 'surplus' seats in a Land. If it does so, it will, by definition, win no list seats in that Land. Second, and associated with that point, a party may prove especially strong in a Land, to such an extent that it wins more constituency seats than it anticipated; this will mean fewer list seats in that Land - and list places regarded normally as 'safe' may turn out not to be so. For example, in the Land election in North Rhine-Westphalia in 1980, the increase in voting support for the SPD (plus 3.3 percent) at the expense of the CDU (minus 3.9 percent) resulted in the CDU losing to the SPD 19 constituencies which normally it would have considered as 'safe'. A newspaper report of the election stated: 'For the structure of the new parliamentary parties of the SPD and CDU this had decisive consequences. In the SPD parliamentary party there are several new successful constituency candidates, that one had not counted on being there. On the other hand, only 12 seats have been filled from the Land list, which is a bitter disappointment for many who had counted on

being 'insured' on the list. The opposite effect has hit the CDU. Instead of its previous 76 constituency seats, it now has only 57, which means that 38 list candidates have been elected from the list. Many experienced and in opposition indispensable CDU politicians have been left without a seat, because they were defeated in constituencies regarded as safe, whereas a number of list candidates have been surprised by their success, which they had not seriously anticipated.' [Frankfurter Allgemeine Zeitung, 13 May 1980]. Another example is more recent: precisely because the CDU did so poorly in the 1998 Bundestag election, the number of list seats it won increased by 57, and the list seats of its ally, the Bavarian Christian Social Union (CSU) increased by 3. However, this did not compensate for the losses of 103 CDU constituency seats or 6 CSU constituency seats, compared to 1994. The SPD, which did so well in the 1998 Bundestag election, on the other hand found that it had won 63 fewer list seats, because it won 109 extra constituency seats compared to 1994. This means that, for the SPD for instance, several candidates in hopeful places on Land lists found that they were not, in fact, elected, and some constituency candidates who did not expect to win their seats in fact did so (though many of these would have expected to win election from the list). Even if the total number of seats was above SPD expectations, in any Land this result must have upset carefully-planned ideas about the election of particular candidates from the list.(4)

Electoral behaviour as a factor affecting control over the design of parliamentary parties

There are a number of aspects of electoral behaviour which prevent parties from controlling the process whereby candidates, once selected, may be elected, and thus constrain the effectiveness of the process involved in shaping a particular 'mix' of members of a parliamentary party group.

Of course, the most obvious such factor is the way in which voters reward or punish particular parties. At its most extreme, this may take the form of eliminating a party from the Bundestag (or Land legislature) altogether, by reducing its vote-share below five percent. This happened to the Greens in West Germany in the special circumstances of the 1990 Bundestag election. The FDP has been in and out of most Land parliaments in the past twenty or thirty years; it is currently not represented in any of the East German Land parliaments (nor are the Greens), nor in the Land parliaments of Hamburg, Bavaria, Saarland, Bremen, Lower Saxony, Berlin or North-Rhine Westphalia. In a few cases, the electorate may give a party a greater or lesser share of the vote than any commentator had really expected; the results for the CDU and SPD in 1998 both fall into this category, as did the result of the CDU in 1957, the FDP in 1961 and, probably, 1990 and the SPD in 1972. In Land elections, the success of the STATT-party in Hamburg in 1993, the Republicans in Baden-Württemberg in 1992 and 1996 and the German People's Union (DVU) in Saxony-Anhalt in 1998 are recent examples of such surprising results. This is relevant to candidate selection, because it means that either (for a very good result) candidates are in fact elected who were not expected to be, or (for unexpectedly poor results) candidates regarded as certain of election fail to be elected. In either case, any effort directed towards a particular balance or composition of the parliamentary party group, whether in factional, gender, interest-based or other terms, will be rendered nugatory.

A second electoral behaviour factor may be split-voting (where a voter chooses a constituency candidate of one party, but votes for the list of a different party). Put simply, where this is sufficiently widespread it may result in constituency candidates being elected rather than list candidates for that party.(5) In extreme cases, this may lead to 'surplus seats' being allocated in a Land where such 'split-voting' is widespread.

A third factor is turnout. Constituency seats are allocated to the Länder on the basis of (non-foreign) population. List seats are allocated by the Hare-Niemeyer system in relation to turnout. Two Länder of exactly equal populations would have the same number of constituency seats; if one had twice the turnout of the other (and assuming equal-sized electorates) it would probably have about twice the number of list seats. (This leaves aside the possibility of some Länder, especially in East Germany, having a larger share of its population under voting age, which also affects the distribution of list seats). While this will not normally affect the total size of the parliamentary party group of any party (which depends on national share of list votes), it will influence the distribution of successful candidates for a party. Low turnout has meant that East Germany has fewer MdBs (Members of the Bundestag) than it should have on the basis of population share, or even on the basis of electorate. Whereas in West Germany most Länder had more list seats than constituency seats, in East Germany only one Land had more list seats.(6) This means that - except for the PDS - parties have additional difficulty in

demonstrating that they are looking after East German interests; they have fewer MdBs to nurse constituencies, they have fewer to appoint to ministries or committee posts or parliamentary party management positions. They have fewer East German MdBs to press for policies thought appropriate for the 'new Länder'.

Incumbency and insurance: the conservative forces in candidate selection

It must be assumed that a party wishing to control the selection process would require that as many constituency seats or hopeful list places would be open to new candidates as possible. The more candidacies that are 'fixed in advance', the less flexibility the party management has in designing a parliamentary party to its liking. An example is the problem which the SPD had in advance of the 1987 Bundestag election in obtaining a seat in Bremen for the former lord mayor of that city, Hans Koschnick, whom the SPD wanted to place in the Bundestag. After some difficulties and much press comment, one of the three incumbent SPD MdBs was persuaded to stand down in his constituency, to allow Koschnick to be selected for the safe seat. An attempt to place Koschnick in Bremerhaven (which belonged to the Land of Bremen) came to nothing, because the local party chiefs could not guarantee that the local membership would accept Koschnick, even if they were prepared to sacrifice their incumbent MdB [Frankfurter Allgemeine Zeitung, 22 October and 26 November 1985]. Yet the evidence shows that two related factors severely limit the number of opportunities for new candidates to be selected.

The first such factor is incumbency. A recent study has shown that, based on elections since 1960, 78 percent of successful candidates are incumbents seeking re-election (incumbency here meaning only membership of the previous Bundestag). In comparison, the United Kingdom had a re-election rate of 70 percent, and France 60.4 percent. The average length of incumbency in Germany was 8.2 years (France 7 years; the United Kingdom 20 years; the US Senate 11.1 years) [Boll & Römmele, 1994:544-5]. Another study found that since 1961, the share of each parliamentary party newly-elected to the Bundestag varied as follows: for the CDU-CSU: between a high of 29.2 percent (1969) and a low of 10.68 percent (1987); the SPD: a high of 32.5 percent (1969) and a low of 11.4 percent (1983); for the FDP a high of 47.6 percent (1972) and a low of 11.4 percent (1983)[Saalfeld, 1995:205]. A study of the 1965 Bundestag election selection process found that, of 271 list places that could be regarded as 'safe', 225 were allocated to incumbents (83 percent), only 46 to newcomers; 153 successful candidates had very safe list places, but insecure constituency candidacies, of which 139 (over 90 percent) were incumbents, and a further 37 (of which 21 were incumbents) had safe list places but insecure constituency candidacies [Kaack, 1969:68; 71-2]. Research has shown that incumbents benefit more from split-votes than non-incumbents (a suggestion that a high recognition level and other personal factors make some difference: in attracting votes from supporters of small parties, for example) [Bawn, 1998:21].

Case studies of selection processes confirm the importance of incumbency. In the 1966 Land election in North Rhine-Westphalia, for instance, the CDU kept the top places on its list stable compared to 1962; new candidates came in mainly from list place 17. The SPD had 11 new candidates in its top 20 list places (but largely because several former candidates were not seeking re-election). The FDP had only four new names in its top 15 places (the places that were successful, as it turned out) [von Herz, 1970:70, 90, 100]. For the Bundestag election 1965, 21 percent of CDU-CSU seats and 10 percent of SPD seats investigated had competitive selection-processes; where incumbents presented themselves, there were contests for selection in only 6 percent of CDU-CSU seats and 5 percent of SPD seats (and only about half these challenges were successful) [Zeuner, 1970:33, 38]. Where such incumbents did lose, old age or lack of constituency activity were generally the reason [Zeuner, 1970:92]. In a study of candidate selection in the Reutlingen constituency for the 1969 Bundestag election, incumbency was seen as an advantage. Again, neglect of the constituency was the only factor of importance which endangered reselection of incumbents. [Staisch, 1974: 216-7, 223]. Helmut Kohl, in his days as a political scientist, also noted the importance of incumbency in candidate selection for the 1957 Bundestag election [Kaufmann et al., 1961:155-62]. In 1986 the Oldenbourg CDU dropped its incumbent MdB, Broll, because of neglect of constituency duties, despite Broll's reputation in Bonn as a policy expert [Frankfurter Allgemeine Zeitung, 5 August 1986]. An Allensbach survey in 1976 asked respondents whether local credentials or national reputation was the preferred quality in a candidate: 48 percent chose local credentials; only 37 percent preferred national reputation [Frankfurter Allgemeine Zeitung, 2 October 1976]. In 1986 the Baden-Württemberg FDP placed the party's 7 incumbent MdBs in the top places; the only difference from the top of the list for the 1983 election was one change in rank order

[Frankfurter Allgemeine Zeitung, 23 June 1986]. More recently, the CSU, for example, selected incumbent MdBs for its top 5 places on its party list for the Bundestag election 1994, and for 24 of the top 25 places. Only 6 list candidates were elected, of which only one was not an MdB in the previous legislative period, and only 4 successful CSU constituency candidates out of 44 were not incumbent MdBs [Bayernkurier: 23 April and 22 October 1994]. In 1998, only 3 of the top 25 list candidates were not MdBs, and only 8 constituency candidates [Bayernkurier: 19 September 1998].

Of course, one can take a different view of incumbency. If the set of incumbents constitutes a balanced parliamentary party group, which matches the desires of the party leadership, then the infrequency of challenges and the success of incumbent efforts at reselection and reelection in fact supports the idea of elite management of the formation of a parliamentary party group.

The other factor of this type is 'insurance': the practice of placing constituency candidates in safe places on the party list, so that, should they not win the constituency seat for which they are a candidate, they will anyway be elected to the Bundestag. The facility of the electoral system which permits double-candidacies enables such 'insurance' to take place (each candidate may stand in one constituency and on one Land list (7)). The usual practice is for list selections to be made only after constituency candidates have been selected (in 1965, for example, this was the case except for the city-states of Hamburg and Bremen, where party meetings dealt simultaneously with constituency and list selection [Zeuner, 1970:149]. In some cases, Land parties build-in a procedure whereby such insurance is taken into account in constructing party lists, as was the case with Baden-Württemberg and Rhineland-Pfalz SPD in 1957 [Kaufmann et al., 1961:102, 178]. The SPD 'Principles for Candidate Selection 1965' expressly required Land parties to 'insure' those constituency candidates considered to be vital for the Land organisation, but also that parties were not to insist that all list candidates should contest constituencies [Zeuner, 1970:153]. In other cases, it emerges in fact, as a result of voting decisions of the selection process, as occurred with the CDU and FDP in Baden-Württemberg and Rhineland-Pfalz in 1957 [Kaufmann et al., 1961:170, 188-9]. In 1965, only 50 MdBs elected had stood only as list candidates (8) [Kaack, 1970:78]; in only three Länder that year (Bavaria, Baden-Württemberg and North Rhine-Westphalia) did the Christian Democrats allot fewer than fifty percent of the 'hopeful' list places to constituency candidates [Zeuner, 1970:154-5]. In the North-Rhine Westphalia Land election in 1966, only 6 of the first 22 places on the SPD list did not also contest constituencies [von Herz, 1970:88-9]. In 1969, the SPD and FDP in Baden-Württemberg again gave priority to 'insurance' of constituency candidates [von Beyme, 1974:260]. In 1994 only one of the top 15 candidates on the CSU list for the Bundestag election did not also contest a constituency; in 1998 3 of the top 15 did not contest a constituency [Bayernkurier, 23 April 1994, 19 September 1998].

The insurance of candidates is also illustrated by the number of double-candidacies. In the 1998 Bundestag election, there were 4006 list candidates and 2703 constituency candidates. However, 1647 candidates were 'double candidates', nominated on a Land list and in a constituency. This means that 60.9 percent of constituency candidates were also on party lists.(9) Of course, in most cases these were candidates contesting constituencies where they had no chance of election, nor did they necessarily have much chance of election from the list; but the data illustrate the tendency quite well. For the individual parties the data are: SPD: 96.9 percent; CDU: 79.4 percent; CSU: 37.8 percent; Greens: 55.4 percent; FDP: 76.5 percent; PDS: 25.8 percent; others: 49 percent

Limits of party control

What evidence can be found concerning the power of party leaders to control the selection process? The first problem is defining what is meant by 'party leaders' and 'control'. If 'party leaders' refers to a group of federal-level politicians including the party chairman, the evidence is scanty. Whereas it might be suspected that Adenauer, for instance, influenced some candidacies in the first elections to the Bundestag, and whereas it is highly probable that Franz Josef Strauss took considerable interest in the composition of the CSU lists for Bundestag and Landtag elections, there is little evidence of such influence today. In any case, whether referring to the nineteen-fifties or the nineteen-nineties, such influence would be largely untraceable; it would be mentioned - if at all - in memoirs or biographies. Very occasionally, mention is made of influence from party headquarters: in 1961, to provide a candidate (Hahn) with a safe place on the Baden-Württemberg CDU list because of his expertise as a theologian and his status as a professor [Vogel & Haungs, 1965:249], for example, but this amounts to

little more than expression of a preference, and one which did not seem to in any way run counter to Land party wishes or the wishes of the selection conference delegates. The Koschnick case in Bremen is referred to above. The SPD also managed to find safe seats for former FDP politicians who had crossed to the SPD in the aftermath of the switch of coalition partner from the SPD to the Christian Democrats in 1982. Matthäus-Meier and Verheugen, for instance, obtained candidacies in North Rhine-Westphalia and Bavaria respectively. The SPD was keen to demonstrate its liberal credentials by putting these former FDP politicians in the forefront of its campaign [Frankfurter Allgemeine Zeitung, 13 December 1982].

There is some counter-evidence. One authority specifically denies that any such federal-level influence was directed at candidates for the 1965 Bundestag election (beyond general guidelines) [Zeuner, 1970:69]. Influence from Land-level party leadership is more obvious. In most parties, the Land delegate conference to select the list will be presented with some form of recommendation from the Land party executive committee. In some cases, that recommendation will be little more than the aggregation of nominations from regional party executive committees within the Land party organisation. In other cases, it will be quite a substantial list of candidates for the safe and hopeful places on the list, often with a warning to delegates that any successful challenge to any name on that list, or to the ordering of names, will result in the unravelling of a complex arrangement of regional, gender-based, factional, generational, interest-based and perhaps religious balances. The first 18 list places on the SPD Baden-Württemberg list were uncontested in 1986 for example [Frankfurter Allgemeine Zeitung, 9 June 1986]. Such Land party influence is buttressed by provisions in the Electoral Law (para. 22 {4}) and party rules that provide the Land executive with a veto which can be applied to particular candidates (though little use is made if that provision). In general, the power of Land party leaders to influence list or constituency selections should not be over-estimated [Kaufmann et al., 1961:162-3; Zeuner, 1970:67]. There have even been cases where the executive has offered a choice of names for particular places on the list: two female candidates - recommended by the party's Womens Council (Frauenbeirat) - in the case of the CDU Rhineland-Pfalz list in 1957, for example [Kaufmann et al., 1961:167-70]. Where the Land party executive does draw up a list of recommended candidates, it frequently does so after formal or informal consultation with regional or local party leaders, and recognises that, because of the need to insure constituency candidates, its freedom to place particular other candidates in safe places is restricted [Zeuner, 1970: 176-95]. Still, rebellion occurs on occasion: in 1986, for example, the Hesse SPD defeated a proposal from its party executive committee to place a female professor of political science (not contesting a constituency) in place 3, and thus comply with the party's own decision to place more female candidates in safe places on the list. The selection congress voted to 'insure' all its constituency candidates first [Frankfurter Allgemeine Zeitung, 29 September 1986]. In Land elections, of course the influence of the Land executive is also considerable: the allocation of places on the list to particular party regions (especially in larger Länder) is one of the ways in which it can exert influence [von Herz, 1970:65, 87-8].

The Greens, certainly in the early years of their existence as a Bundestag party, deliberately introduced a barrier to party control of the composition of the parliamentary party, through the devices of rotation and the incompatibility of party and parliamentary office. Rotation in its early form (where MdBs had to resign after 2 years of the 4-year term, and allow substitutes from the party lists to take their place) was soon seen to be an enormous handicap to the effectiveness of the parliamentary party. Even though many of the replacement candidates had worked as assistants to Green MdBs in the Bundestag, the change-over meant that there was a lack of continuity, a lack of experience, a lack of knowledge concerning parliamentary procedure. So 55 Green MdBs entered the Bundestag in the period 1983-7; only 9 of those elected in 1983 and 2 substitutes who entered the Bundestag in 1985 were also elected in 1987 - again showing the problem of continuity. In 1994, 5 Greens elected in 1983, 2 who entered as successors in 1985, and 5 elected for the first time in 1987 were included in the parliamentary party in 1994 (6 of these for the third legislative period)[Hoffmann, 1998:298]. A more relaxed rotation rule putting a limit of eight years on continuous membership of the Bundestag nevertheless still placed a handicap on the party in relation to the inclusion of a cadre of experienced, long-serving MdBs, which the other parties all possessed. No limit is now placed on length of incumbency of Green MdBs. The Länder parties operate their own rotation rules, with varying degrees of stringency. The Berlin Green party now requires one in every three candidates to be a newcomer, for instance [Frankfurter Allgemeine Zeitung, 30 November 1998].

Consequences of candidate selection: (a) policy positions of parties.

Concern for the policy position of the party when selecting candidates can operate in at least two rather different ways. On the one hand, loyalty to a particular party line can be the uppermost consideration; when the party adapts its programme, candidates either adapt themselves to it, or else are replaced by those in sympathy with the new line ('new Labour' and all that). The other, diametrically opposed, procedure, is to try to accommodate within the parliamentary party all the relevant 'factions' to be found in the party. The Greens, for instance, have tried to accommodate 'realos' and 'fundis' (the pragmatic and the fundamentalist wings) as well as those who identify themselves as neither the one nor the other. Indeed, this accommodation has become almost institutionalised in matters of appointment to ministerial positions (in the present government, Joschka Fischer is regarded as a 'realo', Jürgen Trittin as a 'fundis', and Andrea Fischer as a 'neither-nor'). However, though the FDP, nolens volens, had mixtures of more right-wing national liberals and more left-leaning social liberals (or whatever synonyms for those tendencies have been in use at various periods) in their Bundestag party groups, on two occasions at least factional adherence has been important in compiling party lists. In 1972, after several right-wing liberals such as Mende had crossed to the opposition, and thus contributed to the loss of the majority for the Brandt-Scheel coalition, the delegates at selection conferences made sure that candidates chosen for the lists were supporters of the existing coalition and its policies (especially concerning relations to East Germany and Eastern Europe). Ten years later, following the switch of coalition partner, any remaining 'social liberals' who had not left the party found that often they were given insecure places on the Land lists, though Baden-Württemberg liberals gave proponents and opponents of the coalition change equal representation in the top six places on the list, though nobody remaining opposed to Genscher's leadership secured a hopeful place on the list [Frankfurter Allgemeine Zeitung, 6 and 8 January 1983]. Baum, in North Rhine-Westphalia, was an example. Despite support from the party leader, Genscher, to secure a safe list place for Baum, the delegates - concerned that he might not loyally support the new coalition - gave him place 9, which turned out to be the next-to-last place on that Land list to secure a seat in the 1983 Bundestag election [Frankfurter Allgemeine Zeitung, 17 and 21 January 1983].

In general, problems of factionalism do not arise in the Bundestag parties. Voting discipline within the parties is usually very high: 95 percent or more vote with the party on most votes, and 100 percent is quite common (in 58 percent of cases for the Christian Democrats, 75 percent of cases for the SPD, and 60 percent of cases for the FDP in the period 1949-90) [Saalfeld, 1995:109-10, 134-6]. The smaller parties find factionalism more of a concern than do the larger parties: and especially when they are junior coalition partners, internal party conflicts damage the standing of the party within the coalition (as with some issues such as legalised 'bugging' of residences of suspected criminals, in the case of the FDP, and a range of issues which may be potentially divisive for the Greens in the current coalition).

Consequences of candidate selection: (b) electoral consequences.

Parties seek electoral success. The choice of candidates contributes to, or may detract from, the chances of electoral success. So much is indisputable, at least with regard to elections in parliamentary democracies. In Germany, this fact is heeded in terms of constituency and list election. In constituencies, local renown, links to local associations (a church, a trade union, activity in local government, membership of local clubs or other organisations) is always a plus point for a potential candidate, and, in a close contest, may be decisive in terms of selection. It is also important in enabling incumbents to retain their seats: where there is pressure to drop an incumbent candidate, problems relating to failure to 'nurse' the constituency, to appear frequently at local events and take up local problems, is frequently cited as a contributory reason [Kaufmann et al., 1961:68-75, 161-2; von Beyme et al., 1974:223]. For example, in the 1957 Bundestag election, a twice-elected incumbent withdrew because of criticism that he had been insufficiently active in the constituency [Kaufmann et al., 1961:159]. Such local links include links to the local branches of the constituency party undertaking the selection [von Beyme et al., 1974:229-30]. Especially where the candidate is nominated by a branch with a large membership, it is important to try to secure votes from smaller branches, who might otherwise express resentment by voting against the nominee, or even by putting forward a challenger. Another factor, sometimes of a local, sometimes of a regional or national, nature, is the link between the would-be candidate and interest groups [Kaufmann et al., 1961:76-80]. Again, evidence exists that this is important. In the 1957 Bundestag election, a constituency

candidate (the incumbent) defeated a challenger by a 2:1 margin, thanks primarily to his links to agricultural interests [Kaufmann et al., 1961:156]. In the same election, agrarian and industrial interests were relevant in the selection of other candidates in Rhineland-Pfalz [Kaufmann et al., 1961:160-2]. However, where an attempt to find a Protestant CDU candidate for an overwhelmingly Protestant constituency failed, the Catholic candidate who was chosen lost the seat at the election; even though it had been a marginal seat for the CDU, the relevance of the candidate in this case is demonstrated by the fact that the SPD won the seat by 657 votes, but the CDU in that constituency had a margin of over 3500 votes for its list! [Kaufmann et al., 1961:159-60]. Other relevant factors in constituency selection appear to be political prominence (eg as a Land politician, or as a minister, but office-holding within the party also would be included under this heading), occupational or professional reputation, support by groups (eg the youth organisation) within the party, and personality - especially in terms of attractiveness to undecided voters and in relation to the opposition's likely candidate [Zeuner, 1970:89; von Beyme et al., 1974:242-9].

For party list candidates, a similar set of characteristics come into play, with the difference that a range of qualities can be represented by a group of candidates, rather than being sought in a single person. Parties tend to focus most especially on the top five places, because these names appear on the ballot paper. It is thus extremely unusual for any party to omit women from those top five places. To do so would draw unfavourable comment, from the media, from the opposition, from within the party itself. In 1998, neither the CDU-CSU nor the SPD, for instance, presented a Land list without including at least one female candidate in the top five places; often these were in the top two, and in several cases headed the list. These top five places can also be used to demonstrate other features of interest to the electorate: religious balance in the CDU, attention to the trade unions in the SPD, professional groups in the FDP and so on. Taking a broader perspective by considering the 'safe' and 'possibly successful' places on the list, there are numerous cases of inclusion of representatives of interest groups of importance to the party and its potential electorate. In the first decades of the Federal Republic, for example, refugee associations were active: the Bund der Vertriebenen - the refugee organisation - sent a circular letter to all Land parties in Bavaria ahead of the 1969 Bundestag election, for instance, asking for information about candidates who belonged to the organisation. The FDP replied that 14 of its 44 direct candidates in Bavaria were members of that organisation [FNA file 12336]. The same organisation was still electorally active in the 'nineties: the CSU in the 1994 Bundestag election ensured that the president of the Bund der Vertriebenen was given a safe list place [Bayernkurier, 7 May 1994]). Other such interests and characteristics relevant to selection include agrarian, commercial and industrial interests; professional groups; a spread of political generations; regional affiliations; personal expertise and political experience [Kaufmann et al., 1961:164; Mintzel, 1980:37]. The existence of 'interest-based' organisations within the CDU - for the Mittelstand, for example, or the women's organisation - enables these to make inputs into the list selection process where this would be relevant [von Beyme et al., 1974:269]. This also applies for Land elections. In a study of the Land election in North Rhine-Westphalia in 1975, the authors stated: 'The Land list of the CDU can thus be more strongly described as an "equalizing instrument", by which above all supraregional and functional interest groups can be balanced one against the other' [Horn & Kuhr, 1978:93]. This idea of securing balance of interests and other qualities is complicated by two factors: the decentralised nature of some procedures for Land list selection (the regional party organisations within a Land in some cases have decisive sway over the selection process for safe places, as occurred with the CSU in Bavaria at least for the Bundestag elections of 1957 and 1961

[Mintzel, 1980:20]) and the procedures in some Länder for ensuring regional balance by allocating certain list places to each region. Examples include Baden-Württemberg, Rhineland-Pfalz, North Rhine-Westphalia for the CDU when they had separate organisations for the two constituent parts of that Land [Herz, 1970:65], Hesse - the so-called 'Hesse Schritt' system: by which the Land list for the SPD recognises the relative strength of the Hesse South and Hesse North regional party organisations by allocating places in the order: south-south-north... [Frankfurter Allgemeine Zeitung, 29 September 1986] and even Bremen. In North Rhine-Westphalia for the 1966 Land election, for instance, the CDU party leadership insisted that the first 11 places be reserved for the planning of the parliamentary party (though subject to the regional quota system). In consequence, places were allocated as follows to some of the more significant groupings (some list places apply to more than one category) [von Herz, 1970:69]:

- members of the Land government and parliamentary party leadership: places 1, 3-7, 13 16;
- leading office-holders in the party: places 2-5, 8-11, 13-14, 23, 31;
- the youth organisation: places 15, 29;

- women`s association: places 14, 32,38;
- Social Committee: places 10, 15, 19, 22, 25, 29;
- protestant working group: places 8, 11-12, 23, 38;
- DGB (the trade union confederation): places 10, 19, 27, 33
- refugee organisations: places 9, 20, 29, 35.

In the same election, the SPD leader, Kuhn, demanded the first 15 places for planning the parliamentary party, but was finally allocated the first 12 for that purpose [von Herz, 1970:87]. In some cases, letters and other representations from affected groups, even promises of donations dependent upon some candidate representing the donor`s interests being given a safe place on the list, are not unknown factors in the list selection process [Mintzel, 1980:23-4, 26]. A particularly odd experiment was a membership-ballot in Rhineland-Pfalz, in the CDU regional party Rheinessen-Pfalz, to provide membership input directly into the list construction process for the 1971 Land election. 30.4 percent of members returned ballot-papers. There was evidence here of coordinated campaigns by certain interest groups (such as farmers and the self-employed) to get their representatives high on the list. Only 3 non-incumbents received over 100 votes each, which illustrated the importance of being known locally. On the other hand 13 names received over 1000 votes (Helmut Kohl, the prime-minister of the Land and Vogel, later his successor, each received over 4000 votes). The ballot was advisory only. In the end, the delegate conference gave good places on the list to nearly all those who did well in the membership ballot, but some given hopeful places had not received much support in the ballot. [Haungs, 1970: 403-14].

Mention should be made at this point of the scheme of the PDS in the 1994 and 1998 Bundestag election to present prominent `non-party` candidates on its lists and even in winnable constituencies, with the intention of making a point about both the `democratic` nature of its candidate selection and of diverting attention from the more radical elements in the party. Stefan Heym the renowned East German author, was elected under this provision in 1994, for example, winning a constituency in East Berlin.

Consequences of candidate selection: (c) office-seeking.

It is difficult to establish the extent to which candidate selection is affected by, or contributes to, office-seeking. Anyway, office-seeking is to a large extent and primarily bound-up with electoral success, so the factors analysed in that section (above) apply also here. A few comments can be offered, though.

First, if a party is successful in terms of office-seeking, if it does enter a coalition, then it is not bound in all cases to draw its ministers from its successful legislative candidates. Neither in the Bundestag nor in Land legislatures is there a requirement that ministers hold a seat in the legislature, and it has not been unusual for some not to do so: in the current SPD-Green coalition in Bonn, neither the SPD Minister of Economics, Müller, nor the Greens` Health Minister, Andrea Fischer, is an MdB. The same has been true at Land level. Indeed, first there is a practice in the case of many governments of drawing upon ministers from Land politics for the federal cabinet, and on Bundestag politicians to join Land governments - which means that in neither case do they, at the time of appointment, hold seats in the legislature to which they are answerable; second, the Green party has tried to enforce separation of appointed from elected office, and in the case of Land ministers has insisted that they give up their legislative seats on taking ministerial office.⁽¹⁰⁾ This situation means that composition of a cabinet need not be totally constrained by the election or non-election of particular candidates, though there is evidence that the likelihood of a particular person being required for ministerial office has played a part in the selection process: Alex Möller (SPD) in the 1961 Bundestag election, for instance [Vogel & Haungs, 1965:252].

Second, coalition considerations can play a part. This has been the case so far only with the FDP, which twice so far has changed partners at federal level. In 1969, entering the election campaign officially with an `open-to-both-sides` coalition position, nothing was done to try to ensure that list candidates were given safe places with regard to their support for a particular kind of coalition.⁽¹¹⁾ Following the formation of the SPD-FDP coalition on the basis of a narrow majority, and then the melting-away of that majority due largely to defections to the CDU-CSU of FDP MdBs unhappy with the coalition, efforts were made in 1972 to secure lists `purged` of candidates regarded as unlikely to be loyal to the coalition. In 1983, learning from that experience, FDP Länder parties drew up lists that were, on the whole, headed only by candidates who were willing to accept and support the 1982 switch of coalition partner. Should

the SPD-Green coalition survive until the next Bundestag election, one can foresee the issue of coalition support playing a part in selection of Green party list candidates for that election, since a number of policies - or the absence of policies - affecting the Greens will have proved disappointing to the more radical party members.

Towards a conclusion: and a beginning ?

A few conclusions can safely be drawn for this review of the consequences of candidate selection in the Federal Republic.

First, of course candidate selection matters. It matters to the parties. It matters to the candidates. It matters to the electorate.⁽¹²⁾ It matters in terms, ultimately, of the quality of political decision-making. What is uncertain is how it matters, and how much it matters.

Second, the scope for control of the process of candidate selection by the party leadership is limited: formally, by the Party and Election Laws; instrumentally, by the mechanisms of the electoral system; practically, by voting behaviour; and politically, by the exercise of their rights by party members in the selection process. Such control exists, but more for reasons of rationality, efficiency and equity within the selection process (especially for list candidates) than for reasons of elite steering.

Third, though statistical, anecdotal and survey evidence can provide some idea of what occurs in the 'secret garden of politics' (the sub-title of Marsh and Gallagher's edited collection of studies of the candidate selection process), any satisfactory and satisfying study of the candidate selection process in the Federal Republic of Germany would have to imitate and supplement the best aspects of the case studies from the 'fifties and 'sixties upon which I have drawn here, devote considerable time and resources to close study of the selection process in groups of constituencies and in all Land list selection conferences, supplemented by interviews both before and after the selection procedure. This would have to commence at least eighteen months prior to a Bundestag election. The issue of candidate selection is sensitive (especially for losing contenders for nominations or safe list places, and for the interest groups who become concerned in the process); data protection laws and party confidentiality stand in the way of access to detailed data; and, ultimately, it is very subjective: one would doubt whether even the delegate casting a vote at a selection meeting could really analyse all the considerations which affect her or his choice in a contested vote to choose a candidate.

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Footnotes

(1) The Party Law makes special provisions concerning the right to vote in such conferences: only those with the right to vote in Bundestag (or Landtag) elections may be involved in the selection process. This excludes minors and residents lacking citizenship, for example.

(2) Seats are calculated on a regional basis. Because 'surplus seats' must be retained, this means that there are usually very many such seats at each Land election. In the 1996 Land election, the CDU received 18 such surplus seats. However, unlike the federal Electoral Law, the Land Law makes provision for Ausgleichsmandate ('equalisation seats'): the SPD obtained 8, the Greens 4, the Republicans 3 and the FDP 2 such seats. This process preserved proportionality among the parties.

(3) A candidate in a constituency does not appear on the list of his or her party in that constituency, so a voter cannot vote for the same candidate twice. In 1998, Dr Männle, the Bavarian Land Minister for Federal Relations, lost her seat because she was not a constituency candidate, and, though originally placed 3rd on the regional list, dropped to place 11 - only the first 10 on the list were elected (together with 31 constituency candidates) in that region.

(4) Further information on this 'paradox' (that a better result can lead to fewer list seats) can be found in Geoffrey K. Roberts, [1997] 'Neglected aspects of the German electoral system', Representation, vol 33 (4):132.

(5) On split-voting, see Roberts, [1988] and, more recently, Schoen, [1998]. It is interesting to note, for instance, that in the 1998 Bundestag election each one of the four successful PDS candidates received a substantially greater share of the vote than the PDS list received in those constituencies (Gysi, for instance, ran over 14 percent ahead of his party): indicating some combination of personality factor plus perhaps reverse split-voting (i.e. PDS sympathisers deciding not to 'waste' their second vote on the party list of the PDS in case that party fell below five percent).

(6) North Rhine-Westphalia, for example, had 71 constituency seats, 77 list seats; Lower Saxony had 31 constituency seats and 38 list seats; Bavaria had 45 constituency seats but 48 list seats. Saxony, on the other hand, had 21 constituency seats and only 16 list seats. The fact that the other four Länder in East Germany all had 'surplus' seats makes comparison difficult, but the point is made.

(7) Until the Electoral Law 1956 took effect, there was no limit to the number of lists a candidate could be placed upon. Normally, this had no effect. However, there was a practice in the earlier Bundestag elections of placing the party leader and other prominent politicians (e.g. in the CDU: Adenauer and Eilers; in the SPD, Ollenhauer) at the top of most Land lists of the party, as a symbolic gesture [Kaufmann et al., 1961:166,182].

(8) The CDU-CSU had 40 of those 50 candidates, the SPD 9 and the FDP 1 (Friderichs, its federal business manager). The SPD had 10 candidates elected in constituencies who were not also candidates on the list; the Christian Democrats had 103 [Kaack, 1969:79]. This demonstrates the rather greater attention given in the SPD to 'insurance' of candidates.

(9) Data from Statistische Bundesamt, Bevölkerung und Erwerbstätigkeit. Wahl zum 14. Deutschen Bundestag am 27 September 1998 (Fachserie 1. Sonderheft: Die Wahlbewerber für die Wahl zum 14. Deutschen Bundestag 1998):18-23. In previous Bundestag elections, the percentage of constituency candidates who were 'double candidates' has been: 1987: 59.9; 1990: 62.2; 1994: 63.2. There is no clear trend: in 1961, for example, the percentage was 62.6; in 1972 it was 63.5; in 1980 it was 58 percent.

(10) Pressure was placed upon the Green party ministers Joschka Fischer and Jürgen Trittin in the Schröder cabinet also to resign their Bundestag seats, but after much controversy the party decided to allow them to retain their seats for a two-year period while the Greens reviewed their position on this issue.

(11) Though Mende claimed in his memoirs that even in 1969 candidates were chosen by left-wing biased local party organisations only if they agreed with the FDP's new direction as set out in the election programme [Mende, 1986:292]. Mende had secured place 2 on the North

Rhine-Westphalia list, defeating a more left-wing law professor, Ulrich Klug, by 289 votes to 107 [Die Welt, 9 June 1969]. The FDP was seen to have leaned decisively toward the SPD even ahead of the election campaign by its support for the SPD's candidate for the federal presidency earlier that year, Gustav Heinemann (who was elected with FDP support). Scheel, the FDP leader, also gave strong hints towards the conclusion of the campaign that a coalition with the SPD, if arithmetically feasible, would probably be the FDP's preferred choice. Mende was given a safe place on the Hesse CDU list for the 1972 Bundestag election as compensation for his defection.

(12) I have decided to exclude in this paper the issue of choice of chancellor-candidate, as being a different, rather informal and special kind of candidate selection matter. However, research on the effect of chancellor-candidate selection is plentiful: for example, Norpoth [1977], Gibowski [1995] and Zelle [1995], as well as the series of election reports produced by Forschungsgruppe Wahlen (Mannheim). No doubt forthcoming research will cast light on the electoral costs to the Christian Democrats of Kohl's decision to go back on his promise in 1994 to make way for a new chancellor-candidate in time for 1998.

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